




Speech By
Michael Berkman

MEMBER FOR MAIWAR

Record of Proceedings, 12 October 2023

**CRIMINAL CODE (SERIOUS VILIFICATION AND HATE CRIMES) AND OTHER
LEGISLATION AMENDMENT BILL**

 **Mr BERKMAN** (Maiwar—Grn) (4.28 pm): I rise to give my contribution on the Criminal Code (Serious Vilification and Hate Crimes) and Other Legislation Amendment Bill. At the outset, the Greens support this bill and absolutely support its goal of tackling hate crimes and serious vilification in Queensland. Given the concerning rise in visible fascist, transphobic, misogynistic and racist far-right hate in recent years, it is good to see the Queensland government responding to the issue directly. One of the pillars of the Queensland Greens is social justice. We want to see fascist, transphobic and racist hate stamped out across the state. It is a little disappointing, but perhaps unsurprising, that with this bill Labor is again proposing a purely carceral approach to an issue that ultimately requires a far more comprehensive and nuanced social response. The response to far-right hate that the government has chosen in this bill only deals with punishment through the criminal legal system. The bill introduces a statutory aggravation for certain offences where the offender is motivated by hatred or serious contempt for a person or a group based on their race, religion, sexuality, sex characteristics or gender identity.

In its submission the Aboriginal and Torres Strait Islander Legal Service suggested that this list also include deprivation of liberty. It is not entirely clear to me why that was ultimately excluded. The bill also establishes an offence for the public display of hate symbols in a way that might reasonably be expected to cause a member of the public to feel menaced, harassed or offended.

As other members have addressed, this list is determined by the minister, who must do so in consultation with the Crime and Corruption Commission chair, the Police Commissioner and the Queensland Human Rights Commission. While I understand that a degree of flexibility may be useful to respond to emerging hateful movements, I have some concerns about leaving ultimate control over this list to the government of the day. We have seen that the government is more than willing to disregard the advice of the Human Rights Commissioner in particular, for example, when it overrode the Human Rights Act on two separate occasions to allow the imprisonment of more children in this state. Given the way the government has also introduced extraordinary legislation to prohibit certain types of protest—specifically, protest that is commonly used by its political opponents calling for climate action—it is not entirely implausible that the government could seek to outlaw certain symbols essentially on the basis that they challenge its policies or legitimacy. I understand there are safeguards in the bill that exempt symbols that represent a genuine political or other genuine public dispute, but I believe that a stronger protection would be to give the independent Queensland Human Rights Commissioner the ability to veto symbols from that list.

Beyond the process for designation of hate symbols, it is important for us to interrogate whether an approach that entirely relies on the force of the Queensland police and the prison system will ultimately achieve what it hopes to. Experts like the Australian anti-fascist group the White Rose Society have consistently made it clear that we cannot jail our way out of the rise of far-right extremism. In response to the news of these laws they raised concerns that the government would ‘pass these laws and then think the job is done’. I must confess to being a little worried about that too.

Criminal punishment is inherently backwards looking. It can only concern itself with what has already happened and at best is weak at preventing or deterring the concerning behaviour itself. The Australian Medical Association, Multicultural Australia and the Queensland Family and Child Commission all make this clear in their submissions on the bill. We have Victoria to look to as an example. That state criminalised the display of the swastika last year before any other state in the country, but racists in Victoria are far from being deterred by that. In fact, earlier this year we saw Neo-Nazis posing for photos on the steps of parliament and prominent Nazi figures continue to organise explicitly white supremacist events.

When it comes to extremist fringe movements, there is even a risk that poorly planned responses that exclusively focus on punishment can even embolden these groups by feeding their false narrative that they are a growing insurgent group whose power is being suppressed only by the forces of the state. Unfortunately, the idea of the people versus the government is a useful narrative for these groups and their recruitment tactics. To be clear, Neo-Nazis are not powerful. Generally speaking, it is a few very lonely racist, misogynist and transphobic people looking for a way to feel powerful or superior. They want to appear big and influential to help recruit vulnerable people who are looking for a sense of belonging. In reality, the vast majority of people despise and reject their message.

That is why, as the White Rose Society says, we need a whole-of-society approach to tackle far-right extremism. That means more support for struggling people so they are less vulnerable to recruitment by hate groups. It means providing better access to the fundamentals of a good, fulfilling life like better social housing, better rental rights, better funded health care and mental health care, and truly free public schooling. Even ideas like free public transport would help in this way. It means helping create stronger and more welcoming communities by investing in cheap and free public events and activities, particularly fostering local talent and supporting local performance spaces. Creating this kind of cultural richness gives people opportunities to connect and belong. The best tool against far-right extremists is building a vibrant society that properly supports everyone, especially the most vulnerable amongst us. Members of this parliament should also support locals in their area by standing up against hate. I am sure that many, if not all of us, do. That kind of leadership is a crucial part of a whole-of-society approach. Communities should feel empowered and supported to reject hate in their suburb as a community without the need for police or government to intervene.

The government and all members should also remember that in recent times some of the most damaging and insidious acts of hate and xenophobia have come from those in positions of institutional power. Some federal politicians in particular come to mind. My Greens colleagues at the federal level have proposed mandatory anti-racism training for MPs and increased mechanisms to hold media and online platforms to account for spreading hate, rather than just focusing on individuals. We also need well-funded public education campaigns to tackle serious vilification and hate crimes. This was recommendation 17 of the very committee report that prompted this bill. In their submissions the AMA, Multicultural Australia and QFCC all called for this to accompany the bill, because underlying social norms around racism, transphobia and misogyny are not going to be shifted by criminal punishments alone. This is particularly the case when those in control of doling out the punishment are sometimes the source of the problem itself.

As I have said in this chamber before, the Queensland Police Service has too often been shown to be an institution rife with racism, homophobia and misogyny. That is not just my opinion. It was laid bare throughout the Inquiry into the Queensland Police Service responses to domestic and family violence. Several whistleblowers have come forward in recent years alleging racism and misogyny in the QPS. Just last November audio captured from inside watch houses and police facilities was published in the media, and much of what police officers were captured saying in these recordings is the exact kind of racist hate this bill aims to stamp out. Time and again we see racism enmeshed within the culture of the Queensland police—from vitriolic Facebook pages, to slurs in the workplace, to the way First Nations people are disproportionately targeted and killed in custody. The experiences of women within, and in contact with, the Queensland Police Service have told us they feel less safe with officers than with violent partners.

If this government wants to demonstrate they are serious about tackling hate and prejudice at its source, they need to introduce an independent oversight body for the QPS rather than allowing police to continue to investigate police. Instead, it seems that Labor has gone and paid consultants more than \$400,000 to find a way out of the commission of inquiry's recommendation for an independent police integrity unit to investigate all complaints. To be clear, we are talking about public money being spent on actively protecting the kind of racism this bill purports to reject. Until the state government introduces truly independent civilian-led oversight, I fear the police culture of racism and misogyny will continue unabated.

The Greens will be supporting this bill because it is vitally important to signal that hate crimes are unacceptable in Queensland. Between the continuing lack of independent accountability for Queensland police and the narrow scope of responses to hate put forward by the government to date, I am concerned that it is not truly committing to the kind of whole-of-society approach required to tackle prejudice and hate. I very much welcome this bill as a first step. I implore the government to do all that it can to fully stamp out vilification and hate crimes in Queensland.