




Speech By
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MEMBER FOR MAIWAR

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**WORKING WITH CHILDREN LEGISLATION (INDIGENOUS COMMUNITIES)
AMENDMENT BILL**

 **Mr BERKMAN** (Maiwar—Grn) (6.14 pm): I rise to address the Working with Children Legislation (Indigenous Communities) Amendment Bill 2018 introduced by the member for Traeger on behalf of constituents in his area facing difficulties with the blue card system. The bill aims to set up a new framework for decision-making on blue card applications by First Nation people which is led by First Nation communities, in particular via community justice groups. At the outset I will say that we support the intention behind this bill and that the Greens recognise that the blue card system has a disproportionate and unfair impact on Aboriginal and Torres Strait Islander people in Queensland. In fact, we believe that community-led decision-making about safety issues in Aboriginal and Torres Strait Islander communities should be distributed even more broadly than this bill proposes.

There are very well recognised barriers for Aboriginal and Torres Strait Islander folks accessing the blue card system which can and do lead to some incredibly discriminatory outcomes, especially in communities where almost every government job requires a blue card. Aboriginal and Torres Strait Islander people are incredibly overrepresented in the criminal justice system as a result of two centuries of dispossession, discrimination and racism that persists even today. The Royal Commission into Aboriginal Deaths in Custody delivered its final report nearly 30 years ago, and this is a pertinent time for us to ask what we have achieved since then. Recent reports indicate that incarceration rates have doubled in that time. Indigenous Australians are, nearly 30 years after the royal commission, the most incarcerated people in the world.

The Queensland Family and Child Commission, the QFCC, and the report of its review on the blue card system was the basis of much of the government's related bill that passed this chamber last year—namely, the Working with Children (Risk Management and Screening) and Other Legislation Amendment Bill 2018. Beyond the issues dealt with in the government's bill, the QFCC made an important recommendation that goes to the heart of what this bill moved by KAP seeks to achieve. Recommendation 73 of the QFCC report proposed—

... that the Department of Justice and Attorney-General develops and implements a specific strategy and action plan to provide more support for Aboriginal and Torres Strait Islander peoples and build cultural capability in the blue card system, including:

...

- considering ways to empower communities to be involved in decisions about their community

The government's bill, enacted last year, implemented some other recommendations of the QFCC including the no-card no-start rule, which very directly raises barriers to getting a blue card, but the government simultaneously failed to create any legislative basis for action on recommendation 73. In its evidence to the committee, Sisters Inside stated in describing QFCC's recommendation 73 that it proposed—

... developing guidelines to embed an appropriate consideration of culture in working with children check decisions, and considering ways to empower communities to be involved in decisions about their community. In our submission, these mechanisms should have a legislative basis and must be implemented at the same time as amendments that significantly tighten the WWCC system.

It went further, noting—

We have been disappointed by Blue Card Services's decisions, especially in relation to Aboriginal and Torres Strait Islander people. In our view the decisions of which we are aware did not give sufficient consideration to contextual factors of criminalisation, especially the overrepresentation of Aboriginal and Torres Strait Islander children and adults in the criminal legal system and the child protection system. In our view, all Aboriginal and Torres Strait Islander people in Queensland must be eligible for support within the WWCC system to respond to the history of colonisation and criminalisation.

I want to give one final excerpt from Sisters Inside. It was even more explicit, saying—

We believe it would be appropriate for the Government Bill to be amended to include mechanisms that support Aboriginal and Torres Strait Islander-community led decisions about children's safety and the suitability of criminalised Aboriginal and Torres Strait Islander people to work with children.

In other words, quite simply it recommended that the government listen to the QFCC and move in a direction similar to what is proposed in this bill.

The government has so far failed to implement recommendation 73 and this lopsided adoption of the QFCC recommendations has, in reality, not just failed to address any of the already significant barriers for Aboriginal and Torres Strait Islander people, but it has, in fact, raised these barriers.

I will touch briefly on the views of some other stakeholders involved. The North-West Queensland Indigenous Catholic Social Services argued for broader application of special considerations for First Nation people under the blue card scheme. For example, in Mount Isa they said, in paragraph 4 of their submission—

While this has been talked about in relation to discreet communities, I think it needs to also apply to 'communities of common interest'. For example: A person in Doomadgee comes to live in Mount Isa. They have a local card to work in their community. I see no reason why they cannot work here if local approval processes could not be put in place to allow for a decision making process to be implemented which involved their own home community as well as their community of interest, e.g., Mount Isa.

I note there are some what I consider to be quite fair concerns about the bill which were raised by the Australian Association of Social Workers Queensland Branch. The first is that there needs to be more widespread and detailed engagement with the Aboriginal and Torres Strait Islander communities concerned. This could go some way to addressing the issues I mentioned a moment ago, and raised by the North-West Queensland Indigenous Catholic Social Services, that a scheme like this should apply more broadly than just to discrete Indigenous communities.

The Australian Association of Social Workers raised that it is not clear how the privacy and confidentiality of applicants for this limited class of blue cards would be adequately protected, which is particularly significant given that community justice groups would be dealing with these applications in what are fairly small communities where, I would imagine, pretty much everyone knows everyone.

Finally, I am not entirely confident that the bill fully deals with the concern that any change like this risks lowering the standards or safeguards for kids in remote communities. The Aboriginal and Torres Strait Islander Legal Service made the point in these terms—

As the safety of the child is always paramount, we recognise that any amendments that have the potential to impact on the safety of a child or children must be implemented in a way that ensures any potential risks are identified and managed and would seek the appropriate supports to be put in place.

I note that last year when the Assembly was dealing with the government's related bill—the no-card no-start amendments as they were referred to—Labor unexpectedly pulled the bill then brought it back for debate after making it even more restrictive. This was no doubt the result of a fear campaign bordering on moral panic run by the LNP. The LNP are shockingly inconsistent when it comes to community safety. In one breath they claim to be concerned about the wellbeing of kids locked up in adult watch houses and caught up in the justice system, then, when a political opportunity arises, they pivot seamlessly and with no apparent embarrassment whatsoever to the most divisive culture war, stoking fears and talking of youth crime waves. The same phenomenon is apparent on the issue of blue cards. When it suits their political purposes the LNP stokes up the culture war, Labor acquiesces and very few people think about the long-term impacts on First Nation people.

It is clear that those additional restrictions will disproportionately affect Aboriginal and Torres Strait Islander people, just as every expansion of police powers and every incursion of law enforcement disproportionately affects First Nation people here. I, like a number of submitters, support the intent of what is proposed by this bill from the member for Traeger. The intended outcome of the bill is just one of an enormous number of steps that the government must take to better empower Aboriginal and Torres Strait Islander communities to be involved in decisions that affect them.

The bill demonstrates once again the value that the crossbench can bring to debate in this place. While for the reasons I stated above I will not support the bill, I do commend the member for Traeger for pursuing this issue and for representing the interests of parts of his community. I implore the government to now just get on with it and do what it takes to implement QFCC recommendation 73.