




Speech By
Hon. Craig Crawford

MEMBER FOR BARRON RIVER

Record of Proceedings, 11 May 2023

MONITORING OF PLACES OF DETENTION (OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE) BILL

 **Hon. CD CRAWFORD** (Barron River—ALP) (Minister for Seniors and Disability Services and Minister for Aboriginal and Torres Strait Islander Partnerships) (12.10 pm): I rise to speak in support of the OPCAT bill. As a human rights jurisdiction, the Queensland government shares the United Nations subcommittee's commitment to ensuring people in detention are treated with dignity. The Palaszczuk government has now introduced legislation that seeks to facilitate access by the United Nations subcommittee to places of detention including the Forensic Disability Service. The Legal Affairs and Safety Committee delivered its report on 24 February this year and I was pleased to see it make the recommendation that the bill be passed.

The Monitoring of Places of Detention (Optional Protocol to the Convention Against Torture) Bill 2022, or OPCAT bill, was introduced to the Assembly by the Attorney-General, the Hon. Shannon Fentiman, and referred to the Legal Affairs and Safety Committee on 1 December last year. The Forensic Disability Service, which comes under the responsibility of my department, was a place of interest to the subcommittee during their visit in 2022. The Forensic Disability Service is a small, specialist, medium-security residential rehabilitation facility for up to 10 clients with cognitive impairment or intellectual disability. The service was established in 2011 to provide a suitable and secure option for the support and rehabilitation of people with intellectual or cognitive disability for whom a forensic order of disability is in force.

As at 2 May 2023, there were five clients residing at the service, with ongoing treatment, care, support and protection provided to support clients to achieve successful transition to the community. Two clients transferred from the service in 2022. Clients are placed on forensic orders of disability by the Mental Health Court or tribunal if they are alleged to have committed serious criminal offences and considered to pose an unacceptable risk to the community.

All clients have been appointed a specialist support coordinator and all clients have been connected with a disability service provider who will support them to meet their needs in the community. This is a group of individuals who have unique and tailored support needs. The therapeutic model of the Forensic Disability Service is intended to have all clients on a trajectory that means they transition once they have completed all relevant programs or are no longer benefiting from their detainment in that environment.

As I mentioned earlier, the Forensic Disability Service was a place of interest to the subcommittee during their visit in 2022. My department engaged with the subcommittee as much as possible within the bounds of our current legislation. I am aware that the UN subcommittee suspended its visit to Australia in 2022. While the subcommittee was unable to visit the Forensic Disability Service, they were advised that they could interview staff and access client information with consent of the client or their guardian.

On 23 October 2022 the subcommittee arrived at the Forensic Disability Service. They were denied entry in line with the credentials provided in advance. The credentials provided that the subcommittee could speak with staff of the FDS at a site other than the FDS and access FDS client information, noting consent would be required from the client or their guardian. This did not occur. It is noted that the subcommittee attempted to visit two acute mental health services at the Princess Alexandra and Royal Brisbane hospitals and were similarly denied access.

On 23 October 2022, part way through the subcommittee's planned visit, a press release from the United Nations was issued noting that the visit had been suspended, citing a limited understanding of the subcommittee's mandate and lack of cooperation, especially with respect to Queensland and New South Wales, as the reason for suspending the visit. On 20 February 2023, a press release from the United Nations announced that the subcommittee had decided to cease its visit to Australia as the issue of unrestricted access to all places of detention had as yet not been resolved in two states.

The subcommittee's visit to Australia and the positions of various jurisdictions including Queensland has been the subject of media articles, including concern that appropriate legislative amendments have not yet been made to support visits. It is important to keep in mind that the Forensic Disability Service is currently subject to considerable oversight including from the Queensland Ombudsman, the Public Guardian and the Director of Forensic Disability.

The main objectives of this bill facilitate visits by the United Nations Subcommittee on Prevention of Torture to places of detention in Queensland. The subcommittee has the ability to conduct visits to Australia under the Optional Protocol to the Convention Against Torture, or OPCAT. OPCAT aims to prevent torture and cruel, inhuman or degrading treatment or punishment by establishing a two-part system of regular visits to places where persons are deprived of their liberty. OPCAT requires ratifying state parties to accept periodic visits by the subcommittee to places of detention and establish a domestic national preventive mechanism to conduct regular visits to places of detention.

The subcommittee is established under article 2 of OPCAT and has a mandate to visit places of detention and make recommendations to state parties concerning the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment. The effect of the bill will enable the subcommittee to fulfil its mandate. This includes: unrestricted access to all places of detention and their installations and facilities, subject to particular grounds for objecting to a visit; unrestricted access to all information concerning the number of persons deprived of their liberty in places of detention and the number and location of places of detention; unrestricted access to all information referring to the treatment of those persons and conditions of detention; the ability to privately interview persons deprived of their liberty and any other person the subcommittee believes may supply relevant information; and the liberty to choose the places it wants to visit and persons it wants to interview.

The bill provides a consistent framework to provide the subcommittee with access to places of detention in Queensland and information to assist the subcommittee to fulfil its mandate under OPCAT. The bill will also remove legislative barriers that restrict physical access to inpatient units of authorised mental health services under the Mental Health Act 2016 or to the Forensic Disability Service under the Forensic Disability Act 2021.

If passed, the bill will provide the subcommittee with access to the Forensic Disability Service. It will allow the subcommittee to interview persons and it will allow the subcommittee to access information. I commend the bill to the House.