

Australian NPM submission

Draft National Report: Australia's 4th Universal Periodic Review

Australia's implementation of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT)



August 2025

Acknowledgment of Country

The Australian National Preventive Mechanism (NPM) acknowledges the Aboriginal and Torres Strait Islander peoples throughout Australia and the Traditional Custodians of the lands across which we conduct our business.

We pay our respects to the custodians of the lands on which we work as well as their ancestors and Elders, past and present.

The Australian NPM is committed to honouring Aboriginal and Torres Strait Islander peoples' unique cultural and spiritual relationships to the land, waters, and seas, and their rich contribution to society.

Introduction

This submission is made in response to the Attorney-General's Department's invitation to comment on the draft National Report prepared for Australia's Fourth Universal Periodic Review (UPR), on behalf of the following members of the Australian National Preventive Mechanism (NPM):

- Australian Capital Territory (ACT) Human Rights Commission
- ACT Inspector of Custodial Services
- ACT Ombudsman
- Commonwealth NPM
- Northern Territory (NT) Community Visitor Program / NT Anti-Discrimination Commission
- NT Office of the Children's Commissioner
- NT Ombudsman
- South Australian (SA) Training Centre Visitor
- Mr Aaron Cooke (SA Official Visitor - Aboriginal)
- Tasmanian NPM
- Western Australian (WA) Inspector of Custodial Services

This short submission is limited in scope to the implementation of the *Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (OPCAT), including the implementation status of relevant recommendations received during the Third Cycle UPR.

This submission does not comment on substantive issues related to the human rights of people deprived of their liberty. Since the Third Cycle UPR, the Australian NPM has collectively commented on some of these issues, including through various submissions to United Nations bodies and processes. Joint work by the Australian NPM, including public submissions, can be found [here](#).

OPCAT implementation

In its Third Cycle UPR, Australia accepted recommendations to strengthen OPCAT implementation through the establishment of NPMs.¹ As of August 2025, while acknowledging the work which has occurred to date towards OPCAT implementation, the Australian NPM does not consider these recommendations to have been fully implemented. We are also concerned the draft National Report currently provides an incomplete picture of the current stalled, incomplete state of OPCAT implementation in Australia.

Over 7 years after ratification and 16 years after signature, OPCAT implementation in Australia remains incomplete. There are not yet appropriately resourced and empowered NPMs with coverage of all places of deprivation of liberty across the country. Australia's three most populous states (Queensland, Victoria and New South Wales) have not nominated members for the Australian NPM. Current Australian NPM members have varying status and legislative authority, and no current member is adequately resourced for OPCAT work.

Further, since Australia's Third Cycle UPR, the Subcommittee on Prevention of Torture (SPT) suspended and later terminated their first visit to Australia. This was owing to their being prevented from visiting multiple places of detention, facing difficulties in undertaking visits at other places, and not being given all relevant information they requested.² Multiple Australian jurisdictions still lack legislation providing for the SPT to be able to exercise its full visit mandate.

Queensland, which has not nominated an NPM, has suspended aspects of its Human Rights Act in relation to youth detention in Queensland, acknowledging while doing so that their approach to the treatment of young people accused or convicted of criminal offences is in breach of human rights standards.³

The Northern Territory, which has nominated three bodies to be NPMs but provided no funding to them for this work, is reintroducing measures in youth detention such as spit hoods, which are inconsistent with human rights standards.

All Australian governments must commit to the full implementation of OPCAT. At the core of Australia's incomplete OPCAT implementation is ongoing disagreement between

¹ Recommendation 138: 'Expedite the process of the creation of the national preventive mechanism in accordance with the Optional Protocol to the Convention against Torture' (Ukraine); Recommendation 139: 'Strengthen implementation of the Optional Protocol to the Convention against Torture through the establishment of national preventive mechanisms' (Philippines) in Human Rights Council, ['Report of the Working Group on the Universal Periodic Review – Australia \(Third Cycle\)'](#), A/HRC/47/8 (24 March 2021).

² United Nations Subcommittee on Prevention of Torture, ['Press Release: UN torture prevention body suspends visit to Australia citing lack of co-operation'](#) (23 October 2022).

³ [Statement of Compatibility, Child Protection \(Offender Reporting and Offender Prohibition Order\) and Other Legislation Amendment Bill 2022 \(Qld\)](#), pages 16-17, 29-30; [Statement of Compatibility, Making Queensland Safer \(Adult Crime, Adult Time\) Amendment Bill 2025 \(Qld\)](#).

different levels of government in Australia as to the contributions they should make to the relatively small costs of OPCAT implementation. In contrast, Australian governments spend more than \$8B annually to operate the places under their control where people are deprived of their liberty.⁴

While in February 2024 all Australian Attorneys-General agreed that jurisdictions should “continue to cooperatively and progressively work towards compliance with OPCAT”,⁵ we have seen limited signs of this work since. Neither federal nor state and territory Budgets have included sufficient, ongoing funding for the implementation of OPCAT and the Australian NPM.⁶ Agreement among governments to resource all NPMs on an adequate, ongoing basis has still not been reached. In practice, this ongoing disagreement continues to undermine the adequacy of independent external oversight of places of deprivation of liberty in Australia.

As members of the Australian NPM we remain committed to OPCAT’s objectives, and the need for independent domestic monitoring bodies to achieve them. We are actively working in furtherance of Australia’s OPCAT implementation. But until implementation gaps are met by Australian governments, we cannot fully discharge the enormous potential which OPCAT’s system of visits envisages, towards improving treatment and conditions in detention, and the prevention of torture and other ill treatment in those places. At the time of its Fourth Cycle UPR review, this leaves a gap in Australia’s implementation of its human rights commitments.

Our Australian NPM annual reports for [2022–23](#) and [2023–24](#) provide further information on some of the key challenges which persist with OPCAT implementation in Australia.⁷

⁴ Estimated based on 2023-24 Australian government spending on adult prisons (~\$5B), youth detention facilities (~\$1B), onshore immigration detention and offshore processing (~\$2B). This figure does not account for other places of deprivation of liberty which may fall under the scope of OPCAT such as forensic disability facilities, closed mental health facilities and military detention facilities. See – Australian Productivity Commission, Report on Government Services 2025, [‘Part C, Section 8: Corrective Services’](#) (4 February 2025); [‘Part F, Section 17: Youth justice services’](#) (30 January 2025); Australian Government, [‘Budget related paper No. 1.10: Home Affairs Portfolio’](#) in ‘Portfolio Budget Statements 2025-25’ (25 March 2025), pages 38 & 53.

⁵ Standing Council of Attorneys-General, [‘Communiqué – 23 February 2024’](#).

⁶ Australian NPM, [‘Critical torture prevention work again underfunded’](#) (26 March 2025); [‘Little funding for torture prevention in federal Budget’](#) (20 May 2024).

⁷ Australian NPM, [‘Annual Report 2022–23’](#); Australian NPM, [‘Annual Report 2023–24’](#).

> Recommendation:

We call on the Australian Government to acknowledge current shortfalls in OPCAT implementation in its National Report, and make a voluntary commitment on behalf of Australia to fully implementing OPCAT.

We reiterate the 4 recommendations made in our inaugural 2022–23 Australian NPM Annual Report to Australian governments, to:

- provide appropriate and ongoing funding to enable all NPMs to undertake their OPCAT mandate
- provide a clear and comprehensive legislative basis for all NPM members
- enact legislation to enable the SPT to perform its own visit activity across Australia
- further appoint NPMs to ensure complete coverage of all places of deprivation of liberty across Australia.

A voluntary commitment by Australia during its Fourth Cycle UPR, to comprehensive OPCAT implementation across the country, would re-affirm Australia's commitment to meeting its treaty obligations and renew momentum for overdue national action on OPCAT implementation.

This joint submission is made on behalf of the following Australian NPM members:



Aaron Cooke
South Australian Official Visitor

