

Pollies go beyond the law to endorse a police state

Australia is now a federation of states and territories whose purpose is to create increasingly harsh legislation extending beyond the traditional Rule of Law: we are well on the way to a police state.

December's COAG meeting was the final proof: No 1 agenda item was to write a law to continue to keep people in jail after they complete their court-decided sentence for a terrorist crime.

Under a fair go and the Rule of Law, no person would be held in jail beyond their served sentence solely on the basis that they might re-offend. That's like locking people up on suspicion that they might commit a crime: once you adopt that stance, you have created a police state where anyone can be anticipated to be guilty until they prove themselves innocent of a thought crime.

All Australia's leading statesmen and women, gathered as COAG, supported the idea of perpetual jailing.

Mark Kenny of *Fairfax* media put it adroitly:

"To the old verities of death and taxes, we can now add a third: the inevitability of an expanding security state. Not convinced? Try remembering the last time you heard a government leader – state or federal – arguing robustly for civil liberties, the presumption of innocence, the dangers of an encroaching police state. A mediocre consensus in politics is progressively eroding the very foundations of our law." <http://tinyurl.com/znf6dxq>

Year 2015 in review:

Control of key laws in Australia passed from a law committee to the Security and Intelligence Committee. SIC chair is Dan Tehan, Member for Wannon in Victoria, whose experience includes being a farm hand, a Liberal apparatchik and a trade officer: he has become known in Parliament as the "pie floater", for suddenly proposing draconian laws that mysteriously appear as new party policy a week or month later. SIC should be the last place to hold control of police and spook laws.

Police and security forces became much more powerful during 2015 as a new raft of security laws passed parliament...again. Every time there is an "incident" the first response is to create a new law. We urgently need an external, independent review of police/spook actions at events such as the Lindt siege and "terrorist" arrests: we have only the operators' own words that they are constantly disporting themselves magnificently, which is unlikely to be 100% true.

Individual liberties declined in 2015. Privacy became an even greater victim of more widespread surveillance. Your personal email and internet use is routinely logged in Australia and is available for perusal here and in other countries, by governments and the private sector. At the end of the year, you lost your face: the government is now setting up a database of Australian faces, which already has many hundreds of thousands of entries collected for an entirely different purpose, driving licences.

The integrity of politicians sadly declined further. As usual, politicians fleeced their expenses to rip off taxpayers. Party discipline on both major sides meant "principle" was but a rare occasional visitor to the parliament. The rare exceptions in parliaments are mostly, but not exclusively, women: if only electors would vote like owls, rather than donkeys, parliaments could improve dramatically.

The big end of town grew bigger and fatter. While the rest of us paid taxes, few big corporations did, in other than a token gesture. As usual, the little guys – bikies, petty crooks, marijuana smokers – were harassed by police, who failed to notice that people wearing white shirts also commit crime. We're looking forward to the Year of Board Room Raids. If only.

Civil Liberties Australia largely marked time in terms of numbers, but advanced in quality and diversity of membership and funding base. The annual report will have fuller details. We had a few successes, but mostly lost out to the anti-freedom forces of authority, bureaucracy and plutocracy. We continue to fight though, and developing our Better Justice plan was a major success achieved in 2015: it will be released on New Year's Day 2016.

NOTICE: The **AGM** of Civil Liberties Australia, which is held electronically (and by post for those without email) will take place between 7 Feb and 30 March. Details next issue.

Judging what's at stake in the upcoming US election

Before concentrating on Australian matters in this issue, here's a view of the upcoming US elections which shows how much political appointments can shape democracy in that flag-waving nation.

When the next president takes office (in January 2017), conservative Justices Anthony Kennedy and Antonin Scalia (photo) will both be 80 years old. If a Democratic president replaces them with, say,



Justices Nina Pillard and Sri Srinivasan, then it is likely that partisan gerrymandering will be struck down, *Crawford* (voter ID laws which favour the rich over the poor, whites over blacks – ed) will be overruled and the Voting Rights Act will be reinstated. The newly constituted bench would also be able to undo any judicial attacks on unionized workers.

This matters a great deal because, unless the Supreme Court intervenes, taking back the House and many state legislatures is a nearly impossible task for Democrats.

In 2012, Democratic House candidates received nearly 1.4m more votes than Republican candidates, yet Republicans wound up with a solid majority in the House largely due to favourable district (electoral) lines.

Democrats would have needed to win the 2012 House elections by an estimated 7.25 percentage points to take back the House. That's more than the GOP (Republican) margin of victory in the 2010 wave election (6.6%) and only slightly less than the Democratic margin in the 2006 wave (7.9%).

Similarly, many states are extraordinarily gerrymandered at the state legislative level. Virginia, for example, has a Democratic governor, yet Republicans enjoy a 67-32 supermajority in the state's House of Delegates. Similarly, Pennsylvania also has a Democratic governor, but Republicans enjoy a 120-83 majority in the state house and a 30-20 majority in the state senate.

<http://tinyurl.com/phyv6z7> and with thanks to Fitch Esq

Muslims believe laws and rhetoric target them

Counter-terrorism laws are being used to target Muslims and are threatening social cohesion, a parliamentary committee was told last month.

The Muslim Legal Network said comments by former prime minister Tony Abbott calling for a reformation within Islam were "extremely offensive". Mr Abbott's comments "coupled with the announcement of this bill and the highly publicised counter-terrorism raids in western Sydney [show] the Muslim community is yet again placed in the spotlight and their belonging in Australia is being questioned," the network said.

Parliament's security and intelligence committee (SIC) has been holding an inquiry into the government's approximately 85th law since 2001 on counter-terrorism measures, this time to widen the scope and secrecy of control orders, including lowering the age for which a judge can grant an order from 16 to 14.

Former independent national security legislation monitor, Bret Walker SC, said earlier in 2015 that the orders required tremendous amounts of surveillance without any evidence they made the country safer.

<http://tinyurl.com/pa9fmz2>

SIC rubber stamps yet another 'terror' bill

Parliament's SIC inquiry body, the Security and Intelligence Committee, last month chalked up rubber-stamping its sixth new terror bill in just two years of the current term.

The latest – but certainly not the last – is Counter-Terrorism Legislation Amendment Bill (No. 1) 2015.

It proposes amendments to existing counter-terrorism legislation, primarily relating to control orders.

These include:

- allowing a control order to be imposed on persons 14 years old;
- new powers for police to force people to comply with control orders;
- hiding "sensitive information" in control order proceedings;
- making it easier for police and spooks to get a preventative detention order; and
- creating a new criminal offence of 'advocating genocide'.

Where secrecy rules...

Robert A. Heinlein has said: *"Secrecy is the keystone to all tyranny. Not force, but secrecy and censorship. When any government, or church for that matter, undertakes to say to its subjects, 'This you may not read, this you must not know,' the end result is tyranny and oppression, no matter how holy the motives. Mighty little force is needed to control a man who has been hoodwinked in this fashion; contrariwise, no amount of force can control a free man, whose mind is free. No, not the rack nor the atomic bomb, not anything. You can't conquer a free man; the most you can do is kill him."*



State gets a chance to opt for a bill of rights

The best chance Australia has to get a new Bill of Rights is now in Queensland: all Queenslanders will this year to have a say on a possible Human Rights Act for their state.

Attorney-General Yvette D'Ath said last month that the parliament's Legal Affairs and Community Safety Committee would hold an inquiry into whether Queensland should become the third jurisdiction with a BoR, after the ACT in 2004 and Victoria in 2006.

"The protection of human rights is central to the government's values and it is an issue that many people in Queensland are passionate about and have advocated in favour of," Mrs D'Ath said. "The next step is to consider whether a Human Rights Act is the best way to protect human rights into the future. Of prime consideration will be the effectiveness of Queensland's current laws and processes in protecting human rights," she said. "Possible improvements to existing laws and processes will be carefully considered."

Submissions close on 18 April 2016. The committee will report to the Legislative Assembly by 30 June 2016. <http://tinyurl.com/jqwz2aq>

In a similar move, the government is to give Queenslanders the say in a referendum as to whether fixed four-year parliamentary terms should apply. <http://tinyurl.com/z4my2qs>

New anti-terror laws breach covenants, says committee

The parliament's human rights committee believes mechanisms in recent data retention legislation for protecting journalists and their sources may be inadequate and breach human rights covenants.

The *Telecommunications (Interception and Access) Amendment (Data Retention) Bill 2015*, which passed in March, forces Australian telcos and Internet service providers to retain comprehensive records on their customers' internet and telephone use for two years.

In a new report published last month, the rights committee – chaired by 43-year veteran Liberal MP Philip Ruddock – examined later amendments to that law. The additions sought to better protect privacy and the right to freedom of expression by journalists, but the data retention scheme "may lack sufficient safeguards to appropriately protect those rights, as well as the right to an effective remedy and a fair hearing". <http://tinyurl.com/hqsy78e>

Facewatch could track you nearly everywhere

A new national facial biometric system may place people under daily surveillance, a report says.

The government in September announced \$18.5m spending on facial recognition technology for police and spook agencies to share facial images with each other, including the AFP and other police forces, DFAT and Immigration, among many others potential users of the system.

Photo: Illustration from the BOSS system of US Homeland Security

A consultant's report assessing the effects on privacy of the "National Facial Biometric Matching Capability" (or Facewatch) supported the design of the "hub", which allows images and biographic information to be shared, but not stored on a national database.



But it said there was a risk, albeit low, “that the hub and the metadata generated by transactions could potentially allow for some tracking or surveillance of individuals' everyday activities”. <http://tinyurl.com/panx6jz>

The track record of such systems, Civil Liberties Australia says, is that they are introduced with minimum impact but then regularly expanded over a decade to utilise their full potential surveillance capacities.

The US Department of Homeland Security has crowd-scanning facial recognition system, known as the Biometric Optical Surveillance System, or BOSS, which indicates how it views the technology.

Australian Greens deputy leader Senator Scott Ludlam said: “A string of high-profile global data breaches, serious security flaws in myGov, the backlash against the data retention debacle, these things clearly don't exist in the eternal sunshine of the spotless Attorney-General's department.”

“If you liked the Abbott/Shorten scheme to collect and cross-reference your call records and location history, you will love Senator Brandis' plans for a national facial recognition ‘capability’. Biometric information is unlike any other data. By its nature, it's uniquely tied to one person. What makes it valuable to law enforcement makes it devastating if that information is leaked or misused,” Senator Ludlam said. <http://tinyurl.com/pqp5w7d>

Beware of polio misinformation campaign

Supporters of immunisation – Civil Liberties Australia is one – need to be prepared for disinformation campaigning in the lead-up to April 2016 when the polio serotype in immunisation doses changes.

The change from three-serotype oral vaccines to two-serotype is because of worldwide success in drastically reducing polio.

In 1988, when the world set its sights on complete eradication of polio, an estimated 350,000 paralytic cases occurred and 125 countries were considered endemic. In 2015, only 39 cases had been detected in two countries as of 8 Sept 2015. The world could be polio free within five years.

Rotary International has been one of the main partners in the campaign to eliminate polio worldwide, and the man who made the decision was an Australian, Sir Clem Renouf, when he headed the organisation.

ODD SPOT: Health Minister Sussan Ley said last month the government would establish a single scheme for growers of medical and scientific cannabis in all states and territories. Parliament's first sitting fortnight in 2016 would consider the new law. Enforcement of drug use laws would remain with local jurisdictions. <http://tinyurl.com/qywsszw>

Circa 587 BCE: In [Exodus 30:23-24](#), God commands [Moses](#) to create a sacred oil containing [myrrh](#), [cassia](#), [cinnamon](#), and an "aromatic cane" (*q'nah bosem*, a Hebrew transliteration of the contemporaneous [Scythian](#) word "cannabis") that was most likely marijuana.

Prisoner swaps can occur with 70 countries

A new treaty allowing transfer of prisoners between Australia with India is in train.

Australia has similar treaties with China, Cambodia, Vietnam, Thailand and Hong Kong and is also a party to the Council of Europe Convention that allows transfer between Australia and 64 other countries.

Treaties committee chair Angus Taylor said that the agreements play an important role in international crime cooperation. Additionally, the agreements significantly aid the rehabilitation and reintegration of prisoners and contribute to community safety.

“Allowing prisoners to return home to serve out their sentences removes language and cultural barriers, improving access to support networks. In Australia this may mean access to relevant counselling for drug, alcohol or gambling issues. The agreements also relieve the hardship and financial burden imposed on the families of such prisoners,” he said. – media release, Treaties Committee, 3 Dec 2015

Movement aims to cut modern slavery

A new ‘Freedom Partnership to End Modern Slavery’ launched last month.

Spokesperson Jenny Stanger said she believed the real number of slaves in Australia was much higher than the figure estimated by the Global Slavery Index in 2014 of about 3000 people. Ms Stranger said

the problem spreads across a range of industries including agriculture, construction, hospitality and domestic help. <http://tinyurl.com/oebbd4o>

A leading advocate in Australia for people forced into slavery is Darwin-based barrister and Civil Liberties Australia member, Felicity Gerry QC. Modern slavery is one of the key targets included in CLA's 'Better Justice' campaign, launched this month: Ms Gerry leads that aspect of the campaign.

Suspended sentences work equally well: researchers

Offenders given a suspended sentence are no more likely to re-offend than those given a prison sentence of up to 12 months in duration, a new study reveals.

The NSW Bureau of Crime Statistics and Research compared 3960 matched pairs of offenders, one of whom received a prison sentence of 12 months or less, while the other member received a suspended sentence of two years or less. None of these offenders had previously been sentenced to prison.

Offenders were matched on a large range of factors relevant to re-offending. Time spent in custody was taken into account. No differences were found in rates of re-offending between the two groups.

During the 36 month follow-up period, 42% of those receiving suspended sentences and 43% of those receiving custodial sentences were convicted of a further offence. The difference in re-offending was not statistically significant.

Commenting on the findings, the director of the Bureau, Dr Don Weatherburn, said sentencing courts contemplating imposing a suspended sentence of up to two years instead of full-time custody of 12 months or less need not be concerned about the possibility that imposing a suspended sentence will put the public at greater risk. <http://tinyurl.com/hgaeusz>

Territory to re-stock its liberties, rights and trust positions

The ACT has advertised the availability of a range of rights-based positions, contingent on getting new legislation passed to change how the system runs, basically to save money.

- President of the Human Rights Commission (also the Human Rights Commissioner)
- Discrimination, Health Services and Disability and Community Services Commissioner
- Public Advocate and Children and Young People Commissioner
- Victims of Crime Commissioner (and Domestic Violence Project Coordinator), and
- Public Trustee and Guardian

Expressions of interest to JACSLPP@act.gov.au by 15 January. Inquiries: Vicki Parker, on (02) 6205 3504. All jobs start on 1 April 2016. – announcement by ACT AG Simon Corbell.

New judge and magistrate: The ACT has advertised for a new judge from 1 July 2016. Applications close on 15 Feb. The territory is also planning to appoint a new magistrate, with a similar application deadline. Details: <http://tinyurl.com/zwo5vup>

It's a wise child that knows its father...

The vexed question of the right to know your father is up for national debate after Victoria's move to strip donors of anonymity.

The Victorian parliament law would release the name and birthdate of donors to biological children, regardless of donor consent. If the donor's name was not recorded, donors could be ordered to undergo a DNA test.

Since the late 1980s, all states have moved to warn new donors their offspring will have the right to know their identity. But until now, no state in Australia has retrospectively cancelled the guarantee of anonymity that donors were given in the early days of IVF. <http://tinyurl.com/qxsm39d>

'Law gags animal cruelty exposure': law society

Exposing animal cruelty will become harder under new surveillance devices legislation, supported by both Labor and Liberal, the SA Law Society said last month.

It becomes a criminal offence to broadcast any video or audio obtained by covert means, unless a court agreed it was in the public interest.

In a letter to SA Attorney-General John Rau, SA Law Society president Rocco Perotta labelled it an "ag-gag" law. He said it would prevent stories exposing animal cruelty from being broadcast, such as the ABC *Four Corners* report on use of live baiting in the greyhound industry.

Greens MLC Tammy Franks is opposed to the legislation, saying it stops advocacy: "This kind of legislation will simply silence civil society and democracy." <http://tinyurl.com/gqnj34a>

ODD SPOT: Fun for jailed kids? None!

Australian Border Force has decided nuns are the latest danger to its detention schemes, banning a program where nuns from the Brigidine Asylum Seekers Project took children out of onshore immigration detention on day trips during school holidays, *Crikey* reports.

The Brigidine Sisters in Melbourne have for the past four years taken asylum seeker children in the Broadmeadows detention centre out on day trips "to Collingwood Children's Farm, to the zoo, to playgrounds, and for picnics in the park. Anything that can entertain the kids ... You can't really fix up detention, but you can do a few things to ameliorate the worst aspects of it," Sister Brigid Arthur told *ABC Radio* presenter Jon Faine.

About six months ago, the program was suspended, pending review.

A spokesperson for the Department of Immigration and Border Protection told *Crikey* in writing that programs were routinely reviewed within the department, including the one run by the sisters, and excursions were allowed with appropriate governance and supervision. The excursions run by the sisters did not have the appropriate amount of supervision, the department said. In future, jailer Serco would run excursions. – *Crikey*



Vic legislature told: law unworkable and unknowable – try again

Every time politicians try to teach judges how to sentence, they run into trouble.

The latest schemozzle is in Victoria, where an appeal court has thrown out the previous Liberal government's "baseline sentencing" approach as unworkable and unknowable.

A maximum sentence indicates the suggested penalty for the worst instances of a crime, but a baseline sentence is meant to provide a judge with an indication of the common or mid-range sentence for a crime.

The Victorian Court of Appeal dismissed an appeal by the DPP over an incest sentence.

The appeal court held that, whilst the statement of intention in one section of the law is comprehensible, the "legislation is wholly silent as to the means by which a judge imposing sentence for incest is to do so 'in a manner compatible with the intention to achieve the intended median sentence in the future'". The appeal court said this defect was incurable and it was not the judiciary's role to fill the legislative gap.

The appeal court also ruled that, given the nature of a median as a statistical product, the median sentence is "unknowable until the end of the relevant counting period". A sentencing judge has "no way of knowing what median will be at the end of the counting period". The appeal judges also said that provisions in the law failed to indicate the period over which the median was to be calculated . <http://tinyurl.com/n9chr3a>

Youth court to 'convict' kids still on bail

Amendments to the *Bail Act* in the NT last month turn accused kids into pre-convicted criminals: the Youth Justice Court can opt to use an electronic monitoring device as a condition of bail.

"These devices assist NT Police and the Department of Correctional Services in enforcing compliance with bail, providing real time information on the location of accused persons," NT Attorney-General John Elferink said.

"The location of accused persons can be monitored without the need for physical surveillance by law enforcement authorities. This assists with ensuring that curfews, residential conditions and exclusion areas are complied with.

“We anticipate the devices will also deter persons fitted with the device from committing further (SIC) offences.” In other words, the NT AG has already ‘convicted’ those youth who will be hand-picked by the court to wear the monitoring bracelets...while on bail and before being convicted! – media release, NT AG 3 Dec 2015

NT may get its own ICAC

Former NT Chief Justice Brian Ross Martin will inquire into whether the territory should have an independent anti-corruption and integrity body.

BR Martin was CJ of the NT from 2004 to 2010, a Judge of the Supreme Court of SA between 1999 and 2004 and Commonwealth Director of Public Prosecutions between 1997 and 1999. He was earlier a DPP in SA, and some of his work there may come under scrutiny in upcoming appeals against claimed wrongful convictions dating back to the 1970s.

BR Martin presided over trials of Bradley Murdoch for murdering Peter Falconio in the NT, the Snowtown bodies-in-the-barrel murders in SA, and the Rayney case in WA. He was also the judge who decided Eastman should be freed in the ACT after 19 years in jail because of wrong forensic evidence and withheld information.

BR Martin will consider:

- The power to investigate allegations of corruption including against Ministers, Members of the Legislative Assembly and other public officials;
- The power to conduct investigations and inquiries into corrupt activities and system-wide anti-corruption reforms as it sees fit;
- The appropriate trigger for an NT ICAC jurisdiction and the relationship between this body and other NT bodies such as the Ombudsman;
- Models from any other jurisdictions and indicative costs of establishing various models in the NT; and
- The use of existing NT legislation or NT statutory authorities.

– media release Willem Westra van Holthe, dep Chief Minister, 14 Dec 2015

Xana bites dust as former top cop awaits fate

Darwin travel agent, socialite and head of Crime Stoppers, Xana Kamitsis, received a three-year and 11-month sentence last month for corrupt dealings and defrauding the NT Government of about \$124,000.

She will serve 18 months, with the rest suspended.

Justice Dean Mildren handed down the sentence after she was found guilty of 20 counts of obtaining benefit by deception. She forged client signatures and lodged inflated invoices for flights, before using the fraudulently obtained money to benefit family and friends, including former police commissioner John McRoberts, with whom Kamitsis admitted an “intimate relationship” in court. Recently resigned, his ultimate legal fate is yet to be decided by the NT DPP. <http://tinyurl.com/jxcghfm>

The case has rocked the Darwin establishment. In an editorial, the *NT News* claimed the verdict justified its own relentless pursuit of questions surrounding Kamitsis, her business dealings and private relationships. The newspaper claimed local political, legal and other big business types tried to ‘heavy’ it to downplay the Kamitsis coverage in the case’s early days. <http://tinyurl.com/gnvkfk8>

Gay negotiates his way to lower ‘fine’

Disgraced timber supremo John Gay, formerly head of Gunns in Tasmania, must pay a \$500,000 ‘proceeds of crime’ penalty after his earlier insider trading conviction.

But even now Gay may count himself very fortunate: retired Tasmanian Chief Justice Ewan Crawford (photo) negotiated the special settlement amount of \$0.5m...which potentially might have been two or three times that amount, depending on how much Gay profited by his actions.

Gay was convicted of insider trading in 2013 and fined just \$50,000 after selling \$3.1m worth of Gunns shares in 2009 while privy to price sensitive



information. “The interests of justice have been met because Mr Gay has been made to disgorge his benefit resulting from trading shares when he should not have, regardless of the motivation,” Commonwealth Deputy Director of Public Prosecutions Shane Kirne said.

But have they, Civil Liberties Australia asks? Why has Gay been allowed to negotiate how much he should pay? Why was his original fine so out of kilter with reality?

And, more widely than this Gay matter, why aren't countless other white collar criminals from the big end of town being forced to pay up under proceeds of crime laws, instead of the typical bikie and small-time crooks who are usually the only targets of police? <http://tinyurl.com/hbmfhu1>

Former convictions to be erased

Criminal convictions for consensual homosexual activity in Tasmania will be erased under a new law to pass this year.

Attorney General Vanessa Goodwin announced last month that the State Government would also apologise in the Tasmanian Parliament in 2016 to those affected by the convictions who have had to live with a continuing stigma.

The move to erase the convictions has been strongly supported for the past year by Civil Liberties Australia, particularly National Director and Tasmanian media spokesperson, Rajan Venkataraman. <http://tinyurl.com/zumr4xx>

South Australia, Victoria, NSW, the ACT and now Tasmania provide for expungement of records.

Technology blamed for handgun emergence

Bond Uni design professor James Birt said 3D-printing technology should not be restricted by legislation, just because police found toy-sized printed handgun in a raid on the Gold Coast.

Queensland Police found the loaded .22 calibre 3D-printed gun when they searched a Mudgeeraba home.

Detective Inspector Brendan Smith said all law enforcement was grappling with the new technology, branding it a game-changer.

Dr Birt said NSW was leading the way in addressing the issue of 3D-printed weapons, having recently passed a bill around possession of 3D-printed firearms. Currently there was more danger of 3D-printed guns exploding and harming the user than anyone else, Birt said. <http://tinyurl.com/qbc2fw3>

ODD SPOT: Rat-fight sours popular tourist and retirement haven

Lord Howe Island is fighting an internal war...over rats. The island's pro-Rat Eradication Program (REP) administration is fighting anti-REP rabble rousers who claim the REP is poisoning the island and is a waste of time anyway because it won't work, and so should be stopped.

As happens at exclusive retirement villages, those comprising the anti-REPPers are some of the former big names of the law, banking and the stock exchange of the mainland, mostly Sydney.

The big decision is who should make the decisions for LHI. Stay tuned for which set of rights wins. <http://tinyurl.com/zdqe2k8>

'New body needed to investigate police', party branch says

There's a move afoot in WA to set up an independent police complaints commission, as in other states.

The Maylands Labor Party branch is promoting a motion for a new body fully independent of active and former police to investigate police. They want the state and federal party to adopt the principle.

Many observers believe the Corruption and Crime Commission of WA, like other similar bodies interstate, is tainted by having police officers in its investigative arm.

There are sufficient "corruption" bodies around Australia now for a new professional class of investigator to emerge to service just them.

Civil Liberties Australia believes police forces in Australia are so integral to influencing corruption standards that there should be a "standing" commission of inquiry in Australia which analyses the various state and federal forces, roughly a year at a time. That body also would need independent investigators.

Remand prisoners – innocent detainees – double in six years

There has been an "extraordinary" rise in the number of people held on remand in WA's prisons, according to the Inspector of Custodial Services, Neil Morgan's, annual report.

Morgan found prisoners held on remand had more than doubled in six years. They account for 60% of the rise in the overall prisoner population in that time.

The report also found that 10% of remandees – or about 150 people a day – were in custody despite being granted bail because they had been unable to meet imposed conditions.

Reducing the remand population by just 10% could save WA more than \$30 million in annual operating costs. Not to mention, Civil Liberties Australia says, freeing innocent people from jail: people on remand are merely charged, not convicted by a court.

WA Corrective Services Minister Joe Francis ignored the Inspector's warning, downplaying the huge increase by saying it was the necessary result of community safety concerns. <http://www.abc.net.au/news/2015-12-15/big-jump-in-wa-prisoners-on-remand/7029372>

Unis buckle under to first hint of criticism

WA-based national Catholic university, Notre Dame, last month exhibited a distinct yellow streak when a Jewish lobby fired back at an article written by one of the NDU's Middle East and human rights experts.

NDU's Dr Sandra Nasr (photo) – who is also described as an Amnesty activist – gave Israel and Israelis both barrels in an article published on the London School of Economics website. She wrote that Palestinians were being treated as 'non-human' by Jewish people who subscribe to an ideology of superiority, separateness and entitlement, quoting widely from Jewish academic and other sources.

When the UK-based Jewish Community Security Trust slammed the article, claiming it was false, offensive and "had no place" in the academic world, NDU immediately went to water and disowned everything to do with the article.

The University of Notre Dame Australia said in a statement that it did not endorse comments made in the article. "The opinions and comments expressed by Dr Sandra Nasr were not endorsed or sanctioned by the University and do not, in any way, represent the views of The University of Notre Dame Australia," the statement read. "The University expresses its disappointment and apologises that comments causing such offence have been associated with it. Notre Dame is addressing this issue in accordance with its relevant processes and will not make any further comment until these have been duly followed."

The LSE also dropped the item from its website. <http://tinyurl.com/phmay4m>

Civil Liberties Australia believes the best way to counter free speech is with more free speech...and Australian and English universities should be the first to defend it, not go to water at the first sign of criticism.

See also: *Female Swedish Foreign Minister takes on the Saudis over liberties* <http://tinyurl.com/jhx2ef2>



Australian briefs



Aussie is UN's deputy rights commissioner: An Australian, Kate Gilmore (photo), has been appointed UN deputy High Commissioner for Human Rights. She is a veteran of UN, government and non-governmental organisations (NGOs), and moves to the post from the position of deputy executive director of the UN Population Fund. Before joining UNFPA in 2012, she was executive deputy secretary general of Amnesty International and national director of Amnesty Australia. She succeeds Flavia Pansieri of Italy in the human rights job. <http://tinyurl.com/gue5a2o>

Police test positive to drugs on duty: Three Perth police officers may be sacked after recording positive drug tests last month. Two men and one woman were among 200 tested for drugs last month, with indicative results showing they had methylamphetamine and amphetamine in their systems. Confirmatory tests are to be done. Officers from the Internal Affairs Unit visited five suburban police stations to undertake the routine testing. One of those who tested positive was an officer involved in the fatal shooting of a pet dog for behaving aggressively recently. <http://tinyurl.com/zanghd4>

Bus trips used to keep track of you: The AFP are increasingly turning to public transport data and personal information collected from Canberra's MyWay ticketing system to check up on people. Last year, they requested users' travel history or contact details 24 times, nearly as many times as in the previous four years. Data linked to individual cards, maintained by a contractor for the ACT government, can be disclosed to federal agencies including the AFP, the Australian Tax Office and Centrelink for law enforcement, missing persons, collecting fines or protecting public revenue. <http://tinyurl.com/jpf8ent>

NT prepares to wrongly delay thousands of motorists: From 1 Feb, random drug testing of drivers applies in the NT: if police detect drugs in a driver's system, his/her licence will be immediately suspended for 24 hours and it could lead to six months imprisonment. If a driver refuses to submit to a saliva test, he/she will be up for a \$765 fine or three months imprisonment for a first offence. Civil Liberties Australia stresses that random roadside drug testing (unlike alcohol testing) is notoriously inaccurate, and thousands of innocent people will be subjected to unreasonable delays and interference with their lives under random drug testing in the NT. – media release, Minister for Police Peter Chandler, 2 Dec 2015.

Jail more likely than uni: A greater proportion of Indigenous men had been to jail in the five years to 2008 than had a Bachelor degree or above in 2011, and a greater proportion were in jail than at university in 2014, according to an *ABC Fact Check* analysis. The ABC released the analysis after Opposition Leader Bill Shorten said in a Sky News interview that: "A young Aboriginal man of 18 in Australia is more likely to end up in jail than university." <http://tinyurl.com/hlh5t57>

Police commissioner 'confident recruiting more women won't drop standards': SA Police will recruit equal numbers of men and women in future to make the force better represent the community. Commissioner Grant Stevens said: "I am confident this quota can be achieved without dropping standards." Of 116 police recruited in SA in 2015, only 36 were women. Only about 25% of police in SA are women. <http://tinyurl.com/pk3u878>

Australia doesn't lose: Australia has not – so far – lost an international legal battle to uphold its tobacco packaging measures, with Philip Morris failing in its long-running attempt to challenge plain packaging laws under a bilateral trade agreement with Hong Kong. Philip Morris Asia Limited challenged the Australian government in 2011, arguing that the ban on trademarks breached foreign investment provisions of Australia's 1993 Investment Promotion and Protection Agreement with Hong Kong. But an arbitral tribunal has declined jurisdiction to hear the case, the company announced last month. However, there are new trade agreements since the Hong Kong one which may open new avenues for the cigarette company. <http://tinyurl.com/jrpze3r>

CLA report – key activities for December 2015

Networking :

Vintage Reds of the ACT and Region, photos and speaker ideas

Federal Greens Parliament House Christmas function

Selected Labor Members Christmas wishes; email of appreciation to Anna Burke MP for her principled and integrity-based approach, upon her announcement of retirement from parliament

Emails to selected Liberal/independent Members

Jill Sutton re her role as convenor of Australian Centre for Corporate Responsibility (ACCR)

Discussion with Perth activist Margaret Howkins re activities around crime, juveniles and accountability
CLA members Margaret O'Callaghan and Jennifer Ashton re current activities, new UN deputy Human Rights Commissioner

Distribution of draft Better Justice strategy to key CLA members and others

Follow up on trial of Paul Wilson, Queensland

Follow up on continued incarceration of Chiseko Mkoko, SA

Completion of ANU law internship of Bilal Hussein, supervised by CLA Vice-President Tim Vines

Media:

ABC Radio Tasmania re banning tobacco sales to under 25s: CEO Bill Rowlings interview.

The Drum (ABC TV): CLA was approached to appear re proposals to never free a person convicted of a terrorism-related offence, even if he or she has served their sentence, but we were unable to appear.

Presentation:

Chatham House workshop on protests and infrastructure, CRC on Mining and Energy, Qld U: presentation and attendance by CEO Bill Rowlings, formation of a consultation group on how best to create laws and rules for permitting protest, safeguarding lives and ensuring infrastructure is not shut down.

PHOTO: Prof Jonathan Fulcher, Dr Kate O'Donnell, CLA CEO Bill Rowlings and Prof Simon Bronitt at the workshop.



Submissions requests – federal:

Civil Liberties Australia has complained for many years that MPs are totally inconsiderate of volunteers. The politicians go on their annual Christmas long-break holidays, leaving behind a raft of important proposed laws on which they seek input from civil society groups like CLA...whose volunteers must work over the Christmas-New Year break to meet the deadlines. Here's just a few we have been asked to comment on these holidays — no rest for those who don't get paid, only for the highly-paid and expensed MPs:

- Courts legislation amendment bill 2015, Senate Legal and Constitutional (SLAC) Affairs legislation cttee, submission deadline 7 Jan 2016, cttee reports 2 Feb 2016.
- Inquiry into the criminal code amendment (firearms trafficking) bill 2015, deadline 7 Jan 2016, reports by 2 Feb 2016.
- Crimes legislation amendment (proceeds of crime and other measures) bill 2015, SLAC legislation cttee, deadline 8 Jan 2016. Cttee reports on 3 Feb 2016.
- Inquiry into human trafficking, Parl Joint Ctee on Law Enforcement, deadline 19 Feb 2016, reporting date: unknown.
- Inquiry into revenge porn, SLAC References Cttee, deadline 14 Jan 2016, reporting date 25 Feb 2016.
- Privacy amendment (notification of serious data breaches) bill 2015, a privacy amendment enabling a mandatory reporting scheme for serious data breach notifications: AG's department, deadline 4 March 2016.
- Inquiry into harm to Australian children accessing porn on the internet: Senate Environment and Communications references cttee, by 10 March 2016.

Submission requests – states and territories:

- NSW: Inquiry into reparations for the stolen generations in NSW, deadline 10 March 2016.
- Queensland: Crime and corruption amendment bill 2015.
- ACT: Proposed new privacy tort law, by 5 Feb 2016.

Submission lodged:

South Australian Parliament: after request to CLA from Member for Adelaide, Rachel Sanderson, on a proposed law against child marriage (syb prepared by CLA member Felicity Gerry QC).

Other:

4 December 2015 - Tasmanian spokesperson for CLA represented CLA at the annual Christmas event of the Women's International League for Peace and Freedom, Tasmania branch.

December: Tasmanian AG Dr Vanessa Goodwin announces expunging of previous consensual homosexual convictions and apology, a move CLA has long campaigned for.

INTERNATIONAL

ODD SPOT: Hidden guns OK, but dildos a no-no, on uni campuses

Texas students are planning to carry dildos on campus this year to protest a new law allowing people to carry concealed weapons on the state's university campuses.

"You're carrying a gun to class? Yeah well I'm carrying a HUGE DILDO," Jessica Jin, organiser of Campus (DILDO) Carry, wrote on *Facebook*.

Thousands have signed up for the protest, which is planned for 1 Aug 2016 when the law takes effect.

Texas Governor Greg Abbott enacted the campus carry law in June 2015. Under the law, university presidents are permitted to create so-called "gun-free zones".

"The State of Texas has decided that it is not at all obnoxious to allow deadly concealed weapons in classrooms, however it DOES have strict rules about free sexual expression, to protect your innocence," wrote Ms Jin, then a student at the University of Texas at Austin. "You would receive a citation for taking a DILDO to class before you would get in trouble for taking a gun to class," she wrote. <http://tinyurl.com/qz3p6l6> and with thanks to Fitch, Esq.

ODD SPOT: Liberty stands for gun-totin' uni students

Liberty University in Lynchburg, Virginia, will soon allow students to carry firearms into their accommodation "to increase campus safety". Uni president Jerry Falwell Jr made the announcement last month at the evangelical Christian college, drawing heavy applause. He urged eligible students to get training from school authorities to enable them to obtain a permit to carry concealed weapons. Under Virginia law, residents may obtain a concealed-carry permit if they are 21 or older. About 950 people at Liberty now have concealed-carry permits, Falwell said. <http://tinyurl.com/z8fqgsc>

Licence plates have all your moves figured

Britain's network of number plate recognition cameras amounts to "one of the largest data gatherers in the world" and threatens to spark a public outcry against police mass surveillance, the CCTV commissioner has warned.

Tony Porter, the former assistant chief constable in charge of counterterrorism at the 2012 London Olympics, said police chiefs faced a backlash over the potentially illegal way they were operating number plate recognition cameras.

Repeated refusals by police to release information about the scope and scale of the system were "not acceptable", and likely to encourage a public response similar to that prompted by Edward Snowden's revelations about data gathering by security services.

"The political fallout of an ill-conceived system that is not publicised is potentially significant ... think about Snowden," Porter told the Association of Crime Commissioners. His concerns are echoed by a government adviser on transparency who warns that police appear to be illegally retaining number plate data for up seven years.

Porter expressed frustration at the refusal of police to publish details about the number and location of automatic number plate recognition cameras, and evidence of their effectiveness. "Given the large-scale data acquisition of such a system, I find this surprising," he told the *Guardian*. <http://tinyurl.com/q5tgbex>

Court tells top British crime agency it is incompetent

Britain's National Crime Agency claims there is little prospect of completed cases being quashed despite having to review its use of warrants and orders following the collapse of major trials.

The NCA, which is Britain's equivalent of the FBI, was created in 2013 to succeed the troubled Serious Organised Crime Agency but since then it has had problems investigating high-profile cases.

In October 2015, the agency apologised to five businessmen, including three brothers, whose offices and homes it had raided and bugged in January. Police had suspected that the Chatwani brothers and two associates knew money launderers but had no evidence against them.

Officers arrested the men and planted bugs in their offices, hoping they would return and discuss their alleged crimes. Officers also raided the men's homes, seizing personal property. In May the divisional court ruled that the entries, searches and seizures were unlawful. The NCA has apologised to the brothers, who are suing for compensation.

In December, an Old Bailey judge called the NCA "incompetent" after a series of blunders led to the collapse of a \$10m trial following a money-laundering investigation. <http://tinyurl.com/h2s5hs4>

ODD SPOT: Democracy rules...as long as Charles is in control



Prince Charles demands "North Korean-style" pre-conditions in television interviews, including approving all and precise questions in advance, the right to oversee editing and even to block a broadcast if he does not like the final product.

Britain's *Independent* newspaper has reported that the Prince of Wales (photo, in mufti) will only speak to broadcasters if they have signed a 15-page contract, demanding that his staff attend both the "rough cut" and "fine cut" edits of films and, if it is unhappy with the final product, they can "remove the contribution in its entirety from the programme".

The degree of censorship led to cancellation of an interview with Prince Charles by Jon Snow of *Channel 4 News* at the British ambassador's residence in Paris on the eve of climate change talks.

The censorship by Charles continues a pattern: "black spider" memos, published earlier in 2015, showed how he had for decades attempted to influence public opinion by sending secret letters to government departments on pet subjects where he sometimes has wacky views on subjects as diverse as climate change, homeopathic medicine, housing policy and hospital food. <http://tinyurl.com/ntnfbq6>

Saudis to increase their beheadings rate

Saudi Arabia plans to execute more than 50 people convicted of terrorism, according to reports, in what appears to be a warning to would-be jihadis at a time of militant attacks on the kingdom.

Fifty-five people were awaiting execution for "terrorist crimes" that killed more than 100 civilians and 71 security personnel, the *Okaz* newspaper said, without specifying when the executions would occur.

Al-Riyadh, a semi-official newspaper, reported that 52 people would be put to death soon, but it removed the story from its website without explanation.

Some of those facing execution were affiliated with al-Qaida, *Okaz* said. Others were from Awamiya, a largely Shia town in the oil-producing eastern province, where the government has suppressed demonstrations for equal rights and unrest since 2011.

Saudi Arabia executed more than 150 people in 2015, mostly by public beheading, its highest number in 20 years, Amnesty International said. <http://tinyurl.com/qzedcg2>

Poorer countries lose out as funds switched to refugees

Aid budgets in Europe are increasingly being used to cover refugee and asylum seekers costs, such as in the Netherlands, Italy, Cyprus and Portugal.

Despite repeated promises, the EU overall did not deliver on its commitment to spend 0.7% of gross national income as official development assistance by 2015. The EU as a group spent 0.42% of its GNI on aid, with only four of 28 members meeting the 0.7% target: Luxembourg, Sweden, Denmark and the UK. <http://tinyurl.com/phknqz4>

(In Australia, overseas general aid has been dramatically curtailed over the past three years, while Foreign Minister Julie Bishop's pet projects to help women in the Pacific have fared much better).

Under-fire Malaysian PM moves towards dictatorship

A new security law in Malaysia gives sweeping security powers to a council led by corruption-suspected PM Najib Razak in a move slammed by rights groups and critics as a step toward a dictatorship.

The National Security Council led by the PM can now impose strict policing of areas deemed to face a security risk. Security forces can impose curfews and arrest, search and seize without a warrant.

Restraints on police powers are suspended and spooks and police may conduct arrests, searches and seizures without warrants. They can destroy unoccupied structures deemed to pose a threat.

As well, investigators can dispense with formal inquests into killings by the police or armed forces in the designated security areas. <http://tinyurl.com/gv4zejv>

Minister Susi calls for human rights in tuna fishing industry

Of an estimated 700,000 crew members on board fishing vessels around the world, around 60% are from Indonesia, according to that country's officials.

Susi Pudjiastuti, Indonesia's Minister for Maritime Affairs and Fisheries (photo), said last month that Indonesia intended to declare that all fishing activity in its waters must comply with human rights or be shut down. Twelve months ago, Indonesia's tough then-new fisheries policies resulted in the sinking of 41 foreign fishing vessels caught poaching in its waters.

Indonesia's fisheries minister has called on the Pacific Tuna Commission to ban transshipment at sea and end human rights abuses rife in the tuna fishing industry. <http://tinyurl.com/gmp7e6b>



Chinese crack down on activist workers

Labour rights activists are being held in criminal detention following a wide-scale police crackdown in the south-eastern Chinese province of Guangdong in December.

Police targeted independent worker rights centres and arrested, questioned and detained staff and volunteers against a background of factory closures and rising worker protests and strikes. Seven of the more than two dozen arrested activists were either in detention or could not be contacted two weeks later.

Confirmed as being in detention and denied access to lawyers for reasons of 'national security' are Panyu Workers' Centre director Zeng Feiyang and staff member Zhu Xiaomei; Foshan Nanfeiyan Social Work Services Organization director He Xiaobo; and Deng Xiaoming. <http://tinyurl.com/hz8bgm9>

Japan's Supreme Court stands up for the rights of man, nominally

Japan's Supreme Court has ruled that a 19th-century law forcing married couples to use the same surname – almost always that of the husband – does not violate the constitution.

The court's ruling is a setback for women's rights in Japan, just as the prime minister, Shinzo Abe, pushes for a greater role for women in the workplace to boost economic growth.

In a minor victory, however, the country's top court said that a second legal provision preventing women from remarrying for six months after they divorce violates the constitution's commitment to gender equality. But, the court said, a remarriage ban on women of up to 100 days was reasonable. <http://tinyurl.com/nacc4bt>

ODD SPOT: Britain prepares to downgrade religion in public life

Schools should no longer be legally required to provide daily Christian acts of worship under radical reforms being proposed by a top-level inquiry into the place of faith in multicultural Britain. The Commission on Religion and Belief in British Public Life, led by former high court judge Elizabeth Butler-Sloss, also recommends curtailing the segregation of children by faith and a radical overhaul of the teaching of belief to make it more realistic and relevant in a diverse and increasingly secular country. The

weighty report is expected to set out proposals on the place of faith in the next coronation, as well as examining religion in relation to education, the criminal justice system, the media, social provision and politics. The commission's patrons include the former archbishop of Canterbury, Rowan Williams, and its members are drawn from all major religions in the UK. <http://tinyurl.com/nap6a3o>

International briefs

France to ban wi-fi and Tor? France's Interior Ministry is reported to be considering two new proposals: banning free and shared wi-fi connections during a state of emergency, and measures to block the Tor anonymous browsing system permanently from being used inside France. Le Monde newspaper said the new bills could be presented to parliament this month (Jan 2106) in response to the attacks in Paris in Nov 2015 during which 130 people were murdered. <http://tinyurl.com/zudhj9r>

Executions fall: Six American states executed 28 people in 2015, the lowest annual toll for nearly 25 years. Texas (13), Missouri (6) and Georgia (5) accounted for most killings. Judges and juries handed down 49 new death sentences in 2015, a third fewer than the previous year and the lowest number since 1973. One jurisdiction, Riverside County in California, imposed eight death sentences in 2015; Florida imposed nine. Six people on death rows were exonerated and freed in 2015. <http://tinyurl.com/zvlw2ja>

DATES

5-6 Jan, Paris, France: Global Law Conference. Details Professor Jim Corkery, CLE Paris co-chair, Law, Bond University Qld E: jcorkery@bond.edu.au Contact: <http://tinyurl.com/nzqcdol>

6-7 Feb, Canberra: Current issues in sentencing, Prof Kate Warner (Gov of Tasmania), John Curtin School, details <http://tinyurl.com/onazvsj>

26 Feb, Perth: Law Summer School 2016:, Technology and the Law: Looking into the Future, 7.15am-5pm, Uni Club, UWA, Crawley. Speakers include: Prof Gillian Triggs, Prof Richard Dawkins, Roger Susskind. Details: <http://tinyurl.com/q2vqr6f>

15 March, Europe: Applications close to 2016-17 European Master's Program in Human Rights and Democratisation. Course involves EIUC and 41 participating universities. Details: <http://eiuc.org/education/ema> or email: ema.secretariat@eiuc.org

17 Mar, Sydney: Catholic intellectual Prof John Haldane's first public lecture, Notre Dame Uni, Broadway campus. Details: ies@nd.edu.au

14-15 April, Canberra: **National Law Reform conference**, University House, ANU. Calling for papers: <http://tinyurl.com/oueoomn>

18-23 Sept, Auckland NZ: 23rd Intntl Symposium on Forensic Sciences. Details: www.anzfs2016.org

10 Dec, World: This year is devoted to a year-long UN campaign to celebrate the 50th anniversary of two landmark international covenants on human rights: the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, which were adopted by the UN General Assembly on 16 Dec 1966.

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)

ENDS ENDS ENDS

Upcoming elections...in the normal course of events

NT	27 August 2016
ACT	15 October 2016
Australia	By 14 January 2017, likely Nov 2016
WA	11 March 2017
South Aust	17 March 2018
Tasmania	Before 24 March 2018
Queensland	2018
Victoria	29 November 2018
NSW	24 March 2019