

## CLA to launch new war powers initiative

CLA is planning to launch a new campaign to convince the Australian Parliament to pass legislation so that a Prime Minister has to seek parliamentary approval on sending Australians troops into war or a warlike situation.

The campaign will have a focus each year on Anzac Day, Australia's day of remembering the fallen.

While other jingoistic celebrations focus on militarism each 25 April, the War Powers campaign will highlight the opposite – ensuring Australia thinks long and hard before getting into new wars.

We are planning to attract a national identity to lead the CLA campaign. Further details will be announced in coming months.



### Why we need war powers legislation

Currently Australian troops, planes and ships can be sent to war on the whim of a Prime Minister.

“Most Australians right around the country are astonished when we inform them that the Australian Parliament does not – that is, does not – hold a parliamentary vote on deciding to go to war, or on Australia continuing to stay at war or in conflicts like Syria,” CLA President Dr Kristine Klugman (photo) said.

The PM alone makes the decision, and formerly tells the Governor-General to issue the necessary paperwork, as the GG is the nominal head of the armed forces.

While PMs usually consult their “executive” – that is, the kitchen cabinet – and military and security advisers, they are under no obligation to do so.

Under the proposed War Powers Bill, a PM would have the power to declare Australia at war in an emergency, but would be required to gain the endorsement of parliament within 30 days for the decision he or she has taken. The approval would process would require a war budget to be presented, and endorsed.

As well, every six months the PM would be required to return to the parliament with a major report on the status of the war, or the particular conflict, and seek funding approval for special war budget provisions to keep Australian troops in the field.

### ‘Autocratic populism’ replacing democracy

Peter Hartcher, writing in Fairfax outlets last month: “Ask the global head of Human Rights Watch, Ken Roth, what his organisation's top priority is, expecting to hear that it's Syria's civil war or Myanmar's genocide, perhaps, and you get a surprising answer.

“Roth (photo) cites no single humanitarian crisis: ‘Our top concerns are two, and they're interrelated. One is the rise of autocratic populism. The other is the proliferation of mass atrocities facilitated by the leadership void that's created by the first.’

“Roth explains: ‘Autocratic populists gain power by demonising unpopular minorities, and once they've gained power they claim to have special insight into the desires of the majority sufficient to undermine the checks and balances on their power.

‘They attack independent judges, critical journalists and civil society.’ “ <http://tinyurl.com/ycqv34ov>

CLA says we have witnessed such attacks in Australia recently: Minister Dutton et al on judges, many federal and state ministers attacking journos...as well as constant belittling of civil liberties and human rights concerns coming from politicians allegedly reading the minds of the “silent majority” as demanding more jingoism and “law and order”...whatever more law and order looks like.

‘Autocratic populism’ sounds like an accurate diagnosis of a serious national affliction.



## Committee recommends softening Coalition ‘war’ on civil society groups

The Turnbull government must rewrite its foreign donations and electoral funding bill to narrow the definition of political expenditure and make it less likely to harm advocacy by civil society groups, the parliament’s electoral committee has recommended.

Both Coalition and Labor MPs on the joint standing committee on electoral matters supported banning foreign political donations, but want the government to strip out draconian and contentious elements of the electoral funding and disclosure bill.

They also want a ‘transparency register’ for anyone involved in ‘political expenditure’. What a good idea, CLA says. Under the register, the major political parties could be required to disclose all donations received in real time, say within 24 hours of promise or receipt of a donation, which would give the register real teeth.

In a minority report, Greens senator Lee Rhiannon took a harder line that the bill may infringe the freedom of political communication. She recommended that issues-based advocacy – the type CLA engages in – should be explicitly exempted from the definition of political expenditure. <https://tinyurl.com/y9vnclu5>

The journey of this bill is an example of how extensively parliament is skewed by government abuse of process. Basically, the government has a light bulb moment, and proposes a new piece of legislation to enhance its own political chances. The drafters write the bill so that it is as draconian as possible. Then there’s an inquiry, and the worst aspects are wound back, a little. Because of how things work, the fundamental question is never publicly debated: do we need a bill of this nature at all?

There is no doubt that parliaments around Australia are passing too many new laws which are not really needed. We would be better served by a campaign to get rid of bad laws for a decade, CLA says, and for 50 years only pass a new law if two old ones are removed from the statute book.

CLA’s submission is No 78, here: <http://tinyurl.com/y8nokfvu> You can also access the full report here: <http://tinyurl.com/yd3o8mys>

## Senate holds special TPP hearing

The Senate has decided on an inquiry by the Standing Committee on Foreign Affairs, Defence and Trade to assess whether the rebadged Comprehensive Progressive TPP-11 is in the public interest, before Parliament considers the implementing legislation.

“Achieving a Senate inquiry is a victory in our campaign for more transparency and accountability in the trade agreement process,” said Dr Patricia Ranald, convenor of the Australian Fair Trade and Investment Network, a union-affiliated body.

NXT Senator Rex Patrick moved the motion, which was supported by Labor and the Greens.

Dr Ranald explained that the 22 suspended clauses are mostly about medicine and copyright monopolies. Other governments had only reluctantly agreed to US proposals on stronger monopolies on biologic medicines and longer copyright monopolies to gain access to the US market. Some of these clauses have been suspended, pending the US rejoining the deal. But the intellectual property chapter still entrenches other restrictions on government’s ability to change such regulation in future, which have been criticised by the Productivity Commission.

“Australia already has free trade agreements with all but two of the other CPTPP countries, and without the US market, any economic benefits are likely to be even less than they were under the original deal. A Senate inquiry can conduct a critical assessment of whether the implementing legislation should be passed. If it is not in the public interest, we will campaign for the Senate to block the implementing legislation,” said Dr Ranald. – media release 29 April 2018 E: [mailto: campaign@aftinet.org.au](mailto:campaign@aftinet.org.au)

## If NZ can avoid ISDS, so should Australia

Through NZ has come news that the dreaded ISDS clauses will not bind the Kiwis in some cases.

NZ Minister for Trade and Export Growth, David Parker, has announced that the NZ government has signed “side letters” with five other countries party to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP, also referred to as TPP11) that exclude compulsory investor-state dispute settlement (ISDS) processes involving those countries.

The five countries are Australia, Brunei Darussalam, Malaysia, Peru, and Vietnam. The side letters with each country are not identical: “[s]ome exclude the use of ISDS between NZ and other countries entirely,

while other side letters allow for arbitration to proceed only if the relevant government agrees.” They have the same treaty-level status as the agreement itself.

The press release also notes that a further two countries, Canada and Chile, “have joined NZ in a declaration that they will use investor-state dispute settlement responsibly.”

ISDS “is a dispute resolution mechanism that allows foreign investors to pursue remedies directly against a CPTPP Party in relation to breaches of CPTPP investment provisions.”

ISDS was a controversial aspect of the original TPP. Following the withdrawal of the USA from the agreement in January 2017, the remaining signatories renegotiated the TPP. The resulting agreement was renamed the CPTPP and signed on 8 March 2018. – media release, David Parker, [NZ Signs Side Letters Curbing ISDS](#) (9 March 2018)

## Public servants win their free speech rights back

A former Immigration official sacked over tweets critical of Australia's asylum seeker policy has won compensation from an appeals tribunal which found her dismissal was unlawful.

The tribunal described government efforts to restrict anonymous comments from its employees as like the dystopian ‘thoughtcrime’ world of George Orwell’s fiction.



The decision stems from the Immigration Department's dismissal of Michaela Banerji (photo: ABC pic) for tweeting anonymous criticisms of detention policies. After the decision, the Public Service Commission tried to beef up Australian Public Service rules stopping public servants from expressing political views on social media.

Ms Banerji took the government to the Administrative Appeals Tribunal after federal workplace insurer Comcare refused to compensate her for the psychological condition that developed after she was sacked in 2013 over tweets from a pseudonymous Twitter account.

The tribunal overturned Comcare's decision and found she suffered depression and anxiety that could be classed an injury under a federal compensation act.

Ms Banerji was working in the Immigration Department when co-workers learnt she was behind the tweets railing against the government's treatment of asylum seekers. She lost a high-profile attempt to stop her dismissal in the Federal Circuit Court in 2013. Judge Warwick Neville found Australians had no “unfettered implied right (or freedom) of political expression”.

The AAT said Comcare's refusal was based on a dismissal that was unlawful because it intruded on her right to free political expression. Her tweets were anonymous and did not disclose confidential departmental information, but an internal investigation in 2012 found she had breached the code of conduct for government employees. In a submission to the tribunal, her lawyer Allan Anforth said the tweets were posted from her own phone and, in most cases, outside work hours.

The appeals tribunal found the Immigration Department itself was responsible for outing Ms Banerji after she posted anonymously, and said guidelines stopping public servants from publicly criticising the government should not be applied to anonymous comments.

“A comment made anonymously cannot rationally be used to draw conclusions about the professionalism or impartiality of the public service,” it said. “Such conclusions might conceivably be open if the comments were explicitly attributed to, say, an unnamed public servant, but that hypothetical situation does not apply to Ms Banerji.” <http://tinyurl.com/ybmy9z6x>

It is not known whether Immigration will appeal the decision.

## Prioritise refugees over white farmers, UN says

The UN says Australia should resettle refugees languishing on Nauru and Manus Island in PNG for the past five years, rather than prioritise “persecuted” white South African farmers.

The UNHCR doubts whether South African farmers can be classified as refugees and granted protection under Australia's humanitarian program.

“The UNHCR Regional Representation in Canberra has not received any queries from South African farmers seeking protection from Australia,” said UNHCR spokesperson Catherine Stubberfield. “Under the 1951 Refugee Convention, a person must be outside their country of origin in order to claim asylum.”

In contrast, she said, the hundreds of refugees on Nauru and Manus have sought protection "directly from Australia". They should receive the government's attention, she said. <https://tinyurl.com/y7m8hrhy>

## Anzac Day becoming jingoistic, militaristic celebration

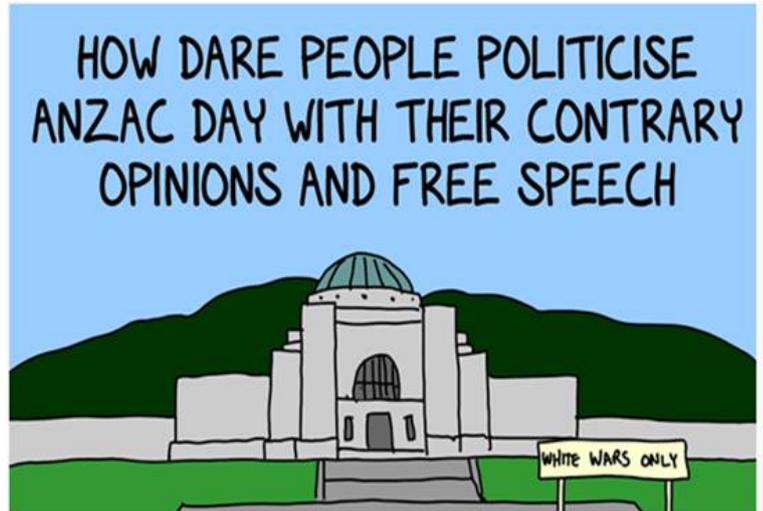
As countless extra hundreds of millions of dollars each year get spent on Anzac Day structures, commemorations and "celebrations" – while recent veterans suffer unconscionable health and mental health treatment rejections by the government – the entire day is starting to decline in popularity among thoughtful Australians.

Take this comment on *The Guardian*:

*"Lest we forget. I wish I could. The media and the government won't let me. My father volunteered for both World Wars. About ten days ago the 100th anniversary passed of his winning the military cross on the Western Front. I still think it's time to let go of Anzac Day because it has become a militaristic celebration, not remembrance of a tragedy."*

which brought a host of further comments, including:

*"But Anzac Day has ceased to be about remembrance and learning, and more about commercialisation and the glorification of war. It's now thinly veiled nationalism and it's very unpleasant."*



Cartoonist First Dog on the Moon (illustration,

*The Guardian*) compared the over-celebration of Anzac Day with the irony of possible restrictions on people who speak or write condemning what the day has become. He also commented on the fact that the internal, Aboriginal wars are never mentioned...lest we remember.

### Comment from member:

I couldn't help noticing the quote from Herman Goering in CLA's promotional flyer, and how much it reads like a template for the monster, Dutton's, political agenda. It seems that he should be a candidate for appearance at the International Criminal Court in The Hague, for the manner in which he sees fit to treat asylum seekers and refugees: men, women and children. How is it that our courts cannot call him, and his excessive powers, to account?

That this person was at Gallipoli, representing Australia, and daring to compare the service of dead and permanently damaged soldiers with the political activities of his Border Force of storm troopers is deeply offensive and disrespectful to all those who have gone to war for their country.

– Elizabeth Chandler, CLA member, NSW

## DRUG LAW REFORM SPECIAL

### Greens want cannabis legalised

The Greens want to legalise cannabis for Australians over 18 in a bid to get criminals out of the drug trade. Under their plan, there would be strict penalties for people caught selling cannabis to minors. Adults would be allowed to grow up to six cannabis plants for personal use.

Greens leader Senator Richard Di Natale – a former drug and alcohol doctor himself – said the Greens' proposal would not result in the widespread sale and use of cannabis, and claimed there would be strict regulations on sale and production.

As part of the plan, a new agency would become the sole wholesaler of cannabis, as well as the outlet responsible for issuing licenses for prospective growers and retailers. <https://tinyurl.com/y84lom6e>

### Win-win outcome for the Budget and police

Legalising marijuana for recreational use would boost the budget by up to \$1.8 billion a year, the Parliamentary Budget Office calculates.

The independent costing of the policy submitted by the Greens shows a tobacco-style 25% tax on each sale with a 10% Goods and Services Tax and a reduction in law enforcement would net \$3.5 billion by 2020-21.

Police freed from chasing non-violent pot smokers would be freed up to chase other criminals, like those engaged in domestic violence and offences against children, CLA believes. <http://tinyurl.com/y82glkxx>

## First pill-testing due to start

Australia's first pill testing trial was to go ahead at the *Groovin the Moo* music festival in Canberra on 29 April, after a last-minute breakthrough in negotiations.

ACT Minister for Health Meegan Fitzharris supported the initiative: "The trial does not condone illicit drug use, however will provide an opportunity to encourage people who are considering using illicit drugs to modify their behaviour in ways that reduce risks of harm to their health," she said.

Festival-goers at the sold-out event at the University of Canberra will see a special tent where free pill testing will be run by the independent Safety Testing Advisory Service at Festivals and Events (STA-SAFE) consortium. <http://tinyurl.com/yicswfp8b>

## Drug law reform focus should be on health and community safety

Victoria's comprehensive parliamentary committee report into drug law reform is calling for a more effective state response focusing mainly on health and community safety.

The parliament's Law Reform, Road and Community Safety Committee made 50 recommendations after an inquiry that received 230-plus submissions and held nine days of public hearings.

"The report comprehensively explores prevention, law enforcement, treatment and harm reduction," said committee chair, Geoff Howard. "(W)hile people continue to use substances, whether illicit or pharmaceutical, more should be done to make treatment and support readily available and to keep people safe," he said.

Mr Geoff Howard said a reorientation to a health-based framework does not suggest going soft on crime. "Rather it emphasises that law enforcement responses to illicit drug use should focus on trafficking and criminal behaviour arising from use, while people apprehended solely for use and personal possession be directed to a range of treatment and support options, where necessary," he said. <https://tinyurl.com/ybl9ogzw>

## Howard snuffed out Australia's chance for better drug approach

The cheapest and most effective course is to reduce drug policy as a driver of crime and a conveyor belt transporting those suffering from drug dependency into prison, thus increasing the very stressors that probably led to their substance dependency in the first place.

So says Bill Bush (photo), President of Family and Friends for Drug Law Reform and a CLA member.

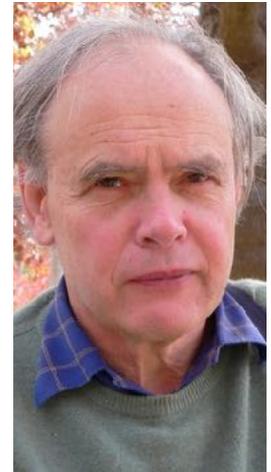
Bush said the ACT's draft action plan to tackle the drug problem omitted support for heroin-assisted treatment. In doing so, it ruptured the territory's link to the brave initiative in the 1990s of the ACT's Liberal Chief Minister, Kate Carnell.

"It can be said with confidence that the ACT and probably the whole of the country would be in an infinitely better position now had the Prime Minister of the day (the Coalition's John Howard, in 1997) not blocked the conduct of the heroin trial for which Ms Carnell had secured the agreement of all state and territory health ministers and COAG.

"It can be asserted with confidence that had the trial taken place and produced similar startling results to those secured in other countries, there would have been far fewer if any of the 9100 accidental opiate overdose deaths that occurred nationally between 1997 and 2012 and probably none of the 150 such deaths that occurred in the ACT between 2003 and 2014.

"Trials in Switzerland, the Netherlands, Germany and Canada – trials inspired by protocols devised by the Australian Centre for Epidemiology and Population Health for the cancelled Canberra trial – have convincingly shown the superiority of heroin-assisted treatment to stabilise the lives of opiate-dependent drug users who have not been successfully assisted by methadone and other treatments.

"There is sufficient evidence for the ACT to follow the example of Denmark which in 2008 implemented heroin-assisted treatment without first conducting a trial 'because it was assessed that, by [then], there existed sufficient evidence of the treatment effectiveness' (Houborg (2017) p83).



“By now implementation of heroin-assisted treatment in the mid 1990s would also have produced a large dividend in terms of crime reduction among the group of severely dependent drug users receiving the treatment. For example, in Switzerland the prevalence of serious property crime in this group declined by 94%. The treatment also reduced the quantity of drugs in circulation. An 83% reduction in sale of hard drugs by those on the trial was measured.”

Bush said that a Swiss criminologist wrote that heroin assisted treatment ‘constitutes without doubt one of the most efficacious measures of crime prevention ever tried’.

“Had the ACT heroin trial gone ahead and proved its worth here, there would have been little cause for the ACT to establish its own prison,” Bush said.

“The ACT will continue to waste lives, impose hardship and waste money if it turns its back on effective heroin-assisted treatments. Such treatments fall within the description of replacement therapies ‘for opioid maintenance and other drug use’ mentioned in the *National Drug Strategy 2017 – 2026*.”

## Melbourne forum calls for better national action

A round table held recently at Parliament House in Melbourne resulted in 34 ‘heavies’ in the drug-harm-combatting business to issue a combined call for better national action throughout Australia.

Three of the 34, including Victorian MLC Fiona Patten (photo) who arranged the venue and attended the day-long discussion, were CLA members. Other attendees ranged from health professors through criminologists to a former AFP national police boss.

“We call on Australia’s federal, state and territory governments to treat drug use primarily as a health and social issue and to remove criminal sanctions for personal use and possession,” the forum’s output said.

“(O)ur own professional experience supports overwhelming evidence that current Australian drug laws, although well-intentioned, create and/or worsen a wide range of health and social harms. There are complex two-way interactions between the punitive approach to drug use and problems including poverty, social disadvantage, unemployment, homelessness, family violence, child protection interventions, mental illness and suicide.

“Poor drug policy also leads to further crime. The human and financial costs of the negative impacts of the current drug laws are borne not just by drug users, but by their families and communities, and the nation as a whole.”

The 34 have agreed to work together to improve public awareness of

- negative impacts of the current drug laws and the way they are interpreted and implemented, and
- the real and tangible health and social benefits of drug law reform.



## ENDS DRUG SPECIAL REPORT

### ‘State-of-origin’ police thuggery allegation finds its way into court

A ‘state-of-origin’ police clash is enlivening the courts in Queensland after a former NSW police officer and federal police agent, who also served with ASIO, sued redneck state police for \$750,000 in damages over what he claims was a wrongful arrest, verbal and physical abuse, stealing of phone images and threats with foul language.

Paul Gibbons alleges a chance encounter with police escalated after officers were annoyed at waiting just under 10 seconds before he let them into the locked lobby of a Gold Coast hotel, where Gibbons was simply a honeymoon guest passing by in the foyer.

The officers were responding to a call for an unrelated matter at the hotel.

Gibbons says he was put in a deadly chokehold and subjected to outrageous and humiliating threats and abuse. When he asked what authority they had to require entry, an officer pointed to his gun and said: "See this, this is my authority to enter." Gibbons alleges another officer squeezed his throat with enough force that he "reasonably feared his trachea would be crushed".

The police involved have been reprimanded by the Red police and by the state’s Crime and Corruption Commission, but a damages award would provide considerable greater weight to the rebukes than the feather duster punishments so far administered, CLA suggests. <https://tinyurl.com/yaksocfm>

## ODD SPOTS:

### 1. Home Affairs has you fingered

The Department of Home Affairs has spent up big on a new state-of-the-high-speed-art record management system expected to seriously improve the reach of the Department's still-new facial recognition security system at airports.

Referring to a raft of statistics which justify the step up, the Department's Assistant Minister said the number of visitors expected to land in Australia in 2020 would hit 50 million, a big jump on the 40 million who lob here each year now.

"Since 2013 the number of face images we have collected for our immigration program has tripled," the Assistant Minister pronounced emphatically. And the number of fingerprints collected has increased by a factor of 10."

Call us naïve, but we always thought that fingers – and therefore their fingerprints – came in 10s anyway!

– CLA Director Frank Cassidy, writing in *PS News*

### 2. Jury nails it

The Super Glue Seven, who stuck themselves to the public gallery in the House of Representatives in November 2016, have been found not guilty of damaging Commonwealth property.

During a two-day trial in ACT Supreme Court, the jury viewed footage of one protester's hand being ripped from the balustrade before the rest were removed when guards used hand sanitiser to free them.

Defence lawyers argued that, in planning the protest, the seven had sought advice about whether nail polish remover could be used to remove the superglue without causing damage. The jury found the group's conduct did not amount to intentional damage of Commonwealth property.

The seven were protesting about government treatment of refugees. <http://tinyurl.com/ydfmydnw>

### Former SA cop jailed for drug trafficking

A former SA cop has been sentenced to jail for at least 18 months for drug trafficking while she was a member of the police force.

Hayley May Greenwood's trafficking was detected during a probe by the police anti-corruption branch and the Independent Commissioner Against Corruption.

The 28-year-old (photo: James Hancock ABC) pleaded guilty to three counts of trafficking in a controlled drug between May and August 2015. The SA District Court heard she was using and selling methamphetamine while she was senior constable in the South Coast Criminal Investigation Branch, based at Christies Beach, according to ABC reporter Rebecca Opie.

Greenwood was suspended from duties in July 2015 after arrest but she continued to be paid by SAPOL until her resignation four months later. She told the author of a home detention report that her offending was a "victimless crime" and that the prosecution against her was "silly" because she "did not sell drugs to children, only to fellow users".

Judge Julie McIntyre sentenced her to four-and-a-half years in jail, finding there was no good reason to suspend the term of imprisonment or allow Greenwood to serve it on home detention. She was given a non-parole period of 18 months. <https://tinyurl.com/y9czzbm9>



### Campaign to secure Human Rights Bill continues

A prime focus of CLA's work in Tasmania has been driving the campaign for a Tasmanian Human Rights Act ahead of the state elections that were held early in March.

The campaign, led by CLA Director Richard Griggs, approached all candidates and all parties to support the adoption of a Human Rights Act.

The Greens and Labor formally adopted a Human Rights Act as part of their pre-election platforms and a minor party (Tasmanians 4 Tasmania) also gave their support. Unfortunately, the Liberal Party (who were eventually returned to Government) did not support a Human Rights Act.

The campaign will continue to work with all sides of politics to build support for a formal human rights instrument in Tasmania with a view to having a Bill introduced and passed in the current term of Parliament. – CLA Director Raham Venkataraman

## **CLA Director stands for the Upper House**

One of the two CLA Directors in Tasmania, Richard Griggs, is a candidate for the seat of Hobart in the Upper House election on 5 May.

He is standing against a sitting member with a very well known name, who was previously the Mayor of Hobart, so he starts behind the eight ball. But his campaign experience and new contacts are expected to help CLA with the ongoing human rights campaign and other civil liberties work in the state.

CLA's other Tasmanian Director, Rajan Venkataraman, explains in our '**CLA Report**' section below how he is extending the reach of CLA's submission process nationwide with an innovative link with U. Queensland.

## **Mentally ill people forced into prison**

Inmates who should get specialist care by mental health professionals are instead locked inside Risdon Prison because Tasmania's forensic mental health facility is full, critics say.

The 35-bed Wilfred Lopes Centre, next to Risdon Prison in Hobart, accommodates prisoners with acute mental illness and is staffed by specialist nurses, psychiatrists and psychologists.

Vice-president of the Law Society of Tasmania, Evan Hughes, said one of his clients had been waiting two weeks to be transferred from Risdon Prison to Wilfred Lopes.

"The only reason that he can't go into that facility is because there just isn't space for him ... even though he has all of the issues and conditions that need to be treated by that facility," Mr Hughes said.

The Tasmanian Department of Justice said across the state, the Tasmania Prison Service was housing 618 prisoners as of 29 March and using 94% of capacity. The average was 524 prisoners in 2015-16 and 575 inmates in 2016-17, according to the most recent Productivity Commission report. <https://tinyurl.com/yCSZzojc>

## **New laws will make it harder to find and identify criminal bikies**

Tasmania plans to ban bikies' wearing their club colours in public.

Bikies would also face new consorting laws to stop gang members associating with each other, or with known criminals.

Police claim the business model of bikies involves serious violence and drug trafficking and that they are constantly trying to expand their numbers in Tasmania to increase their drug trafficking network.

In an unusual step, the proposed tough new laws will be open for public consultation. CLA will propose – as we have done in all states, and federally – that the wearing of colours be NOT banned, and consorting offences be NOT introduced.

After all, surely it is easier for the police to find bikies when they self-identify in gaudy leather jackets, and they mix with criminals the police already know about. The proposed laws would only make it easier for bikies to go incognito, CLA says. Not only anti-civil liberties, the laws would be dumb. <https://tinyurl.com/yadrgw2v>

## **Govt, magistrates play numbers game**

ACT's Chief Magistrate Lorraine Walker said last month that adding an eighth full time magistrate to the court would not improve timely access to justice, contradicting the Territory's Attorney-General.

CM Walker said the modelling suggested the court needed more than eight and at least nine magistrates if it wanted a "slight increase" in efficiency.

The ACT government has announced \$3.1 million over the next four years for an extra magistrate.

AG Gordon Ramsay said that the new magistrate would increase access to justice and timeliness in the courts system. But Ms Walker said that, because she was already using two special magistrates "probably significantly in excess of a whole magistrate", the addition of an eighth magistrate would maintain the "status quo" only.

CM Walker said she would like to see research on the known costs associated with people being kept in custody, and whether that was influenced by a lack of judicial resources. <http://tinyurl.com/yc34pgof>

## T-shirts spread the message

There's now a T-shirt available, modelled here by CLA member Sam Coten, featuring our new slogan, reading:

*Perverting the course of **IN**justice*

Civil Liberties Australia

[cla.asn.au](http://cla.asn.au)

We've only printed a couple of dozen as a trial, so if you would like one, get in touch to place your request for now or your details for the next order, at \$35 including postage.



## Likely botched conviction back in court after AG referral

WA's Attorney-General has agreed to refer a decade-old conviction over the murder of a pregnant woman to the Court of Appeal, following concerns raised about some of the evidence in the case.

Scott Austic's conviction over the 2007 murder of 35-year-old Stacey Thorne in Boddington, south-east of Perth, will be considered by the appeals court following a petition by the jailed man.

Ms Thorne was stabbed 21 times and left to die. She was 22 weeks pregnant at the time of her death, with Austic's trial in 2009 told he was the likely father of the baby and killed Ms Thorne because he did not want her to have his child.

Austic was found guilty of murder and jailed for a minimum of 25 years. But issues surrounding that conviction have long been in the public domain, with former Governor Malcolm McCusker having advocated for the case to be reviewed.

The Corruption and Crime Commission also reviewed the case, which Attorney-General John Quigley said was part of the reason he had accepted a recommendation that it be re-examined.

"The CCC noted, however, that there were potential concerns in relation to aspects of the evidence against Mr Austic, including (re) a cigarette packet and the knife identified as the murder weapon," Mr Quigley said.

"I have accepted the Solicitor General's advice that public confidence in the administration of justice requires that those concerns be fully addressed in an independent, open and transparent way.

"I hope that the examination by the court of matters that have been the subject of public comment for some years will finally bring speculation about this case to an end." <https://tinyurl.com/ydhjg25r>

## WA continues to pay up big for police incompetence

An Aboriginal man wrongfully convicted of the killing of Josh Warneke after a bungled police investigation has been awarded a \$1.5 million ex-gratia payment by the government.

Attorney-General John Quigley has formally apologised to Gene Gibson, 26, who spent more than four years in prison, wrongfully convicted.

Gibson was originally charged with murder and eventually convicted of the manslaughter of Warneke, who was found beaten to death on a Broome highway in 2010. Following an appeal last year, WA's Court of Appeal ruled unanimously the unsafe conviction meant that Gibson was innocent and should be released.

Gibson's lawyers made a request for a \$2.5 million to compensate him for his wrongful time in prison, but the government announced last month that it had made a \$1.3 million payment, to be paid into a trust. The government will provide an extra \$200,000 to pay for the running of that trust. <https://tinyurl.com/y8qaodrn>

## CLA helps initiative improvement at Banksia Hill

The Minister for Corrective Services, Francis Logan wrote to CLA Director in WA, Margaret Howkins last month with answers to CLA questions...and the promise to follow up on a CLA proposal for a charter of rights for inmates and staff of WA's troubled juvenile detention centre, Banksia Hill.

The lengthy letter said in summary:

1. The percentage of Aboriginal staff at Banksia Hill is currently 10.4%. At 19 December 2017, the percentage of Aboriginal young people at Banksia Hill was 71%.
2. The WA Department of Justice has strategies to increase the number of Aboriginal staff employed in youth custodial roles and in particular is developing an Aboriginal Workforce Development strategy.

3. The Superintendent at Banksia Hill Detention Centre has been asked to review the induction material provided to young people at Banksia Hill and to report back to the Director General of the WA Dept of Justice, Dr Adam Tomison, in respect to the case for a Charter of Rights. “The Department of Justice remains receptive to suggestions as to how it can improve the way it communicates the rights of young people to those in its care”, the letter said.

Banksia Hills has also opened its doors to an independent group of volunteers to speak with inmates, and to reassure themselves that conditions are reasonable. CLA Director Howkins plans to take part in such a visit to the juvenile detention centre.

A *Guardian* report last month portrayed dire circumstances at Banksia Hill in the recent past, but said the situation was improving: <http://tinyurl.com/ychtytte>

## Perth man must travel to Switzerland for his last wish

A prominent Perth academic who marked his 104th birthday this month will travel to Switzerland to end his life through voluntary euthanasia, euthanasia campaigner Philip Nitschke said last month.

Nitschke was appearing before a parliamentary hearing. He said his group, Exit International, would help scientist David Goodall to make his final journey “as soon as possible.”

Dr Goodall does not have a terminal illness but his quality of life has reportedly deteriorated in recent months.

Nitschke says Dr Goodall, who has been a member of the pro-euthanasia organisation for more than 20 years, has no choice due to WA’s current laws on voluntary-assisted dying. “The only lawful option he has left is to travel to Switzerland,” Nitschke said.

He said WA should avoid “inhumane” safeguards included in the Victorian legislation adopted in November. A six-month time frame before dying patients could access voluntary assisted death would likely be challenged in court, the inquiry heard. “What we’re talking about here is suffering. It’s extremely difficult to put a timeline on terminal illness,” Dr Nitschke said.

Dr Nitschke, who now lives in the Netherlands, conducted the world’s first legal, doctor-assisted death more than 20 years ago after the NT became the first Australian jurisdiction to introduce voluntary euthanasia. A federal law proposed by Kevin Andrews MHR scuttled NT legislation, and led to the current status where residents in the ACT and the NT do not have the same rights as other Australians. <https://tinyurl.com/ybrn4dmv>

## Australian briefs

**MP wants youth 16 and 17 to vote:** A federal MP wants to lower the voting age to 16. Greens Senator Jordon Steele-John, 23, said voting would be compulsory for people 18 or over, but people 16-18 could choose whether or not to vote. About 600,000 Australians aged 16 and 17 could becoming involved in the democratic process, the Senator (photo) said last month. <https://tinyurl.com/y96qr2uv>



**Crossbench holds swinging power:** The SA Upper House results were officially declared on 23 April, with both the Liberal and Labor parties winning four seats each, Tammy Franks returning for the Greens, and SA Best picking up two seats. Added to the MLCs whose terms continue, it makes a crossbench of two Greens, two SA Best and Advance SA’s John Darley. <https://tinyurl.com/y8un5tkg>

**WA delays corruption bill report:** The WA Parliament has delayed a report on its Corruption, Crime and Misconduct Amendment Bill 2017 for a month. The Procedure and Privileges committee, chaired by MLC Kate Doust, was due to report on 10 April: that has now become 10 May “to provide a more comprehensive analysis of the issues identified by MPs”. <https://tinyurl.com/ybeehbyv>

**You don’t have to swear, I promise:** People with disabilities, including being unable to read or speak English, can now serve on juries in the ACT. Last month’s change in jury law in the national capital stemmed from a rebuff by the High Court of Australia to a Queensland juror, Gaye Lyons, who was found not to have been discriminated against when a lower court excluded her for jury service in 2012. In the ACT, people can now have an interpreter or support person to help them be jurors. The support person has to swear a similar oath to that sworn by jurors. And you can now “promise” instead of swearing, and pick your own god rather than swearing to a generic Christian model. <http://tinyurl.com/ydfqnacx>

**COAG simplifies therapeutic marijuana:** The Council of Australian Governments (COAG) health council meeting in Sydney last month agreed to a single approval process for all medicinal cannabis products managed by the federal Therapeutic Goods Administration. Patients will no longer have to apply to both State and Federal authorities if their doctors recommend they use the drug for treatment purposes. Federal Health Minister Greg Hunt said the change, which will see all jurisdictions adopt the Commonwealth trial under way in NSW, would make doctors a “one-stop shop” for accessing medicinal cannabis after they make the decision to prescribe it. “Once that decision is made, access will be provided within what we expect to be a 48-hour period. In some cases as low as 24 hours.” <https://tinyurl.com/y8xkjlvx>

**63 breaches in six weeks:** The Office of the Australian Information Commissioner has published the first quarterly report on data breach notifications under the new Notifiable Data Breaches (NDB) scheme. OAIC said it received 63 data breach notifications under the scheme during the first six weeks. It said that over the 2016–17 financial year, it received 114 breach notifications on a voluntary basis. The top five sectors included health service providers (24%), legal, accounting and management services (16%), finance (13%), private education (10%), and charities (6%). A high 78% of data breaches involved individual contact information, 33% health information and 30% financial details. <https://tinyurl.com/ybv6ubmk>

## Members letters:

### How Buddha’s ‘salute’, and a video that went viral, courted disaster

A very small time (left-leaning) Scottish comedian, Mark Meechan, had a girlfriend with a pug dog called Buddha. The girlfriend thought the pug was the cutest thing ever, so Mark thought he’d teach it to do the least cute thing he could think of: Nazi salutes when he said “gas the Jews”. He filmed this with his explanation and put it on YouTube. He was only expecting 10 people to see it, but it went viral.

Original video (with warnings): <https://www.youtube.com/watch?v=SYsIEzHbpus>

There was no complaint made against him, but the Scottish police decided to prosecute him anyway. After a two-year court case, he was found guilty of a hate crime. But not by his girlfriend, they are still together <http://www.bbc.com/news/uk-scotland-glasgow-west-43478925>

Jonathan Pie, a better known, left-leaning comedian published a response. <https://www.youtube.com/watch?v=ti2bVS40cz0> (with coarse language). Someone thought it would be fun to report that video to the police, and the police actually took that report seriously. <https://twitter.com/JonathanPieNews/status/978564317883912193>

Note: During WWII, a Finnish Dalmatian earned the nickname “Hitler” because it would also do Nazi salutes. The Nazi’s investigated, but ultimately decided not to prosecute, which suggests that modern Scotland is more fascist than Nazi Germany. [https://en.wikipedia.org/wiki/Jackie\\_\(dog\)](https://en.wikipedia.org/wiki/Jackie_(dog))

This, to me, is the most terrifying anti-free speech case to come out of a Western country recently. It happened in the same place where child rape gangs went ignored for 30 years to avoid offending people.

NOTE: Final outcome: Meechan was fined \$1500.

– Arved von Brasch, CLA member, Canberra

### Islanders’ ‘place in the sun’ is within Canberra

The piece (CLArion, April 2018) about Norfolk Island cites a media release which is, to say the least, misleading, claiming the island is in legal limbo, not part of an Australian state or territory, not mentioned in the Australian Constitution.

In fact, NI is itself an Australian external territory, and has been since 1913 under s122 of the Constitution.

The claim is made that the people are disenfranchised because laws covering, health, education and criminal matters are imposed from NSW where they do not vote. The application of laws of another jurisdiction to an Australian territory (by authority of Commonwealth law) is a common method or providing a legislative structure. For example, for decades a range of NSW laws applied in the ACT.

Reference is made to NI’s self-governance from 1979 to 2015. This was never viable, economically or otherwise, for a community with a population less than that of, say, Crookwell or Coonamble, and had to be replaced. (This is not meant as a defence of the contemptuous treatment of the external territories by the Canberra bureaucracy).

The government of NI – including the application of NSW laws – stems from Commonwealth legislation, the Norfolk Island Act. Enrolled NIslanders participate in the Australian legislative process like anyone else: they are included in the electorate of Canberra.

– Stephen Brown, CLA member, Canberra

## CLA report – main activities for April 2018

All current financial CLA members should have received a letter late in April. The purpose is to:

- ask members to check whether email from CLA is going automatically into their junk or spam boxes. This would mean that those members are not receiving the monthly CLArion or ballot papers for the recent eAGM, as well as the occasional other email from CLA
- offer CLA T shirts with the slogan, **Perverting the course of INjustice** - Civil liberties Australia, at \$35 each, including postage (see photo above);
- offer innovative greeting cards with the National Liberty Tree (a CLA initiative) as the main image; and
- invite letters or articles for inclusion on the CLA web site, or in the CLArion.

The marketing committee (Jennifer Ashton, Mark Jarratt, Bill Rowlings and Kris Klugman) would welcome any comments or suggestions from members on a get-new-members campaign. Please contact the president: [president@cla.asn.au](mailto:president@cla.asn.au)

Preparations are under way for a 'formal' CLA visit to Darwin to promote CLA, confer with key people and attract new members. The president and secretary will meet with CLA members, and appointments are already arranged with the Attorney-General and others. The visit is scheduled for the first two weeks of June. We discussed plans for the program with Darwin resident and CLA member Rob Wesley Smith while he was visiting Canberra last month.

The May board meeting will be special, with directors from Hobart and Perth attending in person, rather than by Skype. The Board has voted to hold an "in person" meeting once every two years.

A CLA group meeting with CLA member Colin Neave, a former Commonwealth Ombudsman who now is an internal ombudsman for ANZ's financial services, scheduled for late April, was postponed to May. New member ANU law student Elly McLean will accompany the President, Vice-President and CEO to the meeting.

### WA report:

Several CLA members in WA took part in the Palm Sunday Walk for Justice for Refugees recently.

...and to continue practising their protest skills, CLA member Christina Marruffo (photo, foreground) and CLA's WA Director Margaret Howkins (in dark glasses, wearing CLA T-shirt) joined protesters outside Perth's State Administrative Tribunal Office in Hay Street in the CBD one day last month. Also present among the protestors was Dr Bill Day, an anthropologist and activist based in the NT for many years (background, with sign). He expressed concern for Maylands' Aboriginal population in particular.

– Photo: Tony Marruffo

They are campaigning against a Dan Murphy 900 sq m booze barn in working class Maylands, a suburb which already has 12 liquor outlets and is struggling with underemployment, poor housing and addiction problems similarly to other under-resourced suburbs of Perth. The five-year battle continues.

Like poker machines in Tasmania, booze outlets predominate in area where poorer people live: there are plenty of rich suburbs without booze outlets.... so Maylands people are asking: why pick our suburb for another booze outlet?

CLA Director in WA Howkins met with long-standing activist and CLA member Brian Tennant AM twice and also with Vicky Burrows (Labor Party Social Services Policy Committee) to collect extra signed petitions seeking an Independent Police Complaints Commission for handing to Alison Xamon, Greens MLC.

"Even Karl O'Callaghan – the recently retired WA Police Commissioner – wrote a feature article in the *West Australian* newspaper recently saying WA police need reining in and independent oversight", Director Howkins said.

She has received phone calls from Acacia Prison requesting information on Attorney-General John Quigley's latest legislative moves, to share amongst inmates. Also John Woodward (a prisoner rep) asked whether other prisoners could join CLA and seek advice from CLA. She replied with a letter to Woodward enclosing the AG's plans, and advised him that CLA could only point prisoners in the right direction towards groups or individuals who may be able to assist them. CLA does not offer direct help or advice to prisoners.



**Media report:** by VP and National Media Spokesperson, Tim Vines:

- No mainstream media this month;
- Freedom of Press and Foreign Intelligence: Interview with graduate student from the ANU National Security College, researching for an MP; and
- Presented on the use of national security language in Australian health laws to the 59th Convention of the International Studies Association, San Francisco.

### **Submissions:**

#### Federal:

Judiciary Amendment (Cwlth **Model Litigant Obligations**) Bill 2017: CLA submission to the Senate Standing Committee on Legal and Constitutional Affairs – see CLA website, or go to the inquiry submissions page for other submissions also: <http://tinyurl.com/ycasssyo> CLA sub is No 16. Committee report is due by 8 May.

**Identity-matching** Services Bill 2018: submission to the Parl Joint Cttee on Intelligence and Security.

#### ACT:

**End of Life Choices** in the ACT: submission to the Select Committee Inquiry into E-o-L Choices.

#### Queensland:

Letter asking Attorney-General for Queensland, Yvette D'Ath, to extend the SA and Tasmanian '**Right To Appeal**' legislation to Queensland.

CLA has begun a partnership with the Pro Bono Centre at the University of Queensland. Pairs of students from the UQ Law Faculty prepared position papers for CLA on two important issues:

- reform of pregnancy termination laws in Queensland (which was submitted to the Queensland Law Reform Commission) and
- reform of Queensland's criminal appeal laws (which was submitted to the Attorney-General).

The students did a fantastic job and it gave them an opportunity to get their names on substantial publications. If you are associated with an academic institution and are interested in a similar partnership with CLA, please get in touch with us via: <https://www.cla.asn.au/News/contact/>

## **INTERNATIONAL**

### **Nauru runs out of appeal justice**

Nauru's justice system is without any court of appeal, after the Nauruan Government severed ties with the Australian judicial system.

The move has left former Opposition MPs involved in highly-politicised cases with no avenue of appeal. Their lawyers only found out about the change after a chance encounter with senior Nauruan officials on a flight to Brisbane.

The highest court in Nauru is its Supreme Court, but since the 1970s, defendants have been able to seek leave to appeal to the Australian High Court as a final arbiter.

Nauru wants to establish its own Court of Appeal to give the nation greater independence, but its parliament is yet to vote on the matter.

Last month, the government cited affordability and transparency as the motivation for change, as well as asserting the nation's sovereignty. As of 13 March, appeals to Nauruan Supreme Court decisions can no longer be heard in Australia. Given a new Nauruan appellate court has not yet been established, nor approved by parliament, there are no options for further appeal.

### **No data is safe from government list-building**

Liberty UK is claiming a major victory against the British government's "hostile environment" after the Department for Education (DfE) scrapped its policy of building lists of foreign children.

Since October 2016, the DfE required children's nationality and country of birth in the term school census. But two million teachers and parents throughout the country refused to hand the information over while a legal challenge was in play. Faced with mass resistance, the DfE dumped the policy.

Campaigners warned that collecting the information served no educational purpose – and was designed to help the British Home Office track families down for removal from the UK. The DfE still shares the names and addresses of up to 1500 children with the Home Office each month for immigration enforcement.

Liberty says the Department for Work and Pensions also routinely hands over personal details, and the Home Office even takes patient information from the National Health Service. <http://tinyurl.com/ydbzrk46>

## If you think Big Pharma will do the right thing under the TPP...

A drug that treats a variety of white blood cell cancers typically costs about \$148,000 a year, and doctors can customise and quickly adjust doses by adjusting how many small-dose pills of it patients should take each day—generally up to four pills.

At least, that was the case until now, Beth Mole reported in *Ars Technica* last month.

“Last year, doctors presented results from a small pilot trial hinting that smaller doses could work just as well as the larger dose—dropping patients down from three pills a day to just one. Taking just one pill a day could dramatically reduce costs to around \$50,000 a year. And it could lessen unpleasant side-effects, such as diarrhoea, muscle and bone pain, and tiredness.

“But just as doctors were gearing up for more trials on the lower dosages, the makers of the drug revealed plans that torpedoed the doctors’ efforts: they were tripling the price of the drug and changing pill dosages.

“The drug, ibrutinib (brand name Imbruvica), typically came in 140mg capsules, of which patients took doses from 140mg per day to 560mg per day depending on their cancer and individual medical situation. (There were also 70mg capsules for patients taking certain treatment combinations or having liver complications.) The pills treat a variety of cancers involving a type of white blood cell called B cells. The cancers include mantle cell lymphoma, which was approved for treatment with four 140mg pills per day, and chronic lymphocytic leukemia, approved to be treated with three 140mg pills per day. Each 140mg pill costs somewhere around \$133 – for now.

“Imbruvica’s makers, Janssen and Pharmacyclics, have now gotten approval to sell four different tablets of varying strengths: 140mg, 280mg, 420mg, and 560mg. But the new pills will all be the same price – around \$400 each – even the 140mg dose pill. The makers will stop selling the old, cheaper 140mg pill within three months, according to a report by the Washington Post.

“The plan nixes any chance to lower costs with lower dosages. Even if patients can drop down to just 140mg a day, they’ll pay three times what they pay now for each 140mg pill.” <http://tinyurl.com/y9tunhwn>

## Trying to vote results in five years jail



Tarrant County Texas has sentenced Crystal Mason, 43, to five years jail for attempting to vote in the 2016 US presidential election when ineligible because she was on probation.

Mason will appeal the judgement handed down in Fort Worth – despite the fact that her provisional vote was not ultimately counted.

She was on probation, after serving nearly three years of a five-year sentence for defrauding the federal government. A former tax preparer, in 2011 she was accused of illegally inflating refunds for clients.

Convicted in 2012, she was later put on a three-year term of supervised release and had to pay \$4.2m in restitution, according to court documents.

She testified that she did not know people convicted of felonies could not vote until they had completed their sentences. She had gone to vote at her mother’s

encouragement, and was not told when released from federal prison that she could not do so.

Mason testified that when she voted in November 2016, she signed a provisional ballot affidavit stating that she had not been convicted of a felony. Prosecutors said she signed the form with the intent to vote illegally. Mason’s attorney called it a mistake, made as she was guided by an election worker.

The case is reminiscent of that of another Texas woman, Rosa Ortega, who was sentenced to eight years for illegally voting in several elections because, according to her, she believed her permanent residency card made her a US citizen. <http://tinyurl.com/y83vdzga>

## Online familial DNA helps identify multiple rapist

For 40 years, a suspect in more than 50 extremely sadistic rapes and 12 murders eluded police in northern California USA.

Late last month, he was arrested after investigators tracked him down using online genealogical databases that contained genetic information from a relative.

The identification of 72-year-old Joseph James DeAngelo as the 'East Area Rapist' began with the recovery years ago of DNA from a crime scene. Over decades, investigators compared the DNA to profiles on one or more undisclosed genealogy databases.

Eventually, investigators found one or more distant relatives of DeAngelo's and traced their DNA to him. The *Sacramento Bee* newspaper, citing the Sacramento County District Attorney's office, reported that the crucial lead came from "various (online) websites that cater to individuals wanting to know more about their family backgrounds by accepting DNA samples from them." <http://tinyurl.com/y844zpw8>

## Private prisons on the rise

Since 2000, those housed in privately operated prisons in the USA has increased by 45%, while the total number of prisoners has risen by only about 10%, according to an analysis by the Sentencing Project.

The number of state inmates in private facilities is increasing and the Trump administration has indicated that it will expand the use of private jails.

A 2016 Justice Department report found that they were more violent than government-run institutions for inmates and guards alike, and the Obama administration sought to phase them out federally. Early last year, President Trump's attorney general, Jeff Sessions, reversed the ban. <http://tinyurl.com/ycdov2rm>

## ODD SPOT: Elderly Mum wins top job for under-employed son

Elizabeth Windsor, 91, secured the top job in the Commonwealth of Nations (CON) last month for her son, Charles, 69, after a lobbying speech at the family home in Windsor, near London, while entertaining CON dignitaries.

Sixteen nations (including Australia) remain as core realms of the CON, representing 144m people: a further 37 states are affiliated, mostly former possessions of the British Empire.

CON countries have no legal obligations to each other, but host a series of games (sport events) every four years and have numerous non-government cross-affiliations.

Right: Cartoonist Peter Brookes in *The Times* (London) summed up on anachronistic dichotomy of the CON.



## Students released after security crackdown

Indonesian authorities released most of the large group of students and activists arrested early last month at the University of Cenderawasih campus in Jayapura, West Papua.

The National Committee for West Papua (KNPB) described the raid, in which 44 people were detained, as an attempt to distract attention from fatal clashes elsewhere in the region.

Two day later, Indonesian authorities released 42 people. "Three are still under examination," the spokesman for the Indonesian embassy in Australia, Sade Bimantara, said. "Two for allegations of being in possession of stolen motorbikes and marijuana. One is under investigation for suspicious possession of 159 laptops." <https://tinyurl.com/yb8sgdad>

## China plans its own form of rights and liberties

China critics claim the nation about to dominate the world scene has a clear agenda to destroy the international human rights system of the past 70 years...and is actively pursuing it.

"China, supported by authoritarian allies like Russia, Turkey and Egypt, has taken an increasingly aggressive anti-human rights posture at the UN Human Rights Council and elsewhere in the UN system where human rights are a core focal point," according to Andrea Worden writing on the China Change blog.

"Its aim appears to be nothing less than 'disappearing' the existing human rights framework – one of the UN's three pillars established by the UN Charter – from the mission and work of the UN, and replacing it

with a Chinese version that focuses almost exclusively on ‘the right to development’, ‘dialogue’ and ‘mutually beneficial cooperation’.

“China hasn’t won yet, but it’s seizing the moment of the Trump presidency, Brexit, the rise of authoritarianism globally, and Xi Jinping’s elevation as “president for life,” to push its agenda at the Human Rights Council with an unprecedented pace and boldness,” Worden claims. <http://tinyurl.com/yad4aytw>

In other words, China wants the world to adopt a new, Chinese group-think interpretation of rights and liberties, rather than the individualised approach adopted in the West.

## Top judge says legal system is broke

The English justice system is hanging on to its reputation as the best in the world by its “fingernails” due to the government’s failure to provide adequate funding, one of the country’s most senior judges has warned. In an interview with the Guardian, Lady Justice Hallett called for the entire criminal and civil justice system to be supported, saying a bias towards specialist commercial courts, which bring in lucrative, international business to London, could impact the quality of the entire system.

Her comments come as criminal barristers threaten mass walkouts over successive cuts to their fees. The Law Society has warned that defence solicitors in criminal cases are in danger of becoming “extinct” because the Ministry of Justice has progressively reduced payments to the profession.

Even the lord chief justice, Lord Burnett of Maldon, complained last month about under-investment in court buildings “amounting to neglect”. The MoJ has endured deeper cuts than any other Whitehall department since 2010 and is having to find a further £600m in savings by 2020.

Hallett, who conducted the inquest into the 7/7 bombers, is vice-president of the criminal division of the court of appeal. She also chairs the judicial diversity committee of the judges’ council, which is responsible for finding ways to make the bench more representative of broader society. <https://tinyurl.com/ya37qp9j>

## Governor forced to face criticism

Settling a lawsuit has meant the governor of the US State of Maryland, Larry Hogan, has to curtail his habit of blocking Facebook users and deleting comments when people criticised him.

Four Maryland residents sued the Republican governor in a US District Court in August 2017, with help from the American Civil Liberties Union (ACLU) of Maryland. A settlement requires Hogan to implement a new social media policy immediately, and the state must pay \$68,000 to the plaintiffs because their access to communicating with their elected official cut off.

“The lawsuit is one in a wave of high-profile cases across the country against elected officials charged with trying to silence constituents on social media—including one case brought against President Donald Trump for blocking constituents on Twitter,” the Maryland ACLU said.

The ACLU alleged that Hogan was violating constituents’ US Constitutional First Amendment rights to free speech. “Plaintiffs found that they could be, and were, arbitrarily censored by the governor just for posting comments on his Facebook page with which the governor or his staff apparently disagreed,” the court complaint said. <http://tinyurl.com/y9vtsqnh>

## International briefs

**Justice system in trouble:** Britain’s criminal justice system is in disarray, says Simon Jenkins in *The Guardian*. The head of the crown prosecution service, Alison Saunders, is resigning amid rows over failed convictions. The head of the Parole Board has been forced to resign over the Worboys case. London’s murder rate has overtaken New York’s, with fatal stabbings in Britain at their highest level since 2010. Prison violence and suicide are rising. <http://tinyurl.com/ybejtj52>

**Think local:** If Australia swaps Pacific region people for EU backpackers, we could inject 26% more funds into the ‘island’ economies than we currently provide in aid, a World Bank report argues. For Pacific region peoples – Islanders, Timor Leste and those from Papua New Guinea – tighter current visa restrictions mean backpacker (mainly EU) seasonal workers outnumber them six to one in the horticultural industries. CLA has long argued that it is in Australia’s greater interest to provide jobs, TAFE training and cultural exchange opportunities (including learning by example about liberties and rights) for our near-neighbours rather than allowing generally well-off young European adults to enjoy a ‘paid’ gap year or two mostly holidaying Down Under. <http://tinyurl.com/y9lyy3r5>

**Slave owners jailed:** Two slave-owners in Mauritania face 10 and 20 years in jail after a court handed down the country's harshest anti-slavery ruling last month, Reuters reported. The West African country criminalised slavery in 2007: this was the third ever prosecution. In past cases, slave-owners were sentenced to two to five years. Slavery is a historical practice in Mauritania, which became the last country worldwide to legally abolish it in 1981. In the past, Mauritania has jailed more anti-slavery activists than slavers. <http://tinyurl.com/yca2cd7b>



**45 years wrongfully in prison:** Late last year, 71-year-old Richard Phillips, convicted of murder in 1972 in Detroit, Michigan USA, was released after his conviction was vacated. The prosecution dismissed the charge formally in March 2018. Phillips served 45 years and two months in prison – the longest time spent incarcerated after conviction by any wrongfully convicted US defendant before exoneration. His story involves numerous opportunities for legal reviews to realise the error of his conviction: like the original trial, they all failed Phillips. <https://tinyurl.com/ybvebsx4> Photo: Max Ortiz, *Detroit News*

**Saudis execute 48:** Saudi Arabia has executed 48 people in the past four months, half on non-violent drug charges, Human Rights Watch has said, under what it calls the kingdom's "notoriously unfair criminal justice system". Saudi Arabia has one of the world's highest rates of execution: suspects convicted of terrorism, homicide, rape, armed robbery and drug trafficking face the death penalty. Rights experts have repeatedly raised concerns about the fairness of trials in the kingdom, which is governed by a strict form of Islamic law. <https://tinyurl.com/yadzwwq2u>

**US drug companies continue gouging behaviour – beware TPP agreement:** "Expenses related to cancer treatment can diminish patients' quality of life and impede delivery of high-quality care. Thus, it is worrying that, in 2017, a (survey) showed the price of some common cancer drugs in the USA rose at a rate higher than inflation. The US Senate (is) investigating why a 40-year-old cancer drug – lomustine, which has no generic competition – has increased in price by 1400% since 2013. At the annual conference of the National Comprehensive Cancer Network in Orlando in March, oncologists had a heated (debate) about the congressional mandate that prohibits the Centers for Medicaid and Medicare Services from negotiating drug prices with pharmaceutical companies in the USA." – *The Lancet Oncology* May 2018 <http://tinyurl.com/y7y6s8hw>

**Telegram banned in Russia:** A Moscow court has banned the Telegram messaging app, in a landmark decision that moves Russia a step closer towards Chinese-style internet censorship. The court ruling last month came after Telegram refused to give Russia's Federal Security Service (FSB) encryption keys that would grant access to user messaging data. Telegram, which has more than 200 million users worldwide, is especially popular with Russia's elite. Both opposition politicians and Kremlin officials use it to stay in touch, and self-described insiders publish anonymous leaks of varying reliability from inside the halls of power. <https://tinyurl.com/ybd5julw>

**ODD SPOT: Apple's Cook plumps for public right to privacy:** "Privacy to us is a human right. It's a civil liberty," Apple CEO Tim Cook declared in an interview last month. <http://tinyurl.com/yd5fqmd5>

**Singapore will have you under observation:** Surveillance cameras on top of over 100,000 lamp posts in Singapore will help authorities pick out and recognise faces in crowds across the island state. The cameras could potentially register 1.8 billion faces in less than 3 seconds, and are also likely to monitor air quality, water levels and traffic counts also. The plan to install the cameras, which will be linked to facial recognition software, is raising privacy fears among security experts and rights groups. The government said the system would allow it to "perform crowd analytics" and support anti-terror operations. GovTech, the Singapore government agency in charge of a "Lamppost-as-a-Platform" pilot project scheduled to begin next year, has given companies until May to register their interest in providing technology for the network. <https://tinyurl.com/ybnns8cq>

## DATES

**30 April-18 May, Adelaide:** exhibition (3 May forum 6-7.30pm) South Sea Islander and Australian Reflections on 'Blackbirding', Kerry Packer Civic Gallery, PM Bob Hawke Centre, Uni of SA. Details: <http://tinyurl.com/ycry7g7h>

**22 May, Perth:** Court of Appeal seminar on criminal appeals. Info: [associate.registrar.gilich@justice.wa.gov.au](mailto:associate.registrar.gilich@justice.wa.gov.au)

**23 May, Canberra:** ANU Chancellor Gareth Evans speaks on the Responsibility to Protect populations against the mass abuse of human rights. 7-8pm Copland Theatre. Info: [nicole.Harman@anu.edu.au](mailto:nicole.Harman@anu.edu.au) or 02 6125 0454

**24 May, Sydney:** 'I'm Not Racist But...' NSW Reconciliation Council and Giant Dwarf event with First Nations and migrant background comedians. Bookings: <https://www.facebook.com/events/1974048932923259/>

**24-26 May, Brisbane:** Forces of Change – Defining Future Justice, Australasian Institute of Judicial Administration, Stamford Plaza Brisbane. Details: <http://tinyurl.com/ycdtxour>

**1 June, Canberra:** Justice Connections 5 symposium, 9-5pm, Ann Harding Centre Bldg 24, Uni of Canberra. Details: [justiceconnections@canberra.edu.au](mailto:justiceconnections@canberra.edu.au) Speakers include Prof Tom Calma, Michael Kirby, Shane Rattenbury (ACT Justice Minister), Richard Refshauge (former judge ACT), Prof Rosalind Croucher and Dr Helen Watchirs (Pres ACT Human Rights Commission).

**7-8 June, Melbourne:** Crime Prevention and Communities Conference, Melbourne Convention Centre, hosted by Community Crime Prevention Vic and the Aust. Inst. of Criminology: Details <http://www.crimeprevention2018.com.au/>

**7-8 June, Canberra:** COAT national conference (Council Of Australian Tribunals). Keynote address: Robert French, former CJ High Court of Australia. Includes keynote address: Automating Justice? Rights and Liberties in a Digital World, Prof Genevieve Bell, ANU and Director of 3A Institute

**14-15 June, Newcastle:** 'Newcastle as a Restorative City Symposium: Justice Community Education and Health' at NeWSpace, 409 Hunter St. Details: <http://tinyurl.com/y77avcx4>

**9-12 July, Greece:** Hellenic Australian Lawyers Association conference, Contemporary Legal Issues and the Influence of Hellenism. Keynote by CJ of Australia Susan Kiefel, Sheraton Rhodes Resort, details: <http://tinyurl.com/y7y74grh>

**18-20 Jul, Brisbane:** Australasian Study of Parliament Group conference 'Trust in Parliament in a post-truth world', hosted by Qld Parliament. Details: <https://www.aspg.org.au/conferences/2018-queensland/>

**15-17 Nov, Sydney:** Australian Bar Association conference, Intntl Conf Centre. Info: <http://tinyurl.com/yczmcvsc>

**November:** US President Trump is likely to visit Australia. He has confirmed a visit to PNG.

**26-29 Nov, Western Sydney:** 9th International Conference on Human Rights Education – Unleashing the Full Potential of Civil Society. Contact: Dr Sev Ozdowski AM, Coordinator, International Human Rights conference series, President, Australian Council for Human Rights Education. Email; [S.Ozdowski@westernsydney.edu.au](mailto:S.Ozdowski@westernsydney.edu.au) Website: <http://ichre2018.com.au>

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*CLArion* is the monthly e-newsletter of Civil Liberties Australia A04043, Box 7438 FISHER 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 the original source. We welcome contributions for the next issue: please send to: [Secretary\(at\)cla.asn.au](mailto:Secretary(at)cla.asn.au)

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