

TO: Australian Human Rights Commissioner Edward Santow

Re:RESPONSE TO: Australian Human Rights Commission

OPCAT in Australia, Consultation Paper – May 2017
OPCAT in Australia Consultation Paper

This 21 July 2017 Submission made by:
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21 July 2017

1.1 RESPONSES TO: Questions for discussion

1. How OPCAT should operate in Australia.

1. Psychiatric facilities of detention in Victoria and Queensland.

RESPONSES:

- **Crucial gaps in the inspection framework are:** The framework does not and **MUST physically examine the judicial processes** that illegitimately and wrongfully result in CRPD violating FORCED detention and torture of persons that should NEVER be detained under any circumstances.

For example in a 2016 Melbourne Mental Health Tribunal Hearings at Upton House Box Hill, Eastern Health psychiatrist Sarah Mackay and Minter Ellison Lawyer Lisa Sylvan BLATANTLY lied to the Tribunal in this hearing. In my view in a deliberate collusive attempt to have Bernard Daniels, ([the father of patient Garth Daniels](#)) barred from the hearing, because they fraudulently declared Bernard has demonstrated “DISRUPTIVE BEHAVIOUR” in past meetings and they also declared would disrupt the proceedings they put in place to continue barbaric excessive electro-shock being brutally continued.

A second MHT Member subsequently interjected and stated he himself was at the prior meeting these two fraudulently cited; and stated this “alleged” disruption DID NOT EVER TAKE PLACE! They were consequently called out as blatantly lying. I have formally called for their dismissal and punishment.

It was in my view a blatant, collusive, deliberate lie by both these two; to subvert the course of justice; and the Chair refused their fraudulent testimony. If the other member was not present at these prior meetings, the prima facie lies of these two would have been accepted in evidence and influenced the illegal detention.

This matter is crucial because psychiatric imprisoning-detaining authorities are always free to lie and do lie in most MHT hearings and their testimony is NEVER questioned and always accepted. This is a violation of natural justice.

These continuous lies impacts the MHT decision against the forced detainee and results [in gross violations of human rights and judicial process](#). Unambiguous-irrefutable proven evidence only MUST be presented, never just hearsay as in this case and ALL such testimony MUST be fully cross-examined. This ongoing corrupted judicial process causes massive illegal detentions. I will supply evidence of these two named parties called as lying.

In a 6 February 2017 QCAT hearing; Prince Charles Hospital Queensland psychiatrist Andrea Walker applied to take full guardianship from Garth Daniels' father Bernard so as to continue her barbaric brutal unabated FORCED lethal, toxic clozapine drugs on Garth that his family and friends fought against.

They fought against this toxic drug because he's mixed-blood African and CANNOT metabolise this lethal toxin; neither can Asian ethnic peoples.

In this QCAT court hearing this guardianship power-grab attempt case FAILED and this psychiatrist was rebuked in the appalling evidence presentation failure. Seeing the case failing in the proceedings, this psychiatrist then openly 'psychiatrically-diagnosed' Garth Daniels' father as being 'thought-disordered' and not possessing 'the mental-capacity' to understand her BRUTAL toxic FORCED drug she was pushing on Garth. The clozapine had to be stopped because it caused heart collapse in Garth as the family forewarned.

The point being made here is this psychiatrist attempted to utterly subjugate legal process by issuing a fraudulent bogus psychiatric diagnosis upon Garth's father just to win the case; and she failed miserably because it is gross misconduct to psychiatrically diagnose anybody in an open room when not in a clinical setting; in fact it is illegal.

I was supporting Advocate in this hearing and myself and Garth's mother Marilyn also fought the guardianship attempt. So was this utterly unprofessional psychiatrist also going to [psychiatrically diagnose myself and Garth's mother with mental disorders also](#) because we opposed this brutal draconian guardianship action attempt?

There are legions of State guardianship case applications that succeed because of the lack of understanding of patients and their families who do not know their legal rights and brutal detentions and brutal torture continue by these perpetrating psychiatrists because of these law violations.

Although this case failed, there are innumerable cases where these psychiatrists and lawyers attempt to subjugate the legal system to their own advantage and they try to use the brutal Mental Health Acts that give them unfettered power over vulnerable patients; and win; and torture.

The OPCAT inspection framework MUST physically examine the judicial processes that illegitimately and wrongfully result in FORCED detention of persons that should NEVER be detained under any circumstances.

- **The staffing or relevant professional expertise important requirements for inspections:**

These inspections should be structured so that ALL mental health professionals such as psychiatrists and psychiatric nurses and Social-Workers and ANYONE on the detaining psychiatric authority payroll MUST be removed to ALL visiting teams and reporting. There is a conflict of interest to protect their employer in ANY of their inputs. They are the perpetrators enacting the detention and torture and MUST be utterly removed from ALL inspections.

- **Significant legislative, regulatory or policy changes that would be required for a relevant inspection body for it to be OPCAT compliant.**

Legislation and policy should be amended and structured so that ALL mental health professionals such as psychiatrists and psychiatric nurses and Social-Workers and ANYONE on the detaining psychiatric authority payroll MUST be removed to ALL visiting teams and reporting. There is a conflict of interest to protect their employer in ANY of their inputs. They are the perpetrators enacting the detention and torture and MUST be utterly removed from ALL inspections.

2. Key elements of OPCAT implementation in Australia be documented by:

Ensuring all federal legislation and policy should be amended and structured so that:

- Formal agreements (or other such document) sets out the core elements of how OPCAT will operate
- All various government and non-government bodies involved in OPCAT are documented and, specified in new policy documentation and amended legislations.

3. The most important or urgent issues that should be taken into account by the NPM:

Important urgent issues are:

- All places of detention in psychiatric facilities must be inspected because they are by nature and structure in themselves U.N. Convention on the Rights of Persons with Disabilities violations
- Any detention of any people with cognitive disabilities now violates the U.N. Convention on the Rights of Persons with Disabilities and all forced detentions and treatments violate this convention.
- All current practices of seclusion and restraint violate the U.N. Convention on the Rights of Persons with Disabilities and must be fully inspected and reported.

4. Australian NPM bodies should engage with civil society representatives and existing inspection mechanisms (eg, NGOs, people who visit places of detention etc) by:

Annually liaising with ALL stakeholders wishing to comment on issues such as how:

- best to arrange regular consultation and liaison
- civil society representatives can easily identify and report on problems in places of detention and how they can work with the NPM process to develop solutions.

5. Australian NPM bodies should openly work with key government stakeholders by:

Annually (and ad hoc) solicitation of stakeholder's comments and concerns on issues such as:

- how the NPM could engage with parliament, government human rights bodies and detaining authorities for full IMPLEMENTATION of the CRPD
- how the NPM could should engage with the SPT for full IMPLEMENTATION of the CRPD
- how communication across the different state and territory NPMs could be facilitated and co-ordinated to deliverfull IMPLEMENTATION of the CRPD
- by developing specific processes to address the needs of vulnerable groups of people in psychiatric detention so that no CRPD violations occur

6. Australia can benefit most from the role of the UN Sub-committee on the Prevention of Torture (SPT) by:

Entering into formal dialogue with the UN Sub-committee on the Prevention of Torture (SPT) and The Committee on the Rights of Persons with Disabilities (CRPD) and explain why it has formally ratified the CRPD and yet it refuses to allow it to have ANY protections effect whatsoever to those disabled persons in forced psychiatric facilities CONTINUALLY tortured and persecuted by ALL state governments.

7. After the Government formally ratifies OPCAT more detailed decisions should be made on how to apply OPCAT in Australia by:

Entering into formal dialogue with the UN Sub-committee on the Prevention of Torture (SPT) and The Committee on the Rights of Persons with Disabilities (CRPD) and explain why it has formally ratified the CRPD and yet it refuses to allow it to have ANY protections effect whatsoever to those disabled persons in forced psychiatric facilities CONTINUALLY tortured and persecuted by ALL state governments.

All Australian state governments violate the fully ratified U.N. Convention on the Rights of Persons with Disabilities (CRPD) and continuing torture, cruel, inhuman and degrading treatments are carried out systematically in Australia.

This is because all Australian Mental Health Acts were written by corrupt, bogus psychiatrists who bribe ALL political parties to [ensure their \\$60Billion criminal racketeering killing fields](#) that [kill more Australians than Cancer, Heart, Roads, ICE, Cocaine, Heroin](#) keep massively torturing and killing for the masses of money career progressions it makes for them.

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