

## **Journos jailed so we can know truth**

A record 293 reporters were in jail worldwide at 1 December 2021, the Committee to Protect Journalists says after its annual survey on press freedom and attacks on journalists.

At least 24 journalists were killed because of their coverage, and 18 others died in circumstances that make it too difficult to determine whether they were targeted because of their work, the CPJ said.

China imprisoned 50 journalists, the most of any country, followed by Myanmar (26), then Egypt (25), Vietnam (23) and Belarus (19), the CPJ said. <https://tinyurl.com/ymy2ve7p>



## **Julian Assange remains jailed indefinitely by UK for bail offence**

Australian citizen Julian Assange will shortly enter his third year in maximum security Belmarsh Prison in England, convicted for a bail breach and sentenced to 50 weeks detention.

England continues to hold him illegally – after he has served his bail sentence – at the request of the USA.

Assange’s legal team are seeking an appeal to Britain’s top court, called the Supreme Court.

Last month, the British High Court – ranked second in the English legal hierarchy – overturned a lower court decision and approved Australian citizen Assange’s extradition to the USA at that country’s request. US authorities guaranteed that Assange would not be subjected to extreme conditions in American prisons.

<https://tinyurl.com/2p92s4xv>

## **US hopes to prove Assange journalism is worse than American murders, massacres**

The USA has indicted the journalist and publisher Assange on 17 espionage charges and one charge of computer misuse over WikiLeaks’ publication of thousands of leaked military and diplomatic documents.

The documents revealed murders, massacres and perfidy of the highest order by Americans.

Assange is not a US citizen, the reporting/publishing occurred outside the USA, and American authorities have no right to extradite Assange.

(As proof of that, the USA has just refused to extradite a US citizen to the UK for the alleged homicide of a British youth when the American woman – with suggested links to the CIA – drove on the wrong side of a rural road, head on into the youth’s motorcycle).

Meanwhile, a group in America is newly trying to hold military and security people responsible for some of the very illegal acts that Assange’s publishing revealed.

## **US govt writes in invisible ink; makes promises not worth a squashed grape**

US government assurances are not worth the invisible ink they are written in: they do not bind the USA legally at all.

The Donald Trump administration branded Wikileaks a “non-state hostile intelligence service”. Obama had held off pursuing him.

While Assange has languished in Belmarsh prison for the heinous crime of skipping bail (over charges in Sweden which were subsequently withdrawn, which never went before a court), the Australian government has shown all the backbone of a jellyfish in standing up for the rights of one of its best known international citizens and journalists.

Why is the govt so timid about the rights of Australians, yet so strong about the rights of Chinese Uighurs?

## **Why won’t Australia stand up for its own citizen?**

Prime Minister Scott Morrison should bring home Assange as a free man before the end of February – that is, before the next federal election.

PM John Howard was able to secure a sweetheart release deal with the USA for alleged Al Qaida terrorist David Hicks. Howard’s election chances would have been harmed if Hicks had continued being tortured in the Cuban hellhole, Guantanamo Bay, at the hands of the US military.

Howard did not want to face the voters with by-then high profile Hicks still in jail.

Morrison is in a similar position to Howard...but Assange has never been accused of being a terrorist, so his case for Australian government support is even stronger.

Fat chance of course. An Australian government would have to develop morals, integrity and a sense of justice, as well as wanting to abide by human rights before it could stand up for its citizen, Assange.

[https://en.wikipedia.org/wiki/Julian\\_Assange](https://en.wikipedia.org/wiki/Julian_Assange)

## **When will the government reveal plans for nuclear power stations in Australia?**

Why the sudden closer relationships between South Korea and Australia?

Could it be because South Korea is planning to build small nuclear reactors to produce grid electricity and also potentially to power their own nuclear submarines?

The Australian government is trying to work out how and where our nuclear subs will be built, and what to do if coal-based power stations are no longer viable here. <https://www.nytimes.com/2021/12/13/world/asia/south-korea-nuclear-submarines.html?>

And last month, the federal government announced hundreds of new scholarships over the next five years for engineering and nuclear science students to shore up Australia's workforce.

"We must ensure our people have the right skills and qualifications to support and deliver this once-in-a-generation endeavour that will bolster our national security and defence," Defence Minister Peter Dutton said in speaking about the subs.

You don't need "hundreds" of nuclear-trained experts to run a few submarines, CLA observes.

The Coalition has reserved, in its forward budget estimates, \$16 billion for pre-election announcements in 2022...probably enough for a scattering of nuclear power stations around the nation.

They couldn't be planning on taking Australia nuclear by stealth, could they? <https://tinyurl.com/2fw4fkcs>

## **ODD SPOT: Let's house prisoners in – cheaper – waterfront luxury**

Prisoners cost Australian taxpayers more than \$5 billion a year, or an average \$330 for each prisoner every day. We could house prisoners more cheaply at luxury hotels overlooking Sydney Harbour, using a few police guards as occurred during Covid-19 quarantine (after all, the prisoners would not want to leave).

The cost of housing juvenile prisoners is about double that of adults. <https://tinyurl.com/23fdb4rs>

## **How much does police compensation cost in Australia?**

Over the past five years, US police officers have killed more than 400 drivers who were not brandishing guns or knives or who were not being pursued for dangerous crimes.

Many ended up dead in stops that began with standard violations like broken taillights or running a red light. Over and over again, prosecutors convinced the courts that the killings were legally justified because the officers felt that their lives were endangered.

Only five officers were convicted of crimes in connection with these deaths — but local governments in the USA ended up paying at least \$Aust175 million to settle about 40 wrongful-death suits and other claims. — *New York Times*: 'Train the police to keep the peace, not turn a profit'. <https://tinyurl.com/2p8hmesv>

## **ODD SPOT: Australia leads developed world...in trachoma blindness**

Trachoma is a preventable disease of the eye caused by infection with the bacterium Chlamydia trachomatis. Blindness from trachoma is irreversible. Australia is the only developed country in the world with trachoma.

As of 10 September 2020, 13 countries had reported eliminating trachoma: Cambodia, China, Gambia, Ghana, Islamic Republic of Iran, Iraq, Lao People's Democratic Republic, Mexico, Morocco, Myanmar, Nepal, Oman and Togo. But not Australia.

We have submarines that can see underwater, and helicopters that can see at night...but also many Aboriginal children who can't see the blackboard at the front of the class. <https://tinyurl.com/2p92zjdt>  
<https://tinyurl.com/2s424em2>

## **Crackdown on disabled people forces them to seek tribunal redress**

A seeming bloody-minded crackdown on people with disabilities appears to have resulted in a 324% increase in people challenging National Disability Insurance Agency decisions.

Labor claims there have been "stealth cuts" to disability funding packages, which the Coalition government denies. But a huge rise in applications to the Administrative Appeals Tribunal over NDIS decisions says

otherwise. Such appeals usually follow someone with disability having their funding package cut, a requested support denied or their claim to join the scheme rejected.

Between July and November 2021 the AAT received 2503 NDIS appeals, compared with 590 for the same five-month period in 2020.

This 324% increase means there have been more appeals lodged in the first five months of the 2021-22 financial year than in all of 2020-21 (2091 appeals). The AAT cases backlog has risen from 913 unresolved appeals in November 2020 to 3084 in November 2021. <https://tinyurl.com/2tyh8s5w>

## Outsiders should be the ones reviewing the security services: Kirby

“The Richardson Comprehensive Review of the Legal Framework of the National Intelligence Community was less damaging to fundamental rights than might have been feared. Yet basic issues still need to be addressed. They are likely to be larger and more pressing the next time around.

“Justice Robert Hope was correct in believing that the fact that he was an ‘outsider’ made him specially suitable to perform the definitive work of the two Royal Commissions on intelligence and security that he conducted.

“This consideration has become more, and not less, important given the huge expansion of official powers of the NIC; the complexity and potential of new technology; and the abiding failure of the Australian legal system to deliver an effective and enforceable charter of fundamental rights, to which citizens and others might appeal to safeguard their rights against official intrusion.”



– from *The Changing Legal Framework of the Australian Intelligence Community*:

*From Hope to Richardson* by the Hon Michael Kirby AC CMG (photo is of Robert Hope), Australian Law Journal Special issue Vol 95 Pt 10 <https://tinyurl.com/2p8njdk8>

## Careful with whom you pick a fight

Some Australian politicians are murmuring about Australia possibly going to war with China.

The number of active service personnel in various militaries at Feb 2021 is:

China: 2,035,000

United States: 1,388,300

India: 1,458,000

North Korea: 1,280,000

South Korea: 599,000

Vietnam: 482,000

Indonesia: 395,500

Japan: 247,150

United Kingdom: 148,500

Canada: 67,400

Australia: 58,600

*International Institute for Strategic Studies, The Military Balance 2021, Feb 2021, pp. 30, 66, 164, 218, 242, 269.*

## Secrecy rules as departments ignore FOI law

The federal government’s privacy watchdog has hauled both the Prime Minister’s Department and the Department of Foreign Affairs and Trade (DFAT) over the coals for gross failure to meet their legal obligations over Freedom of Information (FOI) requests.

In both cases, the Office of the Information Privacy Commissioner demanded urgent explanations and internal reforms to FOI handling.

PMC delayed, then ultimately ignored the specific requests over emails involving the alleged rape victim Brittany Higgins, releasing generic information on the public record only.

DFAT failed to respond to a simple request within the legislated time, then decided the request involved documents deemed “cabinet in confidence”.

If documents pass through cabinet room deliberations, they are exempt from release. Of course, it is open to departments to table documents in cabinet AFTER the department has received an FOI request for them, which is a very convenient way of avoiding what should be mandatory public scrutiny of government decisions. <https://tinyurl.com/2p8sjff8>

## Scrutiny of COVID-19 related legislation

The Scrutiny of Delegated Legislation Committee (SDLC) of the Australian Parliament lists all delegated legislation made in response to COVID-19 on its [website](#).

As of 25 November 2021, 600 legislative instruments have been made, of which 16.8% are exempt from disallowance (which is the normal prerogative of the SDLC).

## Ignore Aboriginal rights...that's how to misgovern

Australia's senior committee on the top half of the nation has lambasted the WA government under Premier Michael McGowan for ignoring Aboriginal people's rights over their own cultural heritage.

Chair of the federal parliament's joint standing committee on northern Australia, the Liberal MHR for Leichhardt in Queensland, Warren Entsch, said the new WA law "falls far short of the reforms advocated in the (federal) committee's final report on Juukan Gorge, in particular the call for consistency with the principles of free, prior and informed consent by Indigenous people".

His comments were made in a letter to the then-WA Aboriginal Affairs Minister, Stephen Dawson. (Toni Buti became the relevant minister in mid-December 2021).

Entsch's committee had just reported in October after a public federal inquiry into "The destruction of 46,000 year old caves at the Juukan Gorge in the Pilbara region of Western Australia."

Entsch said provisions in the new WA law "conflict with these (federal report) principles by giving the Minister the ultimate power to decide whether mining or other activities can go ahead if traditional owners do not agree to an Aboriginal cultural heritage management plan put forward by a proponent company".

He also criticised the consultation process undertaken by the WA government on the state Bill, which he said "was not centred on culturally-based protocols, was not undertaken in language and was not linked to elements of Aboriginal culture".

The letters are available on the federal committee's website: [Additional Documents – Parliament of Australia \(aph.gov.au\)](#) Source: media release 20 Dec 2021 <https://tinyurl.com/yckpjma9>

## Banned booze registers not racist, says WA govt

The WA government's has added a third banned drinkers register in the Goldfields after trials in the Pilbara and Kimberley regions.

They're spending \$2.52m to restrict access to takeaway liquor for problem drinkers with barring orders or prohibition notices.

People must provide personal ID when buying takeaway liquor. If they don't have it, they won't be able to buy takeaway liquor.

Guess who the system impacts on most? Aboriginal people? Absolutely...but the government claims it is not a racist move. <https://tinyurl.com/yxhev4s6>

## Indigenous kids continue to be taken from their parents

A new report has revealed that 21,523 Indigenous children were in out-of-home care at 30 June 2020, which represents 1 in every 15.6 First Nations children living in Australia.

Some 79%, about 17,000 children, lived permanently away from their birth parents, with less than 15% being reunified with their families.

Indigenous children comprise 39% of all kids in out-of-home care.

Projections suggest the numbers of Indigenous children in care is likely to increase by 50% within 10 years.

The Family Matters report was released by Secretariat of National Aboriginal and Islander Child Care (SNAICC), the national peak body for First Nations children. <https://tinyurl.com/2p9dw2ck>

## Indigenous people continue to over-populate Australia's jails

Indigenous people comprise 3% of the Australian population but make up 30% of Australia's prisoners.

They are six times more likely to die in custody than non-Indigenous people: 500 Aboriginal and Torres Strait Islander people have died in custody in Australia in the 30 years since a royal commission reported on how to prevent Indigenous deaths in the justice system.

Australian Institute of Criminology figures show there were 489 Indigenous deaths in custody since the end of the 1991 royal commission to 30 June 2021. Since then, there have been another 11 deaths, including four in a five-week period to early December 2021, according to NATSILS, the National Aboriginal and Torres Strait Islander Legal Services. <https://tinyurl.com/ycya3acr>



Seniors Minister Natalie Ward said some older people may be unaware of the legal avenues available to them. "This diary helps break down the barriers which may prevent our seniors from asking for help and to arm them with the tools they need to access services available to them," Mrs Ward said.

To order LANSW publications: <https://www.legalaid.nsw.gov.au/publications/order-a-publication> or phone 02 9219 5028

## Investigate the investigators; calls to sack CCC chair

Queensland MPs want a royal commission into the state's Crime and Corruption watchdog after a scathing report into its controversial probe of Logan local government council.

CCC chair Alan MacSporran should resign, many say.

A bipartisan committee of parliament found that the CCC didn't act "independently and impartially" in laying fraud charges against the former Logan mayor and seven councillors in 2019. The parliamentary inquiry was launched in April after prosecutors dropped the charges due to a lack of evidence.

Committee chair Jon Krause says the findings are "extremely serious".

"Queensland needs an effective, independent, impartial watchdog on public sector corruption and major crime," he told parliament last month. "The CCC has failed in the role entrusted to it by this parliament, on behalf of all Queenslanders." <https://tinyurl.com/3u2cu5xx>

## Prison staff also fed up with prison conditions

Queensland prison officers have called on social media for violence against "maggot" inmates.

Their online posts were responses, on the Together Queensland Prison Officers' Union page, after a riot at the Capricornia Correction Centre at Rockhampton in October 2021.

One comment says: "It's corrections. Let's start correcting. This shit is happening every day. Let's drop the hammer. Blame the crims; stop pretending they're rational human beings; because they're not; they're filth. We all know it. Treat them accordingly."

Other comments on the union post include claims rehabilitation is "imaginary" and a "crock of shit".

Another said: "(Dropping the hammer) worked well until the snivell libertarians and do gooders pushed and pushed until the Qld Government folded and let the maggots think they are human and have entitlements."

Union assistant branch secretary, Michael Thomas, said the bigger picture that needed addressing was why the riots occurred.

He said the root causes were overcrowding (including placing multiple prisoners in single rooms, retrofitted with bunk beds), the increase of incidents, the increase of lockdowns, and the lack of access to programs and activities for prisoners that assist in rehabilitation.

"We also should recognise that Queensland correctional officers are the lowest paid in the country...for the first four years working in a correctional centre you earn less than a cleaner," Thomas said. <https://tinyurl.com/yzf96888>

## ***BLAST FROM THE PAST***

### **The Australian republic referendum held on 6 November 1999**

"A bit over two decades ago, Australia also considered becoming a republic, with 45% of Australians and 63% of Canberrans voting yes. – Prof Dr Andrew Leigh (MHR for Fenner ACT, speech, House of Reps, 1 Dec 2021)

Actual votes **No:** 6,410,787 (**54.87%**) votes; **Yes:** 5,273,024 votes (**45.13%**) Australia wide.

Only the ACT voted 'Yes' (though Victoria very nearly did, recording a 'No' vote of 50.16%).

The states which voted most strongly for serfdom under a queen instead of freedom under a local head of state were (with their %age 'No' vote): Qld 62.6; Tasmania 59.6; WA 58.5; and SA 56.5.

See also: <https://www.sydneycriminallawyers.com.au/blog/the-queen-is-completely-anathema-to-australia-clas-bill-rowlings-on-a-republic/>

**Ends blast**

### **VicPol target their own over DV**

Victoria Police has launched a specialist unit to investigate serious cases of family violence involving its employees. Six officers began work with the unit late last year, with the remaining five due to join in January.

As well as investigating "the most serious and complex" allegations, the team will oversee all family violence cases involving officers across the state. <https://tinyurl.com/4dszv9rf>

## Police ‘move on’: they no longer respond to crime in National Capital

If your home is broken into in Canberra, the police will only turn up to a report if the burglars are still there: otherwise, you must report the break in online.

ACT Chief Police Officer Neil Gaughan said over the next 12 months, ACT Policing the online reporting system would replace having an officer attend a person's home. “If you find your house has been broken into and there's no obvious signs, forensic evidence, we will be asking people to do an online report.”

"Vandalism, minor property damage, minor burglaries" would be self-reported, and priority given to instances where there was a threat to life.

"Everything is moving online — banking is moving online, resources are tight, as they are in every sector — so we find this is going to be more efficient, it will allow our officers to actually have more front line exposure to people for high-end crime.

"Obviously our priority is to save lives. That's our first call."

In 2020, there were 2064 burglary offences reported, In 2019 that number was higher, with 2753 reported burglary offences. a total of 17,525 property crimes, including robbery, theft, car thefts and property damage, were reported to ACT Policing during 2019–20 — a decrease of 12.2% (or 2429 offences) when compared to 2018–19. <https://tinyurl.com/2p8emp42>

## Territory rights for Tasmania?

ACT has a population over 430,000. Tasmania has a population of 540,000.

ACT: 2 senators (1 per 215,000 residents).

Tasmania: 12 senators (1 per 45,000 residents).

A person's Senate vote in Tasmania counts nearly 5 times that of a vote by someone in ACT.

Tasmanians have introduced voluntary assisted dying: citizens of the the ACT (and the NT) are not even permitted to vote on the issue.

Is it time Tasmania was converted to a Territory?

## WA prisons a powderkeg: CLA has been warning for years

A wing at Casuarina Prison in Perth was trashed in a violent prison riot last month, forcing authorities to move prisoners around the jail network.

"Dozens" of inmates ripped up and smashed porcelain sinks, according to the WA Prison Officers' Union.

WA's Department of Justice spokesperson said only four prisoners had been involved in the incident. "There were no injuries to staff or prisoners," they said.

WAPOU secretary Andy Smith said the union had warned the Corrective Services Minister that WA prisons were at boiling point. "Across WA, we are currently short about 800 prison officers," he said. <https://tinyurl.com/2p8s5pf6>

WA human rights lawyer, Hannah McGlade (photo), said earlier in 2021 that the the treatment of at least some prisoners at Casuarina was cruel, inhumane, and not consistent with international human rights law.



## Australian briefs

### Ex-CCC barrister is new Privacy boss

A Supreme Court barrister and former executive director of the Crime and Corruption Commission is Queensland's new Privacy Commissioner. Paxton Booth took up the role in December 2021, when the term of Philip Green ended. — media release, Qld AG.

### Premier blames USA for failure to vaccinate Aboriginal people

WA Premier Mark McGowan claims US white supremacists are targeting Aboriginal communities in Australia with misinformation about C-19 vaccinations. "There's been misinformation provided to Aboriginal people from people who do not have their best interests at heart," McGowan said while on a vax-boost tour in the WA Goldfields. "We heard from one Aboriginal person who said white supremacist groups are sending information to Aboriginal people that they shouldn't get vaccinated."

Mr McGowan did not say if the WA Labor Party was one of the "white supremacist groups".

But, given its unhealthy parliamentary majority, it may well be so described, CLA believes. <https://tinyurl.com/57zjccav>

## Members letters:

### Cash in!

Senator Cash, AG: From what we hear you are now trying to upgrade the disgraceful Nazi-like behaviour against Bernard Collaery. Why??? Don't you realise with an election coming up you would score kudos by dropping the whole thing, apologising to Collaery, give him a few bob to offset the Govt's absurd improper un-Australian behaviour over the last couple years and more, now the former AG is retiring back to his slink hole you can blame him and reap the credit – must be an attractive option for you !!! – Rob Wesley, Darwin

### Happy anniversary!

In my slightly disorderly house my eye just happened to fall upon a full-page advertisement cut out from the *Canberra Times*. It calls for a rally in support of Bernard Collaery on “Wednesday 16 December” (not Thursday). This was not a misprint. The advertisement was for a rally 16 December 2020! But now, exactly a year later, on Thursday 16 December 8:30am, a rally is scheduled for the same cause outside the same courthouse. Mr Collaery is being prosecuted—or, more correctly, persecuted—for giving legal advice to a whistleblower. A whole year has passed, and the case not yet settled. Mr Collaery is a person of impeccable repute. The same cannot be said of the government which persists in its malicious court actions against him. – Thomas Mautner, Griffith ACT

### Recruit Jacinda?

NZ's Jacinda Ardern has done it again with her smoke free plan. Just how much would it cost to engage her as our prime minister? Could we join New Zealand as its fourth and fifth islands? – Frank Cassidy, Kambah

### Recruit the Danish royal family?

OK, the monarchists insist we have a royal family...but why can't we put the job out to tender? The Saudis allegedly have expertise in corruption and bribery, which would suit the current government, and even in state murder; the Thais know how to turn a bodyguard into an air force pilot and a lover; and Pacific Island nations are expert in bringing weighty considerations to the role.

Or, we could encourage the Danish Royal Family to apply. That way, we would get one of our own, Mary, as head female honcho (and the bloke's a real sailor/yachtie type, not just a good looker in a naval uniform).

The Danes might be much cheaper to maintain than the Pom RF. And, by the way, how many Australians are looking forward to paying for state visits by, and curtsying to, Queen Camilla? – name/address withheld to avoid investigation by the Palace Police.

### A good question

If you were a competent, independent-minded, articulate woman pondering a political career that would make a difference, why would you follow the path of others like yourself who've not been treated fairly and respectfully in an LNP party environment? Why not run as an independent, serve the community without the distractions of a party hierarchy, and side-step the shenanigans of a broken culture dominated by blokes, factions and cronyism? – Jim Allen, Panorama, SA (*Perhaps in an ALP environment also? – Ed.*)

## CLA's main activities for December 2021

Winding up the old incorporated entity, and transiting to the new. More details in coming months.

Finalising reports for CLA Inc's last formal report, on the 2022 calendar year.

**Human Rights:** Petition formally lodged with ACT Legislative Assembly. National campaign continues under Chris Stamford, who attended ACT International Human Rights Day event on 10 Dec in Canberra and kept the outcomes focused on a 'No Rights Without Remedies' approach. Year-end internal review held, with planning for 2022 activity.

**ACT:** Proposed Dr Bernadette Boss for the position of ACT Supreme Court judge (Dr Kristine Klugman, Bill Rowlings). Dr Tony Murney engaged in helping achieve asylum for Afghanis who worked with Australian and other organisations and NGOs.

**Tas:** Authored CLA submission on religious discrimination matters to federal parliamentary committee (Rajan Venkataraman). *'What's next for Sue'* article posted on CLA website re High Court appeal option open to Sue Neill-Fraser (Rowlings).

**WA:** Margaret Howkins, with particular help from Simon Akkerman and Christine Marruffo, continued the *'Prisoners'* filming program, leading towards a documentary for release about mid-2022. To see some of the mini-films: <https://www.youtube.com/channel/UCg-lcxqo9tCwkqbAE6YUQdA>

**NT and NSW:** Work continues on identifying people/groups to assist with human rights campaigns (CLA HR campaign team).

**SA:** President Dr Kristine Klugman attended six-hour Zoominar with SA Rights Resource Network's Dr Sarah Moulds, academics, commentators, liberties and rights people and general supporters on 10 Dec.

**Qld:** Investigating possible linkages with Sunshine Coast rights and liberties groups/people.

## INTERNATIONAL

### **The Mount, where every 10th prison officer will probably assault you**

In England and Wales, up to 11% of prison officers have faced at least one misconduct investigation over 12 months for allegations including sexual harassment and assault, Ministry of Justice data shows.

FOI data shows that for 2019-20, one in 11 (or 9%) of staff at the Mount, a category C men's prison in Hertfordshire, faced at least one misconduct investigation, the highest proportion of all prisons.

Other prisons with the highest rates of misconduct investigations include Cardiff, at 8.3% of its staff, followed by Nottingham (7.8%) and Swinfen Hall (7.8%).

The average rate was 3.39% of staff. <https://tinyurl.com/2p9eya4z>

### **PM wants to ignore judicial rulings**

Because he doesn't like some judicial decisions, British PM Boris Johnson is reportedly planning to let ministers throw out legal rulings they disagree with.

There is a judicial review and courts bill going through parliament which "doesn't go far enough" for the prime minister, it is said. He is considering an option, drawn up by Lord Chancellor, Dominic Raab, and the Attorney General, Suella Braverman, which would enable the striking out of findings from judicial reviews with which the government does not agree.

Reports say the British government wants to weaken judicial scrutiny after a series of defeats in court.

A judicial review is a court proceeding where a judge examines the lawfulness of an action or a decision of a public body. It looks at how a decision has been reached, rather than the rights and wrongs of that decision, but some British Conservatives have accused judges of overreach. <https://tinyurl.com/3f3sz2zf>

### **Five-year-old chained up as slave to die in hot sun**

A former Islamic State group member has been jailed for life in Germany for genocide over the death of a five-year-old Yazidi girl he bought as a slave and later chained up in the hot sun to die.

A German court convicted Taha Al-J, an Iraqi citizen whose full last name was not released due to privacy rules, of crimes against humanity, war crimes and bodily harm resulting in death. The 29-year-old was sentenced to life imprisonment and ordered to pay the girl's mother \$80,000.

Germany took on the case under the principle of universal jurisdiction, which allows the country to try particularly serious crimes even if they were committed elsewhere without any direct link to Germany.

Judge Christoph Koller said it was the first genocide conviction worldwide over a person's role in the systematic persecution by IS of the Yazidi religious minority. Judges concluded that Al-J acted with the intention of eradicating Yazidis, thereby constituting genocide. In a separate trial, the man's German-born wife was also convicted and sentenced to 10 years in jail.

<https://tinyurl.com/5n8vh23j> Wife's case: <https://tinyurl.com/3dvuxea7>

### **Nitschke's permanent sleep capsule approved: claim**

Philip Nitschke claims his new assisted suicide capsule, the Sarco machine (photo), is legally approved in Switzerland, according to reports.

Dr Nitschke, who runs Exit International, described the Sarco as a coffin-like, 3-D printed capsule operated from the inside by the person who is going to die.

"The person will get into the capsule and lie down. It's very comfortable. They will be asked a number of questions and when they have answered, they may press the button inside the capsule activating the mechanism in their own time," he said.



“The capsule is sitting on a piece of equipment that will flood the interior with nitrogen, rapidly reducing the oxygen level to 1% from 21%. The person will feel a little disoriented and may feel slightly euphoric before they lose consciousness.

“The whole thing takes about 30 seconds. Death takes place through hypoxia and hypocapnia, oxygen and carbon dioxide deprivation, respectively. There is no panic, no choking feeling.” <https://tinyurl.com/3zs7sskt> and <https://tinyurl.com/2p8ms34e>

## ‘Stop’! Go directly to jail

The Chinese province of Henan is building a surveillance system with face-scanning technology that can detect journalists and foreign journalists and other "people of concern", including foreign students and migrant women.

Tender documents, the BBC says, describe a system that classifies journalists into a "traffic-light" system - green, amber and red.

Journalists in the "red" category would be "dealt with accordingly", Henan authorities say publicly. The Henan Public Security Bureau has not responded to a request for comment. <https://tinyurl.com/2s28p2n8>

## Watched while you work

Ball, K., *Electronic Monitoring and Surveillance in the Workplace*, Publications Office of the European Union, Luxembourg, 2021, ISBN 978-92-76-43340-8, doi:10.2760/5137, JRC125716 <https://publications.jrc.ec.europa.eu/repository/handle/JRC125716>

This report re-evaluates the literature about surveillance/monitoring in the standard workplace, in home working during the COVID 19 pandemic and in respect of digital platform work. It utilised a systematic review methodology (see Appendix I). A total of 398 articles were identified, evaluated and synthesised.

The report finds that worker surveillance practices have extended to cover many different features of the employees as they work. Surveillance in the workplace targets thoughts, feelings and physiology, location and movement, task performance and professional profile and reputation...

100pp., 2.24MB at [https://publications.jrc.ec.europa.eu/repository/bitstream/JRC125716/jrc125716\\_electronic\\_monitoring\\_and\\_surveillance\\_in\\_the\\_workplace\\_final.pdf](https://publications.jrc.ec.europa.eu/repository/bitstream/JRC125716/jrc125716_electronic_monitoring_and_surveillance_in_the_workplace_final.pdf)

## International briefs

### Right to protest under threat in UK

The UK government has proposed some worrying amendments to its already draconian policing bill. The amendments will directly target environmental activists and are a response to direct action protests from groups such as Extinction Rebellion and Insulate Britain, and protests against the HS2 high speed railway. Proposed changes to the Police, Crime, Sentencing and Courts Bill would grant police additional powers to restrict protests when deemed to “threaten public order or stop people from getting on with their daily lives”. The proposed legislation represents a dangerous threat to essential democratic and civil liberties such as the right to protest. <https://tinyurl.com/35jt5am2>

### Danes send their prisoners to country 2500km distant

Kosovo is renting 300 prison cells to Denmark – which is 2500km away – to ease overcrowding in the Scandinavian country's jail. Denmark will pay \$24m a year for an initial period of five years, and will also help fund green energy in the country. The rented cells will house convicted criminals from non-EU countries due to be deported from Denmark after their sentences. Danish laws will apply to prisoners in the rented cells. Kosovo has between 700 and 800 unused prison spaces. <https://tinyurl.com/4eat6bc8>

## DATES:

**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.

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*CLArion* is the regular e-newsletter of Civil Liberties Australia Box 3080 Weston Creek 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 December 2021.

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## Can Sue Neill-Fraser appeal to the HC in 2022?

By Bill Rowlings, CEO of Civil Liberties Australia

### The recent background:

Sue Neill-Fraser (Sue, or SNF) has been in Risdon Prison for more than 12 years, wrongfully convicted – many believe – of murdering her husband, Bob Chappell.

He was alone on their yacht, *Four Winds*, overnight on Australia Day 2009 in Sandy Bay, Hobart, when he disappeared. No body has ever been found; cause of his assumed death is unknown.

For a decade, since 2010, SNF (photo) has been formally appealing her innocence through the courts.

In November 2021, the Court of Criminal Appeal of Tasmania rejected her latest appeal by a margin of 2-1. The one judge, Stephen Estcourt, ruled she was the victim of a miscarriage of justice: he proposed going back to the beginning, and holding a new trial from scratch.

### What happens next?

This is a simple explanation of what is possible in 2022.

Sue can now appeal to the High Court of Australia (HC)...in exactly the same way she was able to do so after her first appeal to the Court of Criminal Appeal of Tasmania (CCAT) was rejected a decade ago. (CCAT is the Supreme Court of Tasmania sitting in its Criminal Appeal guise, as a panel of three judges).

After that first, rejected CCAT appeal, in 2010, she tried to get the HC to hear an appeal, but it would not grant leave to appeal. That is, the HC refused to hear her case.

Basically, **she is certainly permitted to TRY TO appeal to the HC again...**but she may ONLY appeal on something that occurred during the recent CCAT hearings/rulings in 2021.

She can appeal by claiming that the CCAT was wrong in law or in fact in the recent decision-making by one or both of the two judges who comprised the majority.

Because judge Estcourt has dissented from the decision of the other two judges comprising the majority verdict, there may be enough facts, findings or interpretations in his judgement that would allow SNF's lawyers to use those as a basis to appeal to the HC for a final determination on those issues.

Equally, there may be findings, statements or rulings made in the recent appeal by either or both of the two majority judges that could be challenged in the HC.

SNF is not permitted to re-run the entire original trial as the reason for a hearing before the HC, if it allows her leave to appeal. She has to appeal on one, or maybe a handful of, distinct points that arose in the recent CCAT case.

However, if the point(s) in question on which the recent two majority judges (Woods, Pearce) agree, were part of the earlier, relevant decision in the original trial, the HC could decide to revisit slabs of the earlier case.

For example, Woods/Pearce ruled that a person called Meaghan Vass had to be believed when she denied being on board the yacht even though there was a very large volume of DNA evidence suggesting that she had been on board.

Estcourt believed the Vass DNA evidence was so telling that it was not possible for the DNA sample, at such large size (the size of a dinner plate", courts have been told), to have been deposited on the yacht "from transfer by shoe". Apparently, the shoe transfer was a possibility given in evidence and strongly promoted by the prosecutor that the jury may have accepted as part of its circumstantial case reasons: it is a possibility that Woods/Pearce appear to have believed.

(The key point here is that no-one – not the police, the prosecutor, the judge, the jury, or the appeal judges – is making their "guilty" decision in this instance on a point of law, but on a point of scientific logic).

The HC might find Estcourt's logical argument more sound than that of Woods/Pearce (I think the HC should). This would be somewhat similar to what happened in the Cardinal [Pell case](#) where the HC found – in very simple terms – that the evidence of many witnesses "as to opportunity" should have been given more weight, and Pell should not have been convicted on the evidence of one complainant.

When Pell appealed to the Victorian Court of Appeal, the equivalent of CCAT, he lost in a 2-1 decision also. When he got to the HC, he won unanimously.

But, HC cases can go either way. They cost a lot, and there is no certainty that the HC will even grant leave (give permission) to hear an appeal...which is what it denied last time, basically on another point about Vass and whether or not she should have been recalled by the original trial judge, Blow.

In the Pell case, the HC laid down a brand-new marker as to how much you could 'second guess' the original deliberations of a jury. Until a few more cases based on similar issues get decided at the HC, we won't know exactly how far the HC judges will want to take this new trend. SNF's case, if she gets to a full hearing before the HC, might well be one of the cases that helps set the legal boundaries.

NB: Pell's case was slightly different from Sue's, in that he appealed to the HC on the basis that the entire decision of the jury was wrong, and that it could not/should not have come to its 'guilty' verdict on the basis of prioritising the evidence of one side of the competing witnesses.



## **BACKGROUND to the SNF case: key dates/events**

Click [HERE](#) for a review of a book on the case by an investigative, ex-detective author.

**26 January 2009**, Australia Day night: Sue Neill-Fraser's (SNF) de facto husband of 18 years, Bob Chappell, disappears overnight when alone on a 16m motor-sailer yacht (photo) the pair had recently each paid \$100,000 for. The yacht was attached to a mooring in Sandy Bay, Hobart, close to the Royal Yacht Club of Tasmania.

Bob's body has never been found.

**February 2009**: Tasmanian Police decide, during discussion bandied around in internal squad room hypotheticals, that SNF is guilty. They then actively seek evidence to prove the theory they have concocted, making no effort to follow up other leads, such as from many yacht robberies in the vicinity, for example.

**20 August 2009**: TasPol arrests, charges and locks up SNF. She is refused bail. She has remained in prison from that day to this, 12 1/3 years so far.

**(August 2022, Sue Neill-Fraser becomes eligible for parole).**

**October 2010**: After a four-week trial judge Alan Blow (now Chief Justice of Tasmania), sentences her – illegally, and in error or ignorance, as the first appeal court hearing ruled – to 26 years in jail with an 18-year non-parole period.

**August 2011**: The Court of Criminal Appeal of Tasmania, CCAT (basically, three other judges of the State's Supreme Court) hears her appeal. One of those judges, Shan Tennent, had already made a decision in the SNF case before the original trial, and should not have been permitted to sit on the appeal, CLA believes (this issue has never been raised. It could be that the first appeal was itself illegal).

**March 2012**, the first CCAT hearing denies the appeal, but reduces her original trial sentence to 18 years jail with 13 years non-parole period because judge Blow did not know, or misinterpreted, the sentencing rules. (It is not the only finding in appeals of Blow's possible mishandling of the case).

**September 2012**: The High Court (HC) refuses SNF leave to appeal the CCAT appeal decision/ruling. The HC retired to consider the matter for three (3) minutes before refusing to allow an appeal.

**November 2015**: After much lobbying, initiated by Civil Liberties Australia, a new law passes in Tasmania to allow a second appeal in a case like SNF's, if 'fresh' and 'compelling' evidence becomes available. Such evidence surrounds a very large sample of DNA ("dinner plate size") discovered on the yacht in 2010 and traced to then 15-year-old homeless girl, Meaghan Vass, thought possibly to be her vomit.

**2016**: Second appeal lodged. After much legal shenanigans (which included a judge who had to step down from hearings – Tennent again, because she had sat on the original appeal), the bid for a second appeal eventually starts the process of having its day in court.

**2018 - 2019**: judge Michael Brett eventually hears SNF's bid for a second appeal, and decides a full bench (three judges) comprising CCAT should hear it.

**Early March 2021**: CCAT SNF's second appeal is heard.

**Late November 2021**: After taking eight (8) months to come to a decision, the CCAT rules 2-1 against SNF. Judges Helen Woods and Robert Pearce rule against her. One judge, Stephen Estcourt, believes she has suffered a wrongful conviction, and is entitled to a retrial (or to the Director of Public Prosecutions deciding he is not willing to prosecute her).

## **Election cycle for Australia:**

2022:

**South Australia**: 19 March 2022 (but can be deferred)

**FEDERAL** election: likely to be on 21 May (but other dates around that time are possible)

**Victoria**: 26 November 2022

2023:

**NSW**: 25 March 2023

2024:

**Northern Territory**: 24 August 2024

**ACT**: 19 October 2024

**Queensland**: 26 October 2024

**Tasmania**: late 2024 or early 2025 most likely

2025:

**WA**: 8 March 2025