

Queensland Advocacy Incorporated highlights the urgent need for human rights safeguards to stop the abuse of our most vulnerable

Queensland Advocacy Incorporated (QAI) is disturbed and dismayed by the recent, highly abusive and inhumane treatment of a vulnerable Indigenous youth within a youth detention centre. Our concern is amplified by the fact that the story of Dylan Voller, the youth brutally abused at the Don Dale Youth Detention Centre in the Northern Territory, is not just a tragic aberration brought about by the action of one violent guard. Rather, Dylan's story resonates with the experiences of many, many other marginalised and disempowered Australians in their experience of violent and abuse treatment.

While this story has shocked Australians since it was aired by Four Corners this week and has prompted the removal of Minister John Elferink from Cabinet and his portfolios as Minister for Corrections and Minister for Children and Families, this is by no means a one-off atrocity. Rather, this story provides insight into the lived experience of many vulnerable people in Australia, in particular people with an intellectual, cognitive or psychiatric disability. The likelihood of experiencing this type of abuse increases when the person is also Indigenous or has otherwise experienced multiple disadvantage.

In Australia, we not only condone but actively sanction the use of Restrictive Practices on vulnerable people with disability. Restrictive Practices, which are sanitised by use of the terms mechanical, physical and chemical restraint, seclusion, containment and restricting access to objects, are in fact the drugging, physical assault, battery and solitary confinement of disempowered people on the basis that they display behaviours of concern. In our experiences and anecdotal evidence indicates these practices have been used by those with power as a means of exerting domination and control over a vulnerable person in their care.

QAI takes the strong position that the use of Restrictive Practices constitutes torture and contravenes Articles 15 and 16 of the Convention on the Rights of Persons with Disabilities (CRPD), which guarantee persons with disability freedom from torture or cruel, inhuman or degrading treatment or punishment and from exploitation, violence and abuse. QAI also considers that these practices constitute torture in breach of the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). Australia has signed and ratified both the CRPD and



the CAT yet has, to date, failed to properly implement and respect these treaties in Australian laws and practices.

When QAI appeared before the United Nations in November 2014 as part of the Australian NGO Delegation reporting to the 53rd session of the United Nation's Committee Against Torture in Geneva, we successfully sought the UN's support for our call to the Australian Government to take immediate steps to halt ongoing human rights abuses in Australia. At issue was the treatment of some of Australia's most vulnerable and marginalised people, including people with disabilities, asylum seekers, women, children and Indigenous peoples. Yet nearly two years on, despite persistent campaigning by advocates, we are yet to see positive change and leadership in this area. The advent of the Don Dale incident is evidence of this inertia.

“Many people with disability who experience these types of abuse are not in a position to advocate for themselves. We call upon the Government to take strong leadership in this area and put an end to these practices as an urgent priority”, Michelle O’Flynn, Director of QAI, said today.

“It is a wonder anyone can survive this kind of abuse, and these experiences mould people into dysfunctional products of a cruel and desensitized system. What kind of culture do we have that employs people who force this treatment on children, our elderly, people with disability and mental illness - our most vulnerable people? What kind of society have we become? Without intensive scrutiny and redress, this kind of behaviour is set to permeate all of our communities,” Ms O’Flynn said. “This story will not be allowed to just ‘fade into the news feed’. QAI is aware that this type of horrific treatment is not restricted to detentions centres but may also occur in hospitals, aged care facilities, nursing homes, group homes and specialised accommodation facilities for people with disabilities. This is cruel, inhumane and degrading treatment of vulnerable human beings.”

These practices are sadly not unique to the Northern Territory. The excessive and largely unmonitored use of Restrictive Practices in Queensland positions us poorly when compared with many of our neighbouring jurisdictions. Within the past decade in Queensland, Government-funded service providers have employed former police and prison staff who have utilised devices and practices including handcuffs, physical holds and restraints and excessive force upon vulnerable people with disability.

The atrocities at Don Dale were completely preventable. Yet without strong human rights leadership, they will continue to be replicated throughout Australia. Australia is presently an outlier in our lack of basic human rights protection. In Queensland, the strong calls from many and varied voices within the community have led to the initiation of the Human Rights Act Inquiry which is currently being conducted by the Queensland Government.

QAI calls for decisive action to end torture and abuse in Australia, including the introduction of a Human Rights Act in Queensland, in the remaining Australian states and territories in Australia and at a federal level. We also call for the Federal Government to heed the appeals for ratification of the Optional Protocol to the Convention Against Torture, to subject institutions and detention centres to appropriate scrutiny and thus safeguard vulnerable people in our society.

<http://www.amnesty.org.au/action/action/42195/>

<https://www.facebook.com/ratifyOPCAT/>

Finally, we demand a Royal Commission into all the practices employed in all places where people with disability live under ‘care and control’ of government funded services including investigation onto abuse in all detention centres and institutions within Australia – it is time to put an end to the perpetuation of abuse by government-funded service providers.

If the Northern Territory had basic human rights protection in place, perhaps we would not be now grieving the abuses at Don Dale and our collective failure to protect our most vulnerable.

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