

Prison conditions

NGO Coalition Fact Sheet 10 (LOIPR 17-19)

Overcrowding (page 51)

Prisons in Australia are increasingly overcrowded, with the prison occupancy rate across Australia at 111.4% of design capacity, and as high as 170% in some prisons.

The extent of the overcrowding is resulting in unsuitable prisoner accommodation, poor service provision and an escalation of violence and self-harm as well as concerns about privacy, dignity and hygiene.

Australia should ensure state and territory governments take significant and immediate action to improve the living conditions of prisoners in Australia, increase the supply of prison accommodation, access to rehabilitation and treatment services and invest in strategies that will wind back growth in prisoner numbers.

Solitary confinement

(pages 52 - 53)

Prison operators in Australia are putting inmates in prolonged solitary confinement, in breach of article 7. The use of solitary confinement to manage prisoners with mental health issues is of particular concern.

However, as solitary confinement is not regulated and the number of prisoners held in solitary confinement is not reported or released in any systematic way, the extent of the problem is difficult to quantify and few safeguards are in place.

Australia should:

- **ensure state and territory governments review and amend current legislation and internal policies governing the use of solitary confinement. The laws should prohibit prolonged solitary confinement and ensure that solitary confinement is only used as a last resort, for the shortest time possible and with safeguards around its authorisation and review.**
- **ensure state and territory governments mandate that prison operators record and disclose how many people are in solitary confinement and for how long.**

Routine strip searches (page 52)

Prison operators in Australia are conducting routine strip searches of female inmates and children.

These practices are unreasonable and disproportionate to prison security concerns, risk re-traumatising female prisoners subject to sexual violence prior to their imprisonment, and are contrary to articles 7, 10, and 17.

The lack of government oversight over such practices is unreasonable.

Australia should end the practice of routine strip searches in women's prisons and only use strip searches with reasonable suspicion and as a measure of last resort.

Mental health care in prisons

(pages 52 - 53)

In 2015, almost half of prison entrants reported having a mental health issue and more than 1 in 4 reported that they were currently on medication for a mental health disorder.

Prison operators are failing to adequately screen, assess, or provide adequate mental health care to prisoners, with sometimes fatal consequences. In some instances, the lack of facilities in psychiatric hospitals is resulting in mental health patients being held in solitary confinement in maximum security prison cells for 22-23 hours a day with little or no mental health treatment.

Australia should take immediate action to improve the mental health services for prisoners in Australia and to increase the capacity of high-security psychiatric hospitals and community-based alternatives.

Indefinite detention of people with intellectual, cognitive or psychosocial disability

(page 53)

Certain legislative schemes that provide a mechanism for courts to determine whether a person is “unfit to be tried” or is “not guilty at law” can result in persons with an intellectual, cognitive disability or psychosocial disability being indefinitely detained in prisons or psychiatric facilities without conviction, breaching articles 2, 9, 10 and 14.

In numerous cases, people are being detained for a longer period than if they had been convicted. The use of preventative detention is exacerbated by a lack of appropriate community based housing and therapeutic and disability support options.

Indefinite detention in prisons and psychiatric facilities is disproportionately experienced by Aboriginal and Torres Strait Islander peoples with cognitive disability.

Australia should establish uniform national legislation, in line with international human rights law, to facilitate due legal process to end indefinite detention of people with disability. This should include measures for culturally appropriate administrative and disability support frameworks that enable people with disability to receive adequate community based treatment, rehabilitation and support.

Preventative detention of people who have served their sentences

(page 55)

All Australian jurisdictions except for the Australian Capital Territory allow for preventative detention of people convicted of serious sexual or violent offences.

These regimes allow orders for continuing detention on the expiration of sentences for crimes committed, and infringe article 9, and giving rise to a risk of indefinite preventive detention.

Australia should ensure that all detention fully complies with article 9 obligations and repeal or amend laws allowing extension of detention at the sentence ordered at conviction.