

Next federal election holds hope for end to offshore detention policy

Momentum is building to end detention on Nauru and Manus.

Last month's apparent suicide of a refugee – by jumping from a fast-moving bus – has helped throw a sharp light on the ongoing unfairness of locking people away without hope.

While supreme minister Peter Dutton appears rigidly cemented to inhumane policy, the prospect of an election within a year might help the forgotten people. Australians have previously voted for 'strong border protection' but they will eventually revolt against unconscionable and continuing cruelty.

The plight of David Hicks, held unreasonably* for six years on Guantanamo Bay by the USA, is a lesson in Australian compassion. Originally, the overwhelming national mood was against Hicks, but after five years the talk in pubs and clubs swung in his favour. The Howard government eventually sensed the mood, and forced the US to create a furphy ruling to send Hicks home to Australia.

* held unreasonably, and as it turned out later, illegally, by both the US and Australian governments.

When the Hicks case 'turned', public opinion swung strongly and rapidly. The same may happen with the victims of the hopeless hellholes of Nauru and Manus, CLA believes.

If the Coalition and Labor can be made to understand that continuing the current refugee policy will eventually cost them votes, there could be a very quick change of political tune.

Justice 'lite' so far for the top end of town

Civil Liberties Australia's aim is ensuring people get a fair go. But fairness seems to be selective across our nation.

Former Securrency sales executive Clifford Gerathy (photo) has last month pleaded guilty* to dishonestly recording the \$79,502 that the Reserve Bank of Australia's then-owned plastic currency firm paid Malaysian fixer Abdul Kayum in 2006.

Meanwhile some 'heavies' of the RBA's bribery-sullied twins, Securrency and Note Printing Australia, have apparently not faced full investigation, either by the federal police or by ASIC. This seems to include RBA directors.

As *Fairfax* investigative reporter Nick McKenzie said in an ABC *Four Corners* expose:

"Under the watch of these now former directors, Reserve Bank firms got into bed with Saddam Hussein, paid an arms dealer in Malaysia millions, covered up corruption here and overseas, and failed to call in the cops when they were told time and time again that their overseas agents were allegedly paying bribes. The directors have gone on to secure prestigious directorships of government posts."

One of them went on to superannuation giant AMP...and the currently-sitting Banking Royal Commission has revealed how directors at AMP as well as the major banks have been incapable of inculcating a law-abiding corporate culture in those bodies.

The RBA and its two subsidiaries were partly protected by an injunction, granted on request of the Department of Foreign Affairs and Trade, that prevented naming of political heavies throughout Asia who are alleged to have benefited from Australian bribes. Hence, the Australian government is partly complicit in covering up, and protecting people here from possible prosecution.

While ASIC failed to take action, the two whistleblowers involved lost their jobs, of course.

CLA has previously highlighted the twin standards that apply in the 'justice' system in Australia.

At the corporate end, flagrant breaches of the formal duty of care that govern directors and management heavies are ignored, as are the cocaine habits of boardrooms and plush offices as people consort to create unprincipled extra wealth. Proceeds of crime cases against the top end of town are almost unheard of.

At the bottom end, a whiff of cannabis or possession of stolen goods can get you potentially a year or more in jail, and then all your worldly goods – house, car, lawnmowers, cameras, fishing rods – are pursued relentlessly by extra resource-motivated DPPs who are now being 'incentivised' to fish for lucrative prospects. <http://tinyurl.com/y7b6l7js> <https://tinyurl.com/y7m7ggla> <https://tinyurl.com/ybdfwdfx>

(*Gerathy was due for sentencing on 30 May 2018, as this issue of CLArion went to press).

SPOOK COMMITTEE SPECIAL COVERAGE

ASIO's spook committee does the two-step

The federal parliament's spook committee, after agonising for 15 months, plans to expand ASIO's questioning powers while ostensibly winding them back.

In 2002, just after the 11 September 2001* aircraft attacks in the USA (*9/11 in America-speak), laws allowing ASIO to question and detain suspects were rushed through parliament. Attorney-General Daryl Williams at the time said: "These measures are extraordinary."

They were then, they are now.

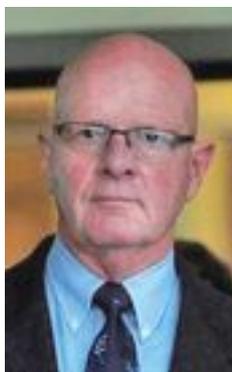
On about five occasions since, various reviews have had a crack at winding back the powers, but no-one has had the courage to do so. This latest effort of the Parliamentary Joint Committee on Intelligence and Security (PJCIS) is absolutely no different, even though ASIO has not used a questioning warrant (QW) since 2010 – and has never used a questioning and detention warrant (QDW).

When using the QWs, ASIO has technically breached the law several times, but never been brought to account by the Inspector-General of Intelligence and Security (IGIS), which is a flaccid, wrist-slapping 'authority' which stands as to the spook agencies as ASIC does to regulating the banks.

Under a convoluted report issued last month, PJCIS has endorsed ASIO:

- retaining a compulsory questioning power, and extending it to children 14 years old;
- losing its detention power;
- getting new laws to make it easier to compulsory question people, quite possibly without having to get a judicial warrant in future; and
- has had its existing excessive powers extended by 12 months so new, ASIO-friendly laws can be written.

While PJCIS did hold public hearings with a handful of non-spooks, overwhelmingly the people it consulted and listened to, mostly in non-public hearings, were the spooks and their apologists, whose secret advice we never get to see or hear.



Committee populated by wrong types

For years, Civil Liberties Australia has said the PJCIS committee has the wrong people on it.

It comprises ex-military, police and allied security-linked types with a handful of other MPs sworn to secrecy because they hold senior party positions and are regularly briefed by the spooks they are supposed to monitor on behalf of citizens.

The committee should have none of the above on it.

Committee members should be people with no experience of agents or clandestine affairs, so they can hold the spooks to a public accounting of what the average citizens of Australia want. Though Australians don't articulate it well, most want their civil liberties and human rights – their freedoms – protected publicly, rather than having instead a committee which protects the secret dealings and untold law-breaking of publicly unaccountable people and entities.

CLA has said from the outset of the regime of excessive terror legislation in 2002 that the crime laws of Australia in 2001 were adequate to deal with terrorists. "Special laws" never get wound back, and the latest feint by PJCIS is further evidence that we'll be stuck with bad law forever.

For a Pollyanna view of what PJCIS said, see: <http://tinyurl.com/yce9xz68>

Power struggle to decide who 'rules' spookdom

The Turnbull government's pledges to strengthen oversight of Australia's spy agencies have been thrown into question by a top bureaucrat's admission he was wrong to assure parliament that a committee of MPs would be given more power to scrutinise the agencies.

So wrote *Fairfax's* national security correspondent, David Wroe, last month.

Basically, the PJCIS (see items above, and below, also) wants the power to call inquiries off its own bat, hold secret hearings, and summon spook officials to appear before it under force of law...just like the 'big boy' security committees of the US Congress and the British Parliament do.

But, behind the scenes, the Turnbull government is ambivalent about whether to create a 'security monster' committee, which could usurp the power now held by the 'Executive', the poorly-defined but all-powerful group of MPs and sometimes others who coalesce into a 'kitchen cabinet' to decide big security issues.

It's not often that there's an overt power struggle being played out between parliamentary committees and the Office of the Prime Minister. But one 's' happening, in real time, now. <http://tinyurl.com/ybafthgy>

Who's really pulling the strings...the Hastie/Byrne axis, or US spooks?

In his Wikipedia entry, the very ambitious Liberal Andrew Hastie lists "Chair of the Parliamentary Joint Committee on Intelligence and Security" ahead of his being the "Federal Member for Canning WA".

As you need the latter position before you can hold the PJCIS chair, the entry can only mean that Hastie puts more store in being parliamentary security and intelligence suprema than any other role.

Such a background allied to Hastie's military-SAS credentials and rural, religious, son-of-a-minister upbringing makes him a likely future candidate, with halo, for higher office. He thinks so, anyway.

So it was surprising last month when Hastie, speaking* 'off-Broadway' in the federal parliament's second (Federation)

chamber, outed billionaire Australian-Chinese businessman Chau Chak Wing as briber of a senior UN official and a shady character for Chinese influence around the world, including in Australia.

The word alleged did not pass Hastie's lips, as it should have, as he thundered self-righteously in the bully's pulpit. His pumped-up arrogance derived from a visit to America "(discussing) our espionage and foreign interference legislation with US counterparts".

That admission means the speech, delivered in Canberra, was manufactured in Washington USA.

And this is the same man campaigning for new laws to outlaw foreign interference in Australia's affairs! Does anyone believe the current US Administration is trustworthy? Whatever, it is certainly "foreign".

What was Hastie's speech if not a prime example of US spooks marionetting an Australian political puppet to say, under parliamentary privilege, exactly what the US spooks wanted said, to "out" a Chinese-Australian citizen. The US spooks are upset because no criminal charges were laid against Mr Wing in America. They may have been intent also on creating mischief between Australia and China.

'Sunlight' is short lived

During the speech, Hastie said: "The central pillar of the government's counter foreign interference strategy is sunlight. ...It's time we applied sunlight to our political system and a person who has featured prominently in Australian politics over the past decade (the person is revealed as Chau Chak Wing).

Later, Hastie went on to say: "For reasons that are best undisclosed, the United States government did not seek to charge CC-3 (Chau Chak Wing) for his involvement in the bribery of (UN official) John Ashe."

So Hastie's newly-discovered 'pillar of sunlight' lasted just six paragraphs, before Australian citizens were forced back into the dark netherworld of the "undisclosed" and secret – but Hastie-known – reasons for the US government NOT charging someone with bribery.

It's a tangled web that's woven when a speech is made with ulterior motives, intended to burn an Australian citizen against whom nothing criminal has been proven. <https://tinyurl.com/ybujfwny> <http://tinyurl.com/ybqys8st>

* The enabler of the Hastie speech – the man who enthusiastically gave him formal permission to speak in the Federation chamber – was the deputy chair of PJCIS, the enigmatic Labor MP Anthony Byrne (photo). Mr Byrne's parliamentary website lists no qualifications or jobs before he became Chief Executive Officer of the Anxiety Disorders Foundation of Australia 1994-96, a job he started aged 32.



The speech is another strange interlude in an already certifiably weird 45th parliament. There are enormous danger signs when the Liberal chair and Labor deputy chair of an important Australian parliamentary security committee apparently agree between themselves to do the secret bidding of foreign nationals, someone associated with the US spook fraternity in this case.

MPs who behave that way should certainly not be given the increased powers they seek for the PJCIS where their US-dictated views dominate.

Imagine if former Senator Sam Dastyari had gone to Beijing, received a secret intelligence briefing from Chinese spooks,

and come back to the Australian parliament to “out” – under privilege – a US billionaire for (allegedly) nefarious deeds. Coalition and Labor MPs on and off the PJCIS would have been Joyce-faced with fury, demanding Dastyari’s public ‘hanging’.

Where did Hastie’s ‘intelligence’ come from?

It’s not hard to find where the “intelligence” that formed the core of Hastie’s parroted speech came from.

His wording is remarkably similar to a December 2017 *Fairfax* article – <http://tinyurl.com/y9rld8lx> – by the American Peter Mattis (photo), self-described as a China analyst who was once “a visiting scholar at National Cheng-chi University’s Institute of International Relations in Taipei.” <https://tinyurl.com/y7cbaot6>



Quelle surprise! Are not the Taiwanese at loggerheads with the mainland Chinese? Does Peter Mattis have an anti-mainland China axe to grind?

Mattis wrote:

“The best aspects of democracy and the so-called international liberal order are perpetuated through a belief in good faith and good works. Behaviour that is covert, coercive or corrupt undermine both.

“Australia and other democracies need to stamp out this behaviour in order to strengthen their resilience. The (foreign interference) laws that the Turnbull government will put before parliament, if passed, mark only the beginning. The assets that brought Australia to this point will remain critical: a robust free press; concern about the country’s role in the world; and leaders committed to Australian sovereignty,” Mattis wrote in December.

Compare that word-for-word with Hastie’s outburst.

Moving on, by last month (May 2018) the same Peter Mattis is claiming that New Zealand – and possibly Australia too – should be thrown out of the Five Eyes security group (which comprises the USA, Canada and the UK also).

Giving testimony to the US-China Economic and Security Review Commission, Peter Mattis said PM Jacinda Ardern’s NZ Labour Party had accepted money from donors with links to the Chinese Communist Party, while former PM Bill English had routinely briefed a National MP who was revealed to have worked at an institution that trained Chinese spies**.

“Australia and New Zealand both face substantial problems with interference by the Chinese Communist Party,” Mattis told the hearing. “I think that at some level the Five Eyes or the Four Eyes need to have a discussion about whether or not New Zealand can remain, given this problem with the political core.” <https://tinyurl.com/ycwme8ml>

Does Young Peter think that no Chinese spies ever trained at his alma mater, the National Cheng-chi University’s Institute of International Relations in Taipei? If they had, like NZ, that would rule Peter out as a China analyst of any independence.

Why does it matter to Australian civil liberties?

We explained above that, for more than a decade, CLA has argued that the wrong people populate the Parliamentary Joint Committee on Intelligence and Security: they don’t represent mainstream Australians.

Instead they bring the wrong focus to their important task of providing the only parliamentary monitoring of the mushrooming and seemingly-sacrosanct civilian, Defence and police clandestine entities and agencies.

Committee members exhibit clear and obvious biases away from rights, liberties and freedoms of Australians. Instead, they demonstrate an excessive and profound bias towards a closed, repressive, spook-dominated society increasingly involving surveillance and laws restrictive of people’s freedoms.

They truly represent only the group referred to as “The Community” in Canberra’s shady back rooms. These are a nebulous collection of the capital elite in the intelligence “know”.

Our claims about the MPs being the wrong choices for the PJCIS job have been hard to prove. But the Hastie speech illustrates quite clearly and transparently that he and Byrne – the PJCIS leaders – represent anachronistic views about where Australia’s mainstream interests lie.

They would pay the price of intelligence from the USA regardless of the expense of our material prosperity and diplomatic heft from closer relationships with China. Ask Foreign Minister Julie Bishop or Trade Minister Steven Ciobo if Hastie’s speech helped our links with our major trading partner.

- Does China try to influence what’s happening in Australia? Of course it does.
- Does Australia try to influence what’s happening in PNG, East Timor, The Solomons, etc? Of course.
- Does the USA try to influence what is happening in Australia, Mexico, Canada, South America, Europe, Asia, Africa and everywhere else? Of course it does, probably more than any other nation.

So Hastie and Byrne are shown to be yesterday’s men, focused overwhelmingly on US-serving intelligence and spooks links without due and balanced care for any detriment to the diplomatic and trade interests and the rights and liberties of citizens in Australia.

Which is what CLA has been saying for many years: the wrong type of people are on the PJCIS. It should be populated by people with strong rights and liberties credentials, who represent the community, not “The Community”.

[ENDS spook special coverage](#)

EU rejects ISDS clauses in upcoming FTA

In the recently-announced Australia-EU free trade agreement, the EU has rejected controversial rights for foreign investors to sue governments in international tribunals, known as ISDS.

The reason, according to trade deal expert Dr Pat Ranald, is because European courts have found that ISDS cases have undermined democratic regulation.

“ISDS is so unpopular that the EU fears that its inclusion may lead to rejection of trade agreements by EU national parliaments,” AFTINET convener Dr Patricia Ranald said. AFTINET is the Australian Free Trade and Investment Network, a union-aligned lobbying body.

“But both governments have failed to mention this in the publicity about the agreement. The Turnbull government is still ignoring evidence against ISDS and supporting it in the TPP-11 and other agreements. They do not want Australians to know that other trading partners are rejecting ISDS,” she said.

Dr Ranald explained that Investor-State Dispute Settlement gives increased legal rights to foreign investors enabling them to bypass national courts and sue governments for millions of dollars in unfair international tribunals over changes in national law or policy, even if they are in the public interest. There are now more than 850 known cases, with increasing numbers against health, environment and even indigenous land rights law and policy. – media release 180523, AFTINET.

The Jury’s Out: Four-part *ABC Radio* series on what happens inside the jury room: <http://www.abc.net.au/radionational/programs/lawreport/features/inside-the-jury-room/>

Budget items of interest to liberties/freedoms:

Here's some interesting Budget snippets you might have missed:

- The government has set aside funding to work with the states and territories to establish a National Online Register for Enduring Powers of Attorney. (*Hear, Hear, CLA says*).
- \$24.4m in 2018-19 for ASIO to strengthen their capacity to meet the government's national security objectives...funding to support current operations and undertake preliminary work to enhance future operations. (*What does that mean, CLA asks?*)
- Funding of \$1.2m over four years to implement the Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT)
- The Commonwealth Ombudsman (Michael Manthorpe, photo) will be funded to undertake new functions as the National Preventive Mechanism (NPM) Coordinator, and as the Commonwealth's NPM body with responsibility for inspecting Commonwealth places of primary detention. (*Inspections are part of OPCAT, CLA notes*).
- \$10.7m over five years for the High Court of Australia to enhance security:
Funding is being provided for capital security works and additional operating security costs to the HC following a review of the court's security arrangements. Part of the cost of the upgrade to the security of the HC will be met by a modest increase in fees across the HC, and the general law jurisdictions of the Federal Court of Australia and Federal Circuit Court.
(*That's about \$1.5m extra per judge for new security, on top of existing security, CLA notes*)
- Funding for the Office of the Director of Public Prosecutions to prosecute cases resulting from the Black Economy Package – \$6.1m over three years, including to cut down on smokers accessing illicit cigarettes. More info: <https://tinyurl.com/ybw65y57>
The government expects to make about \$400 million from "investing" \$6m extra in the federal DPP. CLA notes this trick of "investing" in DPPs to produce financial return is becoming commonplace among the states and territories who are using Proceeds of Crime laws to "turn a profit" via their legal systems.



Dutton will hold the key to your face's misuse

A national facial recognition scheme could be misused for social surveillance and cracking down on traffic infringements unless tightly controlled, Law Council President Morry Bailes warned last month.

Home Affairs Minister Peter Dutton has introduced legislation to store Australian's biometric data in a central hub, and then share it with other government agencies and the private sector.

Government officials claimed the data sharing was needed to strengthen counter-terrorism and policing operations. But the draft laws indicate the information — which can help identify people in large crowds — could also be used for road safety and other law enforcement.

The ACT and Victoria have rejected the proposed law, saying it would violate privacy and human rights. The Queensland Information Commissioner also has serious reservations.

Bailes warned the scheme could be used to identify jay-walkers. "It is completely unacceptable to assume the majority

of Australians, who aren't criminals and (who) have the expectation to be kept safe by the state are willing to succumb to heightened surveillance," he said.

Home Affairs deputy secretary Maia Fernandez said the scheme was misunderstood: data could only be supplied by the Home Affairs department, and the department would monitor and sanction misusers.

That's precisely where the problem lies, CLA says. It is the Home Affairs department that is not trusted, under Minister Dutton, whose record on civil liberties and human rights is appalling. Every session of parliament in recent years has further eroded the liberties and rights of average Australians. <https://tinyurl.com/ybltv2jz> (SEE 'Peter/Peta Dutton Day under the 'CLA Report')

ODD SPOT: 98% wrong

An ABC TV report on 28 May 2018 claimed the equivalent police face-identifying system in the UK had an error rate of 98%. That is, 98 times out of 100 the technology selected the wrong person. The UK problems were identified publicly by a legislated monitor put in place by the British Parliament to keep watch on such dangerous technology. The proposed Australian law will have no such monitor position.

Security beefed up to fight yesterday's battle

Because Australia's security failed comprehensively last year when an alleged meat-mincer bomb almost snuck through Sydney Airport on to an Emirates flight heading for the Middle East, all domestic terminals in Australia are now to get "strip-search" scanners at entry points.

And airport back-room luggage scanners are being beefed up, both developments at huge cost in a classic case of over-the-top security.

The over-kill comes despite police adamantly claiming the mincer bomb would not have got to the plane:

"AFP deputy commissioner Mike Phelan said he believes the first bomb would never have made it through security, had it been checked in. He said police created a mock of the IED and did 'penetration testing' of airport security and had a '100% success rate' of it being detected. We are extremely confident given the systems we have in this country that the IED would have been picked up," he said.

Police and spooks described the meat-mincer bomb — in a monumental case of exaggeration — as "one of the most sophisticated terror plots ever hatched on Australian soil". It was hardly "sophisticated", consisting of explosive packed inside a container and an attempt to smuggle it on a plane inside passenger luggage.

The plot was apparently picked up by Israeli communication surveillance, and the Israelis alerted disbelieving Aussie spooks, who should have had the potential perpetrators under surveillance, given their known family links to people who had decided to go to fight in the Middle East.

The first that spooks and Dutton's now-super department knew about it was long after the 500-plus passengers were saved by the airline's scales, which rejected the luggage as overweight. <http://tinyurl.com/y8lnlqu2> <http://tinyurl.com/y7rrwj3g>

Why Australia needs a War Powers Act

By Richard Flanagan, author, Tasmanian, son of a digger:

"The growing state-funded cult of Anzac will see \$1.1bn spent by the Australian government on war memorials between 2014 and 2028.

"Those who lost their lives deserve honour — I know from my father's experience how meaningful that can be. But when

veterans struggle for recognition and support for war-related suffering, you begin to wonder what justifies this expense, this growing militarisation of national memory or, to be more precise, a forgetting of anything other than an official version of war as the official version of our country's history, establishing dying in other people's wars as our foundation story."

– extract from [Richard Flanagan's address to the National Press Club](#) on 18 April 2018

We should be actively avoiding going to war and into warlike situations, CLA says, rather than spending money to glorify past wars as a way of encouraging new soldiers, airmen and sailors.

Apart from the ability for a PM to take an immediate decision in an emergency, the Australian Parliament should have ultimate control of whether or not we stay at war, how many people we commit and how much we spend. Most Australians are NOT aware that our parliamentarians get no say – do NOT have a vote – on whether Australia is a belligerent nation, whether we go to war, or whether we stay at war.

One cop tops the misconduct list

One police officer chalked up nearly a third of all Tasmania Police's misconduct in 2017.

The officer, un-named and who has now left the police force, was the subject of 22 proven allegations relating to on and off-duty conduct, according to the state Integrity Commission's third audit of Tasmania Police's complaint handling process.

There were 78 allegations against police sustained during the year, ranging from bringing discredit on the force, through improperly accessing information and abusing authority to alleged drink-driving.

In one case, an officer compiled a list containing sensitive personal information about people and gave it to security officers at a local event, Patrick Billings reported in *The Mercury*. A total of 233 allegations were not proven, unfounded, withdrawn or the officers were exonerated. <https://tinyurl.com/y9v7ljko>

Goodwin honoured by new unit

A special prison unit dedicated to strengthening the bond between mother and baby will be established in memory of Tasmania's late attorney-general, Vanessa Goodwin (photo), who died in March 2018 of brain tumours.

The Dr Vanessa Goodwin Cottages within the Mary Hutchinson Women's Prison, formerly known as the Risdon Women's Prison, will add a two-storey, 20-bed facility to the women's section of the prison. A separate cottage which will enable up to five pregnant prisoners or mothers with babies to stay together is also being built in Dr Goodwin's name.

The new facility will boost female prisoner beds by 25, bringing the total capacity for women at Risdon to 71, Peta Carlyon wrote on *ABC Online*. <https://tinyurl.com/y9vr8o5r>

Low rate of criminality while on community order: report

The state sentenced 551 people in Victoria in 2016–17 for committing serious offences while serving a community correction order, the Sentencing Advisory Council reported last month.

The figure is 1.6% of the 33,000 people who received a CCO in the three years to 30 June 2017; they were sentenced in 2016–17 for a serious offence that had been committed on a CCO.

Victorian courts' use of the CCO has increased over the past six years, with nearly 7000 more people receiving a CCO in 2016–17 (14,561) than in 2012–13 (8109).

Serious offences include armed robbery, aggravated burglary, make threat to kill and intentionally causing serious injury as well as rape and sexual assault <https://tinyurl.com/y87f7hpk>

Honest, diligent cop compensated after 50 years

An 86-year-old former detective, harassed into resignation by his own Victoria Police superiors for trying to bring a pedophile priest to justice, is being compensated almost 50 years later.

Denis Ryan chose to resign after being ordered to drop his investigation into Monsignor John Day, a Catholic pedophile priest who preyed on children in the Mallee area of the state.

Ryan was forced to find work as a fruit packer. He later became mayor of Mildura Shire, but he continued to pursue a relentless campaign to expose the role that Victoria Police's most senior officers played in covering up for Monsignor Day. The force finally and formally apologised to Ryan in 2016.

His resignation cost him a marriage and a comfortable retirement. Until now, he has lived in a rented unit on an aged pension. But the Victorian Government last month reached a confidential settlement with the 86-year-old. It is believed to total several hundred thousand dollars. <http://tinyurl.com/y7a2zych>

Rayney 'on trial' again

Lloyd Rayney, who has been thrice cleared by five judges of murdering his wife, after which he was awarded a \$2.6 million defamation payout from WA Police, is being hounded by the legal profession.

A State Administrative Tribunal has found him guilty of professional misconduct over secret tape recordings of his wife's phone conversations, and allegedly lying about them.

WA's Legal Professional Complaints Committee wants Rayney disbarred from practising law, claiming he swore an affidavit that he knew was false and gave untrue evidence to a magistrate. A Supreme Court judge has found Mr Rayney's actions made him guilty of professional misconduct.

Rayney is appealing the decision. <https://tinyurl.com/y89ornzm>

The "law" will run its course, but CLA is no fan of the kangaroo courts that are the legal professional bodies around Australia. Such bodies and the unconscionable self-investigation powers of punishment given to legal practitioners are over-ripe for change in the name of liberties and rights.

Claremont case takes over floor, costs \$1.8m

A floor of the office of the WA Director of Public Prosecutions has been allocated to the specialist team working on prosecuting the alleged Claremont serial killer, the WA Parliament was told last month.

Some \$1.8 million was set aside in the 2018-19 year's state budget to fund the work going into what is already one of the biggest criminal cases in WA legal history.

Attorney General John Quigley and DPP Amanda Forrester, answering questions in the state parliament's estimates last month, confirmed the \$1.8m figure.

Bradley John Edwards has yet to enter a plea on accusations that he murdered Sarah Spiers, 18, Jane Rimmer, 23, and Ciara Glennon, 27 some 20 years ago.

Mr Edwards, who has been in custody for nearly 18 months, is due in court in July,

Deputy Director of Public Prosecutions Carmel Barbagallo is lead prosecutor. <https://tinyurl.com/ybs5ftnk>



WA tries the weasel approach to justice

The WA state administration is trying to weasel out of paying already awarded damages to two people who were wrongfully stunned with electronic weapons by agents of the state, that is police officers.

The state now claims the officers acted maliciously, and therefore the state bears no responsibility. But originally the state defended the officers in court, claiming they acted within their powers. When the state lost that argument, it changed tack.



Law professor Dr Robert Cunningham and his wife, Catherine Atoms*, were helping a group of people who fell into bushes outside the Esplanade Hotel in Fremantle in 2008 when they were stunned by police who believed the two were 'causing a disturbance'.

Left: Cunningham and Atoms, *PerthNow* photo

The couple won \$1.1 million in compensation in 2016 — to be paid by the police and the State — after a District Court judge ruled they were subjected to battery, false imprisonment, and were maliciously prosecuted.

However, Cunningham and Atoms have not been paid because the State and police — who jointly defended the action — launched separate appeals. The police appeal was dismissed in August 2017.

Attorney-General John Quigley stood up in State Parliament in April 2018 and said that taxpayers “are obviously going to have to foot the bill”. But barristers for the State of WA have since claimed in court that “broadly, the Crown is not liable at all”.

State counsel George Tannin argued the state should not have been held jointly liable with the police officers in circumstances where it was found the officers acted in malice. <https://tinyurl.com/y8abj6wd>

The case is another classic example of how the Crown ignores its Model Legal Obligations to act fairly towards citizens. Should the state of WA win the current case, it will be a victory for weasels over justice.

And AG Quigley would be obliged to pay the compensation amount as a ‘grace and favour’ award anyway, after his statement in the parliament. Note: Cunningham and Atoms are members of CLA.

WA’s jailed youth are overwhelmingly ill, not evil

Nine out of 10 incarcerated youth examined by researchers as part of a ground-breaking study had some form of neuro-disability — most of which had gone previously undiagnosed despite multiple contacts with government and other agencies.

The Banksia Hill Project is the first study in Australia to assess and diagnose young people in a youth custodial facility for Fetal Alcohol Spectrum Disorder (FASD), which is a neuro-developmental disorder caused when an unborn child is exposed to alcohol in the womb.

AUWA Professor Carol Bower and Clinical Associate Professor Raewyn Mutch led the research which spent two years working with more than 100 young people aged 10-17 years detained in WA’s only youth jail, Banksia Hill Detention Centre.

Prof Bower said the team had set out to look specifically for FASD but were surprised to find evidence of severe neuro-developmental impairment in almost every young person they assessed. It was the highest known prevalence of FASD in a

custodial/corrective setting worldwide, and almost double the previous highest Australian estimate in a non-custodial setting.

“Just as worryingly, we found that 89% of the sentenced young people had at least one severe neuro-developmental impairment, whether they had FASD or not,” Prof Bower said. “Similarly to FASD, this is amongst the highest reported rate of neuro-disability amongst sentenced youth in the world.”

Two-thirds of the young people assessed had at least three domains of severe neurodevelopmental impairment, and 23% had five or more severely impaired domains.

“The sorts of domains we’re talking about are problems with executive function, such as not being able to relate cause and effect or to plan, and problems with memory, cognition, motor skills, attention, social skills and adaptive behaviour,” Professor Bower said. “Almost half the young people had severe problems with language, how to listen and understand and how to reply and explain what they think.”

Dr Mutch said one-quarter of the young people were found to have intellectual disability, with an IQ score at or below 70. Many of those found to have severe impairment had been written off as “naughty children”.

“What they do is socially unacceptable but it has arisen from a brain that isn’t working properly,” she said. <http://tinyurl.com/yb5ztab3> <https://tinyurl.com/ybvxbpyk>

The Banksia Hill Project was funded by the National Health and Medical Research Council and carried out in cooperation with the WA Departments of Justice and Communities. The BMJ Open paper detailing the study, ‘Prevalence of Fetal Alcohol Spectrum Disorder Among Young People in Youth Detention in Western Australia’: <http://tinyurl.com/ydyceamr>



Above: The research team: Bower, Hayley Passmore, Mutch

Speed cameras wrong in 53,000 fines

WA Police stopped processing the fines from 11 new mobile speed cameras last month, involving 53,000 infringements notices, after a driver was incorrectly charged with hooning and had her car seized and held.

Police accused her of driving at more than 160kph on a Perth freeway. The driver disputed the speed reading and, after reviewing the case, police dropped the charge and returned the car.

The new cameras went into operation in January. Police said there was a computer programming error.

It is not known whether WA Police will pay compensation for the anxiety and stress causes by the faulty cameras. <https://tinyurl.com/ydcx4fwn>

Territory tackles high rates of jailing, recidivism

The NT government has allocated \$8.8m to cut staggering rates of Aboriginal incarceration and recidivism.

Attorney-General Natasha Fyles said the NT's 2018 Budget 2018 funding will be split to provide:

- \$5.5m over three years to trial an alternative to prisons model in Alice Springs and East Arnhem; and
- \$3.3m over three years to support the Aboriginal Justice Unit in developing and monitoring the Territory's first ever Aboriginal Justice Agreement. – AG media release 180429

The NT government will also:

- establish an independent anti-corruption watchdog, through \$3 million to create an Independent Commissioner Against Corruption to investigate government corruption, and restore integrity and transparency, says Treasurer Nicole Manison – NT Budget media release 180501

New laws follow inquiry into youth detention

The NT has passed new laws to shore up the rights of young people, including to:

- safeguard the rights of children in detention by clearly defining and limiting the use of force and when restraints can be used;
- prohibit strip searches generally, and outlining procedures to follow when they are authorised; and
- prohibit isolating young people for punishment or behaviour management, and clarify that young people may only be separated in very specific circumstances under specific safeguards.

The new law builds on previous law reform, such as amendments to ban the use of a restraint chair, passed in November 2016. – media release, AG Natasha Fyles 180510

Past conviction can be expunged

The NT government last month passed legislation allowing Territorians to have their past convictions for consensual homosexual relations expunged.

Chief Minister Michael Gunner delivered a formal apology in Parliament. "This is an important step in righting the past wrongs inflicted on the Territory's homosexual community," he said. "Today we said sorry – sorry for the hurt and pain – sorry for the shame and discrimination. Today we passed laws so that these convictions may be struck from personal records."

Consensual homosexual sex was illegal in the Territory until 1984. Some Territorians still hold a criminal record from then. The government acknowledged the opposition's bipartisan support for the law. – media release, AG Natasha Fyles 180508

Activists demand review of consent laws

Law bodies in Queensland want the state AG Yvette D'ath to commission a review of Queensland's sexual consent laws.

News reports last month highlighted the case of 'Jayne', whose accused rapist was acquitted despite causing her shocking injuries.

In 2012, a jury acquitted the man, who was able to rely on a 109-year-old defence to rape in Queensland law that he had a mistaken but honest and reasonable belief that she was consenting to an escalation in sex acts.

The Queensland Women's Legal Service said the case highlighted why the state's rape laws were the worst in Australia. State Law Society president Ken Taylor called for a review of "the definition of consent in our criminal law". He suggested the Queensland Law Reform Commission should undertake the review. <https://tinyurl.com/y9xbhgsz>

SA law reformers investigate surrogacy

The SA Law Reform Institute (SALRI) wants community feedback on the state's surrogacy laws.

The independent law reform body, based at the University of Adelaide Law School, had been asked to consider an appropriate regulatory framework for surrogacy arrangements in South Australia by former Attorney-General John Rau, with current AG Vickie Chapman also supporting the review.

"This is an area of great interest to many South Australians – especially those who are unable to have a child," Ms Chapman said. "SALRI is considering how SA's surrogacy laws work in practice, and any future reforms which may be required."

SALRI's Professor John Williams and senior policy officer Sarah Moulds (a CLA member, photo) are encouraging people to have their say. Submissions close on 29 June 2018. <https://tinyurl.com/ybvq5zyh>



Australian briefs

Telstra strives to be the Facebook of Australia: Telstra is selling surveillance-like data from its customers' mobile phones, and claims that the practice is privacy-compliant. This is the same type of wheeze that got the Australian Bureau of Statistics into strife when it used Telstra mobile phone data showing how many people were in particular suburbs hour by hour. Now anyone can buy similar data from Telstra for a fee. It can break down data on its clients into 15 minute segments, including demographics by age groups and gender. The smallest geographic areas available for analysis are the same as the ABS's, an average population of 400 people but even down to as few as 200 people. <http://tinyurl.com/yawoz933>

New dean speaks up for liberties and freedoms: Professor Tim McCormack, an expert in international humanitarian law, is the new dean of the University of Tasmania (UTAS) Law School. McCormack said that he worries the foundations of his legal philosophy are under threat throughout the world, including locally, where he was concerned about Liberal state government moves to introduce mandatory sentencing. <https://tinyurl.com/y9wrc856>

Most oppose special religious powers: Four out of five Australians oppose the right of religious schools to hire and fire staff or expel students because of their sexuality, a new poll has found. The YouGov Galaxy poll, conducted for the LGBTI rights lobby group Just Equal, found that 82% opposed the existing discrimination law exemptions that allowed expulsion of gay and lesbian students and 79% opposed the schools' ability to fire teachers if they married a person of the same sex. <https://tinyurl.com/ybryu92j> Meanwhile Force Minister Peter Dutton has said he wants "religious freedoms" – including the right of religious schools to sack gay teachers, and for parents to withdraw their children from the anti-LGBTI bullying program Safe Schools – entrenched. <https://tinyurl.com/y8aqw25g>

Telstra loses track of 'e-prisoners': The NT, SA and Queensland corrections authorities lost track of people wearing electronic ankle monitoring devices during a major Telstra outage last month. The NT Correctional Service's Department confirmed the outage affected devices used to monitor 85 individuals, including prisoners serving sentences at work camps, and people on community correction orders. <https://tinyurl.com/yawgeto6> <https://tinyurl.com/y8qg38e>

Members letters:

And the word(s) became fresh... An extremely hypocritical item I heard last night: a white, Christian, male put a message on the notice board outside his church on Anzac Day, wording that was exactly the same as a brown, Muslim, lady wrote on Twitter the year before. The latter was hounded out of this country whilst the former just received a 'few' complaints. At times I am reduced to tears at the racist attitudes of many in this country. – Margaret Waddington, Victoria

ASIO so-so: So, while defending its right to detain people for questioning, ASIO claims that it has not sought a questioning warrant since 2010, partly because of the allegedly slow process to obtain approval ('End ASIO's detention powers, parliamentary committee says,' Fairfax online 11 May 2018). If ASIO believes that it is acceptable not to pursue a warrant to question someone simply because the process to obtain approval is too slow, surely it is even harder to accept that it had a sound reason to do so in the first place. ASIO's attitude seems more typical of an agency consumed by an ambition to acquire power for its own sake rather than to fulfil its lawful functions. – John Richardson, Wallagoot NSW

Ego ergo id: Someone asked the head of the AFP in Senate estimates last month: "What are AFP officers going to do if they come across someone in the airport who has no ID on them, particularly as it is perfectly legal to board domestic flights without any ID?" He did not have an answer. – Reg Murray, Glen Iris, Vic

(CLA translation of the Latin headline to this item: 'I am my own identity' or 'I am my own person')

CLA report – main activities for May 2018

The Board meeting held on Sunday 20 May was a special one, with CLA directors Margaret Howkins (WA) and Rajan Venkataraman (Tasmania) attending in person, rather than electronically by Skype.

It was an opportunity for Board members to meet and get to know each other better over a coffee and croissants breakfast for an hour before the meeting began.

Richard Griggs came in from Hobart by a phone conference system rather than Skype, as his suburb was experiencing a power outage. CLA member Estelle Blackburn and Myra Gammal attended as observers, and to take a photo of the Board for the 2018 annual report.

Richard was congratulated on his very creditable second place, with 25% of the vote, result in the Legislative Council seat of Hobart against a long standing incumbent. The CLA-led campaign for a state Human Rights bill continues. Other current issues CLA is working on in Tasmania are the new anti-consorting laws, new bail laws, anti-protest laws and rules for new body-worn cameras by police.

New marketing materials have been produced:

- T-shirts with the slogan: **Perverting the course of INjustice;**
- greeting cards which can be used for general communications, birthdays or Christmas: they feature the National Liberty Tree
- bookmarks, which also feature the National Liberty Tree at the National Arboretum.
- CLA desktop stands have been produced and distributed for local use.

The president and CEO reported that their planned visit to Darwin had to be cancelled for health reasons. Long standing CLA member Caitlin Perry (former Darwin Legal Services, now



Photo: Mark Jarratt and Margaret Howkins at the May CLA Board meeting.

NTCOSS) has agreed to be our prime administrative contact person in NT.

During May, letters went to all current CLA members, asking them to check on their email correspondence inboxes to make sure emails from CLA were not going into their spam/junk boxes. The letter also offered CLA merchandise.

On-going issues:

Author Estelle Blackburn gave a rundown on wrongful convictions in WA.

Model Litigant Obligations (and the lack of their application by government) will be the subject of a CLA letter to the Royal Commission into banks and financial institutions.

War Powers campaign by CLA to be mounted, with focus each Anzac and Remembrance Day.

Submissions, managed by Rajan, continue to be successfully achieved. The success in using Qld Pro Bono students for submissions was noted, with intention to extend to other universities.

The WA report noted the success in securing MPs to table petitions for the government to establish an Independent Police Complaints Commission petitions. CLA's WA youth media spokesperson San Coten is preparing a submission on religious freedoms.

NT: a lack of rights of prisoners regarding parole was noted as an important issue, and it was resolved to investigate the situation nationally. A CLA member in a NT prison drew our attention to this issue. One way of achieving progress on prison and remand issues may be by instigating a speedy trial act. The right to a speedy trial is included in the ACT and Victorian Human Rights acts, but missing from other Australian jurisdictions because they have no such safeguards. The president is investigating.

Media and Facebook outlets proceeding satisfactorily, with a good relationship being developed with Sydney Criminal Lawyers web site. ANU and UTas student debating groups will be approached for networking.

National Media Spokesperson and CLA VP Tim Vines has produced three major articles and also one of the four major papers for his PhD degree by the publication option. He gave a presentation in San Francisco on the use of national security language in Australian health law and wrote an article on national security laws and scientific freedom. Media queries for the month covered foreign interference and press freedom and proposals to expand the powers of government security operatives.

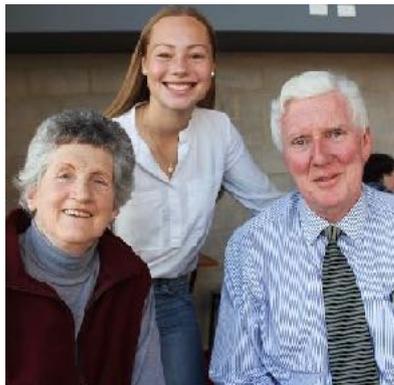
Director Mark Jarratt has drafted an article on the re-emergence of wowers as evidenced by the addition of proposals to ban children from enjoying soft drinks to the ban on adults smoking.

One Director proposed a '**Peter/Peta Dutton Day**' at airports throughout Australia. Thousands of people would turn up at their local airport, carrying no ID. When asked by police for their names, they would say "Peter – or Peta – Dutton". Police would have to prove they were not who they said they were.

The president, secretary and WA director Margaret Howkins attended an ANU law week panel discussion at ANU on *Law and Justice in Crisis*. They engaged with presenters on the opportunities for following up on key points raised, including for student internships and visual justice images on major court buildings during 'Enlighten-type' events.

Meetings were held with CLA members Thomas Mautner, Helen Wiles, Keith McEwan, and Peter Downie.

The president, secretary and new student member Kelly McLean met with CLA member, former Commonwealth Ombudsman and now ANZ Bank ombudsman, Colin Neave, who expressed special interest in CLA's renewed Model Litigant project. He was copied in on the current CLA submission (and



the federal AG's Dept response to it) from Senator Leyonhjelm's Private Member's Bill referral to a parliamentary committee. The committee's newly extended reporting date is 28 June 2018. For copies of the CLA and the AGD submissions, see: <https://tinyurl.com/ycassvyo>

Photo: Kristine Klugman, student member Kelly McLean and Colin Neave.

Note: Credit in the May CLArion for the photo of CLA demonstrators in WA should have been Tony Howkins (not Tony Marruffo). The mistake was made by the editor.

INTERNATIONAL

Citizens enjoy new online privacy protections

From 25 May EU citizens have been enjoying a new law called the General Data Protection Regulation.

The law strengthens individual privacy rights online, and has teeth. Companies can be fined up to 4% of global revenue, equivalent to about \$2 billion for, say, Facebook.

Citizens of the European Union's 28 member states are likely to see fewer of those shoe, sporting goods or appliance ads that follow you around the internet after you do some online shopping. Online advertising in Europe could become broader, returning to styles more akin to magazines and television, where marketers have a less detailed sense of the audience.

The new law provides important privacy rights. For example, EU citizens can ask companies what information they hold on them, and then request that it be deleted. If they suspect their information is being misused or collected unnecessarily, they can complain to their national data protection regulator, which must investigate. <http://tinyurl.com/y7pyfw3g>

Stickered! How cops can track your decals

A big manufacturers of licence plate readers (LPRs) used by police throughout the world, ELSAG, last month announced a major upgrade to "allow investigators to search by color, seven body types, 34 makes, and nine visual descriptors in addition to the standard plate number, location, and time."

LPRs are specialised camera devices that can scan at speeds of up to 60 plates per second.

Scans are compared against a "hot list" before alerting the officer to the presence of a potentially wanted or stolen vehicle. All scans – even innocent ones – are typically kept in a police database.

"Using advanced computer vision software, ELSAG ALPR data can now be processed to include the vehicle's make, type—sedan, SUV, hatchback, pickup, minivan, van, box truck—and general color—red, blue, green, white and yellow," ELSAG continued. "The solution actively recognises the 34 most-common vehicle brands on US roads."

Plus, the company says, the software is now able to visually identify things like a "roof rack, spare tire, bumper sticker, or a ride-sharing company decal." We have been warned; take care what your bumper sticker says, because the cops may not like it. <http://tinyurl.com/y9l8eho6>

Who pays for the nanny state?

The World Health Organisation has called on governments to raise the price of sugar-sweetened beverages by 20% and to increase taxes on alcohol, Christopher Snowdon wrote last month.

It also supports taxes on food that is high in sugar, salt and/or fat. Michael Bloomberg, a WHO Ambassador, has set up the Task Force on Fiscal Policy to lobby for such taxes, Snowdon said.

'Sin taxes' of this kind raise the cost of living and are financially regressive. If all food and drink products that WHO regards as 'unhealthy' were subject to a 20% tax, the cost of a typical basket of goods would rise by \$800 a year in Australia. The overall cost to consumers in Australia would be billions of dollars a year, suggested Snowdon, writing for the UK Institute of Economic Affairs, said. <http://tinyurl.com/yaasvr7z>

Medicos call for end to juvenile solitary

The British Medical Association, the Royal College of Psychiatrists, and the Royal College of Paediatrics and Child Health have called for an end to the solitary confinement of children and young people held in UK detention facilities.

According to a survey from the HM Inspectorate of Prisons, 38% of boys detained in the UK have spent time in solitary confinement, physically and socially isolated from others, with almost no purposeful interaction or environmental stimuli, for periods that can stretch for up to 80 days.

Worsening staff shortages and increased violence within the youth justice system have also led to growing numbers of children being held in their cells for more than 22 hours a day, which comprises informal solitary confinement.

The damaging effect of isolation on children is unequivocal. Solitary confinement of young people, at a critical phase of neurological, physiological and social development, has a serious risk of long-term developmental impairment and psychological harm. The practice is known to be associated with increased risk of suicide and self-harm, and there is evidence that it creates problems with reintegration, and failing to tackle the root causes of disruptive or violent behaviour.

Despite a growing international consensus—from groups including the UN Committee on the Rights of the Child and the European Committee for the Prevention of Torture—that solitary confinement should never be used for children or young people, the practice is widespread not only throughout the UK youth justice system, but in many other systems worldwide.

To end this damaging practice, non-solitary options must be prioritised, and given the resources and staff required to end the damaging and futile isolation of vulnerable young people. – editorial in *The Lancet* 28 April 2018 Vol 391, No 10131 p168

Liberty chalks up wins

In the past two months, Liberty UK has chalked up some unusual wins.

The Department for Education has announced it will no longer gather place of birth and nationality data for the Home Office to use for immigration enforcement. This is a key victory in the fight against the British government's 'hostile environment' for migrants.

The House of Lords has voted to keep the Charter of Fundamental Rights after the Brits leaves the EU. Liberty won legal case against the government's flagship surveillance regime – the Investigatory Powers Act – also known as the Snoopers' Charter. The Government now has until November to amend this legislation because, as it stands, it's unlawful. <https://tinyurl.com/ya3k9kiz>

China ups ante on a place by any other name

China's cultural hegemony is causing red faces as the giant nation tries to tell the world what to call certain land divisions, and censors popular children's cartoon characters.

British icons Winnie the Pooh and Peppa Pig have been in China's sights for their political un-correctness, according to Chinese leaders. Airlines, including Qantas, have been 'ordered' not to refer to Taiwan, Hong Kong and Macau as separate countries on their flight booking websites.

Where will it all end? commentators ask. Will the world be forced to replace Double-Speak with Chi-Say?

For Australia, the question is abstract, but it is not for the people living under Chinese dominance, such as those of the formerly independent nation Tibet, high-mountain countries bordering China and India, and those whose boundary seas lap China's shores also. – SB <https://tinyurl.com/y7wmyu6y>

Chinese manipulate brainwaves to boost production

Chinese government-backed surveillance projects use brain-reading technology to detect changes in emotional states in production line employees, the military and at the helm of high-speed trains, according to the *South China Morning Post* (SCMP).

On the the production lines at Hangzhou Zhongheng Electric, workers outfitted in uniforms staff lines producing sophisticated equipment for telecommunication and other industrial sectors.

But there's one big difference – the workers wear caps to monitor their brainwaves, data that management then uses to adjust the pace of production and redesign workflows, according to the company. The company said it could increase the overall efficiency of the workers by manipulating the frequency and length of break times to reduce mental stress.

Hangzhou Zhongheng Electric is just one example of the large-scale application of brain surveillance devices to monitor people's emotions and other mental activities in the workplace, according to scientists and companies involved in the government-backed projects.

Concealed in regular safety helmets or uniform hats, the lightweight, wireless sensors constantly monitor the wearer's brainwaves and stream the data to computers that use artificial intelligence algorithms to detect emotional spikes such as depression, anxiety or rage.

The technology is in widespread use around the world but China has applied it on an unprecedented scale in factories, public transport, state-owned companies and the military to increase the competitiveness of its manufacturing industry and to maintain social stability, the SCMP said. <http://tinyurl.com/y866rpj8>

ODD SPOT:

Boundary 9-dash line promoted on tourist Ts

Tourists from China arrived in Vietnam last month wearing provocative T-shirts featuring the '9-dash' line – the Chinese-claimed South China Sea territory as an extension of the map of China. <http://tinyurl.com/y9eprfre> – SB



CCRC expands reach; equivalent needed here

The Criminal Cases Review Commission (CCRC) has begun a lecture series and stakeholder forums to spread awareness of its statutory responsibility to correct miscarriages of justice in the British legal system.

Sir Brian Leveson gave the first lecture, on 'The Pursuit of Criminal Justice' in April. He is Head of Criminal Justice in England and Wales, President of the Queen's Bench Division and the author of the 2015 Review of Efficiency of Criminal Proceedings.

The new CCRC stakeholder forum met for the first time around the same event, held at University College London. The forum promotes understanding between the CCRC and its key stakeholders and users.

The second lecture in the series, 'Joint Enterprise Appeals – have the Courts of England & Wales lost sight of justice?' will be given by CLA member, barrister Felicity Gerry QC, on 12 July 2018 at UCL, following the second meeting of the stakeholder forum the same afternoon.

Australia desperately needs a CCRC-like mechanism, to correct the 300 wrongfully convicted people CLA calculates are locked away in prisons today in this nation over miscarriages of justice in murder, rape and major assault trials. <http://tinyurl.com/y7yf2jda>

The CCRC started work in April 1997. In 21 years to the end of March 2018 it has:

- referred 650 cases
- of the 630 cases where appeals have been heard by courts, 422 appeals have been allowed and 195 dismissed (that is, 422 convicted people have been released)
- 673 cases are currently under review at the Commission and 213 are awaiting review.

Canada introduces needle exchange to prisons

Two Canadian federal prisons will offer a needle exchange program immediately as the start of a national roll-out.

The decision last month came after activists launched a lawsuit six years ago calling on the government to provide safe syringes and needles to injection drug users in federal prisons.

Male and female inmates will have access.

The percentage of HIV-positive Canadian inmates has nearly halved over the past decade, but rates of infection in prisons remain 200 times higher than among the general public, according to federal data.

Hepatitis C virus infection rates are also dropping, but the disease remains 260 times more common inside prisons than outside. <http://tinyurl.com/y8ahvpbt>

ODD SPOT: Dead man fingered to unlock phone

Police in Florida USA have crept in to a funeral home to enlist the help of a corpse they created to unlock the man's mobile phone. Avoiding the man's fiancée, who was at the funeral home at the time, they have tried to use the dead man's fingers to gain access to information. So far, the phone has stayed mute. Meanwhile investigations continue over how fellow police came to shoot the man dead in the first place, over the 'crime' of having illegal tinted windows on his car. <http://tinyurl.com/ya5mahx3>

Cambodia hits back at new US law

Cambodia is irate about a proposed new US law, the 'Cambodian Democracy Act of 2018', which would freeze assets, restrict all financial transactions with the US, and deny entry into the US of all senior Cambodian government, military and security officials who US President Donald Trump determines have "directly and substantially undermined democracy in Cambodia".

Prime Minister Hun Sen last month counterattacked by questioning the USA's respect of human rights and democracy, criticising what had happened in countries where the US had interfered.

He recalled what led to war in countries in the Middle East, like "Libya, Syria, Yemen ... and other war-torn countries such as Sudan, Mali and Central Africa. "How are human rights and democracies in those countries? No matter what, we have to continue working hard to maintain peace and uphold a multiparty democracy."

Elections will be held in Cambodia on 29 July. <http://tinyurl.com/y94v99mf> <http://tinyurl.com/ycekp8g4>

'Justice' system goes on trial over fairness

The fairness of Britain's criminal courts process went on trial last month when two men who spent a total of 24 years wrongfully imprisoned sought compensation for their ordeals.

Sam Hallam, who served seven years for murder, and Victor Nealon, who spent 17 years in jail for attempted rape, were both freed after the Court of Appeal ruled they should not have been convicted. Neither, however, has ever received any apology or recompense.

Their claims have come before the Supreme Court, which will rule on whether the law's restrictive definition of miscarriage of justice is incompatible with the presumption of "innocent until proved guilty" under the Human Rights Act. <https://tinyurl.com/ybgy7t3x>

International briefs

US gun rights kill kids: A study shows that, while child mortality progressively declined across all comparator countries, mortality in the US has been higher than in peer nations since the 1980s. From 2001 to 2010 the risk of death in the US was 76% greater for infants and 57% greater for children ages 1–19. During this decade, children ages 15–19 were 82 times more likely to die from gun homicide in the US. Over the 50-year study period, the lagging US performance amounted to over 600,000 excess deaths. <https://tinyurl.com/ya9p9ya3>

Facial ID – 92% error rate: Thousands of people in Cardiff during the 2017 Champions League football final were wrongly identified as potential criminals. South Wales police began trialling the technology in June 2017, trying to catch more criminals. The cameras scan faces in a crowd and compares them against a database of custody images. As 170,000 people arrived in the Welsh capital for the football match between Real

Madrid and Juventus, 2470 potential matches were identified. However, according to data on the force's website, 92% (2297) of those were found to be "false positives". <https://tinyurl.com/y968o6fv>

Judges vote Chief justice off the Supreme Court:

The Philippine Supreme Court has ousted its own chief justice, a critic of the country's President, Rodrigo Duterte, in a vote she and protesters called unconstitutional and a threat to democracy. Judges voted 8-6 last month to remove Maria Lourdes Sereno (photo) for allegedly failing to file statements of assets and liabilities as required by law. Sereno denies the allegation and refused to participate in the vote. Duterte is angry with her for speaking up for human rights and the rule of law in light of his brutal crackdown on illegal drugs that has left thousands of suspects dead. <https://tinyurl.com/y8tz9uen>



Zeid rebukes Israel: The UN's senior human rights official, Zeid Ra'ad al-Hussein, last month rebuked Israel, saying there was little evidence that the country's armed forces had attempted to minimise casualties during protests by Palestinians that saw dozens of protesters killed. Speaking at a special UN Human Rights Council meeting he said that, while 60 Palestinians were killed and thousands injured in a single day of protests, "on the Israeli side, one soldier was reportedly wounded, slightly, by a stone. The stark contrast in casualties on both sides is ... suggestive of a wholly disproportionate response". <https://tinyurl.com/yxcbakvfw> Zeid is to step down from his post in August 2018, after just one four-year term, due to criticism from the US and the lack of backing for him from UN heavies. <https://tinyurl.com/yd8hbykt>

Privacy goes more private: Hong Kong's privacy watchdog has all but stopped formally investigating data breach complaints with the number of cases plunging from more than 100 in 2014 to just one last year. Privacy Commissioner Stephen Wong Kai-yi conceded there had been a change in strategy in regards to investigating data breaches but said that many incidents were unintended and the alleged offenders had been cooperative. <http://tinyurl.com/ycvnybn>

ODD SPOT: Music might re-program your devices to do wrong: Researchers can now send secret audio instructions undetectable to the human ear to Apple's Siri, Amazon's Alexa and Google's Assistant, a *NY Times* report says (180511). Inside university labs, the researchers have been able to secretly activate the artificial intelligence systems on smartphones and smart speakers, making them dial phone numbers or open websites. In the wrong hands, the technology could be used to unlock doors, send money electronically or buy stuff online — simply with music playing over the radio. <http://tinyurl.com/yafxhruw>

Special programs for women and health: "Every year an estimated 22m women and girls worldwide put their lives at risk by undergoing unsafe abortions. About 225m women and girls around the world have unmet needs for modern contraception. Complications in pregnancy and childbirth remain a leading cause of death for adolescent girls aged 15–19 years in developing countries." – Justin Trudeau, Prime Minister of Canada, commenting on his country's \$670m program for women. <http://tinyurl.com/y7xja65k>

Detention cost a life in graft crackdown: A government contract worker in south-east China has died in detention during

a graft probe, the first known death since the country set up its super anti-corruption agency in March 2018. The death of Chen Yong, 45, a former driver for the Jianyang district government in Nanping, Fujian province, is likely to prompt renewed scrutiny of the watchdog's powers, the *South China Morning Post* reported. Relatives were told that Chen collapsed while being interrogated and was rushed to hospital, but he died around four hours later. The death of Chen occurred only two months after China adopted a new anti-graft law and established the NSC, which has branches at all levels of governments. <http://tinyurl.com/y8csxjxx>

Charge laid over Chinese monitoring: Alleged Chinese monitoring of students and refugees has switched to Europe, with Swedish prosecutors last month charging a 49-year-old Chinese man with espionage for allegedly gathering intelligence for China on Tibetan refugees in Sweden and Norway. The man, identified as Dorjee Gyantsan, is accused of infiltrating the Tibetan community to pass information on their personal and political activities to Chinese officials in exchange for money, according to the report in an online journal, *Outlook*. <http://tinyurl.com/y7adb76>

DATES:

1 June, Canberra: Justice Connections 5 symposium, 9-5pm, Ann Harding Centre Bldg 24, Uni Canberra. Details: 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).

1 June, Perth: 'Leading and reinventing culture: The journey of the ATO'. Speaker: Anna Michelson, Regional Director Client Service Delivery of the Australian Tax Office Perth, 2.45-5pm, ECU Council Chambers, 270 Joondalup Dr, Joondalup. Info: <https://tinyurl.com/y7493z3>

5 June, Sydney: An evening with Manuel Cardoso, the man who reformed Portugal's drug policy. 6-8.30pm, St Stephen's Uniting Church, 197 Macquarie St. <http://tinyurl.com/y7m75s6o>

6 June, Sydney: Malaysia's electoral earthquake: what comes next? Lowy Institute Director of SE Asia Project, Aaron Connelly; Amrita Malhi, visiting fellow ANU School of Asia Pacific Affairs; James Chin, director Asia Institute Tasmania; and Kean Wong, contributing editor at *New Mandala*. Lowy Institute 12.45-1.45pm <http://tinyurl.com/y9rfymwp>

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: Council Of Australian Tribunals national conference. Keynote: Robert French, former CJ High Court of Australia. 'Automating Justice? Rights and Liberties in a Digital World', Prof Genevieve Bell, ANU and Director of 3A Institute

12 June, Brisbane: Prof Jonathan Crowe, Bond U, on 'The authentic judge: French existentialism and the judicial role', French Australian Lawyers Society, Qld Parliament House Red Chamber. Details: <http://tinyurl.com/yck44elo>

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>

21-22 June, Canberra: Timor-Leste Update: At The Crossroads? Hedley Bull Centre, ANU. Details: <http://tinyurl.com/yd3jmm4g>

22 June, Adelaide: Adelaide Law School's 'Images of Justice' winners announced. 5.30-7.30pm, foyer, 10 Pulteney St Adelaide. Details: <https://tinyurl.com/y6v5f3bs>

28 June, Canberra: Global health and development leader Prof Sir Richard Feachem will deliver the 2018 Mitchell Oration on 'Re-engineering the aid industry: a priority for the 21st century'. Details: <http://tinyurl.com/y9tvk72y>

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>

11 July, Brisbane: System Failure: Over-representation of Aboriginal and Torres Strait Islander Women in Prison. Speakers Jacqui Payne, Antoinette Braybrook, Nete-Rie Mabo. Wesley House, 140 Ann St. 5.30-6.30pm. Details: <https://tinyurl.com/yda6em3v>

12 July, London: CLA member Felicity Gerry QC speaks at the Criminal Cases Review Commission stakeholder forum event on 'Joint Enterprise Appeals – have the Courts of England & Wales lost sight of justice?' University College London.

12-13 July, Thailand: International Conference on Business & Human Rights: Holding Governments Accountable in Asia at Asia Centre, Bangkok. Details: <http://tinyurl.com/yd3h2z6k>

18-20 July, 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/>

1 Aug, Launceston: Tamar Valley Peace Festival: The Future of Feminism and Diversity: A Conversation with Sara Mansour (photo) – the lawyer, poet and feminist with UTAS Inst for the Study of Social Change deputy director, Dr Meredith Nash. Annexe Theatre, School of Creative Arts UTAS, Inveresk Campus, Launceston. Details: <https://tinyurl.com/ybbbwk4a>



15 Aug, Darwin: Vincent Lingiari memorial lecture, by Josie Crawshaw. a Gurindji woman, Indigenous rights campaigner and current co-chair of the Uluru Statement Working Group. She will speak on the fundamental and vital elements for change contained in the 2017 Uluru Statement of the Heart. <https://tinyurl.com/yb4m9x9c>

2-3 Nov, Canberra: Annual ANU Public Law weekend. Speakers include High Court's Justice Stephen Gageler. Details: <http://tinyurl.com/y8kcaon2>

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

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 Website: <http://ichre2018.com.au>

2019:

July: International Bar conference, Singapore

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)

ENDS ENDS ENDS