



President's Report to Members

Date: April, 2015

Death Penalty

At the time of writing, Australia has woken to the news of the execution by firing squad of eight individuals in Indonesia including Andrew Chan and Myuran Sukumaran.

The ABA steadfastly opposes the death penalty in all circumstances as cruel and excessive punishment and as an ineffective deterrent to criminal offending. As demonstrated by the blanket refusal of clemency in these cases, it is incapable of responding appropriately to the rehabilitation or special vulnerability of individuals and errors in the judicial process.

Questions remain as to the discretion available to our Federal Police to cooperate with overseas agencies in circumstances that expose our citizens to the death penalty.

I acknowledge the continued efforts of government including the Foreign Minister and Attorney General and officials within their Departments and the extraordinary and courageous efforts of members of the Victorian and NSW Bars in appearing and acting for Andrew and Myuran.

It is particularly affronting that the decision to proceed with the executions occurred before legal processes were exhausted. These included a challenge to the blanket refusal to properly exercise the clemency power of the President and an investigation by the Judicial Commission into corruption and interference by executive officers with the sentencing process. The decision to proceed in these circumstances should be censured in the strongest terms and compromises the rule of law. Links to press statements and a selection of media appear here: <http://www.austbar.asn.au/about-the-aba/media-releases>.

Legal Aid Advocacy

In March, the State and Territory Attorneys General sent a joint letter to the Federal Attorney General concerning national legal aid funding arrangements and asking for long term budgetary commitment on Commonwealth contributions to legal aid. The letter comes at a critical time in terms of the renegotiation of the National Partnership agreement.

I, and many others, provided media comment on the Commonwealth contribution to legal aid funding to indigenous legal services, including family violence services, on the impact of

the cuts, the terrible impact on incarceration rates and mandatory sentencing policies in this context. This resulted in a partial reversal of the decision to cut funding as announced by the Attorney General in late March. The announcement is most welcome and secures a large portion of the previous funding for a further two years.

Legal aid funding, however, remains a critical issue requiring long term planning by governments and consideration of the real costs of failing to provide funding for justice for our increasingly vulnerable community. A link to a selection of recent press releases may be found here: <http://www.austbar.asn.au/about-the-aba/media-releases>.

Aboriginal and Torres Strait Islander Incarceration

The ABA has been concerned for some time about the worsening high rate of incarceration of Aboriginal and Torres Strait Islanders – now around 27.4% of our jail population nationally as the impact of mandatory sentencing policies and pressure on funding of legal aid services continue.

On 30 April I will attend the launch of ‘Change the Record’ in Sydney, a multi-agency campaign exploring and promoting practical solutions and Justice Re-investment strategies aiming to close the gap in rates of imprisonment and address rates of violence through early intervention, prevention and diversion strategies in partnership with ATSI people and organisations.

Uniform Law - Conduct and Admission Rules

With the introduction of the *Legal Profession Uniform Law Application Act* and commencement date of 1 July, 2015 in Victoria and NSW much work has been undertaken to progress the rules, process submissions received in respect of the rules and liaise with the Legal Services Commissioner. My sincere thanks to CEO Philip Selth OAM, Jennifer Pearce and Chris D’Aeth of the NSW Bar Office for their work on this Project.

Appointments/Farewells

Chief Justice Robert French has advised that the last Canberra sitting day for Justice Hayne will be on 13 May, 2015. In accordance with the usual practice, there will not be a formal opportunity to address the Court. I take this opportunity to thank Justice Hayne for his extraordinary service to the judiciary, on the Victorian Supreme Court and then on the High Court. His Honour has been an outstanding jurist and has made a great contribution to the law.

I was delighted on 19 March to attend a welcome for Past President of the ABA, Peter Riordan QC who has recently been appointed as a judge of the Supreme Court of Victoria.

Shane Doyle QC, President of the Queensland Bar represented the ABA at a welcome for Justice Edelman to the Federal Court in Brisbane on 20 April.

The Attorney General has advised that Justice Gordon will take up her appointment to the High Court on 9 June in Canberra. Her Honour's appointment is warmly welcomed. See the ABA Press Release here: <http://www.austbar.asn.au/about-the-aba/media-releases>

Conferences

The ABA Conferences in Washington DC 3-5 July and in Boston 7-10 July, 2015 promise to be very exciting with an excellent line up of speakers and social events. Work securing speakers and other conference preparations have been undertaken with the assistance of Chris D'Aeth and the staff of the NSW and Vic Bars and Mark Livesey QC. The business program for each conference is being updated and will shortly be posted to the website – registration and other details are available at www.austbar.asn.au/archives/1999.

Advocacy Training Council

I urge all barristers to continue to hone their advocacy skills through the excellent programs offered by the ATC. An Appellate Advocacy Training Course will be held 18-20 September, 2015 in Sydney. The next Advanced Advocacy Training will be held 18-23 January, 2016 in Melbourne. Details available here: <http://www.advocacytraining.com.au/>.

INTERNATIONAL

Meeting with Judge President of Namibia

On 24 February I met with Justice Petrus Damaseb, Judge President and Deputy Chief Justice of Namibia, Justices Sifris and Elliott of the Supreme Court of Victoria and various members of the International Law Committee of Commbar of the Victorian Bar. His Honour participated in a lively discussion focusing on challenges to the rule of law in Namibia and spoke of his particular interest in sports law. I attended a dinner in honour of the Judge President's attendance. The Judge President was particularly interested in advocacy training programs conducted by the Australian Bar Association and indicated that he would consider future opportunities for engagement.

Singapore, Borneo

In late March I attended a series of meetings in Singapore with the Vice President Patrick O'Sullivan QC including Chief Justice Menon, the Chief Justice of Singapore, Attorney-General V. K. Rajah SC, Professor Walter Woon, Dean of the Singapore Institute of Legal Education, Mr Thio Shen Yi and Mr Gregory Vijayendran of the Law Society of Singapore, Mrs Lee Suet Fern and others of the Singapore Academy of Law, and Mr Cheng Han Tan SC, Chairman of the Centre of Law & Business at the National University of Singapore.

Topics of discussion for each meeting included the ABA Conference 2017 in Singapore, CPD exchanges and advocacy training, regional justice initiatives, the new Singapore International Commercial Court and Academy of Law Convergence Project, reciprocal rights of appearance for Singapore and Australian counsel, the concept of a junior barrister/advocate exchange and admission requirements. These meetings were highly successful and further developed our strong relationships with Singapore.

The ABA will seek to assist barristers by working to finding our niche in crowded and competitive international markets. We have built strong relationships over many years through advocacy training and have the advantages of cost, proximity and common legal antecedents in areas such as property law, company law and contract law. Australian counsel have a right of appearance before the new Singapore International Commercial Court and may apply for ad hoc admission to appear before the Supreme Court. We are also exploring the potential for a barrister exchange with Singapore – where juniors can work in house with senior advocates for a short period, and a series of short specialist CPD programs to be presented to the Singapore legal profession ahead of the ABA Conference in Singapore in 2017.

I observed an advocacy ‘train the trainer’ workshop in Borneo with an international teaching team including Australian advocacy coaches Vice President Patrick O’Sullivan QC and Ian Robertson SC of the South Australian Bar. The workshop was organised by Philip Greenwood SC and the International Advocacy Training Council and was conducted over a period of 2.5 days involving participants from Sabah, Sarawak and Brunei with trainers from Australia, Hong Kong, Singapore and Malaysia.

At the time I met with Mr Rozaiman Haji Abdul Rahman, the President of the Brunei Law Society to discuss the needs of Brunei with respect to advocacy training and appointments to the Brunei Court of Appeal.

I met the Malaysian President of the Malaysian Bar Association, Steven Thiru and responded to a request from the Malaysian Bar Association and the Bars of Sabah and Sarawak for support for their stand against harsh detention laws. The ABA supports the Malaysian Bar Association and the Bars of Malaysia in their efforts to identify and address threats to the rule of law in Malaysia. Our press release appears here: <http://www.austbar.asn.au/about-the-aba/media-releases>.

Fiona McLeod SC

@AustBarAssoc