Speech By
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MEMBER FOR MAIWAR

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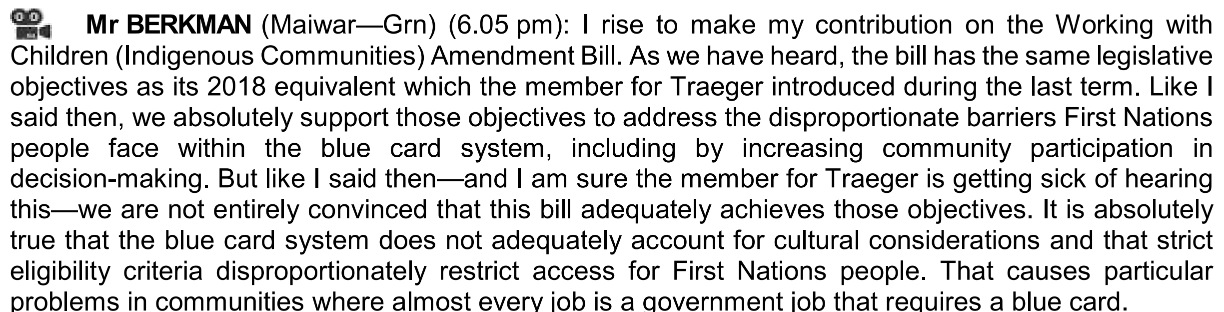
WORKING WITH CHILDREN (INDIGENOUS COMMUNITIES) AMENDMENT BILL



Mr BERKMAN (Maiwar—Grn) (6.05 pm): I rise to make my contribution on the Working with Children (Indigenous Communities) Amendment Bill. As we have heard, the bill has the same legislative objectives as its 2018 equivalent which the member for Traeger introduced during the last term. Like I said then, we absolutely support those objectives to address the disproportionate barriers First Nations people face within the blue card system, including by increasing community participation in decision-making. But like I said then—and I am sure the member for Traeger is getting sick of hearing this—we are not entirely convinced that this bill adequately achieves those objectives. It is absolutely true that the blue card system does not adequately account for cultural considerations and that strict eligibility criteria disproportionately restrict access for First Nations people. That causes particular problems in communities where almost every job is a government job that requires a blue card.

The Queensland Family and Child Commission report on its review of the blue card system recognised this when it recommended that the government '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'. That is clearly what the member for Traeger is trying to achieve with this bill. The member is brought to this point where he has to do it because the government still has not acted on this recommendation.

The root of this issue is that, as a legacy of colonisation, First Nations people are incredibly over-represented in our criminal legal system. In particular, recent reporting from the Queensland Sentencing Advisory Council tells us that First Nations women and girls receive more than 30 per cent of sentences in Queensland despite making up around four per cent of the population. It is over 20 per cent for First Nations men and boys, which is still a huge and shameful over-representation, but the implications are obviously significant for women and girls, who often are involved in both professional and kinship caring roles.

We cannot adequately address this issue without addressing the systemic racism in our criminal legal system. That racism was laid bare through the inquiry into Queensland Police Service responses to domestic and family violence and it is clear from the data that, starting from the moment they become criminally responsible at the age of 10 years old, First Nations people are more likely to be charged than cautioned by police, more likely to be sentenced than diverted and more likely to be held for longer periods in watch houses and prisons. You cannot address First Nations over-representation in the criminal legal system when the only response to crime—particularly youth crime—is introducing tougher penalties and building more prisons.

The model proposed in this bill would allow a community justice group to make a binding recommendation to the minister to grant a new category of restricted blue card. That card would allow the applicant to work in that community where a blue card otherwise would not have been issued due to the applicant's previous offending history. I do share submitters' concerns that confining the operation

of the new restricted blue card to the specific Indigenous community area in which the individual applied and got the recommendation from the CJG is likely impractical. It would mean a protracted application if the person moves and it could make it harder to continue employment.

There are also issues with limiting the new system to Indigenous communities that do in fact have a community justice group. Create Foundation raises concerns that this different category of blue card could suggest that there is a lower standard for Indigenous children, as we heard just a moment ago, and children in remote communities, than there would be for other children living elsewhere. QCOSS points out that, in urban areas where community justice groups exist, not all First Nations people will benefit from the interpersonal connections that are more commonly a feature of rural or remote communities.

QCOSS also pointed out in its submission that the bill only deals with a select number of criminal offences—namely, stealing with violence, burglary, unlawful entry of a vehicle and drug trafficking and supply offences. It does not actually address the underlying issues with the discretionary decisions made by the chief executive under the act. Sisters Inside recommended that a more fulsome way to deal with this would be to create a higher threshold for the exercise of that discretion, where the chief executive says it is an exceptional case and the applicant should be refused a blue card for a non-serious offence. They say the threshold should require that there be a 'real and not remote chance' that it would threaten the safety, interests or wellbeing of children for the chief executive to issue the clearance.

They also recommend that instead of just creating this new path for blue card approvals via a community justice group recommendation for those specific offences, the list of serious offences could be amended to remove them altogether, unless, in line with the exceptional circumstances provision, there is a real chance of harm to children. The eight-week statutory timeframe for decision-making, which would apply to community justice groups under this bill, should apply for all blue card decisions. This was a recommendation from both Sisters Inside and LawRight.

The bill also does not address a particularly relevant issue for First Nations people, which is the requirement to hold a blue card to be a kinship carer. A number of submitters suggested the restricted blue card should allow holders to be a kinship carer in their community or that the act should be amended to remove the requirement for a blue card altogether for kinship care.

Ultimately, there are alternative ways to ensure that community-led decision-making about safety issues in First Nations communities is more broadly and effectively distributed. Both Sisters Inside and LawRight recommended the government provide additional resourcing for blue card applicants to access culturally appropriate advice and support to navigate the system. In addition to broader reforms like removing the blue card requirement for kinship care, tightening the definition of 'serious offences' and the application of the 'exceptional case' provisions and introducing a statutory timeframe for decisions, we could require the minister to consider the views of the relevant community justice group and take cultural considerations into account when making the initial decision regarding a blue card application. That would likely be more effective than this proposal for a new category of blue card only in particular areas.

I absolutely support the intent of this bill. I need to put on record my appreciation and recognition of the effort that has gone into putting this bill before the parliament and raising such an important issue again. While we cannot support the bill in this form, I genuinely hope that the government listens to some of the suggested alternatives that have come up through the inquiry process and acts on this reform which is so long overdue at this point.