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Megan Mitchell, National Children's Commissioner

RE: Australia's Ratification of the Optional Protocol to the Convention Against Torture.

Dear Madam Commissioner,

I write this submission as a concerned NT citizen of over thirty years and as a NT legal practitioner of 29 years standing. I am also a parent of four children all born and raised here in Darwin. I was admitted to practise in the NT Supreme Court on 3 March 1987 and was appointed Senior Counsel in 2010. I was President of CLANT from 2000 to 2003 and 2008 to 2011, and was President of the NTBA and a Director of the Law Council of Australia from 2013 to 2015. I practice from John Toohey Chambers which I joined in 2002. I am now head of those Chambers. In that period I have been an active participant in the NT legal system and a witness to its development within the context of the Northern Territory's general development. In 2000 I appeared as counsel for the family of the Aboriginal child 'Johnno' who suicided in Don Dale in the subsequent Coronial Inquest.

I write this submission to you directly as a cry for help on behalf of Aboriginal children who are presently detained in the Northern Territory juvenile detention facility ("Don Dale").

If ever there was a jurisdiction in Australia that cries out for Australia setting up a National Prevention Mechanism and ratifying the OPCAT it is the Northern Territory. The Northern Territory detains juveniles at over seven times the national rate. That detention rate in recent years has been increasing rapidly.

97% of the detainees are aboriginal children, many from outlying aboriginal communities where aboriginal language, customary law, relationship with land and aboriginal mores are still very strong.

These children come from the Centre, Alice Springs, Top End communities and Darwin itself. Their incarceration rate in itself is a catastrophe. However, what, in my opinion, compels the need for Australia to ratify this Protocol in order to provide them some urgently needed protection, is the backward and inhumane treatment inflicted upon them by the NT Department of Corrections and their staff. This inhumane treatment meted out has emerged and regressed markedly in recent years.

The NT Department of Corrections has unqualified, untrained and inexperienced staff dealing with these children. At present there are virtually no youth justice workers as such, only adult prison guards seconded from the adult prison. This situation has been going on for well over a year.

The Department has little, if any, appropriate educational programs and structures in place to properly deal with child detainees.

I refer you to the two recent reports, namely, The NT Child Commissioner, Dr Bath's Own Initiative Report of August 2015 and Michael Vita's Review of the NT Youth Detention Centre Report of January 2015.

The Department's deliberate policy is one of punity against these children. This includes punishment measures such as solitary confinement which involves children being kept in a single cell for 22 out of 24 hours, wherein he/she is fed without cutlery including the one hot meal at the end of the day.

This also includes instances involving handcuffing, shackling, spit-hooding and in one notorious incident, dog sooling and tear gassing on the protesting detainees.

The Minister responsible, Mr John Elferink MLA, in late 2014, made the deliberate decision not to upgrade the purpose built juvenile detention facility "Don Dale," but instead shut it down and transferred all the male and female children to the old, adult male Berrimah Prison which was shut down, derelict and unfit for any human habitation. It had been described in a Coronial Inquest by the CEO of the Department of Corrections as "only fit for a bulldozer." The Minister ordered that it be re-opened and revamped in a minimalist fashion, in his words, so they could **"enable us to deal with some of these**

juveniles who have caused us grief.” In a deliberately and macabre twist they now call that former jail Don Dale.

That happened in December 2014 and since then Aboriginal child detainees have been kept in this adult prison, which is dangerous, inhumane and an outrage that would never be countenanced in any other State in Australia.

This situation grows from bad to worse. Only last week the NT Government passed legislation to give greater power to prison guards to “restrain” children by placing them in custom built restraint chair devices. All of this “treatment” is not only the opposite of best practice but is positively barbaric and abusive.

I bear witness to a situation which in recent years has rapidly regressed. The way in which aboriginal juvenile detainees are dealt with in this jurisdiction is positively barbaric and abusive and is something which needs to be stopped as soon as possible. These Aboriginal children need help and the ratification of this protocol can provide the same.

Yours Faithfully



John B. Lawrence SC