




Speech By  
**Laura Gerber**

**MEMBER FOR CURRUMBIN**

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Record of Proceedings, 10 May 2023

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

 **Mrs GERBER** (Currumbin—LNP) (4.58 pm): On 21 December 2017 the Commonwealth government ratified the Optional Protocol to the Convention Against Torture. Today, after more than five years of delay by the Palaszczuk government, we are finally seeing this bill debated in parliament. I want to reiterate the LNP's support for this bill. We want to ensure offenders receive the appropriate punishment that fits their crime, but that they are also treated humanely while serving those penalties. Broadly speaking, this bill seeks to deliver accountability for the standards of detention and would allow for the United Nations Subcommittee on Prevention of Torture to visit places of detention in Queensland.

Earlier this year Queensland suffered the embarrassment of contributing to the cancellation of the United Nations Subcommittee on Prevention of Torture's trip to inspect places of detention here in Australia. This was due to the lack of action by the Palaszczuk government. Not enough progress had been made by the Queensland government to allow the UN subcommittee to visit. In relation to the subcommittee's visit as outlined in this bill, I want to make sure that I put on the record that there are safeguards in place in this bill. The minister can object to a subcommittee visit if there is an urgent and compelling reason to do so and this would include national defence, public safety, natural disaster or serious disorder in a place of detention and the detaining authority can temporarily prohibit access under certain circumstances. It should also be noted that these subcommittee visits are only one aspect of OPCAT, with the other being the establishment of a domestic national preventive mechanism to conduct regular visits to places of detention. Both South Australia and Victoria have passed similar legislation to the bill we are debating today. Additionally, Western Australia and the territories have already nominated their national preventive mechanism.

I welcome the bipartisan support on this bill but I must point out the delays and recent failures of the Palaszczuk Labor government in this area. Recently we saw disturbing reports, on the ABC and in the *Guardian* respectively, about a boy aged 13 who spent at least 45 days in solitary confinement despite not being sentenced to detention and a 13-year-old with a disability who was held in solitary confinement for a prolonged period. This state government has not implemented the Inspector of Detention Services, which is a body that could ensure oversight of youth detention centres and might be able to ensure that cases such as those do not happen in the future. We are still waiting till the Inspector of Detention Services can perform its duties. The UN had to cancel their trip to Australia, putting us on par with Rwanda, because the state government could not get their act together. All of that demonstrates a state government that is lurching from crisis to crisis and that is in absolute chaos. How on earth did Labor allow children aged 13 to be kept in solitary confinement for more than 45 days in a move that was widely considered to be unlawful?

I wish to turn to the part of the bill that caused concern throughout the committee inquiry and share a local story. While the policy objectives of the bill were broadly supported, many stakeholders expressed concerns over the definition of 'place of detention'. Many stakeholders wanted the bill to adopt the broad definition in the OPCAT treaty rather than the more restricted definition currently in the bill. In examining the definition of 'place of detention', I asked many of the stakeholders, as well as the department, whether quarantine facilities would be covered by this OPCAT bill. It is an aspect of the bill that remains unclear.

Will mandatory quarantine facilities such as hotels be included in the definition of 'places of detention'? We asked the Attorney-General's department this very question because the department's written submission contains nothing to even suggest that quarantine facilities formed part of the department's discussion paper on the bill. Unfortunately, the department has been unable to provide any clarity, advising that it is a policy decision by government and the department cannot take it any further than that. The Queensland Human Rights Commission was also uncertain as to whether a quarantine facility or a quarantine hotel would be covered, stating that places of quarantine could very well fall outside the prescribed list in the bill. The Human Rights Commissioner agreed that, whether it be a hotel or a purpose designed and built quarantine facility, they should be covered by OPCAT.

Both Sisters Inside and the Queensland Law Society stated that, on their interpretation of the bill, quarantine facilities would not be covered. However, they both recommended that the definition should include quarantine facilities. To that end, they supported the broader definition of 'places of detention' in the OPCAT treaty.

I raised this issue because, as most people in the chamber know, I worked very closely with my community to overcome the unique border challenges that we faced during the pandemic. As a result of chaotic communication from the state government about both quarantine rules and border closures, I had more constituents than most who found themselves in forced hotel quarantine, at their own expense and at the direction of the state government. Their experiences were not always pleasant nor where they humane. That is why I was keen to understand whether this bill and OPCAT would also cover quarantine facilities. To illustrate why I think this is so important, I want the parliament to hear Lynn's story. Lynn is a constituent of my mine who lives in Tugun. Her experiences demonstrate why this bill should clearly and specifically include quarantine facilities as part of the places of detention that can be visited and inspected.

On Sunday, 29 August 2021, Lynn was walking around Coolangatta. This happened to be at the same time that others were protesting the border closure. Lynn knew nothing about the protest. She walked up the stairs of the Mantra Hotel to avoid the people in the protest and accidentally walked on the New South Wales side of the border. She did not cross any barricades. She literally walked across the street, believing she was still in Queensland. There she was met by police who took her details and ordered her to go back to the Queensland side of the border, that is, the other side of the path which is just metres away.

Shortly after arriving back at her home in Tugun, Queensland police showed up and informed her that she had to pack her bags and go immediately into hotel quarantine for 14 days. That came as an incredible shock to Lynn. The whole situation was extremely wrong. Lynn was placed in hotel quarantine in Surfers Paradise. Despite raising concerns about her mental health, Lynn was kept in that quarantine facility for a week before I was successful in getting her an exemption—not from the quarantine itself, which is what she should have got, but merely an exemption to complete the rest of her quarantine at home. Lynn's experience in hotel quarantine is what this chamber needs to hear about and it is a reason why quarantine facilities should be inspected.

Lynn was subjected to a number of grossly disturbing issues that no person should have to deal with. She was in a fragile mental state and she was not provided with the care she needed. In a letter to the Premier and the health minister, Lynn detailed her experiences and the conditions she was forced to live under for seven days: vomit on the curtains, dangerous fungal growth on the walls and in the air conditioning, and stains throughout the room. I want to quote from Lynn's letter to the Premier and the health minister. She stated—

Where was any level of compassion afforded to ME? Compassion in my case was ZERO.

Instead, I was isolated and uncared for, incarcerated in a quarantine hotel in Surfers Paradise—going crazy at the injustice of it all. There was NO duty of care afforded to me.

She also wrote—

The entire situation that we had to endure caused myself and my husband a great deal of stress and upset for no good reason. And seriously affected my mental health, but there have been no apologies received ...

I implore everyone to read Lynn's account and to look at the despicable conditions that she was forced to live in at the hands of the state government. The photos are confronting. They are shocking. Quite frankly, it is hard to believe that this could have occurred in our great state. I table the letter for the benefit of other members in the House.

*Tabled paper:* Letter, undated, from Ms Lynn Tait to various recipients, regarding treatment of certain individuals during Queensland quarantine period [616](#).

Lynn's forced detention in hotel quarantine was extremely degrading for her. I have met with Lynn on many occasions and I have assisted her through her ordeal. The worst part about all of this is that the state government is still trying to chase Lynn for payment of the hotel quarantine bill. That is right: \$2,000 for her time in quarantine—time that she never should have been subjected to in the first place; time that was degrading and has severely affected her mental health.

I have written to the health minister and her department regarding this billing. Lynn has made an official request for an application to have the fee waived. On 28 April 2023, Lynn finally received an email saying that her circumstances were not grounds for submitting a fee waiver application. After all this time, after everything that Lynn has been through, this state government is still after her money. I am calling on the health minister to waive that quarantine bill not only because of the injustice of it but also because of the impact that quarantine had on Lynn's mental health. I am imploring the health minister to read Lynn's account and to ensure that the state government does not chase Lynn, through a debt collector, for payment of a quarantine bill when she should never have been forced into quarantine in the first place to endure an experience that has caused severe mental health issues and was a degrading experience for her. That should never have happened in the first place. I am imploring the state government to consider the OPCAT definition of 'places of detention' and include quarantine facilities in the definition.