

The Hon. Jaclyn Symes
Attorney-General
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Dear Attorney-General,

We are writing to you to express our deep and ongoing concern regarding the Victorian Government's lack of progress towards implementing National Preventative Mechanisms (NPMs) as required by Australia's obligations under the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).

Since Australia ratified OPCAT in 2017, Victoria has missed multiple implementation deadlines and will not meet the latest looming deadline on 20 January 2023.

Independent oversight of places of detention in Victoria is urgently needed to protect against torture, mistreatment, abuse and systemic failings and bring Victoria in line with OPCAT obligations. As the Inquiry into Victoria's criminal legal system recently found, "the implementation of OPCAT is also critical to increase transparency of prison conditions and addressing problematic practices" including "practices such as solitary confinement, strip searching and the use of physical restraints [which] can be highly traumatic and can impede the rehabilitation of people in incarceration." A progressive Victorian Government can and should prioritise preventing torture in places of detention.

We understand the current position of your Government is that the Federal Government, as signatory to the protocol, should provide funding for independent detention oversight. We are of the collective view that your Government has authority to commit funding to independent detention oversight regardless of what funding is provided by the Federal Government, and urge you to commit this funding in the May budget.

Over the last 8 years your Government has significantly increased funding for prisons, including almost \$2 billion in the 2019-20 budget for building new prisons and expanding existing prisons. Independent detention oversight is an inextricable component of operating prison facilities, costs a fraction of this amount and would embed accountability and protection for the human rights, safety and wellbeing of people housed in these facilities.

We further understand that the Victorian Government does not plan to consult affected communities on the detail or scope of the NPM model until after the Federal Government agrees to provide funding. Early consultation with civil society and Aboriginal and Torres Strait Islander people, communities and organisations, as well as people with lived experience of incarceration and their families, is crucial to ensuring Victoria's NPM is independent, adequately resourced and culturally competent. In line with the Victorian Aboriginal Affairs Framework, these consultations should have begun already and must take place immediately to inform the policy and resourcing decisions regarding the NPM at both state and Commonwealth levels.

In the 5 years since Australia signed onto OPCAT, effective independent oversight could have prevented numerous instances of abuse, torture, and even death of people deprived of their liberty.

In 2020, in response to a COVID-19 outbreak and without any warning to residents, the Victorian Government locked down public housing towers in Flemington and North Melbourne. The Victorian Ombudsman subsequently found that your Government breached the human rights of those residents. We believe that well designed and funded independent detention oversight could have prevented these human rights violations.

Veronica Nelson died in the Dame Phyllis Frost Centre Prison on 2 January 2020. There was a lengthy Coronial Inquest into her passing in 2022 and the findings are to be delivered imminently. However, there was extensive evidence given regarding the poor quality of healthcare provided to Veronica while she was in that prison. This evidence aligns with our understanding of the quality of healthcare provided across prisons in Victoria. We also note that the Minister for Health, Mary-Anne Thomas, said that she was very concerned about the quality of healthcare in prisons at VACCHO's Community Question Time prior to last year's election. We believe that well designed and funded independent detention oversight could have ensured Veronica received better healthcare.

The Victorian Aboriginal Legal Service has been representing an Aboriginal teenager, DJ, who is being held in Port Phillip Prison despite not yet being 18 years old. DJ cannot access services to help his rehabilitation, is isolated by not having any peers, and has been subjected to extended periods of solitary confinement because the prison is not designed to support adolescents. We believe that well designed and funded independent detention oversight could have prevented DJ's incarceration in these conditions.

A 2021 IBAC inquiry and report found that your Government's increased spending on prisons has led to an increase in abuse and corruption in Victoria's prisons. In late 2022 the Yoorrook Justice Commission received evidence from survivors and our own organisations about the ongoing harms to First Peoples caused by prisons. The Commission is expected to make interim recommendations on these issues this year. These inquiries further support the urgency for your Government to immediately implement independent detention oversight and fulfill Victoria's obligations under OPCAT.

We can and we must do better to protect the human rights of some of the most vulnerable Victorians.

We, the undersigned, ask you to urgently establish an OPCAT-compliant National Preventive Mechanism in full and transparent consultation with civil society and affected communities. We also ask that you commit to properly funding Victoria's NPM, separate to and irrespective of what funding is provided by the Federal Government.

Yours Sincerely,



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