Speech By

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HUMAN RIGHTS BILL

Mr BERKMAN (Maiwar—Grn) (3.14 pm): I rise to speak in support of this bill, which will finally legislate human rights for Queenslanders. This is a win for so many campaigners, peak bodies and support services that have been fighting for a human rights act for many years. It is only appropriate that I begin by acknowledging their work over many decades. The Greens have long advocated for explicit human rights protections to be enshrined through legislation in Queensland, to enhance our democracy, set the standard for measuring the conduct of government, the courts and the community, to assist the most disadvantaged in society and ensure government departments consider the impact of their day-to-day operations on human rights.

A dialogue about human rights between elections is vital to protect Queenslanders' rights. Our unicameral parliament, without the oversight of a house of review, can pass legislation that infringes on people's rights with no consequence until the threat of the next election looms. This should be a serious concern to all of us who value a healthy democracy.

One high-profile example that has been mentioned by others in this debate is the introduction of the vicious lawless association disestablishment, or VLAD, laws in 2013. The VLAD Act up-ended hundreds of years of common law protections and legal principles. These are the same protections that this bill's opponents say are sufficient to protect our less fortunate. Without a human rights act there was nothing to stop the government trampling over the rights of Queenslanders, and no need to justify the changes with anything more than the usual base rhetoric. This is a big part of why I support this long overdue reform for our state and why I think it so crucial that we have a human rights act in Queensland.

While I do support the act, my view is that there are some glaring omissions and missed opportunities. I would like to take the opportunity to address these. During the first review of the act, serious consideration must be given to amendments that include an independent human right to a healthy, safe environment, including clean air and water, under part 2.

Submissions to the committee have noted that as of 2012, 92 national constitutions recognise that citizens have a substantive right to live in a healthy environment, consistent with the sustainable development goals. Alongside a number of other submissions on the bill, the Environmental Defenders Office articulated this perfectly. Without a clean, healthy environment, the basic human rights to life, health, work and education cannot be fully realised and they add that 'protection of the environment is a vital part of contemporary human rights doctrine'.

It is essential that the right to a healthy and safe environment be made explicit, rather than implied, to most effectively support the achievement of other rights. It would result in improved decision-making around new laws affecting environmental impacts, serve to reduce the likelihood of litigation by bringing forward consideration of a healthy environment and address the injustices in environmental protection measures for marginalised Queenslanders, especially those whose livelihoods and wellbeing are dependent on a healthy environment, like farmers and Aboriginal and Torres Strait Islander people.

Aboriginal and Torres Strait Islander people are uniquely vulnerable to environmental harm because of their cultural and religious links to their territories. Lock the Gate's submission on this bill also made an important recommendation that the act include a right to free, prior and informed consent for Aboriginal and Torres Strait Islander peoples, for developments affecting their land and communities.

I welcome the particular cultural protections this bill aims to give Aboriginal and Torres Strait Islander people, and submit that rights to a clean, healthy environment and to free, prior and informed consent would advance the bill's policy objectives. The words of the UN Special Rapporteur on human rights and the environment are especially pertinent here: 'The notion of sustainability is the essence of both indigenous economies and their cultures.'

I want to reinforce a point made in the submission by Sisters Inside that neither the bill nor the human rights discourse surrounding it should be used to justify prison expansion in Queensland. Spending significant resources to make prisons human rights compliant is a futile exercise and the focus of this government's efforts must be on reducing the number of women and girls in prisons, and prison populations more broadly.

One of the greatest legal challenges to Indigenous Australians' human rights is the unacceptable and tragic level of Indigenous incarceration. I would like to highlight that this bill does nothing to help reduce incarceration rates for Indigenous Queenslanders, and that is a real shame. Rather than closing the gap, this bill just opens the prison gates wider for Indigenous Queenslanders. This Human Rights Bill does little to help reduce high suicide rates for Indigenous people in custody—a critical element of the Closing the Gap strategy.

This bill should do more to consider the particularly vulnerable position of incarcerated people including allowing complaints to be raised directly with the commission without the need for an internal complaint first. In general, the bill misses opportunities to encourage dialogue and build a culture that is respectful of human rights in the corrective services. For example, as the Caxton Legal Centre says in their submission, the bill treats issues like overcrowding as an operational issue before viewing it as a human rights issue. The proposed amendments to the Corrective Services Act and the Youth Justice Act unnecessarily limit prisoners' rights, particularly given the explicit provision for limiting human rights protections under section 13 of the act where this is deemed reasonable and justifiable.

No other developed country in the world has a poorer record than Australia for recognising the plight of innocent citizens wrongly sent to prison. Queensland could have easily adopted section 23 from the ACT's Human Rights Act to ensure the act's compliance with article 14(6) of the International Covenant on Civil and Political Rights, or the ICCPR as it is known. This was addressed in some detail in an excellent submission by former solicitor Michael O'Keeffe, who made the point that Queenslanders who have been wrongfully imprisoned then judicially exonerated have fewer legal rights than someone who slips on an onion at Bunnings.

The Queensland Human Rights Bill should have included a provision to provide restitution for judicial exonerees, as required under international human rights law, and to address inequality and injustice of human rights for innocent Queenslanders, particularly Indigenous exonerees who have suffered serious miscarriages of justice and wrongly served long periods in prison.

I would note another glaring omission to the bill highlighted in Amnesty International's submission. Amnesty is particularly concerned that section 33(3) lacks clarity and will not prevent violation of the Convention on the Rights of the Child and article 10 of the ICCPR by allowing children to be detained alongside adults in prison. Protecting a child's fundamental human rights while in detention is paramount, and I share concerns that this bill does not do enough to ensure this.

Ultimately, as I have said time and time again in this chamber, we must reduce rates of incarceration across-the-board. In particular, the government must also commit to raising the age of criminal responsibility to 14 years old and stop locking children up altogether. Once again, it should be stressed that it is Aboriginal and Torres Strait Islander people who are most impacted by this issue. Indigenous children are 25 times more likely to be imprisoned than their non-Indigenous classmates.

As observed in a number of submissions on the bill, the omission of a right to housing is stark and disappointing. At a fundamental level, human rights should be concerned with the conditions of a worthwhile human life, which necessarily include rights to housing as well as health and education. As the ACT Bill of Rights Consultative Committee observed in its 2003 report, the right to housing is as integral to human dignity as the right to vote.

In recognising that housing is in fact an internationally accepted human right, its inclusion in this bill would significantly assist the stated objective of ensuring that 'public functions are exercised in a way that is compatible with human rights'. For example, the submission made by Sisters Inside included a recommendation that the bill be amended to include an additional right to housing, to guide social housing decision-makers to exercise their discretion in a manner that is consistent with the human rights of women and girls, and their children.

Time escapes me. A human rights act cannot promote and protect human rights effectively unless it is accompanied by continued strong political leadership on human rights issues, a systematic education and ongoing training program for public officials and the judiciary, and an accessible complaint-handling process. To this end, I would urge the Queensland parliament to see this bill as providing impetus for long-term, meaningful investment in community legal centres and community advocacy organisations, especially those helping the most vulnerable sections of our society whose rights are most often compromised. As a former CLC lawyer myself, I know that these services are constantly underfunded, and this act should serve as a timely reminder of the importance of the work done by these services. Initially, neither the ACT nor the Victorian human rights framework enabled a complainant a cause of action for an infringement of a human right. The ACT has revisited this and it is under review in Victoria.

I suggest that the ability to commence stand-alone proceedings for breaches of human rights is consistent with the objectives of this bill. As the Caxton Legal Centre pointed out in its submission, access to damages does not prevent dialogue or obstruct an approach which favours discussion, awareness raising and education about human rights.

In closing, many have argued here that our existing legal and political systems provide sufficient safeguards for Queenslanders and therefore human rights legislation is unnecessary to protect our rights and liberties. We must remember that these opponents are essentially advocating for a society where government remains able to infringe upon our human rights and they often argue from a place of privilege and social safety. For many of us, our wealth, standing or lot in life shield us from the sorts of rights violations that a human rights act seeks to protect. Ultimately, this is an important and historic day for all those who continue to fight for a fair and just society. I commend this bill to the House.