

## **Odd alliance stands up for human rights over extradition...at last**

Good to see now-independent Senator Cory Bernardi and a small number of Liberals in their party room worried about human rights in extradition agreements, particularly in relation to China.

That first unlikely alliance joined the Labor Party and others seriously concerned about potential human rights abuses – at last.

Civil Liberties Australia has been warning the parliament's Treaties Committee about serious problems with extradition since early 2008: <http://www.cla.asn.au/News/extradition-needs-detailed-consideration/>

At that time, we were also warning about the dangers of Australia exporting people to be judged, convicted and sentenced under sharia law. The CLA warning came long before anyone else was warning of the potential problems for people in Australia being given up by our government to punishments that could include the death penalty, amputations or other horrendous outcomes.

The problems first became obvious with the Indonesian arrest – prompted by inappropriate Australian Federal Police exchange of information with Denpasar police – of the Bali Nine in April 2005. Two of the nine were executed by Indonesia in April 2015.

We also warned that Australia was abandoning its responsibilities by handing people over to other governments...but not following up to see what happened to them, and not checking whether other governments kept their pre-handover promises.

To their credit, the Treaties Committee appreciated the dangers, and suggested that the Foreign Affairs and Attorney-General's departments change their practices, and that the Australian Federal Police guidelines be changed. But, under a Labor government, the bureaucracy resisted.

The China extradition treaty was of concern around the same time. It was signed in 2007 under a Liberal government, but not tabled in parliament until 2016, when the Treaties Committee began examining it.

The government is reported in late March to have withdrawn the China extradition treatment from a parliamentary vote – for now. <http://tinyurl.com/k4pcdt8>

But, CLA warns, this issue is much bigger than just China: Australia's extradition rules have been inadequate for a decade, and the entire area of extradition, as well as how we consider and decide on treaties like the Trans Pacific Partnership, need thorough review.

## **We should seriously consider human rights in all treaties, including trade, CLA says**



CLA member, Kay Danes OAM, has pointed out that the Department of Foreign Affairs and Trade frequently has its priorities wrong in negotiating treaties.

The author and international prisoner advocate for Australians – herself unreasonably jailed in Laos in 2000 – is outspoken about changes needed in DFAT operations.

“I think that in any trade negotiations our government should also consider three important issues: Prisoner Transfer Agreements, Death Penalty and Mutual Assistance Schemes,” Danes said

“I have been arguing this for years and not simply to protect the rights of Australian criminals who are arrested overseas, but for all Australians. There are quite a few who have been detained unlawfully. I also have concerns about the information exchange where the death penalty has not been taken off the table.”

## **ASIO wants control over internet in Australia**

A new law likely to be endorsed this month could see the government shut down the internet.

The Telecommunications and Other Legislation Bill 2016 follows other data retention requirements introduced in 2015. The joint committee on intelligence and security held hearings last month, and is due to report this month.

The government says the new law is needed for security reasons. But Australia's peak telecommunications bodies and individual telcos have raised objections, among them:

- internet providers would have to reveal details about their business decisions, internal operations and IT infrastructure;
- the new powers would allow the attorney general to shut down telecommunications services in circumstances where they are “prejudicial to security”;
- providers would struggle under the cumulative weight of data retention, mandatory breach notification, copyright laws and the latest security measures.

Paul Farrell, writing in the *The Guardian*, said Australia’s internal spook agency ASIO is driving the push for greater access to telecommunications infrastructure, in the same way it drove the push for mandatory data retention. <http://tinyurl.com/ludm29e>

## **Lobbying MPs try to weasel spooks and police out of paying their fair share**

The government efficiency dividend – imposed annually on all departments and agencies – should be removed from all three of the Security Intelligence Organisation ASIO, the Secret Intelligence Service ASIS and the Australian Federal Police, AFP.

Guess who says so? The Parliamentary Joint Committee on Intelligence and Security (PJCIS), chaired by former SAS soldier, Andrew Hastie (Liberal, Canning WA). This is the body supposed to “oversight” the spook and police agencies. In fact, it acts as a de facto lobbyist for them, as this outburst shows.

Mr Hastie said that “while the funding pressures faced by agencies were reduced somewhat during 2014–15 by the additional funding to support counter-terrorism capabilities and other initiatives, ASIO and ASIS continued to face pressure in other areas”.

There, there, poor dears. If everyone else has to pay the “dividend”, they too should live in the real world, like “proper” departments and agencies, CLA says. – media release, PJCIS, 2 Mar 2017. <http://houseofrepresentatives.cmail19.com/t/d-l-hijydht-yduiydlrh-y/>

## **The government’s data holding are increasingly the enemy of the people**

**Case No 1:** People pursued by Centrelink over its controversial "robo-debts" are being denied the protection of Australian consumer law, a Parliamentary inquiry was told last month.

Centrelink is exempt from laws and guidelines covering debt collection by private businesses, "even the much maligned banks", according to the chief executive of Victorian community organisation Family Care, David Tennant. But Centrelink says that it, and the private sector debt collectors hired to pursue its clients, are compliant with legal requirements.

Mr Tennant, who has a background in consumer law, says much of Centrelink's activities chasing millions of dollars in "robo-debt" would be illegal if done by a non-government player. <http://tinyurl.com/jtdhtxc>

**Case No 2:** The Australian Tax Office has been sprung bending rules to find out how slabs of staff voted.

The ATO gave details of its own workers to private firm Orima – names, email addresses, locations of work and pay grades of each of its 19,000 employees – without their knowledge or consent.

The information could be used to build a picture of which groups within the ATO were likely to support or oppose the agency's industrial relations agenda.

Unions are crying foul, and referring the ATO to the Privacy Commissioner. <http://tinyurl.com/hcyatjn>

## **From ‘stellar career’ to ‘headless chook’: has shooting star become dumb cluck?**

The man in charge of the Productivity Commission's inquiry into access to justice has criticised Attorney-General George Brandis for attempting to influence the outcome of the review.

Former Productivity Commission commissioner Warren Mundy, who conducted the review between 2013 and 2014 into the legal system including class actions, described the behaviour of the Attorney-General's office before and after the commission issued a draft report of the inquiry as inappropriate. Senator Brandis has denied Dr Mundy's allegations.

The access to justice inquiry by the commission looked at a range of legal issues, including legal aid funding, access to legal services and class action funding, Sarah Danckert reported in *Fairfax Media*.

During the inquiry and after the draft report was released Mr Brandis appeared in a series of media articles threatening a crackdown on litigation funding despite the review not being finalised. "At one point during our inquiry Brandis was running around like a headless chook," Dr Mundy told *Fairfax Media*.

"There was some fairly inappropriate conduct. We were coming under some pressure to validate the Attorney-General's prejudices. And I call them prejudices because they had no basis in fact other than his stellar career at the Brisbane bar." <http://tinyurl.com/k8gotdy>

We think Mr Mundy's reference to "stellar career at the Brisbane bar" was said facetiously. Political observers believe Mr Brandis will retire-resign or laterally arabesque out of parliament in the near future.

## **Time for more Bills of Rights, particularly national legislation?**

With Queensland committed to legislating for a Bill of Rights, it is time the federal government brought the issue back on the agenda, Civil Liberties Australia says.

"We have already had a full and proper national consultation, in 2009," CLA's CEO Bill Rowlings said.

"After more than 60 public meetings throughout Australia, there was a very strong recommendation that we should have a Bill of Rights. But the then Labor federal government squibbed the issue."

He said that in April 2009 a gathering of Australia's most eminent lawyers – convened by the Australian Human Rights Commission – unanimously agreed it was possible to draft a 'human rights act' (also known as a bill of rights) that would be constitutionally valid. <http://tinyurl.com/kpyrqcw>

There are bills of rights in the ACT and in Victoria. Queensland's is expected this year. Pressure is on in Tasmania (helped by CLA) to enact a bill of rights there in 2018, and WA now has a chance under a new Labor government to reconsider the question, after an earlier robust consultation under former federal Liberal Fred Chaney came out in favour of one for the state.

## **Judge lashes 'handwringers' and 'un-corrections department'**

A District Court Judge has delivered a stinging criticism on the "handwringers in Canberra" and the "so called Department of Corrections" over their handling of Aboriginal offenders.

WA Judge Phillip McCann said the prison system was a "failure" and the way in which Aboriginal people were dealt with was nothing short of an "international disgrace," Phil Hickey reported in *WA Today*.

Judge McCann made the scathing comments last week in the WA District Court as he sentenced Daniel Joshua Ward, an Indigenous man, to 12 years jail for raping a 61-year-old woman in Meekatharra last year. Ward was on bail at the time and had been jailed previously on five separate occasions.

"There's no doubt that he will not receive any rehabilitation whatsoever in our prison system because our prison system is a failure," he said.

Judge McCann said if he had the power to do so, he would have the Pilbara join the Northern Territory and become a separate state.

"The people in Kununurra they don't care about Perth, they get no help from Perth," he said. "If I had my way the Pilbara would join the Northern Territory and become a separate state governed out of Darwin."

Judge McCann said he had come to the conclusion, after working in Port Hedland, that what was happening to Aboriginal people in a country as rich as Australia was an "international disgrace." "Existing settings have done nothing to protect the community," he said. "Anyone who thinks existing settings are closing the gap, or protecting the community is lying to themselves and I'm sure our complainant in this matter does not feel that she has been particularly well-served by the handwringers in Canberra. It is action that is required, not words.

"Aboriginal people should be supported on their land if they choose that lifestyle. If they choose an urban lifestyle, they should be supported in an urban environment. "The Mr Ward's of this world are given no help doing either and the community is rendered unsafe as a result."

Last October the Federal Government announced the Australian Law Reform Commission (ALRC) would investigate Indigenous incarceration rates.

In announcing the inquiry, Attorney-General George Brandis said in 1991 Indigenous Australians made up 14 per cent of the nation's prison population. By 2015, it had increased to 27 per cent. <http://tinyurl.com/hqrtwyb>

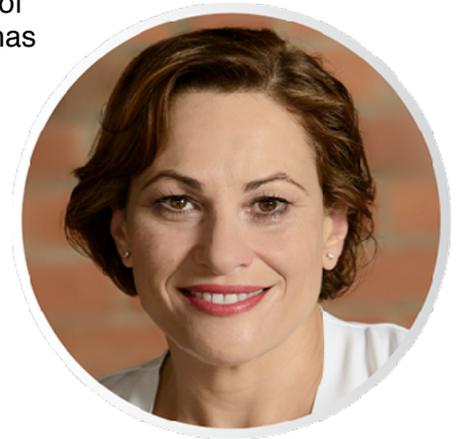
## **ODD SPOT: Abortion reform: Qld favours withdrawal method**

Abortion reform in Queensland has officially failed, temporarily, with independent member for Cairns Rob Pyne withdrawing his Private Member's bills.

The Labor government has referred the current laws around termination of pregnancy to the Queensland Law Reform Commission for advice, and has committed to bringing a bill into the next term of Parliament.

The recent withdrawal was a tactical manoeuvre. Deputy Premier Jackie Trad (photo) said both bills would have failed. "What is available to the government and the women of Queensland now is that we refer this to the QLRC, consider any recommendations that are made and bring back a bill in order to modernise Queensland's abortion laws."

Ms Trad said she was personally passionate about the issue. "I don't believe that laws that were drafted in 1890, particularly in relation to women and the agency of their bodies, have a place in 21st-century Queensland. I think we can do better by the women of Queensland," she said. <http://tinyurl.com/jr3xofv>



## Greens push for pill testing in national capital

MLA Shane Rattenbury, a Minister in the ACT government, has announced his party, the ACT Greens, are petitioning cabinet partners to introduce pill-testing at music festivals to try to eliminate drug mishap deaths. Rattenbury wants a government-supported trial, which would be a first for Australia.

The ACT has had no deaths from overdoses at music festivals. In Melbourne this year 20 people were left fighting for their life after one festival, while in NSW two Hunter region men were also "cooked from the inside" after overdosing on synthetic drugs.

President of the Australian Drug Law Reform Foundation, Dr Alex Wodak, said he hoped ACT politicians "plucked up the courage" to introduce a trial. <http://tinyurl.com/jky2sho>

## CLA warns over consorting negativities

Civil Liberties Australia vice president Tim Vines publicly criticised the secret processes police use to categorise people prevented from being represented in court, just as CLA was privately providing detailed background information to the ACT Police Minister on why consorting laws are dangerous – to police.

Vines, "a vocal opponent of anti-consorting laws" according to the *Canberra Times*, told the newspaper last month that his biggest concerns with fortification laws revolved around the process used to determine a property was being used by bikies and for unlawful activity.

He said police would typically prepare an intelligence brief on an individual or group before that information was used to obtain an order from a magistrate, usually in a closed court hearing, for the fortifications to be removed. "All of that can be done without the individual, or individuals', knowledge and without them having an opportunity to challenge that evidence in court," Mr Vines said.

Meanwhile, CLA was formally warning Police Minister Mick Gentleman that proposed consorting laws – being pushed by ACT Policing, an arm of the Australian Federal Police, and the misnamed "law and order" advocates – were in fact contrary to the rule of law, inappropriate to the human rights-based society in the national capital, and a danger to police as well.

In a letter on the proposal, CLA pointed out that virtually every Royal Commission into police throughout Australia for the past century had sheeted corruption in police forces directly to consorting and vice squads. In Queensland, NSW and WA, RCs into such corruption had forced each jurisdiction to introduce a crime and police corruption body, such as the Corruption and Crime Commissions in Queensland and WA.

In 2004, WA Royal Commissioner, Judge Geoffrey Kennedy, pointed out:

A recurring feature of the matters considered in the hearings of the Royal Commission was inappropriate associations by police with persons who were suspected of involvement in crime. Often such inappropriate associations had been maintained over a lengthy period without being detected or disclosed. (p155)

## Neill-Fraser case stumbles on

Sue Neill-Fraser's bid for a new appeal stumbles on, with the next court date 23 May at 10am.

There will be four to five days of legal argument about what may and may not be admitted in the substantive case, which is due to begin at 10am on Monday 24 July in Hobart Supreme Court.

Observers believe the new judge, Michael Brett, has brought a breath of fresh fairness to presiding, given he has not sat on any previous SNF case, unlike the previous judge, Shan Tennent.

Tennent originally approved secret surveillance on SNF before she was charged, then sat on the Court of Criminal Appeal which rejected cogent arguments and produced illogical rulings.

By late July, Neill-Fraser will have served nearly eight years of a 23-year sentence (13 non-parole) for murdering her husband, who disappeared overnight from a yacht moored at Sandy Bay when he was the only person known to have been on board. His body has never been found.

Civil Liberties Australia believes she is among 500 innocent Australians wrongly in jail for major crimes.

## **Long-serving, civilib supporting MP quits party**

Long-serving SA Labor backbencher – and strong supporter of civil liberties – Frances Bedford has quit the party after failing to gain preselection for her traditional safe seat in the 2018 election.

Ms Bedford has held the safe Labor seat of Florey, whose boundaries have shifted recently in a redistribution, since 1997.

Her defection reduces the number of Labor MPs in the 47-seat parliament to 23: the government will maintain a majority due to the continued support of independents Martin Hamilton-Smith and Geoff Brock, who both serve as ministers.

If Bedford decides to not stand as an independent at the 2018 election, we hope she will take up a role in civil liberties. <http://tinyurl.com/mgw8yt3>

## **NT moves to better train its youth detention staff**

Training is under way for 25 new recruits who will become youth justice officers in the NT's notorious Don Dale Youth Detention Centre in Darwin and the Alice Springs Youth Detention Centre.

The NT's Minister for Families, Dale Wakefield, said they are receiving six weeks of specialist training to promote rehabilitation of young detainees and reduce future reoffending.

"Their main role is to provide supervision, guidance and support to young people in detention to help them get on a better path. They will be actively involved in a range of rehabilitation programs with the young detainees that include life skills, training, education and personal development," the Minister said.

When released, they would continue to receive supervision from 52 new youth diversion workers that are part of the \$18.2m overhaul of the "broken youth justice system", she said:

Current officers working in the two centres will also undergo the additional training.

On completing the training, 12 recruits will join the Alice Springs centre and 13 the Don Dale centre.

The 25 include the highest ever intake of females, 11 (6 in Alice Springs, 5 in Darwin), 12 of whom are Indigenous. – media release, Min. for NT Families 170315, contact: Aimee Cadan 0400 277 244

## **Women have greater choice of legal abortion services**

New laws in the NT from April 2017 will improve safety and choice around pregnancy termination, according to Health Minister Natasha Fyles (photo).

The new legislation, passed in March, gives NT women access to the same medical services available elsewhere in Australia, including to medical termination drugs, like RU486. The new laws mean:

- terminating pregnancy no longer must be done in a hospital – day surgeries and specialist clinics may be used;
- using drugs like RU486 may also be done out of hospitals;
- qualified doctors (other than obstetricians and gynaecologists) may provide termination services for pregnancies under 14 weeks;
- doctors and other health staff who conscientiously object to involvement in a termination of pregnancy must refer women to a doctor who can provide these services;
- there will be safe access zones around buildings where termination of pregnancy services are provided, to prevent attending women being harassed and to protect people working there; and



- various criminal offence provisions under the *Criminal Code Act* will be brought up to date.– media release, Minister, 22 March 2017

## Australian briefs

**Justice delayed:** Tasmanians wait longer for justice than anywhere else in Australia, with courts averaging 35 weeks to finalise a case compared to a national average of 15 weeks. Delays exist in the Supreme and Appeal courts and the Magistrates and Children's courts, according to the Australian Bureau of Statistics. Law bodies want a seventh full time judge to be appointed in the Supreme Court, but in a move of dubious quality, CLA says (see CLArion March 2017), the government has appointed four temporary judges to try to ease the backlog. – *Hobart Mercury*, 6 Mar 2017

**'Expert' pair question Murdoch's conviction:** Two self-proclaimed experts last month claimed on Ch 10 program *The Project* that convicted killer Bradley Murdoch may not have murdered English tourist Peter Falconio in Australia's interior in 2001. They base their claim on DNA doubts raised by retired Newcastle professor Barry Boettcher, whose evidence 30 years ago helped to overturn the guilty verdict in the Azaria Chamberlain case. He said was not certain Murdoch was involved in the disappearance of Peter Falconio. The two 'experts' on the case are former criminal lawyer Andrew Fraser, who was once jailed for five years for importing cocaine, and his business partner, crisis manager Victor Susman. The pair questioned the validity of testimony given by Falconio's girlfriend Joanne Lees. <http://tinyurl.com/l54jj65>

## Comment by members:

### Enlightenment of equal treatment leads to liberties

The genes issue was interesting reading: I recalled the work of Dr William John Little (1810-1894) in which he established that some children considered imbeciles at the time, because of their infirm musculature and poor co-ordination, were in fact intelligent in the intellectual sense. One of my special friends – plucky, intelligent and with a well developed sense of humour – lives with cerebral palsy. She most certainly would have felt the sting of society's rejection before the efforts of Dr Little and his colleagues.

His work not only revolutionised life for these people, but has lifted the bar on civil liberty and fairness for the whole society. None of us would like to lose this enlightenment. As technology develops, should not his work be extended to include all brain functions, including such faculties as social judgement?

Ignorance is an impediment to both justice and the creation of a society where civil liberties are treated with respect. So research on behavioural problems, injury due to birth trauma and gene technology can all help to build a better society. – Doreen Moulds, WA.

## CLA report – main activities for March 2017

The main activity for March has been running the annual general meeting, which is handled electronically for the vast majority of members, but also by post for some 20 or so members, and preparing for a formal Civil Liberties Australia visit to Perth.

**Declaration of CLA AGM ballot 2017:** Nearly 60% of eligible members of CLA voted, which is an excellent measure of involvement by members. The annual report (including the financial report) was unanimously supported by those who voted, while the president's report drew three dissenters, one at least due to comments about unwanted pregnancies

There were fewer nominations than vacancies for the board: eight members were returned. They are: Jennifer Ashton, Frank Cassidy, Richard Griggs, Mark Jarratt, Kristine Klugman, William Rowlings, Rajan Venkataraman and Timothy Vines. The president and office bearers are elected by the board at its next meeting. The board wishes to publicly record its appreciation for the work of retiring Treasurer Phil Schubert, who has served on the Board since 2019 and as Treasurer since January 2011.

**Perth visit:** Preparation has begun for a series of meetings in Perth in May. A new (Labor) government was elected in March 2017: CLA anticipated there might be a changed attitude to some key issues, such as the possibility of enacting Right To Appeal provisions which apply in SA and Tasmania, and are under consideration in the ACT, and setting targets to reduce the number of juvenile Aborigines in jail.

**Meetings:** The final in a series of meetings with ANU law academics was held with Dr Tony Foley. The series of meetings with new MPs elected in 2016 ended temporarily with Susan Lamb, Labor MHR for Longman, covering the northern outer suburbs area of Brisbane, Queensland,

*Photo: Longman MHR Susan Lamb and CLA President Dr Kristine Klugman.*



Networking meetings were held with member Anna Landon and Associate Professor Jacqui Ewart of Griffith U. in Brisbane over a program she is managing to educate journalists Australia-wide about reporting Muslim issues.

Meetings also took place with two of CLA's most senior members: Dr Helen B Wiles (94) and Keith McEwan (nearly 91). We continue to maintain postal correspondence with Sue Neill-Fraser and Paul Wilson.

**Under way:** Revising the CLA web site, and investigating whether a more modern membership joining and renewal system is possible. The board is seeking a new Treasurer, with the Secretary likely to revert to covering both jobs, as was the case a decade ago.

**Media:** Consorting: The ACT has been considering enacting consorting legislation. CLA VP Tim Vines provided a backgrounder and quotes for the *Canberra Times* on anti-fortification laws (part of anti-bikie laws, and usually connected to consorting provisions). CLA also provided a detailed briefing letter for former CLA member, now Minister for Police and Emergency Services in the ACT, Mick Gentleman.

In Tasmania, CLA member Greg Barns wrote in his weekly *Mercury* column in praise of the efforts of CLA Tasmania Director Richard Griggs' efforts in forging a broadly-based consortium to promote a bill of rights to – and seek commitment from – all candidates standing for the expected early 2018 State election.

## INTERNATIONAL

### Low social rank is a danger to your health

Some 56 million people died in 2015, many prematurely and most (71%) from non-communicable diseases (NCDs), *The Lancet* reported last month.

Yet NCDs were absent from the UN Millennium Development Goals (MDGs), which expired in 2015.



Silvia Stringhini (photo) and colleagues, writing in the medical magazine, argue that the currently identified seven risk factors are not enough. Instead, they want authorities to consider an additional (eighth) risk factor: low socioeconomic status (social rank).

Having low social rank means being powerless to determine your own destiny, deprived of material resources, and limited in the opportunities open to you, which – the authors imply – shapes both your lifestyle and your life chances, Martin Tobias writes in *The Lancet 25 March 2017 edition*.

“In fact, intervening on social rank will itself partially address the challenge of unhealthy lifestyles. Moreover, upstream interventions (eg, earned income tax credits, universal early childhood education) are likely to be pro-equity, whereas more downstream interventions (eg, smoking cessation assistance, dietary advice) typically favour the privileged (who generally find it easier to access material and social support for behaviour change),” Tobias writes.

“Stringhini and colleagues base their argument not on political ideology but on rigorous science: an original multicohort study of 1.7 million adults followed up for mortality (all cause and by cause) for an average of 13 years.

“All risk factors (low occupational class, physical inactivity, high alcohol intake, current smoking, obesity, diabetes, and hypertension) were measured with the same relative precision, enabling fair comparison as predictors of mortality.” <http://tinyurl.com/k254pg7>

## **‘Ban cars better solution than more surveillance’**

The ink has only just dried on the UK's Investigatory Powers Act—the most powerful digital surveillance law in the western world—but British Home Secretary Amber Rudd still isn't satisfied.

She has declared that strong encryption is "completely unacceptable" and should be outlawed, and that the authorities must have access to messages sent through encrypted platforms such as *WhatsApp*, Sebastian Anthony writes in *Ars Technica*. <http://tinyurl.com/kuaplv6>

“It would be more effective – and easier to police– to just ban cars from driving on roads, or at least make people pass a full background check before renting a car,”

The real problem, CLA says – identical to the situations in the French, Belgian and Sydney Lindt Cafe killings – was and is that the perpetrators were “known” to police. The first proposed remedy should be for an approach that means police keep closer watch on people they have, at some stage, identified as potentially dangerous.

## **China moves toward national civil code**

President Xi Jinping is reviving the idea of a national civil code as he remakes China's justice system.

His government last month embraced the code as a tool to fight corruption and fickleness in the courts, as well as to formalise state power on issues as varied as free speech and parental responsibility.

Zhou Guangquan, a lawmaker and a professor at Tsinghua University in Beijing, dismissed concerns that the government was not interested in protecting individual rights. He said it was essential to update China's civil law, which has its roots in German law and was last significantly revised in the 1980s, before economic and social transformations. <http://tinyurl.com/groc5k7>

## **Burden of proof to be turned on its head**

Mexico is about to debate a proposed legal system change which academics say will broaden the power of the government to detain suspects for years before trial, enable the police to rely on hearsay in court and potentially allow prosecutors to use evidence obtained by torture.

The bill would also turn innocent before proven guilty on its head, requiring concrete evidence of reasonable doubt, essentially shifting the burden of proof to the accused.

The bill is part of a broader packet of changes. The governing party and other lawmakers have also submitted several versions of a separate law that would legalise the army's enforcement of domestic security, a role the military has played without a legal mandate since the drug war began a decade ago.

During that time, torture and extrajudicial killings have soared. According to the government's own data, the military kills far more combatants than it injures. The elite marine forces, for instance, kill 30 people for every person they injure, a ratio that experts say points to a high likelihood of extrajudicial killings.

In Mexico, 98% of homicides go unsolved. <http://tinyurl.com/mokbuf1>

## **Justice may be blind, but it isn't colour blind**

Black people convicted of murder or sexual assault are significantly more likely than their white counterparts to be later found innocent of the crimes, according to a review of nearly 2000 exonerations across the USA over almost three decades.

Innocent blacks also had to wait disproportionately longer for their names to be cleared than innocent whites, the review, released last month by the US National Registry of Exonerations, found. Blacks wrongfully convicted of murder, for example, spent an average of three more years in prison before being released than whites who were cleared.

When it comes to murder, black defendants account for 40% of those convicted, but 50% of those wrongfully convicted, they found. Whites accounted for 36% of wrongfully convicted murder defendants.

Only about 15% of all murders committed by black people involve white victims, yet 31% of blacks eventually cleared of murder convictions were initially convicted of killing white people, they found.

Misconduct, such as hiding evidence, tampering with witnesses or perjury, may also have contributed to the racial disparity.

In a separate report also released last month, the registry said it counted at least 166 exonerations in 2016 in the USA, a record. Of those, 54 defendants were wrongfully convicted of homicides, 24 of sexual assaults and 15 of other violent crimes.

At least 70 of the exonerations involved official misconduct. The authors found such wrongdoing was present in 76% of cases in which black murder defendants were wrongfully convicted, but just 63% of cases in which white defendants were exonerated. <http://tinyurl.com/ztmdm52>

## How mainstream to life is social media?

Does a North Carolina statute – which makes it a serious crime for registered sex offenders to “access” social networking websites that allow minors to have accounts – violate the First Amendment?

That’s a question the US Supreme Court is deciding, using a very wide definition. “Social networking websites” not only prohibits access to commonly understood social networking sites, such as Facebook, YouTube, or Twitter, but also websites that are not commonly understood social networking websites, such as Skype, bettycrocker.com, and even the New York Times.

The US decision may have ramifications in Australia for restrictions on registered sex offenders.

During the hearing, Justice Samuel Alito said, “I know there are people who think that life is not possible without Twitter and Facebook.” <http://tinyurl.com/hvumg8r> <http://tinyurl.com/jkj6jaq>

## Brit seeks permission to end his life legally with home help

A terminally ill Briton is seeking permission to change the law so that he get help to die at home surrounded by his family.

Noel Conway, 67, from Shrewsbury, was diagnosed with motor neurone disease in November 2014. His condition is incurable and he is not expected to live beyond 12 months.

Supported by the organisation Dignity in Dying, Conway has instructed the law firm Irwin Mitchell to seek permission for a judicial review in England’s high court of the ban on assisted dying, which, he says, prevents him ending his own life without protracted pain.

Assisted dying is prohibited by section 2(1) of the Suicide Act 1961 and voluntary euthanasia is considered murder under English and Welsh law. Conway’s challenge is aimed at establishing criteria and safeguards for terminally ill adults to enable them to make their own decisions about ending their lives. <http://tinyurl.com/knncuv4>

## ODD SPOT: Girls should be unseen, even if supposedly being heard

With great fanfare, the governor of Qassim province in Saudi Arabia announced the creation of a girls council – the first in the kingdom – to offer more opportunities for women and give them a voice.

When the Qassim Girls Council met last month for the first time, pictures showed 13 men on stage...and not a single woman. The women were in another room, linked through video. In Saudi Arabia, unrelated men and women are not permitted to mix, a state policy that is strictly enforced.

A new national plan has called for increasing Saudi women's role in the economy, including boosting their participation in the workforce from 22% to 30% by 2030...provided they don't mix with men! <http://tinyurl.com/hshganx> Photo shows the “girls council” in public session. (WashPost)



## Ex-guerrilla leader to head Timor Leste

Veteran guerrilla commander Francisco 'Lu-Olo' Guterres, 62, will be sworn in as Timor Leste head of state next month, after clearly winning the March national election, the first since UN peacekeepers left in 2012. President Guterres's campaign was backed by Fretilin, the party that led East Timor's revolutionary struggle to independence, and the country's behind-the-scenes powerbroker Xanana Gusmao, according to Lindsay Murdoch, writing in *Fairfax Media*.

"His election is a vote of confidence in a government of national unity that was formed by Mr Gusmao in 2015 comprising Fretilin and the National Congress for Timorese Reconstruction."

TL has about 750,000 registered voters in a population of 1.26 million. The country will hold general elections in July. <http://tinyurl.com/kotsrno>

**We hear so much about President Trump and the USA...**but can you name (off the top of your head) the PM or President of the countries closest to Australia: NZ, PNG, The Solomons, Fiji, Indonesia, New Caledonia. (The editor got three only out of six right!).

## Ganges gets its own rights

The Ganges river, considered sacred by more than 1 billion Indians, has become the first non-human entity in India to be granted the same legal rights as people.

A court in the northern Indian state of Uttarakhand last month ordered that the Ganges and its main tributary, the Yamuna, be accorded the status of living human entities. The decision – welcomed by environmentalists – means that polluting or damaging the rivers will be legally equivalent to harming a person.

The judges cited the example of the Whanganui river, revered by the Māori people, which was declared a living entity with full legal rights by the New Zealand government earlier last month. <http://tinyurl.com/m2w4yc6>

## ODD SPOT: China faces s-wiping outbreak

One of Beijing's busiest public toilets is fighting the scourge of toilet paper theft through technology – giving out loo roll only to patrons who "sign in" by using a face scanner. The automated facial recognition toilet paper dispenser is a response to elderly residents removing large amounts of toilet paper for use at home. People in need of paper must stand in front of a high-definition camera for three seconds, after removing hats and glasses, before a 60cm ration is released. Those who come too often will be denied, and everyone must wait nine minutes before they can use the machine again. <http://tinyurl.com/l9kebkq>

## International briefs

**Breivik not being treated inhumanely:** The Borgarting Court of Appeal ruled last month that Norwegian mass killer Anders Breivik's near-isolation in a three-room cell, which includes gym equipment and a TV, was not inhumane. The anti-Muslim neo-Nazi massacred 77 people in Norway's worst peacetime atrocity in July 2011. He killed 8 with a bomb in Oslo, then gunned down 69, many teenagers, at a youth meeting of the then-ruling Labour Party. The court determined that Breivik is not, and has not been, subjected to torture or inhuman or degrading treatment. Strict conditions for Breivik, who has no contact with other inmates and has not repented for the attacks, were justified because there was a "high risk" that he would use violence in future and because other prisoners might attack him. Breivik is studying a university course in international relations while in jail. <http://tinyurl.com/jjmnh4f>

**Wealth dictates access to health:** Mayo Clinic, one of the USA's top hospitals, is in the midst of controversy after its CEO, Dr John Noseworthy (photo), said that the elite medical facility would prioritise the care of patients with private health insurance over those with Medicare and Medicaid. In statements, Mayo said that about 50% of its patients were beneficiaries of government programs. "Balancing payer mix is complex and isn't unique to Mayo Clinic. It affects much of the industry, but it's often not talked about. That's why we feel it is important to talk transparently about these complex issues with our staff." <http://tinyurl.com/n5j9gfo>



**Gun shares go pop:** The victory of Republican President Trump, who is pro-guns, abruptly undercut demand in the USA as people became less worried the government would curtail their ability to purchase firearms. The steep drop in gun sales threw gunmakers' shares into free-fall, and privately held Remington, which has been making firearms since 1816, last month laid off 122 workers from its factory in Ilion, New York. One company's shares dropped 47%. <http://tinyurl.com/l8kzrs1>

**Senate votes down online customer protection:** The US Senate voted last month to repeal rules aimed at protecting consumers' online data from their own internet providers. If passed by the House of Reps, broadband companies could sell and share their customers' usage information for advertising purposes. The rules, which prohibit providers from abusing the data they gather on their customers as they browse the web on mobile phones and computers, were approved last year over objections from Republicans who argued the regulations went too far. <http://tinyurl.com/ltek3pv>

**On prison and sentencing reform:** New York Times – *Justice Springs Eternal*, by James Forman Jr. 25 March 2017. The presidency of Donald Trump doesn't spell the end of criminal justice reform. It may just be getting started. <http://tinyurl.com/n6j8ube>

**Seven nations urge inquiry into West Papua:** Seven Pacific island nations want the UN to investigate allegations of widespread human rights abuses in Indonesia's Papua region, also known as West Papua. Vanuatu's Justice Minister Ronald Warsal made the request at a session of the UN Human Rights Council in Geneva, speaking on behalf of his own country and Tonga, Nauru, Palau, Tuvalu, the Marshall Islands and Solomon Islands. Mr Warsal said various UN bodies and representatives had raised concerns about serious human rights violations committed by Indonesian security forces, including extrajudicial executions and beatings of West Papuan activists. <http://tinyurl.com/htoo5b9>

## DATES

**6-8 April, Sydney:** A'sian Inst of Judicial Admin's *2nd International Conference on Non-Adversarial Justice: Integrating Theory and Practice*, at Darling Harbour. Details: [mail@conferencedesign.com.au](mailto:mail@conferencedesign.com.au) or 03 6231 2999 Register: <http://www.naj2017.com/>

**10 April, Melbourne:** 'Stand Up For Mehdi', comedian Tom Ballard fundraiser for the Human Rights Law Centre in the name of Iranian refugee comedian now 'performing' on Manus Island. Immigration head potato Peter Dutton is not amused, and is unlikely to attend (bring potatoes in lieu of rotten tomatoes – all uneaten spuds to be donated to the current Tony Abbott 'chip on my shoulder' campaign). More info and booking: <http://tinyurl.com/zqr44eq>

**20-21 April, Darwin:** 17th international conference on knowledge, culture and change in organisations. Casuarina campus, Charles Darwin Uni. Details Alison Chin on 08 8946 6830 or [lebaadmin@cdu.edu.au](mailto:lebaadmin@cdu.edu.au)

**8-9 May, Surfers Paradise:** Qld Community Legal Centres conference. Details: <http://tinyurl.com/gp4g8gq>

**16 May, Canberra:** Prof Gillian Triggs will deliver the ACT Law Society's annual Sir Richard Blackburn lecture, 12.30-2pm. Details: [mail@actlawsociety.asn.au](mailto:mail@actlawsociety.asn.au) or 02 6274 0300.



**25 May, Canberra:** *When and why do legal professions seek to influence law?* Prof Leslie Levin (photo) of U. Connecticut USA examines circumstances under which mandatory and voluntary lawyer associations attempt to influence the law by either advocating for legal change or opposing it. ANU College of Law staff library, 1-2pm. Info: [events.law@anu.edu.au](mailto:events.law@anu.edu.au)

**9-17 June, Venice:** The Venice School of Human Rights – Human Rights as Our Responsibility, European Inter-University Centre for Human Rights and Democratisation. Book until 27 April, early bird 30 March with discount. <mailto:giulia.ballarin@eiuc.org>

**15 June, Perth:** Law Society of WA celebrates 90 years.

**24-30 June, Bali, Indonesia:** 'Justice on the Sniff of an Oily Rag', the 16th biennial Criminal Lawyers Assn of the NT, conference. Info: [russell.goldflam@ntlac.nt.gov.au](mailto:russell.goldflam@ntlac.nt.gov.au)

**9-13 July, Brisbane:** International Association of Genocide Scholars 13th conference – Justice and The Prevention of Genocide – at TC Beirne School of Law, U. of Queensland. Details: <http://tinyurl.com/zwzufbv>

**16-18 July 2017, Gold Coast:** 30th ANZ Society of Criminology conference. Details: [www.icccf2017.com.au](http://www.icccf2017.com.au)

**11-29 Set, Geneva:** UN Human Rights Council meeting. <http://www.ohchr.org/EN/Pages/Home.aspx>

**17-21 Sept, Cairns:** 2017 International Women & Law Enforcement Conference. Details: 1800 807 730 or [info@destinationcairns.com.au](mailto:info@destinationcairns.com.au)

**23 Sept, NZ:** Election

**24 Oct-4 Nov, Hobart:** *'An Inconvenient Woman'*, the play about the Sue Neill-Fraser case, Pop-Up Theatre No 9, Evans Street. Info: <http://tinyurl.com/jpmkkkp> .

**5-8 December, Canberra:** International Conference on Cybercrime and Computer Forensics: Collaboration Imperative – Acknowledging the past. Imagining the future. Details TBC.

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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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