

Power battle in parliament: MPs & the people v. the Executive

Slowly, quietly, there is a potential revolution under way in federal parliament.

Committees of parliament are starting to take back power from the Executive.

The Executive has bludgeoned its way to dominance by usurping powers to itself over many decades. Both Coalition and ALP governments have acted in the same way.

But some long-serving and experienced MPs are realising the dangers to democracy caused by parliament ceding power to an appointed political body – the Executive – which is made up of mates, close factional allies and special-issue colleagues of the Prime Minister.

The first two items below indicate the wrestling match over power that is occurring.

At the same time, the “national cabinet” is being heavily questioned as to whether this sudden prime ministerial thought bubble a year or so ago is any way to run a federation nation competently and with good governance. Stand by for more battles over where power should lie: the quarantine facility debate is a precursor to the upcoming disputes.

Parl committee wants human rights front and centre

The parliamentary joint committee on human rights (the HR committee, or the PJCHR) is arguing that ALL ‘money/financial’ bills must go before parliament with an assessment of their potential impact on human rights attached.

This does not currently happen. There is no human rights impact postulated for government spending.

Were it to happen, the abuse or ignoring of human rights by the federal government would become apparent time after time throughout the year, every year. Currently, human rights are a sleeper issue in Australian politics.

For the past eight years, the HR committee has consistently argued that allocating funds via money (“appropriations”) bills engages human rights: the bills permit actions which may promote, or limit, a range of human rights.

So, statements of compatibility for appropriations bills should contain an assessment of human rights compatibility, the cross-party HR committee argues.

“Without an assessment of human rights compatibility of appropriations bills, it is difficult to assess whether Australia is promoting human rights and realising its human rights obligations,” the PJCHR’s Report 7 of 16 June 2021 said.

Doing what the HR committee wants would considerably expand the reach of human rights into the day-to-day business of the parliament. For example, all budget measures would have to be legislated with human rights implications attached.

If that were the case, there would be a strong argument that every budget announcement (media releases and leaks as well) needs to be accompanied by a HR consideration, Civil Liberties Australia says. Journalists would be reminded that all government policies impact people’s liberties and rights, their day-to-day lives.

The same “rules” should apply to state and territory parliaments, all government agencies, and even local government, under the PJCHR’s reasoning, CLA says.

“Such a change would create a revolution in the world of human rights in Australia,” CLA’s President Bill Rowlings said.

Senate reaffirms parliament’s fundamental role

The Senate is determined to wrest control back to the parliament from the Executive government.

Some 31,000 Australian laws, known as legislative instruments, are not subject to any debate or a vote in federal parliament before they are made. They comprise laws on minor and major matters in every field.

They are basically laws made by the Executive – that nebulous collection of unspecified Ministers surrounding and owing the strongest allegiance to the Prime Minister. In reality, the legislative control mechanisms are bullets fashioned and loaded by bureaucrats.

Last month the Senate moved to rein in such unaccountable instruments and to reassert parliamentary control over Executive lawmaking.

Previously, the Senate's only power was to disallow the laws. But nearly a fifth of the laws could not be disallowed: in 2020, 17.4% of these fabricated laws were even exempt from being disallowed because of how they had been drafted.

The Senate, by formal resolution, has told ministers and the bureaucracy that legislative instruments should be subject to disallowance to permit appropriate parliamentary scrutiny and oversight unless there are exceptional circumstances.

A second Senate resolution demands that the Attorney-General tells the Senate in writing what the rationale is for current exemptions from disallowance. Parliament can then decide whether there are genuinely exceptional circumstances to justify the significant number of current exemptions.

A third resolution gives the Senate's new powers to scrutinise legislative instruments that are exempt from disallowance. The scrutiny committee will be able to report its concerns to the full Senate, a function it is currently unable to perform.

Commenting on the above changes, the chair of the committee for delegated legislation, the Liberal's Senator Concetta Fierravanti-Wells of NSW, said: "As elected representatives and lawmakers we must not allow the Executive to make laws without subjecting that lawmaking to rigorous scrutiny. I thank the Senate for taking these vital steps to restore parliamentary supremacy and reassert the Parliament's role as lawmaker-in-chief."

Committee deputy chair, Labor Senator Kim Carr of Victoria, said: "The Senate's adoption of these significant resolutions should serve as a warning to ministers and the bureaucracy that the parliament will no longer stand by and allow its delegated legislative power to be exercised without oversight."

CLA congratulates both MPs, and all the members of the committee for their courage and commitment.

Senate wants to rein in delivery rider abuse

A new Senate report has recommended how to ensure food delivery work is safer, riders have more rights, and deaths are prevented.

The Senate select committee on job security wants a new federal regulator for the gig economy, worried by at least six deaths of delivery riders last year. Its report also calls for the definition of "employee" expanded to include gig workers, and a low-cost tribunal for poorly-paid contractors to bring cases before it.

Safe Work Australia should enhance its data collection of gig worker accidents and fatalities, and the federal regulator should be able to demand data from companies like Uber about its pay rates and hours worked by contractors.

Food deliverers for companies such as UberEats and Deliveroo, and rideshare drivers for companies such as Uber, are not considered employees under Australian employment law. They are classed as independent contractors, meaning they are not entitled to a minimum wage, annual or sick leave, and some forms of compensation if they are hurt or killed while working, the *Guardian* reported. <https://tinyurl.com/59dmf446>



Photo credit: Franklin Heijnen <https://www.flickr.com/people/37818606@N00>

Aussies getting very frustrated over losing right to travel overseas

Several emails to CLA over the past month has expressed deep frustration over not having the freedom to leave Australia when they wish.

The emails – mostly well written and reasoned, but with the odd trolling CAPITAL LETTER DIATRIBE against supposed inaction by liberties and rights organisations – make one telling point:

If you are not entitled to leave your country when you wish, you are effectively a prisoner of the state.

Australian citizens have required a travel "exemption" in order to travel outside Australia's borders since March 2020. The process has only one means of application, a formal request to the Australia Border Force-Department of Home Affairs via their online portal. Like most government application websites, the

site is a nightmare of slowness, over-requesting information...and forcing you to sign away privacy rights. For example, the website demands that you give them permission to explore:

- information or an opinion about your
 - racial or ethnic origin
 - political opinions
 - membership of a political association
 - religious beliefs or affiliations
 - philosophical beliefs
 - membership of a professional or trade association
 - membership of a trade union
 - sexual orientation or practices
 - criminal record
- health information about an individual
- genetic information about an individual that is not otherwise health information
- biometric information that is to be used for the purpose of automated biometric verification or biometric identification
- biometric templates.

...but it gets worse !

Sign away your rights as an Australian

On the Home Affairs website, after negotiating the above hurdles (including perhaps telling them how you vote and your sexual proclivities) one must agree to in order to proceed to the statement: *“I acknowledge that I do not have a legal right to consular assistance and the Australian Government may limit consular assistance where I put others or myself at risk.”*

There you have it: sign away all privacy, and allow the Dept of Home Affairs to remove your rights to normal Australian services of people travelling overseas.

This unfit-for-purpose government department needs a thorough overhaul. Now it is rid of former Minister Peter Dutton, it should be purged of Secretary Michael Pezzullo, the privacy and propriety cleaners put through it, and be re-born as a department of state with a mission mandated to serve Australians, not to persecute them and refugees, CLA says.

Where is Australia’s Citizenship Charter?

What rights – and responsibilities – do you have as an Australian, and what responsibilities and rights does the federal government have?

We have no such document.

Ideally, the rights and responsibilities would be incorporated into a Human Rights Act which would allow everyone to know where they stand, and what the fundamental relationship between the citizen and the state is.

It’s time the Coalition government changed its policies to concentrate as much on liberties, rights and freedoms as it does on penalties, offshore and onshore detention, Robodebt-like punishments and failing to provide appropriate support during bushfires and pandemics.

“The entire mindset of government – Coalition or Labor – needs to change to concentrate on serving the people rather than being self-serving,” CLA President Bill Rowlings said.

Signs the High Court might wobble on freedom of political communication

The newest member of the High Court, judge Simon Steward – even though on training wheels, having only started in the position a few months ago – seems hell bent on overturning the “new” right to political communication in Australia

Steward, a tax expert with little practical experience in other constitutional matters, is so far a sole voice. But he has signalled that he’s looking for allies to overturn a recently-won “right” in Australia. In the US, such signals are picked up by Presidents wanting similar outcomes, ensuring the next appointments to the highest court are of like mind. That’s how the most senior courts become politicised.

In the recent Australian case of LibertyWorks Inc v Commonwealth of Australia, Steward issued a worrying signal of a possible change of HC views should more judges with similar leanings be appointed.

1. “Thirdly, for my part, and with the greatest of respect, it is arguable that the implied freedom [of political communication] does not exist,” he wrote.

“It may not be sufficiently supported by the text, structure and context of the Constitution and, because of the continued division within this Court about the application of the doctrine of structured proportionality, it is still not yet settled law. The division within the Court over so important an issue may justify a reconsideration of the implication itself.

“In that respect, it is one thing to proclaim the necessity of a freedom of political discourse given the type of representative and responsible government created by the Constitution; it is another thing entirely to make an implication about when and how that freedom may be legitimately limited.

“The continued division in this Court about how that latter task is to be undertaken is telling. It may suggest that the implied freedom cannot be adequately defined. However, no party submitted that the implied freedom did not exist. In such circumstances, it is my current duty to continue to apply it faithfully.

“Any consideration of the existence of the implied freedom should, if necessary, be a matter for full argument on another occasion.”

No, judge Steward. The Australian parliament should legislate to include freedom of political communication into statute law – that’s what should happen, CLA says.

Australia should do so as part of a statutory Human Rights Act, which includes a definition of the rights and responsibilities of citizenship.

Queensland, Victoria and the ACT have human rights Acts. Why can’t the other Australian jurisdictions, and Australia itself, have statutory protections as enjoyed by all the countries we usually compare ourselves with? CLA says.

Release locked-up refugee-seekers, AHRC says

The Australian Human Rights Commission is asking the Australian government to follow the lead of overseas nations by slashing the numbers in immigration detention.

The AHRC said the UK, Canada and the USA all reduced the numbers in immigration detention – by 39%, 66% and 69% respectively – in the first six months of the pandemic. Australia numbers rose by 12%.

The AHRC also called for closing Christmas Island detention centre, 2600km north-west of Australia in the Indian Ocean. <https://tinyurl.com/525af68c>

Dungay custody death goes to the UN

The mother of Aboriginal person David Dungay Jnr, who died in custody in 2015, is taking her son’s case to the UN to seek accountability from the federal and NSW governments.

Leetona Dungay, a Dunghutti woman from Kempsey NSW, said last month that she was complaining to the UN over the failure of both governments to protect her son’s life, and for their continued failure to end what she says is an increasing rate of Aboriginal and Torres Strait Islander people dying in custody.

Dungay Jnr passed away at Long Bay Prison in Sydney four days after Christmas in 2015. He had diabetes and was eating a biscuit before prison guards entered his cell, forcibly removed him to an observation cell, restrained him and sedated him. Before dying he allegedly said the words, “I can’t breathe” 12 times.

Top international and local legal minds have helped prepare Dungay’s complaint: human rights lawyers Geoffrey Robertson and Jennifer Robinson; Jumbunna Institute for Indigenous Education and Research director and legal academic Prof Larissa Behrendt (photo); Jumbunna deputy-director Craig Longman; and National Justice Project chief executive and principal solicitor George Newhouse.

“We hope that this complaint will shine a global spotlight on the incarceration crisis facing First Nations people in Australia,” Prof Behrendt said.

“There are at least 473 other First Nations families who have not been able to secure justice for the death of a loved one since the 1991 Royal Commission into Aboriginal Deaths in Custody.” <https://tinyurl.com/8ry9469v>



Robodebtors get \$1.8 billion

Judge Bernard Murphy last month approved a \$1.8 billion settlement for people wrongly pursued by the federal government's Robodebt scheme.

He called Robodebt "a shameful chapter" and "massive failure in public administration" of Australia's social security scheme.

Murphy also ordered the Commonwealth to pay Gordon Legal 8.4m in costs. The law firm initiated the class action against the Commonwealth on a no-win, no-fee basis.

"This has resulted in a huge waste of public money," judge Murphy said.

The Robodebt automated debt collection system operated between July 2015 and November 2019 and used data-matching to try to identify the overpayment of social security benefits.

The federal government wrongly "recovered" – stole from poor people – more than \$750 million, unlawfully raising \$1.73 billion in debts against 433,000 people. Of this, \$751 million was wrongly recovered from 381,000 people. <https://tinyurl.com/z5w6vfd>

Kirby wants respect for rights of the majority non-religious Australians

Former high court judge Michael Kirby says "excessive protection" of religious freedom could diminish the rights of non-believers and minorities.

New Rationalist Society shows that 70% of Australians say religion is not personally important to them.

In research charting the long-term decline of religiosity in Australia, just 15% of Australians say they are active members of a religious organisation.

Rationalist Society fellow Neil Francis found seven in 10 Australians (71%) say that religion is not personally important, including around half Catholics (49%) and non-Christian denominations (48%), nearly two-thirds (64%) of Anglicans, and 39% of minor Christian denominations.

The report found that most Australians (between 74% and 82%) oppose religious schools having the legal right to expel students or sack staff on the basis of sexual orientation or relationship status. <https://tinyurl.com/d6rfnc22>

AFP's integrity at risk, says ANAO

The national audit office has slammed the AFP after finding "serious deficiencies" in the agency's digital record keeping threatened its ability to deliver justice.

The ANAO audit released last month revealed the AFP had failed to maintain consistent and comprehensive record keeping, complicating the review process.

The audit was meant to examine how the AFP exercises its statutory powers relating to arrests, searches and seizures. It broadened to include digital record keeping after auditors realised required documents were time-consuming to retrieve due to the AFP using three inconsistent record systems.

"It is important that police officers be well trained and exercise their powers consistently with both applicable legislation, and with internal instructions and directions about the way in which powers are to be exercised," the audit report said.

"Accurate, accessible and complete record keeping is fundamental to the effective administration of justice." <https://tinyurl.com/s5ncvmj>

ODD SPOT: Porter 'wins' after dead woman's rape allegations

Minister Christian Porter, who sued the ABC and reporter Louse Milligan for reporting the fact that he had been accused by a woman, who had since died, of teenage rape 33 years ago, has dropped a defamation action against the ABC. He claims that his dropping of the legal action which he initiated was actually a victory over the ABC.

If it was the ABC which was humiliated by the dropped action, what about the man who has lost the portfolio of Attorney-General; who was forced to take emergency mental health leave for weeks; the First Law Officer of Australia who chose a lawyer that a court ruled was ineligible because of possible perceived bias to act on his behalf. That would be the same man whose plan – baton in knapsack – to be Prime Minister of Australia appears dead and buried.

The ABC must wonder what winning reporting looks like. (*Screenshot from ABC's report*).



PORTER CLAIMS ABC FORCED INTO 'HUMILIATING DEFEAT'

Former Attorney-General Christian Porter has dropped his defamation case against the ABC signalling an abrupt end to the high profile legal case.

...to paraphrase Mr Porter (who was speaking about the ABC article, but he could have been speaking about his involvement in decisions to charge Witness K, Bernard Collaery, David McBride and Robert Boyle):

"It was sensationalist, it was one-sided, it was unfair," he said. "It's the sort of (criminal charging by the AG) that any Australian could be subject to unless people stand up to it."

Children face racial abuse, sexual assault

Aboriginal children in Victoria claim to have been racially abused and physically and sexually assaulted by police, an inquiry has found.

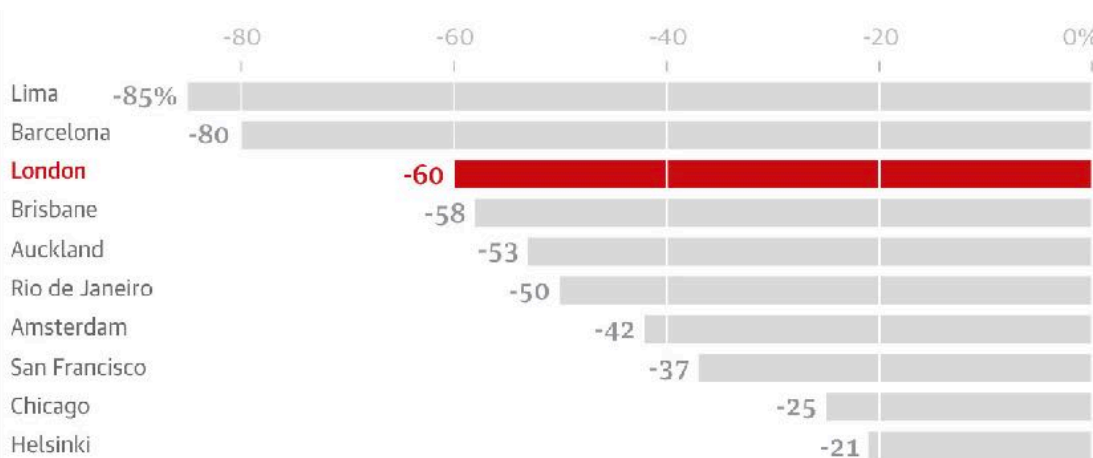
The state's commissioner for Aboriginal children and young people, Justin Mohamed, released findings last month from a three-year investigation into the state's youth justice system.

The inquiry interviewed 93 children, with 70% reporting harmful interactions with police.

Sending Aboriginal children as young as 10 to jail had "devastating consequences" for Indigenous families and was the sign of a morally unjust society, Mohamed said.

He called on the Victorian government to raise the age of criminal responsibility from 10 to 14, and for new legislation to stop children under the age of 16 being sentenced to custody.

Lockdown's slashed crime rates: report



Crime worldwide dropped during Covid lockdowns. In London, average robberies fell 60%, thefts 46% and burglaries 29%. Average daily robberies fell 58% in Brisbane. Averages climbed again as lockdowns ended. Guardian graphic <https://tinyurl.com/y2zg6u7d> Data from a Nature Human Behaviour report: <https://tinyurl.com/xbzzuuas>

Guardian graphic. Source: Nature Human Behaviour. Note: Average % fall in daily crimes, selected cities

Gas explodes internal bunfight

There's a political bunfight barney going on inside Labor in WA over developing proposed gas fields.

Former WA Premier and also former federal Minister for Health and Women – and former federal president of the ALP– Carmen Lawrence is not happy with the state of affairs.

Wearing her current hat as president of the Conservation Council of WA, she has lambasted the state government for "WA Government support for Australia's most polluting fossil fuel project (and its) impacts on the climate and Aboriginal Heritage."

"The proposal by Woodside and BHP to develop the Scarborough gas field for export as LNG from the Burrup Peninsula is the most polluting fossil fuel project currently proposed in Australia," she said. It is "equivalent to 15 coal fired power stations operating every year until 2055, and more pollution than the Adani coal mine," she said.

"In addition to the climate impacts, processing the gas from the Scarborough development risks ongoing and irreversible damage to the World Heritage Murujuga rock art on the Burrup Peninsula."

Lawrence is trying to motivate Labor Party branches to oppose the development which appears to be on the way to a green light from WA Premier Mark McGowan and crew. The state parliamentary party pays no attention to what its branches think, even formally, so even motions from below are hardly likely to move a government which critics says resembles a Liberal-National Coalition group more than a Labor body.

Treasurer falls on his financial feet, takes the corporates' shillings

In that regard, former state Treasurer in March 2021 Ben Wyatt is now (June 2021) on the boards of Rio Tinto and Woodside, standing to earn about \$500,000 a year from the dual roles.

His pay as Treasurer was \$277,000 a year.

Apparently, there are no rules on WA about ex-Ministers immediately benefiting from their detailed knowledge of current government policy and proposals. In NSW there has to be a two-year gap before an ex-Minister can take developer dollars, and in Canada it's five years...but no such need for propriety to be seen to be done in the Wild West.

Rio Tinto destroyed the Juukan Gorge recently; Woodside were apparently commercial intelligence beneficiaries of the federal planting, by ASIS, of bugs in the Timor Leste cabinet room during negotiations over oil and gas boundaries.

Welcome to your new world, Ben. Good luck if you think you'll change their cultures.

Imagine the board positions Premier McGowan will leap into when he steps down, which he may do before the next election. He is bound to lose seats, given the monumental majority just gained, so early quitting is an option, "due to ill health" perhaps.

WA Police destroy public trust, yet again

WA is legislating urgently to protect Covid-19 contact tracing data after WA Police committed a massive alleged breach of public trust by using the information in a murder/attempted murder investigation.

Attorney-General John Quigley said WAPOL twice demanded data from WA Health Department drawn from the SafeWA app since mandatory registration at venues was first enforced in December 2020.

Opposition Leader Mia Davies called the WA Police action a "massive breach of public trust", saying West Australians had been assured their data would only be used for contact tracing purposes to keep them safe during the C19 pandemic.

The urgently-passed legislation will restrict the use of C19 data for contact tracing purposes.

"Once again, as they repeatedly do, the WA Police have proved themselves untrustworthy," CLA President Bill Rowlings said. "They ignore what their community expects of them and simply do not understand or abide by integrity principles.

"Their behaviour should cause the WA government to end the biased and corrupted process of police-investigating-police (PIP) when serious complaints are made about their own officers' behaviour."

VAD passes in SA, research continues in Qld

SA last month passed a Voluntary Assisted Dying law, which will probably start to operate from late 2022.

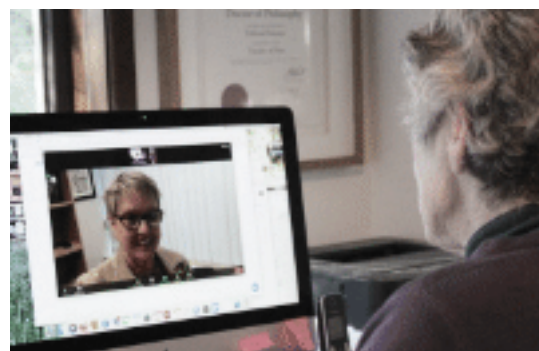
Modelled on the law in Victoria, it has been described as among the most conservative in the world and includes some 70 safeguards.

Victoria, WA, Tasmania and now SA have VAD laws. <https://tinyurl.com/2mbvae94>

Queensland has introduced a bill into its parliament, but may not vote on the legislation until after the next state election in October 2024. Submissions on the bill close on 2 July 2021: report is due on 20 August 2021. <https://tinyurl.com/a4trzacx>

Past President Dr Kristine Klugman personally and for CLA assisted Qld's Griffith Uni with research into how voluntary assisted dying may be implemented, rather than the passage of the law itself. She spoke online with Dr Jayne Hewitt (on screen, at right) a former registered nurse who gained a PhD in law two years ago with a thesis analysing justice in healthcare.

Meanwhile, the ACT and the NT are prevented from even voting on whether or not they want a VAD law. The federal parliament, at the behest of religious conservative Kevin Andrews (Lib, Victoria) passed a law denying the 600,000 people of the two territories the right to vote on the issue.



Mass exodus leaves the DPP threadbare

There's controlled chaos – with more people acting than at a Hollywood premiere – in the Office of the NT Director of Public Prosecutions.

DPP Jack Karczewski and deputy director Matthew Nathan were scheduled to be gone from their senior roles before the end of June, having given very little notice. The DPP is ill, reportedly, while Nathan is returning to his native NZ.

But their departures is part of a mass exodus of senior people from the office which puts in question whether it can now operate effectively. Seven prosecutors have left the service in Darwin and/or Alice Springs over the past year of so, many of them in recent months. <https://tinyurl.com/ycpw74fj>

NT police botch speeding fines...but won't repay the wrongly fined

NT Police have had to withdraw thousands of speeding fines because they made a mistake in calibrating speed detectors, NT Police Commissioner Jamie Chalker has admitted.

They didn't test the detectors over a specific distance required by the manufacturer, so about 8300 fines yet to be paid have been declared inoperative, costing the territory more than \$1.25 million. This money might come out of the police salary budget, to demonstrate to police there are personal consequences for their incompetence, except that no government would have the courage to act in that way.

The refund decision comes after the Darwin Local Court in March found a driver not guilty of speeding because the detector had not been tested in accordance with the manufacturer's guidelines.

Chalker told a budget estimates hearing about 20,000 speeding fines were issued before the judgement... but about 12,000 drivers who had already paid their speeding tickets would not be reimbursed.

This is crazy, CLA says. All drivers affected by the police mistake should get their money back. <https://tinyurl.com/3uahvmf4>

Cartoonist dusts the bites

Cartoonist Colin Wicking has donated his undoubtedly dusty collection of more than 10,000 biting cartoons to Library & Archives NT.

He began sketching his take on the NT since the early 1980s when he arrived in Darwin for a two-week holiday but stayed for the next 40 years working for the *Darwin Star*, the *NT News* and *Centralian Advocate*, a position he still holds today. In 2004, the National Trust declared Wicking's collection of hand-drawn cartoons as a Cultural Heritage Icon.

Civil Liberties Australia pays tribute to Wicking, and to all Australia's cartoonists, in general the most generous supporters of liberties, rights and freedoms – plus thousands of other worthwhile causes – almost invariably without charging.

Australian briefs

Indigenous public employment rises

In the five years since June 2015 Aboriginal employment in the NT public service has gone from 8.7% to 10.9%," chair of the parliament's public accounts committee, Joel Bowden MLA said last month. "Not only have Aboriginal staff numbers increased, but the number of Aboriginal leaders in the NTPS has also gone up from 80 to 105 individuals in less than four years, more than a 30% increase." – committee media release 210610

Puffing and huffing unit costs \$12m

The media and communications unit of the NT Chief Ministers will cost taxpayers \$11.95m in 2021-22, the CEO of the Department of the Chief Minister revealed in estimates hearings last month. <https://tinyurl.com/484hjmh9>

Members letters

Ruling for the rich?

There is something not quite right in permitting the rich, privileged and famous to come and go to and from Australia whenever they want to ("[Pandemic no bar to private flights to Australia](#)", 30 May 2021). Are they required to quarantine in stuffy hotels and risk contagion or can they travel unsupervised to a private property with no surveillance? Surely money is no guarantee of immunity?

Given the parlous state of stranded Australians waiting overseas, it seems a bit unfair that wealth should be the arbiter of open access to this country. Or is it the old story: one law for the rich and another for the not-so-rich? It would be interesting to hear the views of our Prime Minister and his marketing team.– Nola Tucker, Kiama NSW

Humiliation piled higher

Amanda Vanstone has pointed out the suffering and humiliation that can occur when people need to see a medical specialist ("Chutzpah needed when seeing medical specialists", Comment, *The Age*, 31/5). That humiliation increases as one grows older and the chutzpah is harder to summon. It is piled higher on people with coloured skin. I have great respect and appreciation for the GPs and their clinics that I have attended over the years. Not so for some specialists and their Rottweiler staff. Apart from the sky-high fees, often far above the Medicare standard, I resent the supercilious and patronising approach that I have experienced on a number of occasions. This should not be the conduct of healers, and it casts a slur on the

overwhelming number of medical practitioners. In a society in which God is money, it appears such behaviour is tolerated.

Perhaps one solution to balance this disadvantage faced by patients is to establish government-funded Specialists Super Clinics similar to GP Super Clinics. Ministers at the state and federal government level, please consider. – Bill Mathew, Parkville Vic, *Age* 1 June 2021

Humble observation

Ben Roberts-Smith does not exude humility. He might well be right. But, if even a single one of the war crimes of which he is accused is proven, he should return all the military medals he has been granted, beg forgiveness from the Afghan people and apologise to the Australian Armed Forces. – John Rodriguez, Florey

CLA's main activities for June 2021

Every month, CLA receives requests to make submissions to parliamentary inquiries and the like

This month, we thought we'd give members an idea of the types of requests we receive – if you, as a member, are interested in particular areas, register your interest with the Secretary and we'll try to ensure that you get a chance to contribute to a CLA response

Here's some of the requests received recently:

Submission request 1: *Constitution Alteration (Freedom of Expression and Freedom of the Press) 2019*

The Senate has referred the above bill to the Senate Legal and Constitutional Affairs Legislation Committee for inquiry and report by 31 December 2021. Submission required by 20 August 2021.

Information about the inquiry, including the bill, is available at: https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/ConstitutionAlteration.

Submission request 2: *Adequacy/efficacy of the anti-money laundering and counter-terrorism financing (AML/CTF) regime*

Senate Legal and Constitutional Affairs References Committee: inquiry and report by 2 December 2021: submissions close 27 August 2021.

Information available at: https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/AUSTRAC.

The committee intends to publish a discussion paper to guide submitters during late July or early August 2021. The discussion paper will be available via the link above.

Queensland:

Submissions for the committee's [inquiry into serious vilification and hate crimes](#) close at 12 noon, 12 July 2021.

You can provide a written, audio or video sub up to 50MB via email at lasc@parliament.qld.gov.au. Guidelines on how to provide/what to include in a submission can be found [here](#).

NT:

The NT Public Accounts Committee has invited CLA to make a submission to an Inquiry into Local Decision Making (LDM), under which the government wants to transfer government service delivery to Aboriginal Territorians and organisations, based on their community aspirations.

Services delivery areas and programs can include housing; local government; education, training and jobs; health; children and families; law and justice; sports and recreation; and economic development. Details are at: <https://ldm.nt.gov.au/> The focus is on:

- progress, achievements, challenges and future potential of LDM implementation.
- how to foster community and leadership interest and commitment to new agreements.
- the impact of technology, Treaty, Truth-Telling and Voice on LDM development.

Submissions close Friday 13 August 2021 with pac@nt.gov.au.

Submissions lodged in past month:

WA:

Submission on Family Domestic Violence to Department of Communities (Minister Simon McGurk), highlighting the “hidden” violence against women by WA Police:

Bashers prosper as PIP protects police: Bashers and violent thugs in police forces are bruising and abusing – and possibly killing – their spouses and getting away with it. The system of Police Investigating Police (PIP) must end across the nation, Civil Liberties Australia says. A false loyalty to the wrong people means no investigating officer wants to find a police colleague apparently guilty of breaking the law. So spouse-abusing colleagues are overlooked. As well, that internal approach colours their external approach.

– submission by Margaret Howkins, VP CLA in WA

Submission-media coverage:

Witness J secret trial, secret sentencing case: inquiry by INSLM, submission by VP Rajan Venkataraman:

<https://www.abc.net.au/news/2021-06-09/national-security-laws-tested-in-witness-j-case-inquiry/100199450>

Dr Klugman speaks against political prosecutions



Former CLA President Dr Kristine Klugman was the opening keynote speaker at a rally outside the Canberra Law Courts last month.

She was appearing to show CLA's support for lawyer Bernard Collaery, charged by the federal government over revelations around the bugging by ASIS of the Cabinet room of the fledgling Timor Leste government.

Australia bugged the private TL ministerial debate over their position statements, and bottom lines, to gain an immoral advantage in negotiations over the Timor Gap oil, gas and helium resources.

Several of the Australia officials who took part in the negotiations went on to work with, or be on the boards of, companies which benefited from the eventual commercial contracts. CLA is not

suggesting anyone acted illegally: however, the matter would be an excellent reference to the federal ICAC-like body when, as promised 1000 days ago by the Morrison government, it is set up.

CLA is a member of the Alliance Against Political Prosecutions, which staged the rally. Dr Klugman (left) and the AAPP co-convenor (and CLA member) Kathryn Kelly are shown in the photo.

In her speech, Dr Klugman called for a 'qui tam' provision in Australian law: in the USA, whistleblowers who save the government money can be rewarded financially by the government. K and Collaery would have saved Australia massive reputational damage if the federal government had not been so stupid as to charge them with crimes, and prolong Australia's shame for a decade or so every time the matters went to court.

NB: Writing for *Crikey*, Bernard Keane said of the Collaery-Witness K prosecutions:

It is Alexander Downer who should have faced court, along with John Howard and David Irvine, the then-head of the Australian Secret Intelligence Service (ASIS). Ashton Calvert, then-head of the Department of Foreign Affairs and Trade, has since passed away, but senior officials of that department at that time, as well as Downer's staff, some of whom have gone on to subsequent parliament careers, should also have faced investigation.

For what? Ordering and overseeing a potentially illegal act by ASIS, one intended to benefit fossil fuel giant and political donor Woodside. Both Downer and Calvert went on to take positions with Woodside.

CLA's Human Rights campaign is galloping ahead

CLA's campaign for a national human rights law, and for new and better human rights laws in states and territories, is gathering momentum.

In June, CLA's HR Campaign Manager Chris Stamford, along with President Bill Rowlings and Past President Dr Christine Klugman, met with ACT Liberal MLA Peter Cain. Stamford and Rowlings also met with ACT Liberal Party Opposition Leader Elizabeth Lee (at left in photo, with Stamford).

During the month, major new initiatives began after a series of meetings with people interested in promoting a human rights act for the NT. As well, a video meeting was held with Robert Simms, the Greens MLC in the South Australian Parliament who has responsibility for that party's promotion of human rights law in that state.



CLA members Rika Asaoka and Elizabeth Lang are proposing they run tailored **multicultural awareness training sessions** for front-line hospital Emergency staff (re the tragic death of Sri Lankan child).

Margaret Howkins provided practical support for a strong female Aboriginal application for a **directorship** on the South-West Aboriginal Land & Sea Council.

Four phone calls with prisoners fighting convictions at Acacia prison, who are deeply distressed at the prospect of a unfair retrial with a jury due to social media bigotry and daily newspaper headlines. **WA prisoners also face serious neglect** of in-house training, education and rehabilitation opportunities, fair parole reviews and the over-riding power of a single politician, the WA Attorney General, to decide their fate rather than having parole matters decided by an independent legal system.

CLA attended WA Greens **thank-you to courageous MPs**. We spoke with Tim Clifford, Alison Xamon, Dr Pettitt, convenor Gareth Doogue and Senator Jordan Steele-John, congratulating them on their willingness to consistently speak with integrity against excesses of a government. We were given names of MPs to canvass support from in 2021.

Margaret Howkins progressed the CLA Stop PIP (police-investigating-police) campaign by posting T-shirts calling for an Independent Police Complaints Commission (IPCC) and a letter to the Premier, Attorney General and Police Minister. The letter asked when the WA parliament will respond to Report 15 tabled in September 2020 listing in graphic detail the horrific police treatment of Aboriginal children and many of the general public without investigation by the WA Corruption and Crime Commission (CCC). The report is titled: *'If Not the CCC...then Where?'* WA urgently needs an IPCC (by any name) to address cruelty and to rein in the racist police culture.

Elizabeth Lang, CLA member and President of 'Diversity Focus', ran an 'Interactive Youth Theatre Showcase' backed by the WA Constable Care Foundation, with a leading on-stage role-play by liberties and justice adviser, the WA CLA Director. Black high school students acted out their experiences of racism at school and then encouraged audience interaction to role-play effective ways to tackle those experiences, to save lives. The event was a huge success and engaged the whole audience. This outstanding youth theatre needs to be taken all over Australia.

PS: Director Howkins (photo, in T-shirt) is seeking 6–10 CLA members in Perth to take part in a silent protest, wearing an IPCC T-shirt (free) outside parliament house? We would stand in a line, link hands and remain silent for an hour.



INTERNATIONAL

Hajj travel barred again

The world's largest Muslim-majority nation, Indonesia, won't let its citizens travel to the Hajj pilgrimage to Mecca for a second year in a row because of C-19.

Many Indonesians wait 20 years for their opportunity to go, due to a quota system. The minister of religious affairs, Yaqut Cholil Qoumas, said those due to travel in 2021 could do so in 2022.

Saudi Arabia closed foreign access to the Hajj in 2020, only allowing about 1000 Saudi citizens and residents. Normally some 2.5m pilgrims would travel to Mecca each year. <https://tinyurl.com/e7ucxyvf>

Judge rejects claims about right to non-vaccination in hospital system

A US federal judge has dismissed a case brought by 117 employees of a Houston-based hospital system, who, among other things, claimed that the hospital's requirement that staff be vaccinated against Covid-19 was akin to medical atrocities carried out by Nazis.

US District Judge Lynn Hughes called that argument "reprehensible" and issued sweeping rejections of their other claims that the mandate violates state and federal laws.

Judge Hughes ruled that the lawsuit by the 117 employees—led by coronavirus-unit nurse Jennifer Bridges—contained false statements, misconstrued legal provisions, wrongly claimed coercion, and made otherwise invalid arguments.

Houston Methodist Hospital system issued a mandate on 1 April that all staff must be vaccinated against the pandemic coronavirus. Though the vast majority of the hospital system's nearly 26,000 employees readily complied, 178 did not meet the 7 June deadline and were suspended for two unpaid weeks. If they fail to get fully vaccinated, they face the sack. <https://tinyurl.com/y9rtm473>

International briefs

Cash for the aged

A UK charity is demanding that banks guarantee access to money for everyone as the cash system in part of the UK veers towards market failure.

Age UK warned that millions of UK citizens are cut off from cash and banking services, the *Guardian UK* reported last month. The lack of facilities is causing many to fall victim to financial abuse after being forced to rely on others to make transactions on their behalf, the charity found.

The charity wants government legislation to guarantee that a cash machine or bank branch remains within reasonable travelling distance of every home in the UK. <https://tinyurl.com/4dwy27m3> <https://tinyurl.com/yd3cxp2e>

(The same problem of cutting off older people from cash sources is happening in Australia, CLA says).

Police paranoia sees them want protection through special law

Hong Kong's new police chief has called for a "fake news" law to tackle hostility against the police. "I understand that there are residents who are still hostile against us," Raymond Siu, 55, said at his first media briefing. "...many of these torn relationships and hostility against the police are due to fake news. There is no legal definition of fake news, but if there is any legislation that could help us bring these people to justice, as law enforcers, we absolutely welcome it."

Observers see the move as a further crackdown on HK people's free speech. The image of HK police plummeted after pro-democracy protests in recent years. Since the summer of 2019, support ratings for the city's once highly respected police force have plummeted from 67 to 44, according to public opinion research institute. <https://tinyurl.com/4zd6hfuz>

DATES:

2021:

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:

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/>

21-23 Feb, Sunshine Coast Qld: 2022 National Indigenous Youth Justice conference. <https://www.icsconferences.org>

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 28 June 2021.

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