



Refugee Council  
of Australia

AUSTRALIAN HUMAN RIGHTS COMMISSION

## **SUBMISSION ON THE IMPLEMENTATION OF OPCAT IN AUSTRALIA: SECOND STAGE OF CONSULTATIONS**

The Refugee Council of Australia (RCOA) is the national umbrella body for refugees, people seeking asylum and the organisations and individuals who work with them. Representing around 190 organisations, RCOA promotes the adoption of humane, lawful and constructive policies by governments and communities in Australia and internationally towards refugees, people seeking asylum and humanitarian entrants. RCOA consults regularly with its members, community leaders and people from refugee backgrounds and this submission is informed by their views.

RCOA welcomes the ratification of Optional Protocol to the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (OPCAT) by the Australian Government, and this opportunity to provide feedback to second stage of civil society consultation conducted by the Australian Human Rights Commission (the Human Rights Commission). We look forward to providing further input at the consultation roundtable.

This submission focuses on the implementation of OPCAT in relation to immigration detention and the role of Commonwealth Ombudsman as the National Preventive Mechanism (NPM).

This submission addresses each of the four consultation questions set out in the Discussion Paper. RCOA endorses in principle all of the proposals set out in the Human Rights Commission's Interim Report.

### **1 RCOA's previous submission on the implementation of OPCAT**

1.1 RCOA made a [submission](#) to the first round of the consultations conducted by the Human Rights Commission in July 2017. The following key recommendations and points in that submission remain relevant:

- Even the highest quality detention monitoring will not address the fundamental issue with immigration detention in Australia: it is mandatory, indefinite and arbitrary and not subject to a proper and transparent review.
- Recommendations by monitoring bodies are increasingly not accepted by the Government. Without political will or legislation, recommendations made by NPMs could be treated with similar disregard. Monitoring bodies should not be seen through an adversarial lens, but the

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Government needs to engage with them with a shared goal of minimising harm to people deprived of liberty.

- Designating an existing body as the NPM creates a risk that OPCAT-related work would be treated as ‘business as usual’, rather than preventive.
- To improve the transparency and accountability of detention monitoring, the NPM should be required to publish its visit reports, standards for inspection, and performance against key benchmarks or standards.
- To comply with our international obligations, our ratification of OPCAT should extend to Australia’s offshore processing centres in Nauru and Manus Island.
- Detention monitors should have jurisdiction to monitor all Alternative Places of Detention and people detained at sea. Visits to remote detention facilities should be prioritised.
- It is essential to establish the NPM by legislation, conferring specific functions of detention monitoring on the Ombudsman and the Human Rights Commission, setting out its preventive and human rights-focused mandate, and clearly setting out its relationship with other detention monitors. Legislation should also be amended to protect whistleblowers better. There should also be increased and ring-fenced resourcing for detention monitoring undertaken under OPCAT.
- To build relationships between the NPM and civil society, the NPM should establish a formal advisory or consultative body and institutionalise channels of engagement, develop a plan to engage civil society, and consider establishing a mixed working group to review the implementation of recommendations.
- NPM reports should be subject to review by the Joint Parliamentary Committee on Human Rights, and the NPM should establish advisory groups for key vulnerable groups including other responsible statutory authorities with relevant expertise.

## **2 How should OPCAT be implemented to prevent harm to people in detention? How should the most urgent risks of harm be identified and prioritised?**

2.1 We limit our feedback in relation to this question to immigration detention.

### **Categories of people in detention**

2.2 All people in immigration detention are vulnerable due to the nature of their detention. They do not know when they will be released, often do not understand why they are detained and how they can challenge their detention. People in immigration detention are subject to more restrictions if they have a higher risk rating. However, they are often unaware of their individual risk rating and how that risk is increased or decreased.

2.3 Within this group, there are a few categories that are at more urgent risks of harm. They are:

- People in offshore facilities on Nauru and Manus Island (discussed further below)
- People transferred from offshore to detention facilities in Australia
- Children and young people and their families
- People with physical and mental disability
- People with chronic illnesses, and
- People who have been in detention for longer than six months.

### **Detention practices**

2.4 There are specific detention practices that increase the risk of harm to people in detention. To be truly preventive, NPM should review these practices as a matter of priority. They include:

- Restrictive practices such as use of restraints, use of isolation, and use of Behavioural Management Units in immigration detention facilities
- Management of transfers between detention facilities, especially those that happen early in the mornings
- Management of removals, and
- Responses to protests (including hunger strikes) and critical incidents.

2.5 We recommend prioritising visits to detention facilities after a large number of people have been transferred. This will provide an opportunity to review the practices around transfer, including ensuring continuity of access to health and legal services. This is currently one of the greatest challenges associated with transfers within the immigration detention network. We suggest prioritising visits after large-scale transfers as small-scale transfers are part of the everyday operations of detention facilities. However, in any detention visits, the NPMs should ensure they speak to people who have been recently transferred.

2.6 In relation to responses to critical incidents such as suicide and absconding, we have often heard that following an attempt to abscond, people in the facility are subject to more restrictive practices. As well, we have heard that the impact of suicide or suicide attempts of a person in detention on other people is not often fully appreciated. People do not feel supported in the aftermath, leading to their frustration or withdrawal. Those responses should be observed and assessed to ensure they are proportionate and appropriate.

### **Places of detention**

2.7 We submit that all immigration detention facilities should be visited. This includes Alternative Places of Detention (APODs). Sometimes less restrictive parts of an immigration detention facility are called APODs. However, hotel rooms, hospitals and prisons can also be designated as APODs. These places should be visited by the NPM.

2.8 There are certain places of detention that can increase the risk of harm to people. They include the facilities that are more remote, such as Yongah Hill Immigration Detention Centre (IDC) and Christmas Island IDC. Within immigration detention facilities, there are compounds and areas that can increase the risk of harm to people. They include isolation areas, Behavioural Management Units and high security areas of a detention facility that are generally more restricted.

### **Jurisdictions**

2.9 As mentioned in the previous submission to the Human Rights Commission, RCOA's consistent view is that offshore processing centres in Nauru and on Manus Island are under the effective control of Australia and Australia is jointly responsible for the detention of people in these places.

2.10 We find it of significant concern that the Australian Government's stated position is the oversight under OPCAT is not extended to those facilities and strongly disagree with this position.

2.11 Offshore detention centres in Nauru and Manus Island are some of the most secretive areas where people are deprived of liberty and where some of the grossest human rights abuses have occurred. Excluding them from the jurisdiction of OPCAT undermines the main purpose of this protocol, which is reducing and preventing harm through scrutiny and transparency.

2.12 We note that the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) in its ninth annual report provides the following advice about the cross-border monitoring of persons in detention:

*Should a State party to the Optional Protocol (a sending State) enter into an arrangement under which those detained by that State are to be held in facilities located in a third State (a receiving State), the Subcommittee considers that the sending State should ensure that such an agreement provides for its national preventive mechanism to have the legal and practical capacity to visit those detainees in accordance with the provisions of the Optional Protocol and the Subcommittee guidelines on national preventive mechanisms.*

*After undertaking such visits, the national preventive mechanism of the sending State should be able to present its recommendations and enter into a preventive dialogue with the authorities of both the sending and receiving State. The agreement entered into between the sending and receiving States should provide for that and should permit the variation of its terms in the light of the recommendations made.<sup>1</sup>*

- 2.13 The SPT also advises that the NPM of the receiving State should be able to visit those in detention who have been detained under such an agreement and it should present its recommendations and enter into a preventive dialogue with the authorities of both the receiving and sending States.
- 2.14 We acknowledge that this can be more challenging in relation to Manus Island as Papua New Guinea has not ratified OPCAT. We also acknowledge that despite ratifying OPCAT, Nauru is yet to establish an NPM. However, this does not relieve Australia (the sending State) of its obligation under OPCAT to ensure people who are deprived of liberty because of its policies are not at risk of harm. The fact that Nauru has ratified OPCAT also presents an opportunity for Australia to support this country to establish an NPM and build its capacity. Further advice from SPT could be sought on this specific situation. One of the main benefits of access to the SPT is through using it to advise on matters that are of more complicated nature.
- 2.15 We also note that cross-border monitoring has happened in other countries. One of the notable examples is in relation to the Netherlands and Norway. Norway entered into an agreement with the Netherlands to house the overflow of its prisoners in Dutch prisons. The monitoring of the conditions of those prisoners is done by the NPMs from both sending and receiving States.<sup>2</sup>
- 2.16 In relation to jurisdiction, we restate our previous concern that people who are held at sea are not currently being visited by Australian detention monitors. NPMs should be given the power to visit these people when the need arises.

### **Other points related to OPCAT implementation**

- 2.17 We support the position of the Australian Lawyers Alliance that the NPMs should start by conducting a through audit and assessment. Beginning by identifying the most at-risk categories of people in detention, as well as places of detention and practices that increase the risk of harm, can provide the necessary basis for the NPM to prioritise its visits and minimise the risks of interference by governments in relation to its priorities.

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<sup>1</sup> Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *Ninth Annual Report* (CAT/C/57/4, 22 March 2016) <<https://ilga.org/wp-content/uploads/2016/02/SPT-LGBTI-persons-in-detention-2016.pdf>>, [22].

<sup>2</sup> The following report developed by Norwegian Parliamentary Ombudsman (Norwegian NPM) documents the outcome of a monitoring report of a Sending State to the Receiving State. It describes the challenges, issues it identified and recommendations to address them: Norwegian Parliamentary Ombudsman, *Visit Report to Norgerhaven Prison (19-22 September 2016)* <<https://www.sivilombudsmannen.no/wp-content/uploads/2017/05/2016-Norgerhaven-prison-Visit-report-EN.pdf>>.

2.18 It should be noted that preventing harm to people in detention cannot be achieved simply by visiting places of detention. For the NPM to be effective, it needs to raise awareness about OPCAT, engage properly with civil society, and hold the detaining authorities accountable. It should also be able to comment on draft and implementing legislations. This is what the SPT calls a 'preventive package':

*The Subcommittee is of the view that a national preventive mechanism should also be empowered and able to deliver the whole "preventive package", including examining patterns of practices from which risks of torture may arise; advocacy, such as commenting on draft and implementing legislation; providing public education; undertaking capacity building; and actively engaging with State authorities. The Subcommittee emphasizes that this requires sufficient resourcing; appropriate privileges and immunities; and access to the Subcommittee for advice and assistance.<sup>3</sup>*

2.19 We are aware that the Human Rights Commission does comment on legislation, but it is unclear whether the Ombudsman does so at all, or whether it does so confidentially.

### **Recommendation 1**

*Remote detention facilities and more restrictive areas within facilities should be prioritised for visits. The NPM should review, as a matter of priority, restrictive detention practices, management of transfers and responses to critical incidents. People in detention with specific vulnerabilities relating to young age, ill health and prolonged detention are more at risk of urgent harm.*

### **Recommendation 2**

*The NPM should have jurisdiction to monitor offshore detention centres and people held at sea.*

### **Recommendation 3**

*The NPM should also be able to examine systemic issues, have a role in promoting public awareness of OPCAT, and be given a mandate to comment on pending legislation and the implementation of legislation.*

## **3 What categories of 'place of detention' should be subject to visits by Australia's NPM bodies?**

3.1 In its ninth annual report, the SPT provides advice on the scope of article 4 of OPCAT, which defines 'places of detention'. According to the SPT:

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<sup>3</sup> Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *Eleventh Annual Report* (CAT/C/63/4, 26 March 2018)  
<<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsubOMO9w8fqdCQIIG%2fxXK5m4UDz6DRWaK19Ngkshq%2fnkbuWMz4KjvbgukRUbWvZ4eO7vWdAUPOY3Q7BfdZ3qEwGTFT1xAqd70PFoYmPJ0yps>>, [10].

*Article 4 contains two paragraphs that must be read together and that place within the scope of the Optional Protocol any public or private custodial setting under the jurisdiction and control of the State party, in which persons may be deprived of their liberty and are not permitted to leave, either by an order given by any judicial, administrative or other authority or at its instigation or with its consent or acquiescence.*<sup>4</sup>

- 3.2 We endorse the recommendations of the Australian Lawyers Alliance and the Human Rights Law Centre that NPMs should not be limited by law in relation to places that they can visit. Any such legislation will limit the independence of the NPM and politicises the process. The NPM must be enabled to visit any place where people are deprived of liberty. If the Government seeks to limit the places of detention the NPM can visit, or rather seeks to prescribe the places the NPM can visit, it could be in breach of article 4 and 29 of OPCAT.
- 3.3 We note that the Australian Government has indicated that the initial focus will be on primary places of detention, such as prisons, juvenile detention, immigration detention and police cells. A state party can choose to take an incremental approach to the implementation of OPCAT, as long as it is not limiting the scope and makes it clear (preferably through legislation) that NPM has the power to visit any place where people are deprived of liberty.
- 3.4 There are, however, some places that are not primary places of detention where there is significant concern about the harm caused to people held in these places. The most notable example are aged care facilities. The recent decision of Prime Minister Morrison to hold a royal commission into residential aged care shows the extent of concerns about the practices in these facilities. Mental health facilities are another example. We recommend therefore that the Australian Government should also evaluate whether other places of detention need to be prioritised because of the harm to people in these places.
- 3.5 The Australian Government has indicated that it will adopt a three-year implementation period for the NPM. This can create an opportunity to educate non-traditional places of detention about the role of OPCAT. As explained by Professor Malcolm Evans, Chair of the SPT, those in charge of places like mental health facilities need time and proper engagement with the NPM to understand that such facilities fall under the mandate of OPCAT and are places where people can be deprived of liberty and therefore at risk of harm.<sup>5</sup> The NPM can use the implementation period to engage with these places and promote its preventive work, so there is receptiveness and understanding when it commences visiting those places.

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<sup>4</sup> Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *Ninth Annual Report* (CAT/C/57/4, 22 March 2016) <<https://ilga.org/wp-content/uploads/2016/02/SPT-LGBTI-persons-in-detention-2016.pdf>>, [19].

<sup>5</sup> Steven Caruana, *Enhancing Best Practice Inspection Methodologies for Oversight Bodies with an Optional Protocol to the Convention Against Torture Focus* (Churchill Trust Fellowship, 9 July 2018) <[https://www.churchilltrust.com.au/media/fellows/Caruana\\_S\\_2017\\_inspection\\_methodologies\\_for\\_oversight\\_bodies\\_wit\\_h\\_an\\_OPCAT\\_focus.pdf](https://www.churchilltrust.com.au/media/fellows/Caruana_S_2017_inspection_methodologies_for_oversight_bodies_wit_h_an_OPCAT_focus.pdf)>.

## **Recommendation 4**

*The NPM should be able to visit all places of detention without any limit or restriction or interference from governments.*

### **4 What steps should be taken to ensure that measures to implement OPCAT in Australia are consultative and engage with affected stakeholders?**

- 4.1 As previously stated in our earlier submission, we hope that the implementation of OPCAT will improve the involvement of civil society in detention monitoring and acknowledge the expertise and the value of civil society in minimising the risk of harm.
- 4.2 In the context of immigration detention, there are significant gaps in engagement and consultation with civil society. While NGOs and peak bodies including ourselves have some opportunities to engage with the Australian Border Force and Department of Home Affairs to raise systemic issues related to immigration detention, those opportunities are few and far in between. They are also mainly limited to *raising systemic issues of concern*. We are very rarely consulted about the ways to address the issues. An exception to this was the chance provided to RCOA and a few other organisations to provide feedback about the new detention visit policies and recommend ways to address some issues.
- 4.3 For those detention visitors, advocates, religious service providers and community leaders who are on the ground, engaging frequently with people in detention, there is almost no opportunity for a dialogue with the authorities. Instead, they need to relay their concerns to organisations like RCOA and wait for us to find an opportunity to raise them, bearing in mind that we have more limited access to local detaining authorities.
- 4.4 Previously these groups could at least engage with detaining authorities at the local level at Community Consultative Groups and raise the issues relating to that facility. These Groups were chaired by the Ministerial Council on Asylum Seekers and Detention, an advisory body that was appointed by the Minister and gave advice directly to the Minister. The Council, however, has now been disbanded, removing the only opportunity those groups had to raise issues with people who had access to the Minister. Further, the Groups in some states (including New South Wales and Western Australia) have not been convened since the beginning of the year, presumably due to lack of a Chair, removing the only opportunity some of the civil society members had to raise the detention-related issues with the authorities.
- 4.5 Many of the civil society members who are involved in supporting people in detention have great experience, are highly trusted by people in detention and have the most current knowledge of detention issues. We therefore repeat our previous recommendation that a formal advisory or consultative body should be established containing civil society representatives, including those involved in immigration detention. This core advisory body with a mix of expertise should have ongoing input into the implementation of OPCAT, functioning of the NPMs, areas of focus and should review the progress made by monitoring.
- 4.6 We do not suggest that the Groups be part of this advisory body, as they are initiated by the Department of Home Affairs and are not independent from the Government. However, the current status of these Groups illustrate the significant gaps in engagement with the civil society and the lack of interest the Government has shown in engaging with those who visit people in immigration detention.
- 4.7 In addition to a core advisory body, the NPM should establish different working groups focusing on priority themes. They can provide specific expertise about the issues and practices involved, suggest places the NPM should visit, and help the NPM engage with the people detained who are at risk. For example, if the NPM decides to focus on the mental health of people deprived of liberty, an expert working group on mental health can highlight the issues

they know are of highest concern, as well as facilities and categories of people in detention who are at most urgent risk of harm. The NPM, of course, is not an expert on all issues and is not expected to be. Engagement with the experts who make up our civil society is the way to address those knowledge gaps, while creating credibility and trust with all stakeholders involved.

- 4.8 People with lived experience should be included in the monitoring visits, as promoted by the SPT. They should be part of the core advisory body and/or thematic working groups. Many NPMs around the world, including those in the United Kingdom and New Zealand, involve these people in their work. While there is a difference of opinion about whether they should be involved in the visits themselves, there is agreement that their understanding of the detention setting and culture can add immense value to the insight the NPM can gain about the functioning of detention facilities.<sup>6</sup> This should, of course, be balanced with the potential for bias. It can be achieved through what should be the core part of detention monitoring, which is the need for triangulation.
- 4.9 In his Churchill Fellowship trip undertaken to look at the best practices in OPCAT inspection methodologies around the world, Steven Caruana concludes:

*Whilst civil society involvement in the work of an NPM can take many forms the essential point that all NPMs demonstrated is that there is a place for civil society. Not only in implementation but as part of maintaining an effective NPM, whether directly in adding expertise to monitoring, acting in an advisory role, supporting thematic research aims or in adding voice to the concerns raised by the NPM.<sup>7</sup>*

- 4.10 Finally, as stated previously, it is necessary to spell out in legislation or at least in a formal agreement the relationship between NPM and other monitors, including non-governmental monitors. The role of civil society should be addressed expressly in this legislation or agreement.

## **Recommendation 5**

*The NPM should establish a formal advisory body as well as thematic working groups, with all including civil society representatives and people with lived experiences as part of their membership. The role of these bodies should be spelled out in a legislation.*

## **5 What are the core principles that need to be set out in relevant legislation to ensure that each body fulfilling the NPM function has unfettered, unrestricted access to places of detention in accordance with OPCAT?**

- 5.1 As we said in our previous submission, we strongly disagree with the view of the Australian Government that no additional legislation is required. In our view, it is essential to enact legislation establishing the NPM, conferring specific functions of detention monitoring on the Ombudsman and the Human Rights Commission, setting out its preventive and human rights-focused mandate, and clearly setting out its relationship with other detention monitors.

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<sup>6</sup> Steven Caruana, *Enhancing Best Practice Inspection Methodologies for Oversight Bodies with an Optional Protocol to the Convention Against Torture Focus* (Churchill Trust Fellowship, 9 July 2018) <[https://www.churchilltrust.com.au/media/fellows/Caruana\\_S\\_2017\\_inspection\\_methodologies\\_for\\_oversight\\_bodies\\_wit\\_h\\_an\\_OPCAT\\_focus.pdf](https://www.churchilltrust.com.au/media/fellows/Caruana_S_2017_inspection_methodologies_for_oversight_bodies_wit_h_an_OPCAT_focus.pdf)>, 35–36.

<sup>7</sup> Steven Caruana, *Enhancing Best Practice Inspection Methodologies for Oversight Bodies with an Optional Protocol to the Convention Against Torture Focus* (Churchill Trust Fellowship, 9 July 2018) <[https://www.churchilltrust.com.au/media/fellows/Caruana\\_S\\_2017\\_inspection\\_methodologies\\_for\\_oversight\\_bodies\\_wit\\_h\\_an\\_OPCAT\\_focus.pdf](https://www.churchilltrust.com.au/media/fellows/Caruana_S_2017_inspection_methodologies_for_oversight_bodies_wit_h_an_OPCAT_focus.pdf)>, 57.

- 5.2 In the past few years, we have observed a decreasing willingness of the Government to take on board the recommendations of the monitoring bodies. While enacting legislation cannot guarantee that those recommendations will be considered appropriately, a requirement to respond formally does at least increase the chance that they will be considered.
- 5.3 We support the recommendations made by the Australian Lawyers Alliance as to the core principles that need to be set out in legislation. Such legislation should guarantee:
- The operational independence of the NPM
  - Financial and functional independence of the NPM when undertaking its activities
  - Independence in determining the scope of places of detention
  - Preventive rather than complaint-based work, and
  - Requirement for appropriate levels of expertise specific to the places of detention that NPM visits.
- 5.4 We submit that the legislation should also protect whistleblowing, which is of great importance in the context of immigration detention. As well, the legislation should give the NPM the power to publish its reports publicly.
- 5.5 Ensuring financial independence of the NPM is important and requires its proper funding. We are deeply concerned that the Government is of the view that no extra funding will be provided to ensure compliance with OPCAT and call for the reconsideration of this position. The ratification of OPCAT has provided Australia with a significant opportunity to improve the human rights protection of people deprived of liberty. An absence of proper funding creates the risk that ratification will be token, and may result in a 'business as usual' approach.
- 5.6 While proper funding may cost the Australian Government more at the start, in the long term preventive monitoring will save the government paying compensation for mistreatment during detention and avoid the need for expensive inquiries when things go wrong.
- 5.7 In our view, the Human Rights Commission would be the more appropriate NPM given its human rights focus and its greater transparency, including its publication of reports on detention visits, and role in public education. This point is emphasised by the recent changes (as of July 2018) in the Ombudsman's reports on people in detention subject to section 486O assessment. While de-identified and detailed reports of each individual's circumstances used to be available after being tabled in Parliament, the Ombudsman will no longer provide those reports. Instead, the Office will send to the Minister a letter that raises any broad concerns, a schedule of the individuals who have been assessed, and any recommendations regarding their detention that the Office deems appropriate.
- 5.8 This means that a person in detention and anyone who may need to read their assessments will no longer know if the Ombudsman did note any concerns about that individual, unless when they were the subject of a recommendation. This is a significant step away from transparency for an office that will be leading the work of OPCAT, which is premised on reducing and preventing harm through scrutiny and transparency. The justification for this change is to increase the capacity of the Ombudsman, confirming our concern that if the NPM is not provided with additional resources, transparency will be sacrificed.
- 5.9 We recommend that the Human Rights Commission be included in the NPM. Given its work on OPCAT and longstanding expertise in inspection of immigration detention facilities, the Human Rights Commission can be responsible for monitoring places of detention under the federal jurisdiction. This could give the Commonwealth Ombudsman more scope to perform the role of national coordination of NPMs. Both organisations can provide necessary expertise to complement each other's work. This will ensure both of these substantial roles are performed efficiently and with a preventive mandate at their core.

5.10 The experience of the Danish NPM supports this recommendation. In 2007, the Danish Parliamentary Ombudsman was designated as the NPM. However, in 2009 it entered into a formal partnership with Danish Institute of Human Rights and a non-government organisation called DIGNITY. This decision was made because it was acknowledged that the Ombudsman alone would not fulfil the OPCAT mandate in full. It was recognised that the Ombudsman traditionally operates from a legal approach and may not have the necessary expertise in human rights, a gap that was addressed through the inclusion of the other two bodies.<sup>8</sup>

### **Recommendation 6**

*There needs to be a stand-alone legislation ensuring the independence, mandate, power, staff expertise, funding and transparency of the NPM.*

### **Recommendation 7**

*The Human Rights Commission should be part of the NPM. The Human Rights Commission can take on the primary role of monitoring places of detention under federal jurisdiction, as well as supporting the Ombudsman when the Human Rights Commission's expertise in human rights is required.*

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<sup>8</sup> Steven Caruana, *Enhancing Best Practice Inspection Methodologies for Oversight Bodies with an Optional Protocol to the Convention Against Torture Focus* (Churchill Trust Fellowship, 9 July 2018) <[https://www.churchilltrust.com.au/media/fellows/Caruana\\_S\\_2017\\_inspection\\_methodologies\\_for\\_oversight\\_bodies\\_wit\\_h\\_an\\_OPCAT\\_focus.pdf](https://www.churchilltrust.com.au/media/fellows/Caruana_S_2017_inspection_methodologies_for_oversight_bodies_wit_h_an_OPCAT_focus.pdf)>, 56–57.