

## Australians demand national anti-corruption body

Public demand is building for a federal anti-corruption agency after increasing scandal revelations, from dodgy political donations to international bribery, by Australian private and public bodies.

Former head of the Australian Crime and Corruption Commission, Graeme Samuel, says the nation needs an anti-corruption body for integrity reform. However, neither the Coalition nor Labor have committed to a dedicated integrity commission.

The original ACCC chair, Prof Alan Fels, agrees with Mr Samuel, as does former Queensland corruption commissioner Tony Fitzgerald. Even former Liberal leader Dr John Hewson believes Australians are “at breaking point” over the lack of transparency and accountability among the political players. Most Australians feel they either have their hands unfairly in the public till, or will soon find a new way to do so.

The prime task of national integrity reform should be to rewrite campaign funding, lobbying and MPs expenses rules. <http://tinyurl.com/hrydup2> See also: *Major police-justice overhaul needed in WA* (below)

## Stand by for Medicare system changes

Whatever the federal election outcome, stand by for more selling of Australia’s family silver and the lucrative rights to polish it – that is, managing national assets – to rapacious US and UK companies.

During the campaign, as part of its Medicare scare, Labor pointed to a Productivity Commission report requested by Treasurer Scott Morrison:

*“... to review all aspects of human services delivered by government, including community services, social housing, prisons, disability services and Medicare.”*

The terms of reference include examining ‘private sector providers and overseas examples like the United States’ for alternative service delivery models, CLA member Pauline Westwood points out.

“One could ask why the US is specifically picked out as an overseas example. If the government wished only to improve efficiency but retain services within government, it could have listed a few European countries as examples for study. Looking to America, with its heavy emphasis on the private sector, is clearly indicating the model the government wants.”

It is highly likely that a debate about delivering “more efficient” Medicare services will morph into a new form of ID card mandatory for all Australians. The Medicare card was out-of-date back when Tony Abbott was Minister for Health between 2003 and 2007. He wanted to update it drastically, and sent a fact-finding team around the world to look at options.

Ten years later, the government is likely to act on the copious reports since 2003 that have reinforced the need to upgrade – technically – how Medicare is accessed and paid for. Whatever change is proposed, it will come with significant privacy challenges. — CLA member sources.



## Law Council calls for end to mandatory sentences, targets to help Aborigines

The Law Council of Australia last month outlined its priorities for a newly-elected Federal Government.

Key areas include the need to:

- End Australia’s legal aid funding crisis;
- Convene a national summit to address the chronic shortage of legal professionals working in rural, regional, and remote communities;
- Amend proposed counter-terrorism laws so they are consistent with rule of law principles;
- Provide adequate funding for federal courts and tribunals;
- Identify and implement measures designed to reduce domestic and family violence;
- Work towards abolishing mandatory sentencing laws across the board; and
- Establish ‘justice targets’ under the Closing the Gap Framework to reduce rates of Indigenous imprisonment. — media release, LCA, 10 Jun 2016

## **What Civil Liberties Australia called for**

We tried to get issues of the head and heart on the agenda during the election campaign, but the pollies and the papers were firmly in cahoots to keep caring and sharing away from an election based on \$ signs and numbers.

Here's what we asked the parties, without getting a reply:

- Bill of Rights: Will you legislate for a national Charter of Rights and Responsibilities in Australia?
- Asylum seekers: Will you remove all children from detention, and commit to never again locking up children? Will you restore freedom of speech to whistleblowers with experience of detention centres?
- Surveillance: Will you undo data retention laws, and require warrants for accessing metadata?
- Good governance: Will you provide new protections for whistleblowers revealing wrongdoing in the PS? Will you introduce Qui Tam (payments for fraud exposure) law into Australia, as in the US?
- Law and Justice: Will you introduce “right to appeal” provisions federally, as in SA and Tasmania? Will you create a national Criminal Cases Review Commission system, as in the UK? Will you create a federal ‘ICAC’ (a corruption commission with wide powers)?
- International: Will you ensure all jurisdictions fully abide by the Convention against Torture (OPCAT, which Australia has signed), providing for regular external, independent inspection of all jails and detention centres?
- Euthanasia: Will you change federal law so people can choose to die, assisted if needed, with dignity? Will you restore full decision-making rights to the ACT and NT Parliaments?
- Equal rights/discrimination: Will you change the Marriage Act so same-sex couples can marry like other Australians can?
- War on drugs: Will you change law and policy so drugs become a health issue more than a criminal issue?

The party with civil liberties and human rights values closest to CLA was the Australian Sex Party. The ASP produced a musical number to promote its idea of taxing churches on their profits and holdings: [http://voteasxp.org.au/?mc\\_cid=be96a48f68&mc\\_eid=81328d491e](http://voteasxp.org.au/?mc_cid=be96a48f68&mc_eid=81328d491e)

## **Aussies' digital rights should get a guardian**

The Australian Greens proposal that Australia should have an “independent human rights commissioner for digital rights”, advocating for citizens’ online safety, accessibility, privacy and security, should be taken up no matter who rules after 2 July, Civil Liberties Australia says.

“It’s virtually impossible for an individual to engage with the wider world if they can’t access the Internet. Australians are some of the heaviest users of the Internet in the world, yet we lag way behind in the protection of our rights online,” the sitting Greens Senator Scott Ludlam said.

“A growing number of nations are protecting this access through legal provisions, but here in Australia even attempts at discussion or advocacy are hastily shot down by both the Labor and Liberal parties,” he said.

Ludlam explained that the Digital Rights Commissioner, working within the Australian Human Rights Commission, would work to scrutinise legislation and advise government and the general public on the effect of new proposals, programs and legislation, focusing on the digital rights all Australians. <http://tinyurl.com/hcyu3xk>

## **Governments fail to provide proper support for children**

Australia’s federal and state governments have for 25 years failed to support the country’s most vulnerable children and ignored the UN Convention on the Rights of the Child, a new report says.

One in six Aussie kids lives in poverty, according to the Australian Child Rights Taskforce, which has more than 100 groups as members, including UNICEF Australia and the National Children’s and Youth Law Centre.

Former chief justice of the Family Court of Australia and chairman of Children’s Rights International, Alastair Nicholson (photo), said Australian governments had repeatedly ignored the



rights of young people, despite agreeing to the UN Convention in 1990.

The Taskforce found 70,000 children received support from homelessness organisations, 43,000 lived in out-of-home care and young asylum seekers were spending an average of 457 days in detention facilities. Aboriginal and Torres Strait Islander children were over-represented in out-of-home care and were 26 times more likely to be in juvenile detention. <http://tinyurl.com/zndkqeh>

## Elder abuse comes under scrutiny

The Australian Law Reform Commission has released an issues paper, Elder Abuse (IP 47), that questions how national laws and rules could better protect older Australians from abuse.

Attorney-General George Brandis has asked the ALRC to look especially at financial institutions, superannuation, social security, living and care arrangements and health. In addition to looking at laws, the ALRC will consider policy and practice guides, codes of conduct, standards, education, information sharing and the interaction of commonwealth, state and territory laws.

The submissions and further consultation rounds will inform the next stages of the inquiry process: a discussion paper in November 2016 and the final report in May 2017. Submissions close with the ALRC on 18 August 2016. – media release, ALRC 10 June 2016

## Hope for better human rights in Vietnam, DFAT says

There appears to be a trend towards improvement in human rights in Vietnam, with lighter jail sentences and a decrease in the number of offences which result in death penalty.

The view came to light during a consultation process held by the Department of Foreign Affairs and Trade (DFAT) with non-government organisations in June.

In answer to a question from CLA President Dr Kristine Klugman (photo), on an assessment of the current state of political freedom and freedom of expression, a DFAT spokesman said that the aim was to continue talking, "in a robust way, behind closed doors".

Vietnam is a sovereign state with which Australia has important trade links. DFAT had, in advance, sought written submissions from NGOs on concerns over the human rights situation in Vietnam. DFAT grouped the responses into bi-lateral issues, criminal justice (eg death penalty), freedom (assembly etc), migration, legal reform, and the rights of vulnerable groups.



The recent Vietnam National Party Congress saw arrests and harassment of demonstrators, DFAT reported, with the Australian government closely watching any further impacts on human rights. The death penalty is raised on all occasions in Vietnam-Australia consultations, DFAT said.

Although there appears to have been a decrease in the number of offences which result in the death penalty, Australia continues to advocate for abolition. Vietnam does not make the number of executions public.

There was strong representation from Vietnamese community groups, who raised issues such as the poisoning of fish by a Chinese steel manufacturing company in central Vietnam, and repression and jailing of demonstrators.

The need for a benchmark to evaluate the effectiveness of the inter-country Human Rights Dialogue was raised by a number of delegates to the consultations on 23 June 2016. Whether human rights were achieved could be evaluated by:

- the release of political prisoners,
- passage of laws to allow public assembly, and
- repeal of penal code articles 79, 88, 245 and 258.

The Australia Embassy should reach out to civil society, activists, and dissidents, the Vietnamese said, and support access to legal representation and the few lawyers who do this type of work in Vietnam.

Further, raising the awareness of the Vietnamese society of their rights was necessary: the Vietnamese government should allow the participation of civil society in human rights education.

This DFAT consultation with the community groups working in the human rights field was useful, with DFAT undertaking to report back after the “dialogue” takes place in Hanoi in July. – Dr Kristine Klugman, President, Civil Liberties Australia, 23 June 2016

## Govt further ramps up ‘real-time’ surveillance on us

The AFP is getting even more money to hold surveillance and data records of Australians.

The Minister for Justice, Michael Keenan, announced the boost to funding at a National Policing Summit in Sydney last month.

Mr Keenan said the AFP would receive \$1.6 million in new “big data capability”, and the Australian Crime Commission would receive \$1 million for technology to enable the “real-time, secure transfer of intelligence” between surveillance teams in the field during investigations.

The funding will come from the Proceeds of Crime Account, the federal government’s “brown paper bag” source of money snatched from alleged criminals, often before they have been convicted (and possibly even if the people have not been convicted).

“Big data – analysing extremely large datasets to identify trends or patterns – can be used in a law enforcement context to reveal threats and criminal schemes hidden within data-rich environments such as social media,” is the justification for the extra spending. But, simply puts, that means police and spooks will be spying on ordinary Australians much more frequently and across many more outlets, and storing more of the information they come across. <http://tinyurl.com/z54x6e4>

## Vics move to introduce dignified dying law

A Victorian parliament cross-party committee last month recommended the state legalise assisted dying for people suffering from serious and incurable conditions.

The Legal and Social Issues Committee, which has been investigating options for the terminally ill since 2015, also recommended 48 other major end-of-life improvements, including to palliative care.

An amendment to the Crimes Act would protect doctors who act within the assisted dying legislation.

Those seeking to end their life must be the ones to request the assistance; the request must be free of coercion and repeated three times through an initial verbal request, a formal written request and final verbal request. The patient could withdraw the request at any time.

Victorian upper house councillor Fiona Patten of the Australian Sex Party, who was on the committee, said she hoped the notoriously risk-averse politicians would have the courage to change the law as the people wanted. There’s overwhelming support in the community, and particularly among older people, for this change, she said on ABC TV. <http://tinyurl.com/j7tmbwb>

## State plans to compensate individuals for relationship errors

A parliamentary ‘Stolen Generations’ inquiry – to which Civil Liberties Australia made a submission – last month recommended the state set up a compensation scheme for survivors.

The Legislative Council committee reviewed the landmark 1997 report *Bringing Them Home*, which made 50 recommendations including the national apology delivered by former PM Kevin Rudd in 2008.

The NSW inquiry was told the State Government’s response had been inadequate: last month’s report made 35 recommendations to correct the failure.

“We’ve reviewed the Tasmanian and South Australian schemes and we understand there were concerns with those schemes, even though they were very good schemes, so we recommend that a scheme is established in consultation and with appeal rights,” committee chair, Greens MP Jan Barham (photo) said.

Other key recommendations include that the NSW Government establish a Stolen Generations Scholarship Scheme and implement training for all public sector staff who deal with Stolen Generation survivors.

CLA’s submission, co-authored by Keith McEwan and Bill Rowlings, recommended a compensation scheme for Aboriginal families in NSW, including special grants for housing and education, and the establishing



of new education facilities. <http://tinyurl.com/htk7sn7>

CLA member Diana Simmons, who attended the formal release function for the inquiry's report, said the committee comprised members from across the political spectrum, chaired by Ms Barham.

The title 'Unfinished Business' came from the 'Bringing Them Home Report' tabled 20 years ago.

After receiving 52 submissions, the committee travelled throughout NSW interviewing members and children of the Stolen Generation. They went to towns such as Bomaderry, Kempsey, Walgett and Grafton.

"It was evident from speeches that committee members were moved by the stories told to them," Diana reported. She said Ms Barham highlighted some of the 35 recommendations, which include that survivors of the Stolen Generation must have a 'voice' in the planning and overseeing of the recommendations, especially on an advisory committee.

Other key recommendations include setting up collective healing centres; cultural reparation, for example for maintaining indigenous languages, funding for people to access family records, staff training in indigenous culture; a health care card for survivors; a stolen generation scholarship scheme; reimbursement of 'lost' wages; establishment of memorials; a financial scheme to compensate survivors and provision for bi-annual parliamentary assessment of progress.

The report does not include a monetary value for reparations, as per the CLA submission, but aims to implement a program after consultation with SA and Tasmania. Tasmania has implemented reparations and SA is in the process of doing so.

"The public gallery was full, with many interviewees attending," Diana reported.

"I asked the man next to me why he was there. His father was taken to a home in Bomaderry and left to work on a farm at the age of 14. His aunts were also taken. His father never knew where they were.

"This man's mother was ill once and the Welfare told him that if she did not recover he and his siblings would be put in a home. Luckily she survived.

"He became the head of a Land Council. The Bomaderry Home site went up for sale. The Japanese were keen to buy it. He organised a group to come from the Northern Territory to frighten them away with spears, war dances etc. The Japanese took one look and disappeared. Now the site is owned by Aborigines.

"I was pleased to attend the tabling of the report on behalf of CLA. I suspect, like many of my contemporaries, I was unaware of the Stolen Generation growing up. I learned nothing about the Aborigines in my history lessons. The first time I heard about the 'stolen generation' was from an Aboriginal inmate in Bathurst jail, where I was working, in the 1980s." – report by CLA member.

## Human rights commissioner blasts proposed consorting laws

Consorting laws risk stigmatising individuals by reason of their previous conviction or criminal associations, says ACT Human Rights Commissioner, Dr Helen Watchirs (photo), in a submission to the ACT government.

She criticises the proposal, by outgoing, long-standing ACT Attorney-General Simon Corbell, to re-introduce consorting laws to the ACT, after they were thrown out 30 years ago.

Corbell has announced he will not contest the October election.

Dr Watchirs says that the NSW Ombudsman's Report has identified that consorting laws risk impairing people's ability to reintegrate into society.

The laws would therefore undermine the government's stated objectives of rehabilitation, contrary to the ACT government's justice reinvestment and justice reform goals, she says.

"In my view, consorting laws confer unacceptably broad discretionary powers to police.

"(The laws) have been shown in other jurisdictions to operate in ways that depart from their stated legislative intention to focus on serious organised crime, and disproportionately impact on vulnerable people.

"The evidence to date reveals that the powers may be used to put pressure on people whom the police want to 'move along' in public places, rather than as a tool for preventing the planning of serious crimes.



"It is also far from clear that consorting offences are effective in reducing organised crime and gang-related violence.

"Further, this goal could be pursued in less restrictive ways, such as police using existing powers," Dr Watchirs says.

"It is worth noting that consorting offences are not found in the current criminal law of comparable jurisdictions, such as the UK and Canada. The offence of consorting has been described as 'an Australasian contribution to the criminal law', (with) colonial origins. The ACT abolished consorting laws from its statute books in 1983.

"Given their inherent unjustice and capacity to impact most heavily on marginalised and disadvantaged groups and individuals, in my view it would be a profoundly retrogressive step for the ACT to reintroduce consorting offences on to its statute books," she says.

Civil Liberties Australia agrees with the Human Rights Commissioner. – submission by the ACT HR CEO Helen Watchirs <http://tinyurl.com/jdxo4bc>

## **ACT govt to curtail surveillance, introduce privacy tort?**

The ACT's Justice Minister Shane Rattenbury has launched a year-long review of civil surveillance in the territory...which may lead to Australia's first law to let people sue over privacy intrusions.

Rattenbury's move is sparked by recent amendments to the Workplace Privacy Act 2011 allowing surveillance of workers outside the workplace: those changes will be put on hold pending the outcomes of the review.

"There are occasions when surveillance will be justifiable, however at all times there must be safeguards that prevent intimidation and other improper use," Rattenbury said.

"Smartphones, fitness trackers and drones are exciting developments in technology: they can also have significant implications for privacy if improperly used for surveillance. Our laws need to keep pace with their capabilities and other emerging devices to ensure individual privacy is not undermined," he said.

"The move is a first for Australia: it combines concern over surveillance with solving the problem of our eroding personal privacy rights," Civil Liberties Australia's President, Dr Kristine Klugman, said.

"One outcome could be the first privacy tort law in the nation. This is a welcome development that other jurisdictions should follow: in fact, they should join in and make the review a national cooperative initiative," she said.

The review's terms of reference will include:

- surveillance in civil litigation claims;
- surveillance businesses;
- surveillance technology and practices, such as geo-tagging;
- expansion of the Listening Devices Act 1992 to capture video surveillance and electronic monitoring;
- whether there is a need for a tort of breach of privacy; and
- discrepancies between current regulation of civil surveillance and the Information Privacy Act 2014.

Rattenbury is the only Green in the ACT legislative assembly, and is also Consumer Affairs minister. He is in the pivotal position of keeping Labor in government. For that reason, his initiatives have a reasonable chance of becoming law. An ACT election in October 2016 is not likely to change the fulcrum role of the Greens.

The Rattenbury plan is to engage an independent ACT academic to undertake the study: from the academic's "white paper", the ACT government will develop draft legislation to implement the desired outcomes.

"Rattenbury has promised the process will include plenty of opportunity for community input," Dr Klugman said. Formal notice: <http://tinyurl.com/h9pl6xl> Delimiter: <http://tinyurl.com/jre2ef8>

## **SuperMargaret calls for major police-legal-justice overhaul**

Margaret Howkins is a superma on a mission to restore truth, justice and the Australian way.

She is promoting a new petition in WA, aimed at reforming the top-heavy, bureaucratic system that supposedly reviews bad legal, police and justice actions, and ensures fairness and equity.

Howkins says the system is so faulty it's broken beyond repair. She is calling on the Speaker and Members of the WA Legislative Assembly to "convene a Multi-partisan Select Committee to audit the internal workings of Western Australia's police and other corruption oversight agencies, including the WA Corruption and Crime Commission, WA Police Internal Affairs, and the WA Ombudsman.

"They should be replaced with a single civilian oversight body, in the model of the UK's Independent Police Complaints Commission, to improve efficiency, save money and be publicly accountable.

"It is our belief that the current system of accountability is not effective," Howkins says. "As it stands, investigations into police corruption are reported and then systematically refuted. This is not for lack of meritorious complaints. Police are rarely prosecuted or disciplined for the death, assault or ill-treatment of a member of the public.

"In WA there have been a string of homicide cases where innocent people have been incarcerated for years. Criticisms include a failure to safeguard women from domestic violence assaults, a failure to enforce restraining orders and, most damning, WA leading the nation in young indigenous incarcerations. Yet not one of the existing Oversight bodies has civilian powers to enforce justice.

"An Independent Police Complaints Commission should have Royal Commission type powers; be headed by an external superior court judge; have a deputy legal practitioner with a minimum of 7 years of law practice; appointments for 5-year periods; and a completion date of 6 months for all corruption complaints.

"We ask that the WA Government take action for WA Police transparency and accountability," the petition requests. People wanting to sign the petition, or to help collect signatures of others, should email: [secretary@cla.asn.au](mailto:secretary@cla.asn.au) for detailed instructions.

"People anywhere in Australia or overseas can sign if they wish," superMargaret said. "Why would anybody of sound mind not want to support accountability and transparency where legal justice is concerned?"

## CJ wants foreign judges flown in to hear cases

Foreign judges would be flown in sit on major SA court cases, including criminal trials, under a proposal promoted by Chief Justice Chris Kourakis.

Interstate judges can already be called in, so the plan would simply extend links internationally.



Attorney-General John Rau (photo) told *The Advertiser* that judges could come from countries with similar legal backgrounds like the UK, US and Canada or, more regionally, from Singapore and Hong Kong. He said it may be valuable in cases where the state needed additional expertise not offered by local officials, or if an overseas judge were needed to avoid perceptions of a conflict of interest.

Civil Liberties Australia welcomes the idea: perhaps CJ Kourakis could ask the visiting judges to examine the 300-400 cases in SA between 1968 and 1988 that hinged on positive or negative forensic pathology findings, which are now in question. Indeed, the first case they could examine closely is that of Henry Keogh, now free after spending 19.5 years wrongfully in prison, in which Kourakis himself had a prime role which bears close scrutiny. <http://tinyurl.com/gtxayhq>

## Police deliver low blow

NSW Police last month banned Tommy Mercuri Junior, 15, from competing at a suburban boxing event, because of 'connections to bikies'.

Last month an organiser for an amateur boxing night in Sydney's received a notice from NSW Police telling him the teenager was not allowed to fight on his card. "In 23 promotions, which would total at least 600 fighters, it's the first person I've ever had removed off the card," said Scott Symons, president of 2 Blues Boxing, the group which ran the night. "To have a 15-year-old private school boy as my first actual person taken out is incredible."

When Symons contacted the police officer responsible for the ban he was told, 'he has, his father has, outlaw motorcycle gang links', Mr Symons said.

The fight was to be Tommy's first amateur bout after a year of training. It enraged his father, well-known Australian boxing trainer Tommy Mercuri Senior. <http://tinyurl.com/jbzlgvf>

## Tas logging protests laws in doubt

Tasmania Police have dropped all charges under the Workplaces (Protection from Protestors) Act against four activists, putting the Tasmanian government's anti-logging protest laws in severe doubt. The TasPol announcement last month comes after charges against former Greens leader Dr Bob Brown were dropped earlier.

The activists were charged for protesting in a Forestry Tasmania coupe earmarked for logging in the Lapoinya Forest in the state's North-West in January.

The Tasmanian Liberal government introduced the sweeping anti-protest laws two years ago to stop forestry protests.

Dr Brown and one of the other protestors, Jessica Hoyt, have a case before the High Court questioning the constitutional validity of the laws. <http://tinyurl.com/j33sq9b>

## Courts backlog worsens: efficiency gurus called in

Tasmania has launched a review of its magistrates court system because of a worsening court backlog. The Productivity Commission in January said Tasmania had the largest and longest court backlog in the nation. In the magistrates system, 32.3% of cases had been pending for more than six months and 13.8% for more than a year.

Attorney-General Vanessa Goodwin said last month that consultants KPMG would analyse magistrates courts' processes: how to improve finalisations, clearance rates, attendances and backlog indicators in the criminal, civil and coronial divisions of the magistrates court. KPMG will also examine the courts administrative systems and resources, including in-court administrative arrangements. <http://tinyurl.com/z3larjy>

## Courts to prise open door to fuller transparency, just a little

Queensland courts are to open up to the people in a long-awaited move for greater transparency.

Sentencing can be broadcast, as can witness evidence – if the judge allows – in the Supreme and District Courts. Judges will always retain the power of veto,

The state reviewed practices in other Australian jurisdictions and internationally, with studies showing that increased awareness of cases improves understanding and approval of sentences imposed. The review also identified positive aspects of broadcasting sentencing remarks, such as aiding public understanding of, and confidence in, the sentencing process.

As a result of the reports findings, the courts will develop a pilot program for broadcasting sentencing remarks and appeal hearings. As well, the court system will appoint an information officer (a media/PR spokesman) who will help develop the guidelines for recording and publishing court proceedings.

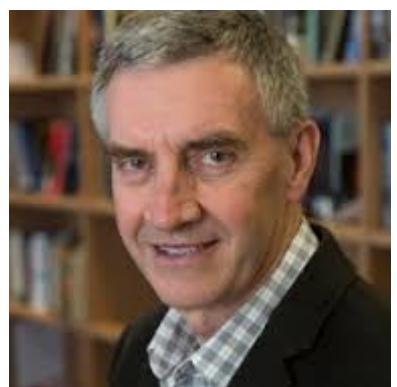
The changed policy stems from media requests to film sentencing remarks in the trial of Brett Peter Cowan for the murder of the young boy, Daniel Morcombe. There were no rules in place to allow filming. <http://media.sclqld.org.au/documents/news/Electronic-Publication-of-Court-Proceedings.pdf>

## Finnane to speak on historic prosecutions

Prof Mark Finnane (photo) will present details of his prosecution project at the Banco Court, Brisbane, on 14 July.

The project is digitising Australia's criminal justice records. Using a web portal to enable a large number of researchers and community volunteers to transcribe manual records into a database, the project is producing an enduring record of the history of policing and prosecution of criminal offences in Australia from as early as 1830 through to the 1960s.

"Prosecution project data will give new insights into the many actors within the criminal justice process – from judges and defence lawyers to



prosecutors and police, from those accused of committing crimes to complainants and victims of the harms done, from witnesses to juries,” Prof Finnane says. Details: Email: [ppevents@griffith.edu.au](mailto:ppevents@griffith.edu.au)

## 46 million people live in slavery

Walk Free Foundation, founded by billionaire miner Andrew Forrest and backed by actor Russell Crowe, released research last month that estimated almost 46 million people are living as slaves worldwide.

The 2016 global slavery index ranks incidences of slavery in 167 countries, with India having the highest number of slaves while North Korea has the highest percentage of slaves per capita. The current estimates are nearly 30% higher than the figure for 2014, which was an estimated 35.8m people.

Forrest says the rise is partially due to more accurate methodology but he also believes the number of people trapped in slavery is increasing year on year. <http://tinyurl.com/hykaulw>

## Where need is greatest, funding is least

More than five people a week were turned away from legal aid in the NT last year, and thousands more advised not to apply because they wouldn't meet the means tests.

The NT had the second lowest amount of funding in the 2016-17 Budget — about 2.27% of the total budget for the next four years. This is despite the NT having the highest incarceration rate in the country, at more than four times the national rate.

Law Society NT president Tass Liveris said there was a correlation between incarceration rates and legal aid funding. “There’s a much greater risk of unjust outcomes, also a much greater risk of inefficient outcomes,” Mr Liveris said. “Without legal representation, cases take much longer to get through the justice system.” <http://tinyurl.com/jh2ve6a>

## Australian briefs

**Brownhill gets top legal job:** Sonia Brownhill is the Northern Territory’s new solicitor-general. She replaces Michael Grant, who was appointed a Supreme Court Chief Justice in April. Ms Brownhill, who became a barrister in 2015, will be the first female Solicitor General. Attorney-General Johan Elferink said Ms Brownhill was highly regarded among the NT’s legal community and had strong credentials in constitutional law and Aboriginal land and native title law. <http://tinyurl.com/hwu2a5j>

**Brett a’ Porter:** Tasmania’s Chief Magistrate Michael Brett is to become the state’s sixth Supreme Court judge, filling the vacancy left by the resignation of Justice David Porter. Brett has been a magistrate for six years and CM for nine months. Previously, he practised in criminal, family, planning law, and other matters for 16 years in Launceston and 13 years in Queensland. <http://tinyurl.com/clyrk8>

**‘Peace’ may not be with you:** Australian Border Force is seizing and destroying a book that provides information on euthanasia and assisted suicide to the elderly and the seriously ill. *The Peaceful Pill Handbook*, by former doctor Philip Nitschke, is published in Holland: copies have been seized on arrival in Australia. People receive instead a note from the ABF which reads: “Customs prohibits importation of documents relating to suicide ... The importation of a device designed or customised to be used by a person to commit suicide is prohibited absolutely.” <http://tinyurl.com/zs8gnpd>

**Judges on merry-go-round:** WA’s general division of the Supreme Court will operate from 28 Barrack St from 11 July, joining departments of The Attorney-General’s Officer, State Solicitor’s Office and Treasury. The Court of Appeal stays put in Stirling Gardens’ 1903 building, with criminal hearings either in that building or in the Hay Street District Court Building. Will justice be better dispensed under the new arrangements? – media release, WA Supreme Court, 15 June.

**New jail law is bad law:** The NT government has passed a law so that convicted murderers can not get parole unless they reveal the location of the body of their victim. The Parole Amendment Bill prevents the parole board releasing anyone who has not “co-operated satisfactorily” with authorities. Civil Liberties Australia warns that a person wrongly convicted of murder can never satisfy the new legal requirement, a fact which the new law ignores. Just such a case, that of Derek Bromley in South Australia, is currently

before the courts on a recently-legislated, second ‘right to appeal’. Bromley has been wrongly imprisoned since 1984, unable to be paroled because he continues to affirm his innocence. – AG Elferink media release 27 June 2016.

## CLA report – key activities for June 2016

### Key admin activities:

- DFAT consultation: see report above;
- half-yearly review of CLA finances, records, history;
- Preparing for working visit to Cairns, president and CEO, visit CLA members and community leaders.

### Meetings:

- Former ACT Chief Justice Jeff Miles re CLA’s Better Justice campaign, judicial education;
- ACT Corrections Minister Shane Rattenbury’s adviser Matthew Georgeson and chief of staff Indra Esguerra re right to appeal, double jeopardy, anti-consorting legislation;
- Simon Copland, Lyn Farrand, Ruth Graham re membership;
- ACT Opposition leader Jeremy Hanson (Liberal) and adviser James Browne re right to appeal (note: ACT election is October 2016);
- Austin Ngo re web management (photo, right, with CLA CEO Bill Rowlings)



### Media:

Bill Rowlings radio 2CC interview re consorting laws (note: national media spokesperson and CLA Vice-president Tim Vines is on leave);

Rajan Venkataraman re article for *Mercury* newspaper.

### Elections:

#### Federal:

Letters sent to party leaders and key seat candidates with questionnaire re civil liberties issues;

Liaison with Australian Sex Party – note ASP advert: [http://voteasxp.org.au/?mc\\_cid=be96a48f68&mc\\_eid=81328d491e](http://voteasxp.org.au/?mc_cid=be96a48f68&mc_eid=81328d491e)

ACT: Meetings with Liberals, Greens; appointment sought with Labor.

### State/etc groups:

Tasmanian members held a meeting in late June: issues they plan to work on include:

- Government secrecy and access to information;
- Anti-association laws; anti-protest laws and access to the public space;
- Human rights protection (including an HR-Bill of Rights Act) in Tasmania;
- Treatment of asylum seekers;
- Dying with dignity and euthanasia;
- Rights of elderly and people with disabilities; rights of Indigenous, including access to education;
- Privacy and use of personal information in social media;
- Access to justice; access to abortion;
- Rights of consumers of health services;
- Same-sex marriage.

They plan to:

Contact each other (and alert the national secretary) if they see opportunities to comment on these issues (for example, letters to ministers, submissions to enquiries, articles in the media);

Look for ways to collaborate with other groups in Hobart and Tasmania: (eg, adding the CLA name and log to their campaigns, CLA members attending their events);

Work constructively with the political system (eg, meetings with ministers and opposition in the months before the Tasmanian election); and

Try to get CLA better known among key influencers (eg, at University events but also out in the wider community such as by giving presentations at Rotary and other clubs, etc).

## International

### A Trump govt could spy on YOUR computer, legally, says the US

If a downtown US bank received strange online requests for access to its accounts, your computer in Australia might be legally hacked by the FBI, according to Brett Solomon writing in *Future Tense*.

Without your knowing.

If the bank's security team suspects an attack by a botnet originating in Eastern Europe, they would call in the FBI, which would then seek a single warrant from a US judge to hack into the devices of victims of the botnet wherever those devices are located. There are 100,000 computers in the botnet, and one of them is yours.

"So the victims become the target again – this time by the US government, which at this very moment is granting itself the unprecedented power to hack into your computer without your knowledge or consent. Your personal data may be accessed and stored or your computers might be rendered unusable. And all of this will likely make you even more vulnerable to further attacks," Solomon wrote.

This year, the US Supreme Court approved a rule change that will allow US law enforcement to get a warrant to hack into users' computers and phones worldwide, expanding its hacking operations.

How the US Supreme Court thinks it has the right to legalise hacking into an Australian computer in Australia is not clear. Civil Liberties Australia believes it does not have that right, and that any putative powers possessed by the FBI under the new ruling are null.

"Now that the Supreme Court has approved the rule change, the only way to stop it is for the US Congress to pass a law to amend or render it invalid before 1 Dec 2016 when the rule enters full force and effect with massive implications for human rights around the world," Solomon says.

Perhaps a new Australian government could find some courage to stand up for Australian privacy, and tell the US that the law should not apply in relation to Australia. <http://tinyurl.com/z3blh5o>

### ODD SPOT: Donald makes every Post a loser

Donald Trump's presidential campaign has pulled the reporter credentials provided to the *Washington Post* because their coverage of him was "inaccurate". Trump wrote on his Facebook page: "Based on the incredibly inaccurate coverage and reporting of the record setting Trump campaign, we are hereby revoking the press credentials of the phony and dishonest Washington Post." He has also banned *Foreign Policy*, *The New Hampshire Union Leader*, *Politico*, *the Des Moines Register*, *BuzzFeed News*, *The Huffington Post*, *Univision*, *the Daily Beast*, *Fusion*, *Gawker* and others. With four months to election day, it is feared only *Pravda* and the *Pyongyang Times* may be left to report on the Trump campaign come November. <http://tinyurl.com/hpcymtp>

### Prisoner, jailed at 15, may be freed after 63 years

Joe Ligon has spent almost 63 years in a Pennsylvania prison for his role in a 1953 murder when he was 15: at the time, the mandatory sentence for murder was life without possibility of parole.

Ligon, now 78, has served more time than anyone else in Pennsylvania, and perhaps in the USA. But he may soon be freed.

The Philadelphia district attorney, Seth Williams, announced last month that his office would seek new sentences for all of the 300 or so prisoners who have been serving sentences of mandatory life without parole for homicides they committed as juveniles. The new sentences would fall between 20 and 35 years, depending on the seriousness of the crime, after which the defendants will have a chance at parole.

In 2012 the US Supreme Court barred mandatory sentences of life without parole for juveniles convicted of homicides. <http://tinyurl.com/zjst7wu>

## Supreme Court endorses abortion right

The US Supreme Court has struck down a Texas law placing a raft of restrictions on abortion clinics, handing a major victory to the "pro-choice" camp in the country's most important ruling on the divisive issue in a generation.

The judges ruled 5-3 to strike down so-called "clinic shutdown" laws which activists say have forced more than half of abortion clinics to close in the second most populous US state. The vote was unusual in that the conservative Anthony Kennedy sided with his four liberal colleagues on the bench.

President Barack Obama joined civil rights activists and women's health providers in hailing a milestone for abortion rights, an issue now set to be thrust to centre stage in the White House race. "Every woman has a constitutional right to make her own reproductive choices. I'm pleased to see the Supreme Court reaffirm that fact today," Mr Obama tweeted. <http://tinyurl.com/h3yjum>

## ODD SPOT: Judge denied services of lawyer appeals to chief judge



A judge in the UK facing a disciplinary hearing this month says he is being denied a fair hearing because he cannot be legally represented or call witnesses.

Judge Peter Herbert, a special judge in several categories and chair of the Society of Black Lawyers, has written to lord chief justice, Thomas of Cwmgiedd, objecting to the proceedings of the judicial panel, which is due in July 2015 to deliberate on remarks he made about racism and the judiciary.

In a speech at a rally in east London last year, Herbert commented negatively about the decision to bar the former mayor of Tower Hamlets, Lutfur Rahman, from holding public office for five years and claimed that racism was present in parts of the judiciary.

He said in the speech: "Racism is alive and well and living in Tower Hamlets, in Westminster and, yes, sometimes in the judiciary." His speech is alleged to amount to judicial misconduct because it strayed into commenting about politics, conflicting with his duty to show impartiality.

Separately, Herbert is suing the Ministry of Justice for race discrimination. <http://tinyurl.com/hqgeh9m>

## No bail one day, free as a bird the next

The National Court of PNG last month was reported to have refused bail for lawyer Felix Kange on a Friday...before he apparently escaped from detention over the weekend.

Kange is alleged to have shot his wife, the late Regina Morove, at the family home on 14 May. A bullet apparently was fired into her mouth, and exited the back of her head, according to reports. He was arrested and charged with one count of manslaughter on 2 June.

Some commentators have observed that the charge is odd for such a mode of death, and social media has carried allegations of possible bribery and corruption.

Justice George Manuhu refused bail for the 39-year-old, who is also the principal lawyer of Kange lawyers.

Justice Manuhu said it was unusual that witnesses to the shooting of Regina Morove had returned to Australia in the midst of police conducting their investigation.

"If it is an accident, how is it that the bullet was shot through the victim's mouth? The case, it seems to me, has not been investigated properly and has to be properly investigated," he told the court.

Other grounds for bail relied on by Kange such as his cooperation with police, the fact that his weapon was handed over to police, his business, the welfare of his child and his assistance in the "haus krai" (mourning rites) of his late wife were all refused by the court. "It is in the interest of justice to refuse bail," the judge said.

Kange was not present in court on the Friday when the bail application was moved and again early in the next week when the decision on bail application was handed down. Meanwhile, it was brought before the attention of the court that Kange has escaped from police custody. Public Prosecutor Pondros Kaluwin told the court that Kange was let out of the Waigani holding cells over the weekend.

In a subsequent hearing before Waigani Committal Court late last month, his case was adjourned to 7 July because he was “medically unfit to be arraigned”. Social media was questioning why he was being held in the Waigani police cells instead of Bomana main prison.

The case appears to have much more to offer media and social media before being finalised. <http://tinyurl.com/jpumkfw> and <http://tinyurl.com/zre8vc5>

### **Book review: EXPOSED Desire and Disobedience in the Digital Age**

*Bernard E. Harcourt, Harvard U. Press, Nov 2015, about \$50, ISBN 9780674504578*

“The most socially alarming effect of the digital revolution is the state of continuous surveillance endured, with varying levels of complaisance, by everyone who uses a smartphone. Bernard Harcourt’s intellectually energetic book Exposed surveys the damage inflicted on privacy by spy agencies and private corporations, encouraged by citizens who post constant online updates about themselves... Harcourt describes a new kind of psyche that seeks, through its exposed virtual self, satisfactions of approval and notoriety that it can never truly find. It exists in order to be observed.”—Edward Mendelson, *The New York Review of Books*

“This compelling study reveals a radically new form of power to which we freely expose ourselves in a world in which state, economy, and society are no longer separate spheres. Harcourt’s vision of this new digital age stands out for its sweep, its vividness, and its analytical precision.”—Steven Lukes, New York University. <http://tinyurl.com/gqq8fbt>

### **ODD SPOT: Clique in the hand is worth two in the ‘book**

Belgian police are discouraging citizens from using Facebook’s new six-pack of reaction buttons. It explains that giving Facebook data about your opinions and mood allows the company to serve you ads based on what it thinks you will be most receptive to seeing in a particular moment or on a particular day. A Facebook click can compromise your privacy down the track. <http://tinyurl.com/h2c3brr>

### **CIA’s torture revealed in evidence**

Abu Zubaydah has described in broken English how he was tortured in the CIA’s black-site prisons.

He said his body had shaken when he stood for hours, naked and shackled in a cold room and unable to shift his weight to an injured leg. He spoke of his humiliation at having to relieve himself in a bucket in front of other people, “like an animal.” And he described being waterboarded until he stopped breathing and required resuscitation.

“They shackle me completely, even my head; I can’t do anything,” Mr. Zubaydah said. “Like this, and they put one cloth in my mouth and they put water, water, water.” At the “last point before I die,” he said, interrogators stood the board back up and “make like this” — he made breathing noises — “again and again they make it with me, and I tell him, ‘If you want to kill me, kill me.’”

Mr Zubaydah’s testimony was contained in newly declassified transcripts of military hearings for the CIA’s former prisoners. The government disclosed the accounts last month in response to an FOI suit by the American Civil Liberties Union. <http://tinyurl.com/h55pdoa> via Ted K.

### **International briefs**

**Prison violence rises:** There have been six murders and 100 suicides in prisons across England and Wales in the past 12 months – the highest levels for at least 25 years, official figures have revealed. A growing tide of violence and despair inside prisons has seen assaults rising 27% to more than 20,500. A total of 9458 prisoners – one in 10 – are reported to have self-harmed in 2015, with a 25% rise in reported incidents of self-harm to more than 32,000. The prison population has remained stable at 85,500 over the same period. <http://tinyurl.com/hzzgqka>

**Bishops to become responsible:** Catholic bishops who fail to sack paedophile priests can be removed from office under new church laws announced by Pope Francis last month. The move meets a long-running demand by victims of abuse to make bishops responsible if they fail to stop clergy sexually abusing parishioners. <http://tinyurl.com/jyc2s9s>

**US unsocial about online presence:** US government border authorities are proposing that millions of tourists entering the country each year reveal their social media identities. US Customs and Border

Protection announced last month it proposed to add a line to the online or paper form that US-bound visitors must fill out if they don't have a visa and plan on staying for up to 90 days for holidays, business, or other affairs. The agency says travelers to the US under the Visa Waiver Program won't be forced to disclose their social media handles, but leaving it blank obviously could raise red flags. <http://tinyurl.com/z5006cq>

## DATES

**30 June- 2 July, Canberra:** 24th ANZIL conference: International Law of the Everyday – Fieldwork, Friction and Fairness. Details: <http://tinyurl.com/jzbl58h>

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

**14-16 July, Dili** Timor Leste: Keynote address by Justice Stephen Gageler, organiser NT Bar Association, at Timor Plaza Hotel. Info: <http://ntba.asn.au/dili-conferences/2016-2/>

**21 July, Melbourne:** 'Political Libels and the Conscription Referendums of the First World War', Prof Mark Lunney, School of Law, U. New England, Armidale. 6-7pm, G08 Melbourne Law School Details: <http://tinyurl.com/gwamjtt>



**21-22 July, Brisbane:** National administrative law conference, Convention Centre, Brisbane. Email: [aial@commercemgt.com.au](mailto:aial@commercemgt.com.au)

**28 July, Perth:** Out of Bounds? Photographing Australian Border Crossings. Public lecture by Prof Jane Lydon, Wesfarmers Chair of Australian History at University of Western Australia, Fox Lecture Theatre, Arts Bldg, 6-7pm. <http://www.ias.uwa.edu.au/lectures/janelydon>

**2 Sept, Canberra:** ACT Bench and Bar Dinner. Guest speaker: Chief Justice of the NSW Supreme Court Tom Bathurst. Details: Email: [ceo@actbar.com.au](mailto:ceo@actbar.com.au)

**13-15 Sept, Canberra:** State of the Pacific, annual conference at ANU on research and policy in the Pacific. Details: <http://tinyurl.com/zdbbfuy>

**16 Sept, Sydney:** Commercial Law and Government, NSW State Library, 9-5pm. Details: <http://tinyurl.com/z7aq36t>

**18-23 Sept, Auckland NZ:** 23rd Intntl Symposium on Forensic Sciences. Details: [www.anzfss2016.org](http://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>

**2-6 Oct worldwide:** Highlighting Wrongful Convictions

**8 Oct Brisbane:** Caxton Legal Centre 40th anniversary, Tivoli Theatre. Details: <http://tinyurl.com/hzudsik>

**18-21 Oct, Melbourne:** 17th National Family Law conference, Law Council of Aust. Info: <http://tinyurl.com/guqynnc>

**24 Oct, Western Sydney (Parramatta):** The Invention of Collateral Damage: launch of public project into the processes creating a moral distinction between deliberate harm inflicted on non-combatants, and non-intentional harm as an inevitable side effect of modern warfare. Western Sydney U, Female Orphan School, Parramatta campus. Details: <http://tinyurl.com/zhlqqtq>

**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.

## 2017:

**23-25 March, Adelaide:** National Access to Justice and Pro Bono Conference, Law Society of SA. Info: <http://www.lawsocietysa.asn.au/na2jpb2017>

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*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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