

Dear Attorney-General,

## **Victoria's ongoing failure to implement the UN's anti-torture protocol**

We write to express our deep concern regarding the ongoing failure of the Victorian Government to implement Australia's obligations pursuant to the United Nations anti-torture protocol, the Optional Protocol to the Convention Against Torture (OPCAT).

Ratified by the Australian Government back in 2017, OPCAT requires the designation of independent oversight and monitoring bodies to carry out inspections of all places of detention. 20 January 2024 marks one year since the Victorian Government failed to do this. Victoria has now missed multiple deadlines for implementation of the bare minimum safeguards to protect against mistreatment in prisons. Most states and territories have taken steps to implement OPCAT, except for Victoria, NSW and Queensland.

The impact of this failure by the Victorian Government is acutely felt by children locked away in Victoria's youth prisons. Aboriginal and Torres Strait Islander children continue to be overrepresented in, and harmed by, youth prisons, as are multicultural children, in particular those from African, Maori and Pasifika backgrounds.

While Victoria wasted another year being OPCAT non-compliant, there were numerous incidents of children being subjected to harmful practices that can amount to torture. The Yoorrook Justice Commission were "[disturbed](#)" to hear from young people about conditions in prisons, including violence by staff and prolonged confinement in cells due to staff shortages. [Whistleblowers](#) exposed the rampant use of solitary confinement, with reports of children locked in their cells for 22 hours or more a day without meaningful human contact. A 17-year old Aboriginal child was [spit hooded](#) while detained in an adult prison.

This is set against the backdrop of systemic failings by the Victorian Government over years, with review after review cataloguing the harms caused to children in prisons, and urging the Victorian Government to immediately implement OPCAT as a safeguard against mistreatment. Government inquiries, truth-telling commissions, Ombudsman reports and United Nations experts have all been clear and consistent in their calls for greater scrutiny of the human rights abuses that too often thrive in the darkness behind prison walls.

**We call on the Victorian Government to urgently establish OPCAT-compliant monitoring and oversight of places of detention in full and transparent consultation with affected communities alongside Aboriginal and Torres Strait Islander, legal and human rights organisations.**

We are aware that the position of the Victorian Government is that the Federal Government, as signatory to the protocol, should provide funding for independent detention oversight. This funding standoff must end. While we wait, a generation of children are languishing behind bars and remain at risk of further harm.

Rather than funnelling money into prisons, the Victorian Government must fund long overdue independent oversight of them, alongside community-led responses to divert children away from prisons in the first place. **We therefore urge the Victorian Government to commit to properly resourcing OPCAT implementation this May budget.**

When the United Nations' Subcommittee on Prevention of Torture visited Australia in October 2022, many of your colleagues spoke in the Victorian Parliament about the importance of preventing torture in places of detention. Sheena Watt MP said that: "The government supports the principles of OPCAT... Increased accountability in places of detention will help to safeguard the integrity and transparency of our system." Such statements only mean something if they are backed by action, and it is time to deliver.

Implementing OPCAT will also enhance long overdue youth justice reforms due this year. The Victorian Government must work towards a future where no children are locked away in, and damaged by, harmful youth prisons. This starts with raising the minimum age of criminal responsibility to at least 14, without exception, and enshrining this commitment in law.

Yours sincerely

