

Australia's immigration policy is fundamentally biased

More than 64,000 “illegal aviation arrivals” are in Australia after overstaying work and tourist visas...but the Turnbull government and new Uber-Supremo Minister Dutton appear not to care.

At least, they don't care much by comparison with their fervid drive to keep 2000 “illegal maritime arrivals” locked up on Nauru and Manus islands, never to set foot in Australia. Meanwhile, 64,000 equivalents live, work and play here virtually unhindered (bridging and migrant visas are fewer than 700 of the 64,000).

Australia's immigration policy is on tilt. It is about as unbalanced as it is possible to get.

The figures came to light in a Senate committee hearing. Of the 64,600 visa overstayers, 12,080 of them have been here for more than 20 years – maybe a couple of them will stand for the Greens at the next federal election.

The government spends about \$72m a year on “compliance”, part of which would be trying to locate the 64,000 “illegal aviation arrivals”. By contrast, the government spends about \$1 billion a year on keeping the 2000 “illegal maritime arrivals” on the islands.

None of the 2000 have taken an Australian job from an Australian; the immigration department estimates about 20,000 of the 64,000 are working. Common sense suggests that probably more like 60,000 of the 64,000 are working at least part time, or they couldn't afford to stay in Australia. <http://tinyurl.com/ycte4sdr>

A rabid fixation on “boat people” indicates our federal governments of the past few years have been so unbalanced as to amount to being not fit to handle the immigration portfolio.

Where is the Australian Parliament when it is needed to fulfil its role to pull a government into line?

Compensation claims for ‘Stop the boats’ policy continue to mount

The \$70m compensation (plus \$20m costs) paid out to Manus and Nauru refugees might be just a fraction of the iceberg of compensation the Australian government will have to pay for its “boat people” policies.

An Indonesian sentenced to five years in jail in Australia for people smuggling when he was 14 can now seek compensation from the Commonwealth after having his conviction overturned in WA.

Fourteen other Indonesians who claim they were juveniles when arrested are also likely to sue.

Ali Jasmin (photo) was a cook on a people smuggling boat which brought 55 Afghans to interception in Australian waters in 2009. He was jailed for 689 days – 386 of them in adult detention as a minor – on the basis of a wrist X-ray which wrongly put his age at about 19. He was 13.

During his court case, the AFP relied on the wrist X-ray to determine Jasmin's age even though the Office of the Commonwealth Director of Public Prosecutions had a legalised copy of his birth certificate that stated he was still a child.

Meanwhile, separately, the Australian government is being sued for \$103 million for allegedly jailing 115 Indonesian juveniles for people smuggling in adult prisons or holding them in immigration detention between 2008 and 2012.

The class action, which began in the Central Jakarta District Court in February, was launched on behalf of 31 boys under 18 who were jailed in adult prisons and a further 84 who were held in immigration detention. Lawyer Lisa Hiariej said the Australian government had refused to pay compensation even though the boys had been detained for between three months and two years and nine months. <http://tinyurl.com/ya36xwhr>

NOTE: Jasmin's lawyer, Sam Tierney, is a Director of CLA.



SEE ‘Refugee latest’ for an update on the current Nauru/Manus situation – Back pages.

High Court of Australia – roadies required

The High Court of Australia is going on the road: it won't sit in Canberra again until October, to allow for major refurbishment.

It doesn't usually sit in July, and August and September sittings will be in Brisbane and Melbourne. The 1980 "brutalist" building's outdated air conditioning system is being overhauled, and obsolete doors are being replaced at the court's front entrance.

Some say part of the "brutal" nature of the court is its refusal to hear new evidence, under any circumstances, and – like John West with salmon – the very high proportion of appeal requests it rejects. Perhaps its time to overhaul the protocols surrounding the High Court, as well as the structure, CLA suggests. Hearings are due to return to Canberra for sittings from 9 October. <http://tinyurl.com/yamdb7am>

ODD SPOT: Who will be our rep on the Human Rights Council

The Productivity Commission is currently inquiring into Horizontal Fiscal Equalisation (HFE).

Perhaps it should inquire into the Fiscal Equalisation of Dutton's Uber Portfolio* (FEDUP).

While fiscal equalisation relates to how states and territories divide the national pie, a FEDUP inquiry would explore why the person who continuously delivers the most divisive, cruel and inhumane outcomes is rewarded by Prime Minister Malcolm Turnbull with more aspects of national life to blight.

Under Minister Dutton, Australia's reputation as a caring, refugee and immigrant-friendly nation has gone.

If, as seems likely, Australia is to sit on the UN Human Rights Council, based in Geneva, we should take to that role an international diplomat of some standing in world affairs to try to rebuild our reputation.

Strong candidates at the moment would appear to be former long-serving politician Phillip Ruddock (who has been wandering the world spruiking Australia's candidacy), top-job aspirant and former PM Tony Abbott who is looking for a new role, another ex-Minister with European experience (as a former, relatively recent German citizen) Eric Abetz, or the studious, arts and book-loving current AG George Brandis.

Of course, the person who should get the job is former head of the Australian Human Rights Commission, Gillian Triggs...but CLA can't see that happening.

* Peter Dutton now heads the new uber portfolio of the Home Affairs Department (HAD) which includes ASIO, the Australian Federal Police, the Australian Border Force, the Australian Criminal Intelligence Commission, the Australian Transaction Reports and Analysis Centre or AUSTRAC and the Office of Transport Security...as well as the Immigration portfolio. We've been HAD...which is probably why supporters of liberty for Nauru and Manus island refugee claimant detainees are FEDUP.

Government set to wind back support for environmental groups

The government has asked environmental groups to break down their expenditure into the amounts spent on "on ground environmental remediation", "campaign and advocacy", "research" and other administration.

"The question seems to represent a significant victory in the long-running campaign by the mining industry and conservative politicians to hobble advocacy for the environment," says *The Guardian's* Lenore Taylor.

According to the mining industry's argument, enthusiastically adopted by conservative politicians including the (now former) resources minister, Matt Canavan (photo), environmental groups should not be able to claim tax deductions for all the donations they get from members of the public who want to support their campaigns, she wrote.

Senator Canavan, while a backbencher, conducted his own deep investigation of green groups' activities for a Senate inquiry, concluding that tax deductibility should be pared back.

"It is appropriate that organisations and individuals may protest against political parties, philosophies and activities that offend them. It is not appropriate that such protests are funded by concessions from taxpayers who do not share their views," he wrote at the time. <http://tinyurl.com/ybb23dvo>



Agencies using 'spy' software to crack down on their 'clients'

Centrelink and the ATO are using high-tech phone-breaking devices from the world of spying to crack down on Australians by tapping into their smart phones and checking call logs.

The agencies claim they are using the Israeli company Cellebrite software according to the law and only after getting a warrant in cases of serious fraud by their clients.

Deakin University criminologist Adam Molnar said the use of Cellebrite technology was overreach. "I would say that's a blatant misuse of this particular solution."

The technology became high profile in 2015 when it helped the FBI crack the iPhone of San Bernardino terrorist attacker Syed Rizwan Farook. <http://tinyurl.com/y7y3zvle>

What does prison cost Australia?

“As Australia’s prison population is reaching record levels, more emphasis is required to urgently address these issues. Imprisonment is expensive. Adult prison beds cost between \$250,000 and \$500,000 for infrastructure and around \$100,000 to run each year. Youth justice beds cost around \$200,000 per year. In the 2013-14 financial year, direct costs of imprisonment increased nationally by about \$1million every day. “

– Dr Clarke Jones, Dr Jill Guthrie, ANU, report ‘Efficacy, accessibility and adequacy of prison rehabilitation programs for Indigenous offenders across Australia’, prepared for the Australasian Institute of Judicial Administration, 2016

Shorten promises a republic vote in first term

Opposition Leader Bill Shorten has promised that Labor would [activate the process towards Australia becoming a republic](#) if he wins the next election, putting a question to voters by the end of his first term. His promise came in a speech to the Australian Republican Movement setting out a concrete timetable for a referendum.

The question will be simple: “Do you support an Australian republic with an Australian head of state?”

Mr Shorten said that, if a ‘yes’ vote wins, there would be further debate and a decision about how the new head of state was chosen. <http://tinyurl.com/y9tlvwfm>

Push for BoR gathers momentum

The petition for a Tasmanian Human Rights Act has topped 500 signatures, and rising.

You can sign online at www.tashumanrightsact.org – Tasmanians particularly are asked for their support.

The petition runs until the next Tasmanian state election due in or before March 2018.

The petition has been circulating for six months now and the organisers, led by Civil Liberties Australia, are planning a campaign launch in September to build momentum. They’re asking if people can help with:

- a venue capable of holding a large group of people such as a pub or restaurant;
- a band or comedian to help make the event fun and social; and
- a photographer and/or videographer able to capture the launch.

If you can help, please email [secretary\(at\)cla.asn.au](mailto:secretary(at)cla.asn.au)

Boat death case to get new witness at next hearing

Channel 7 reported last month that a new witness would testify in Sue Neill-Fraser’s appeal to the Supreme Court of Tasmania.

Neill-Fraser has served eight years of a 23-year sentence for the murder of her husband of 18 years, Bob Chappell, who disappeared from the couple’s yacht, Four Winds, moored near Sandy Bay on Australia Day night, 2009. His body has never been found, nor has a murder weapon been located, nor has a method of killing been identified, despite speculation by the DPP and the judge during the original trial.

Ch 7’s ‘*Sunday Night*’ program said a new witness would detail private conversations with Meaghan Vass, the then 15-year-old homeless teenager whose DNA was discovered on board the couple’s yacht. Vass has repeatedly denied ever being “on” the yacht.

After Barbara Etter – Neill-Fraser’s pro bono solicitor for the past six years – withdrew in June from the legal team of barrister Tom Percy and junior counsel Belinda Lonsdale, the expected date of a substantive hearing was moved back to 2018. <http://tinyurl.com/y8b2vs78>

WA moves close to ‘dying with dignity’ law

WA may legalise euthanasia – ‘dying with dignity’ – in 2018.

Mandurah MP David Templeman will ask the WA parliament to set up a committee to inquire into the divisive issue. Elderly people of all faiths are overwhelmingly in favour of such a law, but religious groups are equally fervidly against one.

A motion to establish an inquiry into "end-of-life choices" was put on the notice paper in June by Morley MP Amber-Jade Sanderson.

Premier Mark McGowan supports euthanasia but the decision is likely to be on a conscience vote. Key MPs like Health Minister Roger Cook, veteran politician Alannah MacTiernan and the Green Robin Chapple have already indicated support.

Mr Templeman said the committee of 8 MPs would hold public consultations and report by 30 June 2018, allowing a vote by the end of that year. The WA parliament debated euthanasia legislation in 2010: a bill went down 24 votes to 11 in the upper house before it could be considered by the lower house.

Victoria has already held its inquiry, with a committee coming down in favour of a euthanasia law. A vote in that state is likely in 2017. <http://tinyurl.com/ycm9xnys>

Judge rules police must pay \$90k security to continue appeal

WA Supreme Court judge Robert Mitchell has ruled three police officers must pay \$90,000 security to the court to proceed with an appeal against a \$1m compensation payout for a nine-year-old stunning incident.

Law professor Dr Robert Cunningham and his wife Catherine Atoms were awarded the compensation by a District Court judge who found they were wrongly arrested, stunned, unlawfully detained and maliciously prosecuted by police after they stopped to help a stranger on a night out in Fremantle in 2008.

Ms Atoms received most of the award for loss of earnings and the distress and back injury she suffered: Dr Cunningham was awarded \$110,000.

Two serving police officers and one retired officer are appealing the payout on 24 grounds. The WA government – which jointly defended the original action with the officers – has lodged a separate appeal. Judge Mitchell last month ordered the police officers to pay \$90,000 in security to the court by 23 August, or the appeal would be dismissed.

He said it was in the “interest of justice” to order security be paid because many of the grounds of appeal were weak. <http://tinyurl.com/ybe3du4k>

(Note: Prof Cunningham and Ms Atoms are members of CLA as of 2017).

Push for independent investigation of police complaints

CLA’s WA Convenor Margaret Howkins is campaigning for a new body to investigate complaints against police, separate from the ICAC-like Corruption and Crime Commission of WA.

She is proposing a body modelled on the UK’s Independent Police Complaints Commission, which was formed in 2004 when the earlier systems of investigating complaints against police in England and Wales were proven inadequate.

A new T-shirt (right) will help spread the message.

There are also moves afoot through internal debate mechanisms of the now-ruling Labor Party to improve justice across WA:

- setting up a Conviction Review Commission to review historical convictions when new evidence is uncovered or where appropriate investigative or prosecutorial conduct has recently been discovered...to independently review cases for referral to the Court of Appeal for determination.
- establishing with the judiciary, an independent judicial commission, to provide education to (judges) and to create a clear and appropriate process for handling complaints against (judges);
- to review all mandatory sentences laws; and
- to identify prisoners for mental health issues as a standard procedure.

All these initiatives are contained in the CLA Better Justice program, which we announced in January 2016 for adoption throughout Australia. **SEE ALSO: ‘Stanhope calls...’ below**

Police naming of ‘suspects’ faces trial verdict

A verdict may be only weeks away in Australia’s most significant defamation trial for decades.

The result may have a major impact on whether police forces throughout Australia continue to name “suspects” before charges are laid.



Closing submissions began late in July in Lloyd Rayney's multimillion dollar defamation trial in Perth over his being named the "prime" and "only" suspect in the murder of his wife, Corryn.

Rayney, a barrister, is suing Western Australia over comments made by Detective Senior Sergeant Jack Lee in September 2007 after the body of Rayney's lawyer wife, a Supreme Court registrar, was found buried at central Perth Kings Park a month earlier.

Rayney has twice been found innocent: he was acquitted of murdering his wife in 2012 and an appeal by the state was dismissed in 2013. <http://tinyurl.com/ybxw5z4p>

Juveniles suffer as reality shows how much “law & order’ excesses really costs

WA's Inspector of Custodial Services Neil Morgan said last month there had been five attempted suicides and 191 cases of self-harm in 2016 at the Banksia Hill juvenile detention centre, compared to 77 cases of self-harm in 2015.

Halfway through 2017, one detainee had tried to take their own life and there have been 76 cases of self-harm.

Mr Morgan said while there had been no suicides at the facility, the figures were cause for serious concern and some staff indicated self-harm was under-reported. The number of "critical incidents" affecting safety and security, such as escapes and assaults, has also increased with 69 reported in 2016 compared to fewer than 30 in 2015. <http://tinyurl.com/ybujbaht>

The WA government, strapped for cash, is one of the first in Australia to run into the inevitable problem of decades of excessive “law and order” campaigns and convictions – the jails and detention centres are full, and there's no money or will to build new ones.

NT women gain wider choice

The NT has widened options for women seeking abortions. As of last month, a new law:

- allows termination of pregnancy outside of a public hospital;
- permits services provided in day surgeries and specialist clinics;
- allows early medical termination using drugs such as RU486 in ‘out of hospital settings’;
- authorises suitably qualified doctors (other than obstetricians and gynaecologists) to provide termination services for pregnancies under 14 weeks;
- ensures doctors and other health staff who conscientiously object to involvement in termination to refer women to a doctor who can provide the services
- stipulates safe access zones around places where termination of pregnancy services are provided, to prevent women being harassed when attending and to protect people working there; and
- changes criminal offence provisions under the *Criminal Code Act*.

Minister for Health Natasha Fyles said the government had consulted widely – with a discussion paper put out to the public and a rare conscience vote for parliamentarians. "I particularly acknowledge the Deputy Opposition Leader Lia Finocchiaro and the Independent members Kezia Purick and Robyn Lambley for their support in the passage of this bill." – media release, Minister, 170701

New justice comes to NT's Indigenous people

The NT's Attorney-General and Minister for Justice Natasha Fyles has created a new Aboriginal Justice Unit within her department which aims to deliver an Aboriginal Justice Agreement within 12 months.

“Acknowledging that almost 85% of the NT's prison population identify as Aboriginal or Torres Strait Islander is fundamental to designing procedures and programs that align with world's best practice,” she said. “This means providing meaningful education and employment opportunities for all prisoners so that we end the revolving door of crime and incarceration and getting people on the right path.”

The new team of six will create Aboriginal Justice Agreement after six months of consultation that will:

- set out how the government and Aboriginal people will work together to make justice work in the NT;
- build trust and engagement on justice issues in the NT;
- focus on practical solutions to reduce the levels of Indigenous incarceration;
- deliver strategies for the implementation of more local decision-making in the justice system.
- – Minister's media release, 170704

Communities to turn technology back on police

Indigenous communities plan to expose alleged police harassment using mobile phones and social media. The Sydney-based National Justice Project is promoting a 'Copwatch' project under which human rights lawyers and journalists will teach indigenous communities how to film and share interactions with police and other authorities. The proposal is a response to complaints of over-policing in indigenous communities. Sixteen Aboriginal communities in NSW's central west have said they will put their hand up for Copwatch if it gets off the ground, Perry Duffin of AAP reported last month.

"It will teach people their rights, how to use their phones. It'll train them to be aware and when to lock-and-load their recording device," Murdi Paaki chair Des Jones said. <http://tinyurl.com/y8apr3z4>

Kilroy now advocates from the outside looking in

Debbie Kilroy (photo), the only convicted drug trafficker admitted as a lawyer in Australia, now sits on the Qld Sentencing Advisory Council. Her story is one of the great reversals of fortune in Australian legal history, writes Joshua Robertson in an excellent article in the Guardian. "Kilroy is now almost certainly the only person who advocates abolishing prisons to sit on a statutory body guiding governments and courts on criminal sentencing."

She was a young mother of two and the wife of a rugby league star when she was sentenced to six years in jail in 1989 for selling cannabis to undercover police.

The product of a childhood disrupted by abuse and stints in juvenile prisons, Kilroy got a degree in social work while behind bars.

Building on her prisoner advocacy through the Sisters Inside organisation and her award-winning human rights work on her release, she stunned many in the legal community by gaining court approval to become a solicitor in 2007. She was appointed to the SAC in November 2016. <http://tinyurl.com/y7nvps67>



ODD SPOT: US soldiers on R'n'R get into trouble with dates

The first official night of compulsory ID scanning after 10pm at Queensland clubs and bars snared seven. From 1 July, the scanning technology allows venues to share information about problematic patrons and prevent them from re-entering another club or bar — to combat alcohol-fuelled violence.

Almost 90,000 IDs were checked at 180 venues in 15 Safe Night Precincts in Brisbane and regional centres on 1 July, after trial runs on earlier nights..

Attorney-General Yvette D'Ath said seven people on banning orders for violence or drug trafficking were flagged trying to enter clubs, compared with 22 contraventions during a trial a week earlier.

NZ nationals had problems, as the scanners couldn't cope on the first night with their passports, and the passports of US soldiers in Rockhampton were using "cyber warfare" to defeat the system — their passports used date formats that the scanners didn't recognise! <http://tinyurl.com/yclj4dyp>

Stanhope calls for independent police complaints body

Former ACT chief minister Jon Stanhope says the ACT should introduce corporate manslaughter laws to improve accountability for deaths in custody, and also bring in a separate police complaints body.

In his submission to an ACT Legislative Assembly inquiry into the creation of an independent integrity commission, Mr Stanhope said all "problematic" ACT Policing incidents should be reviewed externally to dispel questions about the integrity of the force.

Pointing to the United Kingdom as an example, he said there was scope for an integrity commission to enhance current police complaint procedures.

"I believe for example that there would be merit in consideration being given to adopting in the ACT the UK practice whereby a police force self-refers to an independent police complaints tribunal any decision or action by the police force or an individual officer which has resulted in a problematic or controversial outcome or which potentially brings the police into disrepute," Mr Stanhope wrote. <http://tinyurl.com/y9l3cr6h>

Assisted dying vote imminent

The Victorian Parliament will soon vote on whether to legalise helping people to die.

The move follows a report by a panel of independent medical experts which made more than 60 recommendations covering eligibility criteria and proposed safeguards, including:

- only adults capable of making their own decisions would be eligible;
- the illness must be serious and incurable and causing unbearable suffering;
- they must ask at least three times;
- two doctors must sign off on the request;
- the help to die can only be given in the final weeks or months of life;
- a doctor would prescribe a lethal drug, which the patient would take themselves;
- if someone couldn't take the drug themselves, a doctor would be able to give it to them.

There would also be new criminal offences to counter abuse and coercion.

If the draft bill passes, the new scheme would operate from 2019. <http://tinyurl.com/y7bqbmsm>

Australian briefs



Courts meet the 21st C: The Family Court and the Federal Circuit Court of Australia have stopped posting hard copies of sealed orders by mail to legal representatives. Court orders (except for consent and appeals) are being signed and sealed electronically and made available to download from the Commonwealth Courts web portal. From 1 January 2018, the e-access applies to all parties. At last, some courts are starting to embrace the 21st century, CLA says: now for getting judges and magistrates to follow suit, and to start undertaking some advanced and mandatory academic and training courses.

Photo: John Pascoe, Chief Judge Federal Circuit Court.

NT ICAC bill this month: Draft legislation to create an Independent Commission Against Corruption (ICAC) for the Northern Territory is likely to be introduced to the local parliament this month. ICAC is expected to be established and operational by mid-2018, acting Attorney-General Nicole Manison said. – media release 15 July 2017. Chief Minister Michael Gunner has appointed Justice John Mansfield as Commissioner of the Political Donations inquiry to examine and report on options for reforming political funding and donations in the NT. <https://justice.nt.gov.au/attorney-general-and-justice/law/icac-bill>

Aussie MP stopped from entering USA on official business: Victorian Labor MP Khalil Eideh has been denied entry to the US while travelling on official parliamentary business. He was born in Lebanon, but is an Australian citizen. Mr Eideh was stopped from boarding a flight to Denver USA while trying to leave from Vancouver Canada. Mr Eideh was in Canada with a cross-party group of Victorian MPs who are studying drug policy and heroin injecting rooms throughout Europe and North America. The US has officially refused to disclose why he was barred “for privacy reasons”. <http://tinyurl.com/y7j73zfq>

Letter from a member:

Some in prison experience double punishment

I was very moved by the inhumanity of the seemingly unnecessary detention of frail, elderly males in prison in the July 2017 newsletter. I think it's symptomatic of the age old problem of cruelty being preceded by 'us and them' attitudes; 'We are the ones with real feelings and sensitivities'.

It's unfair of the press to go on describing and therefore defining, people who have done their time by their conviction. They are effectively adding another punishment. Sometimes, we can influence these things.

At one stage, a WA reporter always finished her court reports with the words: “A psychiatric report is being prepared for the courts”. So there was a spate of letters to the editor claiming that our prisons were overrun with psychiatrists...which is patently false.

I wrote several letters pointing out that the psychiatric reports were not done for the benefit of the accused by any means, but they were simply done to assist the judge. I even questioned the medical ethics of those psychiatrists who knew very well that their 'clients' would not get appropriate care once they were gaoled. In fact they'd be locked away from many amenities.

It was ironical that our Police Commissioner complained of this very thing when his own son was briefly in prison for serious drug offences. Anyway, the outcome was that they seemed to stop saying it so much – keep up the good work. –Doreen Moulds, Coogee WA

CLA report – main activities for July 2017

Welcome to new CLA directors Kavitha Burge (Maliganis Edwards Johnson) and Sam Tierney (Ken Cush & Associates). Kavitha will oversee activities in the ACT, while Sam is the new CLA Treasurer.

New members volunteering to take on significant roles:

Sam Coten WA and Sophie Bouris NSW

Meetings

- Barrister Peter Hohnen, law firm Nelson and Co, re defamation.
- Peter Curtis re involving school students in revenge porn submission for ACT Legislative Assembly.
- Dr Bernadette Boss, magistrate
- Estelle Blackburn author, wrongful conviction over-turner, journalist, public speaker.

Addresses:



Both Tasmanian Directors of CLA spoke last month on separate panels on the question of a Human Rights Act for the state. Richard Griggs spoke at a Hobart panel discussion organised by University of Tasmania's Amnesty International group. Rajan Venkataraman spoke on a panel in Launceston as part of the Tamar Valley Peace Festival.

Photo: standing L-R: Richard Griggs (Civil Liberties Australia), Richard Atkinson (Greens Kingborough Councillor), Robin Banks (former Tas Anti-Discrimination Commissioner), Lara Giddings Tas MP (Labor), Bernard Goh (UTAS Amnesty International), Andrew Wilkie federal MP (Independent). Kneeling: UTAS Amnesty International members Molly Bird, Nina Hamasaki, Oliver Hovenden. – photo courtesy of UTAS Amnesty International.

Upcoming meetings:

Parliament House meetings arranged at the next House of Representatives sitting in August 2017 with Matt Keogh MHR (with VP Tim Vines, re genes), Tim Hammond MHR, and Sue Lines MHR, all from WA, about national and state CLA initiatives.

Clarke Jones ANU re rates Indigenous incarceration... and what to do about it.

Skype/etc sessions:

WA with WA convenor Margaret Howkins re Independent Police Complaints Commission project

WA with Catriona McLeod re possible involvement with CLA activities in the West

Tas with Richard Griggs (Kate and Thomas) re Tasmanian Human Rights Act campaign

SA with Dr Bob Moles.

Cases:

Sue Neill Fraser's case has been delayed by change in legal representation (see above). CLA acknowledges and applauds the enormous, fundamental role played by Barbara Etter and her ground work in preparing Sue's appeal.

Criminologist Paul Wilson is writing up his recent experiences of 'remembered' offences.

Media:

National Media Spokesperson Tim Vines quoted in detail in: 'AFP to keep details of botched prosecution secret'. <http://tinyurl.com/ya5gm9o9> (Note: bizarre claim by the AFP as to why its officers should not be quizzed about apparent wrongdoing).

Submissions:

- to Australian government consultations on possible civil penalties for non-consensual sharing of intimate images - Rajan Venkataraman;
- submission to the NT Attorney-General on the proposal for an ICAC-style body for the Northern Territory – Bill Rowlings;
- joint submission with other civil society organisations to consultations by the Australian Human Rights Commission on implementation in Australia of the Option Protocol to the Convention on Torture (OPCAT) – Rajan Venkataraman.

ANU law student internships:

Dr Vivien Holmes and Dr Margie Rowe, ANU College of Law re internship supervision.

Jyoti Haikerwal completed her internship (topic, *Implications of Medical, Diagnostic and Surgical Patents on Medical Provision in Australia*: CLA supervisor Vice-President Tim Vines.

Kelly Chan has started her internship (topic *Australian Citizenship: rights and responsibilities*), with supervisor Dr Emma Larking of RegNet at ANU.

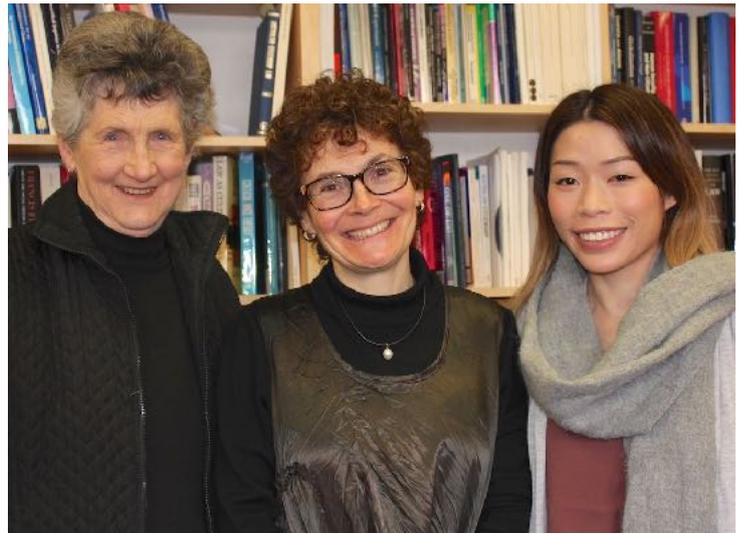


Photo: CLA President Dr Kristine Klugman, Australian citizenship guru and CLA member Prof Kim Rubinstein, and CLA intern student Kelly Chan at a meeting late in July at ANU.

Articles and other items:

- In July, member Terry Dwyer was first to propose that the Senatorial citizenship muddle of the Greens should not be given up without a fight: see article 'Take allegiance question to the High Court';
- Director Jennifer Ashton wrote an article: 'Is this the Home Affairs we really want?' about the new Uber-Ministry...both are on the CLA Home page: <http://www.cla.asn.au/News/>
- Successful DFAT NGO consultation on Vietnam dialogue: CLA representatives Kris Klugman and Kelly Chan. CL Director Jennifer Ashton represented AAFICS (Australian Association of Former International Civil Servants) and wrote a report for AAFICS and the CLA web page
- Seminal paper on the rate of wrongful convictions in Australia circulated to directors and to other selected people for comment. The paper is to be launched at a law conference in Adelaide on 24-25 November on Miscarriages of Justice. The conference is being organised by Dr Bob Moles.

...and a welcome to one of CLA's newest members, baby boy Thomas, born on 2 July to Kate and Richard Griggs, CLA Tasmanian Director. Thomas joins daughter Eva on the family/household CLA membership.

INTERNATIONAL

Brits to abandon fundamental rights

The British government has riled opposition parties by insisting that it will not bring the EU charter of fundamental rights into British domestic law on Brexit day.

The Liberal Democrats leader, Tim Farron, who has said the passage of the bill later in 2017 will be "hell" for the government, said: "The charter of fundamental rights is a cornerstone of what makes Britain what we are. I cannot understand what issue the government have with it. Is it the right to life, the ban on torture, protection against slavery, the right to a fair trial, respect for privacy, freedom of thought and religion, free speech and peaceful protest? These are not frustrations, these are integral to what it is to be British." <http://tinyurl.com/y9uss8ea>

‘Child soldier’ from Gbay receives \$10.7m compensation

Canada has apologised and is paying \$10.7m compensation to a 10-year Guantanamo Bay prisoner who pleaded guilty to killing a US soldier in Afghanistan when he was 15.

Child soldier Omar Khadr was born in Canada: its supreme court ruled in 2010 that Canadian officials had interrogated him under “oppressive circumstances”.

Khadr was captured by US troops after a battle at a suspected al-Qaida compound in Afghanistan resulted in the death of an American special forces medic, US army Sgt Christopher Speer. Khadr was suspected of throwing the grenade that killed Speer, and he was ultimately charged with war crimes by a military commission.

He pleaded guilty in 2010 to charges that included murder and was sentenced to eight years plus the time he had already spent in custody. In 2012 he returned to Canada, where he was finally released in May 2015, pending the appeal of his guilty plea, which he said was made under duress.

The supreme court of Canada ruled in 2010 that Canadian intelligence officials obtained evidence from Khadr under “oppressive circumstances,” such as sleep deprivation, during interrogations at Guantanamo Bay in 2003, and then shared that evidence with US officials.

His lawyers filed a \$20 million wrongful imprisonment lawsuit against the Canadian government, arguing the government violated international law by not protecting its own citizen and conspired with the US in its abuse of Khadr.

After release from prison Khadr apologised to the families of the victims. He has rejected violent jihad and is finishing his education, aiming to work in health care. He lives in Edmonton, Alberta. <http://tinyurl.com/yc52l48b>

The case has similarities to that of Australian Mamdouh Habib, who was paid secret compensation by the Australian government in 2010 after allegedly being tortured at least once, and interrogated in Pakistan, Afghanistan and Egypt, before being locked up in Guantanamo Bay (GBay), over a three-year period.

US military dispenses free ‘weapons’ with no checks or controls

A new Government Accountability Office report reveals the US agency created a fake website of a fake police department and applied for surplus goods from the US military under the “1033” program.

The fake agency was handed \$1.5 million in weapons, including night-vision goggles, simulated rifles, and simulated pipe bombs. The simulated rifles and pipe bombs could have been turned into “potentially lethal items if modified with commercially available items,” according to the report. Simulated weapons are used for training purposes.

The GAO even used a fake physical address—an empty plot—for the fake law enforcement agency.

According to Zina Merritt, a GAO director who coordinated the sting, the Defence Logistics Agency did little to verify who asked for the military leftovers and who was picking up the gear. <http://tinyurl.com/y7yc3ygn>

Experts call for brake on stem cell cowboys

Medical and legal experts throughout the world have called for more stringent international regulation of stem cell therapies to stop people chasing unproven and potentially deadly treatments.

In the US journal *Science Translational Medicine*, 15 experts from countries including Australia, the UK, USA, Canada, Belgium, Italy and Japan wrote that national efforts alone would not be enough to counter an industry offering unproven treatments to vulnerable patients.

“Stem cell-based interventions are classified under diverse and potentially incompatible national regulatory frameworks,” the authors wrote.

Associate Professor Megan Munsie, a U. Melbourne stem cell scientist and co-author of the paper, said: “The idea that stem cells are magical holds court in the community, along with this idea the advances in treatment are being held up by red tape.”

Unethical health practitioners exploited this, she said, along with the vulnerability of patients with difficult-to-treat or incurable conditions.

“There is a precedent for international regulation of this industry because regulations already exist around drugs – the way they are manufactured,” she said. “This could be extended to the regulation to the stem cell and tissue-based therapies. This international stance would then force or encourage stronger local regulations.” <http://tinyurl.com/ydbz6hm8>

ODD SPOT: Strange bedfellows produce freer choice

Better – and free – availability of abortions is the first “product” of the strange alliance in the UK between the minority Conservative government and the Democratic Unionist Party of Northern Ireland.

PM Theresa May promised the DUP \$1.7m of extra infrastructure for NI to secure their 12 votes.

The DUP is fiercely opposed to abortion: in NI, abortions are allowed only if a woman's life is at risk or there is a permanent or serious risk to her physical or mental health. Pregnant NI women who travel to England, where the law is much less restrictive, have had to pay for terminations until now.

The May government was forced to announce abortions would become free in England for NI women when it was “ambushed” in the House of Commons. The announcement came just before a vote on an amendment forced by Stella Creasy, an opposition Labour Party member, amid signs that some of Mrs May's Conservative legislators might rebel, risking her parliamentary majority. <http://tinyurl.com/yd999xbc>

Trump's 'fired' fight back in name of free speech

A free-speech group has sued US President Donald Trump for blocking Twitter users from his @realDonaldTrump account, arguing the practice violates the First Amendment of the US Constitution, which brooks virtually no restriction on free speech.

The lawsuit, brought by the Knight First Amendment Institute at Columbia University in New York and joined by seven individual Twitter users, claims President Trump blocked a number of accounts whose owners replied to his tweets with comments that criticised, mocked or disagreed with the president.

Trump's blocking of the accounts amounted to an unconstitutional effort to suppress dissent, according to the lawsuit filed in federal court in New York.

Because President Trump frequently turns to Twitter to make policy statements, his account qualifies as a public forum from which the government cannot exclude people on the basis of their views, according to the lawsuit. <http://tinyurl.com/yc5fxjsg>

Torture endemic in Serendip

The use of torture by Sri Lankan security services has become routine, UN special rapporteur Ben Emmerson (photo) has concluded after a four-day visit to the country.

The British lawyer found that the country's judicial system, and tolerance of torture, is a “stain on the country's international reputation”, according to Patrick Wintour, writing in *The Guardian*.

Government explanations for the state of the judicial system were entirely inadequate and unconvincing, Emmerson said. His report to the Human Rights Council also concluded that the coalition government's plan for a path to reconciliation after a 26-year internal war, has “ground to a virtual halt”.

Draft revised anti-terror laws prepared by the government, he warned, will leave unchecked the routine police use of torture to extract confessions.

“The use of torture has been, and remains today, endemic and routine, for those arrested and detained on national security grounds,” the report stated. “Since the authorities use this legislation disproportionately against members of the Tamil community, it is this community that has borne the brunt of the state's well-oiled torture apparatus.”

Emmerson also reported that 70 prisoners “had been in detention without trial for over five years and 12 had been in detention without trial for over 10 years”. <http://tinyurl.com/y7ogudcp>



Youth jails becoming major problem worldwide

There had been a “staggering” decline in standards and safety at youth jails in England and Wales, the chief inspector of prisons, Peter Clarke, says...mirroring what appears to be occurring in Australia.

Clarke, a former Metropolitan Police head of counter-terrorism, said no young offender institution or privately-run secure training centre officially inspected in early 2017 was safe to hold children and youth.

His annual report said assaults and self-harm rates were running at double the level of six years ago: “The current state of affairs is dangerous, counterproductive and will inevitably end in tragedy unless urgent

corrective action is taken.” He found a 38% increase in assaults on staff, suicides doubling since 2013 to 113, and 21 out of 29 local and training prisons rated poor or not sufficiently good for safety.

The British Ministry of Justice responded to his private warning by announcing that a new youth custody service – a distinct arm of the Prison Service – would take over the running of the youth estate. <http://tinyurl.com/ybm9t5e5>

Data contract leak causes national government to wobble

Sweden's government is under pressure after a major leak of sensitive data, including possibly the identities of covert defence and intelligence people on overseas missions.

What began as a scandal over an IT outsourcing deal between the Swedish Transport Authority (STA) and IBM in 2015 has become a full-blown crisis. The STA's former director general Maria Agren was sacked in January without explanation. Recently she was fined \$10,700 for mishandling confidential information.

The agency awarded IBM Sweden an \$122 million contract in April 2015 to manage its vehicle and driver's licence registry.

Sweden's Security Service, known as Sapo, opposed the arrangement after learning services would be delivered from IBM subsidiaries in the Czech Republic and other Eastern Europe countries, giving unauthorised people access to the identities of all drivers and vehicles in Sweden, as well as the identities of people in witness protection programs, and details of Sweden's road, ports, bridges and subway systems.

The arrangement may have exposed the identities of covert operatives at Sapo and Sweden's special forces on overseas missions to foreign nationals.



Prime Minister Stefan Lofven (photo) said late last month that the contract was a "disaster" and that potential leaks put his country and its citizens at risk. He announced an investigation into the outsourcing process.

Opposition party, the Alliance, has demanded the sacking of the ministers of infrastructure, defence and the interior. There are now questions whether the government may be forced to an early election. <http://tinyurl.com/y9clgaut>

Security experts in Australia tell CLA that we are at least as vulnerable to leaks and disasters, given the extent to which managing Australia's and state-territory systems is outsourced to foreign companies.

ODD SPOT: 'War on drugs' being lost, even in prisons

The British Ministry of Justice has announced that 225kg of drugs were found in prisons in England and Wales in 2016, along with 13,000 mobile phones and 7000 sim cards. About 7000 frontline prison staff have been cut from prisons over the past seven years. <http://tinyurl.com/yctyvz8s>

The Centers for Disease Control and Prevention in the USA estimates that 91 Americans die each day of an opioid-related overdose. <http://tinyurl.com/y83ktsqn> And still the US won't change its 'war on drugs' approach: will it change at 200 deaths a day, 500 deaths a day, 1000 deaths a day? CLA asks

"I know we overuse certain words in the lexicon like unprecedented and historic and unique," said Chuck Rosenberg, acting administrator of the Drug Enforcement Administration, who cited an estimated 59,000 deaths from drug overdoses in the United States last year. "But this is an epidemic."

Crime up sharply in UK

Police-recorded crime has risen by 10% across England and Wales – the largest annual rise for a decade – according to the Office of National Statistics.

The latest crime figures for the 12 months to March also show an 18% rise in violent crime, including a 20% surge in gun crime and knife crime. The official figures also show a 26% rise in the murder rate to 723 homicides, which includes the 96 cases of manslaughter at Hillsborough in 1989.

The rise in crime is accelerating, with a 3% increase recorded in the year to March 2015, followed by an 8% rise in the year to March 2016, and a 10% increase in the 12 months to March 2017.

The accelerating rise in crime comes as Home Office figures show a further fall of 924 in the past year in the number of police officers, to 123,142 in England and Wales. This is the lowest number of officers in England and Wales since 1985. <http://tinyurl.com/y9l4pdf8>

Southern state shines light on less-costly way to justice

The US state of Louisiana has just passed 10 new criminal justice reform laws that change everything from drug sentences, parole and community supervision to re-entry and victims' rights.

Remarkable coming from any state, the move is historic by Louisiana, which is poor and has long held the distinction of locking up the most people per capita in America, according to the *NY Times* editorial board.

"Its incarceration rate is nearly double the national average, and yet one in three released inmates return to prison within three years," the board wrote.

The reforms, several of which take effect today (1 August 2017), are projected to cut the prison population by 10% and keep it down, saving Louisiana more than \$300m over the next decade, according to the Pew Charitable Trusts. Much of that money will be used on programs that reduce recidivism, support crime victims and make the justice system function better for everyone.

Some of the reforms — like reduced sentences for low-level drug crimes; expanded opportunities for parole; more alternatives to prison, including greater use of drug courts; and relief for people who can't afford to pay court fines and fees — have already been tried successfully in other states, where crime rates and prison populations have both fallen. <http://tinyurl.com/ybhu7weg>

Trump encourages police brutality

President Donald Trump endorsed police brutality in a speech to law enforcement officers on Long Island, New York, late last month.

The president suggested that officers should hit suspects' heads on the doors of their police cars.

"When you see ... these thugs being thrown into the back of a paddy wagon, you just see them thrown in, rough, and I said, 'Please don't be too nice,'" Trump said. "Like when you guys put somebody in the car and you're protecting their head, you know, the way you put their hand over, like, don't hit their head and they've just killed somebody, don't hit their head, I said, 'You can take the hand away, OK?'" he added. His remarks received significant applause.

President Trump also made the dubious claim that laws were "horrendously stacked" against police officers and said he wanted to change those laws.

Zeke Johnson, senior director of programs at Amnesty International USA, said the President's "inflammatory and hateful speech will only escalate tensions between police and communities," putting both officers and civilians at risk. <http://tinyurl.com/y8q56ud7>

In overturned DNA cases, 70% involve a wrong ID also

"The advent of DNA testing has made it uncomfortably clear that our criminal justice system often gets things wrong. Things go wrong for a variety of reasons, but many of them touch on science, or rather the lack of a scientific foundation for a number of forensic techniques. But in 70% of the cases where DNA has overturned a conviction, it also contradicted the testimony of one or more eyewitnesses to the events at issue." <http://tinyurl.com/y7b7oqg4> Note: applies to USA.



International briefs

Pastor is new president: Tallis Obed Moses (photo) is the new President of Vanuatu from 7 July 2017. He was one of 16 candidates, and won the ballot as the ninth head of state after four rounds of voting. Mr Moses, 63, is a long-serving pastor and former leader of the Presbyterian Church in Vanuatu. He replaces former president Baldwin Lonsdale, who died suddenly of a heart attack in June while serving in office in Port Vila. <http://tinyurl.com/y8ztudl8>

Anwar Ibrahim receives unlikely backing: Former longtime Malaysian PM Mahathir Mohamad has done an about face and now says his former deputy Anwar Ibrahim, jailed on charges of sodomy, should be freed to contest election against scandal-ridden current Prime Minister Najib Razak. Ibrahim was first jailed under Mohamad. Ibrahim's lawyers are trying to get him released after evidence emerged that suggested a supposedly impartial government-appointed prosecutor was paid about \$3.4m from a bank account controlled by PM Razak. <http://tinyurl.com/ybvtay67>

ODD SPOT: Lights - camera - action: A police body-worn camera has caught a criminal red-handed – the police officer wearing the camera! He was unaware, or had forgotten, that the constantly-recording body camera retained footage for 30 seconds before an officer actively switched it on. The Baltimore policeman was shown planting a bag of pills in a can in an alley, then soon after “finding” them during a search. The man arrested spent January to July 2017 in jail because he could not raise \$63,000 bail. Now he’s out, and the cop is the one answering questions – he’s also a witness in 53 other similar cases which look like they’ll have to be dropped. <http://tinyurl.com/yc42w9dn>

UK judges show lack of diversity: The most senior judge in England and Wales, Lord Thomas, the lord chief justice, said the proportion of BAME judges – black, Asian and minority ethnic – had risen by just 1% in the three years to April 2017. Statistics showed that 11% of magistrates declared themselves as BAME. Ethnic minority representation was highest among judges under the age of 40, with 10% for courts and 14% for tribunals. The London and Midlands regions had the highest representations, with 9% for courts and 8% for tribunals. In Wales, just 1% of judges were from BAME backgrounds. <http://tinyurl.com/y99y8zms>

Child ‘soldier’ gets \$10m compensation: The Canadian government has paid its subject, former Guantanamo child detainee Omar Khadr, now 30, compensation of **\$10 million** for violating his rights: the government has also **apologised** to him. Toronto Criminology Centre direct Audrey Macklin wrote about “the elephant in the room”, a bizarre *murder* charge against him. Khadr, captured aged 15 and held illegally by the US for 10 years, was treated neither as a combatant nor as an accused criminal. Instead, the US invented a new war crime called “murder by an unlawful alien enemy combatant”. The new offence made it lawful for US soldiers to kill Mr Khadr, but made it a war crime if he killed a US soldier. Canada paid up because it was complicit in both his illegal detention and torture. – with thanks to Roger Fitch (29 July 2017) correspondent on US matters to the *Justinian* blog.

DATES

1 Aug, Melbourne: CLA’s Felicity Gerry QC to appear before the the Joint Standing Cttee on Foreign Affairs, Defence and Trade’s inquiry into whether Australia should enact a Modern Slavery law, as the UK has done. 11.30am, Victorian Parliament Committee Services Offices, Spring Street

2-30 August, Adelaide: To Tell Another’s Story: Australian Refugee Association Portrait Exhibition 2017, Kerry Packer Civic Gallery, Bob Hawke Prime Ministerial Centre, Uni of SA. Details: <http://tinyurl.com/y87s48rd>

3 Aug, Brisbane: Annual Sir Harry Gibbs dinner, 6.30–10pm, guest speaker is magistrate and award-winning author of ‘Saltwater’, Cathy McLennan, at Emmanuel College, U. Queensland. Details: <http://tinyurl.com/y9e6uk6a>

17 Aug, Canberra: Accountability and the Law: Case for a federal anti-corruption commission, at Parl House. Details/ register: <http://tinyurl.com/mzor8sw> Speakers include: Nicholas Cowdery, Geoffrey Watson, George Williams, Brew Walker, Fiona McLeod, Gabrielle Appleby (photo right).



8-9 Sept, Sydney: 40th anniversary of the Federal Court – considering the court’s contribution to the development of Australian law. Venue, Law Courts Building, Queens Square. Details: <https://law.anu.edu.au/news-and-events>

11-29 Sept, 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

23 Sept, NZ: Election

8-13 Oct, Sydney: International Bar Association conference: 8 -13 October 2017 www.ibanet.org/Conferences/Sydney2017.aspx (We don’t know why the “international” bar association conference is in Sydney, and the “Australian” conference is in England and Ireland - see 2-8 July)

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> .

26 Oct, Adelaide: 9th Southgate Oration, Julian Burnside on refugee harm, 12.30-1.30pm , Health Services lecture theatre 1.01, Bedford Park. Info: moira.mathieson@flinders.edu.au

26 Oct, Brisbane: Australian Academy of Law public lecture: 'Trends in legal education' Prof Sarah Derrington, Academic Dean and Head of School, TC Beirne School of Law, U. Queensland. Free, register by 20 Oct 2017.

1 - 3 Nov, Melbourne: 50 years of naming institutional racism: realising racial equity or intensifying injustices? 9am-7.30pm, Deakin University Downtown, 727 Collins St, Melbourne. Chair, organisers: Prof. Yin Paradies yin.paradies@deakin.edu.au

30 Nov - 3 Dec, Montreal, Canada: 8th International Conference on Human Rights Education: Bridging Our Diversities. Details: <http://tinyurl.com/kvpzq2v> NOTE: 9th of series to be held in Sydney in 2018.

5-8 December, Canberra: Acknowledging the past, imagining the future. Conference celebrating 50 years of criminology in Australia and New Zealand. Venue: QT Canberra. Details: <http://www.anzsoc2017.com.au/home.html>
2018:

Late 2018 (Timing/venue TBC): 9th International Conference on Human Rights Education. Contact: Dr Sev Ozdowski AM, Coordinator, International Human Rights conference series:, President, Australian Council for Human Rights Education. Email; S.Ozdowski@westernsydney.edu.au

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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)

ENDS ENDS ENDS

'Refugees' ...what's the latest situation:

Resettlement deal with USA:

In November 2016, Australia announced a resettlement deal with the USA whereby some of the refugees in Nauru and Manus Island could be eligible for resettlement in the US. Before that can happen, people who expressed interest will be subject to security assessment, further interviews and medical checks.

The January 2017 change of government in the US to President Trump created great uncertainty around the future of this deal. While American officials visited both islands and interviewed a number of people, as of June 2017 no refugee has been resettled in the USA.

As security checks in the USA take a minimum of six months, more usually about a year, this is not surprising. Stringent security checks mean running a refugee's details against seven databases, from Defence to Homeland Security.

Refugees must also demonstrate that they have not given material support to a proscribed organisation. This proviso has alarmed several Sri Lankan refugees, who could have provided something as simple as food or shelter to Tamil Tigers.

As of 30 April 2017, 1745 people on Nauru and Manus Island have been recognised as refugees.

How many will the US take?

It is unclear how many refugees the US will take from offshore processing centres.

In late January 2017, a US press secretary stated that America will resettle up to 1250 refugees, Australian officials maintain it is not possible to quote a fixed number as it depends on variables, including the number expressing interest in that resettlement option and the security screening.

In July 2017, the US announced it had reached its worldwide quota of such refugees for 2017, and no more would be admitted before 1 October 2017. So the Australia-US resettlement deal is officially in limbo...but is not dead.

The Australian government has not announced an appropriate resettlement plan for those who do not qualify for resettlement in the USA, but have been found to be a refugee. Similarly, the future of those found not to be a refugee but who are unable to return to their home (due to statelessness or inability to source travel documents) remains uncertain.

In July 2017, the UN High Commissioner for Refugees made public that the UNHCR believed Australian Immigration Minister Peter Dutton had personally wrenched on a deal to take refugee claimants from the islands, who have close family ties in Australia, to Australia. Minister Dutton denies agreeing to such a deal.

CLA comments that it is unlikely that UNHCR would have made these claims if there was no substance to them, as theirs is an extraordinarily strong diplomatic statement. Only 36 individuals have been identified. They include a man whose wife and children are in Australia and another (very) young man whose four brothers live in Australia: the brothers are his only siblings.

Legality of detention in Papua New Guinea:

In late April 2016, PNG's Supreme Court ruled that the transfer and detention of asylum seekers on Manus Island was illegal and in breach of the right to personal liberty in the PNG Constitution. The Supreme Court ordered that immediate steps be taken to end the detention of asylum seekers in PNG.

In mid May 2017, people in Manus Island detention centre were told that the centre would close by the end of October 2017; some residential areas would close as early as the end of May (the closure program apparently began in late July).

People currently residing in the detention centre were told that those found to be refugees, and those found not to be refugees, would be separated. Refugees were given the option of living in the PNG community or living temporarily in East Lorengau transit centre (people continue to raise safety concerns in relation to both locations) or to return to their home country. Those found not to be refugees were encouraged to return home voluntarily – otherwise they will be involuntarily removed, was the warning.

CLA comments that this is the standard international norm for people not found to be refugees. Some 601 people had returned home to 30 June 2017. The issue is more an ethical question – haven't we messed them up enough already!

Detention centre conditions:

Accommodation standards, facilities and services in the detention centres remain well below international standards. UNHCR and Amnesty International have documented the harsh nature of the conditions and noted the physical and mental health impacts of indefinite detention on asylum seekers.

There have been numerous incidents of self-harm, protests and disturbances on both Nauru and Manus Island. There have been consistent and alarming reports of abuse (sexual and otherwise), including of those living in the community in Nauru, and of gay and lesbian people.

There has been at least two deaths as a result of delays in medical treatment and multiple incidents evidencing woefully inadequate health care.

One man self-immolated in front of a UNHCR delegation and later died.

ENDS