



NSW COUNCIL FOR CIVIL LIBERTIES

President's Report to Annual General Meeting

23 October 2019

It has been an honour and a privilege to serve as the President of the New South Wales Council for Civil Liberties in the 2018/2019 year.

I would particularly like to thank our Secretary, Therese Cochrane, for her assistance in all the Council's activities and to our Treasurer, Stephen Blanks, for keeping a keen eye on our finances to ensure that we remain viable.

The year began with a desire to create a new Strategic Plan for the organisation and I'm proud to say that after a productive and stimulating day-long workshop at Avoca Beach early in 2019 during which the committee thrashed out the ideas that went into the creation of the new plan. A copy of the *Beyond 2020 Vision Strategic Plan* is attached.

Another important initiative has been the engagement of Amanda Keeling as our Executive Officer and on behalf of the organisation, I thank her very much for her work to date. We also acknowledge and thank our former policy lawyer, Michael Brull, for his excellent policy work prior to Amanda's appointment.

It has been very pleasing to see the progress we have made over the past 12 months not only in our advocacy, but also in the establishment of the NSWCCL Awards for Excellence in Civil Liberties Journalism, and in the steps taken to form a NSWCCL Indigenous Issues Action Group.

CCL Events

George Williams AO was our guest speaker at the John Marsden Memorial Lecture in November 2018 and his address (available on our website) was most impressive, as we have come to expect of him. He addressed a central concern to civil liberties: *Sacrificing Civil Liberties to Counter Terrorism - Where Will it End?*

Even before the raids on the ABC and the home of journalist Annika Smethurst, NSWCCL identified that the importance of a free and independence media sector was going to be a live issue. To that end, I invited Ita Buttrose AO OBE as the newly-appointed Chair of the ABC to speak at our annual fundraising dinner in September. This proved to be a significant coup under the circumstances and helped us to advocate on this important issue.

The inaugural Awards for Excellence in Civil Liberties Journalism were a standout success at the dinner and I thank and congratulate Hans Heilpern and Martin Bibby for giving CCL the idea. The nominees were most impressive, and the open category award was won by Richard Ackland. The young journalist's award went to Paul Farrell from the ABC's *7.30 Report*, with Kate Allman from the *NSW Law Society Journal* and *The Boiling Frog* website being highly commended.

Advocacy

The committee has been singularly successful in 2019 in engaging with the myriad issues that have confronted the Australian people in terms of impact on their civil liberties. I am proud to have been leading this extraordinary group of people whose commitment to our civil liberties is remarkable. They do all of this outside their day jobs and with little by way of thanks or recognition. I acknowledge and thank each of them tonight.

As I noted at our annual dinner, we are not always wholly successful in our advocacy, but our efforts do remind those in power of the often unintended consequences of their proposals in terms of impacts on our rights and liberties. This serves as an important brake on government excesses.

At the AGM last year and through our strategic planning, CCL identified a number of key issues on which our advocacy would focus in 2019, including:

- A Federal charter of rights and NSW human rights legislation
- A campaign for implementation of the Uluru Statement from the Heart
- Promoting the independence of journalism and the media including the ABC
- Reform of the offshore immigration detention regime
- Reform of the Australian visa cancellation regime
- Promoting abortion law reform

I'm pleased to report that we have made progress in all of those areas. The following is by no means a comprehensive summary of the work we have done, but it will give a flavour of the issues we have touched upon in the past 12 months.

Human Rights Legislation

A significant project for us this year has been participating in the Human Rights for New South Wales Alliance, which expanded into a campaign for a Federal charter as well as for State legislation. I attended a number of meetings of the Alliance and thank Simon Bruck for leading that group in its work.

In February 2019 Simon and I met with the New South Wales Attorney General Mark Speakman SC to discuss the New South Wales human rights act. I was accompanied by Simon Bruck and Kerry Weste who is the President of the Australian Lawyers For Human Rights.

CCL made a submission to the Australian Human Rights Commission's Free and Equal: An Australian conversation on human rights project. This submission argues that human rights have not been respected in Australia, are not protected, and suggests some methods to improve human rights in Australia.

We also recently made a submission with regard to the proposed Religious Discrimination Bill. In particular, we oppose the privileging of religious rights over other human rights and liberties. Australia's discrimination laws need to work cohesively together so that no one right should be automatically privileged over others eg LGBTQI rights. We have consistently argued the protection and balancing of human rights would be greatly assisted by the adoption of an Australian charter of human rights. Thanks to Lesley Lynch for her work on this submission.

Uluru Statement from the Heart and Indigenous issues

In addition to making public statements of support for the Uluru Statement from the Heart, it was quickly recognised that in order to pursue our policy objective of seeing the recommendations of the Uluru Statement from the Heart implemented, we would need to engage closely with leaders of the Aboriginal and Torres Strait Islander peoples.

To do that, we determined to establish a NSW Council for Civil Liberties Indigenous Issues Action Group. I had discussed this with the late Jane Matthews AO in 2018, given her lifelong work on Aboriginal and Torres Strait Islander legal issues, and she had agreed to assist by facilitating introductions to key people and working with CCL on the Action Group. Unfortunately, her illness prevented her substantive participation, but we have nevertheless made progress in establishing the first Indigenous Issues Action Group. To that end

Indigenous lawyer, Teela Reid, will be attending our November committee meeting. I particularly thank Rebecca McMahon for her help in this initiative.

Earlier this year, we welcomed a pledge by the Australian Labor Party to invest \$107 million to address the disproportionate incarceration rates of Aboriginal and Torres Strait Islander peoples.

A free and independent media sector

Another significant issue for us this year has been our campaign for a free and independent media sector. We have engaged in significant advocacy on this issue throughout the year. The keynote speech of Ita Buttrose at our annual dinner was the icing on the cake.

Offshore immigration detention and visa cancellation reform

The CCL's Asylum Seekers and Refugees Action Group under the leadership of co-convenors Martin Bibby and Angela Catallo has been particularly busy in 2019. Their policy output on this notoriously stubborn area of Australian policy has been exceptional.

Legalising abortion in NSW

We are proud of the successful work we contributed to in the campaign for women's reproductive rights, which saw the passage of the Abortion Law Bill 2019 on 26 September 2019 legalising abortion in New South Wales for the first time. CCL had worked towards legalising abortion for 50 years. Thanks to Lesley Lynch for her tireless work on this issue.

Data and privacy

The CCL's Action Group on Freedom of Speech & Censorship; Privacy & Data Retention; Open Government & Whistle-blower Protection has also been busy in 2019. Most recently, they made a submission on the Health Legislation Amendment (Data Matching) Bill 2019. Thanks to Michelle Falstein for her leadership on these issues.

Among other things, the Action Group also made a submission to the PJCIS in relation to its review of the legislation that established the excessive mandatory data retention regime in 2015 and opposed the new Bill.

I have engaged with technology sector organisations in relation to the flawed Abhorrent Violent Material (AVM) legislation that was hastily brought in after the Christchurch shootings were live streamed on social media. These meetings have been ongoing all year and continue. This issue is of significance from a civil liberties perspective as the legislation presently criminalises a platform for hosting material they may not be aware of at all and imposes very significant sanctions. The response of tech companies may be to disable all livestreaming capacities, which would significantly impede the ability for people to use social media as a means of sharing video of protest marches and the like.

I took part in the Parliamentary meetings with Christian Porter's office, Dave Sharma MP, Tim Wilson MP and Senator David forces in relation to AVM.

Right to protest

It has been a disturbing year for civil liberties, with both the Federal and State governments proposing legislation that infringes upon our rights to peaceful protest. Both governments touted their laws as being for the protection of the rights of farmers, pitting the rights of farmers against the rights of radical animal rights activists. The truth is quite different. In fact the laws take away from the rights of farmers to protest against coal seam gas exploration on their own farms.

These laws in fact pit the power of the state against the limited ability for us as citizens to express our dissatisfaction with government policy through protest. Peaceful protest is one of the only things we can do as citizens between elections to express our displeasure in relation to specific policies. It is almost the only thing we can do that will garner public attention.

CCL has been criticised for supporting protests because they disturb people's day-to-day activities. The fact is, however, that while they may be uncomfortable or temporarily disruptive, peaceful protests are an essential part of our democracy. So much of the progress that we now take for granted has come about only after people have taken their concerns to the public in mass demonstrations. This includes the vote for women, equal rights for Aboriginal people and the 8-hour day.

We must protect our freedom to come together to express our opinions on issues we care deeply about. A good government would facilitate these protests, not try to shut them down.

Medevac Bill

The Council for Civil Liberties signed an open letter urging MPs to support the Home Affairs Legislation Amendment (Miscellaneous Measures) Bill 2018 (Medevac Bill). It is clear that ongoing advocacy on this issue will be necessary having regard to the current discussions in the Federal Parliament.

Death penalty

Through the year, I took part in the DFAT consultative group on the death penalty in Canberra and met with them on a number of occasions in Canberra.

Criminal Justice, Police Powers and Mental Health

The CCL Action Group on Criminal Justice, Police Powers and Mental Health has been busy again in 2019 and I thank convenor, Eugene Schofield-Georgeson, who has contributed to a number of written submissions and advocacy on these issues.

National Security and Counter-Terrorism

Lesley Lynch and her Action Group have been vigilant in monitoring and opposing further erosions of our rights in the name of national security and counter-terrorism over the past 12 months. This area of work will continue to be at the centre of concerns over the erosion of civil liberties and human rights in Australia.

Media engagement

Our media engagement has been healthy this year, particularly since the engagement of our Executive Officer.

We have had a good share of television, radio and print media mentions on issues as diverse as home invasions, free speech and democracy, the North Sydney smoking ban and the right to protest.

The media coverage of our annual dinner was encouraging, with the *Saturday Paper* describing it as 'a grand affair bursting with judges, lawyers, politicians, scientists, captains of industry, academics, public administrators, journalists and other worthies'. Ita Buttrose's speech was covered by a number of mainstream media sources including by the *Guardian* and, unsurprisingly, the ABC.

Engagement with civil society sector

I am of the firm belief that it is vital for NSWCCCL to engage with others in the civil society sector and I arranged a series of meetings with leaders of other organisations including Ahmet Polat from the Affinity Intercultural Alliance, Jonathan Hunyor from PIAC, the Race Discrimination Commissioner Chin Tan and representatives of the University of New South Wales law school including Professor George Williams AO.

I took part in a number of sector advocacy teleconferences through the year regarding offshore processing issues with various civil society organisations including HRLC, RACS, HRC, Doctors for Refugees, Worldvision, Grandmothers Against Detention of Refugee Children, among others.

I was also invited to participate the Law Society of NSW Women in Leadership in Law round table in January 2019.

I was pleased to attend the New South Wales Premier's Harmony Dinner at Rosehill and accompanied by Stephen Blanks.

I had the honour to attend the First 100 years of Women in the Law gala event at Parliament house in Sydney on 26 November 2018 and I was also pleased to speak at a number of International Women's Day network events in March 2019.

I was invited by the Law Council of Australia to give evidence to the PJCIS hearing in Canberra earlier this year on citizenship revocation laws, which raised constitutional, human rights and criminal issues.

The Law Council also asked me to give evidence to the PJCIS Freedom of the Press Inquiry in Canberra in August 2019.

At the invitation of the Law Society of NSW I took part in a Thought Leadership forum on a Magnitsky Act for Australia with Emeritus Professor Graham Gill of Sydney University, Senator Kimberley Kitching and Jeremy Moller of Norton Rose Fulbright in August 2019.

I attended a DFAT Death Penalty Consultative Group meeting in August 2019

I worked closely with the Alliance for Journalists' Freedom in 2019 including attending a major forum held in August 2019 at Gilbert+Tobin.

I had the pleasure of speaking on ethics and the rule of law in the Pacific region at the IBA/South Pacific lawyers Association meetings in Fiji in September 2019.

I look forward to speaking at the Union Internationale des Avocats Congress in Luxembourg on 7 November 2019 to speak on the erosion of the right to silence.

Thank you

Pauline Wright
23 October 2019