




Speech By  
**Sandy Bolton**

**MEMBER FOR NOOSA**

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

 **Ms BOLTON** (Noosa—Ind) (5.17 pm): The inquiry into the Monitoring of Places of Detention (Optional Protocol to the Convention Against Torture) Bill 2022 is designed to allow visits and reporting by the United Nations Subcommittee on Prevention of Torture to places of detention in Queensland. The need for this bill arises from Australia's ratification of the Optional Protocol to the Convention Against Torture, known as OPCAT. Under this treaty, Australia, and therefore Queensland, first must set up a domestic mechanism to conduct regular visits to places of detention and, second, must allow periodic visits by the UN subcommittee to inspect them for potential torture and other cruel, inhuman or degrading treatment or punishments.

During our Legal Affairs and Safety Committee inquiry into this bill, a key issue was around which Queensland facilities would be open to UN subcommittee inspectors. This bill specifies prisons, forensic mental health facilities and watch houses—the core detention facilities run by the Queensland government. Many submissions questioned this definition. The Australian Human Rights Commission and the Queensland Law Society wanted the broader definition used in the OPCAT protocol, which is any place under the state's jurisdiction where people 'are or may be deprived of their liberty'.

Aged and Disability Advocacy Australia proposed that detention facilities should include residential aged-care facilities and secure dementia units. A similar proposition was put forward by Townsville Community Law. These facilities with dementia places often have locked doors and residents are unable to leave. These can be considered places of detention and, as such, could be covered by this bill. During COVID, with the lockdown of aged care, even more of these premises became detention facilities.

Legal Aid Queensland submitted that the bill's definition would not capture situations where a person is in Wacol contingency accommodation, also known as the Wacol precinct, due to an order made under the provisions of the Dangerous Prisoners (Sexual Offenders) Act 2003. Another type of facility not covered is quarantine facilities, and that has already been brought up. During COVID thousands of Queenslanders were directed by government to isolate in hotels. During the public hearing the Queensland Human Rights Commission stated that these facilities should be captured as places of detention, as did the Queensland Law Society. The department in its response stated that the bill allows the Governor-in-Council to make a regulation to prescribe other places of detention. This is not adequate given that during COVID what happened in quarantine and aged-care facilities was inhuman. You only need to speak to those who are still impacted emotionally, financially and physically. Many Noosa constituents during that time suffered some really horrendous conditions.

Another issue was the temporary restriction of access for the UN subcommittee. The bill provides a list of factors including security, good order and management of the place of detention, and the conduct of essential operations by the detaining authority. Australian Lawyers for Human Rights argued instead for the use of the OPCAT provision for denying access to a facility, which is only for urgent and

compelling grounds of national defence, public safety, natural disaster or serious disorder. The Aboriginal and Torres Strait Islander Legal Service pointed out that these do not rise to the level of seriousness and urgency of the OPCAT provision, providing a much broader set of reasons to exclude the UN committee than what is provided for by OPCAT. The department in response argued that the bill does provide that restriction on access must only be for the shortest period reasonable in the circumstances and requires a detaining authority to provide the responsible minister with written reasons for the restriction.

Finally, the bill states that interviews must be conducted with no other person being present other than an accompanying expert, interpreter or support person. Sisters Inside submitted that more detail should be provided, including that interviews should be in a private room with no-one able to view or overhear and no audible recordings or video camera recordings to ensure privacy. However, the department considers that the term 'private' covers these issues sufficiently and was informed by the subcommittee's recent visit to Australia.

While this work is incredibly important, it is also a baseline level of performance for our justice system. At the very least we should expect that cruel, inhuman or degrading treatment is not experienced in our detention centres. With youth crime constantly in the headlines—and we have spoken endlessly of the ongoing trauma being inflicted across the state—understandably, our communities are more interested in seeing perpetrators apprehended and jailed to create greater safety and are not impressed that we are spending time on conditions for prisoners. However, how we treat others, whether fellow humans or our furry friends and livestock, is a key indicator of how balanced we are as a society. As I said a couple of sittings ago, two or more wrongs do not make a right.

Justice Action, which represents prisoners, argued that the strain on prisoner infrastructure and services has resulted in deteriorating prisoner health conditions and rising incidents of self-harm. This makes attempts to rehabilitate and reintegrate into society difficult. We need to reverse this trend. Most importantly, we must keep trying to give fewer Queenslanders any reason to commit crimes against others. We have argued for further early intervention and additional options for the court such as relocation sentencing or diversion centres. Noosa MP community surveys show that over 70 per cent are in favour of boot camps or an equivalent and over 60 per cent are in favour of other options for youth detention. I will say it again: it costs over \$1,500 plus per day for imprisonment. It makes logical sense that taxpayer funds be used for efforts to decriminalise rather than criminalise, which leads to less safety. We need more support for victims and their families.

Thank you to our chair, the member for Toohey, fellow committee members, our amazing secretariat and department submitters as well as participants in the inquiry for their examination of this bill.