



human
rights

law
resource
centre



Australia's Treatment of Prisoners and Prison Conditions

Aboriginal and Torres Strait Islander (ATSI) Australians

The national rate of imprisonment of Indigenous Australians continues to increase. Incarceration rates of Aboriginal and Torres Strait Islander Australians are at least 11 times higher than the rate for non-ATSI Australians. Indigenous children between 10 and 14 years of age are 30 times more likely to be incarcerated than their non-Indigenous peers. Aboriginal and Torres Strait Islander women are almost 20 times more likely to be incarcerated than non-ATSI women.¹

In 2006, the Human Rights Committee found that the treatment of an Aboriginal juvenile in a NSW prison amounted to inhumane treatment. Mr Brough was placed in isolation in an *adult* prison, exposed to artificial light for long periods and had his blanket and some of his clothes removed.²

Supermaximum Prisons

'Supermaximum prisons' are once again being constructed in Australia. They are being used to house remand inmates and terrorist suspects, as well as convicted inmates. Some inmates are mentally ill.

The most infamous supermax is the High Risk Management Unit (HRMU) in NSW. During induction, inmates are kept in isolation for approximately two weeks and have all their personal items removed. All inmates are subjected to a strict regime of privileges and sanctions. Each cell measures 2x3 metres and, while some inmates are allowed 'outside of their cells' into a small cage for a maximum of 8 hours a day, some inmates are not allowed 'outside' at all. Inmates may only interact with one other prisoner at a time. Access to education, rehabilitation and health services is limited. Inmates cannot challenge their placement in the supermax. Terrorist suspects are prohibited from seeing the Official Visitor. When inmates are transported to and from the unit they are shackled and dressed in orange jumpsuits.

Victoria has recently opened a supermax prison (Melaleuca High Security Unit). Queensland and Western Australia are also considering building similar facilities.

Unconvicted remand prisoners, particularly persons accused of 'terrorist'-related offences, are routinely held in these facilities. In a recent Victorian case in which a terrorist accused sought bail on the grounds that the conditions were so oppressive as to constitute 'exceptional circumstances', a Supreme Court judge stated that the 'conditions in Acacia Unit in Barwon Prison are such as to pose a risk to the psychiatric health of even the most psychologically robust individual. Close confinement, shackling, strip searching and other privations to which the inmates at Acacia Unit are subject all add to the psychological stress of being on remand, particularly as some of them seem to lack any rational justification. This is especially so in the case of remand prisoners who are, of course, innocent of any wrongdoing.'³

Treatment of Inmates with Mental Illnesses

The number of forensic patients and mentally ill inmates in Australian prisons is increasing, without a proportionate increase in health resources. Recent research indicates that of a total Australian prison population of around 25,000 people, approximately 5000 inmates suffer serious mental illness.⁴ There is substantial evidence from across Australia that access to adequate mental health care in prisons is manifestly inadequate, that the mentally ill in prison are often 'managed' by segregation, and that such

confinement – often for very long periods – can seriously exacerbate mental illness and cause significant psychological harm.⁵

In 2006, the NSW Deputy State Coroner was highly critical of the prison conditions that led to the suicide of a forensic patient, Scott Simpson. Her Honour recommended, in line with international human rights law, that inmates suffering from mental illness should be held in solitary confinement only as a last resort, and for a limited period.⁶ The Australian Human Rights Commission and Equal Opportunity Commission concluded that Mr Simpson's treatment amounted to inhuman and degrading treatment and punishment, Mr Simpson, a paranoid schizophrenic, murdered his remand cellmate during a psychotic episode. Contrary to medical advice, Mr Simpson was subsequently kept in isolation in the HRMU supermax prison. Shortly after being found not guilty of his cellmate's murder on the grounds of mental illness, Mr Simpson committed suicide. He was never housed in a mental health facility due to the lack of beds for forensic patients in NSW prisons.

Similar criticism has been made of conditions in the prisons of Western Australia. In Victoria, the Ombudsman recently described some prisons as 'not fit for human habitation'.

TABLE OF CROSS-REFERENCES

Issue	Relevant Articles of <i>Convention Against Torture</i>	References to Issue in NGO Submissions
Indigenous Australians in prison	11, 16	NACLC/HRLRC Submission of 6 July 2007, Part 3(a) NSWCCL Shadow Report (27 July 2007) Part 5.2
Supermaximum prisons	11, 16	NSWCCL Shadow Report (27 July 2007) Part 5.4.3 NSWCCL Addendum Report (16 Sept 2007) (HRMU)
Treatment of the mentally ill	11, 16	NACLC/HRLRC Submission of 6 July 2007, Parts 3(d)-(e) NACLC/HRLRC Submission of 9 Oct, Part 2 NSWCCL Addendum Report (16 Sept 2007) Parts 2.1.4-2.1.5

Endnotes

-
- ¹ See generally, Australian Bureau of Statistics, [Prisoners in Australia 2006](#) (2006) which reveals that prison numbers across Australia increased by 42% between 1996 and 2006 and that Indigenous people constitute 24% of the prison population compared with approximately 2% of the general population (the highest proportion since 1996).
 - ² [Brough v Australia](#), UN Doc CCPR/C/86/D/1184/2003 (2006). See also [NSWCCL Shadow Report](#), [168]-[171].
 - ³ [Raad v DPP \[2007\] VSC 330](#) (6 September 2007).
 - ⁴ J P R Ogloff et al, [The Identification of Mental Disorders in the Criminal Justice System](#) (Australian Institute of Criminology, March 2007).
 - ⁵ See, eg, Forensicare (Victorian Institute of Forensic Mental Health), [Submission to Senate Select Committee on Mental Health](#) (May 2005) 4, 5, 19 and 20. See also, [NSWCCL Addendum Report](#), [A20]-[A21].
 - ⁶ NSW Deputy State Coroner, [Inquest into the Death of Scott Ashley Simpson](#) (17 July 2006). See also [NSWCCL Addendum Report](#), [A26]-[A34].