

Election 2016 - what should we concentrate on?

Civil Liberties Australia members are invited to email their top two priorities for civil liberties and freedom issues to concentrate on in the lead-up to the upcoming federal election, when we get a chance to ask candidates where they stand.

Remember that other organisations – say, refugee groups for asylum seekers – will be concentrating on their major concerns, so that CLA's role is to pick up on the issues that are important but that don't make the front page of newspapers and the TV bulletins each day. The need for a Bill of Rights in Australia is an example of one such issue, justice-legal system reform is another, trustee monitoring is a third.

Please email your choices for what "out-of-sight" issues CLA should be highlighting pre-election in relation to liberties, rights and freedoms to: secretary@cla.asn.au (See also '*Politicians with principles, please stand!*' comments by Senator Nick McKim, below)

New Defence law strips researchers of speech & association freedoms

From 2 April, the Department of Defence will control most international scientific exchange and collaboration by Australian researchers.

The control will extend to what information medical experts can swap with their overseas research counterparts across a range of threatening diseases.

The new Defence Trade Controls Act gives that power to DoD: the law comes into force on 2 April. It covers dual-use (civilian and military potential) research, and mandates that Australian scientists must get a permit from the DoD before they can exchange information with overseas researchers. So, even if research is aimed towards a completely civilian application, Australia's DoD wants to control it.

The DTCA curbs freedom of speech and association by Australian scientists. More importantly, it will chill the very national innovation and flexibility in outlook the Prime Minister, Malcolm Turnbull, is calling for.

For a rundown on the ramifications of the new law, see:

DTCA cometh – Defence Report: <http://defencereport.com/dtca-cometh/>

Cryptologists speak out in '*Nature*' science journal: <http://tinyurl.com/z9en3km>

Minister wants to dispense with procedural fairness

Immigration Minister Peter Dutton is asking the High Court of Australia to rule that people dealing with the Australian government are not entitled to "procedural fairness".

That's the ramification of an appeal to the High Court the minister launched last month. If the appeal fails, Dutton may have to pay about 1600 asylum seekers some \$10,000 compensation each, for a \$16m total payout.

Dutton's high-level legal gambit is trying to cover up the Immigration Department disaster in 2014 when it accidentally leaked the personal details of nearly 10,000 asylum seekers. Putting their details online meant they could be subjected to punitive treatment or persecution in their home countries. Some 1600 have sued for compensation.

Immigration has already lost a federal court ruling that the way the department handled the breach was "unfair to a significant degree" and that it had not provided procedural fairness to the asylum seekers. The government countered by enacting special laws which also included ways of fast-tracking claims.

In the High Court last month, the Australian Government's barrister said the federal court decision was wrong, partly because the new law passed by parliament "has a necessary intendment to exclude procedural fairness". Strip out the archaic legalese, and the Australia Government is saying it doesn't believe in procedural fairness, which is a core element of the rule of law in Australia. <http://tinyurl.com/hhkus2r> and <http://tinyurl.com/gv5r3qy>

AGM: (NOTE: For Members who voted by post in the recent CLA AGM, the "Minutes" of the AGM and declaration of voting are included with the posted copy of this newsletter). For members who voted by email, the results – and comments by other members – are available online.

Brandis provides kiss of death to potential law changes

The Australian Law Reform Commission last month tabled its report, two years in the making, titled: [Traditional Rights and Freedoms—Encroachments by Commonwealth Laws \(ALRC Report 129\)](#).

Attorney-General George Brandis, who commissioned the report, has so far merely referred it to individual ministers to “consider action” in their portfolios. His move is the kiss of death, Civil Liberties Australia fears.

The ALRC identified Commonwealth laws encroaching on traditional rights, freedoms and privileges recognised by the common law. The report discusses the source and rationale of Australian rights and freedoms and provides an extensive survey of current Commonwealth laws that limit them.

They also identified federal laws that need further review, outlining future work to ensure that encroachments on rights, freedoms and privileges are avoided or appropriately justified.

In a useful add-odd, the ALRC has also analysed how laws are scrutinised by government agencies, parliamentary committees and others for compatibility with rights, and examines possible justifications for statutory restrictions of common law rights and freedoms. The report discusses how laws that limit traditional rights and freedoms might be critically tested and justified, for example by using a proportionality test. – media release ALRC 2 March 2016

Politicians with principles, please stand!

Greens legal spokesperson Senator Nick McKim (Green, Tas) last month summed up in federal parliament how downhill has been the ride against traditional rights and freedoms for more than a decade:

“Since 2002, we have created 12 new crimes, we have extended legal powers 7 times, we have extended police powers or granted police new powers 16 times and we have increased powers to our intelligence agencies 12 times,” McKim (photo) said.

“Let’s face it, in this country we have been trading away the fundamental civil and human rights that tens of thousands of Australians have fought for and, in some cases, died for to protect and enhance.

“Throughout that period, no evidence has been offered that we are making Australia or our people any safer by trading away those rights. With an election this year, it is almost inevitable that the coalition and Labor, who for a long time have been in zombie lockstep on this issue, will both put out policy positions that keep the bids coming in the law and order auction. What we see from coalition and Labor is knee-jerk ‘law-mongering’.

“What we need to do is think about this more strategically, more carefully and more holistically. In the same way that we have a white paper process for defence issues, it is time to revisit a white paper on counter-terrorism as we did in 2010. It needs to be updated, reviewed, reconsidered and republished. <http://tinyurl.com/hc8sb3u>

Civil Liberties Australia has called for a special ‘blue paper’ process before any new police and/or security law is introduced. CLA reiterates: when will we elect statesmen and women – or politicians of principle – instead of just politicians?

Corruption up 68% in Australian government crime and border agencies

The extent of corruption around government public servants in the crime and customs areas appears to be out of control – official reports show a rise of 68% in the first six months of the current financial year.

The parliamentary committee monitoring the agency responsible for keeping a lid on such crime, ACLEI, revealed the dramatic escalation in cases in a report to parliament in March. <http://tinyurl.com/jlcbn5z>

“ACLEI continues to receive a high number of corruption issues. In 2014-15 ACLEI received 100 new corruption issues. Comparatively, the first six months of the 2015-16 reporting year, ACLEI has received 134 new corruption issues,” the joint committee’s deputy chair, Senator Catryna Bilyk (Lab, Tas), told the parliament.

The Australian Commission for Law Enforcement Integrity, ACLEI, is responsible for preventing, detecting and investigating serious and systemic corruption issues in law enforcement agencies.



Its annual report noted that ACLEI's jurisdiction expanded in July 2015 to include the Department of Immigration and Border Protection, including the newly-formed Australian Border Force. It appears most of the possible increase in corruption stems from that area.

Senator Bilyk told parliament: "ACLEI continues to receive a high number of corruption issues. In 2014-15 ACLEI received 100 new corruption issues. Comparatively, in the first six months of the 2015-16 reporting year, ACLEI has received 134 new corruption issues.

"The committee agrees with ACLEI's assessment that corruption-enabled border crime continues to be a significant law enforcement integrity issue. The committee has had a firsthand opportunity to examine the challenges that ACLEI faces at the border during our inquiry into the integrity of Australia's border arrangements. That inquiry is continuing, and I look forward to updating the chamber when the committee concludes its inquiry."

If the length of time the inquiry is taking is an indication, Australia's border arrangements are in a parlous state. The committee has been inquiring for more than a year, and is still accepting submissions and has given no indication of when it thinks it will have a handle on how much – or how little – integrity characterises the dealings at Australia's border.

Is encryption a basic human right in Australia?

Amnesty International believes so, saying that in digital communication, encryption is intrinsically tied to privacy and the right to free speech.

"Encryption is a basic prerequisite for privacy and free speech in the digital age. Banning encryption is like banning envelopes and curtains. It takes away a basic tool for keeping your private life private," said Sherif Elsayed-Ali (photo), Amnesty's deputy director for global issues.

Encryption is banned in Russia, Morocco, Kazakhstan, Pakistan and Colombia, while other countries such as Cuba, Pakistan and India have strict limitations on who can encrypt their communications, or the strength of encryption that is allowed.

Conservative governments from Britain and even in Australia have also considered banning encryption, *Gizmodo* says. What do you think? <http://tinyurl.com/hjxvqtj>



'No body, no parole' law for NT

Attorney-General John Elferink has announced that the Country Liberals government will introduce "no body, no parole" legislation in the NT.

The law would prevent convicted killers from getting parole if they did not reveal the location of the body of their victim.

The Attorney-General said: "This legislation means that a murderer will be accountable for their own lack of contrition. A contrite human being is one who seeks redemption by word and action".

He said legislation had been amended in South Australia to compel offenders to cooperate with investigators by withholding their eligibility for parole. There were Bills currently before Parliament in Victoria and Western Australia and public support for the legislation in Queensland had seen a petition tabled in Queensland Parliament, according to Mr Elferink. – media release, AG, 10 March 2016.

The problem — the elephant behind bars — is what happens when a person has been wrongfully convicted for a murder in the NT, and they continue to protest innocence, because they are innocent? Under that scenario, such a person could never be released from jail...even though they deserve to be let out at the earliest possible opportunity.

Brown challenges draconian protest laws

Former Australian Greens leader Bob Brown is challenging Tasmania's anti-protest laws – which are being mirrored around Australia – in the High Court.

He claims they breach the right to freedom of political communication which the High Court has previously ruled is implied in the Australian Constitution.

The NSW and Queensland governments are proposing similar anti-protest laws, and the West Australian government passed new laws last year. <http://tinyurl.com/hw22ovy>

Micklebergs beat another unjust rap, this time by legal aid

WA's Mickelberg brothers don't have to pay back almost \$300,000 after Legal Aid dropped a case against them to recoup legal fees after they were wrongly convicted for the 1982 Perth Mint swindle.

WA police implicated Ray, Peter and their late brother Brian for the 1982 robbery of 49 gold bars, worth millions, and they were jailed after police perjured themselves during their trial. Ray was jailed for eight and a half years and Peter for nearly seven.

The brothers received an ex-gratia payment of \$500,000 each in a 2008 deal made with Attorney-General Jim McGinty on behalf of the Labor state government, which included payment of the Legal Aid fees the Mickelbergs needed to clear their names.

But Legal Aid had sought this year to recoup \$145,000 from Ray Mickelberg, and eventually Peter, after claiming their legal debt was never paid through the ex-gratia deal. Last month, Legal Aid formally dropped the claim in the District Court. <http://tinyurl.com/jy8jtwy>

What's wrong in South Australia?

The state of justice in South Australia is dire, according to two recent public reports.

A former SA police chief psychologist has been permanently disqualified from practising because he had an "intimate and personal" relationship with a patient.

Douglas Robert Knuckey has been found guilty by the SA Health Practitioners Board of professional misconduct, while he was treating a serving officer between June 2011 and June 2012. <http://tinyurl.com/hjl7ywc>

In another extraordinary revelation, the state's former chief pathologist for 30 years is claimed to have performed an autopsy in front of an open air, public audience, including local Aborigines, at Mintabie in the 1970s.

A former police officer has sworn an affidavit to that effect in the Van Beelen case, where a convicted criminal is appealing for overturning of his murder conviction, based on allegedly flawed evidence given by the pathologist, Dr Colin Manock.

The claims of the open-air autopsy, when a private coolroom was available, were aired by *Today Tonight* last month. To watch the short programs, go to:

<http://www.todaytonightadelaide.com.au/stories/dr-colin-manock-part-1>

<http://www.todaytonightadelaide.com.au/stories/dr-colin-manock-part-2>

Civil Liberties Australia wrote to the Premier of SA, Jay Weatherill, in January calling for a Royal Commission into the state of justice in his bailiwick. He has not replied, despite a follow-up letter in March. As well, indifference from the legal profession in SA appears to indicate it is unable to act as the guardian of justice on behalf of the state's citizens, which is one of its primary roles and one of the reasons it is permitted, as a profession, to self-administer.

Possibly 400 convictions for capital crimes – murder, rape and the like – over 30 years are in doubt in SA because of the situation surrounding the retired Dr Manock. As well, an unknown number of cases, including three where it is possible babies were battered to death, did not result in anyone being charged because the pathologist claimed the babies suffered from "bronchopneumonia". One of the babies had 15 breaks in its ribs.

It may soon be time for the federal Attorney-General, Senator George Brandis, to act in his role as guarantor of the state of justice throughout Australia.

Williams to head UNSW Law School

Constitutional lawyer Professor George Williams AO will become the new Dean of the Faculty of Law at UNSW in June.

Currently the Anthony Mason Professor of Law at UNSW, he will succeed Prof David Dixon who will retire after 10 years in the job.

"Professor Williams is one of Australia's leading constitutional lawyers and public commentators and he brings an unrivalled combination of intellectual leadership, social impact and engagement to the role of Dean," said UNSW President and Vice-Chancellor, Ian Jacobs.

Williams joined UNSW from the ANU in 2000, when he became foundation director of the Gilbert and Tobin Centre of Public Law.

He holds an Australian Research Council Laureate Fellowship, which focuses on anti-terror laws and democracy. He has continued to practise as a barrister including appearing in the High Court in significant cases.

Prof Williams has written and edited 34 books, including *Australian Constitutional Law and Theory* and *The Oxford Companion to the High Court of Australia*, and is a highly sought after media commentator. He has written columns for *The Australian* and the *Canberra Times*, and has provided analysis for *ABC TV*. He currently writes a fortnightly opinion column for the *Sydney Morning Herald* on major legal issues. In 2011 he received an AO for 'distinguished service to the law in the fields of anti-terrorism, human rights and constitutional law as an academic, author, adviser and public commentator'.

He is a member of Civil Liberties Australia. <http://tinyurl.com/h3j797f>

Supreme Court backlog rises significantly...but no heads roll

Tasmania's Supreme Court is going backwards: last year, criminal cases pending rose by 11% and those waiting more than 12 months increased by 21%, the latest annual report shows.



New criminal matters rose by only 3% in the same period. Given those figures, Civil Liberties Australia asks, why isn't there some accountability by sackings or salary cuts of the people in charge of the court system? If courts in Australia consistently fail to perform, who is responsible?

Attorney-General, Dr Vanessa Goodwin, last month announced the government would change the law to allow temporary judges to deal with the backlog.

One judge, Helen Wood (photo), who was suing the public sector superannuation fund over her entitlements, last month won her case. <http://tinyurl.com/hsc7qb8>

Dr Death comedy show 'despicable'

Right to Life Australia has slammed as sick and dangerous a Melbourne International Comedy Festival show from controversial NT-based euthanasia advocate Philip Nitschke.

The deregistered doctor's show, *Dicing with Dr Death*, was part of the festival's official program, with broadcaster Derryn Hinch part of the act to demonstrate Nitschke's "destiny" suicide machine using non-lethal gas.

The Melbourne comedy festival defended its decision to green-light Nitschke's show, saying it was an open-access event and anyone could present a show.

Nitschke said his show was an entertaining exploration of the serious subject of ending life effectively, reliably and peacefully. He said the second half of the show was the "teaching part", during which he would use the "destiny" machine and explain the best drugs to use and how to obtain them. <http://tinyurl.com/zdehwvg>

Former top cop may soon face charges

Former NT Police Commissioner John McRoberts may be about to face charges of attempting to pervert the course of justice, according to a Darwin newspaper report.

The Australian Federal Police announced over a year ago they were investigating Mr McRoberts over allegations he interfered in the criminal investigation into corrupt travel agent Xana Kamitsis — who has admitted she had an "intimate relationship" with the former commissioner, the *NT News* reported.

The AFP investigation was completed four months ago and they gave a brief of evidence to special interstate prosecutor Lesley Taylor, which is now reportedly on the desk of NT Director of Public Prosecutions, Jack Karczewski.

Kamitsis was sentenced to three years and 11 months in December 2015 for defrauding the NT government and providing benefits to a former ruling Country Liberal Party staffer.

Mr McRoberts is reported to be living in Perth. <http://tinyurl.com/jz9wavm>

Consent age varies around Australia

Age of consent laws around Australia, with Queensland apparently planning to bring its laws more into line with the rest of the nation.

ACT - The age of consent for sexual interactions is 16 years.

NSW - The age of consent for sexual interactions is 16 years.

NT - The age of consent for sexual interactions is 16 years.

SA - The age of consent for sexual interactions is 17 years.

Tas - The age of consent for sexual interactions is 17 years.

Vic - The age of consent for sexual interactions is 16 years.

WA - The age of consent for sexual interactions is 16 years.

Qld - The age of consent for anal sex (called sodomy in legislation) is 18 years, and for all other sexual acts (referred to as carnal knowledge) is 16 years. <https://aifs.gov.au/cfca/publications/age-consent-laws>

There is no fundamental reason Australia should have state-specific laws about the age of consent – young Australians don't vary in their sexual choices. Along with such matters as bail, remand, sentencing guidelines and the like, Civil Liberties Australia has long argued that legal-justice reform should standardise basic provisions nationally.

Australian briefs

Safe Access Zones law starts next month: Victoria's new law, brought in to protect women seeking abortion counselling and help from in-your-face protestors, starts on 2 May. The Australian Sex Party's only representative in an Australian parliament, Victorian Upper House MP Fiona Patten, was prime mover for the new law. The ASP claims it is "A much needed, long awaited move that will see women and workers guaranteed safe access to health services and their places of work, free from those who harass and intimidate." Patten is a member of Civil Liberties Australia.

New ban will work by smoke and mirrors: The ACT's assistant health Minister Meegan Fitzharris has introduced a proposed law to treat vaporisers like cigarettes, whether or not they contain nicotine. Selling or supplying vaporisers to under-18s will be banned, as will using a vaporiser in a car where a child under 16 is present. Advertising and promotion of vaporisers will be banned, and only licensed tobacco sellers will be able to sell them, in the same way tobacco products are sold. Vaporisers will be banned from public buildings and outdoor places where smoking is banned, including restaurants and bars. <http://tinyurl.com/jshgqs7>

Courts combine, judges multiply: The NT has amalgamated the Local Court and Court of Summary Jurisdiction from 1 May 2016. Criminal and civil matters will be combined in the single court, with the value of civil claims increased to \$250,000. Magistrates will in future be referred to as judges, emphasising their role in judging criminal and civil matters. From 1 May 2016 Small Claims will be heard by the NT Civil and Administration Tribunal (NTCAT) where the jurisdictional limit has been increased to \$25,000 – media release, AG Elferink 160317.

Police stun 16yo at school: NT police officers last month used a stun gun on a 16-year-old student at his school in front of his mother. Police claim the boy was acting violently, and they have charged the Casuarina Senior College student with assaulting police. "[Officers] deployed a (stun gun) on him to control the situation and ensure the safety of attending officers, staff, students and members of the public," police said. <http://ab.co/1SeHvnM>

Privacy boss to hand-pick his own network: The Office of the Australian Information Commissioner is looking for "consumer interests" to join a new Consumer Privacy Network. Acting Info Commissioner Tim Pilgrim said the network would help OAIC to understand and respond to privacy issues affecting consumers. "The group will meet twice a year for in-person forums, in addition to providing advice to the OAIC throughout the year on key areas of work," he said. Pilgrim wants entities to apply, then he will

hand-pick those who suit him...doesn't sound like a properly representative body to us. <http://tinyurl.com/gmjem2e>



Stefaniak appointed to AAT: Attorney General George Brandis has appointed William (Bill) Stefaniak AM RFD as part-time senior member for five years of the Administrative Appeals Tribunal. Mr Stefaniak (photo) was the Appeal President in the ACT Civil and Administrative Tribunal from 2008 until early 2016. He was also a Special Magistrate with the ACT Magistrates Court during two of those years. Before then, he was a member of the ACT Legislative Assembly for 14 years. During this time, he served in a number of ministerial portfolios, including as Attorney-General. Mr Stefaniak has previously held positions as a Prosecuting Officer and Defending Officer with the Army Reserve Service, as a Public Prosecutor with the Director of Public Prosecutions and as a solicitor in private practice. He is a long-standing member of Civil Liberties Australia. <http://tinyurl.com/jqnjyyk>

CLA report – key activities for March 2016

CLA WEBSITE: recent articles on the CLA website that you might have missed:

Waking in fright in the justice system (trustees/guardianship): <http://www.cla.asn.au/News/waking-fright-justice-system/>

Bevege achieves win for choice (seating at public Muslim meetings): <http://www.cla.asn.au/News/5883-2/>

State to control scientific exchanges (research scientists censored): <http://www.cla.asn.au/News/5867-2/>

End of life Bill resurrected (euthanasia law): <http://www.cla.asn.au/News/end-life-bill-resurrected/>

Lack of debate causes 'democratic deficit' (TPP and JSCOT): <http://tinyurl.com/zvrvdwl>

Remember, police are regularly wrong (over-claiming by police): <http://www.cla.asn.au/News/5897-2/>

Networking:

- Former Australian Bureau of Statistics chief, Bill McLennan, and Prof Roger Clarke, Australian Privacy Foundation, re ABS proposal on data retention in 2016 Census, and privacy issues which flow from that.
- Melissa Parke MHR Fremantle, Perth and Laurie Ferguson MHR Werriwa, Sydney, re upcoming political matters in federal parliament, and their retirements.
- ACT Trustee office

Issues/cases being followed closely:

- Trustee, guardianship and power of attorney cases: please send us any cases you spot in suburban or rural/regional media;
- Justice/legal systemic delays or systemic court issues, particularly involving magistrates or judges.

Submissions lodged:

Federal: To DFAT, on TPP, authored by Pauline Westwood.

Qld: To Q. Law Reform Comm, re expunging historical gay sex convictions.

Other: Annual General Meeting

The Civil Liberties Australia Annual General Meeting for 2016 was held successfully, concluding at the end of March. Voting response rate by members was 59%, both electronically and by the small number of 'paper' voters (basically, people who do not use, or who prefer not to use, email). Thanks go to acting Webmaster Lance Williamson for stepping into a gap between webmasters to run the process that he devised and developed originally when he was a Board Member.

Presentations:

The Better Justice powerpoint screening to Liberal Democrats ACT branch and to 'Vintage Reds' unionists was very successful, drawing much comment and discussion. We are looking for more venues

to present to small groups of up to 40. Members who would like to become presenters are welcome to volunteer. You need PowerPoint on a laptop as a minimum.

CLA is seeking a volunteer webmaster: We have lodged an advertisement, with ANU and U. Canberra computer faculties noticeboards, and also in *PSnews online*, the public service online newsletter, which has graciously allowed us a pro bono advert. <http://www.psnews.com.au/> Here is part of that ad: please make contact if you have the skills/experience needed.

WEBMASTER NEEDED

Organisation: Civil Liberties Australia

Position: Webmaster (Volunteer)

Volunteer role with leading civil rights NGO

2 – 3 hours a week

Work from home

Great experience and opportunity to be involved in the work of the Board and organisation.

Email mini CV/details to: secretary@cla.asn.au

Introducing a new Director/Board Member of CLA, Mark Jarratt:

CLA elects office bearers every two years. Between elections, the President (Dr Kristine Klugman), can appoint people to the Board. To bring Board numbers back up to nine members, she has appointed Mark Jarratt (photo). Here is his brief CV, as it appears on the CLA website, under *About CLA/The Board*:

Mark is a security risk management professional. He was with Customs for over 21 years, five as headquarters chief security adviser. He now advises clients for NDY, an international consulting engineering firm. Mark has a BA in Political Science from ANU and post-graduate qualifications in security risk analysis and management, including from Edith Cowan U. He was V-P (Australia) 2013-15 for ASIS International, the largest global association of security professionals. His key personal concerns are minimising unjust bullying of tobacco consumers and halting erosion of liberties and freedoms caused by bad laws.



INTERNATIONAL

TV goes into court in the UK

Television cameras are to be allowed into crown courts in England and Wales for the first time, the UK justice minister has said.

Sentencing remarks made by senior judges will be filmed in a pilot scheme expected to start this month. The footage will not be broadcast but the move could pave the way for the first live coverage of crown court cases. Until now filming has only been allowed at hearings at the court of appeal and supreme court.

Announcing the scheme justice minister Shailesh Vara said: “My hope is that this will lead to more openness and transparency as to what happens in our courts. Broadcasting sentencing remarks would allow the public to see and hear the judge’s decision in their own words.”

The lord chief justice, Lord Thomas of Cwmgiedd, said: “I am interested to see how this pilot progresses and will work with the Ministry of Justice to assess the impact of cameras in court.”

The three-month pilot will take place in eight courts around England and Wales – the Old Bailey and courts at Southwark in south London, Manchester (Crown Square), Birmingham, Bristol, Liverpool, Leeds and Cardiff. <http://tinyurl.com/hyvdc3>

‘Mockery of the concept of equal justice’

(America’s) criminal justice system has made a mockery of the concept of equal justice with its racially skewed pattern of mass incarceration. Not only is the United States ‘the world’s leader in incarceration

with 2.2 million people currently in the nation's prisons or jails — a 500% increase over the past 30 years,' according to the Sentencing Project, but the group also points out:

“More than 60% of the people in prison are now racial and ethnic minorities. For black males in their thirties, 1 in every 10 is in prison or jail on any given day. These trends have been intensified by the disproportionate impact of the ‘war on drugs,’ in which two-thirds of all persons in prison for drug offenses are people of color.”

– OpeEd columnist, Charles M. Blow, writing in the *NYT*, 7 March 2016 <http://tinyurl.com/zv35e9t>

Questions raised worldwide about source of PM's private funds

Eminent political rivals and activists plan to petition Malaysia's Islamic royalty – the sultans who head nine Malaysian states – to remove scandal-plagued prime minister Najib Razak from office.

People from Malaysia's ruling and opposition parties and civil society organisations, including former PM Mahathir Mohamad, say they will petition the traditional royal rulers after obtaining 1 million signatures.

Mr Najib, the 62 year-old son of a former prime minister, has refused to explain how more than \$1 billion turned up in his personal banks accounts or what happened to millions that remains unaccounted for.

As well, criminal investigations are under way in Australia, the USA and several other countries into Malaysia's heavily indebted state investment fund, 1Malaysia Development Berhad (1MDB) that Mr Najib set-up in 2009, when he came to power, and oversees through his chairmanship of an advisory committee.

He is also under scrutiny by French investigators over corruption allegations around Malaysia's purchase of French-Spanish submarines when he was defence minister.

Given Mr Najib's close ties to Australia, it is likely the investigations will enmesh a number of Australian business people and entities, including possibly government business enterprises. <http://tinyurl.com/hyphkaj>

ODD SPOT: Abortion for fathers?

It's not just up to women to decide whether to have a baby or not, says the youth wing of Sweden's Liberal Party. It has proposed granting expectant fathers the right to “legally abort” their unborn child up until the 18th week of pregnancy. “Men should have an equal right to opt out of parenting and choose whether or not to become a parent,” Marcus Nilsen, chairman of the party's youth wing West (LUF) told the Swedish *Aftonbladet* newspaper. <http://tinyurl.com/jqtp7nc> This means that men are proposed to have the right to disclaim paternity until the 18th week of pregnancy, as long as it's possible for a woman to undergo the **abortion** procedure. The suggested “legal abortion,” if chosen, would be irreversible and require the father in question to renounce all parental rights and duties, including the right to see his child once it has been born, should the mother decide to keep it. <http://tinyurl.com/z8csa3u>

‘Double tap’ deals death to doctors, nurses

Syria has been called the deadliest place in the world for doctors and nurses: more than 700 medical workers have been killed since 2011, according to the NGO, Physicians for Human Rights.

The most attacks since the conflict began occurred in 2015, with more than 640 killed, according to WHO, reports Sharmila Devi, writing in *The Lancet* last month.

Medical workers were being deliberately targeted, said a report by Médecins Sans Frontières released in February. More than 60 health facilities supported by MSF were targeted in attacks in 2015 and, of these, 12 were completely destroyed, it said. The report also documented “double-tap” attacks whereby a second strike hits a short time after the first to increase casualties among responders. <http://tinyurl.com/hbgwa2l>

Treat addicts, regulate drugs to end unmitigated disaster of ‘war’

Three former presidents of Latin American nations have urged the world to end the “unmitigated disaster” of the war on drugs.

“Outdated drug policies around the world have resulted in soaring drug-related violence, overstretched criminal justice systems, runaway corruption and mangled democratic institutions,” wrote Fernando

Henrique Cardoso, César Gaviria and Ernesto Zedillo, respectively the former presidents of Brazil, Colombia and Mexico, in an op-ed in the *Los Angeles Times* last month.

The former presidents said that experts, statistics and a review of their “own failures on this front while in office” led them to “an unavoidable conclusion: the ‘war on drugs’ is an unmitigated disaster”.

They hailed the UN for holding an assembly on drug abuse on 19 April, but excoriated its methods. The UN has blocked most member states and various health and human rights groups from participating, according to the leaders, and the drafted declaration “perpetuates the criminalisation of producers and consumers” rather than moving toward treatment for addicts.

They called for regulation of drugs to replace “the obvious failure of most existing drug laws”.

“This is not as radical as it sounds,” they wrote, citing the example of Switzerland’s healthcare plan for heroin addicts, Portugal’s decriminalisation, Uruguay’s regulated marijuana market, and the nearly two dozen US states that have legalised marijuana for medicinal or recreational use. Cardoso has in the past also cited the Netherlands’ lax marijuana laws and liberalised drug laws in Bolivia, Ecuador and Colombia. <http://tinyurl.com/gmwbzvb>

17 youths jailed for reading a book on liberation

A court in Angola has jailed 17 young activists, some for more than eight years, for rebelling against the government of José Eduardo dos Santos, after they organised a reading of a US academic’s book.

The activists were arrested in the capital, Luanda, in June 2015 after organising the reading of *‘From Dictatorship to Democracy: A Conceptual Framework for Liberation’*, by Gene Sharp. The book’s blurb describes it as “a blueprint for non-violent resistance to repressive regimes”.

They were charged with acts of rebellion, planning mass action of civil disobedience in Luanda and producing fake passports, among other charges. Their sentences ranged from two years and three months to eight years and six months. They were sent to jail immediately but their defence lawyer requested the sentences be suspended pending an appeal in Angola’s supreme court.

Dos Santos has been in power for 37 years but announced earlier this month that he planned to step down in 2018. <http://tinyurl.com/hhtsl6n>

Police ‘dial up a database date’

Denver police searched state and federal criminal justice databases seeking romance and to help friends, according to an independent monitor.

The monitor said that punishment, usually a written reprimand instead of being charged criminally, was not enough to deter future abuse of the National Crime Information Center (NCIC) and the Colorado Crime Information Center (CCIC) databases...which are akin to the Australian Crime Commission’s massive and expanding holdings in Australia

"When used appropriately, they can be powerful tools to investigate crime," the US report stated. "But the misuse of these databases for personal, non-law enforcement purposes may result in harm to community members. We believe that the reprimands that are generally imposed on Denver Police Department officers who misuse the databases do not reflect the seriousness of that violation, and may not sufficiently deter future misuse."

The report, by Independent Monitor Nicholas Mitchell, listed a host of wrongful searches, including an officer getting a phone number of a woman he met on assignment, and an officer running the license plate of a man for a friend who then stalked that person. None of the 25 Denver officers who abused the crime databases were charged with any access crime. The harshest penalty was a three-day suspension. Civilians who accessed the databases without authorisation, however, most likely would be charged with hacking. <http://tinyurl.com/gq7ubjw>

Bemba is first ICC conviction over rape as a war crime

The International Criminal Court has convicted Jean-Pierre Bemba of war crimes and crimes against humanity in a campaign of rape, murder and torture in the Central African Republic.

A panel of three female judges last month convicted Bemba of murder and pillaging, and defined the large-scale rape by his soldiers as a crime against humanity and as a war crime. It was the first time the

ICC has convicted anyone of rape as a war crime, and only the third time the court has found anyone guilty of anything.

Prosecutors said that Bemba sent 1500 members of his Congolese militia into the neighbouring Central African Republic in late 2002 and early 2003, to help put down a military coup there. The case was notable in part for its focus on rape, which the prosecution said was a main part of the militia's strategy. Fighters raped not only women and girls in front of their families, but also men and important elders to publicly debase them, prosecutors said.

Defence lawyers argued that Bemba had no authority over the militia, and that it followed the army of the Central African Republic once it left Congo. <http://tinyurl.com/z5vr7vm>

ODD SPOT: Why NGOs are important

Organisations based on notions of rights and principles have at least one advantage – they ask questions that others may prefer to ignore: Simon Wright, head of child survival for Save the Children UK. <http://tinyurl.com/j5uyz9r>

Anti-vaccination film pulled by Robert De Niro

A controversial film about the discredited link between autism and vaccinations has been pulled from Robert De Niro's Tribeca film festival, after the actor consulted "the scientific community" and found "concerns with certain things in this film".

De Niro is the father of an autistic child, and co-founder of the film festival. At first he defended the decision to premiere *Vaxxed: from Cover-Up to Catastrophe*, despite outcry from doctors and researchers.

Repeated studies involving more than a million children have found there is no evidence to link childhood vaccines to autism. But a small movement of activists persists in the belief that vaccinations might somehow harm children.

De Niro released a statement to explain the new decision. "My intent in screening this film was to provide an opportunity for conversation around an issue that is deeply personal to me and my family," he said. "But after reviewing it over the past few days with the Tribeca film festival team and others from the scientific community, we do not believe it contributes to or furthers the discussion I had hoped for."

The controversial film was directed by Andrew Wakefield, a disgraced British former doctor who published a study in 1998 that claimed links between a vaccine for measles, mumps and rubella (MMR) and autism. The paper was quickly found to contain numerous flaws and was deemed by the British Medical Journal "an elaborate fraud". <http://tinyurl.com/zb4nrm4>

International briefs

Will Garland crown the court? Merrick Garland, 63, chief judge of the federal appeals court in Washington since 2013, is President Obama's nominee to the Supreme Court. Brought up in a Jewish family in Chicago, Garland (photo) studied law at Harvard. He has served on the bench for the past 19 years.



Republicans convention bare of arms: An online petition to allow guns into the Republican National Convention in Cleveland in July has received more than 24,000 signatures in favour of overturning the "irresponsible and hypocritical act of selecting a 'gun-free zone'" for the party's quadrennial gathering. The venue for the 18-21 July convention is the Quicken Loans Arena, which has a policy that forbids "firearms and other weapons of any kind" on its grounds. <http://tinyurl.com/jge4fw9>

Brazil is facing down Facebook: The vice-president of Facebook Latin America, Argentine Diego Dzorán, was arrested last month on an order from a judge in the Brazilian state of Sergipe. Dzorán is accused of ignoring a judicial order in a secret investigation involving organised crime and drug trafficking. "We're disappointed with the extreme and disproportionate measure of having a Facebook executive escorted to a police station in connection with a case involving WhatsApp, which operates separately from Facebook. Facebook has always been and will be available to address any questions Brazilian authorities may have," a Facebook spokesperson told *Gizmodo*. <http://tinyurl.com/ha8ud5q>

Citizenship to be un-stripped: Canada's governing Liberal Party is sticking with a campaign pledge to scrap citizenship-revocation laws, like those in Australia. The laws, under Bill C-24, gave the government the power to strip dual nationals of their Canadian citizenship should they be convicted of "terrorism, high treason and spying offenses". "We applaud the government for introducing these changes to restore equal citizenship in Canada. Bill C-24 was discriminatory and unconstitutional," said Laura Track, a lawyer for the British Columbia Civil Liberties Association. <http://tinyurl.com/zho4vym>

Female prisoners subjected to virginity tests: Afghanistan's Independent Human Rights Commission, after interviewing 53 female detainees across 12 of the country's 34 provinces, found that 48 of them, including girls as young as 13, had been sent for virginity tests with no privacy, and sometimes in front of many people. About 750 women and girls are imprisoned across 29 provinces, according to Afghanistan's Interior Ministry. Most are detained on vague charges of "moral crimes" for running away from home with a lover other than the husband arranged for them by their families, or for escaping domestic violence. <http://tinyurl.com/j5gbw5l>

Police and the mentally ill are lethal mixture: People with mental illness are four times more likely to die after police use force against them than other individuals, according to a new report by the UK's Independent Police Complaints Commission. Five years of cases in which police have used force on members of the public reveal those with mental health problems are more likely to be restrained by police officers; to die after the use of force; to experience multiple uses of force; and to be subject to force while in custody. UK police are spending up to 40% of their time on mental health-related incidents. <http://tinyurl.com/j9vk8xm>

China plans to nab those thinking of crime: China's ruling Communist Party has directed one of the country's largest state-run defence contractors, China Electronics Technology Group, to develop software to collate data on jobs, hobbies, consumption habits, and other behavior of ordinary citizens to predict terrorist acts before they occur. "It's very crucial to examine the cause after an act of terror," Wu Manqing, the chief engineer for the military contractor, told reporters "But what is more important is to predict the upcoming activities." The program is unprecedented because there are no safeguards from privacy protection laws and minimal pushback from civil liberty advocates and companies, says Lokman Tsui, an assistant professor at the School of Journalism and Communication at the Chinese University of Hong Kong, <http://tinyurl.com/j58q6qj>

Private operators write TPP's wrongs: According to the *Washington Post*, 85% of the members of the outside committees advising the administration on the proposed Trans Pacific Partnership (TPP trade deal) were from private businesses and trade associations (the rest were from labor unions, NGOs, academics and other levels of government). <http://tinyurl.com/gngfktm>

Life and death decision? Prisoners in Kenya want Chief Justice, Dr Willy Mutunga, to rule on what the difference is between being sentenced to life, and sentenced to death: one prisoner in jail for 29 years for murder wants to know whether he will ever be released. In another case, a man sentenced to life imprisonment in 2012 is unable to have his appeal heard because the file is missing...apparently destroyed "maliciously" according to the convicted man's father. <http://tinyurl.com/he8dzpe>

Data faster than a speeding rabbit? If you're female, are you pregnant? You may not know yet...but your data probably will. Employers in the USA are using a data analysis service service to mine employee health data so they can predict how many workers might develop specific health conditions, including pregnancy. <http://tinyurl.com/ja32dt9>

Who owns your genes data? Do you own your own genes? What if you volunteer for a research project: do you still own the data generated by your genes, or does the research company own, say, half? US President Obama has weighed into the controversy during a summit discussing his Precision Medicine Initiative, which aims to create a database of health and genetic data from 1 million Americans

to give researchers an open resource they can use by itself or in conjunction with other work for big data analysis. <http://tinyurl.com/zt9atj3>

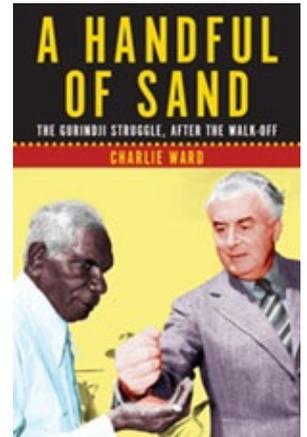
New book upcoming:

A Handful of Sand: *The Gurindji Struggle, After the Walk-off*, by Charlie Ward, \$29.95, Monash U. Publishing, launched August 2016 ISBN (pb): 978-1-925377-16-3, ISBN (e-book): 978-1-925377-18-7

Fifty years ago, a group of striking Aboriginal stockmen in the remote NT heralded a revolution in the cattle industry and a massive shift in Aboriginal affairs. After many years of research, *A Handful of Sand* tells the story behind the Gurindji people's famous Wave Hill Walk-off in 1966 and questions the meanings commonly attributed to the return of their land by Gough Whitlam in 1975.

Author Charlie Ward is a writer and historian, based in Darwin. He worked in the Gurindji communities of Kalkaringi and Daguragu between 2004 and 2006 and then as a researcher with the Stolen Generations' Link-up program in Alice Springs. <http://tinyurl.com/zqrdczr>

Note: The original photo of the sand pouring by the PM was taken by CLA member Robert Wesley-Smith. The reproduced photos are usually later, dummied-up versions by media photographers. To see the original – and some other remarkable photos of Gough Whitlam and Vincent Lingiari – go to: <http://www.cla.asn.au/News/remarkable-photos-recall-wave-hill/>



New exhibition: *Laura Poitras: Astro Noise*:

This immersive installation of new work builds on topics important to Poitras, including mass surveillance, the war on terror, the US drone program, Guantánamo Bay Prison, occupation, and torture. She has investigated some of these in her films, including *Citizenfour*, which won the 2015 Academy Award for Best Documentary, and in her reporting, for which she won a 2014 Pulitzer Prize.

The title, *Astro Noise*, is the name Edward Snowden gave to an encrypted file containing evidence of mass surveillance by the National Security Agency that he shared with Poitras in 2013. The Snowden archive partially inspired Poitras's presentation at the Whitney Museum of American Art, New York. Hour-long panel discussion available online: http://whitney.org/WatchAndListen/Exhibitions?play_id=1432

OPPORTUNITY: PhD in end of life laws and regulations: The Australian Centre for Health Law Research, with the NHMRC Centre of Research Excellence in End of Life Care, is offering a scholarship for a PhD on Law, Policy and/or Ethics, focusing on regulation relevant to healthcare at the end of life, at QUT in Brisbane. A full-time student will get an annual living allowance of \$26,288 and an annual top-up stipend of \$10,000, over three years. More information Prof Patsy Yates at: p.yates@qut.edu.au

DATES

6 April, Perth: Analysis: The High Court says No to Gene Patents. South Street Campus, Murdoch U, 5 for 5.30-7.30pm. Ass Prof Christopher Dent, Adjunct Prof Luigi Palombi, Adjunct Prof David Stewart. Details and booking: <http://tinyurl.com/hfr69jg>

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

21 April, Hobart: Bill of Rights in Modern Law, with special reference to Tasmania: Prof David Clark (Flinders U) 1-2pm, Faculty of Law staff room, UTAS Sandy Bay. <http://tinyurl.com/h95jkcr>

27 April, Perth: 'The Essendon Saga': legal and sport science perspective on the AFL club's drug scandals of the past few years. Speakers Dr Tony Buti MLA and Brian Dawson, 6-7pm, Social Sciences lecture theatre, UWA. Bookings: <http://tinyurl.com/zefmrwd>

28 April, Sydney: Panel discussion exploring miscarriages of justice and wrongful convictions with US experts, Professor Jon Gould and Professor Richard A. Leo, and leading Australian researchers, Dr Bob Moles and Dr Bibi Sangha (PHOTO), chaired by Associate Professor David Hamer. 4-6pm, New Law Building, U. Sydney. Free. To register: <http://tinyurl.com/hojrzco>



2 May, Melbourne: The peace process and the Constitution: Constitution making as peace
Civil Liberties Australia A04043

making? The U. Melbourne 2016 Human Rights Lecture by Manuel José Cepeda Espinosa, President of the International Association of Constitutional Law. 6-7pm, Woodward conference centre, 185 Pelham St Carlton. Details: <http://tinyurl.com/z7u788v> or phone 02 9035 7742.

20-29 May, Australia: Whistleblower Edward Snowden visits Australia's capital cities by video link from his refuge in Russia. Date for your city, go to Think Inc: <http://tinyurl.com/jdufejv>

26 May, Hobart: Australian and US Federalism: what each can learn from the other - Prof Carol Weissert, Florida State U, 5.30-7pm, UTAS. Details: <http://tinyurl.com/hnwy96l>



14 July, Hobart: Greg Moriarty (PHOTO), Commonwealth Counter-Terrorism Coordinator, gives the 7th Sir James Plimsoll lecture, UTAS. <http://tinyurl.com/gtpx9dh>

18-23 Sept, Auckland NZ: 23rd Intntl Symposium on Forensic Sciences. Details: www.anzfss2016.org

21 Sept Adelaide: Lawyering, Judging and Researching with Big Data, Dr Frank Fagan, School of Law, UNISA, 5.30-7pm, City West Campus, 50 North Tce. <http://tinyurl.com/zfngjb7>

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)

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