

## Novak Djokovic drew global attention to Australia's immigration detention regime. Now we need proper scrutiny of all places of detention

By Lorraine Finlay

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Novak Djokovic's detention at the Park Hotel drew international attention to Australia's use of hotels as Alternative Places of Detention. (AAP: James Ross)

Novak Djokovic's recent detention at Melbourne's Park Hotel drew international attention to Australia's use of hotels as "alternative places of detention" by immigration authorities.

But while Djokovic's detention was measured in days, others still remaining in the Park Hotel measure their detention in years.

Hotels are simply not appropriate places to detain people for extended periods. The hotels used for immigration detention have been found to lack dedicated facilities for exercise and recreation, there is often limited access to fresh air or outdoor space, and there have been [media reports](#) of [maggoty food](#).

The human rights and health impacts of hotel detention are [serious and well documented](#), including by the Australian Human Rights Commission.



Thirty-two refugees and asylum seekers are detained at the Park Hotel.  
(Supplied: Mostafa Azimitabar)

In 2017, Australia made an international commitment to embed a coordinated and independent inspection system for all places of detention. This commitment, known as the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), was hailed by then-foreign minister Julie Bishop as a ["significant victory for human rights in Australia"](#).

Today, January 20, 2022, was the deadline for Australia to implement its OPCAT commitments — but four years on from ratifying the protocol, Australia has failed to do so.

## **Why we need systems of monitoring and oversight**

Had OPCAT been fully implemented, there would now be regular coordinated and comprehensive inspections of all places of detention aimed at identifying and preventing potential human rights issues before they occur. There would be greater transparency through public reporting of detention conditions, and more discussion and awareness of human rights issues in places of detention.

This includes situations like those [reported last week](#) of prisoners in the Pilbara town of Roeburne sweltering in prison cells with no air conditioning when the temperature hit 50.5 degrees.

Implementing OPCAT systems of monitoring and oversight would make it harder for governments to plead ignorance, as the WA Premier did in claiming he was ["unaware there was no cooling"](#).

Implementing OPCAT would also have resulted in greater scrutiny of youth detention centres with implications for the welfare of children as young as 10. At the notorious Don Dale centre in the Northern Territory, [reports of mistreatment](#) have continued even after a [royal commission](#) recommended closing it down. OPCAT would help prevent mistreatment at youth detention centres and bring greater public attention to any such abuses.

## **What about COVID quarantine facilities and lockdowns?**

In its [report examining the NSW government's response](#) to the first 12 months of the COVID-19 pandemic, the NSW Ombudsman observed that OPCAT measures would have had "significant implications for oversight" of quarantine facilities, which over the past two years have seen people locked in rooms [without opening windows](#), inadequate air filtration and poor food and reports of [serious mental health impacts](#).



Nine public housing towers, including this one in Flemington, were locked down without notice in July 2020. (*ABC News: Simon Winter*)

Likewise, OPCAT measures would have helped residents of the public housing towers in Melbourne, who endured some of the harshest lockdown conditions in the world during the first wave of COVID outbreaks. The [Victorian Ombudsman's investigation](#) into that incident adopted an OPCAT framework in recommending protective measures, humane treatment, and health and wellbeing protections – but this only occurred months after the event, while an OPCAT-style monitoring system could have provided real-time oversight.

This underscores the great utility of OPCAT, which is to shine a light on conditions in detention so that mistreatment or abusive practices can be identified at an early stage or ideally prevented altogether.

Although OPCAT does not create any new obligations concerning the minimum standards to be applied in detention, ensuring greater oversight and accountability helps protect basic human rights.

## **Governments have moved too slowly**

There is some flexibility in how OPCAT may be implemented, but it essentially requires Australia to establish an independent National Preventive Mechanism to conduct regular inspections — and to allow UN inspections — of all places of detention.

Australia has decided to adopt a multiple-body monitoring system, with each state and territory asked to designate their own National Preventive Mechanism in recognition of the fact that most detention facilities are run by state and territory governments. Some have already done this but others, such as NSW and Victoria, have not.





At the NT's Don Dale centre, reports of mistreatment have continued even after a royal commission recommended closing it down. *(ABC News: Felicity James)*

The need for additional funding and the lack of an overarching national framework for implementation have been identified by some states as key stumbling blocks.

Both sides of politics have moved slowly along the OPCAT journey. There was an eight-year gap between the Rudd government signing OPCAT in 2009 and ratification under the Turnbull government in 2017. Australia then made a declaration under the Treaty to postpone implementation for up to three years. That extended deadline is now upon us, and we are still not ready. This is simply not good enough.

Meeting our OPCAT obligations is important not only to ensure basic human rights are protected, but also for the broader signal it sends about Australia's commitment to a rules-based international system. Once Australia has ratified an international treaty, we need to keep our word. We have, to date, failed to do this with OPCAT.

Now is the time to show that our actions match our rhetoric, and to urgently meet our OPCAT commitments.

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