

Can human rights survive the COVID-19 virus?

“Invasive methods, such as tracking apps, facial recognition technology, tracing credit card transactions, using cell phone information, video footage and public posting of detailed information of the afflicted provide additional means for governments to act,” says Canadian Professor of Political Science at the Uni of Toronto, Wendy H. Wong (photo).

“Yet such techniques violate some of the core values of liberal democratic regimes. Human rights to freedom of movement, the right to privacy, emerging data rights and the right to be forgotten are all threatened with invasive actions taken by governments.

“Even if care is taken to protect the privacy of location data, such provisions are far from perfect. At the end of the day, data has to be stored somewhere, which makes it potentially vulnerable to hacking. Governments must strike a balance between responding to the pandemic and protecting key human rights,” she said. *Article first appeared on The Conversation 200508: <http://tinyurl.com/ya5dttxa>*



The first right to go in Australia was the right to privacy, in Tasmania

When Tasmania passed emergency laws to cope with the C-19 problem, they wiped major privacy provisions from the state’s legislation, making them void for the duration of the emergency.

The privacy of Tasmanians is no longer protected as it was.

For example, the state privacy laws were the only alleged safeguards for the state’s driver’s licence photos from misuse in a central Canberra database which has been set up with no federal legislative protection.

Irresponsible state governments, including Tasmania’s, have transferred the driver licence photos before federal parliament passed enabling and privacy-protective legislation. It still hasn’t passed.

Tasmania, Victoria and SA have handed over every driver’s licence photo without the proposed federal law protecting the database. But only Tasmania, under its special C19 emergency laws, appears to have removed privacy protection from its people completely in some areas .

Civil Liberties Australia’s Tasmanian Director, Richard Griggs, lodged a petition of 1245 signatures complaining about the state government’s first round of legal vandalism in handing over the photo database. He called for the problem to be fixed, writing directly to the government by letter and email (see ‘CLA Report’). That was before the further C19 emergency legislative onslaught on privacy.

Last month, the government was caught out claiming that only 20 Tasmanians had complained about the loss of their privacy around driver licence photos. You can read the CLA media release pointing out the government’s false claim here: <https://www.cla.asn.au/News/1245-tasmanians-complain-about-photo-id/> *Examiner* (Launceston): <https://tinyurl.com/y9c79hll> *Tasmanian Times*: <https://tinyurl.com/ycplb4tq>

Background: Tasmania (December 2018), Victoria (August 2019), and South Australia (December 2019) have uploaded photos to the national criminal agency running the database. Queensland is due to upload data very soon, with the remaining states and territories to follow over the next 18 months.

Virus delays integrity, according to AG

The urgently-needed NATIONAL Integrity Commission (NatNIC) is delayed by a virus, Attorney-General Christian Porter says.

As rorts roil the government – sports, showgrounds and rural grants, buying the wrong pandemic supplies, etc – and \$60 billion appears and disappears like the smiling Cheshire cat, the need for a natty new NIC with teeth has never been more apparent.

(NB: The govt is calling it a Commonwealth Integrity Commission, CIC...but ‘kick’ is what it certainly won’t have under the government’s proposed emasculated model. CLA, in its 22 March 2017 submission to the consultation process, called it NatNIC, in honour of a WA Aussie Rules footballer).

After a consultation process starting in early 2017, the government has been working on draft legislation since January 2018, according to a report by Christopher Knaus in the *Guardian* last month. PM Scott Morrison announced a firm proposal in December 2018.

The AG claims to a draft was ready since early 2020, but the bill appears to be still smoke and mirrors.

No draft has materialised publicly, despite department staff confirming in March that they had presented multiple versions to the AG in a “continuous process of refining”. How many versions? One hundred and forty-four (144) a parliamentary committee was told in March by AGD’s Sarah Chidgey, Deputy Secretary, Integrity and International Group.

Porter told *Guardian Australia* that the exposure draft had been ready for release before the Covid-19 pandemic but the crisis had redirected the government’s focus.

That is an extremely worrying statement by the AG, because it would appear the AG can focus on one thing at a time, only.

The model has received heavy criticism for its weak powers, lack of public hearings, and narrow focus. It prompted the Liberal backbencher Llew O’Brien to warn he may cross the floor in opposition.

<https://tinyurl.com/ycwtv4js>

Ex-ICAC man calls Porter’s proposal ‘a joke’

Geoffrey Watson SC, the former counsel assisting the NSW ICAC, described the Coalition’s proposal for a National Integrity Commission as a joke.

Specifically Mr Watson criticised the model that had been presented as being ‘toothless, spineless, and secretive’.

He said, ‘It would have no power to examine the activities of politicians or those close to them. Why should any honest politician fear such an agency?’

It also laughably prevents the investigation of corruption in the past, with the consequence of protecting crooked politicians from any examination of their misdeeds, according to Watson.

ODD SPOT:

Judge Peter Applegarth, Supreme Court of Queensland:

‘Reducing corruption enhances our democratic system’.

– AIP v Electoral Commission Qld and others, (2020) QSC 54, 30 March 2020

Is Porter the right man for two jobs?

AG Porter is also Minister for Industrial Relations, a second job as well as his AG duties since May 2019. PM Scott Morrison gave him that role to run the then-planned hardline approach to the union movement. In late May 2020, PM Morrison announced that hardline approach would be abandoned – as would the draft tough-as-nails legislation proposed – in favour of a conciliatory approach.

Two questions arise:

- Can Porter run two major roles at once, and get the work done on time? and
- Is the very hardline Porter the right man for such a softly-softly process of industrial negotiating?

The delay in the draft integrity bill and his own statement of not being able to run that project as well as his role in Covid-19 suggests he can’t run two major national issues at once.

His background suggests he is better at beating heads, rather than gently whisking up agreements.

AG reveals his true colours: camouflaged and opaque

AG Porter is emerging as more hardline than even Peter Dutton in the Coalition ministerial ranks.

The man who portrayed himself as an innocent, workaholic bystander during the Malcolm Turnbull PM assassination (see Niki Savva book) has revealed his truer colours by ordering yet another secret trial.

This time it is a civil matter, between Victoria Cross awardee and SAS veteran, Ben Roberts-Smith (BRS), and *Nine Entertainment (NE)*, which inherited the court case when it took over *Fairfax* publications.

BRS claims *NE* defamed him as a war criminal in news stories by *Fairfax’s SMH* and *AGE* publications, now owned by *NE*.

The stories allege BRS, who is Australia’s most decorated living soldier, was involved in alleged SAS war crimes in Afghanistan between 2009 and 2012.

AG Porter has dictated that provisions of the National Security Information Act be applied to the civil case. He ordered the same secrecy shutdown in criminal cases against Canberra lawyer Bernard Collaery and Witness K, who were charged over the government’s own disgraceful role in bugging the East Timor Cabinet room.

He did the same or more with Witness J, a former intelligence officer who went through the entire legal process – charge-trial-jail term – in secrecy. His case only came to light inadvertently.

Because of Porter's mandated secrecy, lawyers for both sides in the BRS civil case must agree on how sensitive material will be handled and stored. If they don't agree, Porter will tell the court how it must handle the material.

The transparency and independence of the legal system is under serious and secret challenge from the AG, CLA says. <https://tinyurl.com/y7tjamct>

Call for independent review of Roberts-Smith case

The shadow attorney general, Mark Dreyfus, said Labor believes the INSLM* (see next item) should review the Roberts-Smith case, when it is able to.

"Labor believes that it would be useful for the INSLM to look at this case, since to our knowledge it marks the first use of the act in a defamation case," Dreyfus told the *Guardian*.

There are a number of triggers for the INSLM to begin such a review. It can do so of its own accord, through own motion reviews, or it can be asked to do so by the PM or AG.

It can also receive referrals from the Parliamentary Joint Committee on Security and Intelligence, though that has not yet occurred. <https://tinyurl.com/y76mkohw>

Ex-soldier to prosecute war crime allegations

In the criminal sphere, senior barrister David McLure, himself a former soldier, will prosecute alleged Australian war criminals during the Afghanistan war.

There are 55 separate allegations of possible war crimes between 2005 and 2016.

The Inspector General of the Australian Defence Force (IGADF) revealed his long-running, four-year inquiry into the conduct of special forces in Afghanistan was in its final stages.

The IGADF has been inquiring since May 2016. The probe was sparked by allegations and rumours of special forces troops killing unarmed Afghan men and children.

McLure will be acting as part of the Commonwealth DPP. <https://tinyurl.com/y922f6zc>

ODD SPOT: The darker side of Diggerdom revealed

From 1916, Anzac Day was commemorated to remember the fallen and honour those baptised by fire on the shores of Gallipoli. That same year, 1916, the Australian army conducted at least 3342 courts martial for military and civil infractions.

The fighting spirit and resourcefulness of the Anzac has become legend; soldiers who broke the law have been swept to the margins of history...Australia has an extraordinary record of over 22,000 courts martial held between 1914 and 1919. – Yorick Smaal and Mark Finnane, *'Diggers doing time? Australian courts martial 1914-19'*, from *Honest History* <http://tinyurl.com/yc8mhw32>

INSLM heads back to the bar: Witness J inquiry dropped

The Independent National Security Legislation Monitor, Dr James Renwick (photo), retires on 30 June 2020.

And why wouldn't he? He was appointed to act in the role in February 2017, then at last a permanent appointment was confirmed to June 2020.

Why would a senior barrister, an SC, who can earn much more in private practice, continue to work for relatively little and put up with the delays, dodges, obfuscations, lateral arabesques, deviousness and lack of transparency that characterises the federal government (see items above... and below).



Why would he want to be part of an apparent prostituting of the rule of law and a shutting down of the openness of courts in the face of centuries of tradition under the British/Australian legal system?

Renwick has had enough. He announced on the INSLM website:

"The INSLM regrets to advise that he will no longer be proceeding with the review into the operation of the National Security Information (Criminal and Civil Proceedings) Act 2004 (Cth) (NSI Act) as it relates specifically to the 'Alan Johns' matter." The 'Alan Johns' matter is better known as the Witness J case.

"The current COVID-19 pandemic has impacted the INSLM's ability to effectively engage with key stakeholders and the public, therefore preventing a thorough review to be undertaken at this time. As the

current INSLM, Dr James Renwick CSC SC will finish his term on 30 June 2020, it will be up to the incoming INSLM to consider progressing a review of the NSI Act.”

And so, probably, a promising and promised bid to penetrate the black hole of justice as currently managed in Australia suffers yet another setback.

‘Trust’ promise needs to be in writing

Britain's politically-motivated show trial for Julian Assange's extradition hearing is now scheduled for 7 Sept 2020, if the virus permits. <https://www.change.org/JulianAssange>

Australia has not lifted a finger, beyond paltry ‘consular visits’ discussing toothbrushes and toilet paper, to help Assange. He is accused of violating the US Espionage Act and conspiracy to commit computer intrusion, and faces 175 years in jail. <https://tinyurl.com/y78k7sn3>

As a nation, we have an appalling record for how we treat our own citizens and residents in the face of home-grown or foreign bullying, CLA notes.

David Hicks, Mamdouh Habib, Muhamed Haneef, McBride, Boyle, Collaery, Witness K, Witness J, Assange, etc, have all been or are being screwed over by Australia in the name of, or under the pretence of, legality.

It's time for a government that will actively safeguard people, especially Australian citizens, and work to protect people's rights, rather than abandon them to irregular processes, as in the cases of Sweden, the US and the UK over Assange.

The government appears happy to stand up against another country, but not for its own citizens.

CLA calls on the Coalition and Labor to sign a Certificate of Certainty going into the next federal election.

The certificate would guarantee they would give some power back to the people by implementing a Civil and Political Rights Act if they win.

The Australian people want to trust politicians, but by their behaviour we can't.

AG's Department needs auditing over MLOs

Civil Liberties Australia has backed up the complaints by Senator Rex Patrick (Centre Alliance, SA) by referring his FOI dispute with the government to the Australian National Audit Office for potential full investigation.

CLA had already proposed the ANAO should examine how the Attorney-General's Department manages – or mismanages – its Model Litigant Obligations under the mandatory provisions written into law in the Legal Services Act.

For 15 years, CLA has been complaining that the AGD pays lip service only to the law of Australia, even though the Attorney-General is the First Law Officer of the land, responsible for the Act in question.

In the Patrick case, involving a huge arms purchase from the Thales company, the AGD itself appears to have put the internal brakes on its handling of FOI requests. The headline on a story said:

Coalition accused of dragging out legal battle to hide documents on \$1.3bn arms deal

Senator Rex Patrick lashes out at ‘freedom of information abuse at its worst’ after the government spent almost two years trying to stop release of report criticising Thales fleet purchase. <https://tinyurl.com/ybqaaupg>

“This whole saga has been an abuse of process, with every trick in the book being used,” Patrick said.

The government has now spent almost two years attempting to stop public release of an unredacted ANAO report that criticised the \$1.3bn purchase of a combat vehicle fleet from French arms manufacturer Thales.

AG Christian Porter in 2018 used extraordinary powers to order parts of the audit be redacted. It was later revealed that Thales had been urging Porter to censor the report, furious at a finding that suggested Australia could have paid half the amount for a different vehicle through a United States military program.

The AG and all government departments are rightly expected, by law, to always act fairly in any legal matters. Here's a clear case, apparently, of how the AG, the AGD itself and the Department of Prime Minister and Cabinet are using legal delaying tactics to prevent release of information.

That's directly against the principle of the MLO provisions. Bring on an ANAO audit, CLA says.

McMillan puts the Federal Court ‘on trial’

An independent ‘outsider’ will investigate how the Federal Court revealed the names of asylum seekers on a public website, allegedly breaking the law 400 times.

Senior ANU law professor, John McMillan, who has been Commonwealth Ombudsman, NSW Ombudsman, and head of the Office of the Australian Information Commission, will review how the names of some of the most vulnerable people to come before the court were published on the Commonwealth courts portal.

McMillan is due to report in June 2020. (Note: He is a member of CLA). <https://tinyurl.com/ybwzj3wd>

ABC ask for AFP hounds to be called off

The ABC has asked Home Affairs Minister Peter Dutton to cancel police investigations into two journalists. The AFP last year raided the ABC's Sydney headquarters over stories known as the Afghan Files broadcast in 2017.

The stories by Dan Oakes and Sam Clark revealed allegations of unlawful killings and misconduct by Australian special forces in Afghanistan. They were based on hundreds of pages of leaked secret Defence documents.

Instead of concentrating on finding out whether Australia troops murdered people in Australia's name, the government has consistently tried to hide the facts. Instead of applying a "shield" to journalists doing their job, the Attorney-General has tried to shut down any possibility of the Australian people hearing the full story in a court of law. <http://tinyurl.com/y64h8lhw>

ODD SPOT: Billions spent, but we know not where

In 18-19 financial year, the AFP spent \$27,416,195 on counter-terrorism operations according to data released under Freedom of Information, but refused to disclose how much of it was directed towards countering right-wing threat. SBS report

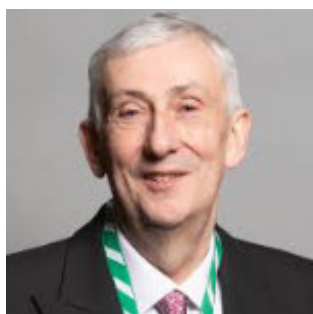
UK option points to urgent vote potential for Australia

MPs across the board are rebelling against plans to force them back to the crowded Parliament at Westminster to vote in person from 2 June 2020.

The UK dilemma is a perfect example of why the Australian Parliament should also move to optional voting – and 'sitting' – by using the latest technology as soon as possible, CLA says.

In the UK, chairs of committees and 70-odd parliamentarians have signed a letter complaining that the plans to ditch all remote voting – announced by the Leader of the House Jacob Rees-Mogg – would produce voting queues of more than 650 MPs stretching for more than 1km around the Palace of Westminster.

MPs in lockdown would be unable to vote and so be excluded from the democratic process.



The rebel MPs have won support from the Speaker, Lindsay Hoyle (photo), who has written to colleagues saying that he would prefer to retain the system of hybrid voting, in which MPs can choose whether they vote in person or remotely.

MPs who live far from London complain they would have to move back to second homes they share with other MPs, breaking lockdown rules. <https://tinyurl.com/y8ttq9ah>

In Australia, the ability to sit and vote electronically would open options previously always ruled out because you could not organise a vote by parliament quickly enough. Most prominent among them is parliament voting to approve, within seven or 30 days, of the Executive government's decision to take Australia to war, or send

Australian troops to warlike situations. The Australian Parliament does not vote on whether or not we go to war or stay at war, or on how much precisely we spend on any war or warlike situation.

Gobbo schemozzle extended

The Royal Commission into the Management of Police Informants – the Gobbo or Witness 1838 inquiry – won't now report until 30 November 2020.

The Victorian government granted an extension of time after a request from the chair, Margaret McMurdo. They have also allocated an extra \$11.5 million for the process, Attorney-General Jill Hennessy announced last month. <http://tinyurl.com/y6vq5ubj>

Two contrasting appeals result from judge's 'boring' comment case

A convicted killer is appealing the guilty ruling, while the prosecution is appealing the length of sentence she received...all over one case which the judge said was "boring" in parts.

Victorian judge Paul Coghlan called a defence lawyer's questioning of a witness "boring", and also called Katia Pylotis' murder defence a "red herring calculated to mislead".

Pylotis was jailed in 2019 for 19 years for murdering Elia Abdelmessih, a widower whose bludgeoned body was found alongside a tin of mangoes and a Virgin Mary statute in 2005. It took four murder trials for Pylotis to be found guilty 13 years later.

While prosecutors are appealing her sentence, Pylotis is appealing against her conviction on the basis that comments made by judge Coghlan through the trial caused a substantial miscarriage of justice. <https://tinyurl.com/yc7bvqpg>

WA Police behaviour may be on trial again

Another murder conviction in WA is on the skids – possibly because of police misbehaviour – following the Court of Appeal's acquittal last month of Scott Austic, who has already served 11 years.

He will be retried. If found not guilty, several WA Police officers may subsequently face criminal charges.

Austic was ruled guilty in 2009, on circumstantial evidence that many people believe did not add up, of murdering 34-year-old Stacey Thorne (photo). She was stabbed 21 times at her home, while 22 weeks pregnant with his baby. The pair had had consensual sex earlier in the night, before Austic walked to his own home.



He was sentenced to at least 25 years in jail. His appeal in 2010 failed.

In 2019 Attorney-General John Quigley approved a new appeal when seemingly strong evidence emerged that WA Police police may have planted evidence, and new forensic evidence indicated the alleged murder weapon probably wasn't.

The crime scene was photographed and videoed on Day 1 after the apparent murder. But two days later, a blood-spattered cigarette packet suddenly appeared in a new photo taken of a table in Austic's backyard: it was not there in the photography taken on Day 1.

Police also, around the same time, discovered a flick knife in an almost bare paddock. Police and the local SES had line-searched the paddock on Day 1: search-trained SES volunteers said they couldn't believe they would have missed the shiny silver knife on the open ground.

As well, UK forensic pathologist Richard Shepherd testified at the second appeal that some of Ms Thorne's wounds measured between 13cm and 15cm, which meant they were "very unlikely" to have been caused by the shorter knife discovered by the police when everyone else had failed to see it.

"I don't think that knife caused those wounds," Shepherd told the appeal court.

The WA Court of Appeal quashed Austic's conviction but suppressed the reasons for the judgment. There will be a retrial, with the state and the defence able to introduce more evidence.

When courts suppress reasons for their decision, they leave open to speculation why they have approved justice being decided in secret. <https://tinyurl.com/yddy9rx>

'Anti-vaxxers stay home': Health Minister says

Tackling a resurgence of anti-vaccination movement false claims and conspiracy theories caused by the Covid-19 crisis, WA's Minister for Health Roger Cook warned bluntly: 'Anti-vaxxers stay home'.

His warning came as he announced an extra \$400,000 for free flu jabs to all primary school-aged children, and also established an Australian first with a drive-through influenza clinic.

The moves were to avoid a bad flu year on top of C-19.

In 2019, WA had 22,000 confirmed cases of flu; 3343 were children 5-9 years; there were 3224 hospital admissions; 80 people died, five of them children under 10.

Cook said the new program built on WA's existing free flu vaccines for children six months to five years old. <http://tinyurl.com/yd7koj73> NB: CLA has noted a sharp rise in the volume of anti-vax claims received.

Claremont murders reach verdict stage

Closing submissions in a historic WA murder case are expected in early June, after which WA Supreme Court judge Stephen Hall will retire to reach his verdict.

The 'Claremont Murders' are the 'crime of two centuries', the 20th as committed and the 21st as tried, for the first time anyway, in WA.

For nearly a quarter of a century, WA Police fumbled, bumbled and stumbled – by abusing the rule of law* – before fortuitous forensic “evidence”, using very low count statistical techniques, allegedly fingered the killer.

Former Telstra technician Bradley Edwards allegedly murdered Sarah Spiers, Jane Rimmer and Ciara Glennon in the 14 months between 27 Jan 1996 and 15 March 1997. Spiers body has not been found.

Last month, nearly three months into the trial, judge Hall indicated the prosecution may not submit “evidence” to the trial that argued the three women who disappeared from Claremont in the mid-90s were statistically more likely to have been murdered by the same person. The prosecution had developed a spreadsheet to try to prove statistics indicated the same person killed the three young women.

Defence lawyer Paul Yovich argued the spreadsheet “evidence” was irrelevant and judge Hall agreed.

“If two or three people are murdered or go missing over a period of many years in an urban geographical area with a very large population, why is there necessarily any greater likelihood that there is a single perpetrator than multiple perpetrators?” Hall said.

“There may be suspicion in this regard ... but suspicion or intelligence is not proof.”

* WA Police were responsible for the ‘murder’ of an earlier civil liberties group, the WA Council for CL, when they named – maliciously in CLA’s view – its president Peter Weygers as a “person of interest” (POI) in relation to the Claremont murders. Of course, having defiled him in the media, police didn’t charge him.

WA Police have an atrocious record of naming people as POIs: they should cease the practice entirely, CLA believes, as should all Australian police forces. Either charge someone, or shut up.

Defence questions forensics on quality, integrity grounds

The new DNA “evidence” being used in the Edwards trial (see above) emerged only after testing at laboratories in WA, NZ and the UK, and then only after two samples from a left thumb and a left middle finger had been combined.

Bradley’s defence barrister Paul Yovich questioned the quality of the handling and testing and the integrity of one of the main people involved.

A key person handling the evidence at the Perth lab was Laurie Webb (photo: ABC pic). He was a senior DNA analyst who was fired from Pathwest in 2016 for "cutting corners" during testing. In 2017 he was found guilty of four serious charges of unethical behaviours for failing to have DNA results verified by their required protocols.



The breaches were described by current WA AG and former barrister John Quigley as "unprecedented in Western Australia's criminal justice history".

The DPP conducted a review of Webb’s careers and isolated 27 cases between 2008 and 2014 that Webb had been involved in. It then advised prisoners or their lawyers of the breaches, as well as Perth's criminal law bodies, despite threats of legal action from PathWest, Mr Quigley claimed.

"The DPP advised PathWest that they would make the disclosures. PathWest on more than one occasion urged them not to tell anyone, not to make the disclosures," he said. <https://tinyurl.com/yalvc6sk>

CLA believes there should be a public inquiry, ordered by the federal government as guardian of the nation’s overall justice system, into the operations of all Australian forensic labs over the past 25 years.

As well, no lab should be associated in public service line of command with a police force.

Court rules rights act protects prisoners’ health

The Supreme Court of Victoria ruled last month that the state government breached its duty to take reasonable care for the health of prisoners during the C19 pandemic.

An urgent injunction brought by Fitzroy Legal Service and the Human Rights Law Centre, on behalf of a person in Port Phillip Prison with acute health needs, argued that “people in prison are sitting ducks for Covid-19” and it will only take one case to enter the prison for there to be an outbreak, which could not be stopped even if responsive measures are taken.

They won their case that the Victorian government had, prima facie, breached its duty of care to safeguard the health of prisoners: it must act in accordance with the state’s Charter of Human Rights, the court ruled.

The court did not order the prisoner’s release but mandated a risk assessment examining the Covid-19-related risks to people in prison and that any recommendations out of that assessment be implemented.

The state government must also test prisoners for Covid-19. <http://tinyurl.com/ydfgz7p2>

Jail release program is urgent

Family and Friends for Drug Law Reform is demanding action to get as many prisoners out of jail as possible in the face of the C19 virus emergency.

FFDLR wants community clinics providing heroin-assisted treatment to:

- reduce the inflow of prisoners on opiates who have failed methadone programs; and
- allow early release from overcrowded prisons.

President Bill Bush says there would be extra benefits:

- virtually eliminating accidental overdose deaths;
- stabilising many prisoners suffering from mental health as well as drug problems; and
- reducing drug-related crime.

FFDLR has highlighted the report in mid-May that said 2200 deaths, 32,000 hospital admissions and \$15.7 billion dollars are what opioid misuse cost Australia in the 12 months of 2015-16. The C19-like numbers are from a new research report: <https://tinyurl.com/y7jg8s7b>

‘Get people out of jail now, before disaster strikes’

A combined group of criminologists, academics and liberties and rights people have prepared an urgent plea to all governments in Australia to get more people out of jail to prevent Covid-19 infection.

The proposals are drawn from the Optional Protocol to the Convention against Torture, which Australia has signed up to, including to set up national preventative mechanisms (NPMs).

The group says that:

1. All Australian governments must immediately reduce the numbers in detention. They should responsibly release all people at higher risk, including Indigenous, elderly, with chronic health conditions, living with disability, with mental health conditions, children and youths, pregnant women, primary caregivers for young children, refugees and asylum seekers.
2. Stop using solitary confinement, and other practices that amount to torture or cruel, inhuman or degrading treatment or punishment.
3. Set up NPMs to oversee conditions and to comply with international human rights standards.
4. Guarantee all oversight bodies and NPMS unimpeded access during the pandemic and afterwards
5. Provide regular, updated and publicly reported, accurate information on what they’re doing at each detention place.
6. Avoid undermining or limiting existing formal and informal mechanisms of oversight and transparency.

Civil Liberties Australia has signed on a supporter of the group making the call.

New chance to change gender

Trans and gender diverse Victorians can now alter the sex recorded on their birth certificate without having to undergo invasive and costly sex affirmation surgery, with new laws now in effect.

The Andrews Labor Government reforms mean Victoria now joins the Australian Capital Territory, South Australia, Western Australia, Tasmania and the Northern Territory, which all no longer require a person to undergo sex reassignment in order to alter the sex recorded on their birth registration documents. – AG Jill Hennessy media release 200501 <https://tinyurl.com/ydxhuxqa>

Courts need new number-plate ID system if government charges continue

There are only 26 letters in the alphabet, so eventually courts will have to introduce a number-plate ID system if the government continues charging its employees for having higher moral principles than its own. Witness K and Witness J have hit the headlines recently. Which letter is next in court?

The federal Independent National Security Legislation Monitor, James Renwick, has expressed concern over what he described as a case unique in peacetime, in which Witness J was "charged, arraigned, pleaded guilty, sentenced, and has served his sentence" in secret, a circumstance Dr Renwick said should not be repeated. <https://tinyurl.com/y9drzgdX>

Now Witness J has written a book...but not about his case, only about his time in the ACT’s sole jail.

Here, There are Dragons, by Witness J, with a foreword by Robert Macklin, is self-published on 1 June 2020, \$14.99 paperback (at lulu.com), or \$5.99 ebook (at Amazon). Profits to Beyond Blue, “with AFP oversight”. Is the AFP over-sighting because the convicted are not allowed to receive money from books.

The unconvicted are allowed to profit by board memberships after spying on Timor Leste, CLA notes, but that's different apparently for the Old Ministers' Consortium of Greed (OMCG) membership.

Limited jury trials back...but charged person still doesn't get to choose

From 15 June 2020, the ACT Supreme Court will resume jury trials if they can maintain social distancing and other health measures for jurors, accused persons, witnesses, legal practitioners and court staff.

All people attending court will be temperature tested.

For a significant number of matters (including matters involving multiple accused), it will not be feasible to conduct jury trials in the near future.

– media release, chief judge Helen Murrell 2001518

ODD SPOT: Police get to decide when farmers harvest

The SA Liberal government has decided police know better than farmers when to harvest crops. The Fire and Emergency Services Miscellaneous Amendments law gives SA Police the power to direct grain growers to cease harvesting when weather may cause a grass or bushfire. "Considering a majority of our farmers do the right thing, these powers shouldn't be needed," Minister for Police Corey Wingard said. That's probably what the usually Liberal-voting rural electorates might say, too. <http://tinyurl.com/ychwz4qj>

Diddly squat! That's the disciplinary punishment for police who acted illegally



A NSW police watchdog investigation into seven strip searches has found that all of them were unlawful.

They include one where a 16-year-old Aboriginal boy was physically forced to remove his shorts and squat.

But the watchdog has been criticised for "not going far enough" in its findings, with Sarah Crellin (photo), a principal solicitor at the Aboriginal Legal Service, saying she was "deeply disappointed that there have been no recommendations for disciplinary action" against individual officers.

The Law Enforcement Conduct Commission released the findings of five separate investigations into seven strip searches between March 2015 and January 2019.

LECC found that a search in which a 16-year-old Aboriginal boy was forcibly made to squat by a NSW police sergeant was unlawful and revealed widespread failures in police training.

"This investigation demonstrates that whatever educational methods are being utilised by the NSWPF to inform officers of their powers and responsibilities ... they are not being universally applied in the practice of policing," it said. <https://tinyurl.com/yarhzn2v>

Cashless card is largely hated by 80% of people on 'trials'

A report on the cashless debit card shows the scheme is causing welfare recipients stigma and stress.

About half the cardholders recently interviewed opposed the trial, and just 20% said they supported it.

University of Adelaide researchers reviewed the Bundaberg and Hervey Bay trial in Qld, undertaking qualitative interviews with 66 current or potential cardholders and 74 organisations.

"Cardholders complained about stigma, technical problems, and that income management meant they were not left with enough cash, issues which have long been raised by critics of the policy," a *Guardian* report said. Less formal surveys indicate the cashless card is cordially hated throughout communities.

The government published the research report one day after extending the scheme, under which welfare recipients receive 80% of their benefits via the card and 20% in their normal bank account, which they can access as cash. Any lump sum payments also go on to the card, rather than being available as cash.

A person may not use the card to buy alcohol or some gift cards, or gamble or withdraw cash.

A 2018 auditor general's report said a previous evaluation of the policy was so flawed it could not be used to determine whether the policy reduced social harms.

The cashless debit card trial began in Ceduna SA and East Kimberley WA in 2016, but income management through the similar Basics card was rolled out in remote Indigenous communities during the NT Intervention. It is also operating in the Goldfields in WA. <http://tinyurl.com/y925kns9>

The Covid-19 virus crisis provides an interesting comparator, CLA says. Imagine if you were 'locked down' permanently, for 80% of your time on the punitive whim of the government because you're a welfare recipient. And imagine if more than 9 out of 10 all such people singled out for such lockdown were

Indigenous. If Australia had a civil and political rights act, these people could ask a court to rule they were not being treated equally.

‘Worst jail’ has air-con for staff toilets, but not for prisoners

Aboriginal prisoners in WA’s remote Roebourne jail are being held in unbearably hot cells infested with snakes and mice in an area where the temperature has reached 48 degrees.

Eammon Ryan, the Inspector of Custodial Services in WA, said in a report tabled in parliament last month that he has grave concerns about the heat risks at Roebourne prison.

The warning has overtones of the Mr Ward case, where an Aboriginal prisoner died in WA while being transported in a van. It is almost certain a prisoner will die of heat stroke in Roebourne jail, CLA believes.

In one of his first reports after taking on the role in 2019, Ryan recommended installing air conditioning in cells at Roebourne. But the state’s Corrective Services department claimed ice machines provided “effective controls”. Prisoners from the region were used to the heat, the department said.

But staff apparently were not: “Prisoners were also upset that air conditioning had recently been installed in staff toilets in the units, but not in any prisoner living areas,” Ryan’s report said.

Roebourne houses 221 inmates in medium-security in the Pilbara, including a few women. Aboriginal inmates comprise 79% of the jail’s population.

It was earlier described as “the worst prison in WA and a danger to inmates”. <https://tinyurl.com/y8xd85ty>

‘Corruption in spending public money inevitable’: report

“Lack of training, inconsistent policies, patchy oversight mechanisms, little scrutiny for smaller value expenditures, widespread exemptions, limited internal audits and lack of transparency were all factors which created the perfect storm, making corruption inevitable.”



So said Margaret Quirk MP (photo), chair of the WA parliamentary committee on Corruption and the Crime Commission, in presenting a report on how the financial management systems function in the WA public service.

The document, titled ‘Red flags...red faces’, reported that lax oversight of public sector workers was behind the multiple scandals currently besetting the state: one senior employee is alleged to have defrauded a department of \$22.5m and there are a number of other similar but lesser value examples.

The report recommends anyone involved in awarding contracts in the public service should have their interests and associations recorded on a publicly accessible register, and that public services bosses would be accountable for expenditure of the people under them, with a link to their personal key performance indicators/ (Unsaid, but implicit, was that they should face having their pay docked).

Quirk is the Australian chair of Global Parliamentarians against Corruption (GOPAC).

Everything she said, in spades, is CLA’s suggestion for how expenditures and allocations of grants in the federal public service should be treated. <https://tinyurl.com/y8ebx9uo> – paper tabled 200514

Bail presumption obviously not as important as AG claims

SA has reversed the presumption of bail for offences against emergency services workers and frontline hospital staff.

Attorney-General Vickie Chapman said: “The presumption of bail is an important part of our legal system – however, there is an obvious heightened risk to the health and safety of our community at this time.”

The presumption seems to be one of those wishy-washy principles that can be abandoned by any government in Australia wanting to curry favour with an electorate, CLA observes.

In SA, no bail is the new default provision for “any offence” against a person acting in the course of their duties as an emergency worker, medical practitioner, nurse, midwife or health practitioner attending out of hours callout, and also for police support workers, court security officers, passenger transport workers, protective security officers and animal welfare inspectors.

Bail presumption is also reversed for serious criminal trespass in residential and non-residential premises, also while the C-19 Emergency Response Act 2020 operates. <https://tinyurl.com/yd9x4htl>

Coroners to get more powers in bid to unlock unresolved cases

Coroners will get more powers to compel witnesses to give potentially self-incriminating evidence at an inquest, under new laws passed by the Queensland Parliament.

Acting Attorney-General and Minister for Justice Stirling Hinchliffe said the laws aim to unlock longstanding unresolved cases.

“While coroners were handed powers to require self-incriminating evidence from witnesses in 2003, this only applied to deaths occurring after that date,” he said. “For deaths prior to 2003, witnesses could refuse to give self-incriminating evidence, which made it harder for coroners to find out what actually happened.

“This led to the creation of a ‘hard core’ of remaining cases that have not received the benefit of the modern coronial regime and remain unresolved to this day. By allowing coroners to compel witnesses to give self-incriminating evidence for deaths occurring prior to 2003, we hope to see some of these cases resolved.” - *media release Attorney-General 200520*

Australian briefs

NSW spending \$3.8 billion on jails: Bathurst is to get \$200,000 worth of CCTV cameras in the old prison section, replacing analogue versions. Minister for Counter Terrorism and Corrections Anthony Roberts said: “This commitment is in addition to the government’s \$3.8bn investment in safer prisons, which includes the 220-bed expansion of Bathurst Correctional Centre.” Every time you see one of these announcements, CLA says, remember that it costs taxpayers about \$110,000 a year to keep each prisoner in jail so Ministers and governments can claim they are “tough on law and order” before the next election. It’s time for NSW and other states to adopt the Qld Productivity Commission recommendations. <http://tinyurl.com/yawnerwm>



Violence victims can apply online: Victims of family and domestic violence can now apply for restraining orders online under new laws introduced by the WA government to protect victims and survivors of such violence amid the C-19 pandemic. New laws create a separate offence for breaching of a family violence restraining order, and increase the penalty from \$6000 to \$10,000 and two years' imprisonment. People previously had to visit a court registry to apply. Now it can be done online through registered legal services which provide family violence assistance. These include Legal Aid WA, Aboriginal Family Law Services and Community Legal Centres. Further info: <http://www.victimsofcrime.wa.gov.au/> or 08 9425 2973 <http://tinyurl.com/y6vgs78w>

Mobile government ATMs in reverse: New mobile phone detecting cameras have raked in \$7 million in fines in just their first month of use. The world-first cameras in NSW detected an extra 11,790 offences, increasing revenue by a massive 1500% between February and March, when they came into effect. *Nine News* reports 12,991 fines were issued for mobile offences in March, totalling \$7,429,451. <https://tinyurl.com/yd6hldyp>

Brownhill appointed judge: The Northern Territory’s first female Solicitor-General Sonia Brownhill has been appointed a judge of the Supreme Court from 2 November 2020. She will replace Graham Hiley who retires early in 2021. When he does, the NT Supreme Court will become the first in Australia to have a 50:50 gender split. Brownhill’s main expertise is in constitutional law and native title. – media release, AG Natasha Fyles 200522.

Mine bosses on notice: no more avoidable deaths: Mining executives face 20 years jail if Queensland mine and quarry workers die due to criminal negligence. New laws, passed last month, extend industrial manslaughter laws to the resources sector. “This offence sends the clear message to employers and senior officers that the safety and health of their workers is paramount,” Mines Minister Anthony Lynham said. “In the past two years we’ve had eight workers die, and a gas explosion in an underground coal mine has put five miners in hospital.” The previous maximum jail term for mining safety breaches was three years. <https://tinyurl.com/y9vdgpgz>

Comments by CLA’s members and others (mostly in letters to the editors):

Incompetence rules, KO!

Adrian Rollins' article ‘Virus app's problems could be avoided’, *Cba Times* 28 April, is the best I've read when it comes to summarising the problems and describing the incompetence of the government, and of the app's developers. The failure to discover it won't work on many iPhones, for example, would have any competent developers either laughing out loud or shaking their heads in astonishment. Vulnerability to "man in the middle" attacks is a further example of failure to pass Cyber Security 101. So much for the developers. The government's handing the data to Amazon for overseas storage is, at best, bewildering.

Do they have more trust in Amazon than in Australia's capacity, or is it intended to ensure that we'll be forever unable to know who's been given access? Perhaps there are good reasons for all these things. But I've always believed in the adage that we shouldn't attribute to malice that which is adequately explained by incompetence.– Fred Pilcher, Kaleen ACT

Sometimes, the letters page editor cuts out the best bit...

The origin of a virus pandemic can happen anywhere. The 1918 pandemic (H1N1 virus) was first identified in the US among military personnel which resulted in the deaths of 50-100 million worldwide. The 1957 pandemic (H2N2 virus) originated in Singapore which caused the death of 1.1 million worldwide. The 1968 pandemic (H3N2 virus) originated in the US resulting in the death of 1 million worldwide. The 2009 pandemic originated in the US killing 500,000 people worldwide in the first year. Thus, most of the pandemics started in the US but there was never an outcry against the US or call for compensation. The continued condemnation of China for the current virus will only strengthen its resolve against an inquiry.

– Bill Mathew, Parkville, Vic (this bit was cut from his most recent letter)

CLA report – main activities for May 2020

Meetings:

Zoom/Skype meetings held with Director Margaret Howkins and ANU Matt Zagor and Achalie Kumarage.

Meeting with new member Dr Tony Murney re Parliament House excessive security.

Meeting with CLA member Estelle Blackburn re WA CL history, CL groups and wrongful convictions.

Board meeting 17 May 2020 highlights:

PRESENT (Note: Initials of Directors are used in the reports below): Interstate directors came in by Zoom: Caitlin Perry NT, Margaret Howkins WA, Richard Griggs Tasmania, Rajan Venkataraman Tasmania, and Sam Tierney NSW. Physically present president Kris Klugman, CEO Bill Rowlings, directors Frank Cassidy, Jenifer Ashton and Eloise McLean.



Strategic plan annual update: Discussion on all line items for yearly amendment and ratification/update (SA initiative with the help of former MLA Sandra Kanck (photo) noted, discussion on target regional/rural areas for boosting, and possible Pres/CEO visits to states/NT in 2020 and/or 2021).

President & CEO Report:

– President Dr Kristine Klugman announced she would not be standing for re-appointment in 2021.

– Roles of CLA/Board members to be redefined: Pres and V-P RV to work on

- i. list of duties/activities/tasks/campaigns/projects now being undertaken;
- ii. core aims/objectives and priorities, now and proposed for the future; and
- iii. paper to next Board re how to combine the above in a strategic, practical matter.

Champions projects: RV thanked for his report on the prisons project. Excellent range of work noted.

Submissions: (RV)

April 2020

Tasmania: Open letter to Parliament on establishing COVID-19 multi-party select committee (Griggs) 9 April;

Tasmania: Suspension of Personal Information Protection Act – email to Attorney-General (Griggs) 21 April;

Tasmania: Suspension of the Personal Information Protection Act – letter to the Premier (Griggs) 22 April;

May 2020

Victoria: Proposed ban of vaping in the Melbourne CBD – to the Melbourne City Council (Jarratt/Rowlings) 11 May.

Tasmanian report: (RG) Privacy emerging as major issue in Tas, possibly nationally. Letter to all jurisdictions asking for a list of all law/regs/etc changes made since Covid-19 began. List to be centralised schedule for ticking off when liberties and rights are returned to traditional settings over 2020-21. Examples, removal of jury trial choice in ACT, cancelling Privacy Act in Tas, parole at sole discretion of Corrections Ministers in NSW, etc. Barrister Greg Barns (photo) made SC. Pres to write letter of congratulations from CLA. RG suggested CLA target recently retired political staffers for membership.



WA report: MH stressed problem locally of heavy-handed policing, and reinforced the value of the Independent Principles of Investigation developed by CLA; also

highlighted her urgent need for a media spokesperson, and extensive use of the CLA Liberty Tree card.

NT report: CP endorsed there was a heavy-handed policing/corrections problem locally, need to speak up for civil liberties when more egregious events occur. 'Greeting' email to all NT CLA members. Alice Springs member Jerry Fitzsimmons is running a 'Free Assange' campaign. BR mentioned appointment of barrister Matthew Littlejohn as spokesperson in NT.

Media report:

April 2019

Interview with Aaron Fernandes, *SBS News* (Venkataraman): cited on nightly news, SBS Radio and website, 9 April

Interview with Naman Shah, Monash U student paper (Venkataraman); C-19 and the prison population: 16 April
Comments provided to Paul Gregoire (Rowlings); published in *Sydney Criminal Lawyers* (and picked up by other online publications) 'Morrison Insists on Mobile Phone Tracing App Before Controls Can Be Eased': 17 April

Interview with Grahame Dickson, for the *Social Detectives* documentary series (Venkataraman); C-19 and the future of civil liberties: 17 April

Radio interview with Jenna Clarke, *The West Live* (Venkataraman); C-19 and the contact tracing app: 20 April

Media release on use of facial recognition technology for 'proctoring' remote University exams (Klugman): 21 April

Interview with Sanchayan Kulasegaram, *SBS Radio* (Venkataraman); C-19 and the tracing app: 27 April 2020

Article in the *Tasmanian Times* (Griggs); C-19 and privacy protections: 27 April

May 2020

Interview with Zach Hope, *The Age* (Venkataraman); C-19 and the COVIDSAFE app: published 3 May

Media release: on poor cttee report to NT Parliament on Judicial Commission Bill:

'New judicial commission likely to have no Indigenous representation' (Rowlings) 5 May

ANU & student membership report: E McL gave rundown on major problem nationwide re Proctorio exam-monitoring software, which is hugely intrusive. Students would be forced to install the AI software on their own computers.

At ANU, BR and Pres/CEO Zoom meeting re possible closer liaison with Law Reform and Social Justice (LRSJ) group of Law students under AssPro Matt Zagor and PhD candidate Achalie Kumaraage: CLA provided possible projects to them:

- i. National Cabinet: good or bad?
- ii. Vaccination: should any Covid-19 vaccination be mandatory?
- iii. Can a govt agency order you to walk clockwise around a lake?
- iv. Modern slavery in the ACT: investigate and report.
- v. examine whistleblowing legislation in the ACT, suggest improvements.

National Student liaison:

UQ: RV explained close ties with Law Pro Bono group at UQ, but warned of slower product delivery by student groups.

Curtin U. MH praised the work of two Curtin U volunteer students who are members of CLA, Linda Diep, who is helping MH with PIP project and also analysing the groups for/against a WA rights act in 2007; and Owen Kipling, who is researching/analysing/drafting for Chris Stamford on national rights project.

Special report: Civil and Political Rights (CPR) campaign:

member Chris Stamford (photo). CS outlined new strategy/ies: Name is Civil and Political Rights Act (CPR Act) campaign to avoid instant negativity of 'human rights' or 'bill of rights'.

a. First aim is to achieve a firm commitment on the ALP policy platform, which is now under major review. CLA has proposed the platform wording be:

"Implement a single national Act to protect the existing civil liberties, freedoms and responsibilities of all Australians consistent with our international treaty commitments."

The basis for 'selling' the CPR Act is that it is a fundamental for restoring trust in politics and politicians, as part of a two-pronged approach:

- i. An ICAC with teeth (to which the ALP is already committed) provides a mechanism by which the people can hold accountable the politicians and the government, and



ii. A CPR Act, which includes a right to take action before a commission, tribunal or court, allows the people to hold the government/departments/etc accountable for decisions, actions and inactions.

He pointed out that with the three Territory/States' Acts now operating, Australian citizens have 30 years' experience of living under a rights act, and the sky has not fallen in, and that most Australians, inequitably, do NOT enjoy living under such rights protection. Also, there are copious real-life examples of how the little guy has been protected over the past 30 years' experience..

b. Responding to questions/comments from Board members, CS explained that, while targeting the ALP (because practical politics dictate that the ALP is the most likely change mechanism), all CLA materials say we are not party-political, and that we are working with the Coalition and cross-benchers on the same issue.

Key meetings held online with a range of Labor and Liberal federal/other jurisdiction MPs. Zoom meetings have gone very well. NB: The meetings are also PR activities for CLA with key people re positioning.

c. Also preparing, with student Owen Kipling's help, a 'template' brief for presentation to the targeted groups in WA, in particular to ensure Economic, Social and Cultural (ESC) rights will be prime considerations in any federal Act. The same 'template' – if successful – will be adapted for other potential allies never previously targeted for support in earlier campaigns...thus broadening the base.

d. There was considerable discussion on the question of differences in the ACT, Vic and Qld human rights Acts. CLA sees the need for "enforceable" rights, that is they can be mediated/ruled on by a body such as a commission or tribunal, with a right to eventually take the matter to a customary court, if needed. But that detail is for debate at the stage of a government being about to introduce THE Act, not at this early stage of securing the commitment to do so.

Major upcoming legal cases:

ST gave a rundown on major cases about to come before the High court: 2 June on unlawful detention by Sentence Administration Board of the ACT and the wrongful imprisonment tort right; 122 Indonesian boat crew wrongly detained as adults when they were children, CP pointed out the NT case of detention officers tear-gassing a 14-year-old confined in a prison cell.

ENDS BOARD

INTERNATIONAL

USA confirms terrorism no longer main threat

The USA has reorganised its National Counterterrorism Center, partly to cut the numbers overseeing the nation's spy agencies but mainly to reorient its activities after the decline of terrorism's threat.

Although terrorism remains a real threat, it is less significant than it was a decade ago, US officials said according to the *NYT*. Some of the resources allocated to the counter-terrorism centre would be better used to collect intelligence on China or other threats to the USA, former officials said.

"These moves are likely designed to reorient the centre to future threats while also eliminating some redundancies in its mission," said Javed Ali, a former senior counter-terrorism center official who is now a visiting professor at the University of Michigan. <https://tinyurl.com/yd8ryav6>

Canada bans weapons designed 'to kill the most in the shortest time'

Canada has banned assault-style weapons. Prime Minister Justin Trudeau announced last month.

"These weapons were designed for one purpose and one purpose only: to kill the largest number of people in the shortest amount of time. There is no use and no place for such weapons in Canada," he said.

"Effective immediately, it is no longer permitted to buy, sell, transport, import or use military-grade assault weapons in this country."

The move comes after murder of 22 people in Nova Scotia in April in the worst mass shooting in Canada's history.

Canada has very high per capita gun ownership estimated at 34.7 firearms per 100 people, according to the Small Arms Survey in 2018. The USA has nearly 120 guns per 100 people.

History, as it was in the long ago BC (before Covid-19)

"...we had concerns about the democracy-threatening wealth and power accumulated by a handful of tech companies that are masters of abdication — eschewing all responsibility for the wreckage left behind in the fields they now dominate, whether media, retail, or transportation.

"That was the ancient past known as February. Today, a great many of those well-founded concerns are being swept away by a tidal wave of panic, and this warmed-over dystopia is going through a rush-job

rebranding. Now, against a harrowing backdrop of mass death, it is being sold to us on the dubious promise that these technologies are the only possible way to pandemic-proof our lives, the indispensable keys to keeping ourselves and our loved ones safe.” Naomi Klein, writing in *The Intercept* on 9 May 2020 – <http://tinyurl.com/ybcec6kl> This is from the first in a series of articles about what C-19 is doing to society.

ODD SPOT: Another tin-pot republic on verge of collapse?

After yet one more independent investigator general was suddenly fired by President Trump last month... Walter Shaub, former head of the US Office of Government Ethics, said: “The assault on the Inspector General is late-stage corruption, and Trump’s kicking down one of the last bulwarks that stand between us and the burgeoning corruption-driven authoritarianism.” He added some advice to journalists: “Cover it like you’re a foreign correspondent in a collapsing republic. Because you are.” <https://tinyurl.com/ycmhf2f7>

Trump represents less than 20% of Americans

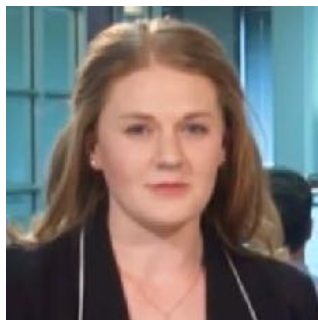
“We sometimes forget that Donald Trump won office with 26.3% of eligible voters (Hillary Clinton got 26.5%).

“It’s still a shock to see a transparently unsuitable person direct the whole US government, even as he rages against it, yet under the peculiar American presidential system of government, he can.

“As a consequence, a country ravaged by virus is at the same time mismanaged and pillaged by an administration stuffed with party operatives, corporate lobbyists and special interests, staffed with the unqualified and incompetent.”

– Roger Fitch Esq files from Washington, originally for the *Justinian* legal blog on 200520 but reproduced here with Fitch Esq’s permission.

Incidentally, 19.4% of the total number of Americans voted for Trump; 20.3% voted for Clinton. <https://tinyurl.com/yag3f8b2>



Parliament passes wrong Bill

Jenée Tibshraeny, a reporter at NZ’s Parliament House in Wellington, was the only one to notice the MPs had passed the wrong bill.

“The government gave itself the power to issue billions of dollars of loans to small businesses, without realising it, she wrote last month.

An administrative error, involving someone clicking on the incorrect confusingly named file, saw the wrong bill tabled and then passed within hours..

“The version MPs thought they were passing was one that enacted all the tax changes the government had already announced to ease the pain of the

Covid-19 crisis.

“The version that actually passed was one that additionally included clauses giving the Inland Revenue Department the authority to issue small businesses loans on behalf of the Crown.”

The crazy thing is, MPs didn’t know what they had just rubber-stamped until she reported it, Jenée said. The NZ Cabinet then had to hold an urgent meeting that night to sort out the mess. <http://tinyurl.com/ydxt6au8>

Former CLA Vice-President Tim Vines, now living in NZ, said that the NZ Parliament had also accidentally voted to remove all the ‘safe zone’ protections during the debate on its Abortion Law reform in early March – in early May, they still hadn’t fixed that mistake.

100 million downloads is nowhere near enough

India’s Covid-19 contact tracing app – Aarogya Setu, which means "bridge to health" in Sanskrit – was downloaded 100 million times in its first six weeks.

But that’s only about 7% of the population of course, even though the app is mandatory for all government and private sector workers, as well as citizens living in containment zones.

In Noida, a Delhi suburb, the app’s compulsory for all residents on pain of six months in jail.

Aarogya Setu tracks and stores location data and requires constant access to the phone’s Bluetooth which, experts say, makes it invasive from a security and privacy viewpoint.

It’s not open source, and there is no legislation mandating safeguards against abuse by the government, or anyone else. And the Indian government’s reputation for protecting data is about as bad as Australia’s.

<http://tinyurl.com/yd7mfsjo> and <http://tinyurl.com/ybletabw>

Apple defector says eavesdropping is rotten to the core

A former Apple contractor who helped blow the whistle on the company's program to listen to users' Siri recordings has decided to go public, in protest at the lack of action taken as a result of the disclosures.

Thomas le Bonniec said: "It is worrying that Apple (and undoubtedly not just Apple) keeps ignoring and violating fundamental rights and continues their massive collection of data. Big tech companies are basically wiretapping entire populations."

Le Bonniec, 25, worked as a subcontractor for Apple in its Cork offices in Ireland, transcribing user requests in English and French, until he quit in 2019 due to ethical concerns with the work.

"I listened to hundreds of recordings every day, from various Apple devices (eg. iPhones, Apple Watches, or iPads)," the *Guardian* reported him as saying.

"The recordings were not limited to the users of Apple devices, but also involved relatives, children, friends, colleagues, and whoever could be recorded by the device. The system recorded everything: names, addresses, messages, searches, arguments, background noises, films, and conversations.

"I heard people talking about their cancer, referring to dead relatives, religion, sexuality, pornography, politics, school, relationships, or drugs with no intention to activate Siri whatsoever," he said. <https://tinyurl.com/yce13ycy>

Prisoners face Covid-19 lottery

In a lottery, documents reveal England and Wales released only a fraction of prisoners approved for release under Covid-19 concerns.

The Ministry of Justice announced on 4 April that up to 4000 prisoners within two months of their release date who had passed a risk assessment would be released. At the end of April, 200 prisoners had been approved for early temporary release with a further 300 being considered, according to information provided to the Howard League for Penal Reform and the Prison Reform Trust.

Also at the end of April, shortly before Covid-19 lockdown was eased, ministers confirmed that only 33 prisoners had been released – including pregnant prisoners and inmates in mother and baby units, meaning fewer than 20 had been freed under the temporary early release scheme.

ODD SPOT: Covid-19 closures cut access to abortion

Texas, Alabama, Arkansas, Iowa, Louisiana, Ohio, Tennessee and West Virginia have all seen confusion and intermittent bans as anti-abortion state politicians classified abortion services as non-essential, and included abortion clinics in bans on elective surgical procedures. The orders have left women desperate, as appointments were cancelled, rescheduled and cancelled again subject to court rulings. <https://tinyurl.com/yb4hevju>

'Prisoners all on death row'

"I thought the death penalty was illegal in Colombia but we're all on death row now," said a man, who gave his name as Nelson and said he was one of 12 inmates in a cell designed for four, the *Guardian* reported.

Villavicencio's prison has become the centre of Colombia's Covid-19 outbreak, reporting nearly 900 cases (by mid-May), over 7% of the country's confirmed total. Images circulating on social media show harrowing scenes inside, with dozens of inmates crammed into tight spaces, often without face masks. In late April, authorities discovered a tunnel dug by inmates desperate to escape the infection-ridden prison.

"This virus is spreading like crazy. Someone help us. We're going to die here," Nelson said by phone. <https://tinyurl.com/yaacsknp>

International briefs

Education, literacy are constitutionally guaranteed: The US state of Michigan settled a lawsuit with Detroit students last month and promised improved school facilities and learning conditions. The settlement follows a recent federal appeals court's revolutionary decision to recognise education and literacy as a constitutional right. The case was brought by seven Detroit students in 2016, who argued they were deprived access to literacy because of a lack of books, teachers and poor building conditions. The city's public schools were in "slum-like conditions" and "functionally incapable of delivering access to literacy". <https://tinyurl.com/yc5qybw9>

E-tags go unused, as promise goes unkept: The UK's Ministry of Justice bought 2000 electronic monitoring tags for prisoners released early under emergency measures that saw only 57 inmates released in the first five weeks. The government said it had signed a deal with two private providers, Buddi and

Attenti, on 7 April and 22 April respectively: no cost was given. The MOJ announced on 4 April that as many as 4000 prisoners who were within two months of their release date and had passed a risk assessment would be freed. As of 12 May, the figure stood at 57. <http://tinyurl.com/yc3w97zf>

Man is Zoomed to death: Singapore's High Court has sentenced a man to death over Zoom. Punithan Genasan, was found guilty of being complicit in drug trafficking, according to Singapore's *Straits Times*. He helped traffic 28.5kg of heroin back in 2011, before leaving the country, which has a zero-tolerance policy for illegal drug use, for his home country, Malaysia. He was extradited in 2016, eventually found guilty and, last month, sentenced to death via a Zoom call between High Court officials, the man and his legal team. <https://tinyurl.com/yagzsfho>

DATES: PLEASE CHECK AGAINST COVID-19 LOCKDOWN CANCELLATIONS

23-26 June, Brisbane: Asia Pacific ministerial conference on Indo-Pacific natural disaster risk reduction, hosted by DFAT. Details: <http://tinyurl.com/y5qb99sy>

2-3 July, Canberra: State of the Pacific conference, ANU. Details: <https://tinyurl.com/vclsw8z>

2-4 July, Canberra: 28th ANZ Society of Intntl Law conference, ANU. Details: <https://www.anzsil.org.au/events>

5-10 July, Rhodes, Greece: Keynote High Court judge Stephen Gageler. Details: <https://hal.asn.au/rhodes2020/>

13-14 July, Brisbane: Australasian Law Reform Agencies conference. Info: <https://tinyurl.com/wpl6gwz>

27-29 July, Sydney: 2020 National Closing the Gap Indigenous Health Conference. Info: <https://www.indigenoushealth.net>

20 Aug, Brisbane: Forensic evidence in criminal proceedings, Prof Gary Edmond UNSW, Supreme Court 5-6.45pm. Details: <https://law.uq.edu.au/event/session/13484>

21-25 Sept, Sydney: 22nd triennial meeting Intntl. Assn Forensic Sciences with 25th symposium of the ANZ FS Society, Convention Centre. Register/details: <https://iafs2020.com.au/>

19-21 Nov, Hobart: Australasian Association of Bioethics & Health Law Conference, Hobart Function Centre, 1 Elizabeth St. Info: <https://tinyurl.com/y25tn84z>

6 Dec, Christchurch NZ: Date by which Scott Watson's next parole bid must be heard. Watson was convicted of a double 'yachtie' murder in 1998 in a case that has generated great controversy as to the safety of the conviction: <https://tinyurl.com/yx2dtjvv> <https://tinyurl.com/sdue78q>

7 Dec, Canberra: Inaugural director of CIPL (see below), Professor Philip Alston, of NYU Law and UN special rapporteur on extreme poverty and human rights, will deliver the annual ANU Geoffrey Sawer Lecture at 6pm on 7 December 2020. Info: <https://tinyurl.com/u99bbks>

8-9 Dec, Canberra: Public Law and Inequality, major international conference to mark 60th anniversary of ANU Law and 30th of the Centre for International and Public Law at ANU. Guest speakers include Prof Julie Suk of the City U. of New York (left) and Prof Asmi Wood of ANU (right) <https://tinyurl.com/vfmsqaz> 2022:

10 May, Adelaide: 50th anniversary of the death by drowning of law lecturer Dr George Ian Ogilvie Duncan, thrown into Torrens River by a group believed to be police officers. Led to SA enacting the first homosexual law reform act in Australia.

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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