




Speech By  
**Peter Russo**  
**MEMBER FOR TOOHEY**

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Record of Proceedings, 10 May 2023

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

 **Mr RUSSO** (Toohey—ALP) (4.52 pm): I rise to speak to the Monitoring of Places of Detention (Optional Protocol to the Convention Against Torture) Bill 2022. The Legal Affairs and Safety Committee, in its report No. 42 tabled in this Assembly on 24 February 2023, has recommended to the Assembly that this bill be passed. The committee's task was to consider the policy to be achieved by the legislation and the application of fundamental legislative principles—that is, to consider whether the bill has sufficient regard to the rights and liberties of individuals, and to the institution of parliament. The committee also examined the bill for compatibility with human rights in accordance with the Human Rights Act 2019. The bill seeks to facilitate visits by the United Nations Subcommittee on Prevention of Torture to places of detention in Queensland. As part of its inquiry, the committee called for and received written submissions from stakeholders, was briefed by the Department of Justice and Attorney-General and heard evidence from organisations at a public hearing.

The Palaszczuk government is committed to protecting the human rights of all Queenslanders, including those in detention. In 2019, Queensland's Human Rights Act commenced, ensuring public entities had specific obligations to act and to make decisions compatible with human rights. This historic legislation saw the enhancement of protections for Queenslanders in their dealings with public entities and protects specific rights including protection from torture and cruel, inhuman or degrading treatment and humane treatment when deprived of liberty.

The purpose of the bill is to 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. The Commonwealth government ratified OPCAT on 21 December 2017. 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 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 2011. The bill defines places of detention that fall within its scope. This will provide certainty to the UN subcommittee and government agencies as to the process to be followed for UN subcommittee visits to these facilities. Places of detention that are defined in the bill are: prisons; community correction centres and work camps; youth detention centres; inpatient units with an authorised mental health service; the Forensic Disability Service; court cells, police watch houses, police holding cells, or other places in a police station where a person is detained; any vehicle primarily used or operated for the purpose of transporting a detainee; and any other place other than a private residence prescribed by regulation where a person is a detainee.

The bill does not prevent the UN subcommittee from visiting places not within the bill's scope. The bill requires the minister with the responsibility for the place of detention and the detaining authority to provide the UN subcommittee with unrestricted access to the place of detention, except in limited circumstances. As provided under OPCAT, the bill provides that a responsible minister may object to a visit by the UN subcommittee on the grounds of national defence, public safety, natural disaster and serious disorder in a place of detention. Given the broad nature of these powers and their potential to affect persons detained, staff, the subcommittee and the broader community in an adverse manner, the committee is pleased to note that care has been taken to include a number of safeguards to limit the use of the proposed power to temporarily prevent the visit, including that: the prohibition or restriction of access must be for the shortest period reasonable in the circumstances; the detaining authority must provide the responsible minister with the written reasons for the prohibition or restriction including the date, time and duration of the prohibition or restriction; the responsible minister could direct a detaining authority not restrict access of the subcommittee to the facility or parts of the facility. On the basis of all evidence submitted, the committee is satisfied the bill will achieve its policy objectives. I commend the bill to the House.