

K-word user is a social media pariah, but he may escape prosecution

Social media exploded when a video of Johannesburg businessman, Adam Catzavelos, using the 'K-word' on a beach in Greece went viral.



Adam Catzavelos. Picture: Twitter

Since then, Catzavelos has been fired from the family business, St George's Fine Foods, which is losing clients; his children's school has barred him from its premises; the EFF has laid a *crimen injuria* charge; his life has been threatened and social media continues to condemn him.

Attorney Buang Jones said the incident will be investigated by the Human Rights Commission, but whether his offence can be prosecuted in SA is another matter.

Foreign country

In a [report](#) in *The Star*. Legal experts said *crimen injuria* could be difficult to prosecute as he committed it in a foreign country that does not deem the use of the K-word as a criminal offence.

Advocate Zola Majavu said it would be a long stretch to prosecute Catzavelos. "The offence was committed in a foreign country so you can't prosecute him in SA unless what he did is also an offence where he recorded the video; then you can

have him extradited. The rule is, you are prosecuted where you commit the offence.”

He added that even though Catzavelos’ video circulated on social media, the state would have to determine the exact original location of the offender at the time of distribution. “If he posted the video (directly to Twitter) while in SA then he can be charged in terms of the Electronic Communications Act. Also, if he shot the video in SA and then distributed it while overseas,’ said Majavu.

***Crimen injuria* must be directed at an individual**

[Advocate Mark Oppenheimer agreed that prosecuting Catzavelos for crimen injuria would be challenging.](#) He reportedly told *Times Select*: “*Crimen injuria* is the unlawful, intentional and serious impairment of a person's dignity. Should the NPA decide to prosecute Catzavelos for his statement, there will be two hurdles to overcome: First, it must be proven that he intended to impair someone’s dignity. This may be difficult because his words were aimed at his friends in a private message, not at someone he was intending to demean. Secondly, his words are offensive to all South Africans, particularly black South Africans, but unlike the case of Vicki Momberg, they are not aimed at a particular individual (as is required).”

Verlie Oosthuizen, social media lawyer at law firm Shepstone and Wylie, said she could not see how Catzavelos would be criminally charged, although she understood the video was very offensive. *Crimen injuria* needs to be directed at someone. His comments were not directed at anyone in particular, said Oosthuizen. [The government has entered the debate, strongly condemning the video.](#) “His racist comments cannot be justified and display one of the most despicable forms of racism. Government urges law enforcement agencies to take action against Mr Catzavelos,” said the official statement recorded by *TimesLIVE*. “Racism is punishable by law, under the Prevention and Combating of Hate Crimes & Hate Speech Bill. Whilst government respects freedom of expression, the public should be responsible in how they express their views. Racism has detrimental effects in disrupting the advances we have made as a country,” said acting Government Communication and Information System DG, Phumla Williams.

Long-term reputational harm

[“For somebody to take a video of themselves \(saying the K-word\) and posting it in a WhatsApp group is just unbelievable.”](#) lawyer and social media expert Emma Sadleir reportedly told *News24*.

She said perpetrators of racism are usually filmed on CCTV cameras or by another party. “For me, the biggest issue here is reputation. There may be criminal charges or civil cases, but the big thing is the long-term reputational harm. If you google this guy’s name in five years’ time, this is still what you’re going to get.”

While the fact that the video was taken from a WhatsApp group was an infringement of Catzavelos’ privacy, and that he himself had not posted it on social media,”it’s a valid infringement”.

[“There are two defences to privacy infringement: consent and public interest. There’s a lot of public interest in rooting out racism.”](#) René Koraan, senior lecturer at the law faculty of North West University, reportedly told *News24* that Catzavelos’ actions could lead to a ‘stiff fine’ or suspended sentence, with the possibility of jail time. But Sadleir reckons that a show of remorse could play a big part in what happens to him. “I think one of the reasons Vicki Momberg was sent to prison was because she didn’t show any remorse. She said the K-word 48 times, she tried to plead severe emotional stress, temporary insanity, and messed around with the judicial system.”

Sadleir said she found it unacceptable that people are targeting Catzavelos’ wife and children. “Public opinion is important, but you have to be careful that you’re not held to ransom by the digital vigilante mob.”

Postscript

Catzavelos has issued an [apology](#), although it has been rejected by many on social media as insincere.

Source: LegalBrief

For more, visit: <https://www.bizcommunity.com>