

Covid-19 vaccination: CLA's position

If a vaccine is found for the Covid-19 virus, in general it should NOT be mandatory for Australians to be vaccinated, CLA believes.

When Prime Minister Scott Morrison said the vaccine would be mandatory, he misspoke: within hours he had walked back his comments significantly.

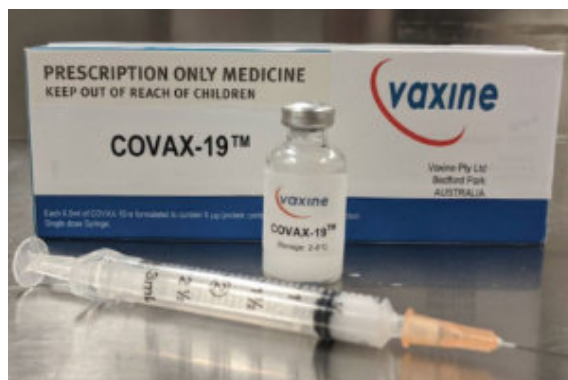
CLA's policy on accessing health is:

- Everyone has the right to equal access to publicly-provided health services, and to receive or refuse medical treatment. Mental health patients have the same rights.
- In the absence of informed consent, ideally no one should be forced to have any medical treatment. If treatment is needed for urgent or life-saving reasons (as sometimes ordered by a court), the least intrusive or invasive treatment should be given.
- If governments or businesses seek to make vaccination a compulsory requirement to access benefits, services, places of education or specific jobs, it must be rationally based, limited to the least restrictive requirements and address any equity issues - such as making vaccination free and responding quickly to any safety issues.
- Children (in relation to immunisation like for measles-mumps-rubella, and polio) also have individual rights re vaccination, which is the choice made for others: <https://www.cla.asn.au/News/vaccination-the-choice-made-for/>
- Patients have the right to their own records; health care providers must be accountable.
- Everyone has the right to give binding health directions in case they subsequently become incompetent.

In relation to Covid-19, it is likely that governments will make being vaccinated compulsory for some people for good community health reasons. Examples are:

- health workers, hospital workers, aged care workers;
- prison guards; and
- where mass outbreaks of disease are likely/possible.

Australian vaccine candidate, in trials now.



Beyond such people/places, it will be up to the health departments of federal, state and territory governments to convince their citizens by informing them, educating them and answering questions that any proposed state-provided or state-subsidised vaccine should be taken, for their own good and the good of the community.

CLA does not believe this will be hard to do: we expect upwards of 75% of people to be instantly supportive of being vaccinated, before any promotional campaigns to boost numbers.

It is likely that governments will use incentives, perhaps tax or other concessions, to promote vaccination. They may also use penalties – or omissions – for people who are not vaccinated against Covid-19 (for example, they may not be permitted to attend packed football matches or netball games).

In the private sector, employers may be able to insist on vaccination as terms/conditions of employment. Fly-In, Fly-Out (FIFO) mine workers are examples. Anywhere where close living/working is usual, such as on a fishing trawler, or in show business, could be other examples. Businesses should, however, be able to demonstrate why a specific role requires vaccination and try to offer individuals alternative work if they are not willing to be vaccinated. Sometimes this will not be possible.

While children are apparently not largely affected by Covid-19, they may be significant carriers. It is possible that children and others could be prevented from visiting places such as aged care homes for a number of years, until widespread (“herd”) protection is in place.

CLA in general supports the measures for introducing one or more Covid-19 vaccines to Australia. But these are preliminary comments. Much more information will be needed before any of us can sign off on a specific vaccine or vaccination policy.

Comments on Covid-19 matters:

'The longer term consequences of the pandemic may be fewer citizens' rights'

by Andrew Farran, 21 August 2020, P&I blog: <https://tinyurl.com/y58cdu39>

Where does Australia fit? List of 30 countries using pandemic measures in authoritarian manner: https://www.vice.com/en_au/article/dygbxk/these-30-regimes-are-using-coronavirus-to-repress-their-citizens

Federal govt lags the western world in aged care quality monitoring

Australia could immediately set up independent, transparent, routine monitoring and public reporting of federal aged care quality as Denmark, Sweden, Germany, the Netherlands, and the USA have done, a Royal Commission report showed last month.

Currently the Australian government has no care quality outcome reporting for home care and reports on only three indicators for residential care, the Royal Commission into Aged Care Quality and Safety said.

The RC commissioned research from the SA Health and Medical Research Institute. Their findings show quality outcome indicators can be produced from existing data without any burden to aged care providers.

“This includes indicators for medication-related quality of care, falls and fractures, hospital re-admissions, hospitalisation for dementia/delirium, pain, premature mortality, pressure injury, utilisation of care plans and medication reviews, and weight loss/malnutrition,” the RC said last month.

See [Research Paper 8 – International and National Quality and Safety Indicators for Aged Care](#)

Kirby on civil liberties: The lesson of this century (20th: Ed.) is that democracy is not an absolute. Unbridled majoritarianism can be a most oppressive tyranny. The essence of democracy, as we now understand it, lies in the way it treats vulnerable minorities. Indeed, that is the abiding lesson of civil liberties. There is no human right of democracy to denigrate or abuse women or children. There is no right to democracy that stigmatises people on the grounds of race or skin colour. Democracy meets its limits when it discriminates on the grounds of religion, handicap, age or sexual orientation.

– Michael Kirby, later judge of the High Court of Australia, speaking as President of the NSW Court of Appeal on 13 April 1995

Muzzled journos speak out for press freedom

Alliance for Journalists' Freedom director Peter Greste (photo), appearing at a Senate inquiry into press freedom last month, called for a “comprehensive media freedom act” to enshrine protections in law.

“The state of press freedom in Australia is so grim that over the past two years we've slipped eight places on the Reporters Without Borders world press freedom rankings,” he said. Australia currently sits 26th, below countries including Samoa, Canada, Germany and NZ. <https://tinyurl.com/zv9ddct>

The Senate's Environment and Communications References Committee is inquiring into press freedom, and is due to report early in 2021.

Journalists told the inquiry that a raft of press freedom issues need fixing, such as reforming FOI laws, limiting documents the government marks “secret”, and providing greater protections for whistleblowers.

They pointed out that, under Australia's Crimes Act, receiving a government document without permission is punishable by up to seven years in jail. <https://tinyurl.com/y5wkskpe>

Meanwhile, the Parliamentary Joint Committee on Intelligence and Security, which CLA shorthands to ‘SIC’ for Security and Intelligence Committee, has also been inquiring into press freedom. It is inquiring into “the impact of the exercise of law enforcement and intelligence powers on the freedom of the press”.

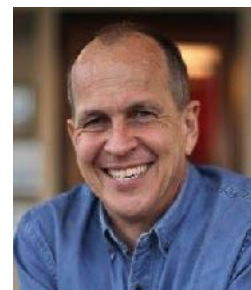
The SIC inquiry's press “freedom” report was published in late August 2020: <https://tinyurl.com/yygjl4b8>

We have not yet had time to digest it.

Porter fails in his legal duty: Adair

Attorney-General Christian Porter has admitted failing to disclose his use of controversial National Security Information (NSI) orders in criminal proceedings, blaming an “administrative oversight”.

Australia's AG is required by law to list his use of NSI orders to the parliament each year, but Porter has not done so once since he was appointed AG in 2017, Kieran Adair wrote last month.



Under such orders, he can withhold evidence in a prosecution from the public but also from the accused, the defence team and witnesses for the defence.

“As to the cases the public are aware of, it seems the certificates are being issued not to target terrorists or extremists but to silence whistleblowers, to burden their defence and to stop the reporting of cases that might embarrass the government,” Adair wrote.

He says the NSI orders were enacted through a suite of counter terrorism acts passed in 2004, and that not a single NSI order was issued between 2010 and 2017.

“However, since Mr Porter has been at the helm, NSI orders seem to have been raining down upon us and he has failed to report them.

“The secret proceedings of Witness J, Witness K, Bernard Collaery and now our (Xenophon Davis) client, Afghan War whistleblower David McBride, are all labouring under the weight and the cloak of these orders.

“And there is not a terrorist or extremist among any of the accused. In fact, they are all men who served their country honourably and felt morally compelled to reveal dishonourable activities.” – Kieran Adair writing at <https://tinyurl.com/y6t788mw>

ODD SPOT: About 70 % of us don't trust polities or public servants

Only 31% of citizens trusted Australian public services, and just 25% believed they could “successfully implement changes to meet the needs of all Australians”. These were the results of a government survey of 5103 Australians in March 2019 to “better understand citizen attitudes and satisfaction with the public service”. But since then those results, and others in surveys of 2500 citizens every four months, have been withheld. While the figures have gyrated wildly – due to the government's response to bushfires, then Covid-19 – the underlying figures back up ANU's Australian Electoral Surveys analyses, which have shown similar abysmal levels of trust in politicians and the government in general. <https://tinyurl.com/y63tvr5b>

Human rights committee splintering on party lines

Liberal and National Party members of the Parliamentary Joint Committee on Human Rights were “aiding and abetting” the government's creation of a police and surveillance state, Greens justice spokesman, Nick McKim, said last month.

His outburst – long overdue, CLA says – comes after the committee split along on party lines on two bills, involving ASIO and refugees.

McKim said that Coalition members of the committee were politicising it. They were ignoring formal legal advice.

The human rights committee last month reported on a bill amending ASIO powers, so it could secretly question children as young as 14. Separately, the committee considered a proposed change to the Migration Amendment (Prohibiting Items in Immigration Detention Facilities) Bill 2020 that would allow the government to ban phones in immigration jails.

Virtually the only way the Australian public has found out about dark doings, deaths and human rights abuses in immigration jails has been by detainees communicating what's happened by audio, video, text and photos.

But Coalition members of the committee endorsed the proposed draconian laws, even though the formal legal advice said that they raised significant human rights concerns. Greens and Labor committee members backed the legal advice and put in a dissenting report. <https://tinyurl.com/y4oywgfk>

ASIO bill gets bad report card

The Australian Security Intelligence Organisation Amendment Bill 2020 (see item above) presented to federal parliament recently got one of the worst “scores” ever from the parliament's Scrutiny of Bills committee. (*Note: this is a different committee from the one above*).

Here's a summary of its comments:

- There are “significant matters” in delegated legislation which don't have the usual “disallowance by parliament” options: one sub-section in particular should be amended.
- Other “significant matters” include that there should be rules around lawyers' access to information for questioning warrant proceedings (“or at least high-level guidance”) in the main bill, not delegated.
- Because the bill reverses the burden of proof, the committee believes two proposed subsections, 34GD(4) and (9), should be included in the main offence.
- The bill “trespasses” on freedoms: not enough safeguards are in it to protect rights and liberties.

- Some other discretionary power is too broad: one section needs to change so that the Attorney-General's guidelines around financial assistance are subject to parliamentary disallowance.
- Allowing an internal process to approve tracking devices for use by ASIO is not appropriate: there should be parliamentary oversight as there should be around verbal, not written, authorisations, also.

– Scrutiny of Bill report No 9 <https://tinyurl.com/ya92gngn>

Secretary claims ‘No suicides over robodebt’: bring on the SHABBIes

Before a recent hearing, the mother of a young man who committed suicide, Kath Madgwick, commented on quotes from the Secretary of the Department of Social Services, Kathryn Campbell: “I wanted five minutes with her for her to tell me how she knows my son better than I did.”



Major General Kathryn Campbell
Commander 2nd Division

Secretary Campbell has told the parliament and the Australian people that she, her Centrelink dole-paying department and the government ‘do not accept there were deaths over robodebt’.

Left: Secretary Campbell is also a Major General in the Army.

‘Robodebt’ is shorthand for a scheme, by the Coalition government, to unilaterally claim people who had been receiving the dole owed the government money, based on calculations using unproven algorithms. Labor’s government services spokesman, Bill Shorten, said: “It’s somewhat unsurprising robodebt’s creators refuse to admit even to themselves the damage they have caused. But to deny the lived experience of grieving mothers as happened recently is a new low for dehumanised bureaucracy,” Shorten said.

A Senate committee inquiry was told last month that Services Australia had paid back \$545m refunds, or about 80% of the 470,000 debts they finally acknowledged were wrong, that is unlawfully issued between 2015 and late 2019. In plain English: the government demanded money – with threats – from people on the dole...and the government was wrong in its calculations.

Australia needs either a civil and political rights act, or regulations creating a SHield Against Bureaucratic Bungles (SHABBIes), to prevent politicians and public servants implementing ill-thought-out schemes that ravage people’s mental health at minimum, and possibly kill people. <https://tinyurl.com/yyb7doox>

Politicians of all parties know and acknowledge that the main benefit of a rights act would be the “little people”, by reining in bureaucratic bungling. Polities have a chance to act on behalf of the little people, and to put in place a system to prevent government and bureaucratic bullying, CLA says.

State leads the nation towards Aboriginal treaty

Victoria has begun meetings between the state’s First Peoples Assembly and the government aiming to produce a treaty, after completing a truth-and-reconciliation process.

The first meeting, set down for last month, planned to outline timelines for negotiations, establish a dispute resolution process and identify how the parties will work together for all future treaty negotiations.

The Andrews government committed to the overall process in February 2016. Since then the Victorian Treaty Advancement Commission has been created, which led to forming a First Peoples Assembly, which met for the first time in late-2019.

In the lead-up to August’s meeting with state government, the assembly conducted seven months of community consultations.

Treaty meetings will run parallel with setting up a “truth and justice process” to formally recognise historical and ongoing injustices against Aboriginal people in Victoria. <https://tinyurl.com/y4y2axvx>

Obedient Aussies toe the Covid-19 line

During the pandemic, Victorian Police appear to have been the most fine-happy coppers in the nation, totting up some 20,000 fines to the end of August.

By contrast, NSW had issued just 1500 or so.

Most people in Victoria received a \$1652 penalty (the maximum possible was \$5000)

A 5% non-compliance rate is expected in public health interventions, surgeon Dr Neela Janakiraman has said. Given Melbourne’s roughly 5 million population, about 250,000 people would have to be disobeying the rules to meet that percentage.

Despite the rhetoric of the Victorian and other Premiers, Australians have been hugely law abiding – to draconian laws – during the pandemic. <https://tinyurl.com/y6fuz6ne> and <https://tinyurl.com/y2qwpudg>

Call for brave AGs to act

State, territory and federal Attorneys-General were cowards for not deciding to lift the age of criminal responsibility in Australia, CLA President Dr Kristine Klugman said.

“For years, there has been consensus among child psychologists, health professionals and legal experts that 10 is far too young for a child to be treated as a criminal,” she said. “Doing so only serves to embroil children in the criminal justice system and a life of further offending.

“And in Australia, it is predominantly Indigenous children who are affected.”

She said that most developed countries have set the age at 14, and some at 16. The Royal Commission into the detention of children in the NT recommended nearly three years ago that the age be raised.

“But, after yet another inquiry into the issue, governments still can't make up their minds,” Dr Klugman said.

“Australian politicians are very good at making apologies for the decisions of their predecessors, apologies to the Stolen Generation, to the Forgotten Australians, and to the victims of child sexual abuse. Yet when these same politicians have an opportunity to do something for children today, they prefer to sit on their hands.

“It is time they got real. The age of criminal responsibility is largely up to individual states and territories.

“It is time for those jurisdictions who see themselves as progressive and as believers in human rights to change their laws. Then the governments that prefer to treat young kids as criminals will no longer be able to hide,” Dr Klugman said. (See also **Comments**, later)

CLA wrote last month to all Premiers/Chief Ministers, asking them to intervene to force their AGs to act for the sake of the children.

The ACT Labor and Greens parties have committed to enacting 14 as the legal age if they are returned to coalition government after their October 2020 election.

Why the AGs should act now on age of criminal responsibility

CLA Vice-President Rajan Venkataraman, in correspondence with an MP in the ACT, pointed out why it was long past time that AGs throughout Australia acted.

“You refer to the process of the Council of Attorneys-General and you say that there is supposed to be a report ‘by the end of 2021’,” he wrote.

“This new process followed a nine-month review and public consultation process that reported to attorneys-general earlier (in August 2020).

“That report followed an earlier period of more than 12 months while attorneys-general debated the issue.

“That in turn followed previous inquiries, including the NT Royal Commission, all of which recommended raising the age of criminal responsibility.

“The truth is that there are very few children in the ACT who are in custody. This makes it an ideal place to show leadership and demonstrate that this reform can be done quickly and with the best interests of children in mind.

“Is waiting another 18 months for another report really the best we can expect?”, he wrote.

PR-chasing ASIO gets down in the shallows

In last month's ‘Security Special’, we criticised ASIO and its new boss Mike Burgess for turning the entity into a PR factory.

Little did we know that, within days, Burgess would push ASIO into its own Twitter account, proving our point completely.

The Guardian reported: In a press release posted to ASIO's website, its director-general of security, Mike Burgess said the account is designed to recruit staff, “engage” with Australians, and show that “ASIO does have a sense of humour”.

“We toyed with the idea of tweeting ‘no comment’ and following it up with ‘and that's off the record’,” he said. “But I'm keen to dispel any notion that ASIO is a shadowy, unaccountable organisation.”

That description appears to be precisely what ASIO is under Burgess, shadowy, unaccountable...and shallow. It's remarkable how quickly Burgess seems to be taking the organisation downhill in public regard.

His latest PR stunt was to “reveal” a soundproof room in the ASIO building. Apparently the only sound that can escape from it is PR bumpff promoting the ASIO boss. <https://tinyurl.com/y3z1pt6a> <https://tinyurl.com/y3v73e6g>

Spies, surveillance coming to a home near yours (actually, maybe to yours)

At least 600 extra secret personnel are being thrown at cyber security in Canberra under a new package which dangerously links Australia’s overseas – and local – technical surveillance spies with federal police enforcers.

The major boost to ‘The (security) Community’ in Canberra will enable massively increased spying on Australian citizens internally.

Previously there were strong boundaries around internal surveillance: in future it will be open slather, whenever the full force of police/spydom decides – for itself – that someone or some organisation might/could be engaged in criminal activity.

PM Scott Morrison confirmed last month that \$1.6 billion is being spent on the new cyber strategy.

It will expand Australia’s cybersecurity workers in the Australian Signals Directorate (ASD) by 500 people at a cost of \$470 million. Another \$125m will double the AFP’s cyber enforcement capacity to 200 officers, and expand work in the same field that the Australian Criminal and Intelligence Commission (ACIC) does.

All these moves are aimed at creating a bigger, tighter police and security state, integrated on the claimed fear of external actors but entirely capable of being fully deployed in Australia against Australians.

The government has acknowledged that the new spending includes boosting the capability of the ASD to help law enforcement agencies identify criminal activity in Australia. This is the first time ASD is being allowed to target Australians.

The link with ACIC is particularly worrying: the CEO of ACIC is Michael Phelan, the then-AFP senior policeman who ensured the Bali 9 were arrested in Bali, and not in Australia. That behaviour indicated a possible “police forum shopping” approach to where suspects might be arrested. (Two of the Bali 9 were executed by firing squad in Indonesia after 10 years in jail).

Home Affairs Minister Peter Dutton indicated that, under the new cyber spending splurge, law enforcement agencies would target serious terrorists, pedophiles and drug traffickers only.

That is highly unlikely to remain true for very long, either in terms of the types of targets or the degree of offending. As usual, Dutton rolled out pedophile, terrorist and drug peddlers as examples of targeting children for his justification. Statistics or figures are never provided in these emotive, rhetorical examples, CLA notes.

Shadow home affairs minister, Kristina Keneally, and shadow assistant cybersecurity minister, Tim Watts, said Labor would “consider the detail of the government’s strategy, including any legislative proposals” but chose to attack the Coalition’s track record rather than the policy.

“The Morrison government needs to get their own house in order, too – 70% of commonwealth agencies have failed to implement basic cybersecurity measures according to the Auditor-General,” they said.

<https://tinyurl.com/y4w89uwt>

ASIO and AFP demand laws they don’t use

Neither the spy agency, ASIO, nor the AFP have forced tech companies to provide assistance under controversial anti-encryption laws rushed through two years ago, a parliamentary inquiry has heard.

Both claimed they had secured voluntary cooperation from tech and communications companies, even though there had been times when they had come close to issuing a compulsory notice, according to a report by Daniel Hurst.

They “might” need to use the tougher powers in future, ASIO and the AFP said.

CLA has heard this many times before: the spooks and police claim they need new powers, but provide no evidence that the powers are needed. Parliamentary committees kowtow to the agencies...and bad law which is anti-civil liberties and human rights is the result.



CLA has for years, but in vain, asked the parliamentary committees to demand that the agencies justify their need for extra powers and new laws.

Shadow AG, Mark Dreyfus, commented last month: “Two and a half years ago the AFP told this committee that it urgently needed these powers and here we are two and a half years later and you haven’t used them”.

Hurst reported in the *Guardian* that the 2018 laws increased penalties for criminal suspects who refused to unlock devices such as phones and created a new framework for law enforcement agencies to request or compel technical assistance from tech companies – and even to create new capabilities such as “back doors” to get around the encryption in some of their products. <https://tinyurl.com/y28kr8c3>

SAS boss changes; war crimes report is imminent

Major General Paul Kenny will be the next commander of the nation’s special forces as Special Operations Commander for Australia (SOCAUST).

For the first time, the SAS boss will not be a SAS-qualified graduate of the SAS Regiment.

The wider SOC command role is in charge of the SAS, their vital Commando (or “part-time” component) and other specialists and unique support units.

Kenny moves to the post from heading the ADF's response to COVID-19. He takes over from Major General Adam Findlay who has led the special forces since 2017, and is credited with starting to repair the internally-rot culture and attitude.

The entire force is overshadowed by a four-plus-year, deep-seated inquiry into alleged war crimes in Afghanistan which is long overdue for closure and report.

Since May 2016, reservist Major General and NSW judge Paul Brereton has been helping the Inspector-General of the Australian Defence Force to inquire into the conduct of special forces, including 55 separate incidents of alleged breaches of the rules of war between 2005 and 2016.

Judge Brereton's report is apparently imminent. AFP Commissioner Reece Kershaw has warned that prosecutions of possible Australian war crimes could last throughout the coming decade, the ABC reported. <https://tinyurl.com/y3d4gxue>

Blind justice dispensed by police

Police in NSW can continue to choose when they activate body-worn video cameras and when they don't. Their power to choose was recently renewed after a statutory review. The decision flies in the face of widespread calls that the devices be activated whenever powers are exercised.

The Law Society, Legal Aid, the Aboriginal Legal Service (ALS) and Redfern Legal Centre (RLC) all wanted police forced to activate body-worn cameras when officers make an arrest. <https://tinyurl.com/y339zrqg>

Big petition seeks end-of-life options

The largest ever e-petition to the Tasmanian Parliament was lodged last month...for euthanasia.

Some 13,082 Tasmanians signed the full petition supporting a *End of Life Choices (Voluntary Assisted Dying) Bill 2020*. There were 1383 signatures on the paper petition and 11,699 signatories to the e-petition “This massive petition is another demonstration of the overwhelming public support for laws that show compassion to people whose pain and suffering cannot be relieved with palliative care,” said Greens leader Cassy O'Connor.

Natalie and Jacqui Gray of Your Choice Tas ran a community campaign, along with independent MLC, Mike Gaffney.

The Grays took on the task after the death of their mother, Diane, late in 2019 from cancer. They promised her to campaign for the option of choosing to end one’s life, after she suffered enormous pain for many months without relief being possible in her final days.

“Jacqui and Natalie have poured their hearts into this very personal campaign, and it was a privilege to table the petition on their behalf,” said O'Connor. <https://tinyurl.com/yxrf94m3>

The Quigley Stitch: how an Attorney-General raped the rule of law

The WA government has blimped up pantomime villain Clive Palmer in public so as to undertake serial atrocious acts: abandoning legal propriety, raping the traditional rule of law, and refusing to act as a model litigant, which it is by WA law mandated to do.

The government has also trashed the parliamentary process...but that’s a mere by-product.

The state government's shenanigans has delivered a massive blow to the reputations of governments for propriety Australia wide, and internationally. What company would trust a government in Australia again? Palmer apparently loses the benefit of \$28 billion, civil arbitration in his favour, simply because it had not been formally registered in a court.

The state of WA has lost a reputation for integrity for decades to come, if its newly-minted law stands. AG Quigley developed a draft law – a “left hook” he called it – in secret, and introduced it to parliament late at night after all courts in Australia had closed so Palmer could not quickly file a legal restraining action. Quigley admitted he did so for tactical reasons...to take advantage of a "weakness" in Mr Palmer's position, Quigley is reported as saying. "This legislation has been crafted over the last six weeks in secret," Quigley said.

Quigley also emasculated parliament: he said there was no time for committee review of the proposed anti-Palmer law: parliament must pass the law immediately. "We've got to unleash the left hook today. We've got to knock him down today. There is too much at risk for all Western Australians for namby-pamby inquiries," he said.

Any proposed inquiry in future that the state government and AG Quigley and Premier Mark McGowan don't want will now be classified as “namby-pamby”, and not held solely on that basis.

If any WA citizen thinks the passing of the Quigley law is to their benefit, they might like to consider that the state government is now free to treat any WA laws that affect any WA citizen in the same way. No-one can have any faith in any WA law in future, if this situation persists. <https://tinyurl.com/y523lbcq>

Law society agrees: government toys with fundamental legal principles

The Law Society of WA has accused Parliament of passing a law that "challenges fundamental legal principles".

"The (Palmer) law unilaterally amended a state agreement for the first time in some 60 years," the LSWA's statement read. It exempted the state from defined liabilities, removed potential appeal and review rights and excluded principles of natural justice."

Damaging the State's reputation (over) sovereign risk is not in the State's interest, the LSWA said.

"More fundamentally, the new law affects a principle on which our system of law is based. Citizens acquiesce to be governed by the state on the basis the state will govern according to the rule of law.

"The rule of law comprises a series of concepts, but most fundamentally: all people, whatever their status, are subject to the ordinary law of the land. Departure from that principle has the capacity to affect the foundation of our democracy.

"The new law is unprecedented and extreme." <https://tinyurl.com/y62446fb>

Quigley has trouble juggling justice

WA Attorney-General John Quigley says he and his Department of Justice are flat strap on Covid-19.

The DOJ's "limited resources" have been "largely directed" to WA's virus pandemic, so the AG can't progress the government's response to a major review of the state's outrageously excessive, unjust and unprincipled proceeds of crime and unexplained wealth laws.

The immediate past chief judge of WA, Wayne Martin, reviewed the Criminal Property Confiscation Act 2000 (WA) in 2018 and 2019. Martin tabled his report in May 2019, and the AG finally tabled the Martin report and recommendations in December 2019.

"The report and its recommendations are of significant importance to me," AG Quigley wrote to CLA vice-president Rajan Venkataraman last month, "(but) the legislative agenda until the State election in March 2021 is now full, and it is unlikely any amendments could be considered...this term."

So a review, begun in September 2018, will have no outcome until at least 2021. Sed interea fugit, as that well known Roman lawyer, Virgil, would have said. ("Meanwhile, time flies).

The laws should be amended immediately, as a matter of urgent priority. They are not just bad, they are atrocious. Here are just some of Martin's comments:

- His report said the Act, legislated in 2001, was "incoherent, inconsistent and uncertain, unduly complex and unprincipled, unjust".
- It has the "undeniable potential to inflict injustice, to operate arbitrarily and unfairly. Confiscation can be entirely disproportionate to the crime, arbitrary and unfair. It is almost entirely devoid of any (judge's) discretion".

- “In all cases other than cases relating to crime- derived property, the legislation should confer a discretion upon a court to decline to order the confiscation of part or all of the relevant confiscable property in the public interest, or in the interests of justice.”
- “A practice has evolved...there is only one standard of justice, the reduced standard...which confers the least rights upon the affected persons”.

ODD SPOT: Cops get high

More than 40 drones will patrol metropolitan Perth and other areas of WA over the next 12 months. WAPOL’s Major Crash Unit will use them first, but ultimately 60 trained drone pilots will use 40 drones to patrol the WA skies. The drones will undertake emergency land or marine searches, and also help with complex murder investigations and serious and fatal crashes, police said. This development officially turns WA into a surveillance state.

WA is the ‘mother of all jailers’

A new WA taskforce will review how “at-risk prisoners” – that’s code for Aborigines – are being treated.

Last month the fourth Aboriginal person died in jail in the past three months.

The taskforce will assess whether WA prisons are following the state’s suicide prevention strategy.

Private contractor Serco runs Acacia prison where a 40-year-old Indigenous man was found collapsed in June and a 19-year-old man took his own life in July.



There have been other deaths at Roebourne regional prison in July and Melaleuca women’s prison in August, each apparently self-harm incidents according to authorities.

The director of the national suicide prevention and trauma recovery project, Megan Krakouer (photo), said the taskforce was long overdue. “My people keep dying,” she said. “Since the 1991 royal commission [into Aboriginal deaths in custody] there have been 440 deaths. In WA, there’s been 101 in custody. This is unprecedented – WA is the mother of all jailers.” <https://tinyurl.com/yxj9p5rr>
<https://tinyurl.com/y4aw5kzn>

Greens promise ‘care ’n help’ over drugs

For the election on 17 October 2020, the ACT Greens have promised a total overhaul of drug laws.

They’re promising \$40m year to accelerate a health-led response to drug use, by:

- doubling funding for drug and alcohol treatment services to \$40m pa, to reduce wait times for rehabilitation and detoxification;
- starting routine pill testing on weekends in central Canberra;
- introducing permanent alcohol and drug testing for people at Canberra’s clubs, venues and festivals;
- piloting a safe drug consumption site, an ACT first;
- increasing access to medicinal cannabis and improving the current medicinal cannabis scheme;
- investing in psychedelic-assisted psychotherapy trials; and
- enhancing drug diversion pathways to keep more people out of the criminal justice system.

“This is such a refreshing change from the usual pollied ‘law n’order’ over-promising and not delivering; this is more ‘care n’ help’ for people with medical problems,” CLA President Dr Kristine Klugman said. “We hope the mainstream parties pick up on the initiative.” – from Greens ACT media release 200806

“...one lives in hope,” said Bill Bush, CLA member and President of Family and Friends for Drug Law Reform “... that Greens’ policy will precipitate a mature, restrained discussion of drug policy in the lead up to the election. I think there is a general trend to greater community acceptance that drug policy should change to a less punitive approach.”

More calls ring out for an end to PIP

There’s a growing clamour throughout Australia for police to stop investigating police, what CLA calls ‘PIP’.

The latest call comes from the SA Aboriginal Legal Rights Movement chief executive Cheryl Axelby, who said the findings of a recent investigation were not surprising, even though camera footage show police repeatedly bashing an Aboriginal man, Noel Henry, in Adelaide in June. <https://tinyurl.com/y275d3a8>

The SA Police Commissioner, Grant Stevens, said a PIP probe had found the officers acted “reasonably” and “in accordance with the (SA Police) code of conduct”.

"As long as police investigate police, police brutality and force used against community members will not be challenged nor will we see police charged," Ms Axelby said.

"We maintain our position, police should not investigate police. We continue to call for the SA Government to legislate for an independent investigative body for all police complaints.

"To add further salt to the wounds, after withdrawing charges against Mr Henry the very morning after the public outcry, SAPOL are now going to proceed with charges against him."

SA Greens MLC Tammy Franks echoed Ms Axelby's sentiments, urging for an overhaul of the police complaints act. "These SAPOL investigations should be independent, not internal," she said.

"The Police Complaints and Discipline Act needs an overhaul." <https://tinyurl.com/y275d3a8>

...and in Victoria

In Victoria, a woman who was filmed allegedly being choked then pinned to ground by a police officer in Collingwood has been charged with resisting and assaulting police.

The arrest has been referred to an internal police review body, the Professional Standards Command. <https://tinyurl.com/y32fv9e6>

This sort of police behaviour is not acceptable, regardless of their reasoning. This young woman had an exemption from wearing a mask. Are we meant to fear the police? Why do police investigate police? Why do they antagonise vulnerable people? We need independent reviews of police behaviour, we have to be protected from the abuse of police power in this country. – Lidia Thorpe

NOTE: CLA is campaigning nationally for an end to PIP, police-investigating-police. The campaign is being spearheaded in WA, by CLA's WA Director Margaret Howkins.

ODD SPOT: How does 3.3 become 28 without racism or bias, CLA asks?

In Australia's 2016 Census, there were 798,400 Aboriginal and Torres Strait Islander people, representing 3.3% of the total Australian population.

– Indigenous people in Australia July 2019 <https://tinyurl.com/yaw37h7h>

Indigenous prisoners make up 28% (1849 people) of the Australian prison population (ABS 2018).

– Prisoner figures quoted in 'Deaths in custody in Australia 2017-18', by Laura Doherty and Dr Samantha Bricknell of the Australian Institute of Criminology 20/02/2020

How does a percentage of 3.3 in the general population morph into a percentage of 28 in jail without active police involvement, indicating massive racial bias, CLA asks?

The ATSI population percentage will rise slowly over coming years. The percentage of ATSI people jailed must fall, quickly. CLA looks forward to a time when the two numbers are single figures: the one quickest way to force the numbers together would be national equal rights-fair go legislation, so the "little people" jailed have somewhere to go to see whether their rights were abused or racial bias was an issue in their arrest, charging and conviction.

Australian briefs

Leap in telehealth over abortion: "In Australia, telehealth services have been an effective way of providing abortion services. At the beginning of the pandemic, the Australian Government expanded telehealth services, which could be billed to the public health system, Medicare. Telehealth consultations for early medical abortion have increased by 25% since the pandemic began, indicating that telehealth services can improve access when distance and out-of-pocket costs are barriers. Moreover, use of telehealth services removes fear of infection and can ease pressure on struggling health systems." *The Lancet* 200801, reporting that "Covid-19 has had 'devastating' effect on women and girls". <https://tinyurl.com/yyb7rc7f>

Bored AFP officer accused of grave gun behaviour: According to the *NT News*, two AFP officers seconded to the NT over Covid-19 were apparently very bored: there were claims one pointed a gun at an Aboriginal motorist while the other was accused of spraying "White Lives Matter" on a grave the officer built as a prank. Both officers were returned from duties in the NT pending the outcome of the inquiries to their home states of NSW and Queensland. "The AFP is investigating", it is reported. – *NT News* 200728 This is **another PIP problem** (police-investigating-police), CLA says.

Big Sky Brother will get you: More than 40 drones will patrol metropolitan Perth and other areas of WA over the next 12 months. The Major Crash Unit will use them first, but ultimately 60 trained drone pilots will use the 40 drones to patrol the WA skies. The drones will undertake emergency land or marine searches,

and also help with complex murder investigations and serious and fatal crashes, WAPOL indicated. – WAPOL Facebook report.

Legal professor wins barrister of the year: CLA member Prof Felicity Gerry QC has won the 2020 Barrister of the Year award for Australia. Gerry, whose most recent major contribution was to be lead CLA's submission to the federal government's modern slavery law-making project, is based at Crockett Chambers in Melbourne, and Carmelite Chambers in London. She is also a Professor of Legal Practice at Deakin Law School, where she lectures on modern slavery, terrorism, war crimes and climate change law. She joined CLA about a decade ago when she was based in Darwin. (Photo at right: a selfie by the winner)



Comments by CLA's members (mostly in letters to the editors):

Change the law

How many of us can imagine our former 10-year-old selves in jail? And yet we allow this to happen, mainly to Indigenous children, in this country. Our AGs have decided against raising the age of criminal responsibility from 10 to 14 years in line with most comparable countries. Early intervention with therapeutic care is obviously a way of reducing our outrageous rate of Indigenous incarceration. Instead, after messing up their different cultural system, we hurl the children so-damaged into jail. As a result they are even more likely to damage themselves and others. Although we can see we have caused the injury, we can't be bothered trying to spend resources on healing it. It seems to me that we are still not convinced that "black lives matter". – Jill Sutton, Watson ACT

'National security' helping to trample civil liberties

Thank you for another comprehensive and informative August *CLArion*. As a licensed security consultant and former agency security adviser I found the 'Security Special' content most timely and relevant. The comment that Australia is an authoritarian police state is borne out by current Covid-19 lockdowns, bearing many features of martial law, with intrusive officialdom detaining and fining citizens at the ever-changing urging of politicians. Autocrats trample civil liberties while assuring us it is for our own good. If citizens are so ignorant, how can we be trusted to vote? Security, pandemic and other risk mitigation measures must be based on analysis. The relative risk of domestic terrorism incidents by no means justifies the current raft of excessive, illiberal, costly laws and funding, based on available information. It is another example of politicians misusing security countermeasures in an attempt to mitigate political risk. Vested interests in the AIC (Australian Intelligence Community), defence and law enforcement exclusively have the ear of authoritarian government, openly hostile to principles of democratic freedom and transparency. Every tyrant was once a saviour, and doctors bury their mistakes, while politicians claim "national security". – Mark Jarratt, Weston ACT.

Where has the nation's moral code gone?

"Compromised probe stains nation's honour" (*Age*, 18/8), in discussing former AFP chief Mick Keelty's effective undermining of a police investigation into SAS alleged war crimes, rightly characterises this as "an appalling scandal". This tipping off of VC winner Ben Roberts-Smith with regard to AFP referrals about him shouldn't come as a complete surprise, however. In November 2018, the then Australian War Memorial director, Brendan Nelson, remarkably lobbied for the Inspector General of the ADF to "damn well get on" with the inquiry into Roberts-Smith. Nelson had previously commented that war was a "messy business"; and that unless there had been the "most egregious breaches of laws of armed conflict, we should leave it alone". This "fog of war" rationalisation was famously refuted at the Nuremberg War Crimes Tribunal's judgment on the Nazi leadership in 1946; the Nuremberg Principles emphasised an individual combatant's individual moral responsibility, specifically in relation to "killing of hostages" and "murder or ill-treatment of prisoners of war". In 2020, full transparency around the behaviour of Australian soldiers in war zones should be a given.– Jon McMillan, Mount Eliza Vic

4000 days, and heart-broken

It breaks my heart that (August 2020) marks Sue-Neill-Frasers' 4000th day in prison! Three books have been published, a documentary made, a six-part TV series aired (but not in Tasmania), reaching the conclusion Sue is innocent. Nine's *60 Minutes* aired an interview with Meaghan Vass (not shown in Tasmania), where she confirmed Sue was not on the yacht the night Bob Chappell was (killed). Over 20,000 people have signed a petition calling for an independent judicial inquiry and countless statements in support of Sue (have been) made by prominent legal figures. Along with many supporters, I have never met Sue but became involved in the campaign because there is overwhelming evidence she has been wrongly convicted. I am dismayed by what I consider to be the parlous state of the justice system. Why is it



taking so long to resolve this matter? Why no sense of urgency? 4000 days – just think about it. How much longer? Rosie Crumpton-Crook, Lindisfarne Tas

Photos: August 2020 Hobart Parliament House vigil for SNF: Mukta Summers at left. Rosemary Phelps photos.

Torpedoing the ABC reduces our bushfire safety

There should be no need for the *ABC* to have to justify its existence to hostile conservative politicians ('*Cost of doing business*', SMH 18 Aug 2020). I remember checking the radio at midnight during our horrific summer and hearing the quiet, calm voice of the *ABC* announcer as she detailed the latest news and warnings about the bushfires. Why not channel some of the obscenely large amounts of money given to defence spending into our *ABC*? Perhaps we could forego one French submarine or one American bomber for a service that is far more useful to our safety. – Nola Tucker, Kiama NSW

Bewildered profit generator is our personal future

The government currently provides the great bulk of funding to the aged care system, with individuals providing a far smaller proportion. This money, contributed through our taxes, is handed to private companies who cut staffing and compromise residents' comfort and welfare so they can deliver bigger profits to their shareholders. We, the taxpayers, are subsidising their profits!

In 2018-2019 the sector received \$20.2 billion. This was made up of the Morrison government contribution and the amount paid by the residents or their families. Out of this income aged care businesses generated \$1.7 billion in profit. This means about 10% of the money we poured into these pits of human misery and distress was siphoned off for executive bonuses and shareholder dividends. Is it not good cause for thought that, in a business model where shareholder profits are more important than people, more than 70% of all C-19 deaths in Australia have occurred in aged care? We would all do well to remember that a very high percentage of us, as demented souls, will live out our final years in one of these profit-driven homes for the bewildered. – Gerry Gillespie, Queanbeyan NSW (Canberra Times 180817 slightly edited).

Letter not from a CLA member, to *The Age*:

Sir Humphrey Appleby once said that secrecy must surround the actions of ministers to protect them from their own stupidity. – Ian Powell, Glen Waverley, Vic

Sit in cyberspace

It's my view that Parliament should sit, online. No one is immune from C-19 and parliamentarians are no exception. While thousands of Victorians are locked at their homes the Victorian parliamentarians should be role models. – 200819, Sankar Kumar Chatterjee, Evatt ACT

Undermining our way of life

The chickens of casualisation are coming home to roost. Workers who have no sick leave, whose hours are at the daily whim of their employer and who have to work multiple jobs to earn a living wage, are forced to weigh up the possibility of going to work sick or not meeting the rent or feeding the family. Even those lucky enough to be eligible for government financial support have no guarantee that there will be a job waiting for them after two weeks of quarantine. Like those houses on the coast, the continual undermining of conditions goes unnoticed until there's a storm surge. The question is whether we're smart enough to do something about it before the next storm hits. – Fred Pilcher, Kaleen ACT 200825.

China's swindle?

Every country in the world covertly or overtly recruits scientists from other countries to enrich their R&D efforts, offering higher salaries and better conditions; China is no exception ('*China's great swindle*', Age

24/8). There is another name for this practice: headhunting. Note that some of our best scientists and academics have been headhunted from other countries. The developers of the atom bomb in the US in the late 1940s were recruited from European countries, for example. In short, China is doing what the West has been doing for decades. – Bill Mathew, Parkville, Vic

CLA report – main activities for August 2020

CLA held a regular Board meeting on 16 August. CLA member Chris Stamford attended as well, as National Rights Act project leader, to give a full report. Here are excerpts of work underway and completed:

Champions (whereby one Board Member takes on a specific project/area):

Prisons/prisoners issue: The Board congratulated Vice-President Rajan Venkataraman on substantial progress. A censorship in prisons review has been completed by UQ pro bono students for CLA, and is being edited for public release. He advised his networked group believes all states/territories have embarked on go-slow over OPCAT implementation (that is, regular independent prison inspections, etc).

Submissions (led by VP Rajan Venkataraman):

July 2020

Tasmania: Anti-protest laws – submission to the Legislative Council (Griggs) 17 July

Tasmania: Draft Bill on the use of electronic monitoring in parole decisions – submission to the Department of Justice (Venkataraman) 25 July

August 2020

All states: Letters to premiers and chief ministers on the minimum age of criminal responsibility; 5 August

Federal: Submission to the inquiry into nationhood, national identity and democracy, Legal and Constitutional Affairs References Committee (begun in 2019, reporting day extended to 9 September 2020) (Stamford) 10 August 2020

Tasmanian report: report by Director Richard Griggs

Human Rights Act for the state: RG reported the Tas. Law Reform Institute has appointed a researcher to investigate whether changes are needed for an update to the proposed HR Act for the state. RG chairs the state Human Rights Campaign Committee.

Drivers' licence handover to federal authorities without protective legislation: a parliamentary petition has been launched, as well as ongoing publicity.

Anti-protest laws: CLA written individually to each member of the Upper House outlining concerns with a government Bill cracking down on protests, which includes harsh criminal penalties (up to four years jail) for those who peacefully gather on public land to protest against a private business.

WA report: report by Director Margaret Howkins

- The CLA-generated anti-PIP* hard-copy petition is about to be lodged in Parliament with help from the WA Greens MLCs, Tim Clifford and Alison Xamon, who is helping with long-term strategy. The online petition is about to be closed.

* Police-Investigating-Police

- Covid-19: The pandemic response has further emboldened those in administrative and paramilitary roles, notably the police, because external, independent supervision is missing in a time of public emergency...that is when it is needed most, MH believes.
- Just retired NT MLA (seat of Katherine) Sandra Nelson (photo left, with Margaret Howkins), a CLA member for years, has relocated to Perth. She and CLA Director in WA Margaret Howkins got together twice last month to discuss how best to action several joint initiatives.
- WA Farmers, Pastoralists & Graziers and the WA Country Women Association are keenly interested in finding out about CLA's campaigning for a Rights Act in WA.
- Curtin Law student CLA member Linda Diep is preparing a report for CLA listing individual, completed human rights case examples, following links from the Victorian Equal Rights and Human Rights Commission.
- CLA has written to Inspector Eamon Ryan at the Office of the



Inspector of Custodial Services, suggesting the name of an external, independent candidate for human rights oversight in WA prison inspections under the OPCAT international protocol. We await his response.

- CLA wrote to Premier Mark McGowan, under the signatures of CLA President Dr Kris Klugman and WA Director, formally requesting that children under the proposed aged of criminal responsibility, 14, currently in prisons in WA be released before Christmas.

NT report: by Caitlin Perry

Full election report noted, plus verbal update on prevalence of law 'n' order issues.

SA report: by President Dr Kristine Klugman

Progress on linking with Rights networks noted, as well as furthering the prospect of an annual general meeting being held by the SACCL, along with possibly some increased activity.

Relationship with MLA Frances Bedford strengthened by way of mutual interests.

Media - Facebook report: by National Media Spokesperson and VP, Rajan Venkataraman: July 2020

Letter to the Editor, *Canberra Times* (Klugman); Age of Criminal Responsibility; 30 July

August 2020

Quoted in article by Sydney Criminal Lawyers, Paul Gregoire: *It's Time to Increase the Age of Criminal Responsibility in Australia*; 5 August (Klugman/Rowlings): <https://www.sydneycriminallawyers.com.au/blog/its-time-to-raise-the-age-of-criminal-responsibility-in-australia/>

www.sydneycriminallawyers.com.au/blog/its-time-to-raise-the-age-of-criminal-responsibility-in-australia/

CEO Bill Rowlings interview (12m 25s) with China Global TV network (200m audience) re Covid-19 and 'mandatory' immunisation, etc.

Facebook: Use/usefulness of Facebook will depend on future CLA decisions.

Civil and Political Rights campaign report: by Chris Stamford.

Written report noted. Much help gratefully received from volunteer Curtin U. Law students, Owen Kitching and Linda Diep. Meetings held recently include:

- Human Rights Law Centre, Daney Faddoul
- Tim Wilson MHR (Lib, Goldstein Vic), teleconference
- Minderoo Foundation, Serena Grant, Zoom meeting
- WA's S-W Land and Sea Council, SWALSC, teleconference with CEO Wayne Nannup

Student liaison:

With UQ (as noted above), and with Curtin Uni students as noted.

President Klugman is developing an 'essay/internship' program with ANU Law students.

Sue Neill-Fraser (SNF) case:



Premier Peter Gutwein's decision to close the Tasmanian border to visitors until at least 1 December has negated the opportunity for the SNF trial to begin on 2 November as scheduled. (Her pro bono lawyer Tom Percy needs to fly in from Perth; her pro bono solicitor from Melbourne).

Left: 4000 days vigil group protesting in Murray St, Hobart.

A new hearing date is likely to be set during a directions hearing in September: the date may not be until 2021, in which case a further year will have passed with her in jail, unable to go to court for an approved appeal. She already lost almost a year when a judge, who was eventually forced to recuse herself, initially sat on the hearing to decide

whether a full appeal court hearing would go ahead.

The Appeal Court of the Supreme Court of Tasmania – when it eventually hears the case – has three options: 1. confirm the original conviction, 2. find that there was a error of law and/or process that means

SNF should be acquitted, or 3. find there was an error so that the original conviction should be overturned, and “order” a new trial (whether a new trial goes ahead would be a decision for the Tasmanian DPP).

CLA has held a brainstorming meeting to determine whether a PR campaign could keep the SNF matter top of mind in Tasmania, because legal failings and a pandemic – both beyond her control – are colluding to keep her from having the new day in court she has deserved for 10 years, based on DNA evidence.

Other items:

Covid-19: CL and HR ramifications 2020-2022 and beyond, restoration of CL and HR. Input from Directors from their States//Territories and personal activities requested.

Ideas from 'Board: The Way Ahead' process: preparing a broad options paper for next Board meeting.

Meetings with CLA members

Chris Stamford re rights acts campaign;

Sue Carew re world peace;

George Brenan, a new member, re CLA work, security issues (photo, with President Dr Kristine Klugman);

Lesley Vick and Ken Davidson (Victoria) and Des Griffin (NSW) re current activities around education and euthanasia;

Director Frank Cassidy re membership recruitment of former federal and state public servants;

Sarah Moulds re SA Rights Resource Network and joint activities, including Duncan commemoration.

Roger Clarke and Linda Spinaze re privacy and management; and

Estelle Blackburn re video docos/books, and other current wrongful conviction issues (eg, Simon Gittany).



INTERNATIONAL

What a difference six months makes

Excerpts from a news story in February 2020 in the NYT:

President Trump accused Democrats of treating alarm over the coronavirus as “their new hoax,” and said the news media was in “hysteria mode” over his administration’s handling of the outbreak.

“Now the Democrats are politicising the coronavirus,” he told supporters, who roared in response.

“We have 15 people” with the virus “in this massive country, and because of the fact that we went early,” – referring to a decision to close American borders to travelers from China – “we could’ve had a lot more than that.”

The president added that “so far, we have lost nobody” to the coronavirus. – speech by President Trump in North Charleston, South Carolina, on 28 Feb 2020. <https://tinyurl.com/vcdo42o>

Algorithms dancing to wrong tunes

Councils in the UK are scrapping computer algorithms helping to make decisions on benefit claims and other welfare issues, as critics call for more transparency on how such tools are being used

The problems in the UK reflect the tragedy of Robodebt in Australia.

A UK expert recently warned that the reasons for cancelling government programs around the world range from problems in the way the systems work to concerns about bias and other negative effects. Most systems are implemented without public consultation, but critics say this must change.

The use of artificial intelligence or automated decision-making has come into sharp focus after an algorithm used by the exam regulator Ofqual last month downgraded almost 40% of the A-level grades assessed by teachers. It culminated in a humiliating government U-turn and the system being scrapped.

The fiasco has prompted critics to call for more scrutiny and transparency about the algorithms being used to make decisions related to welfare, immigration, and asylum cases. <https://tinyurl.com/y2mkqxjn>

NZ takes Kiwise approach to algorithms

NZ is leading the world by developing standards to govern the use of algorithms: Statistics Minister James Shaw announced a new Algorithm Charter late in July.

More than 20 ministries and agencies had already signed on. They have agreed full transparency about when they use algorithms and how they work.

Worldwide, government bodies and the private sector use algorithms to automate functions or perform complex calculations. In NZ, these range from the mundane (IRD uses an algorithm to calculate and issue simpler tax refunds) to the serious (the Department of Corrections uses an algorithm to estimate the risk of reoffending). <https://tinyurl.com/yx92h9pz>



Africa leads way with ‘robot’ nurses and border people

Rwanda has deployed robots since May 2020 to minimise contact time with confirmed cases and so reduce the risk of contaminating health professionals in COVID-19 treatment centres.

When deployed at Gatenga and Kanyinya centres in Kigali City, visits by medical staff to patients went from 3-4 to 2 per day.

The five small adult-size robots perform temperature screening, take readings of vitals, deliver video messages and detect people not wearing masks then instruct them to wear masks properly

From August 2020, with the re-opening of Kigali international airport for commercial flights another batch of robots took up screening duties of arrivals. <https://tinyurl.com/y6yajcvy>

Failing states highlight why our freedoms are important

Belarus's struggle is a powerful reminder of the value of freedom, Timothy Garton Ash wrote in the *Guardian UK* last month. He said that authoritarianism ultimately subverted itself.

“Events in Belarus now join a long line of anti-Soviet and anti-post-Soviet protest movements – some of which succeeded, some of which failed. ‘Colour revolutions’ is a flimsy, politically compromised term that offers much too short a perspective.

“Since Belarus is the most Soviet of all the post-Soviet states, you can reach back even as far as the East German protests in 1953. When you see workers in large state factories confronting (Belarus President) Alexander Lukashenko face to face, and reportedly forming an inter-factory strike committee, you are in Poland in 1980. Or perhaps it’s more like Armenia in 2018? Or Ukraine in 2014? Or – the unavoidable reference – the central European revolutions of 1989?, Ash wrote. <https://tinyurl.com/y38my5tc>

Ash’s point about the authoritarian approach containing seeds of its own destruction may soon be mirrored, admittedly through milder, democratic filters, as the unique ruling styles of US President Donald Trump, UK Prime Minister Boris Johnson and even Australia’s own PM, Scott Morrison, come up for evaluation by voters over the next few years.

Once “rulers” have lost the people’s trust – in the eastern or western hemisphere – the only way is down, and out, CLA says. A disparity between the hemispheres is the speed of the final descent, and sometimes in the west an internal coup removes the need for an external polling revolution.

ODD SPOT: Pick a colour, quickly, for revolting!

Ash (see above) writes that there is always something new in every revolution.

“In Belarus) it is the role of the “women in white” who join hands in human chains of nonviolent protest and make a perfect theatrical contrast to Lukashenko, that pig-headed epitome of the chauvinist bully.”

So, if you’re planning revolution in Australia, pick your colour (or colour scheme) quickly because some of the best are already taken (orange, rainbow, red shirts, yellow umbrellas). Also, get out and practise your coordinated, group, front-of-camera moves...Covid-19 permitting.

Militarisation of civil society continues

With one-line or one-paragraph answers to 15 questions, a Californian rural county was able to add a Mine-Resistant, Ambush Protected vehicle to its existing Mamba MRAP, acquired in 2014.

In the past 23 years, a US Dept of Defence program has handed \$10.4bn worth of surplus equipment to more than 8000 law enforcement agencies across America.

Critics say the program is a major contributor to the militarisation of domestic police forces, which have obtained military-grade weapons and tactical equipment free of charge from the DoD.

Ryan Shapiro of Property of the People wrote: “There’s simply no legitimate basis for the provision of one, much less two, heavily armoured military vehicles from the Pentagon to the sheriff’s department of a

sparsely populated, rural California county. The ongoing militarisation of American police forces threatens us all and paves the way for authoritarian rule.”

An MRAP vehicle: pic Grippenn



Footnote: Wikipedia reports that, during the past decade, Mariposa County (popn. about 18,000) had the highest rate of child abuse and neglect, and the second highest of rate of unvaccinated children in the state of California. <https://tinyurl.com/y5gdlw7z>

Malaysia raids Al Jazeera media office

Malaysian police have raided Al Jazeera's Kuala Lumpur office and seized two computers, the news network said, condemning the incident as a "troubling escalation" in the government's crackdown on press freedoms.

The raid on Tuesday came after authorities in Malaysia announced they were investigating Al Jazeera for sedition, defamation and violation of the country's Communications and Multimedia Act.

The probe relates to a *101 East* programme that aired on July 3 and examined the Malaysian government's treatment of undocumented migrant workers during the coronavirus pandemic. <https://tinyurl.com/y4xgkwcs>

Post closed down, wall goes up

As President Donald Trump's appointees move to restrict postal voting wherever possible, the most striking symbol of the Trump approach and presidency – The Wall – is being pushed apace.

“The increased litigation against the landowners, despite the pandemic, is evidence of the administration's sense of urgency to deliver on a symbol of Mr Trump's crackdown on immigration. The president has said the pandemic is proof of the wall's necessity, though there is no real evidence it will affect public health.

“Mexico is having a very, very hard time, as you know, with Covid, especially along the border...” Mr. Trump told reporters, though Mexico's 8,600 deaths and 78,000 infections are a fraction of the toll in the USA.

“Fortunately,” he added, “we have a brand-new wall along there, and the wall is saving us.”

The government filed 13 lawsuits in March alone to access and acquire land, the highest single-month total since Trump took office, according to the Texas Civil Rights Project.

ODD SPOT: Running to swear in as judge

Judge Jill Karofsky won an election to earn a seat on the Wisconsin Supreme Court in the US earlier this year, but her win wasn't anywhere near as impressive as her swearing-in ceremony last month. Over the course of 34 hours, the liberal-leaning judge ran 160km in an ultra-marathon across south-central Wisconsin. Around Km 35 in Basco on a Sunday afternoon, she stopped to be officially sworn in as the court's newest member. <https://tinyurl.com/y2anzso7> Photo shows Karofsky (right), white document in left hand, right hand (hidden) raised, reading her oath of office.



Novelist Hari Kunzru nails it:

Privacy is under attack in a whole host of ways. There are many mechanisms by which our behaviour is routed in certain directions.

The technology of surveillance and control is beyond the wildest dreams of any of the old dictators.

You only have to look at China to see what dystopian possibilities there are within the new technology, where your social-credit score and your DNA and your movements are all held by one central system.

In America, we have a patchwork of thousands of small police agencies all with a right to kill. You can have a small town and yet there's a heavily armed police force with its weapons distributed from Iraq and Afghanistan. To a man with a hammer, everything looks like a nail. <https://tinyurl.com/y66v2qjm>

International briefs

20 years of saving children: In 2020 Gavi, The Vaccine Alliance, an organisation founded on the principle of equitable access to life-saving vaccines by addressing the supply side of vaccination, is celebrating its 20th anniversary. Gavi has helped to vaccinate more than 760m children in low-income countries, preventing more than 13m deaths. Beyond their obvious benefits to health, vaccination programs have

indirect economic and society benefits, including on cognitive development, educational attainment, labour productivity, income, savings, investment, and fertility. *The Lancet*: <https://tinyurl.com/y4alx6v8>

Independent police investigation shows its worth: Six additional London Metropolitan police officers are facing possible misconduct charges over “inappropriate” photographs allegedly taken of the bodies of two murdered sisters. The Independent Office for Police Conduct (IOPC) is conducting a criminal investigation into serious allegations of misconduct in June 2020, when Nicole Smallman, 27, and Bibaa Henry, 46, were found stabbed to death in a park in Wembley. There are allegations that two officers took “non-official and inappropriate photographs” of the women’s bodies and shared them on a private *WhatsApp* group. Two officers were arrested by the IOPC on 22 June and later released on bail under investigation, Jamie Grierson reported in the *Guardian UK*. <https://tinyurl.com/yxuxs42g>

Notes from the UK

From our UK correspondent, picking up after the August 2020 *CLArion* from Australia reached him:

1. The whole “SAS are dicks” issue has kicked off here in the UK and there’s a *Panorama* doco on it just out. The usual story, elite forces, poor oversight, extrajudicial killings, culture of untouchability, weak leadership, complaints sidelined, cover-ups and obfuscation
2. The whole “don’t trust the Chinese” issue gathers pace as more and more dubious infiltration of systems and technology sneak in via “development” links. Right now anything Chinese looks decidedly questionable unless you’re police or security services in which case it’s open season on private citizens’ phones, internet, satnavs, credit cards or CCTV surveillance. We wag a finger at China and Russia but need to look closer, much closer, to home.
3. I note in Australia there are plenty of examples of corruption at all levels just as in the UK. Here we have furore over an (un-named) MP and former minister accused of rape not being suspended from the Tory party (yet) while another is found guilty of several sexual assaults which he repeatedly lied about to both the court and parliament. Plus of course BoJo* offering peerages to his Brexit arse-kissers, and a job to former Aussie PM Tony Abbott, reportedly. Bent as a dog’s back leg ! (*BoJo is Boris Johnson, like ScoMo is Scott Morrison).
4. Powerful business at your end and long may it stay that way. Fact – a survey of companies in the UK has shown that management boards with greater female representation perform better than ones with none or less.
5. The UK Test and Trace situation fell into disrepute almost instantly, as most savvy people said it would. It was more like a GCSE* technology project than a “world beater”. Catastrophe is putting it mildly. As for prosecutions of rape cases in the UK plunging to an all time low as the police and CPS come under very aggressive scrutiny to explain why, words fail me. *GSCE: General Certificate of Secondary Education, the final school year entry-to-uni qualification in most of the UK.
6. *Reflections* is a superb piece of writing; clear, simple, explicit and devastating (see August *CLArion*)



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) Closing date for this issue was 27 August 2020.

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