

Parliament is back, at odds with humanity

Australia's 46th Parliament assembles on 2 July, firmly focused on tax revenue, the economy, security and further draconian laws that will continue the process of making Australia a less humane nation.

The election which produced the parliament was wholly dominated by economic issues. People's liberties and freedoms and our nation's capacity and need to develop in the social sense was entirely overlooked. The legislative program ahead in the human rights area looks likely to follow suit.

Civil Liberties Australia wants the government to concentrate on growing Australians' freedoms and expanding our rights, particularly in currently topical areas:

- open, transparent government, facilitated by encouraging whistleblowers acting in the public interest;
- media freedom to report the sins and omissions of government;
- equal freedom of speech for people who don't believe in religion, and equal treatment under the law;
- the right to choose death, and help to die if needed, as much as the right to choose to keep living:
and
- a law for a bill of rights, leading ultimately to a constitutional change as was done in Canada after a 25-year adjustment period.

But instead, high on the government's agenda is:

- cutting taxes for all, including the wealthiest Australians and the richest Australian companies;
- further penalising refugee claimants detained six years already and living in the hell of a permanent legal limbo*;
- ramping up security laws and police powers, and continuing to devote grossly excess and imbalanced funds to "security", including on their fear-provoking, funereal black equipment and ill-distributed staff;
- for the third parliament in a row, keeping a "religious freedoms" issue on the boil to continue to divide Australians; and
- introducing a new vigilantism to Australia via a national sex offenders register.

Stand by for more extreme views and proposals as battles within the ruling Coalition for strategic control of the agenda come up against the marketing mantra of our newly-endorsed Prime Minister.

* reports from Papua New Guinea indicate that a refugee on Manus who attempted suicide by setting himself alight is to be prosecuted for attempted suicide and for arson, for which the punishment can be a sentence of life in prison.

SPECIAL REPORT: Media law, public right to know

Media rights, comment freedoms and defamation law in turmoil

Cases before the courts illustrate the mess that exists in Australia around the legal area of freedom of speech, media rights, the ABC's right to report on alleged public servant misbehaviour, the right to blow the whistle on government errors and omissions, and the highly vexed question of defamation law in this country.

One inquiry should examine the raft of issues, rather than handling them piecemeal, but that's unlikely.



The most critical area is ensuring proper governance. Australia needs better laws and regulations to supervise parliaments, politicians and public servants. They are largely protected from their own misfeasance, malpractice and law-breaking by a legal system and a secrecy culture that emphasises covering up bad behaviour rather than correcting it and learning from it.

Australia has taken cultural guidance from America for nearly a century. What we should adopt is that part of the USA's culture, guaranteed by their bill of rights, of openness and freedom of speech and access. That would include access by the media to sources and documents, as well as whistleblower protections and what is known as Qui Tam provisions. Under Qui Tam, anyone revealing mismanagement, gross waste or law breaking can share in the penalty imposed and funds saved.

In particular, Australia should adopt the principle that all material prepared for government by those paid by the public purse belongs to the people, and cannot be restricted (for example, regarding copyright) unless there is an absolutely necessity for national security. It's fair to say the reverse of that principle applies in Australia.

'Live' cases will shape how laws develop

Cases that will have a significant impact on future law, and current causes for concern, include:

- David McBride whistleblowing
- Michelle Banerji right to freedom of a public servant to comment anonymously
- Witness K and Bernard Collaery over ASIO/ASIS bugging of the Timor Lest Cabiner
- Israel Folau contract dispute
- Ben Roberts-Smith defamation claim
- Dylan Voller defamation over Facebook posts and mainstream news outlets
- ABC raids over alleged Afghanistan war illegality, and the legality of the raid warrants

CLA speaks in support of McBride

"Civil Liberties Australia is here to support Mc Bride, but this individual's case obscures a much bigger issue," CLA CEO Bill Rowlings said in front of assembled demonstrators outside the ACT courts precinct late last month.

"All information, data and images collected by employees paid from the public purse belongs to the people, not to the collectors, or to our rulers. Only in the most exceptional circumstances should anything collected be treated as secret.

"If the information suggests a hint, a whiff, of misbehaviour, malpractice or malice, it demands to be made public as soon as possible

"The default must be openness and disclosure, as in America... not obsessive secrecy and cover-ups, like in Australia currently



Photo shows CLA members at the McBride demo: left to right, Tyler Graves, President Dr Kristine Klugman, and demo co-organiser Kathryn Kelly who is also of IPAN.

"The courts have a role to rule on behalf of the people, not the all-powerful political and bureaucratic elites.

"For that reason, McBride must be exonerated on the basis of his integrity, courage and stance for the public good

"Those with something to hide are trying to take shelter behind a twisted interpretation of the rule of law, but the rule of life says we want hundreds of McBrides out in the open, not locked away in jails.

"Civil Liberties Australia calls on the Supreme Court to find a way to deliver justice, not just legality," Rowlings said.

Organisations fight back against police raids

The ABC has launched legal action over the police raid on its Sydney headquarters, while News Corp Australia is expected to take action over a raid on the home of a journalist.

The ABC has applied in the Federal Court to set aside the warrant that authorised the AFP raid on 5 June. It demands the return of seized files, and wants a permanent injunction to prevent the AFP from accessing the material seized.

The ABC's Ultimo offices were raided on June 5 in relation to stories published in 2017 alleging Australian soldiers may have carried out unlawful killings in Afghanistan, based on leaked Defence papers.

News Corp last month said it intended to challenge the validity of the warrant the AFP used to raid the Canberra home of journalist Annika Smethurst. That warrant executed on 4 June 4 was over the 2018 publication of a leaked plan to allow the Australian Signals Directorate to spy on Australians. <http://tinyurl.com/y2b4ebkr>

Media union lashes govt bid to hide news

"The raids, a raft of recent national security laws, and the prosecutions of whistleblowers Richard Boyle, David McBride and Witness K all demonstrate the public's right to know is being harmed. Truth-telling is being punished," the MEAA said last month.

"A healthy democracy cannot function without its media being free to bring to light uncomfortable truths, to scrutinise the powerful and inform our communities.

"Investigative journalism cannot survive without the courage of whistleblowers, motivated by concern for their fellow citizens, who seek to bring to light instances of wrongdoing, illegal activities, fraud, corruption and threats to public health and safety.

"These are issues of public interest, of the public's right to know."

– from an open letter last month to the PM, Opposition Leader and Australian Parliament from the Media, Entertainment and Media Alliance, other news entities and top journalists.

ODD SPOT: Referendum to implant press rights

Senator Rex Patrick (Centre Alliance, SA) will move to hold a referendum to insert freedom of speech and freedom of the press provisions into the Australian constitution. This would enshrine these rights into law, rather than simply being implied. – private correspondence 190624.

Inquiry needed into the issuing of warrants

In the past six weeks – less time than annual year-end school holidays – Australia has peacefully elected a new federal government, yet obviously become a police state.

The former appears to have emboldened the latter, CLA's CEO, Bill Rowlings, said.

“Once a conservative government and hardline Minister became re-endorsed in their old roles, Australian Federal Police force bosses took that as a signal of open slather approval to raid the media.”

The raids were so over the top that the warrant served on the ABC allows the AFP to “add, copy, delete or alter” material in the ABC's computers, he said.

“That is, the national police can decide what the national broadcaster can record,” Mr Rowlings said.

“And the national police can alter, as they see fit, or delete gathered news data, information and items.

“That's a pretty good definition of a police state,” he said.

“No warrant so broad should ever have been signed by an approving authority. The law must change so that only a High Court judge has the power to issue a warrant in similar circumstances.”



Little protection for our – and media – rights

Crikey's Bernard Keane reminded people of what CLA has been saying for a decade and a half:

“If the media, distracted by the next shiny thing, loses interest in

depredations of the police state, Australia has few civil society bodies to pursue the issue,” Keane wrote.

“Unlike in other Anglophone countries, there is no real oversight of them by parliament — not while the Parliamentary Committee on Intelligence and Security remains unreformed.

“They can hide behind ‘national security’ and ‘that's an operational matter’ to block Senate committee probing.

“And remember, these raids are the result of senior bureaucrats and government ministers responding

to being embarrassed. Imagine what it would be like if someone genuinely malicious, with an agenda of corruption or other criminal intent, had access to such power?” Keane said.

“A system that relies on the goodwill of its operators to not inflict damage on society is a disaster waiting to happen.

“What's needed is a constitutional, or entrenched, bill of rights that would provide a systemic protection — one that would enable the media and civil society groups to litigate against government agencies to prevent them from abusing basic rights, or obtain redress if they do.”

– Bernard Keane, politics editor, *Crikey* 190606

ODD SPOT: Police can write what they like

Emily Watkins of *Crikey* reported: “The breadth of the access warrant not only allows them to search but modify, delete and install new things on the network.”

Media laws, raids and warrants fit a pattern of repressive suppression

Monash University Deputy Head of Journalism, associate professor Johan Lidberg said that, at last count there were 64 new laws and amendments related to national security since 2001.

“That's by far a world leader and a dubious world record,” he said***.

Authorities also have less-visible powers relating to data surveillance and data retention that Qld Uni law lecturer Rebecca Ananian-Welsh said were even more worrying.

“There are so many covert powers that can be exercised,” she said. “This is the tip of the iceberg ... these raids are worrying just because of how many other powers we don't know they're using.”

Civil Liberties Australia produced the first full accounting of the terror laws introduced since 2001, when our ANU Law intern Amanda Alford spent three months working with the Parliamentary Senate and Library. At the back of the end of 2006, she found that the number of new laws was more than 50 and the expenditure more than \$10 billion..

CLA believes the number of laws is now well over 100, and the expenditure probably more than \$40 billion. The national spend is poorly targeted, and completely disproportionate to the threat facing Australia, security critics and CLA believe. <https://www.cla.asn.au/News/the-alford-report-seeking-the-balance-fo/> NB: Prof Lidberg is a former member of CLA.

ABC raids:

NY Times Editorial Board comment:

<https://www.nytimes.com/2019/06/06/opinion/australia-journalists-police-raids.html?>

Guardian report: <https://www.theguardian.com/media/2019/jun/08/it-sends-shockwaves-through-your-life-how-the-media-raids-will-silence-whistleblowers?>

Voller wins against mainstream media

Former NT youth detainee Dylan Voller has won against three of Australia's largest media organisations in a defamation case involving Facebook posts by the public.

NSW Supreme Court judge Stephen Rothman found that the news organisations could have chosen to monitor or hide the comments. He has not yet ruled on whether the material contained in the comments was defamatory.

Voller brought a civil case against *Fairfax Media*, *Nationwide News* and *Sky News* over comments posted in reply to articles placed on the social media platform between July 2016 and June 2017. The posts were made on the Facebook pages of the *SMH*, *The Australian*, *Sky News*, *The Bolt Report* and *The Centralian Advocate*.

In his statement of claim Mr Voller — whose case of mistreatment at the Don Dale Youth Detention Centre sparked a royal commission — said the defendants should have known there was a "significant risk of defamatory observations" after placing the articles online.

Judge Rothman ruled the media organisations could be considered publishers of the third-party comments and were therefore liable for them. The court is yet to rule on whether the material contained in the comments was defamatory.

The ruling, which is highly likely to be appealed, has huge ramifications for mainstream media. It also leaves Facebook, Twitter and other social media outlets free to be totally irresponsible for all that they "publish" (despite their claims to not be 'publishers'), which hardly seems reasonable, CLA says. <http://tinyurl.com/y6c3ayk5>

ENDS Special report: Media

Aged Care RC pushes better advance planning

The Royal Commission into Aged Care has produced a background paper on Advance Care Planning in Australia: <http://tinyurl.com/y2z6hrel>

"Advance care planning has been shown to reduce unnecessary transfers from a residential aged care facility to a hospital and decrease a person's level of worry and anxiety about their future. (It) can also have benefits for the person's family, by improving the family's understanding of the person's wishes and reducing stress, anxiety and depression in the surviving family by helping them prepare for a death." the paper says.

It also says that advance care planning may decrease depressive symptoms of people with dementia and is particularly relevant for anyone approaching end-of-life.

Rapporteur Alston warns of 'climate apartheid'

The world is increasingly at risk of "climate apartheid", says the Australian Philip Alston (photo), UN special rapporteur on extreme poverty and human rights, 'Climate apartheid is where the rich pay to escape heat and hunger caused by the escalating climate crisis while the rest of the world suffers.

Alston said the impacts of global heating are likely to undermine not only basic rights to life, water, food, and housing for hundreds of millions of people, but also democracy and the rule of law.

Alston is critical of the "patently inadequate" steps taken by the UN itself, countries, NGOs and businesses, saying they are "entirely disproportionate to the urgency and magnitude of the threat".

His report to the UN human rights council concludes: "Human rights might not survive the coming upheaval." <http://tinyurl.com/yy3h64dd>



Taxpayers foot bill for expanding prisons

A year ago, there were about 43,000 people in Australia's prisons. About 65,00 Australian go through prison each year. About 85% are men, with a median age of 33.

About 38% are Indigenous: Indigenous people make up less than 3% of the population. About 90% of prisoners were born in Australia. Of the 43,000, one-third (32%) were on remand – that is, in jail but not convicted/sentenced.

Each person in prison costs the taxpayers about \$107,000 each year, CLA notes.

The findings are part of the 5th National Prisoner Health Data Collection, conducted in 2018 by the Australian Institute of Health and Welfare (AIHW).

Fuller article: <https://www.cla.asn.au/News/prison-figures-tell-tale-of-lament-for-taxpayers/>

Prison numbers may rise exponentially

Australia could see its prison population rise to six figures if more is not done to stop the revolving door of re-offending, according to the convenor of a prisoner reintegration conference being held by Deakin University in Darwin this week.

Deakin School of Psychology Professor Joe Graffam said an urgent re-think was needed

regarding Australia's criminal justice system, with prisons increasingly used as places to warehouse people facing difficulties associated with poverty, homelessness, mental ill-health, cognitive impairment and substance abuse.

"Australia's growing prison population is an enormous issue, particularly the over-imprisonment of our Indigenous people," Professor Graffam said.

"There are more than 40,000 people locked up in Australia today. The figure was fewer than 10,000 in 1980 and, if we keep going the way we are, the prison population will be over 100,000 in a few decades, because the rate of imprisoning people just keeps increasing.

"The vast majority of these people are not dangerous, violent criminals. Most people in jail are there for less than 12 months, serving sentences for non-violent crimes related to poverty, mental ill-health issues or drug use."

Darwin hosted 200 delegates at the 15th annual Reintegration Puzzle Conference from 26-28 June 2019. <http://tinyurl.com/y2fmggvj>

NOTE: Queensland Productivity Commission report into prisons is due in August 2019. <https://www.qpc.qld.gov.au/inquiries/imprisonment/> Qld bets on financial inquiry to stop jails leaking money: <http://tinyurl.com/y64db83c> CLA's submission can be downloaded from here: <http://tinyurl.com/yxu24zxb> (It is submission No 5).

ODD SPOT: During 2017–18, prisons in Australia were operating at 116% of design capacity, meaning that there were more people in prison than the prisons were designed to accommodate (this excludes NSW Victoria and SA, which did not provide data) (Productivity Commission 2019). – AIHW 2019: 'The Health of Australia's prisoners 2018', Australian Institute of Health and Welfare ISBN 978-1-76054-531-4 (Print) <https://www.aihw.gov.au/reports/prisoners/health-australia-prisoners-2018/contents/table-of-contents>

Bail refusal and remand detention impose cruel and unusual punishment

The number of people in NSW refused bail and then later found to be innocent has risen by 30% since 2014, with more than 200 people, including 21 children, forced to wait in prison for sometimes more than a year before being acquitted.

The imprisonment of innocent children is "unimaginable," Child Abuse Prevention Services' Tracy McLeod Howe said. "It's never OK to incarcerate a child. We know that incarceration only perpetuates an underlying problem. What we would hope is that in NSW we will start to see a much more empathetic and positive response to young people who commit offences," she told the *SMH*.

"We need to take a close, hard look at law-making, policing, prosecutors and how the courts work to solve this problem," CLA's CEO Bill Rowlings said. "Nationally, there is a dire need for wholesale legal system reform, from the ground up. It's a growing emergency," he said.

Of 204 innocent people who had been refused bail in 2018, prison stays on remand stretched past 500 days for some adults in the District Court, NSW Bureau of Crime Statistics data shows. <http://tinyurl.com/y278khwj>

The 21 children found not guilty in 2018 waited for an average of 124 days, BOCSAR deputy director Jackie Fitzgerald said. The number of people sentenced to time served, after being held on remand, increased from 472 in 2013/14 to 781 in 2017/18, a rise of 65% over five years. <http://tinyurl.com/y47n8d5d>

WA, Qld spend up big on the wrong 'cellular'

The WA government announced a \$186m upgrade of cell capacity for one of its main prisons, Casuarina, in the recent state budget.

The funding will add 344 extra beds to the 512 announced in February 2019, taking the prison's general capacity to 1782 in three years. Had the government not allocated the funds, demand for beds would have exceeded supply by 2022.

Bunbury prison is due to open another new 160 beds in August 2019 at a cost of about \$24m.

WA needs to learn that it should change its arrest and detention policies and practices, particularly in relation to juveniles, or its prison-building program will be Australia's largest, and taxes will need to rise sharply, CLA notes. <http://tinyurl.com/y4nfnum4>

This year's Queensland budget revealed \$620 million to build stage two of the Southern Qld Correctional Centre to tackle the overcrowding crisis in the state's prisons. Taskforce Flaxton, which examined corruption risks in Queensland prisons, revealed the state's jails were at 125 per cent capacity, citing overcrowding as a serious issue. <http://tinyurl.com/y4dkzl67>

Secret meeting decides medicine costs, pay rates and who can sue

Negotiators from 16 countries in the giant Regional Comprehensive Economic Partnership (RCEP) trade deal are meeting behind closed doors in Melbourne June 28 to July 3 to produce a secret deal that will govern much of our day-to-day lives.

The talks include China, India, Japan, South Korea, Australia, NZ and 10 ASEAN countries, representing half the world's population and 30% of global GDP.

"Fifty-two diverse community organisations, representing millions of Australians, have written to



the Trade Minister demanding the release of negotiating texts and asking the government to oppose clauses that would give greater rights to global corporations at the expense of peoples' rights," Dr Patricia

Ranald (photo), AFTINET convener, said last month.

Those endorsing the letter are a very diverse mix including ActionAid, the ACTU, the Australian Conservation Foundation, Friends of the Earth, the Public Health Association of Australia, the Australian Catholic Social Justice Council, Caritas and Civil Liberties Australia.

She said that community groups were speaking out because leaked negotiation texts show that the RCEP could include:

- Investor-State Dispute Settlement (ISDS) provisions that allow global corporations to sue governments over health and environment laws,
- proposals for longer medicine monopolies that would delay availability of cheaper medicines,
- proposals for more vulnerable temporary workers that would face exploitation, and
- proposals to encourage privatisation and reduce rights for governments to regulate essential services.

"We also want the inclusion of enforceable labour rights and environmental standards which are not included in current negotiations," she said.

Those signing the letter want an end to secrecy in trade negotiations. Currently trade deals are not released to the public or parliament until after they are signed.

"The letter demands public release of the text, an independent assessment of economic, health, gender, environmental and regional impacts before the text is signed, and for the Australian Parliament to vote on the whole agreement," Dr Ranald said. – media release, AFTINET, 190626

A public forum and a rally will be held in Melbourne on 1 and 2 July. <http://aftinet.org.au/cms/>

Govt slashes humanities as military-police-spook complex mushrooms

The National Archives of Australia and the Australian Security Intelligence Organisation, ASIO, have defended long delays faced by people requesting access to historical documents.

More than half of the current requests made to the archives for documents held by the archives are still waiting to be processed more than 90 days after the request was made, falling outside the period in which the Archives is meant to provide documents or explain why access hasn't been granted.

Access to ASIO documents more than 20 years old can be made through the National Archives, who then make the decision regarding access in consultation with the spy agency.

According to newly released data, out of 420 open applications for documents, some 30 per cent of applications have been waiting for more than four years. More than half the open applications have been open for longer than a year, and the longest open application has been waiting for 11 years and five months. <http://tinyurl.com/y2ydax69>

Cataloguing photo collections donated to the Archives is years behind schedule, CLA believes. More staff are needed to prevent cataloguing delays of a decade or more. One of the jobs held up is that of the collection donated by former High Court judge Michael Kirby, an avid photographer throughout his career.

Massive over-allocation of public moneys to the defence sphere and police-security is stifling the community and humanities sector federally, CLA believes. The imbalance began nearly 20 years ago, and continues apace with the proposed grant of \$0.5 billion for turning the Australian War Memorial into a Disney-like theme park for propagandising war to children and visitors.

Kevin Andrews may choose to end his own life: Territorians can't even vote on it

Victorians over 18 now have the right to help to end their lives if of sound mind and facing death within the next 6 to 12 months. There are very stringent safeguards in the law, which became effective last month.

Queensland and WA are considering enacting similar voluntary assisted dying (VAD) legislation, and a new inquiry has just begun in SA (see below).

In WA, people with Alzheimer's disease or dementia will not be able to access euthanasia under the WA proposed voluntary assisted dying law released late in June.

An expert advisory panel, led by barrister and former WA governor Malcolm McCusker and with 10 experts in the areas of aged care, medicine and law, delivered its report to State Parliament, handing down 31 recommendations including strict guidelines on who can access euthanasia.

Euthanasia would be limited to people who have decision making capacity, with an eligible condition, and where death is reasonably foreseeable within 12 months. <http://tinyurl.com/ycsvcaff>

In 1995, the NT parliament passed a Rights of the Terminally Ill Act, to allow assisted dying, but it was overturned in 1997 by federal law. Under the short-lived NT legislation, four people, including two terminally ill patients from NSW and SA, ended their lives.

Liberal Kevin Andrews in 1997 introduced a federal law that prevented the NT and the ACT from legislating on assisted dying.

The ultimate irony is that, now, Kevin Andrews – who is a resident of Victoria – has the right and the option to end his own life, but he and the federal parliament continue to deny an equivalent democratically-chosen option of choice to about 650,000 Territorians in the ACT and NT.

SA Parliament opens inquiry

The new End of Life Choices Joint Committee of the South Australian Parliament is taking submissions.

These can come from national and international sources – submitting is not limited to SA people. Submissions are due by 2 August. Details: <http://tinyurl.com/yxbsvwpq>

NT delays juvenile spending

The NT government won't build a new juvenile detention centre in Alice Springs, but will spend \$10 million on upgrading the facility, the NT's recent 2019 Budget announced.

It also allocated \$60 million to build a new youth justice centre in Darwin to replace the notorious Don Dale facility, following recommendations of the Royal Commission into the Protection and Detention of Children in the NT.

In what is becoming Australia's surveillance capital territory, the NT will also spend \$2.25 million upgrading CCTV cameras at both Don Dale and Alice Springs Youth Detention Centres. The upgrades include increasing surveillance cameras and data storage capacity.

About \$1m will be spent to improve and maintain the facilities at Don Dale in the interim, and a similar amount to upgrade the female accommodation at the centre. – NT Budget media release 190530

Govt to make election spending more transparent

The NT government is amending its *Electoral Act 2004* to improve the openness, accountability and transparency of elections, political parties and political donations, Chief Minister Michael Gunner (photo) says.



The amendments include:

- Capping what parties (\$1m) and candidates (\$25,000 each) can spend on a campaign.
- Improving reporting requirements and disclosures in election years and the lead up to election day.
- Making up-to-date donation information available on line for people.

- Third party campaigners and associated groups must register, and there'll be caps on spending.
- Penalties will be jail for up to 10 years or fines of up to \$232,500 – CM media release 190629

The changes follow an independent inquiry by Commissioner John Mansfield. But the government has wimped it on adopting public election funding and therefore capping political donations until at least after the August 2020 NT election.

A Town Like Surveillance

The NT government is imposing near-maximum surveillance on citizens of Alice Springs in a bid to curb crime and anti-social behaviour – that is, boozing and the resulting bad behaviour.

Of the 10 mobile CCTV cameras in total across the Territory, six will be in Alice Springs.

They are being strategically placed in anti-social hotspots so police can identify and prosecute “those caught doing the wrong thing”, according to Territory Families Minister Dale Wakefield. “The cameras are also used to monitor alcohol supply to fight alcohol-related crime and the secondary supply of alcohol,” her media release says. Police monitor the cameras at each location 24/7.

The mobile CCTV cameras are part of a \$5 million investment towards CPTED “crime prevention through environmental design” initiatives in Alice Springs, the Minister says. – media release 190604

Perth welcomes Big Brother prying

Big Brother arrives officially in Perth this month as Perth City council switches on the recording of facial photos in the streets of East Perth.

Some 30 cameras can capture people's faces, file them on a database and then use software to compare with a photo from other sources. No-one – resident, visitor, man, woman, child – will be exempt: everyone's face can be captured and made available for police or security searches.

The cameras can use artificial intelligence to recognise faces and count people and cars. They can also track people through the streets, being activated in advance to follow known troublemakers.

Federal authorities have built a photo database of potentially some six million photos simply from drivers' licences, so Big Brother surveillance is now an official part of Australia's police state.

No-one will ever know whether they are on a watch list. <http://tinyurl.com/y4vghsav> and <http://tinyurl.com/y4j7j8e2> and <https://www.cla.asn.au/News/watch-out-youre-idd-recordedand-data-banked/>

ODD SPOT: Logged and locked in, your privacy is lost: "...you may have a Gmail account...but your information is being stored in America," says Prof Katina Michael, U. of Wollongong. "Services like Paypal, which is now used by more than 7 million Australians, shares its user data with over 600 different third parties," according to this article. <http://tinyurl.com/y4plxndj>

Technique replaces force for police

An alternative to potentially deadly stun guns – or actually deadly bullets – came to light during a meeting between CLA WA Board Member Margaret Howkins and a former policeman from South Korea last month.

She learned that training in Hapkido is mandatory: police apply this martial art to achieve non-lethal 'takedowns'. She was told that civilian deaths from contact with police in South Korea are extremely rare, and are categorised as criminal. Police serve the people safely or accept the consequences, she learned.

Cunningham is new Dean of Law

Professor Robert Cunningham has been appointed Dean-Head of Curtin U. Law School in Perth.

Prof Cunningham and his wife, Catherine Atoms, have been CLA members for the past two years. They were assaulted with stun guns by WA Police and eventually received about \$1m total compensation after a 10-year legal battle.

He is an internationally recognised academic and barrister who brings more than 20 years of experience to his new role. Prof Cunningham's research expertise in law, technology and intellectual property will support his role to deliver Curtin Law School's vision, the media release announcing his appointment says.

Australian briefs

Moving doco provides hope: CLA members Marion McConnell and Bill Bush of Family and Friends for Drug Law Reform report that the *'Half Million Steps'* documentary launched at the Chauvel Theatre in Sydney last month was not only incredibly moving but full of facts and truths. The Uniting Church made the doco after a 400km walk for *#FairTreatment* from Dubbo to Sydney, collecting stories from people suffering drug dependency and showing how crazy laws are and how difficult it is to get treatment. "It is the most hope I, personally, have felt in a long time," Marion reported. The doco will show at venues throughout Australia. – personal report.

Third state about to bring in 'Right to Appeal' (R2A): A bill is to amend the Criminal Appeals Act 2004 (WA) is about to be voted on in

the Upper House. It will introduce a new R2A for a convicted prisoner to appeal if there is either fresh and compelling or new and compelling, evidence relating to the conviction offence. WA would join SA and Tasmania with the provision: Queensland and the ACT are also seriously considering introducing the 'fairness' law. - MH/BR

Inquiry will examine local councils

A long-awaited inquiry into the vagaries and vicissitudes of local government in WA looks set to start soon.

Simon O'Brien, a Liberal MLC who is Shadow Minister for Electoral Affairs, put a motion before the WA Upper House late last month, calling for a Select Committee into Local Government specifically to examine how well it is functioning.

The inquiry will include examining how the department of local government operates, the role and responsibilities of elected members and CEOs, and whether the current legislation has the scope, construction and application it needs. The motion passed 20 votes to 11.

Members' contributions

Press freedom and democracy

Your editorial ('Dangerous intimidations hurt public's right to know', 'Australian' 190605) is worrying. The AFP raid on News Corp journalist Annika Smethurst's home is a sign that press freedom and our democracy is under threat. Smethurst's plight cannot be dissociated from the Julian Assange case. Assange could be extradited to the US and face life imprisonment for exposing US war crimes and crimes against humanity in the Middle East and elsewhere. It is time that News Corp cried foul for the plight of Smethurst and Assange if we are to save press freedom and democracy in Australia. – Bill Mathew, Parkville, Vic.

Citizens have a responsibility to know

The recent police raids on the home of a journalist and the HQs of our national broadcaster are extreme, even by Australian standards, and raise a number of questions. Just what is our government seeking to conceal from us? And why? Is it not a matter of public interest that government agencies appear to be pursuing enhanced powers of surveillance over Australian citizens? Shouldn't we be concerned that some of our troops abroad may have engaged in conduct that reflects poorly on our defence force? Why have we seen such a ferocious reaction to these disclosures? What lies ahead?

Responsibilities of citizenship require that we know, as far as practicable, what the government and its agents are doing in our name, and with our tax dollars. For a government to fall back on the mantra of national security as a cynical tool to maintain

public ignorance of its deficiencies is the practice of dictatorships, not democracies. – Peter Grabosky, Forrest ACT

Hidden crimes need to see the light

Exposing war crimes committed by the Australian military is not a threat to national security. Keeping them secret is. – Fred Pilcher, Kaleen ACT

A new member who reached ‘tipping point’ and why she joined CLA:

The AFP raids, and the response of the PM to those raids last week were the actual prompt for me. After the raids, I was really sad and angry. These feelings were not new; they had arisen many times about so many things that are happening in Australia and in the name of Australians over the last several years: asylum seekers, whistle blowers, attacks on unions, the seeming invulnerability of politicians who engage in poor behaviour are but a few. However, it seemed I had reached a tipping point. I felt powerless. I felt that just writing comments & posting material to social media/ news media, signing petitions and writing letters/emails were no longer enough. Those actions seem to go nowhere. I felt the need to get more actively involved in fighting a range of situations current in Australia. One way to get more involved is to join more groups who are fighting for similar things...I was particularly interested in activities that address human rights and civil liberties more directly. So I went looking online and found CLA. – Dianne Longson, Emu Downs SA.

CLA report – main activities June 2019



Civil Liberties Australia is hosting ANU Law intern Tyler Graves (photo, with CLA CEO Bill Rowlings) on parole issues, and on how CLA operates as a

voluntary community group. Tyler is working at CLA’s home office two days a week for five weeks. He is undertaking a formal analysis of parole laws and provisions in the ACT, NT and SA, and will produce a 4500-word report on which he will be marked.

As well he is learning how an NGO operates, particularly one in the field of rights and freedoms, under a course outline developed by CLA.

Members’ meetings:

Christian Bennett re CLA current projects;
Skype meetings with CLA WA director Margaret Howkins;

Elly McLean and Tim Vines re student involvement;
Dr Chris Michaelsen re submission on press freedoms across “5 Eyes” and possible grant on populism;

Farewell of former Director Saskia Vervoorn and current VP and national media spokesperson, Tim Vines, who are moving to NZ for Saskia to take on a major government post in tourism; and Promising contacts in NT and SA being developed.

Networking meetings and contacts:

- Vintage Reds talk by Meredith Burgmann on her personal story of the Springbok Rugby tour in 1970s;
- Positive email exchange with editor *Canberra Times* on whistleblowers;
- Email correspondence with Human Rights Law Centre re national bill of rights (NB: CLA continues to concentrate on achieving a state-by-territory rollout);
- Emailed our support of Senator Rex Patrick re his criticism of raids by AFP on *ABC*;
- Email correspondence with CLA member Sandra Nelson, MLA NT, re improving laws relating to juveniles, as well as possible NT human rights legislation; and
- Director Jennifer Ashton attended DFAT NGO consultations for CLA.
- Attended protest action (Thursday 27 June at 8.40am in front of the ACT Supreme Court where whistleblower David McBride is facing court) to protest his prosecution and attack on the media and citizens’ civil liberties. He faces up to 60 years in jail.

Tasmania report:

The lodging of appeal documents in the Sue Neill-Fraser case is expected shortly;

Tas Human Rights campaign to be re-launched by CLA Director and campaign manager Richard Griggs.

Other:

CLA’s ‘*Song of Freedom*’ received from the recording artist The Bard, Eureka Records: suggestions for application welcome.

Freedom of the press matrix for submissions developed: Tim Vines, Bill Rowlings

Course outline for NGO non-profits devised: Bill Rowlings

WA report:

CLA WA Director Margaret Howkins, with CLA members Christina Marruffo and Kathryn Lance attended a Perth breakfast meeting on 15 June to catch up on the news of how female candidates

fared in the recent federal election. Five women expressed interest in joining CLA after receiving copies of *CLArion* newsletter. One became a member immediately. Margaret sourced names of Police contacts with whom to discuss Police Investigating Police (CLA's PIP project, which she is championing).

She has collated, after wide input, draft 3 of 'Principles of Independent Investigation' after hefty research on 'Police Investigating Police: A Critical Analysis of the Literature'. Meetings are scheduled for July with two police personnel and a lawyer to gain local insights into practical police protocols.

LETTERS WA: The WA Director received correspondence from two current rural members expressing appreciation for the quality of *CLArion*'s monthly news: they updated their membership. She received two letters from Sue Neil-Fraser (SNF, who has been wrongly imprisoned for murder in Tasmania and is patiently awaiting a new appeal hearing), and responded. SNF remains strong, humorous and generous, assisting fellow female prisoners, after 10 years inside, Director Howkins report. She also received a letter from a prisoner at Acacia Prison, confirming that – thanks to CLA and others – the local Innocence Project has agreed to work on his case.

Media:

Vice-President and National Media Spokesperson Tim Vines did an interview with Perth Indymedia RTR fm92.1 last month re 'Big Brother arrives officially in Perth' (see item above). You can hear the interview here: <https://soundcloud.com/perth-indymedia/tim-vines-cla>

CEO Bill Rowlings did an interview with *ABC Queensland* about the CLA submission to the Qld Productivity Commission's inquiry into the cost of prisons.

Submissions:

Vice-president Rajan Venkataraman reports that the main submission for June 2019 is to the SA inquiry into End-of-Life Choices, lead-authored by President Dr Kristine Klugman. CLA is more than usually well represented on the committee, with CLA member and SA MLC Mark Parnell (photo) a member of it.



INTERNATIONAL

Republicans vote against Trump over Saudi

Fellow Republicans of President Donald Trump are putting Australia's panting puppy obeisance to the USA to shame in voting to block the sale of billions

of dollars of munitions to the Kingdom of Saudi Arabia and the United Arab Emirates.

Australia's Defence Department and defence firms try to peddle new Australian materiel to the Kingdom which has generated about 100,000 deaths while bombing Yemen.

But the US Senate in a bipartisan, move has rebuked the Trump administration's sneaky bid to circumvent Congress so as to allow exports to KSA by declaring an emergency over Iran.

In three back-to-back votes, Republicans joined Democrats last month to register their growing anger with the US Administration's use of the President's emergency declaration power to cut lawmakers out of national security decisions, as well as the White House's unflagging support for the Saudis despite congressional pressure to punish Crown Prince Mohammed bin Salman after the killing and dismembering in October in Istanbul of the journalist Jamal Khashoggi.

A UN report indicated strongly that responsibility for the killing and its cover-up lies at the highest levels of the Saudi royal court. <http://tinyurl.com/y666ucr2>

Court rules arms sales to Saudi illegal

The UK's Court of Appeal has declared British arms sales to Saudi Arabia unlawful because ministers failed to properly assess their contribution to civilian casualties in indiscriminate bombing in Yemen.

The ruling from three senior judges follows a challenge brought by Campaign Against Arms Trade, which had accused the UK government of licensing the sale of arms when there was a clear risk that their use could breach international humanitarian law. – <http://tinyurl.com/yxbue4kq>

Manus refugee claimant seeks asylum in UK

A Manus Island refugee and torture survivor jailed in "hellish" conditions by Australia since 2013 has appealed to be allowed to join his sister in the UK.

In the first case of its kind, Thiraviyarajah Subramaniam, 37, a Tamil from Sri Lanka, appealed in the UK immigration tribunal last month against a British Home Office refusal to allow him family resettlement there.

He suffers serious mental health problems from torture in his home country followed by years of detention when he sought sanctuary in Australia, first on Christmas Island in 2013 followed by an extended period of detention on Manus Island in PNG. He is currently in the East Lorengau Transit Centre on Manus. <http://tinyurl.com/yyxfvkl>

Artificial intelligence is coming to get you

Advancements in artificial intelligence could supercharge surveillance, allowing camera owners to identify "unusual" behaviour, recognise actions

like hugging or kissing, easily seek out embarrassing footage and estimate a person's age or, possibly, even their disposition, the ACLU argues in a new report.

"We face the prospect of an army of AI security guards being placed behind those lenses that are actually, in a meaningful way, monitoring us, making decisions about us, scrutinising us," said Jay Stanley, senior policy analyst at the ACLU and the author of the report, released last month: <https://www.aclu.org/report/dawn-robot-surveillance> <http://tinyurl.com/y28etaqg>

'Spy agency has lost control of data', court told

The spy agency MI5 has been accused in England's High Court of 'extraordinary and persistent illegality' by obtaining surveillance warrants based on false information.

MI5 had lost control of its data storage operations and was obtaining surveillance warrants on information it knew to be false, the liberties and rights group, Liberty, told the court.

Liberty launched the legal challenge, after the failures were identified by the official watchdog, Investigatory Powers Commissioner, Sir Adrian Fulford, and admitted in outline by Home Secretary, Sajid Javid.

Court revelations include bulk interceptions of data through surveillance and hacking downloaded to MI5's computers. The agency has a duty to ensure that such material is not held longer than required or copied more often than needed.

Ben Jaffey QC, for Liberty, said that there were "ungoverned spaces" in MI5's operations where it did not know what it held. <http://tinyurl.com/yybnf3e6>

Anglo-Saxons like to lock people up

More people are being sent to prison in England and Wales every year than anywhere else in western Europe, figures described as "shameful" suggest.

The rate is about twice as high as Germany and roughly three times that of Italy and Spain, the Prison Reform Trust found. This amounted to more than 140,000 admissions to prison in England and Wales in 2017, the most recent data available.

But the rate is less than the rate in Australia.

The prison population in England and Wales is nearly 70% higher than three decades ago, at more than 82,400, the *Guardian UK* reported.

- England and Wales admitted 40,000 more people to prison than Germany each year, despite the latter's larger population.
- Scotland had the highest prison population rate per head, with 150 people held in prison for

every 100,000. England and Wales have 139 and Northern Ireland 76. (Australia's rate is 169 on a comparative basis: <http://tinyurl.com/hdrs8lt>).

- Eighty-one of 120 of prisons in England and Wales were overcrowded, the report found. <http://tinyurl.com/y2dhjuog>

Police logs catch police perverts: female officer awarded big damages

When Amy Krekelberg asked for an audit of accesses to her Department of Motor Vehicle records, as allowed by Minnesota state law, she learned that her information – which would include things like her address, weight, height, and driver's licence pictures – had been viewed nearly 1000 times since 2003, even though she was never under investigation by law enforcement.

In fact, Krekelberg was law enforcement: she joined the Minneapolis Police Department in 2012, after spending eight years working elsewhere for the city, mostly as an officer for the Park & Recreation Board.

She later learned that over 500 of those lookups were conducted by dozens of other cops. Even more eerie, many officers had searched for her in the middle of the night.

Krekelberg eventually sued the city of Minneapolis, as well as two individual officers, for violating the Driver's Privacy Protection Act, which governs the disclosure of personal information collected by state motor vehicle departments.

Last month, a jury awarded her \$840,000, including \$430,000 in punitive damages from the two defendants, who looked up Krekelberg's information after she allegedly rejected their romantic advances, according to court documents. <http://tinyurl.com/yxqy3xha>



In 2018, the City of Minneapolis paid out \$275,000 to FOX 9 TV anchor Alix Kendall (photo) because her driver's licence was looked up 3800 times over 10 years by city employees with access to the driver and vehicle services database. The twin city of St Paul paid her about \$50,000.

The lesson for Australia is that we must have auditable access logs for any government (or private sector) database involving personal privacy. It is highly likely similar offences are occurring here.

International briefs

Journalism is under siege worldwide: The Committee to Protect Journalists recorded 54 journalists killed in 2018. They recorded five in 2019 (to May), the most recently being the murder of Irish journalist Lyra McKee in April in Londonderry,

Northern Ireland, by the New IRA. And more than 250 journalists were in prison in 2018. <http://tinyurl.com/yyslhjv4>

Botswana opens up to gays: High court judges in Botswana ruled last month that laws criminalising same-sex relations are unconstitutional and should be struck down. Africa's gay rights campaigners in the packed courtroom cheered the unanimous decision, which came a month after a setback in Kenya when a court rejected an attempt to repeal similar colonial-era laws. "Human dignity is harmed when minority groups are marginalised," Judge Michael Leburu said as he delivered the judgment. "Sexual orientation is not a fashion statement. It is an important attribute of one's personality." Angola, Mozambique and Seychelles have scrapped anti-gay laws in recent years, the *Guardian* reported. <http://tinyurl.com/y3wyrpvz>

US abortion 'gag' puts 25m women a year at greater risk: About 56 million abortions are done annually, and 25 million are unsafe, of which 97% occur in developing countries, an editorial in *'The Lancet'* medical journal reported last month. An estimated 8% of all maternal deaths are due to abortion, leaving a massive unmet global need for access to safe abortion services. On 5 June, the International Women's Health Coalition launched 'Crisis in care: year two' detailing the impact of US President Trump's global anti-abortion policies and other ways in which the USA is threatening the work of non-governmental organisations that support women and vulnerable groups around the world. <http://tinyurl.com/y4ga494q>

Tepid approval for mass face ID: Facial recognition software should only be used by police if they can prove it won't introduce gender or racial bias to operations, a British ethics panel has said. The London policing ethics panel, set up to advise City Hall, concluded that while there were "important ethical issues to be addressed" in the use of the controversial technology, they did not justify not using it at all. <http://tinyurl.com/y5re4phd>

Anti-gay sex laws upheld: Kenya's High Court has upheld laws that criminalise gay sex, declining to join the handful of African nations to abolish a prohibition imposed by Britain during the colonial era. More than 70 countries criminalise gay sex, most of them Muslim countries or former British colonies, according to advocacy groups. <http://tinyurl.com/y3996eo8>

Don't call me, I'll call you: Americans are about to win relief from robocalls under a bipartisan bill introduced to Congress last month. The law, known as the Stopping Bad Robocalls Act, would require phone carriers to offer screening technology to identify and block spam calls at no additional cost to

customers. We need our own version in Australia, CLA believes. Over to the Coalition or Labor to make the first move. <http://tinyurl.com/yxmk8jb9>

DATES:

All 2019, World: UN International Year of Indigenous Languages

3 July, Canberra: National Security and Freedom of the Press, ANU 5.30-6.30pm Fellows Road Law Theatre 5.40-6.30pm.

3 July worldwide: Julian Assange's birthday: whistleblower rallies at many cities in Australia and worldwide

4 July, Canberra: Sir Kenneth Keith of NZ gives the annual Michael Kirby lecture: NZ, Australia and International Human Rights: 1919-2019; Crawford School Bldg. Contact: marketing.law@anu.edu.au

4-6 July, Canberra: 27th ANZSIL conference at Crawford School, ANU: International Law Futures. Prof Christina Voigt (U. Oslo) and Dr Joshua Meltzer (IUCN Climate Change Task Force).

5-10 July, Rhodes, Greece: Hellenic Australian Lawyers Assn 2nd conference. Details: <http://tinyurl.com/yc4d6wxo>

11-12 July, Singapore: International Bar conference. <http://tinyurl.com/yykzxn5>

17 July, Cairns: 6.30-7.30pm start: Cairns Institute, AND

18 July, Townsville: same time, Medical Lecture Theatre, 'How we keep our pens mighty: writing against power': the 2019 Colin Roderick memorial lecture: Bri Lee (photo), author of the *Eggshell Skull*, advocates for criminal law and procedural reform. Info: fals@jcu.edu.au Website: <http://tinyurl.com/y2pn5te7>



24-26 July, Melbourne: Digital Citizens conference, Melbourne Law School. 'How do we design systems, laws and regulation for the future?' Info: <http://tinyurl.com/y5f8pxf5> Contact: jeanniep@unimelb.edu.au

15 August, Launceston: Peace Festival lecture: Power of Integrity, by Dr Simon Longstaff. Info: <http://tinyurl.com/y2caff6l>

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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