

Sue Neill-Fraser appeal starts today:

Sue Neill-Fraser's appeal to a full bench of Tasmania's Criminal Court of Appeal is due to start today, 1 March. She is appealing a conviction for murdering her husband, Bob Chappell, over the night of 26 January 2009 on board their yacht *Four Winds*, moored in Sandy Bay, Hobart.

She is in the 12th year of a 23-year sentence, which has a 13-year non-parole period.

In a surprise last-minute change, Robert Richter QC of Melbourne in late February replaced Tom Percy QC of Perth as SNF's barrister, "as a Covid replacement", Richter said.

Richter, film producer/director Eve Ash and retired Victorian detective Colin McLaren visited Premier Will Hodgman, Tasmania's Acting AG Matthew Groom and Solicitor-General Michael O'Farrell on 11 May 2019 with a full dossier of evidence showing that SNF was not guilty, and pointing to who was.

'Justice' – or 'just us' – seems to depend on where you sit in Canberra

Can anyone see a pattern of behaviour in these three cases of recent times?

1. Avoiding possible jail: 'evidence' now being sought

Just to show how uneven "justice" is in Australia, alleged killers in the Australian Defence Force have not even been charged for alleged crimes committed 10-15 years ago in Afghanistan, and revealed explicitly to Defence chiefs by an internal Defence lawyer at least seven years ago.

The alleged killers' identities are known; there is video of their actions or inactions; there are copious written and verbal reports of what happened, and eyewitnesses are prepared to testify.

But no charges have been laid and the world's slowest public investigation (an "in-house" inquiry by a civilian-military judge taking more than four years) has morphed into a brand new Australian Federal Police inquiry, this time seeking "evidence" that will stand up in court.

"Justice", as most of us know it, has been delayed about a decade and a half in this case.

2. Avoiding bad press? Judge for yourself

When sexual harassment was alleged about a High Court judge, Dyson Heydon, did the Chief Justice of Australia inform the Australian Federal Police that a judge may have committed the crime of indecent assault in the High Court building against young female court employees?



No, Susan Kiefel CJ (photo) produced an external intelligence academic, Dr Vivienne Thom, without policing experience, to "investigate" by talking with a dozen witnesses.

As Thom merely "interviewed" them, this move effectively hushed things up for more than a year until the sorry affair could be revealed publicly to a timing and in a manner under the court's control, and – again – without "evidence".

The result? Judge Heydon was able to claim: *"The inquiry was an internal administrative inquiry and was conducted by a public servant and not by a lawyer, judge or a tribunal member. It was conducted without having statutory powers of investigation and of administering affirmations or oaths."*

And so he was able to dismiss its findings by having his lawyers claim: *"...any offence caused (to the females) was inadvertent and unintended."*

Dr Thom's report found that what she was told "demonstrates a tendency by Mr Heydon to engage in a pattern of conduct of sexual harassment" which included unwelcome touching, attempting to kiss the women and taking them into his bedroom.

Did the Chief Justice of Australia have a statutory obligation to report possible criminal behaviour to the police as soon as she became aware of it? I'm not sure – you'd have to ask someone who knows the law

of Australia. So far as I know, ex-judge Dyson's behaviour is still not – two years later – the subject of AFP investigation after referral from the High Court of Australia.

Note, just to help the Chief Justice of Australia with the law of the land: indecent assault, which involves the unwanted touching of another person in a sexual manner without that person's consent, can attract a penalty of five years' imprisonment.

3. Rape in Parliament House? It's 'No Questions' time

A young female Ministerial staffer reported an alleged rape by a fellow male staffer in a Minister's office well after hours. Some pertinent facts were recorded on parliament house security equipment. Guards knew.

What did Australia's most senior parliamentarians and their range of political advisers do, those astute people with their nose to the wind? Inform the police? Ensure the person allegedly responsible for security breaches and possibly rape was investigated and charged, to prevent repeat behaviour in future?

No, they kept the news to a "need to know" basis so it wouldn't become public knowledge, reportedly warned the young woman that reporting the rape to police might cost her her job, allegedly leaked damning scuttlebutt about the woman to blacken her name, called in Dr Thom again...and genuinely hoped the grotesque, "unparliamentary" affair would go away.

What do the same people do if there's the slightest whiff of an open pork barrel with contents that could help them and their masters get re-elected? They make it their prime concern to go in hard, and to work as diligently as they can to rort the maximum amount of public money to help their private political cause of re-election.

With the Australian government, it all depends whether you believe government is for "just us" or for justice.

Individual inquiries won't do justice to the problem

You could hold inquiries into the above separate events – there's already four, possibly five, into the rape allegation and two into the ADF – but the Australian Parliament and the people need an integrity commission that examines patterns of behaviour, and misbehaviour, as well as individual cases.

We the people don't need an integrity commission of the type that MPs and power brokers might want.

It needs to be a People's Integrity Commission, with the best suite of laws to return accountability and responsibility to public service, appointed or elected.

We need a people's commission to draw up the legislation, not the Attorney-General's Department, which has too many fingers in too many pies suspected of containing mould.

For example, the Attorney-General and AGD have authorised secret trails with secret "intelligence" being presented. Those authorisations should be investigated, because they are contrary to the rule of law.

Police and security agencies break the law repeatedly, without punishment

Ten agencies, including federal and state police, accessed telecommunications metadata illegally in 2018-19, according to the Commonwealth Ombudsman.

Agencies that breached the Telecommunications (Interception and Access) Act include Home Affairs, the Australian Federal Police and the Australian Criminal Intelligence Commission (ACIC), as well as state police from NSW, Victoria, Queensland, WA and Tasmania. ACIC alone had 171 instances where they accessed private t'comms data without proper authority.

Basically, the agencies are just ignoring rules including in the enabling law as part of ensuring that access to people's private information is always legitimate. For example, the Ombudsman criticised Tasmania Police because the agency "did not have a well-developed compliance culture", and said a large number of issues were identified across several of its processes. Problems the Ombudsman identified a year earlier had not been addressed.

TasPol, the Ombudsman said, should train staff to have a thorough understanding of the law, and should develop a program to ensure compliance. When police agencies don't comply with the law in one area, it sets off alarm bells about whether they act legally in other areas. <https://tinyurl.com/yykobspn> and *The Mercury* 12 Feb 2021

Capital Territory leads in humane approach to children

Little Canberra is about to drag the rest of Australia kicking towards being more humane to children.

The ACT Legislative Assembly will consider a bill to raise the age of criminal responsibility to 14 before the end of the year. The current law allows children as young as 10 to be locked up.

Other Australian jurisdictions know the age law flies in the face of international human rights. But, after three years of national legal gathering and deliberating, other Australian jurisdictions still refuse to legislate.

They are afraid of a political backlash – due to claimed excessive juvenile crime, mostly by young Aboriginal people – before their next elections.

The ACT is the first Australian jurisdiction to commit to raising the age. ACT Attorney-General Shane Rattenbury (photo) said the legislation was a "very high priority". "The ACT is committed to leading the nation in this area of a vital reform and I want to bring this legislation to the Assembly in the latter half of this year," he said.



To make sure they legislate on a sound footing, a six-month independent review will examine the impact of raising the age on young people and their families, and on support services and the justice system.

Criminal justice agencies, Aboriginal and Torres Strait Islander services, children protection agencies, youth justice services, legal agencies and Civil Liberties Australia will be consulted as part of the review.

Australian Catholic University emeritus professor Morag McArthur will lead the \$119,000 review, in a consortium with Aboriginal consultancy, Curjio, and ANU research fellow Dr Aino Soumi.

McArthur is founding director of the Institute of Child Protection Studies. She was a chief research investigator for the Royal Commission into Institutional Response into Child Sexual Abuse.

See **INTERNATIONAL** for worrying trend in girls 11-13 being targeted for online abuse.

Dutton wants to be Australia's Spookmeister

The Minister for Home Affairs, Peter Dutton, wants the power to put secret "intelligence" – actually, a combination of facts and gossip – before a court without the person he wants to deport, or whose citizenship he wants to cancel, knowing what the secret information is.

This is an Australian government bid to usurp the Australian Constitution. In 2017 the High Court ruled that it was unconstitutional for the Immigration Minister to not reveal confidential information to courts reviewing tribunal decisions.

In his second reading speech in December 2020, Dutton said the proposed new law would "protect" (that is, hide, CLA says) confidential information which "may not necessarily meet the threshold for nondisclosure under the national security framework". <https://tinyurl.com/y865858c>

Some of the "scuttlebutt" information almost certainly would not rise to the level of "evidence" in a proper court hearing, CLA says. (See next item for the CLA definition of "intelligence").

Under the proposed law, Dutton and the government could hide behind confidential information from intelligence and police agencies to make visa decisions, like cancelling a visa because of "bad character".

The UN High Commissioner for Refugees, Australian Human Rights Commission and Law Council are all alarmed about what the proposed Dutton bill does to the rule of law in Australia.

CLA notes it is called by Dutton's definition "confidential information", not evidence. We have written previously about the possible poor quality of police and security "intelligence" in Australia, even helpfully providing a definition to a parliament inquiry.

More on what CLA says about Minister for the OzStasi, Peter Dutton: <https://tinyurl.com/y9b4t79f>

Here's a warning of what was coming, by Bernard Keane–Crikey, seven years ago: <https://www.cla.asn.au/News/secret-info-will-be-abused/>

Define 'intelligence'? It's a mixture of fact and fiction

In 2012 during a parliamentary committee hearing, Senator Fiona Nash (National, NSW) specifically asked Civil Liberties Australia for a definition of "intelligence".

We provided our definition, and the definitions of Australian police, INTERPOL, etc for comparison...but the committee has never chosen to publish our defining contribution. Here is the CLA definition, still accurate as to the type of "intelligence" Minister Dutton's agencies are able to use to make life-changing decisions over refugee claimants and people whose citizenship they want to cancel, or whom they want to deport:

What is intelligence? Firstly, it is not evidence...if it were, it would be called evidence.

Intelligence is a broad sweep of guess, speculation, scuttlebutt, gossip, suspicion, hypothesis... A centralised database of intelligence is a most dangerous tool to the innocent and those not part of the power elite of the nation.

'Dole-bludging' to go on people's secret intelligence record?

The federal government is establishing a hotline for employers to do in unemployed Australians who refuse job offers.

The chief executive of the peak body, the Council of Small Business Australia, Peter Strong, said there is no need for a hotline as most unemployed people are not dole bludgers".

These reports on being suspect dole bludgers may well find their way into the national intelligence and photo database run by Australia's Stasi, the Australian Criminal Intelligence Commission, which reports to the Minister for Home Affairs, Peter Dutton. See item above.

The East German Stasi secret police kept a database on about 25% of that nation's population: ACIC is similarly spying – keeping unwarranted records on – nearly 100% of Australians aged over 17.

Here's an example of how 'intelligence' can be misused

In the Sue Neill-Fraser then-alleged murder case in Tasmania in 2009, metadata was wrongly used by police to claim she had accessed a particular website for nefarious reasons: only after she was convicted and jailed was it revealed it had been her daughter accessing the site, using her mother's computer. The daughter was looking up information to help a young child cope with the death of a grandparent, Sue's partner Bob Chappell! Neill-Fraser is still, wrongly CLA believes, in Risdon prison in 2021 (updated).
– CLArion newsletter of April 2014

We're on a never-ending journey

Sometimes we forget how long and hard the fight for civil liberties is.

"The struggle for civil liberties is a journey that is never ending" says the eminent former High Court of Australia judge, Michael Kirby (who, incidentally, is a regular reader of this newsletter).

An article in the *New York Times* reminds us that years of campaigning lay behind what appeared to be an "instant" success", one from more than 55 years ago.

"The Real Rosa Parks Story Is Better Than the Fairy Tale: the way we talk about her covers up uncomfortable truths about American racism," is an article in the *New York Times* last month.



In it, Jeanne Theoharis – a professor of political science and the author of 11 books on the civil rights and Black Power movements including 'The Rebellious Life of Mrs. Rosa Parks', explains how Rosa's (photo) famous refusing to give up her seat on a bus for a white person in Montgomery Alabama was by no means her one solitary stance.

"...that's not who she was, and it's not how change actually works. 'Over the years, I have been rebelling against second-class citizenship. It didn't begin when I was arrested,' Parks reminded interviewers time and again," Theoharis says. <https://www.nytimes.com/2021/02/01/opinion/rosa-parks.html?>

In another important article this month, the *NYT* points out that both sides of politics claim they know what's right...and what's rights.

"In the 1960s, the Americans who staged peaceful demonstrations to integrate bus stations, restaurants and workplaces and those who sent the police to beat them up both claimed they were upholding the causes of liberty and justice." – 'The 1776 Follies', US historian Michael Kazin <https://tinyurl.com/y46tla6o>

Senator quizzes AG over progress on more humane jails

Senator Lidia Thorpe (Greens, Vic) last month asked the Minister in the Senate representing the Attorney-General, Christian Porter, these questions about OPCAT.

Regarding the Optional Protocol on the Convention Against Torture (OPCAT):

1. What progress has the government made to designate a National Preventative Mechanism (NPM)?
2. Does the government intend to consult with civil society on the designation of existing oversight bodies or creation of a new oversight body as the NPMs?
3. Has the Government considered the recommendations made in the Australian Human Rights Commission's Final OPCAT Paper (2020)?
4. What progress has been made on the finalisation of the Intergovernmental Agreement to give effect to the OPCAT in Australia? – <https://www.aph.gov.au/api/qon/downloadquestions/Question-ParliamentNumber46-QuestionNumber2941>

OPCAT, when fully implemented, would open up all detention centres to independent inspection, with reporting, ending the “black holes” that jails in Australia are, according to comments to CLA.

We eagerly await the AG’s response.

Network gears into action in 2021

The Rights Resource Network of SA, led by CLA member Dr Sarah Moulds, has been active in February. Members have signed a letter urging the SA Attorney-General Vickie Chapman to raise the age of criminality in SA and to encourage other jurisdictions to raise the age nationwide.

Members have been asked to contribute to a submission on the draft Suicide Prevention Bill circulated for consultation by the government. RRN’s mental health workshops leaders have identified the proposed reform as having positive features in areas in need of improvement.

The RRN has also run an online workshop on how to successfully engage with the SA Parliament, hosted by the parliament’s community engagement officer, Natalie Young.

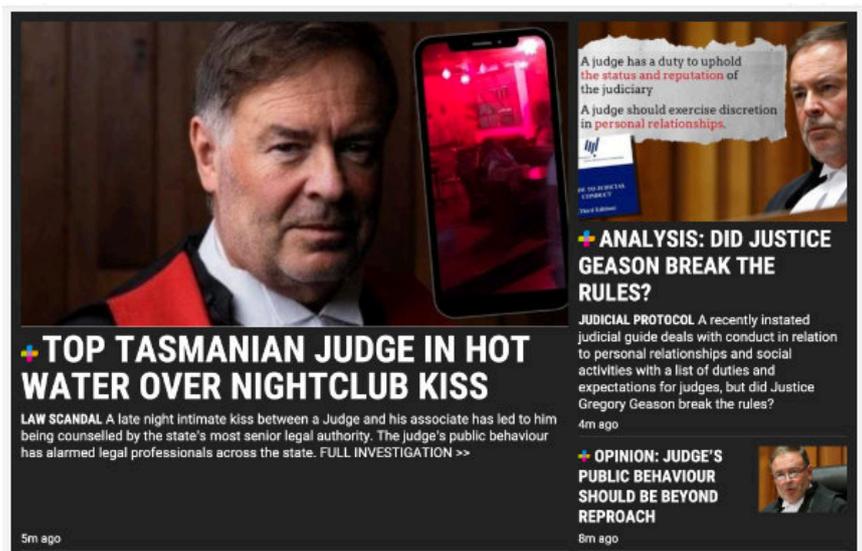
They are also helping to create an advisory group to support research into using intervention orders to address domestic and family violence in the state. Next step? – info from sarah.moulds@unisa.edu.au

Did a ‘talented’ judge pash a junior employee at Grand Poobah nightclub party?

Controversial Supreme Court judge Gregory Geason made the front page of the *The Mercury* (right) last month after the newspaper said he was reprimanded for “a late night intimate kiss” in a nightclub with a junior court employee answerable to him.

A photographer apparently snapped the pair at the Grand Poobah nightclub in Hobart on Friday 29 January 2021, on the night of formal opening of the legal year, attended by dozens of Hobart’s legal finest minds and bodies.

Right: How The Mercury, Hobart, reported the legal kiss.



Reports say the only option open to head judge Alan Blow to deal with the kissing judge was counselling him. Blow told the media he had done that. Blow apparently ummoned Geason back from up north, “largely because of concerns that publicity about the judge's conduct might result in jurors not giving full concentration to cases in which he presides,” a spokesperson for the top judge said.

Next step under current law is suspension or removal from office by the Governor of Tasmania if both Houses of Parliament vote for that.

The rules around judges in Tasmania (and elsewhere in Australia) are archaic. They date from 1857 in the island state. Tasmania desperately needs both a judicial commission, and a complete refreshment of its Supreme Court bench and acting judges to bring in younger, more diverse people better representative of the community.

Blow for top judge’s bid for job extension for the six-man, one-woman bench

Judge Blow is leading a push – complete with PR appearances in the media – for Tasmanian judges to have their gigs extended from forcible retirement at 72 to 75 instead.

His reasons for the extension include to “alleviate recruitment problems” as well as to enable current judges to make better provision for their retirements.

If the parliament buckles to the PR pressure, it will mean that six male judges are likely entrenched on the Supreme Court bench for three years extra each, which is nearly two decades before the current imbalance of judges can be completely reviewed and reconfigured.

A new round of appointments now would allow for 50% of Tasmania’s Supreme Court judges to be female and/or from a multicultural background. Under Blow, there is currently one female judge among seven, a ratio of 14% female.

Judge Blow said it “seemed inevitable that recruitment and retention of talented judges would become more and more difficult”. This is a total furphy, CLA believes. The very high likelihood is that younger judges would be better educated, could be more diverse, and would be more attuned to the modern world than the aged incumbents.

The problem is that current judicial heavies and decision makers are programed by tradition to recruit from the ranks of barristers only, for the most part. But there’s a widespread pool of talented lawyers among academics, solicitors and in government service, in Tasmania and throughout Australia, who would be ideal judges.

Is chief judge Blow suggesting that Prof Kate Warner – plucked from UTAS academia to be the state’s current governor – would not have been an ideal choice as a judge?

Poor Elise! Judges let her down

The kissing judge and the jobs/remuneration bid in Tasmania have come at just the wrong time for Attorney-General Elise Archer.

She is trying to drag Tasmania’s legal system out of the 19th century and into the late 20th, under a new \$24.5m computer-linked initiative.

A prototype launches this month (March 2021).

The Tasmanian Government is committed to providing access to an effective and efficient justice system for all Tasmanians, she says in a media release. The \$24.5 million digital transformation of Tasmania’s justice system is progressing and will be known as Astria.

The “Astria solution”, which began life named “the Justice Connect program”, is being run by the Department of Justice. It aims to connect courts, the Office of the Director of Public Prosecutions, the Tasmania Prison Service, Community Corrections and Victims Support Services.

“It will facilitate better information sharing and greater access to relevant information between and within outputs which will allow our Justice (sic) system to work more effectively and have a stronger positive benefit to the community it serves,” AG Archer said in November 2020.

But the one huge hole in Astria is that it does not – repeat, not – include the Tasmanian Police. All that is promised is that “It will also be able to be integrated with Tasmania Police systems.” – AG media release 16 June 2020. What’s the point if the police are not involved, CLA asks?

Be warned: Australia’s threat level is ‘PROBABLE’

Presumably we still have all the old threats from the left that Minister for Home Affairs and chief Spookmeister Peter Dutton warns us about. Now even he has acknowledged that there are equal if not greater threats coming from the right.

You may be surprised to know that the threat level in Australia hasn’t moved up with the additional threat from the right. Officially, it is still ‘Probable’

It’s a bit like the fire warning “Watch and Act”: what does it all mean in real life? If a terrorist event is CERTAIN, what’s the use of a warning? If a terrorist event is NOT EXPECTED, what is the use of a warning? We think our Spookmeister just likes lots of pretty colours.



Sexual conversion therapy barred in third jurisdiction

Victoria has passed a new law bill banning LGBTIQ+ conversion therapy, bringing the state into line with the laws in ACT and Queensland.

The *Change or Suppression (Conversion) Practices Prohibition Bill 2020 (Vic)* makes it a criminal offence to actively attempt to change or suppress a person’s sexual orientation or gender identity.

It also gives power to Victoria’s Equal Opportunity and Human Rights Commission to investigate and refer matters to police.

The law says that helping someone express their gender identity and the work of professional health service providers does not amount to suppression practices.

Prison terms of up to 10 years apply for anyone caught breaking the law by trying to suppress or change someone’s sexuality by conducting suppression practices. Some churches and cults have been accused of such practices. <https://tinyurl.com/y6ozm7l2> <https://tinyurl.com/y63qwclw>

Rape case charge delayed 20-plus years: policeman fined \$670

A Queensland police officer, Detective Senior Sergeant Chris Fenelon, has been reprimanded for misconduct and fined \$670 over a six-pack rape allegation that has taken 26 years to come to court.

The slap on the wrist comes after Eve (not her real name) reported brutal assaults by up to six men to police on her 21st birthday in Brisbane in 1995 (rpt, 1995), according to an exclusive story by ABC investigative reporter Josh Robertson.

In 2019, investigators charged three men who have since been committed for trial in the District Court. The misconduct findings revealed in 2021 come almost five years after Eve's complaints about the handling of her case were dismissed by the internal police investigation unit — the Ethical Standards Command (ESC) — in which Senior Sergeant Fenelon had a senior role.

It took a 2019 referral from then-opposition leader Deb Frecklington to the Crime and Corruption Commission, followed by ABC reports, to get action on the Sergeant's lack of action.

Fenelon's misconduct included failures in taking the complainant's statement, identifying the crime scene and potential witnesses, and following up on potential suspects and new DNA evidence. He was also found to have failed to update records and guide forensic experts, and to have allowed evidence — including her dress and underwear, photographs and CCTV vision — to be lost or destroyed.

Queensland Police Union president Ian Leavers described Fenelon as "one of the finest police officers" in Queensland. If Leavers is right, the police situation in Queensland is truly alarming. <https://tinyurl.com/y4vdx8mm>

ODD SPOT: Banks lose their grip on 'captive' child customers

The ACT has banned school banking programs, like the Commonwealth Bank's Dollarmites, from ACT schools from July 2021 in a motion passed unanimously in the Legislative Assembly last month.

Victoria has already banned the schemes.

The Commonwealth Bank, which holds a 97% share of banking programs in schools, has had some form of Dollarmites since 1931. Last year more than 175,000 primary school-aged students participating in Dollarmites opened an account with Commonwealth Bank as part of the program.

ASIC reviewed the financial programs last year and concluded they do little to help students. The banking regulator said the programs did not improve money-saving behaviour among students, and the objective of the banks in running these programs was in gaining new customers.

ACT Greens MLA Johnathan Davis, who introduced the motion, said banks were using sophisticated advertising tactics on vulnerable consumers. <https://tinyurl.com/y3pl5ypk>

Arnott mystery: police union makes sudden clean break

Mystery surrounds why the WA Police Union last month, instantly, stood down president Harry Arnott.

A statement by WAPU said its board of directors "was recently made aware of an active WA Police Force managerial investigation" into Mr Arnott. But no details of the investigation have been revealed.

The WAPU board met – without Arnott – and unanimously voted to direct him to take leave, effective immediately. "The board did not take this decision lightly and believes it was necessary, appropriate and in the best interests of the Union," the statement said.

Mr Arnott has been president since November 2018, and has been on the board of the union since 2011.

Senior vice-president Mick Kelly will act as president. <https://tinyurl.com/yykjunej>

Australian briefs

Wright returns

Pauline Wright (photo) is the new President of the NSW Council for Civil Liberties, straight from being head of the Law Council of Australia in 2020. Effectively, she stepped down as NSWCCCL President in 2019 to take on the Law Council role, and Nicholas Cowdery filled in for 12 months.



Legal board strikes off one, pays out \$871,6771

In 2019-20, the Victorian Legal Services Board registered 24,495 lawyers, an increase of 4.2%. They carried out 465 trust account investigations, undertook 94 disciplinary investigations, finalised 14 prosecutions at VCAT and chased down 16 other matters. One lawyer was struck off, and they paid \$871,671 in compensation to six people who lost money or property they entrusted to their lawyer. <https://lsbc.vic.gov.au/>

New integrity head sought

The ACT is looking for a new Integrity Commissioner. The ACT's first, Dennis Cowdroy, left early this year when the body was just one year old. Former NSW LECC Commissioner, Michael Adams, a former judge,

was appointed acting IC in mid-January, with emeritus Professor John McMillan, a permanent ACT resident, appointed as alternate acting ACT IC. In December, the IC had received 140 complaints about alleged corruption, the *Canberra Times* reported on 20 Dec 2020.

Tassie needs a judicial commission

Tasmanian Women Lawyers have called for a permanent judicial commission for the state following the Grand Poobah judge affair. TWL has called for an end to a culture of secrecy. "All too often the women caught up in such incidents face vilification and negative professional consequences when they become public knowledge." <https://tinyurl.com/yacby5ev> CLA also called for a judicial commission for the island in its submission on whether the current sitting six men - one woman Supreme Court bench should all have their terms extended to age 75 from 72, effectively entrenching the current composition of a long time yet.

Members' letters (and others, if relevant)

Open justice system to the people

The public has a right to witness court proceedings in an open court. Access by the public either in person or by electronic means such as live streaming is essential for open justice. Due to COVID-19 restrictions the number of people who can sit in the public galleries of the Magistrates Court and the Supreme Court is limited. Live streaming or other electronic means is surely the way to go. Sue Neill-Fraser's imminent appeal hearings are a good point to start. Fix this deficit for the community and the integrity of the justice system. — Ruth Graham, Taroom Tas

Australia is unique, truth to tell

Australia is the only former British colony which has not concluded a treaty and/or held a truth and reconciliation process respectful of its Indigenous citizens. "Truth telling", entailing the acknowledgement of a devastating historic invasion by the British with cross-generational consequences, is actively discouraged; as attested by the federal Communications Minister's intervention in the *ABC's* reporting of Australia Day 2021. When will this charade cease?— Jon McMillan, Mount Eliza Vic

Crazy like a fox

Craig Kelly must be laughing from ear to ear when so many people are writing and talking about his stand on COVID-19. One should be entitled to his or her opinion. But one should be responsible for how one uses the gift of free speech we have in this country. — Sankar Kumar Chatterjee, Evatt ACT

Rays of whine and doses

Hooray for you, Craig (Kelly), sticking by your guns. Don't take any notice of those Bolshie know-it-all scientists. Why not prove them wrong by taking a nice big dose of that whatsitsname drug and, even better, doing it publicly so we can all admire your fortitude in the face of ignorant criticism. — Nola Tucker, Kiama NSW

Kelly turnout is a false alarm

Faye Thornhill is correct in saying that free speech is a fundamental right and value (Letters, 10 Feb *Cba Times*). Craig Kelly has this right. That said, freedom of speech does not mean freedom from criticism, nor should free speech mean being at liberty to shout "fire" in a crowded theatre. — David Roth, Kambah ACT

Reading without comprehension

At least the Department of Home Affairs appreciated hearing my views about the Christmas Island family. My local member has apparently left it to her leader to tell me how much he appreciates receiving correspondence and assuring me that all letters are read. He politely thanked me for my interest.— Vicky Marquis, Glebe NSW

Don't give a Zucker an even break

Thank you Peter Hartcher for socking it to the techno-bullies Google and Facebook (*SMH*, February 6-7). By calling their bluff, Australia is leading the world and we can be proud of that. I for one would be happy to transfer to other providers if they were foolish enough to withdraw their services. — Andrew Macintosh, Cromer NSW

You first, Tim! What's 6.4% between taxpayers?

It is all well and good for Tim Wilson to propose allowing people to raid their superannuation to help buy a house and to also recommend that the contribution rate remain at 9%. None of this affects him personally. The government will contribute 15.4% into his nominated superannuation fund or self-managed fund and he will be all right Jack! When he puts forward a proposal to lower the government superannuation contribution to the same level of everyone else, then I may pay attention to his proposals, not before. —Alan Inchley, Frankston Vic

Polly rulers grant themselves free rein

Deputy Premier John Barilaro is wrong to accuse Greens MLA David Shoebridge of politicising bushfire funding. The politicisation occurred when the NSW government decided to allocate the funds on the basis of whether the electorate is held by the Coalition. As is the case with so many grants programs in NSW, decisions are no longer based on need or merit, but on the political benefit to Barilaro's party and its Coalition partner. - **Tony Judge, Woolgoolga NSW**

End the farce, prevent the pox

Recent news in the farcical case of Bernard Collaery and Witness K, ('Moves in Collaery Case Disturbing', 10 February), highlights the desperation of Attorney-General Christian Porter in attempting to terrorise whistle blowers and truth tellers. The very fact that national security laws are being used in an instance where the total subject matter is already public knowledge is a tragedy for justice and freedom. The AG's missteps are becoming self-evident when the Justice hearing the case sees the immorality in Porter's actions in pursuing this case. This case was instigated to protect personal political careers. We the public need to remember that the use of our justice system must never be predicated on the pox of political power.— Gerry Gillespie, Queanbeyan, NSW

CLA's main activities for February 2021

Board meeting 14 February 2021 in Canberra: By Skype for interstate directors: Those attending were: President Dr Kristine Klugman, Secretary/CEO Bill Rowlings and Director Jennifer Ashton – Canberra; Vice-President Rajan Venkataraman, Director Richard Griggs – Hobart; Director Frank Cassidy – Sydney; Director Margaret Howkins – Perth; Director Caitlin Perry – Darwin; For part of meeting: CLA Human Rights Campaign Manager Chris Stamford – Canberra. Apology: Treasurer Sam Tierney – NSW.

'Champions' projects (where Directors take on a core area to be active in):

RV: Letters on OPCAT and Age of Criminal Responsibility (AoCR) sent to all jurisdictions; ACT initiative on AoCR (a Bill introduced by end-2021) welcomed to help break logjam of states.

MH: PIP campaign in WA in abeyance due to campaign for state election in March; Police Union president stood down due to inquiry into his activities by WAPOL.

FC/BR: Sports rights area still awaits NRL's de Belin case result; hung jury means he faces a new trial. FC questioned the reason a jury unable to agree resulting in new trial.

Submissions: (RV) lodged and upcoming subs noted, with thanks to lead authors and co-authors. CS sub lodged on 10 Feb re CLA response to government's proposed Commonwealth Integrity Commission.

Tasmanian report: (RG) Tas Law Reform Institute on a possible HR Bill due February or soon thereafter, with HR campaign from then to the state election around May 2022; other main issues are revisiting the anti-protest laws, and also the laws around police searching of children. It was noted that bail laws and age of judges also under consideration.

WA report: (MH) Criticism received by CLA that Serco guards are "failed police or failed prison officers", hence reported problem with mail at Acacia Prison. CS reported on excellent work by Owen Kipling, who now had limited time due to Law Honours requirement, but he will help with ACT HR Comm subs. BR to circulate Kipling's HR paper.

NT report: (CP) Noted that incoming govt was moving back from commitment to helping youth in justice system, eg new Don Dale centre location, so need to keep up pressure on 10-14yo AoCR movement. CP advised NTCOSS support for HR Act was in background, better to approach NAAJA and CEOs of Land Councils to motivate active campaigners.

SA report: (KK) SA Council for Civil Liberties held meeting recently: SACCL and CLA information to be swapped via Pres Rick Sarre.

Treasurer's report: (ST) Resignation accepted with regret. Letter of thanks to be sent. Fiscal position continues to be sound (see 2020 Annual Report) due out March 2021.

Media Director report: (RV) Facebook issues noted. Decided to 'park' Facebook for a while, as it does not seem to produce members or feedback. May be useful for promoting submissions as they are lodged.

Human Rights Act campaign report: CS reported that ALP virtual national conference likely to be end-March, with more limited opportunities than at 'live' conference for members to address platform issues

such as HR. Extensive effort going into campaign to expand/improve ACT HR Commission effectiveness for 20-year anniversary in 2024. Meeting (held) with Commissioner Dr Helen Watchirs and her key lawyers.

Photo show Dr Watchirs and CLA President Dr Klugman listening to a presentation at the meeting.



In SA, CLA member Sarah Moulds is leading local group, the Rights Resource Network SA, and CS/Pres/CEO have held e-meeting with SA-Best MLC Connie Bonaros with a view to closer cross-party political party links. Meeting being arranged with Greens HR spokesperson, and possibly with leader Adam Bandt. MH question re difference between an Act and a Charter was answered by BR, and also by CS in detail with how the word "Charters" is being used in ACT HR Commission developments.

Student liaison: RV with Uni Qld: activities to increase with start of new uni year: MH – Curtin Uni: Excellent researcher from Curtin U, Linda Diep, is investigating for CLA the social impacts of Covid-19; KK with ANU: chasing final student papers for publishing on website.

Sue Neill-Fraser case: update towards 1 March start of appeal. President reported on Barbara Etter's pearls idea, and extension to hairdressers' campaign. But neither going ahead due to key Hobart people not being in favour.

Reprint literature, business cards (due to Box 3080 WESTON CREEK 2611 change): new printing round to begin soon.

Other business:

FC questioned the right of politicians to change the words of a national song deliberated and decided on by an expert panel, and the people, over a 12-month period, and which had been settled for decades..

AGM: Secretary advised that Notices of motion for 2021 AGM: closed 13 Feb 2021 – none received; Board nominations open as of 15 March.

INTERNATIONAL

While the world coughs and sputters its way through lockdowns from a social distance, the globe is ill. The world is facing a “pandemic of human rights abuses”, the UN secretary general António Guterres has said. Authoritarian regimes had imposed drastic curbs on rights and freedoms and had used the virus as a pretext to restrict free speech and stifle dissent, Guterres said.

Guterres said the Covid-19 pandemic had rolled back years of progress on human rights, and that abuses had “thrived because poverty, discrimination, the destruction of our natural environment and other human rights failures have created enormous fragilities in our societies”.

There has been a global crackdown on opposition activists and human rights defenders, increased attacks on journalists and moves to curb free speech, censor the media, roll out invasive tracking apps and put in place extreme surveillance measures, many of which are likely to far outlast the virus. <https://tinyurl.com/yam679zc>

A recent report by Human Rights Watch found that at least 83 countries had used Covid-19 as a justification to attack free speech.

Girls 11-13 targeted as online child abuse mushrooms

UK National Crime Agency child abuse lead Rob Jones warned, if social media sites such as Facebook press ahead with further encryption of messaging services, children would be in even more peril online.

Law enforcement against online child abuse in the UK was “the best in the world by some distance”, Jones said. “But we are arresting and dealing with more offenders than ever, the numbers are growing and growing, as are the number of children being safeguarded.”

The Guardian UK reported the numbers were staggering. The UK’s child abuse image database has 17m unique images on it, and it is growing by 500,000 every two months.

Children were posting pictures of themselves online and predators were targeting them, Jones explained. Girls 11-13 were the main targets. <https://tinyurl.com/y2yqga58>

Journalist freed after four years in jail without trial

Egyptian authorities have released journalist Mahmoud Hussein, detained since December 2016.

He worked for Qatar's *Al Jazeera* television network, and was held in pre-trial detention for more than four years, an innocent victim of Middle East politics, observers believe.

Hussein, an Egyptian, was picked up by police after arriving in Cairo from Doha on holidays. He was held on charges of spreading false news, joining a banned group and receiving foreign funds, all trumped up charges according to Al Jazeera and fellow journalists.

He was released after Saudi Arabia, the United Arab Emirates, Bahrain and Egypt agreed in January to restore diplomatic, trade and travel ties with Qatar, severed in 2017 over allegations that Qatar supported terrorism, a charge Doha denies.

The Committee to Protect Journalists has accused Egypt of putting journalists behind bars to muzzle dissent, saying that 27 were in prison as of late 2020. <https://tinyurl.com/y2wsupvg>



Prisoners up nearly a quarter in 20 years

Globally, 10.74 million people were in penal institutions as of 2018, either as pretrial detainees, on remand, or having been convicted and sentenced, according to *The Lancet's* 13 February edition.

Since 2000, the number of people in prison has grown by 24%, with a worrying rise in the female prison population, which has outpaced the growth rate among males. The USA still has the most people in prison, with 2.1 million.

In Australia, prisoners cost taxpayers a lot of money: there were more than 41,000 prisoners on 30 June 2020 who cost about \$250 a day to keep. In the one-jail ACT, that was \$425.50 a day

Imprisonment fell during the first months of the Covid-19 pandemic...except for Aboriginal and Torres Strait Islander prisoners, up 2%.

Nationally in 2019-20, expenditure plus depreciation on prisons was \$5.09 billion – a real increase of 5.1%

ODD SPOT: Putin renamed: now POUtin, for 'poisoner of underpants'?

Russian President Vladimir Putin has been re-named – by the novichok-poisoned leader of opposition Alexei Navalny. Navalny claims Russian state agents applied the nerve agent to the inner seams of his underpants, causing him to spend months in hospital recovering. He now calls the Russian President 'Vladimir the Poisoner Of Underpants'. It might be time to change spelling of the President's name to 'Poutin'. Navalny is back in jail for several years, convicted on spurious charges. <https://tinyurl.com/yxzfuzn>

Driving force for Saudi change freed after 1001 Arabian nights in jail

Saudi women's rights activist and women-driving campaign leader Loujain al-Hathloul (photo) was released from prison last month after 1001 days in jail.

She was granted probation by a judge in Riyadh...with strict conditions.

The terms prevent her discussing her ordeal in prison and she may not leave Saudi Arabia. If she breaks the conditions, she has a suspended sentence of five years and eight months to serve. The ban on her travelling apparently still stands.

Al-Hathloul was locked up for campaigning for women to have the right to drive. Even though the state relented, and allowed women to drive from June 2018, she was jailed in May 2018 to demonstrate the Kingdom of Saudi Arabia would not countenance dissidents speaking out in public.



KSA has a long way to go before women have equal rights in the male-dominated realm. As an example, the main charges against al-Hathloul included calling for an end to male guardianship and communicating with global rights groups, Saudi activists, and foreign diplomats and international media. <https://tinyurl.com/ybytsjgc>

Back to nature to kill virus

Tanzanian government officials have dismissed COVID-19 vaccines and promoted unfounded remedies, according to a report by Munyaradzi Makoni in *The Lancet*.

Last month, in Dodoma, Tanzania's capital, the health minister announced that the country "has no plans in place to accept COVID-19 vaccines".

“We are not yet satisfied that those vaccines have been clinically proven safe”, Health Minister Dorothy Gwajima told the news conference, flanked by unmasked government health officials.

In the glare of cameras, Gwajima and the health officials drank a herbal concoction including ginger, garlic, and lemons, and inhaled steam from herbs, promoting them as natural means of killing the virus.

Gwajima went on to warn journalists about reporting unofficial figures on COVID-19 or any disease. – *The Lancet* 13 Feb 2021

International briefs

Terror rating drops a notch

The UK's terrorism threat level has been downgraded from "severe" to "substantial". Home Secretary Priti Patel said last month the move followed a "significant reduction" in the momentum of attacks in Europe – since those seen in Austria and France between September and November 2020. <https://tinyurl.com/yxafu9r9> The level went to the highest rating, "critical", after the Manchester Arena bombing in May 2017 and reached that level again briefly in September that year after a bomb on a Tube train at Parsons Green. The threat remained at the second highest, "severe", until November 2019 when it was downgraded to "substantial", where it stayed until last November.

Probe questions US special forces and war crimes

The US Pentagon has begun an independent inquiry into special operations forces and possible war crimes. A Defense Department inspector general will examine whether elite US commando forces comply with the laws of armed conflict. Those under scrutiny include Navy SEAL teams, Army Delta Force, Marine Raiders and other elite commandos. “The (inquiry) could have seismic repercussions in the special operations community,” the *New York Times* reported. The US investigation follows hard on the heels of a five-year probe into Australian special forces, which found major cause for alarm, and possible murders by soldiers. It also follows the International Criminal Court starting an inquiry into possible war crimes by American troops in Afghanistan. <https://tinyurl.com/y34kw3v7>

New law will stop police lying to get a confession

A draft law in New York, Senate Bill S324, would stop police in the USA being permitted by law to outright lie about evidence to suspects they interrogate while chasing a confession. The law would bar police deception in the interrogation room and require courts to evaluate the reliability of confession evidence before allowing it to be used. The Innocence Project says false confessions contributed to convicting 29% of its 375 DNA exonerations. Over all, 8.26% of the wrongful convictions originated in New York State; 45% of the New York cases involved false confessions. <https://tinyurl.com/y2bz7kjin>

ODD SPOT: Tipping point: will Biden law shift the fulcrum?

“In 1966, when (the USA) minimum wage was overhauled, restaurant workers were even more formally cut out with the creation of a subminimum wage for tipped workers. Today, 43 states and the federal government still persist with this legacy of slavery, allowing a tipped work force that is close to 70% female and disproportionately black and brown women to be paid a subminimum wage.” President Joe Biden’s Raise the Wage Act would end the practice, if passed.— Michelle Alexander <https://tinyurl.com/y2e8qpn2>

Why were protestors prosecuted under terror law?

England’s Lord Chief Justice Burnett has quashed the convictions of 15 activists prosecuted under anti-terror laws for blocking an immigration removal flight at Stansted airport in 2017. He said: “The appellants should not have been prosecuted for the extremely serious offence under (terrorism law) because their conduct did not satisfy the various elements of the offence”. The group’s defence lawyer questioned why the then attorney general, Jeremy Wright, had authorised using the charge in the first place. “It does make me uncomfortable that a British cabinet minister has authorised a terror charge against political opponents, that the lord chief justice has decided is completely inappropriate. The appellants should be told, why was this charge used in this way? What information did the attorney general have?” <https://tinyurl.com/y58y5uqp>

CLA notes Australia’s Attorney-General, Christian Porter, should answer similar questions over charges against Witness K, Bernard Collaery, David McBride and Richard Boyle.

DATES:

2021:

Feb-April, EU: Applications for the European Master’s in Human Rights (EMA) – details for the 2022 year. EMA is a residential and exchange program: The Feb to July 2022 semester takes place in one of the EMA participating universities within the member states of the EU plus the UK and Switzerland. <http://gchumanrights.org/>

11-13 June, G7 meeting, England: Priorities set out by host Prime Minister Boris Johnson for his G7 presidency are four-fold: fighting against and recovering from COVID-19; climate action; free and fair trade; and shared values as open societies.

11-12 Nov, COP26, Glasgow, Scotland: The 26th UN Climate Change Conference of the Parties (COP26) in Glasgow, Scotland.

Early 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. Info: <https://tinyurl.com/u99bbks> 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 and Prof Asmi Wood of ANU <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) Closing date for this issue was 25 Feb 2021.

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