

Protecting human rights will help Australia attract more business

“Protecting human rights is in the self-interest of governments. To protect human rights is to build a strong society, that is more secure, in every sense, and more open for business. Predictable, fair laws and independent courts attract local and foreign investors.”

This is a quote from Hugh Williamson (photo), the Director, Europe and Central Asia Division, of Human Rights Watch. He was giving the keynote address on 30 Sept 2024 at the Warsaw Human Dimension Conference.



It was organised by the Organization for Security and Co-operation in Europe. OSCE has 57 participating States from Europe, Central Asia and North America.

It is a forum for political dialogue on a wide range of security issues and a platform for joint action to improve the lives of individuals and communities.

Parliament ignores human rights regularly

Australia's Parliament keeps passing laws that are incompatible with human rights, and ignoring its own key committee representing the rights of Australians.

The 'arm' of parliament responsible for restraining politicians' abuse of power is the Parliamentary Joint Committee on Human Rights, PJCHR.

It reports on all (or most) laws when they are in draft form as Bills, alerting parliament to the danger that it may be breaking the rule of law in Australia if the Bills pass, and become Acts, reducing the human rights of Australians.

Recently the PJCHR's reports have become longer, and stronger, and more critical. For example, in its Report No 9 of 2024, released on 10 October, the committee reports on seven Bills, and is highly critical in relation to all of them.

Seven severely criticised Bills range from Aged Care to Family Law

As the PJCHR writes in “polly speak” so as to not offend the government, we have translated what they have to say into plain English for people to understand more easily how out of control the government is across much of its legislation.

This is nothing new, or 'Labor'. Exactly the same happened under the Coalition government.

Here's a precis of the PJCHR's early October 2024 report. It may seem to be boring, procedural stuff, but as you can see from the range of Bills considered, the ultimate laws govern how we and our children and our parents live and work on a day-to-day basis:

1. **Aged Care Bill 2024:**

Several measures limit multiple human rights, including the rights of persons with disabilities, the right to equality and non-discrimination, access to justice, effective remedy and the right to privacy.

The committee recommends improving the Bill before it passes, and draws its human rights concerns to the attention of the minister and the Parliament.

2. **Anti-Money Laundering and Counter-Terrorism Financing Amendment Bill 2024:**

Some provisions take away the privilege against self-incrimination: they are incompatible with the right to a fair trial. The significant civil penalties may be regarded as criminal under international human rights law, and so would be inconsistent with criminal process guarantees. Other provisions risk the right to life and freedom from torture, and other cruel, inhuman or degrading treatment or punishment. The committee wants the Bill amended by the Attorney-General and the Parliament.

3. **Better and Fairer Schools (Info Mngmnt) Bill 2024:**

Assigning schools identifiers to all primary and secondary school children is not clearly a matter of pressing and substantial concern to warrant limiting the right to privacy and the rights of the child. The Bill, by itself, does not contain sufficient privacy safeguards. The PJCHR wants the Bill amended.

4. **Comms Legn Amendment (Combatting Misinformation and Disinformation) Bill 2024:**

The Bill limits the right to freedom of expression and privacy.

5. **Criminal Code Amendment (Hate Crimes) Bill 2024:**

Criminalising forms of expression is likely to impermissibly limit the right to freedom of expression, religion and the right to equality and non-discrimination, and the rights of the child. The committee calls on the Attorney-General and the Parliament to legislate the amendments the PJCHR previously proposed.

6. **Fair Work matters (there was both a Bill and a Determination) TOO LATE !**

Putting the CFMEU into involuntary administration limits multiple rights, and negates criminal process guarantees in Australia. Serious allegations against CFMEU have not been determined by a court: the proposed scheme is therefore not consistent with guarantees of freedom of association, or with other human rights. The committee recommends that a statement of compatibility with human rights be prepared in relation to the determination. (However, as the amending Act has now passed, and the involuntary administration scheme has begun, the committee makes no further comment).

7. **Family Law Amendment Bill 2024**

There are serious concerns over disclosing personal information, with a person not have an effective remedy because the Commonwealth is immune from all civil and criminal liability if acting “in good faith”. The committee wants the Bill amended and its statement of compatibility with human rights updated.

– [Report 9 of 2024](#)

PJCHR is being ignored

The PJCHR has 12 Members. Six are women, six are men. Being a 'joint' committee, they are from the House of Representatives and the Senate. Being non-party-political 99% of the time, the committee has a reputation for doing excellent work.

The chair is Josh Burns (Labor, MHR for Macnamara, Vic, photo).

Its recommendations go to the Ministers responsible for the Bills, and sometimes



to the Attorney-General and to the government, and sometimes to the parliament. For the most part, their recommendations are ignored.

When it reports to parliament – both House and Senate – it is not backed up and its potential power is not enforced by a vote in either place. Frequently, the parliament passes a Bill, replete

with all its anti-human rights measures, before the PJCHR report and its recommendations are complete.

The PJCHR in May tabled a major report into how Australia's Human Rights "framework" should operate in federal and parliamentary terms. One recommendation was that the PJCHR should "enhance human rights parliamentary scrutiny".

You can't do that without giving the PJCHR more heft to:

- delay Bills until they are human rights compatible (except in an emergency);
- insist that public servants be trained in HR law and educated in what happens in HR-compliant nations like NZ, the UK, Canada and the USA;
- educate Australians about what are their human rights under agreed international protocols; and
- pass a Human Rights Act for Australia (which is the first and primary recommendation of the PJCHR's May 2024 Report) <https://tinyurl.com/z278eedy>

A Human Rights Bill has been drafted. The Albanese government could pass it before the early 2025 election. It should.

What is required

The PJCHR recommends, in relation to a federal Human Rights Act for Australia, that it should include:

- comprehensive and effective protection of human rights in legislation, through the establishment of a Human Rights Act;
- a significant and ongoing commitment to national human rights education;
- requirements for public servants to fully consider human rights in the development of legislation and policies;
- enhancements to human rights parliamentary scrutiny;
- enhancements to the role of the Australian Human Rights Commission;
- review of Australia's legislation, policies and practices for compliance with human rights; and
- measures to monitor progress on human rights.

Should we punish the Senator...or the King?

Senator Lidia Thorpe's verbal outburst against the King in Parliament House was by far the lesser of two evils the pair committed during Charles' visit to Australia last month.

Senator Thorpe castigated the King for the British treatment of Aboriginal people since 1770, including denying the sovereignty of the original inhabitants of Australia.

Thorpe shouted her comments: she needed to shout, as the King had demonstrated he was "tone deaf" to the nation's history.

Two days earlier, King Charles of Australia had formally attended, congratulated and celebrated the 200th anniversary of the Legislative Council of NSW.

Charles' actions and speech on the occasion were a direct insult to every Australian Indigenous person.

No group of people from any other entity in Australia's history did more to ensure the massacre of Aboriginal Australians than the squatters ("settlers" was a euphemism for them). They were precisely the people for whom the Legislative Council was mostly created, and who personally occupied the leather benches.

And it was the Legislative Council which literally gave "free range" for the dispossession of Aboriginal people.

They and their employees, as well as the magistrates appointed on their recommendations, drove Aboriginal people off their own lands at the muzzle of a gun and by killing them using poisoned flour, fire and other criminal methods, for which the aggressors

were never jailed. Aboriginal women were taken and sexually abused, as well as being used for slave labour.

If you would like chapter and verse on the behaviour of the people and types who largely comprised the NSW Legislative Council in its first 100 or so years, the details are in David Marr's 2023-4 book, *Killing For Country: A Family Story*, published by Black Inc. 432pp.

Aboriginal academic, Professor Marcia Langton, said this of Marr's work: "This book is more than a personal reckoning with Marr's forebears and their crimes. It is an account of an Australian war fought here in our own country, with names, dates, crimes, body counts and the ghastly, remorseless views of the 'settlers'. Thank you, David."

The book won the 2024 Indie Book of the Year Award and was on the short list for many other awards. Obviously, King Charles of Australia has not read the history of this country that he rules, and his forebears created, as detailed by Marr.

Thorpe's hair-splitting won't cost Senate spot

Anne Twomey, the doyen of constitutional law and a retired professor in the field from Sydney Uni, says Thorpe is safe from ideologue retribution.

"As Senator Thorpe has formally taken an affirmation, both in writing and orally, it seems unlikely that the Senate would take the dramatic step of denying its validity and seeking to exclude her from sitting or voting.

"Once the Senate starts trying to determine the sincerity of one person's oath, it would potentially open a Pandora's box for others. It is certainly uncharted territory in Australia, and probably best left unexplored," Twomey wrote in several media outlets.

Australia's children being left behind

Australia needs to transform child justice and improve safety and wellbeing for kids, the woman responsible for their safety, Anne Hollonds, said last month.

Australia's Children's Commissioner told the National Press Club children needed "Help way earlier!".

She outlined a major new report calling for a shakeup of how our federal, state and territory governments approach child justice and the wellbeing of children who are, or who are at risk of being, caught up in the criminal justice system.

The focus of the report's 24 recommendations is on elevating child wellbeing to a national priority, coordinating action on child justice reform across all jurisdictions, and ensuring reform is based on evidence and human rights.

The barriers to action include the role of the media, and how politics gets in the way of prevention, leading to our failure to ensure the wellbeing of Australia's most vulnerable children, Ms Hollonds said.

– on 2 October 2024, address to the NPC: <https://tinyurl.com/rvtn4r78>

NT Chief Minister takes kids back to the darker ages

Meanwhile, headed in entirely the wrong direction is the new NT supremo-on-training-wheels, Chief Minister Lia Finocchiaro (photo: *NT Independent*).

CM Finocchiaro jumped right in at the shallow end head first – legislating to lower kids' age of criminal responsibility to 10 – after claiming a mandate because she recently won the NT election. But Leaping Lia has only half a mandate, if that.

What she did not do was her research and homework.



If she had read the NT govt file on the issue, she would have learned the age of criminal responsibility national debate had a long history.

For five years the police ministers and the attorneys-general of Australia toiled to produce an agreed national plan of how to deal with kids who do stupid things well before they are teenagers.

About two years ago, after holding some 10 meetings over 60 months, all Australian states and territories agreed they would work towards adopting the recommendations of the United Nations: that is, children should not be criminally responsible before they are 14 years old.

Everyone from the UN down to child psych experts all around the globe agree most children do not – can not – differentiate between criminal behaviour and naughtiness before they are 14.

Sure, they probably know stealing cars is “wrong” and “naughty”, but they don’t understand it is criminal or that there’s a legal responsibility on more mature people to not break the public law.

If children can’t – that is, they are unable, not mentally equipped – to make that distinction, they must be treated as kids and not as people old enough to be able to know the difference.

CM Finocchiaro could have raised the age to 12, and kept to the tenor of the national agreement.

Instead, she dropped the age to 10, which is literally “beyond the ken”.

In other words, her behaviour as an experienced Member of Parliament “cannot be easily explained or understood”.

She should immediately increase the age to 12 or be treated as a pariah by all the nation’s Premiers, Chief Ministers, Attorneys-General and Police Ministers.

NT had led Australia

After the national agreement was decided, the NT moved quickly to raise the age to 14 under Labor Attorney-General Chansey Paech (photo).

In Australia’s other territory, the ACT govt decided to move immediately to 12 as the age of criminal responsibility, before lifting the age again to 14 in a few years time.

Various states took various positions. All knew that they would have to reform their child detention laws, and would need also to bring in new mechanisms for remediating the problems of “problem” children, educating them and providing a better pathway to a life not founded on what they learn in kids’ jail.

Exactly as Anne Hollonds said in her speech.

Around Australia, there are debates a-plenty on how to do the right thing by children. But other than the ideologue leader of the NT, barely a responsible minister anywhere condones locking up kids aged 10 who do not know, who can not know, who are not physically wired to know, in a legal sense that what they are doing is criminally wrong.

Consequences for breaking agreements?

Should CM Lea Finocchiaro face retribution from the other states and the ACT territory?

She has effectively shattered a national agreement that took years to emerge.

It was promised originally two years after the WA Dept of Justice* first took responsibility for drafting the arguments for and against the ages of 10, 12 and 14.

But the decision was so tough it took a further three years for national agreement to be reached, and even that allowed wiggle room between 12 and 14.

If the NT Chief Minister is to abandon national agreements at the drop of a hat, then maybe other national agreements could be abandoned, like those that give the NT massive subsidies to help out with particular problems.

If it’s good enough for Lea to default, why should others and the federal government stick to any earlier commitments that benefit the NT?

- * Incidentally, the head of the WA department which led the program to get national agreement on the age of criminal responsibility was Dr Adam Tomison. He is described online as “internationally recognised as an expert in the prevention of child abuse and family violence, and the development of child protection and family support systems. (He) held various senior executive positions within the Northern Territory Department of Health and Families, including time as the Director of the NT’s statutory child protection and family support services.”

Given Dr Tomison’s position, CLA believes that the situation and circumstances in the NT were well and truly known to those who developed the national agreement for 12 years minimum – and 14 years as preferred – age of criminal responsibility. If CM Lea keeps the age at 10, there is no doubt the long term outcome will be more crime in the NT, not less.

‘Ask no questions’ is ‘find no corruption’ policy

The Office of the Independent Commissioner Against Corruption (OICAC) in the NT did not interrogate one single person as part of an investigation last financial year.

The Acting Commissioner, Naomi Loudon, claimed the lack of interrogations was due to renovations to the office’s hearing room, plus a new policy.

The new policy – introduced by ICAC boss Michael Riches, who continues to be suspended* from his role since late-June – was to not force people suspected of corruption to provide evidence.

Riches claimed the policy was out of concern for their mental health, according to a report by Christopher Walsh in the *NT Independent* online newspaper on 26 Oct 2024 (behind a paywall).

“The glaring output failures of the office were detailed in another confusing and contradictory report tabled in Parliament (in late October) by ICAC Inspector Bruce McClintock,” Walsh reported.

McClintock wrote in one paragraph that the performance of the OICAC “has been satisfactory” and in the next paragraph that “I do not evaluate the performance of the OICAC as satisfactory”.

“I note three significant KPIs were not met,” McClintock wrote, which included not meeting targets on the number of investigations being completed within six months, investigations not being completed within 12 months and reports back to the ICAC not being responded to within 10 days.

Riches had set a target of 80% of “examinations” – or interviews with witnesses – being completed within one month of lawyers receiving the brief, but failed to conduct any examinations over the entire 12-month reporting period before he was suspended.

These things could surely only happen in Frontiersville, as CLA calls Darwin, or Clown Town, which is the *NT Independent’s* name for Australia’s only ‘Asian’ city.

* Several female staff members alleged inappropriate behaviour by Riches. The Office for Public Employment continues to investigate. Riches continues to be paid his \$500,000 annual salary. The Office of the ICAC cost NT taxpayers \$6 million to operate in 2023-24.



O for a new law to better scrutinise all public sector agencies

AG Mark Dreyfus is trying to shut the Ombudsman's door after the Robodebt horse bolted.

He says his new law will strengthen the information-gathering powers and investigative capacity of the Commonwealth Ombudsman. Agency heads and the wider public service will be required to "assist the Ombudsman in the performance of their functions".

Dreyfus says the law aims to implement recommendations of the Robodebt Royal Commission, which found that some officials and agencies engaged in behaviour designed to mislead the Ombudsman and impede its investigation into the illegal scheme.

The report said it was "disheartening" that institutional checks and balances, including the Commonwealth Ombudsman, had been ineffective at stopping Robodebt, which wrongly issued debts to hundreds of thousands of welfare recipients. It cost the government about \$2 billion in compensation.

However, what Dreyfus did not say in his media release was the Royal Commission also found the then-acting Ombudsman's action questionable for how a key report on the legality or otherwise of the Robodebt scheme was handled by his office, under his signature. That matter is apparently not yet totally resolved – it has never been publicly reported who is, or is not, further investigating that acting Ombudsman's actions. <https://tinyurl.com/25vwp4ns> (paywall).

Dreyfus said his legal "reform" would ensure that Commonwealth agencies "are subject to stronger and more rigorous scrutiny". "Trust in government depends on this," he said.

The best way to ensure stronger and more rigorous scrutiny of government agencies is to introduce a federal Human Rights Act, CLA says.

A Human Rights Act will do the job

In late 2023 Royal Commission into defence and veteran suicide commissioner Nick Kaldas publicly insisted the RC had been stymied by some government agencies and departments – including Defence – from accessing essential information.

He said that "basically every trick in the book has been pulled out at some point to stop us gaining access to documents".

The commission's final report noted, "Delays in producing information and documents by Australian Government Agencies impeded this royal commission's work" and "had serious practical implications for our inquiry, including the examination of witnesses."

For "serious delays" in producing documents, the RC singled out the Australian Government Solicitor, the AGS, which represented Defence and other government agencies, for being "sometimes unnecessarily adversarial".

Who is responsible for the AGS? Mark Dreyfus as Attorney-General. The AGS falls under the Attorney-General's Department.

"Trust in government" depends on Dreyfus doing a better job in his own bailiwick...before blaming others.

AGS blamed for re-traumatising RC witness

According to one witness before the above RC, it was the adversarial legal approach that helped to push them back to the brink of self-harm during the royal commission's evidentiary process.

The inquiry process itself re-traumatised the witness, who alleges Defence's legal conduct attempted to silence them and brought their integrity into question, leading to an extraordinary situation whereby the "key witness" in a royal commission on

defence and veteran suicide was left dangerously suicidal by the experience, *Guardian* columnist Paul Daley wrote. <https://tinyurl.com/4y3bdw3a>

Top judge, as usual, blames everyone else

Judges can no longer expect attorney-generals to defend them in the face of "inaccurate" or "ill-informed" attacks, the top judge of Australia's largest jurisdiction says, particularly when it would involve criticising their cabinet colleagues.

NSW chief judge Andrew Bell, delivering the 2024 Acton Lecture on the topic of "truth decay", said persistent criticism of the judiciary would result in the public losing faith in decisions released by judges, and any decline in trust in the courts was a "profound concern".

He cited live-streaming court proceedings and courts having a presence on social media as practical ways judges may "proactively promote broader public engagement in, and respect for, the work of the courts".

"It is incumbent on courts and the legal profession more broadly to develop strategies for maintaining confidence in their vital work and resisting, or at least mitigating, the erosion of rational, fact-based public discourse," he said. "Extensive civic education about the role and importance of an independent judiciary is critical."

Bell questioned whether judges should contribute to public debate in the face of "misrepresentation and unfounded criticism", or if another "body or office" should intervene on their behalf.

"Maintenance of respect for the work and independence of Australian courts is important for many reasons," he said. "One of those reasons is to preserve the notion that truth is not relative, and its ascertainment is the foundation for many, many legal outcomes of significance not only to the parties in the immediate case but also at a more general level of institutional importance."

Decline is fault of judges as much as anyone

Every wrongful conviction for murder and major crime is presided over by a Supreme Court judge.

The rate of wrongful convictions in Australia in such cases is at least 6% or maybe more, studies show.

Putting that in context, about one in 15 or so people convicted and sentenced to 12-25 years in jail has suffered a miscarriage of justice presided over by one or more judges.

Bell's claim (see above) that "truth is not relative" is belied by those statistics.

It is also called into question by commentators who believe that judge Michael Lee's finding against Bruce Lehrmann on the balance of probabilities that he raped Brittany Higgins was certainly relative in part to the opinion Lee holds of young men in general now, and of young men when he (Bell) was one of them, which is the only real life knowledge he has to draw on.

Otherwise, on what basis did judge Lee decide – with no witnesses, video or physical evidence – that a rape had likely occurred.

It is a good thing that Lee's excessively flamboyant judgement is now to be reviewed on appeal.

How good are judges in Australia?

Not specially good.

There is absolutely no evidence that judges here are better than in other British-tradition systems like Canada, the UK and NZ.

And as for judges in strife recently, here are a few:

- A judge in Queensland, Salvatore Vasta, got into serious trouble over his behaviour in several cases. In one, he jailed a person for contempt unjustifiably, his fellow judges

ruled. The jailed person was last year awarded \$300,000 personal compensation from the judge for his wrongful jailing in a family law case. The matter has gone all the way to the High Court, where a decision is awaited.

- The position of a judge in the NT is in continuing doubt after being found, by an independent panel, to have shown bias in a trial with political overtones.
- A judge in Tasmania has just been convicted of domestic violence and harassing and bullying his female partner. His sentencing is this month. The state's government, parliament and judiciary is in turmoil over how to deal with the situation (see items below under 'Tas Special Report'). A draft "judicial council" law put forward by the government was full of holes. A re-drafted proposed law is stalled in the Upper House because it doesn't solve today's and tomorrow's potential judicial problems in 'The Establishment' state.
- In Queensland, former judge Sofronoff, retired, did an only half-satisfactory job heading a huge initial inquiry into failures of the state's forensic science laboratory. The state government had to hold a second full-on inquiry to actually get to the root causes of the problems, which Sofronoff had missed, before it could start to fix them.
- In the ACT, the same Sofronoff spent hours and dozens of phone calls and email exchanges privately communicating with journalists during an inquiry. He then pre-leaked his official report to two of them – before formally handling it to the Chief Minister and AG of the ACT, who had commissioned the inquiry. He was probing whether there was police or DPP or other skulduggery in the high profile Lehrmann – Higgins alleged rape at Parliament House case (Lehrmann has always maintained his innocence: the criminal trial was aborted, and the ACT DPP decided no new criminal trial could be held because of the fragile mental health of the accuser, Higgins).

Sofronoff pilloried some actions of the then-ACT DPP Shane Drumgold during the original trial. Last month, the ACT Bar Council dismissed complaints made against Drumgold.

These are the tip of the iceberg of very recent and current judicial controversies. Most judicial problems are dealt with by judges under the "old boys" act, and never become public knowledge, CLA believes.

Activity dashboard launched

The NSW Bureau of Crime Statistics and Research (BOCSAR) has launched a new Policing Activity Dashboard to provide ongoing access to information on the use of police powers and compliance in NSW.

Some of the first findings include:

- Strip searches: NSW Police conducted 2218 strip searches in 2023/24, down 41% from the 3751 strip searches in 2019/20. Weapons or drugs were found in 45% of searches in 2023/24.
- Person searches: They conducted 116,835 person searches in 2023/24. This is down 30% from the previous year (166,099 in 2022/23) and down 52% from five years ago (242,878 in 2019/20). Weapons or drugs were found in 15% of person searches in 2023/24.
- Move-on directions: 56,766 move-on directions were issued by NSW Police in 2023/24. This is down 50% from five years ago (114,569) in 2019/20. In the most recent 12-month period, less than 2% of move-on directions were refused.
- Stun gun use: NSW Police discharged a stun gun at 290 people in 2023/24; this is unchanged from the previous year (284 in 2022/23) but a 9% increase since 2019/20

(n=265). Of the 290 people stunned in 2023/24, 25% were Aboriginal, 86% were male and 3% were under 18 years old.

- Bail compliance checks: NSW Police conducted 105,943 bail compliance checks in 2023/24. In the most recent 12-month period, 44% of bail compliance checks were for Aboriginal people.

Website: www.bocsar.nsw.gov.au

Child's death in custody surrounded by lies

Cleveland Dodd's parents, Wayne Gentle and Nadene Dodd believe the WA public servants responsible for their son's care have failed to be held to account for his death in custody.

Cleveland, 16, was found unresponsive in his cell within Unit 18, the then newly-commissioned youth wing of high-security adult prison Casuarina, early on 12 October 2023. He later succumbed to his injuries.

Gentle and Ms Dodd say the system is broken; those entrusted with Cleveland's wellbeing neglected to provide the necessary support. They want a renewed focus on those responsible for his care while he was at the juvenile jail, Banksia Hill, and then in Casuarina's Unit 18.



Director of the National Suicide Prevention and Trauma Recovery Project and Director (Wagyl Kaip) of the South West Aboriginal Land and Sea Council, Megan Krakouer (photo), described the inquest as both difficult and painful. "There's so much racism and discrimination. No Aboriginal people have taken the stand to speak about the injustices or the way

forward," she said...."that needs to include prominent Aboriginal voices."

Ms Krakouer claims Doug Coyne, the superintendent at the time, initially told the Crime and Corruption Commission he wasn't aware that cameras had been covered in Cleveland's case. However, during the coronial inquest, he admitted knowing about it, she said.

The Director of the Department of Justice, now resigned Dr Adam Tomison, admitted he had signed off on what were effectively lies to his Minister in material prepared by senior public servants which stated all was well at Unit 18, there were plenty of staff and ample programs for the children. None of the claims were accurate. <https://tinyurl.com/2z67muat>

New kids' jail for Perth

A \$100 million maximum security youth detention centre, touted as the best in the world, will be built near the troubled Banksia Hill facility in Perth.

WA Corrective Services Minister Paul Papalia announced the maximum security kids jail last month.



Photo shows a concept drawing of the new kids' jail.

It will be co-located with the existing Banksia Hill youth jail, and

designed to replace the emergency Unit 18 section of the adult male Casuarina prison which was rushed into action when riots erupted in May 2023 at Banksia Hill. A 16-year-old and a 17-year-old have died in "youth" jails in Perth in the past two years. Papalia boasted at the announcement that it would be "the best facility of its kind in the world". He did not say it would be human rights compliant.

Planning and design for the 30 bed kids jail will cost \$11.5m. The Minister gave no clear timeframe on when the design would be completed, or when the jail would be finished.

CLA welcomes the new kids jail

CLA says the new jail announcement is a positive step forward, but could have been much better.

The outcome is one big facility for 30 people ONLY in the Perth CBD at a cost of \$100m.

As an example, an alternate approach could be taken...

Let's instead use a block of state land in Geraldton: build 4 adjacent houses in a square (total cost \$4m), connected by paths to a central learning space/house, outfitted with modern computers/video/etc (cost \$2m to build and outfit the central learning facility), plus big boundary fence/barrier/security and CCTV on boundary and inside. Total cost about \$7m for 'building' works. Allocate about \$3m to pay full time (24 hours) supervisor – \$80,000 a year with free "board" – and 4 staff (\$170,000 a year total) for the next four years.

With one house for the "supervisor", three houses for inmates @ 4 inmates (total 12 juveniles detained at Geraldton). All up cost for such a facility in Geraldton: less than \$10 million over four years, even including the wages of a 24-hour, live-in supervisor and three daytime staff.

Do the same thing in Derby, Broome, Port Hedland, Karratha, Carnarvon, and Margaret River for a cost total of a further \$60m for these 6 locations, plus \$10m for Geraldton = \$70m.

Select two more locations (N and S of the city) in Perth, cost of probably about \$15m each due to higher land and building prices. Total for all this (ie for 9 facilities housing a total of about 108 juveniles) would be about \$100m for four years. After that, absorb the ongoing costs into the usual costs for housing juveniles in jails.

Save money by telling police they can ONLY ARREST juvenile Aboriginal kids in numbers that make up to a maximum of 108 in jail in any one year – prioritise putting kids into diversion program instead.

The better outcomes from close, one-on-one supervision would provide a cost-benefit to the community because it is likely fewer juveniles would re-offend or escalate their offending.

Children would be kept closer to their own 'country' and family, to maintain family ties and culture.

This brief, top-of-head analysis could be easily scoped out by people in the Aboriginal communities and building trade and social workers/corrections people.

...and remember, there's still another \$10m or so that Papalia has set aside for "planning and designing" that CLA hasn't even touched in our above concept. That's the contingency cash for the project.

Models of 'four-square-housing' are common throughout Australia, in disability-mental issues group living, aged care homes, and other developments. Basic plans are available off the shelf, CLA believes.

State seeks to rescue kid, 11

A WA magistrate has labelled an 11-year-old boy the "state's most vulnerable child".

The boy spent 77 days in Perth's notorious Banksia Hill kids jail, but was freed after the magistrate decided to not jail him. He

was facing 36 criminal charges including 16 counts of aggravated burglaries, stealing a motor vehicle and assault.

State prosecutor Taylor McAnderson said what was needed was implementing "wraparound" services to prevent the boy from reoffending.

Magistrate Samantha Martella said the WA Department of Communities needed to invest in the boy, teach his family how to help and work with the Education Department to keep him out of trouble, regardless of resourcing restraints. <https://tinyurl.com/4zkipnt64>

Polly Pangallo to curtail rights of 17-y-o forever

South Australia's upper house has passed a law to permanently ban the sale of cigarettes and vapes to anyone born from 1 January 2007, onwards.

The draft law would prevent anyone over 17 buying tobacco and e-cigarette product purchases for the rest of their lives.

In context, this is a government banning a class of its citizens, an age cohort, from buying products legally on sale. Logically, liquor could be next (banned for males to prevent most domestic violence), soft drinks for under 10s to protect their teeth, and eventually Collingwood supporters from wearing black-and-white striped jerseys or accoutrements when in SA.

Independent MP Frank Pangallo (photo) introduced the draft law, aiming to create a tobacco-free generation, from now until forever.

Pangallo said similar attempts have been made in the UK and New Zealand, although NZ's implementation was reversed. Fortunately, the SA Lower House has to pass the same draft law before it can become operative. That may not happen. <https://tinyurl.com/yc4tr9ad>

Before elevation to an upper house politician after a short spell working as media adviser to Nick Xenophon, Pangallo was a champion of the rights of people, particularly the little guy, as a reporter on *Today Tonight*. Strange what changes becoming a politician sometimes wreak.

CLA notes he is a supporter of, and attends, smoking ceremonies for Indigenous people, but apparently not for non-Indigenous people.

Tasmania Special Report

Merry-go-round fiasco continues: Supreme Court now two years behind

The man who has failed the courts system in Tasmania, Guy Barnett, has been promoted to Deputy Premier. Under Barnett, the state's Supreme Court is delaying and denying justice at an accelerating rate.

As Deputy leader of the Liberal Party and therefore Deputy Premier, he replaces the man who failed the infrastructure, ferries and wharves network in Tasmania, an area of enormous importance to an island state. Michael Ferguson resigned as Treasurer and Deputy Premier last month, just as the Tas Parliament was ready to pass a no confidence motion in him.

He had already resigned as Infrastructure Minister in August 2023 over the bungled handling of two new Spirit of Tasmania ferries. Delivery of the ferries has been delayed five years so far, is \$500m over budget, and the ferry berth in their home port, Devonport, is too small for the them without massive relocation and/or creation of new riverside infrastructure.

The failures will adversely affect tourism on which Tasmanian depends heavily. A temporary 'fix' will seriously inconvenience the movement of goods by sea in and out of the state.



Barnett fails: Court backlog more than doubles

Premier Jeremy Rockliff has handed the Deputy Premier baton to Guy Barnett, who is the Attorney-General. But Barnett has presided for the past 15 months over a courts/legal system that is failing, in a manner commensurate with – but more alarming than – the ferries, berths and infrastructure disasters.

A properly-functioning legal system is more fundamentally important than ferries or even traded goods. It is the basis of the rule of law and how society works.

The backlog in the state's Supreme Court is now 885 cases.

The backlog was 743 cases– a record – at 30 June 2023.

Just seven years ago, at the end of June 2017, the backlog was just 380-odd cases. At that stage, four judges had been appointed temporarily to help reduce the caseload. <https://tinyurl.com/467327yw>

The Tas Supreme Court can handle about 450 cases a year, at best, based on past performance. The current backlog means the court is nearly two full years of cases behind...but only if no new cases arise!



Barnett (photo) was Attorney-General, when elected Deputy Premier by the Liberal Party. He was also the minister for justice; minister for health, mental health and wellbeing; and minister for veterans' affairs.

If justice delayed is justice denied, Barnett is actually and actively the minister for injustice, not justice.

He has been AG since July 2023, in other words for more than a year.

Before mid-2023, Barnett was Minister for State Development and Construction from April 2022 to July 2023, so he may well be able to claim some share of the ferry-wharf fiasco as well as the court fiasco.

Three judges not enough to cut the list

Three “temporary” judges have been appointed currently to try to reduce the backlog...but this is down on the four temporaries appointed in 2017.

They were appointed on 25 January 2019 for two (2) years, according to the Supreme Court of Tasmania website. Presumably, their appointments have been extended, but the website does not say so.

The current “extras” are David Porter, who resigned as a full-time judge in 2016, only to be appointed to a part-time position in 2017. He has been on the court's roster ever since.

Shane Marshall was a Federal Court judge from Victoria who resigned from that role in November 2015, but has served as an acting Tasmanian judge since January 2017.

Both Marshall and Porter are aged about 70.

The third acting judge is Brian Ross Martin. He is 77, which is well beyond the recently increased age limit for Tasmanian full-time judges.

CLA describes Martin as “Have Gavel, Will Travel”. Originally from SA, he first made judge there in 1999. He became chief judge of the NT from 2004 to 2010. He has presided over some well known and controversial cases, such as the bodies-in-barrels Snowtown case in SA, the Bradley Murdoch (Falconio-Lees) case in the NT, the Lloyd Rayney trial in WA, and the David Eastman inquiry in the ACT.

‘Contriving, implausible’ judge found guilty

Tasmanian Supreme Court judge Gregory Geason has been found guilty of assault and emotional abuse-intimidation of his then female partner.

Victorian deputy chief magistrate Susan Wakeling made the findings in Hobart Magistrates Court last month. She was brought in from interstate to be an independent adjudicator, because Geason was too closely connected to the entire Tasmanian judicial system and establishment.

Wakeling said Geason's evidence regarding the assault was “contrived and implausible”. His account of matters “cannot be relied upon to be honest and reliable”, she said.

By contrast, the magistrate said, the woman's evidence was “convincing” and she was “a witness of truth”.

Wakeling ruled he assaulted a woman in his home on 31 October 2023 by grabbing and squeezing her arms, shaking her, striking her chest and pushing her, which caused her to fall and hit her head, resulting in a concussion and extensive bruising.

The emotional abuse or intimidation occurred over a range of occasions between April and November 2023, including tracking the woman's movements using technology, coercing her into shared financial accounts, verbal abuse, pressuring her to sign a contract, and exhibiting jealousy, rage, anger and aggression.

He also tried to contact the woman when he was under an intervention order to not do so.

Chaos among top judges in Tassie

Geason has continued to be paid as a judge, on an annual salary package of about \$550,000, since early November 2023 when he stood down on leave “voluntarily”, apparently at the request of the chief judge, Alan Blow (photo).

With Geason's future in doubt, and Blow about to retire due to age, and the backlog of cases mushrooming, the Supreme Court of Tasmania is close to chaos.

Geason could possibly stay on leave until someone makes a decision to dismiss him: see ‘Govt muffs attempt to write special ‘Geason’ law, below)

Chief judge Blow early on in this saga seemingly tried to influence a judge's decision to remain a judge, when he sent an email message to Geason, highlighting that Geason could resign:

EMAIL:

7:03am

Hi Greg,

The Attorney General has spoken to me again. It is planned that at 2pm the Governor will announce that she is recalling Parliament next Tuesday to consider a Bill for the establishment of a commission to consider your removal or suspension.

I tried to make contact with you last night to let you know. One option would be for you to resign before this goes further.

Regards

Alan

It is a matter of serious concern when anyone tries to persuade, or put pressure on, a judge to resign. A chief judge should be the last person to do so.

The question of Blow's actions in the matter may be moot: due to age, he must retire by 2 December 2024.



If Blow's early morning email is ever formally decided to be an attempt to influence Geason to quit, chief judge Blow himself could and should be called to account, whether or not he is still a judge...by a Judicial Commission, which Tasmania may soon get for the first time.

Govt muffs attempt to write special 'Geason' law

The state's new, minority Liberal government, which depends on backbenchers to stay in power, first tried to recall both houses of parliament to deal with the Geason situation.

Barnett and the government wanted a commission of inquiry – the Tas version of a Royal Commission – to inquire into Geason's behaviour. But wiser heads in the Parliament than in the government refused such a "kangaroo court" type approach, before any conviction against Geason for the charges he was facing was made.

Instead Barnett was forced to hurriedly prepare a Bill for Parliament to introduce a Judicial Commission for Tasmania, which would allow the hearing of such a matter by an allegedly "independent" group of people.

However, Barnett's 'Geason' Bill – designed to solve the potential problem of a judge convicted of assault against a woman – was as flawed as his and his chief judge's seeming "sweep under the carpet" approach to the whole matter.

The draft law had so many legal holes it was like Swiss cheese on steroids.

It was "copied" from other jurisdictions, but those jurisdictions had additional safeguards and clauses in place to make their judicial commissions work properly, something the Barnett draft 'Geason Law' had no chance of doing.

The draft was heavily revised after civil society* input – but still not sufficiently, CLA says – and is now before the Parliament again. The Parliament should reject it in its current form, and demand further revisions.

The Lower House should continue to be specially vigilant, but the Upper House may need to rein in the government's rush to push through a law designed as an instant solution to a one-person social problem.

** But with the noted absence of commentary or help from the Tas Law Society or the Bar Council, who made no submissions on how to improve the first draft.*

MP tries to rescue shambolic draft govt law

Independent Member for Nelson Meg Webb welcomed the Legislative Council voting in support of her move to adjourn debate to allow for further and deeper examination of proposed reforms in an extraordinarily complex *Judicial Commission Bill 2024*.

"Tasmania needs a judicial complaints framework, but we need one that is effective, reduces the possibility of constitutional challenge, and maintains public confidence in our judiciary. Rushing debate unnecessarily risks undermining these goals," Webb said.

The Lower House passed the Bill on a Thursday afternoon, she said. The amended Bill was only circulated to Legislative Councillors on the next Tuesday morning, minutes before they were scheduled to begin debate.

"Additionally, there are further proposed amendments which Members need to consider properly. In consultation with stakeholders with expertise in this area, I have developed a suite of 25 amendments which seek to address key outstanding concerns with the proposed reforms."

Webb's proposed amendments seek to:

- Clarify the appropriate statutory powers for the removal of judicial officers, in a manner which mitigates potential constitutional uncertainty;

- Ensure the independence and appropriate qualifications of members on the new proposed Council and Judicial Commissions, by ensuring the Parliament remains responsible for determining such appointments rather than the government;
- Lower the threshold for investigations to include matters which may undermine public confidence in the judiciary if left unaddressed, even if they may not warrant removal; and
- Require an independent review of the new Act within 10 years of its commencement.

"Nobody disputes the complexity of the proposed legislative reforms which seek to establish a judicial complaints framework, which is why we cannot risk potential unforeseen ramifications by rushing debate.

"I welcome the support provided by my Council colleagues recognising that taking additional time to thoroughly examine the proposed legislative reforms is a responsible course of action," Ms Webb said.

– media release, office of Meg Webb MLC 23 Oct 2024.

Magistrates Court hides case from the media

The Geason affair has thrown the entire legal and political system into turmoil, so much so that the Hobart Magistrates Court initially tried to "hide" the case.

It barred journalists and the public from an after-hours hearing, but was forced into a grovelling apology for what it called "a decision made in unusual and unprecedented circumstances".

The rule of law, proper legal workings and "justice" do not appear to be guaranteed in Tasmania.

It is time for a state Human Rights Act to ensure Tasmanians have the protections they deserve, which exist in three other Australian jurisdictions.

– information gathered from several published sources, plus direct involvement by CLA

Govt refuses details: where did \$500,000 go?

The Tasmanian government has spent more than \$500,000 on legal costs run up by a minister or ministers – \$200,000 of it in the past year – but won't say who or what for.

Some \$120,000 was paid in three separate amounts on a single day in June, David Killick reported in *The Mercury* last month. As well, the government has paid a number of smaller amounts on behalf of a government backbencher, similarly unidentified. Independent MPs have demanded the Liberal minority government come clean with Tasmanians about whose legal bills they are covering. Premier Jeremy Rockliff, asked about the payments during Budget Estimates, said: "I'm not commenting on Integrity Commission matters."

He should, CLA says, because it is alleged his government has starved the IC for funds for nearly a decade.

Integrity not high priority for Tas govt

The Integrity Commission's latest annual report, recently released, notes "a significant investigation and an Integrity Tribunal were delayed by protracted legal proceedings".

The Mercury could find no record of the proceedings in legal databases or in the published decisions of Tasmanian courts or tribunals, Killick reported.

The Integrity Commission has two inquiries under way: One, codenamed Loyetea, is examining "a number of allegations that an elected representative failed to declare and manage a conflict of interest". Investigation Olegas is investigating claims that a grants program improperly used public funds to pursue electoral goals and that conflicts of interest were not properly declared.

Integrity Commissioner Greg Melick – a doyen of the Tasmanian and Australian legal and military establishment* – has claimed “legislative and resourcing constraints” in his annual report just released.

“We are the most underfunded integrity body in the country,” he wrote.

“The CEO’s position remains vacant, we have been without in-house legal counsel for eight years – nearly as long as we have been waiting for much-needed amendments to the Integrity Commission Act.

“We are not deaf to the growing public sentiment that the commission is not fit for purpose.”

* most senior Reserve officer, head of the RSL, on the War Memorial Council, boss of ANZAC centenary celebrations, a member of the federal Administrative tribunal etc.

Melick could have resigned: can do so now

Melick (see above) has chaired the Tas IC for nearly a decade.

If he has been unable to secure ‘rum and rations’ needed for the IC to do the job properly in the past eight years by his own admission, CLA would have thought he was entitled – even expected – to resign his post and make the reason for doing so clear to the government.

Melick might be a bit overstretched: here’s the media release when he was re-appointed to another current position, head of the RSL, one of many posts he has held over a long period: <https://tinyurl.com/sz5phpj6>

What ever happened, CLA asks, to the noble process of heads of government organisations resigning if the government would not listen to their legitimate pleas for funding, law changes, of more staff, to do the job assigned to them.

Maybe that’s an “integrity” question the Tas IC could investigate on behalf of Tasmania and Australia.

ENDS Tasmania Special Report

Drinking a tinny in public? That’s \$925, thanks

People drinking alcohol in public in the Top End could be fined more than \$900 and arrested under new “nuisance public drinking” rules.

The NT’s just-sworn-in Country Liberal Party government has announced the new offence as part of an enormous range of legislation pitched towards community safety and crime reduction, they say.

But health experts are warning the new measure will likely target marginalised community groups and exacerbate addiction.

The new measures will give police the power to issue fines of up to \$925 for drinking in public where alcohol is prohibited, as well as arrest and charge a person. Prohibited areas will include town centres, public places within two kilometres of a licensed premises and other places that may be prescribed as alcohol-free by regulation or a local council.

Chief Minister Lia Finocchiaro said the new laws will also allow police to “run searches against DVOs [domestic violence orders], outstanding warrants [and] breaches of bail” on people found illegally drinking.

Police will also be able to issue people a seven-day Banned Drinker Order, which prevents someone from buying takeaway alcohol. <https://tinyurl.com/3h78as3h>

New party: new rules target downtrodden

These are some of proposed new NT laws and regulations:

- Police will “wand” kids in schools to checks for knives, guns and other nasty hardware.
- Children aged 10 can be sent to kids’ jail.
- Spit hoods against children are reintroduced, and anyone guilty of spitting at any worker will be subject to a mandatory three-month jail sentence (labelled a “recipe for injustice” by the Australian Human Rights Commission).
- The presumption against bail is expanded. <https://tinyurl.com/bded3c6p>

Stand by for more details as the brand-new Country Liberal Party government passes its new laws.

ODD SPOT: Jobs for the girls and boys

In the NT, there are to be ministerial jobs for every govt member. Chief Minister Lia Finocchiaro has made all her eight backbenchers assistant ministers. Independent MLA Robyn Lamble is the new Speaker of the Legislative Assembly.

Condemned jail brought back to life...yet again

The old Berrimah jail – condemned for two decades – will hold adult prisoners again, under the new order in the NT.

Children from the newly refurbished Alice Springs youth jail will be moved to the yet-to-be opened Darwin facility, making it the Territory’s sole permanent youth jail.

The Finocchiaro government has said it will add about 250 jail beds across the NT by March 2025.

Justice Reform Initiative executive director Dr Mindy Sotiri said adding extra prison beds was an expensive short-term response, which would cost hundreds of millions of dollars, and ignored the drivers of crime and instead entrenched disadvantage, making future reoffending more likely.

Corrections Minister Gerard Maley said the new plan would increase the adult prison capacity to 3000 beds by 2028, adding about 500 beds to the current capacity. <https://tinyurl.com/4vuf9y7t>

Maley said the prison population grew by 18% in the past two years. At the rate of harsh new laws, even 3000 beds will be nowhere near enough.

The old Berrimah jail, which was ‘uncondemned’ to become currently the Don Dale kids jail, will house up to 50 low-security adult male prisoners from December, rising to 200 prisoners by March 2025.

The newly refurbished Alice Springs youth jail will permanently become a women’s prison, with 48-beds ready by January 2025.

The youth prisoners from that facility who have already been sentenced will be moved to the Darwin youth jail at Holtze, which has not yet opened, while those on remand will go to the Alice Springs Paperbark facility, which will be repurposed for an up to 16-bed youth boot camp and bail centre.

The Alice Springs adult jail will be expanded with a 96-bed modular block by an unspecified date, while a 150-bed work camp in Darwin will be established, as well as a 50-bed work camp to be built by the fourth quarter of 2026.

A 150-bed multi-classification women’s prison will be built at Holtze by September 2028, the government said. There will also be a new youth justice boot camp and bail facilities in Katherine and Tennant Creek.

Berrimah has an appalling back story

In 2012, the old Berrimah was labelled “only fit for a bulldozer”. Maley said it would close in December 2026, with the land repurposed for residential development.



News reports remind NT citizens that the former Giles CLP government gave the 168-hectare commercial property known as Berrimah Farm, which adjoins the prison land, to the Halikos Group for free in 2016 without knowing the true value of the land and without carrying out a cost-benefit analysis for taxpayers.

The new youth prison was supposed to be built next to Northcrest in 2018, but Halikos lodged a legal objection and the proposed site was moved first to Pinelands and then to Holtze.

Qld likely to follow NT's 'instant-law' lead

The new Qld Liberal National Party govt will lock away children on suspicion, rule under the dictum of "adult time for adult crime" and crack down on what it terms "untouchables".

The last word is coalition party code for Aboriginal kids.

The LNP will send kids "at risk" of committing a criminal offence to so-called "reset camps". Young people will undergo a program based on "cognitive behavioural therapy", a form of psychotherapy.

Police, schools, child safety workers or parents could send the children to 1-to-3 week courses, with nine programs set up at Qld locations at a cost of \$50m. No court would be involved in depriving the kids of their freedom.

The pre-election campaign was dominated by an LNP scare campaign about rising crime (crime has been falling, in general, for more than a decade).

The crime beat-ups have seen kids in care homes subjected to death threats, and vigilantes have surrounded the homes of Aboriginal children and torched the home of two girls accused of a serious assault. – originally reported by Ben Smee, *Guardian*, 18 Oct 2024 <https://tinyurl.com/bdhsb7r5>

BRIEFS

Police rapidly increase drug testing of drivers

When mobile drug testing was introduced in NSW in 2007, the year 2008 saw some 402 people charged for drug driving every three months. Now, 15 years later, police charge about 3296 people every quarter (2023 figures). The NSW Bureau of Crime Statistics and Research (BOCSAR) says a major reason for the recent rise is that police are now targeting repeat offenders and drivers in regional areas. They have also rapidly increased the number of tests they run. BOCSAR says there's no evidence the big increase in offenders is driven by changes in drug use or drug driving behaviours. <https://tinyurl.com/npsabkxx>

Bar clears Drumgold

The ACT Bar Council last month cleared former Director of Public Prosecutions Shane Drumgold SC of 10 allegations of professional misconduct or unsatisfactory professional conduct in the criminal trial of Bruce Lehrmann. The Bar Association dismissed 10 allegations, and withdrew another, against him after an investigation found it was "not satisfied that there is a reasonable likelihood" he would be found guilty. The decisions suggest a severe criticism of the findings of former Queensland judge, Walter Sofronoff, when he held an inquiry into how the case was handled. The ACT government – Chief Minister Andrew Barr and AG Shane Rattenbury – called Sofronoff in to hold the inquiry. CM Barr last month said it had been a mistake to appoint Sofronoff. <https://tinyurl.com/2f99n3je>

CLA report for October 2024:

National:

CLA is engaging with national organisations, providing two crucial scoping papers that cover aspects of a new federal Human Rights Act (HRA) not yet explored in any detail during public inquiries.

One paper covers the cost benefits of a HRA. Critics concentrate on what a HRA might cost, but the ultimate benefit of one is significant savings to the government in terms of cash and avoiding wasted staff time, and to people in terms of angst, cash, inconvenience and wasted time.

The other paper explores the growing need in international trade for dominant entities to demand that traders meet human right standards

For example, Europe insists that IT giants like Meta, Google, X and Apple have citizen-serving privacy and workable human rights principles in place to be permitted to operate in their trading bloc.

Similarly, major players in inter-national events insist on basic human rights standards to take their events to particular countries (see '*Saudis need to abide by human rights*', below).

Meetings/letters;

Zoom meeting with Prof Charles Sampford, board member of the national Accountability Round Table and Director of Griffith Uni's Institute for Ethics, Governance and Law (among many other distinctions), discussing ethical infrastructure, governance and CLA's two scoping papers.

CLA has written to all Labor federal MPs, including Ministers, informing them about our HRA Costs and International scoping papers. While the overwhelming majority reported being far too busy for a meeting, we received many positive responses.

CLA took part in a Voluntary Assisted Dying ACT meeting, held discussions with long-time proof reader Rosemary Jennings, attended the Transparency Summit 2024 and the Australia Institute zoom forum, as well as a QCCL Artificial Intelligence and Human Rights forum.

ACT:

The ACT election appears to have returned a continuation of the Labor/Greens alliance in government. This result assures the introduction of the second tranche of CLA's-proposed No Rights Without Remedy and other positive amendments to the ACT Human Rights Act in its 21st year.

Queensland:

The Queensland election result may have implications for the current review of the Qld Human Rights Act 2019. The reviewer, Prof Susan Harris Rimmer (photo), has consulted widely and sought input during the first part of 2024. She advises CLA that she delivered her First Independent Review of the Human Rights Act 2019 – entitled *Placing People at the Heart of Policy* – to the Qld Attorney-General on 30 September 2024. The professor made 69 recommendations intended to strengthen the Qld HR Act.



Her report is expected to be tabled by the new AG (appointed following the 26 October state election) in the next session of the Qld Parliament, and will be available to the public then.

Tasmania:

Human Rights emphasis needed

CLA proposed that the state Labor Party include a shadow portfolio with "human rights" in the title when the party was responding to a change of Ministerial appointments by the minority Liberal government.

Labor's Opposition Leader, Dean Winter, reinforced his party's commitment to human rights for the state...but declined our suggestion, more's the pity.

"Thanks for your email and suggestions for portfolio name changes. Whilst 'human rights' is not part of the names of Labor's shadow portfolios, the intent for there to be greater human rights protections for citizens of Tasmania certainly is. This is fundamental to the Australian Labor party's platform. The content of our policies is far more important than titles. Thanks for your advocacy on this matter."

Ex-Premier shows strong support

CLA reminds Liberal Ministers in Tasmania of the words of their former leader, Will Hodgman, when he was Premier, on 4 December 2014, not quite a decade ago:

"Human rights are the cornerstone of a strong, inclusive and opportunity filled society."

He followed it up, immediately, by saying: *"The Liberal Government will continue to work towards a fairer, more accepting and inclusive Tasmania."*

Not there yet, current Premier Jeremy Rockliff. You need to pass a Human Rights Act for Tasmania. Labor and the Greens will support you: so will at least 70% of Tasmanians.

Tax govt tasked with cleaning up its diaries act

Independent MLC Meg Webb moved to strengthen the current Ministerial Diaries disclosure processes. "The current routine disclosures of ministerial diaries is manifestly inadequate. It is not mandatory, disclosures don't occur in a reliable and timely manner, and the details released are laughably deficient." The Legislative Council has tasked the government with undertaking comprehensive and public consultation on a best practice mandatory disclosure model for ministerial diaries. What they report will inform the design, disclosure details, timeliness, and delivery of a genuinely informative and transparent disclosure model. The government is to report back to the Legislative Council on progress of the review by 28 November 2024. – Source: Webb newsletter.

INTERNATIONAL

Saudis need to abide by human rights to win World Cup bid

Leading legal figures say soccer's governing body, FIFA, has ignored their report on human rights concerns over the 2034 World Cup, warning that the governing body is "dealing with the devil" in planning to take the tournament to Saudi Arabia.

A decision on who hosts the 2034 World Cup is due next month, but there is only one bidder for the event.

Article 7 of FIFA's human rights policy says: "FIFA will constructively engage with the relevant authorities and other stakeholders and make every effort to uphold its international human rights responsibilities".

Saudi Arabia has to fix four areas to meet UN human rights standards, the legal experts say:

- immediately release all political prisoners and those arbitrarily detained, and treat all prisoners in accordance with human rights standards;
- appoint the judiciary independently by a body not connected to the executive, and allow judges to work without external influence;
- allow migrant workers legally to leave jobs or the country without having to apply for government permission; and
- improve women's rights by criminalising marital rape, ensuring adequate protection from domestic violence, and allowing women to be the legal guardian for their child if it is in the child's best interests.

The bid evaluation reports for the 2030 and 2034 FIFA World Cup are due to be published ahead of the an extraordinary FIFA Congress on 11 December 2024. <https://tinyurl.com/mucymvef>

ODD SPOT: Four-letter-word company 'steals' your data, won't pay you

Is that person wearing dark glasses this summer looking intently at you? Beware you are not being captured by "Meta" using the new, secreted camera-in-the-sunnies system perfected by a big name sunglasses maker and the four-letter-word company. Mark Zuckerberg's tax-paying-averse company, Meta, says its AI (artificial intelligence) systems can capture and use ALL images and information taken in by the cameras for its own purposes. Will Meta pay you for using your personal and possibly private information? Not on your nelly. <https://tinyurl.com/54xastx9>

Judge recants: frees 'life' prisoner after 27 years

Judge Frederic Block of New York realised recently he had made a mistake in sentencing a prisoner nearly 30 years ago.

As a second-year judge in 1997, he had ordered Walter Johnson serve five life terms for robbery, cocaine possession and witness tampering after committing or being accused of a series of earlier crimes involving guns, drugs and violence.

Judge Block (photo) in October 2024 decided the punishment he imposed 27 years ago was too harsh. He freed Johnson, 61, who walked out of jail suddenly just hours later after being alerted by a phone call.

"Judges gain insights that with the passage of time only can come with experience on the bench and their judicial maturation," Judge Block wrote in his decision granting Johnson's petition for release.

"Just like prisoners who have evolved into better human beings during their lengthy periods of incarceration, judges also evolve with the passage of years on the bench."

Federal prosecutors in Brooklyn opposed his sentence reduction. So did police entities. But Johnson was able to be released under a six-year-old law.

In 2018, the federal *First Step Act* was enacted by enormous bipartisan margins. It overhauled federal sentencing and allowed district court judges to reconsider their sentences and prisoners to seek compassionate release.

Judge Block, who is still a judge at age 90, recently released a book, *A Second Chance: A Federal Judge Decides Who Deserves It*. In it, he argues for giving judges wider discretion to revisit sentences that seemed appropriate when imposed but might be eased years later, especially given changes in laws and in attitudes toward rehabilitation.

"Judges," he said, "are not the same 27 years later." – *NYT* 18 Oct 2024 (paywall).

NOTE: A similar law in Australian jurisdictions could help reduce the impacts of excessive sentences sparked periodically by "tough on crime" politicians and media beat-ups.

ODD SPOT: Sick days for pets

New York City Council is considering change to employment rules that would allow people time off to take their animals to the vet. Councilman Shaun Abreu, from Manhattan, wants to amend the 'Earned Safe and Sick Time Act' so that paid sick leave, which employees can take to care for themselves or family members, can also be used for both household pets and service animals. Abreu said the bill was intended to help address the city's mental health crisis. – behind paywall, *NYT*, 25 Oct 2024



Longer lies, more extremes and negatives underpin election tilt

As the US election looms on 5 November, Donald Trump rally speeches in 2024 were lasting 82 minutes, compared to 45 minutes in 2016. He was using 13% more all-or-nothing terms like “always” and “never” than eight years ago and 32% more negative words than positive words now, compared with 21% in 2016.

Many US voters believe he should be cleared by a neurologist before even being allowed to stand for President again. Dr Bradford Dickerson, a neurologist at Harvard Medical School, said a change relative to a person’s base line in that type of speaking ability over the course of just a few years “raises some real red flags”.

“...with the passage of time his speeches have grown darker, harsher, longer, angrier, less focused, more profane and increasingly fixated on the past,” – NYT reporters Peter Baker and Dylan Freedman reported. <https://tinyurl.com/472wtmu7> (paywall).

New bill proposes reform to US Supreme Court

Democratic US Senator Ron Wyden has introduced the *Judicial Modernization and Transparency Act*, a bill to reform the US Supreme Court.

The new law would expand the court from 9 to 15 judges.

It would also require judges to consider recusal (stepping down if they were connected to a case) and write public opinions about their decisions. The Internal Revenue Service would be obliged to audit each judge’s tax returns promptly after they are filed.

Senator Wyden’s proposal would change the requirements of judicial review of legislation. Currently, a simple majority of the Supreme Court or circuit courts of appeals can strike down legislation: Wyden’s proposal would require a two-thirds majority to overturn legislation.

Public support for expanding the Supreme Court appears limited, but nearly 70% of Americans support a mandatory retirement age. <https://tinyurl.com/ytuj2x76>

INTERNATIONAL BRIEFS

UK may ban smoking in some public places

The UK government is contemplating banning smoking in selected outdoor public places, according to official papers leaked to a British newspaper. Smoking would be banned outside hospitals, sports grounds, and universities, as well as in pub gardens and outdoor restaurants. People would be free to continue to smoke on the street or in sizeable open spaces, such as parks. UK Prime Minister Keir Starmer noted that there are more than 80 000 tobacco-related deaths each year in the UK and that his government was committed to preventing these deaths. “We are going to take decisions in this space”, he said, but did not offer more details. – Talha Burki writing in *The Lancet Oncology*, October 2024

When shooting people is a way of life

The Centers for Disease Control and Prevention estimates that 132 Americans die each day from firearm injuries. The Gun Violence Archive, which tracks gun fatalities, says there have been more than 400 mass shootings – defined as a shooting in which four or more people are injured, not including the shooter – this year alone.

DATES

19-20 Nov, Melbourne: ‘*Policing Reimagined*’, conference of the ANZ Policing Advisory Agency (ANZPAA), whose board is made up of the police commissioners of Australia and NZ.

ANZPAA runs NIFS, the National Institute of Forensic Science, which is the peak body for forensic science in A and NZ. <https://tinyurl.com/3faswaf2>

25-27 Nov, Canberra: Indigenous Higher Education Curriculum Conference 2024, U. Canberra: Australian unis are embedding Indigenous perspectives into higher education curriculum to provide students with Indigenous graduate attributes to work with and for Indigenous Australians across their chosen professions. Details: 0417 478 028 Email: IHECC@canberra.edu.au

2025:

February, Hobart (postponed from Sept 2024): ‘*Denied*’, exhibition of Sky Parra’s portrait series on Wrongful Convictions, Salamanca Art Centre, 67 Salamanca Place. The artist has painted Scott Austic, Derek Bromley, Frank Button, Henry Keogh, Andrew Mallard and Lloyd Rayney, among others, with a new portrait likely to be unveiled for the first time in Hobart. Details: <https://www.skyparra.com/>

20-21 February, Wellington NZ: Pacific Island Political Studies Association hosts Pacific Islands conference: *Zone of Peace or Ocean of Discontent?* Uni of Wellington. Details: E: pipsa2025@gmail.com

28 Feb, Sydney: Commonwealth Law Conference, run by the Federal Dispute Resolution Section, Hilton Sydney. 8.30am to 1.10pm. PS: None of the 15 speakers “renowned for their expertise and experience” appear to be discussing wrongful convictions resolution. To register: <https://lawcouncil.eventsair.com/2025-commonwealth-law-conference/registrations>

27-30 July Cambridge, UK: World Congress on Family Law and Children’s Rights. Theme: *Children Caught in Conflict*. Info: <https://www.worldcongress.co>

Election cycle for Australia:

2025: **WA:** 8 March 2025

Federal: Early April 2025 possible; latest is Saturday 17 May 2025

2026 **South Australia:** 21 March 2026

Victoria: 28 November 2026

2027: **NSW:** 27 March 2027

2028: **Tasmania:** likely date is 27 May 2028, but the minority government is inherently unstable

NT: 26 August 2028

ACT: 21 October 2028

Queensland: 28 October 2028

CLArion is the regular e-newsletter of Civil Liberties Australia Box 3080 Weston Creek ACT 2611 Australia. Responsibility for election comment in *CLArion* is taken by CLA’s Public Officer, Bill Rowlings, of Fisher, ACT. Please feel free to report or pass on items in *CLArion*, crediting CLA and/or any other originating source. We welcome contributions for the next issue: please send to: [Secretary\(at\)cla.asn.au](mailto:Secretary(at)cla.asn.au) Closing date for this issue was 27 Oct 2024.

As we are not a law firm, and are not licensed to give legal advice, we do not deal with individual legal or similar quasi-legal cases: prisoners and others are advised we will not be responding to letters or emails asking for help with appeals, for legal advice, for recommendations of lawyers to write to, pro bono services to consult, or similar requests. We work to change laws rules and anomalies for the generic benefit of all Australians.

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