Human Rights Law Centre

Giving full effect to OPCAT

Human Rights Law Centre submission to the Australian Human Rights Commission

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Human Rights Law Centre

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1. Introduction

The Australian Government is commended for ratifying the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (**OPCAT**) and taking the first steps to implementing a system to protect the basic rights of people in detention.

However, successfully giving full effect to OPCAT through implementing an effective regime coordinated across federal, state and territory governments presents both significant challenges and opportunities.

This submission of the Human Rights Law Centre (**HRLC**) outlines what is required for the National Preventive Mechanism and associated state and territory level inspectors (hereafter referred to as the **NPM**) to fulfil the OPCAT's preventive mandate.

The main recommendations of the HRLC's submission can be summarised as follows:

1. a broad definition of 'place of detention' which is to be defined by the NPM;
2. no blanket exclusion of Manus Island or Nauru from NPM oversight;
3. the establishment of stakeholder working groups to consult with the government on a thorough implementation mapping process and the constitution and operations of the NPM;
4. stand-alone legislation which enshrines the principles of NPM independence, capability and access to sites, information and people;
5. Protections for whistle-blowers and anyone providing information to the NPM;
6. the vulnerability of certain groups in detention to be a priority focus of the NPM; and
7. a focus on the ability to produce 'own motion' thematic reports to effect systemic change.

Oversight of people in detention is an inherently political proposition as the government is more often than not the detaining authority. Given this, and to ensure the intent of the OPCAT is not undermined, the following principles should be fully applied to this implementation phase.

2. Implementation

2.1 How should OPCAT be implemented to prevent harm to people in detention?

1.1 OBJECTIVES

To ensure that the NPM regime satisfies Australia's undertakings as a party to the OPCAT and that the NPM and inspectors operate effectively, the implementation of NPM structures should meet the following primary objectives:

(a) fulfilment of the preventive mandate;

(b) consideration of systemic issues;

(c) culturally appropriate designation and operation; and

(d) stand-alone enabling legislation in all jurisdictions.

1.2 Preventive mandate

The ultimate goal of the NPM is to prevent torture and mistreatment in places of detention. To this end, while the inspection of places of detention is a primary element of the NPM's operations, inspections are not the only means by which the NPM should exercise its preventive mandate. The NPM should also examine the overarching and systemic factors that increase the risk of mistreatment to persons deprived of their liberty. This includes reviewing:

(a) the underlying legal framework of a place of detention;

(b) policy positions and institutional culture;

(c) history of places of detention;

(d) risk of mistreatment in particular environments;

(e) effects of procedural elements such as arrest and interrogation;

(f) practices such as punishment or use of restraints; and

(g) oversight of places such as offshore detention centres or others outside the mandate of existing monitoring bodies.[1]

Enabling legislation should reflect that inspections form an important part of the NPM's preventive mandate but should not be considered the only tool in the NPM's toolkit. This will ensure the NPM is best equipped to prevent mistreatment.

1.3 Consideration of systemic issues

The NPM must be positioned to expose and diagnose the systemic issues that lead to risk of mistreatment. Accordingly, the NPM should not be focused on the investigation and resolution of individual complaints but rather focussed on systemic oversight and change.

The NPM however must still be able to receive and manage complaints appropriately and coordinate with other agencies where necessary. The NPM should also be able to access complaints to identify systemic issues that may be raised by those detained or from the community.

To be in the best position to expose systemic risks, the NPM must also have the independence and capability to initiate its own investigations and to produce 'own motion' thematic reports. The "Snapshot Series" of reports produced by the Western Australian Office

[1] Association for the Prevention of Torture (APT), Submission No 26 to Australian Human Rights Commission, *OPCAT Civil Society Consultation,* 21 July 2017 at 12.

of the Inspector of Custodial Services (**OICS**) is a good example of this capability being utilised by an inspection body. Reports into systemic issues, such as the OICS' review of fine defaulters in the Western Australian prison system,[2] can provide government and civil society with a better understanding of issues affecting detention systems, while also initiating further discussion of reforms and policy solutions.

The NPM should also be adequately resourced to respond to government requests for enquiries and reports into issues within detention systems. It is important that governments engage the NPM's multidisciplinary expertise to investigate these issues and to provide governments with direct guidance on policy decisions and potential reforms. For example, the Western Australian OICS has produced six government directed and own-motion reports in seven years regarding the operations of the Banksia Hill Detention Centre. Of particular note is the most recent OICS report directed by the Western Australian government in response to Amnesty International's allegations of mistreatment.[3] The provision of these reports to the Western Australian Government has ensured that the systemic failures of the Banksia Hill Detention Centre are recognised and can be addressed. Furthermore, it is illustrative of why the NPM needs to be sufficiently resourced to respond to government directions.

1.4 Designation and operation

The designation and operation of the NPM must be inclusive of vulnerable and minority groups and reflect the contextual nuances that affect these groups disproportionately. For instance, the NPM must operate in a way that is culturally competent and effective in addressing specific issues Aboriginal and Torres Strait Islander peoples face in detention as a disproportionately affected group. The NPM's consideration of vulnerable groups should also focus on places of detention where vulnerabilities are amplified or exacerbated, including disability-specific institutions, secure mental health facilities, police custody, youth justice centres, aged care facilities and immigration detention.

1.5 Enabling legislation

The obligations arising under the OPCAT regime should be implemented in stand-alone legislation in all jurisdictions (i.e. at federal and state level). Stand-alone legislation will ensure that the NPM's independence, mandates, powers, appointment processes for staff and members, terms of office, funding and lines of accountability are anchored in statute.[4]

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[2] Office of the Inspector of Custodial Services, *Fine defaulters in the Western Australian prison system,* April 2016.

[3] Office of the Inspector of Custodial Services, *Directed Review of Allegations made by Amnesty International Australia about ill-treatment at Banksia Hill Detention Centre*, June 2018.

[4] UN Committee Against Torture (CAT), *First annual report of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, February 2007 to March 2008*, 14 May 2008, CAT/C/40/2.

Separate enabling legislation should also include all amendments to other legislative and regulatory instruments. This will assist to clearly delineate the role of the NPM and classify its functions in relation to other government authorities which have oversight and accountability functions in this space, especially where functions or capabilities are being transferred to the NPM.

Recommendation 1:

Implementation of the OPCAT regime should meet the following primary objectives:

(a) fulfilment of the preventive mandate;

(b) consideration of systemic issues;

(c) culturally appropriate designation and operation; and

(d) stand-alone enabling legislation in all jurisdictions.

2. MINIMUM REQUIREMENTS

We concur with the submissions to the AHRC produced by the Australia OPCAT Network[5] and the Association for the Prevention of Torture (**APT**)[6] in relation to the minimum requirements for the OPCAT regime to be successfully implemented in Australia. These principles are repeated and discussed in summary below.

2.1 Access to all places where people are deprived of liberty

In order for the implementation of the OPCAT in Australia to be compliant, all places where people are deprived of their liberty must be regularly monitored by the NPM. The NPM bodies must broadly apply the OPCAT definition in Article 4 to determine whether a particular place or site is a place of detention – this might require a case by case assessment in some instances. This includes but is not limited to prisons, federal and state police stations, border detention places, military and intelligence detention, social care homes, centres for migrants, psychiatric institutions and means of transport.[7] This is discussed further in section 3 Places of Detention.

[5] Australia OPCAT Network, Submission No 44 to Australian Human Rights Commission, *OPCAT Civil Society Consultation,* 21 July 2017.

[6] Association for the Prevention of Torture (APT), Submission No 26 to Australian Human Rights Commission, *OPCAT Civil Society Consultation,* 21 July 2017.

[7] Ibid at 6.

2.2 Functional and personal independence

In accordance with Article 18 of the OPCAT, monitoring mechanisms and their staff must have functional independence. This requires:

(a) fully independent staff;

(b) defined avenues to report directly to government; and

(c) absolute discretion to determine how budget is spent.

The OICS in Western Australia is a good example of a strong inspection and oversight institution with functional independence and provides a best-practice model for other states to use for implementation of their own inspection bodies.

2.3 Financial independence and autonomy

Article 18(3) of OPCAT requires states to make available the resources for the functioning of the NPM. We support the position of the APT that there should be an inter-governmental agreement on funding[8] to ensure the NPM is adequately funded. The NPM's oversight and reporting functions cannot be influenced by financial dependence or insecurity. By extension, this also requires the NPM to have absolute discretion on matters of budget allocation and expenditure.

2.4 Multidisciplinarity and diversity

The NPM must reflect broader society and engage the capabilities and experiences of people from the groups who are disproportionately affected by deprivation of liberty. The NPM should have multidisciplinary expertise, gender balance and culturally diverse staff, including representation of Aboriginal and Torres Strait Islander peoples and minority ethnic and cultural groups in order to ensure its effectiveness to deliver change and address systemic issues. The NPM should also be engaging consistently with civil society to ensure that the interests of the most vulnerable groups are protected and represented.

2.5 Free and unfettered access

Access to all places where liberty is denied must be absolute, whether announced or unannounced. Article 20 of OPCAT requires states to grant powers of access not only to locations of detention but to all information referring to the treatment of those persons (in detention) as well as their conditions of detention.

The NPM must also have the power to interview detainees, public employees and private contractors alike and an ability to conduct private interviews and receive information

[8] Association for the Prevention of Torture (APT), Submission No 26 to Australian Human Rights Commission, *OPCAT Civil Society Consultation,* 21 July 2017 at 6.

anonymously without fear of reprisal for the party providing the information. Memoranda of understanding between the NPM and governments or other authorities may also be a useful tool to ensure that anyone interviewed by the NPM is not subject to sanctions. Appropriate stakeholders should also have input into instituting a nationally consistent access protocol in order to ensure accountability and consistency across jurisdictions. Requirements for the minimum number of visits for specific types of institutions in designated timeframes should also be introduced. For example, the OICS in Western Australia is required to inspect and report on some sites every three years.[9]

In order to be an effective instrument of oversight and agent for change, the NPM must have access to first-hand accounts and confidential information regarding all elements of detention practices. The NPM's enabling legislation should provide whistleblower protections to anyone engaged in activities relevant to the NPM's areas of oversight. For example, legislative protection should be provided to prison employees who provide information to the NPM to ensure they do not face professional sanction or discrimination. This sort of protection should be extended to all workers, contractors, volunteers or anyone else engaged by entities who will be subject to the NPM's purview. Similarly, the NPM must also be required to implement internal safeguards and processes to ensure that all information collected is secure and sources are protected from sanctions or reprisals.

2.6 Transparency and accountability

Reporting pathways and transparency requirements should be enshrined in the NPM's enabling legislation to ensure that the NPM's outputs are publicly accessible. Article 22 of the OPCAT requires states to "examine the recommendations of the national preventive mechanism and enter into a dialogue with it on possible implementation measures". Any advice or comment on legislation provided by an NPM to a legislative body should be publicly available to ensure that the NPM's recommendations are duly considered and governments are held accountable. Similarly, all NPM reporting outputs should be publicly accessible to ensure transparency and sufficient parliamentary and civil society oversight of the NPM's operations. Specific requirements for the timing and frequency of the NPM's reports to parliaments will also assist transparency and oversight.

2.7 Information and data collection

Federal and state NPM's should be subject to uniform best practice requirements for the collection, recording, analysis and storage of information. Requiring all jurisdictions to follow

[9] Sections 19 and 20 of *Inspector of Custodial Services Act 2003* (WA).

best practice will allow jurisdictions to identify trends and address shortcomings in detention systems more easily.

Recommendation 2:

Legislation should contain the above listed minimum requirements. This includes:

- A requirement that all places where people are deprived of liberty be regularly monitored;
- The NPM bodies must broadly apply the OPCAT definition in Article 4 to determine whether a particular place or site is a place of detention;
- The NPM must have functional and financial independence;
- The NPM must be multidisciplinary and culturally diverse and inclusive;
- The NPM must have free and unfettered access to places of detention;
- Protections for whistle-blowers and anyone providing information to the NPM should be codified in the enabling legislation; and
- Reporting pathways and transparency requirements should be enshrined in the NPM's enabling legislation.

2.2 How should the most urgent risks of harm be identified and prioritised?

Stakeholder working groups should be established to map the implementation of the OPCAT regime and empowered to identify and action priorities. Importantly, prioritisation of specific types of risks of harm cannot be limiting in defining which places of detention are or are not subject to oversight but should be instructive of the NPM's holistic approach to monitoring OPCAT compliance.

The HRLC submits that a priority for the working groups should be to identify where different types of risk factors and their intersections play a role in determining detention outcomes, especially where they affect vulnerable groups. These risk factors may be:

(a) personal, such as age, gender, language and cultural background and ethnicity;

(b) environmental, such as access to healthcare and legal services or the attitudes of prison personnel; and / or

(c) socio-cultural, such as the attitudes of society more broadly towards minorities and those in detention.

These types of factors can be fundamental in shaping a detainees experience and identification of these risks factors can provide guidance as to what groups require additional attention and protection in detention environments.

The HRLC submits that the NPM's ability to produce 'own motion' thematic reports is fundamental to understanding and decreasing the influence of identified risk factors. NPM's must have the ability to self-initiate lines of enquiry into systemic issues that are identified not only in the working groups and government but also those arising from the conduct of the NPM's inspections and interviews and any complaints received by it or other institutions.

Recommendation 3:

Through the establishment of stakeholder working groups, priority should be given to identifying and addressing risk factors that affect different groups in detention, particularly those which affect more vulnerable detainees.

Recommendation 4:

NPM's must be equipped with adequate resources and the autonomy to produce own-motion reports for government and civil society.

3. Places of detention

3.1 What categories of 'place of detention' should be subject to visits by Australia's NPM?

Article 4 of OPCAT does not facilitate the categorisation or limitation of 'places of detention' for inspection. The places of detention which States are required to grant access for inspection are defined by two key concepts:

(a) any place under its jurisdiction and control; and

(b) where people are or may be deprived of their liberty.

The UN Sub-committee on the Prevention of Torture (**SPT**) and NPM are to be granted access under Articles 12, 14, 19 and 20 of OPCAT to all places of detention described by Article 4. As such, the HRLC strongly submits that it should not be the role of the government through enacting legislation to prescribe what 'places of detention' are subject to the NPM's oversight and accessible to the SPT. The NPM must be enabled to review and investigate any place where liberty is deprived, regardless of whether that place is under direct or indirect government control, under private control or offshore. Any prescribed limitation on a 'place of detention' risks undermining the effectiveness and independence of the NPM and inherently politicises the regime.

Furthermore, if the Government constrains the definition of a "place where people are deprived of their liberty" as it is defined in Article 4, Australia risks being in non-compliance

with its undertakings under OPCAT. The NPM and SPT must be able to access any places of detention under the control of the Australian Government if they so choose.[10]

In particular, the HRLC notes with concern the Federal Government's statements that indicate that the NPM and SPT's oversight in relation to Australia will not encompass offshore detention in Nauru and Manus and naval vessels on which asylum seekers are detained during boat turn backs. A failure to grant access to these locations will undermine the effectiveness of the NPM regime. Allowing the Australian Government to prevent inspections of Manus and, in particular, Nauru – which are the most secretive places of deprivation of liberty controlled by Australia – will undermine the OPCATs purpose of preventing abuse through transparency. It will also be inconsistent with the ratification of OPCAT given all three are places are under Australia's effective control where people are and may be deprived of their liberty. Further, the SPT has directly considered the situation of detention in another State and determined that the agreement between the States must provide for the sending State's NPM to have the legal and practical capacity to visit detainees in accordance with OPCAT.[11]

In addition to inspecting sites that are traditionally associated with detention, NPM's should also review detainee transports and instances where responsibility for a detainee passes from one authority to another. Detainees in a multitude of contexts are subjected to transitionary arrangements and are particularly vulnerable to ill-treatment at these times. It is imperative that NPM's inspect and review these arrangements, as well as the overarching coordination strategies between authorities that may be relevant while these arrangements are utilised.

Recommendation 5:

'Places of detention' subject to the NPM regime should be given the broadest possible construction and not defined by governments.

Recommendation 6:

There should be no blanket exclusion of Manus Island or Nauru from NPM oversight.

[10] See: Articles 12(a), 14, 19(a) and 20(e). The SPT has made this point clear in its 'Guidelines on National Preventive Mechanisms' CAT/OP/12/5 at [24].

[11] Ninth annual report of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, CAT/C/57/4 at [22].

4. Stakeholder engagement

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

It is important that civil society is consulted and utilised via the establishment of stakeholder working groups during the implementation mapping process and during the operation of the NPM. Civil society is well placed to provide a breadth of experience and perspective on the configuration of the NPM and to address issues relating to minorities and vulnerable groups. In particular, civil society organisations representing vulnerable populations, including Aboriginal and Torres Strait Islander peoples, current and former detainees, ethnic minorities and immigrant communities, people with disability and LGBTI people, should be consulted during both the formative and operational phase of the NPM.

We concur with the APT's submission that the successful implementation of the OPCAT regime requires analysis and understanding of key institutions and organisations, places of detention and the specific challenges arising in the Australian context. Stakeholder working groups should be established in order to evaluate these factors and map a process by which the OPCAT regime can be implemented effectively. It is important that relevant stakeholders, including existing monitoring institutions, government authorities, academia, civil society and subject area experts are able to shape the implementation and operation of the NPM. We believe the challenges to the implementation of this system are substantial as the aim of the NPM should be to effect change not only within places of detention, but within institutions, policies and the legal frameworks that govern sites of detention. A thorough implementation mapping process is therefore integral to ensuring that the full extent of the OPCAT regime is successfully realised. A comprehensive process will also ensure that stakeholder considerations and concerns are addressed and that stakeholders actively buy in to the system.

Recommendation 7:

Stakeholder working groups should be established to consult with government on the gradual implementation of the NPM and its composition.

5. Principles of access

5.1 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?

The NPM's unfettered and unrestricted access to places of detention depends not only on the direct powers of access or the ability to compel compliance but the operational capabilities of the NPM. The HRLC concurs with the APT's statement of principles for NPM effectiveness[12] and affirms that the following principles should be specifically legislated to ensure the operation of the NPM as intended:

(a) functional independence;

(b) operation free from government influence;

(c) provision of sufficient resources to carry out the NPM's work effectively;

(d) multidisciplinarity of staff and inspection teams;

(e) power to access all places of detention without restriction;

(f) power to access all relevant information; and

(g) power to access detained persons and to be able to talk with detained persons in private with protection against recrimination or reprisal for the detainee.

Recommendation 8:

Legislative enshrinement of the above principles regarding the NPM's independence, capabilities and access to sites, information and people is fundamental to ensuring the successful implementation of the OPCAT regime.

[12] Association for the Prevention of Torture (APT), 2018, *Effective NPM's*, <https://www.apt.ch/en/effective-npms/>

6. Commission Interim Report Proposals

6.1 Comments on AHRC Proposals

Proposal #	Proposal Topic	Comment
1.	Ratification of OPCAT by December 2017	No comment.
2.	The Commission proposes that the Australian Government establish an NPM system that: • has a preventive mandate • has clear lines of communication between the various entities designated as NPM bodies • requires NPM bodies be given sufficient powers and independence to fulfil their mandate, if necessary by legislative amendment • sets up formal paths of engagement with civil society organisations and human rights institutions • is transparent in its operation, including publication of its reports and recommendations.	In addition to the AHRC's proposal: a) The NPM system should provide for establishment of new institutions to undertake the role of NPM rather than the reconfiguration of, or adding to, the purview of existing organisations. b) The NPM should be fully independent and sufficiently resourced to be able to undertake its duties free from government influence. Directors / appointees to NPM should be appointed by a transparent process with input from civil society. c) Requirements for formal reporting and consultation should be included in legislation.
3.	The Commission proposes that all state and territory governments map their respective current inspection frameworks, reviewing these against OPCAT requirements, identifying any gaps or overlap in how they apply to places of detention, and proposing any law changes needed to make existing inspection bodies OPCAT compliant.	Agreed that state and territory governments should be required to map current inspection frameworks as part of the NPM formulation / constitution process but these roles should be considered or transferred where required to a new NPM.

4.	The Commission proposes Australia's federal, state and territory governments provide adequate resources to support NPM activities. This should be determined by reference to: • the need to fulfil the core NPM inspection functions • the need to implement recommendations made by NPM bodies • the inherent good in protecting the human rights of people in detention and the cost savings in undertaking detention activities in accordance with international human rights law.	Provisions should be included in the NPM enabling legislation to make available sufficient funding for NPM operations. This is also important to ensure operational independence from government. Funding and resourcing should also reflect the NPM's role in pursuing own motion thematic reports and referrals from governments for enquiries or reports into certain issues.
5.	The Commission proposes Australia's federal, state and territory governments should provide resources to support NPM activities in a way that: • respects the functional, structural and personal independence required by OPCAT • enables any existing inspection body that is designated as an NPM body to become OPCAT compliant • ensures effective liaison with, and involvement of, civil society representatives and people with lived experience of detention in the OPCAT inspection process.	New independent NPM bodies should be established as per above comments and review.
6.	The Commission proposes that the Australian Government commit to the development of national standards that govern how detention inspections should take place by the bodies performing the NPM function. Those standards should have legislative force and, among other things:	Standards should require that inspection teams are comprised of a minimum number of inspectors reflecting multidisciplinarity requirements. Standards should state how regularly sites of detention must be inspected and include requirements for periodic un-announced or irregular inspections to be undertaken.

	• provide for NPM independence and the full range of inspection and information access powers available under OPCAT • require transparent publication of detention inspection reports • provide for community members to identify concerning detention practices • provide for good practice and national consistency in the collection and analysis of data related to detention • ensure appropriate expertise among inspectors, including by working with specialists and civil society representatives.	
7.	The Commission proposes the Australian Government commit to the development of national standards that set minimum conditions of detention to protect the human rights of detainees in the various detention settings covered by OPCAT. Those standards should have legislative force and should deal with issues including: • the protection of particularly vulnerable detainees, such as children and young people, people with disability, Aboriginal and Torres Strait Islander people, LGBTI people and immigration detainees • complaints processes and consequences for unlawful or improper conduct • restrictive practices, seclusion, strip searches and the use of force • the safe transport of detainees • the material condition of places of detention • the provision of essential services (eg health care, legal services and education).	The Australian Government should ensure the findings of any federal, state or territory royal commissions, enquiries, reports or any other accountability feedback mechanisms are considered and incorporated into national standards, along with already existing standards that are relevant in this context (e.g. youth justice, prison operations).
8.	The Commission proposes the Australian Government should engage an independent body to lead the development of the national	An independent body should have representatives from communities most impacted by detention, including Aboriginal and Torres Strait

	standards referred to in Proposals 6 and 7 above. This independent body should: • be expert in human rights and independent of those parts of government responsible for detaining people; • seek the views of experts, detainees and others affected • develop the standards by reference to Australia's domestic and international human rights law obligations, as well as existing good-practice standards and guidelines in Australia and overseas.	Islanders, people with disabilities, people from migrant backgrounds or ethnic minorities and the LGBTI community.
9.	The Commission proposes the Australian Government incorporate OPCAT's core provisions in a dedicated federal statute.	The Australian Government should work with state and territory governments in forums such as COAG to ensure that complementary and uniform state and territory equivalents are also produced.
10.	If Proposal 9 is not adopted, the Commission proposes the Australian Government identify another way of incorporating OPCAT's requirements into domestic law, including by: • giving legislative force to national OPCAT standards (as per Proposal 7 and Proposal 8) • additional legal means, such as an intergovernmental agreement that sets out the structure of the NPM model, the scope of its application, how the agreement will be governed and provides for periodic review.	HRLC submits that the most effective way to ensure that Australia's OPCAT obligations are met is in a stand-alone, dedicated federal statute and that alternative measures will not be sufficient for compliance with OPCAT.
11.	The Commission proposes the federal agency responsible for NPM co-ordination establish formal arrangements with civil society representatives, such as an advisory committee, during the early stages of OPCAT implementation.	Stakeholder working groups should be established to engage with government and advise on the implementation and operation of the NPM.

12.	The Commission proposes that federal, state and territory governments assign overarching policy responsibility for OPCAT compliance and detention policy, as well as co-ordination, to the department or agency in each jurisdiction that has responsibility for overseeing human rights compliance and that has a broad mandate in relation to detention.	Overarching responsibility for OPCAT compliance should vest in dedicated federal, state and territory NPM entities constituted by dedicated legislation and supported by reporting, accountability and consultation requirements.
13.	The Commission proposes that immediately after ratification, the Australian Government coordinate with state and territory governments to commence implementation of OPCAT, including by: • publicly releasing targets for implementation of the treaty which set out timeframes for achieving key milestones over the initial 3-year period • completing a stocktake of all place of detention and monitoring bodies by state and territory governments • conducting education and awareness raising about the implementation of OPCAT • commencing engagement with the Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) • establishing an advisory council for NPM activities • identifying data sources, gaps and inconsistencies regarding detention in Australia.	The Australian Government should undertake a review of international best practice models to assist in OPCAT implementation. A stocktake of places of detention and monitoring must include any places of detention on the Australian mainland or offshore that are directly or indirectly controlled by the Australian Government. Any such stocktake should not have the effect of limiting the scope or purview of the NPM's oversight. The Australian Government should request that federal agencies and state and territory governments provide cost estimations for the implementation and operation of an OPCAT compliant system in order to ensure that such costs are sufficiently budgeted and funded upon full implementation and operation.