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SUBMISSION TO THE QUEENSLAND PARLIAMENT LEGAL AFFAIRS AND COMMUNITY SAFETY COMMITTEE
A HUMAN RIGHTS ACT FOR QUEENSLAND

Submitted by **Michael O'Keeffe**, retired legal practitioner, and practising volunteer solicitor, 17 April 2016.

Introduction

This submission supports the introduction of Human Rights Act for Queensland; and specifically recommends:

1. The adoption of two universally accepted international human rights obligations under the UN *International Covenant on Civil and Political Rights (ICCPR*); and.
2. The adoption of a legislative regime which closely follows the provisions of the *ACT Human Rights Act 2004* (ACTHRA).

This submission draws on case studies from the author's personal experience in legally assisitng a number of indigenous Queenslanders in Townsville, whose human rights have been fundamentally breached and who have suffered substantial injustice from Queensland's justice system. Three innocent Aboriginal men have suffered badly because of long periods in prison for crimes of which they were later exonerated. Their suffering is made worse because they are denied redress through the accepted international human rights covenant protections.

This submission seeks to deal with two issues relevant to the denial of human rights in respect of:

- the separation of juveniles from adults while in custody, and
- the denial of human rights for exonerees, that is, for those Queensland citizens who have been subject to a miscarriage of justice, wrongly convicted by a court of a criminal offence, subsequently imprisoned, and then exonerated of the crime of which they were convicted.

The issues are fundamental justice and human rights issues, and go to the heart of the fairness of the Queensland criminal justice system, and the associated judicial practice and policy processes.

My respectful submission is that the issues are relevant to the Committee's terms of reference, in particular, the need to consider

a. the effectiveness of current laws and mechanisms for protecting human rights in Queensland and possible improvements to these mechanisms;
b. the operation and effectiveness of human rights legislation in Victoria, the Australian Capital Territory and by ordinary statute internationally;
c. the costs and benefits of adopting a HR Act (including financial, legal, social and otherwise); and
d. previous and current reviews and inquiries (in Australia and internationally) on the issue of human rights legislation.

Included are three case studies from my own legal experience, involving three indigenous exonerees from Townsville.

This submission also points to Australia's poor record with regard to restorative justice in this area, including by reference to comparable overseas jurisdictions.

SEPARATION OF JUVENILE OFFENDERS FROM ADULT OFFENDERS WHILE IN CUSTODY

It would be stating the obvious that children should be separated from adults while incarcerated, but there is no Australian law to enforce it, except in the ACT, where Section 20 of the ACTHRA legislation gives effect to the international obligation under Article 10(3) of the ICCPR and Article 37(c) of the UN Convention on the Rights of the Child (CROC). In states other than the ACT, the matter is left to the discretion of police and prison authorities to be dealt with administratively.

The Australian Law Reform Commission (ALRC) has criticised the lack of current Australian legislative regimes and practices regarding the separation of adults and juveniles in detention.

The ALRC's 1997 Report 84 *Seen and Heard: Priority for children in the legal process* stated:

> "It is not uncommon for children to be detained side by side with hardened adult criminals. Children on remand are often placed in police cells alongside adults or placed in adult prisons. One particularly serious problem was the detention of children in watch houses where they are not separated from adults and are exposed to sexual taunts and harassment and dehumanising treatment.
>
> "In the Northern Territory, correctional officers confirmed that there is no separate accommodation for young people transferred to prison. Furthermore, they confirmed that there are no specific education programs in prisons to cater for the particular needs of young people. The correctional officers noted that the new prison in Alice Springs has facilities to enable young offenders to be accommodated separately from older prisoners, but that there is no requirement that they be kept separate.

> "The absence of separate juvenile units in adult prisons presents serious problems. Evidence presented to the Inquiry from a young person who had been in detention indicated that use of the protection unit in prison to separate children from adults can stigmatise young offenders. One submission pointed out that, in areas where there are no juvenile facilities in adult prisons, such as Alice Springs, children are held on remand in Isolation cells. There have been approximately 26 children detained at the prison at Alice Springs this year, one of whom was a 12 year old girl. Although children are supposed to be separated from adult offenders, the submission stated that this is enforced inconsistently." [1]

The ALRC's recommendations have been ignored since 1997.

COMPENSATION FOR PERSONS EXONERATED BECAUSE OF A MISCARRIAGE OF JUSTICE

Again, it would seem to be stating the obvious that Queenslanders wrongly convicted of criminal offences, and subsequently exonerated because of a substantial miscarriage of justice, should have a right to access restorative justice by way of compensation according to law. Again, this fundamental human rights provision is absent from the statutes of all Australian States and Territories, with the exception of the ACT, where Section 23 of the ACTHRA gives effect to the international obligation under Article 14(6) of the ICCPR. In states other than the ACT, the matter is left to the discretion of the State Attorney General and Justice Department officials to be dealt with administratively.

While all of these human rights are fundamental, I have ongoing legal experience with three innocent indigenous Queenslanders who have suffered because of long periods in prison for crimes of which they were later exonerated. They still have no human rights to redress the injustices committed against them.

CASE STUDY 1 : Mr I – A Queensland Aboriginal man wrongly convicted, and subsequently exonerated

While Solicitor in Charge of Queensland Legal Aid in Townsville", I legally assisted Mr I, an Aboriginal man who served 4 ½ years of an 8 year sentence for armed robbery. Mr I was released from prison in 1997 by order of the High Court which stated in its remarks that it had "the gravest misgiving about the circumstances of this case" and

1 ALRC 1997 Report 84 *Seen and heard: priority for children in the legal process* (1997) (http://www.alrc.gov.au/publications/20-detention/separation-adults-and-juveniles-detention), chapter 20.

described the handling of the prosecution as “a very disturbing situation”

Specifically, Chief Justice Brennan stated that the Court had:

> “the gravest misgiving about the circumstances of this case: a serious crime; counsel brought in at the last moment; material which is relevant to cross-examination of identification not in counsel's hands at the time that the trial starts; evidence in relation to the bank video not adduced; and then there follows problems in relation to the calling of Detective [P] who evidently broadcast or authorised the broadcast of a description of the alleged offender which, at least in terms of age and perhaps in terms of height, does not suit the accused. It is a very disturbing situation. And in all of this, the accused has been denied legal aid for his appeal.” [2]

Successive Queensland Governments refused Mr I’s application for ex-gratia restitution following his High Court Appeal, despite the strongest evidence of his innocence. I then took Mr I’s case to the United Nations Human Rights Committee, which also found that Mr I was subject to manifest injustice, and should be paid compensation. The UNHRC stated:

> “The facts laid out in the communication, which have not been contested by the State party, show that [Mr I] was subject to manifest injustice. It would appear that they raise a serious issue regarding compliance by the State party..... It would therefore appear that [Mr I] should be entitled to compensation.”

Both the findings of the High Court and the UN were ignored, and met by further repeated refusals by successive Queensland Governments to investigate, apologise, or make restitution, always without any explanation. Promises of independent inquiry by one Attorney-General into the circumstances of his case were broken by another Attorney-General.

Mr I has now had to take his case (without funding) to the Supreme Court of Queensland. The civil case alone has incurred very substantial costs already. If Mr I is successful, these legal costs will be borne by the taxpayers of Queensland.

2 High Court of Australia transcript: (http://www.austlii.edu.au/au/cases/cth/HCATrans/1997/405.html

CASE STUDIES 2 and 3: Mr L and Mr N – Queensland Aboriginal men wrongly convicted, and subsequently exonerated

Mr L and Mr N, also Aboriginal men from Townsville, were acquitted by the Queensland Court of Appeal in 2013 after serving 2 ½ years of 7 years sentences each for manslaughter. The Court of Appeal stated:

> "The poor calibre of the evidence on which the Crown case depended of itself leads me to the conclusion that "there is a significant possibility that ... innocent person[s] have been convicted". [3]

Their case for restitution was put before the State Government seeking ex-gratia payment in December 2015, and no response has been received. Inevitably, these cases will end up in the civil courts contesting malicious prosecution, a tort unsuited for plaintiffs with no resources to prosecute such claims. These men have not been provided with the human rights necessary to provide for fair restitution.

These are not the only cases of wrongful conviction of Aboriginal men in Townsville. I am aware of another Townsville Aboriginal man, Mr C, who spent 7 years in prison before taking his case to the High Court for a murder he couldn't have committed, because he had been locked up in the police cells at the time of the murder. I know of other Aboriginal exonerees elsewhere in Queensland who have been equally shabbily treated.

There is a paucity of research data on exonerees in Australia. There are no statistics or studies which explore the extent of the problem of wrongful conviction in Australia, let alone the wrongful conviction of Queenslanders, or Aboriginal Queenslanders. But if my own experience as one solicitor assisting exonerees in three wrongful conviction cases in Townsville alone is any indicator, it is neither fanciful or hypothetical to assume that many, many more Aboriginal people across Queensland are either now wrongly in prison, or have been wrongly convicted and released from prison despite their innocence.

The denial of restitution to these exonerees is able to occur (as it does with just about every other case of wrongful conviction of other exonerees in Queensland), simply because there are no laws in Queensland which give legal rights of redress to exonerees, as is required under article 14, paragraph 6, of the International Covenant on Civil and Political Rights (ICCPR). Australia has repeatedly refused to

!3 (Queensland Court of Appeal, 21 May 2013 (CA 318 of 2012; CA 319 of 2012)

adopt this part of the UN Convention, despite repeated international agency criticism of Australia's position. While Queensland has the right to introduce conforming legislation, unlike the ACT it has declined to do so.

THE EXTENT OF WRONGFUL CONVICTION

The recent political and community debate around the incarceration rates of Aboriginal Australians centres around the statistic that while Aboriginal people represent only 3% of the total population, more than 28% of Australia's prison population are Aboriginal. In Queensland, Aboriginal people are 3 times more likely to be imprisoned than the rest of the Queensland population. Statistically, therefore, three times the number of innocent Aboriginal people are in prison at any one time, when compared with the rest of the Queensland population wrongly convicted.

Wrongful conviction rates for Queensland are very poorly researched. US researchers have, however, compiled a *Wrongfully Convicted Database for Australia*, which shows that well over 100 known cases of exoneration after wrongful imprisonment have been disclosed in the last 20 or so years. A list of the Australian cases compiled from the database (up to 2011) is attached at Appendix 1. [4]

Exoneration after wrongful conviction is therefore a frequent and devastating occurrence in Australia, and is deserving of genuine policy repair. Perhaps no area of legal policy and criminal jurisprudence in Australia is the subject of such single-minded ignorance as the community's perception of innocence. The case of Lindy Chamberlain in the early 1980's pushed community perceptions about innocence in Australia to the level of tragi-comedy, and served to highlight the capacity of a powerful prosecutorial process to destroy the lives of an innocent woman and her family.

One case of wrongful imprisonment is one too many. But in Queensland, there are simply too many cases of wrongful imprisonment of innocent Queenslanders, with shattering consequences for those in question and their families, made worse in many cases because vulnerable Aboriginal Queenslanders are more commonly the victims of this injustice.

The real moral failure of successive Queensland governments is not that Queenslanders are wrongly convicted, but that government is unwilling to take ownership of its wrongs or errors, thus passing the costs of the State's mistakes onto

4 Wrongfully Convicted Database, maintained by Forejustice and *Justice Denied* magazine, http://forejustice.org/db/location/innocents_l.html . Note that dates used refer to the date of original conviction, not the date of discovery of innocence, which can be a decade or more after conviction.

innocent Queenslanders and their families. Queensland has a demonstrated policy history of delay and denial of responsibility in wrongful conviction cases. There are no guidelines, let alone legislation, and the amassing of Crown Law resources in resisting government acceptance of responsibility, or the payment of restitution to exonerees, seems to be designed specifically to discourage any claim against the state, rather than to serve justice.

Such conduct simply cannot be supported any longer by any fair minded Queenslander.

FALLING THROUGH THE CRACKS – WHAT IF IT WAS YOU? THE PUBLIC POLICY NEED FOR REPAIR

> "Being falsely accused is the stuff of nightmares for the average person, for it compounds powerlessness and shakes one's faith in the justice system. Most of us dread injustice with a special fear.
>
> "Surely few people need to be told that imprisonment in general has very serious and psychological effects on the inmate. For the person who has been subjected to a lengthy term of imprisonment, we approach the worst case scenario. The notion of permanent social disability due to a state wrong begins to crystallise. The longer this distorting experience of prison goes on, the less likely a person can ever be whole again."
>
> - Archibald Kaiser - *Wrongful Conviction and Imprisonment: Towards an End to the Compensatory Obstacle Course* [5]

In addition to those persons who come before various of the Australian criminal courts and are dealt with by dismissal of the criminal allegations against them (who will nevertheless often suffer significant financial loss), there is another smaller but nevertheless sizeable category of persons who suffer more than just financial loss.

These are the wrongfully convicted, that is those who have actually served jail time, and who are subsequently exonerated. The effect on the exoneree will be devastating, rising to catastrophic if the miscarriage of justice is serious and the sentence of imprisonment wrongly served is lengthy.

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5 Kaiser, Archibald, Professor of Law and Assistant Professor, Department of Psychiatry, Faculty of Medicine, at Dalhousie University, Halifax, Nova Scotia. *Wrongful Conviction and Imprisonment: Towards an End to the Compensatory Obstacle Course*.
Windsor Yearbook of Access to Justice, Vol 9, 1989, University of Windsor (Nova Scotia, Canada) Faculty of Law.

Professor Kaiser says that the wrongfully convicted are obliged to bear the whole of the costs of the State's mistakes:

> "Where compensation is either unavailable or ungenerous, or where there is no payment as of right, and discretion is retained by the executive, the state has clearly indicated the low priority it gives to the plight of the wrongly convicted.
>
> "The costs of legal errors of such huge proportions are thereby borne by individuals and not by the state, which thus conceals the financial and policy implications of its malfunctioning criminal justice system. " [6]

Similarly, Barbara Etter argues convincingly that sound public policy dictates that the official acknowledgement of a wrongful conviction (conceding that no system is perfect), a government's public recognition of the harm inflicted upon a wrongfully convicted person helps to foster his healing process, while assuring the public that the government – regardless of fault – is willing to take ownership of its wrongs or errors, and thus ensure continuing public confidence in the proper management and conduct of its justice system and the State's officers.

Etter goes on to say that

> "Public confidence in the criminal justice system is diminished when innocent people are convicted and true perpetrators remain at large." [7]

COST

Some politicians in Queensland have previously commented that legislative reform for compensation in this area would "open the floodgates".

On Tuesday 28 June 2005, the then Premier of Queensland, Peter Beattie, was interviewed on ABC radio concerning a claim for compensation by wrongly convicted Di Fingleton. Mr. Beattie was quoted as follows:

> **TRANSCRIPT: ABC RADIO *The World Today* Tuesday, 28 June 2005 12:14:00**
> Reporter: Ian Townsend
>
> IAN TOWNSEND (ABC Radio): The problem is that she [Di Fingleton] is not automatically entitled to compensation, even though the High Court has quashed her original conviction and said she should never have gone to jail.

6 Kaiser, Archibald, *Wrongful Conviction and Imprisonment: Towards an End to the Compensatory Obstacle Course*, Windsor Yearbook of Access to Justice, Vol 9, 1989, University of Windsor (Nova Scotia, Canada) Faculty of Law),

7 Etter, Barbara, *The Changing the Way We Think about Justice! Dealing with Miscarriages of Justice – Shifting Boundaries and Changing Lives,* a paper presented to the Australian and New Zealand Critical Criminology Conference 2012 at the University of Tasmania on Friday 13 July 2012. Barbara Etter APM, is a Principal of BEtter Consulting (www.betterconsult.com.au), and an Adjunct Associate Professor, School of Law and Justice, Edith Cowan University, Perth, WA

> While the Queensland Government can make an ex gratia payment, it's not legally obliged to. And in fact, Peter Beattie's already had advice from Crown law that compensation shouldn't be paid.
>
> PETER BEATTIE: Because it would that anyone in a similar position, and that is, someone who had been charged with an offence and acquitted by a jury, would then be able to claim compensation.
>
> Now, I would have, and so would the Attorney-General, a list of people from here to Cairns standing in line saying well, what about my compensation, and head of the list after Di Fingleton would be Pauline Hanson. We would open the floodgates.

In fact, Article 14(6) of the ICCPR does not apply to those who have been remanded in custody and released before trial, or to those who have been committed for trial, then discharged or acquitted. The provision for compensation for exonerees under the ICCPR is limited to those who have been convicted, and who have exhausted their legal remedies, and then have been exonerated (as was the case with Di Fingleton). The proposed reform does not replace or second guess, for instance, the decision-making processes of juries: it assists only in those cases where juries, for whatever reason, have got it wrong, and a miscarriage of justice has occurred.

As pointed out above, wrongful conviction rates for Queensland are very poorly researched. It follows that if the threshold issue of how many wrongful convictions occur in Queensland in unknown, the financial implications are even less well known. It also follows that the direct costs of the imprisonment to the individual and to the families directly affected have not been costed.

In addition, the costs to the community (including the costs to the community of the continued criminal presence of those who actually committed the offence for which the prisoner was wrongly convicted, and the costs to the community of a reduced lack of confidence in the justice system) are also not known, nor is there any Australian economic modelling of same.

Costs to the Australian health system of wrongful conviction are also an issue. Adrian Hoel argues that there are also emotional costs to prisoners and their families, which are invariably shifted to the Australian health sector.

> "Wrongfully convicted people may experience psychiatric and emotional effects from the conviction and subsequent imprisonment. They undergo enduring personality changes similar to that experienced by people suffering a catastrophic experience. They often exhibit serious psychiatric morbidity and display symptoms of disorders (Grounds 2004).
>
> "Wrongfully convicted people may also suffer ongoing emotional effects from the conviction and the disengagement from society that it brings. They often exhibit feelings of bitterness, loss, threat, paranoia and hopelessness. Such

> prisoners lose basic emotional coping skills, making it very difficult for them to adapt to life " [8]

The one fact that is known is that the respective Australian government justice systems, for the most part, simply pass the whole of the burden (financial, health and social) of their failures onto the wrongly convicted person and their families. It is a massive exercise in cost shifting from those who are extraordinarily well resourced to those who are unable to access justice. Kaiser argues that all citizens have "a profound right not to be convicted of crimes which they are innocent". Professor Kaiser says:

> "This right is one of the cornerstones of an orderly society. Where it has been trampled upon by the criminal justice system, the individual and society are fundamentally threatened. Indeed the legal system is capable of creating few errors that have a greater impact upon an individual than to incarcerate him when he has committed no crime". [9]

Professor Kaiser goes on to say that a forceful public policy case can be mounted that reducing wrongful convictions will increase confidence in the criminal justice system, and that "public respect for the system may then be heightened by this admission of error and assumption of responsibility." He goes on to argue that making restitution according to accepted international standards will prevent persons in future from being wrongfully convicted, because governments will be minded to minimise financial sanctions by improving accountability of agencies and their processes.

AUSTRALIAN CAPITAL TERRITORY LEGISLATION IS THE PREFERRED MODEL FOR QUEENSLAND

Queensland should adopt the *ACT Human Rights Act 2004* (ACTHRA) as its model, and not the Victorian model, which lacks fundamental human rights protections. While legislators in Victoria are to be commended for introducing at least some human rights protections, the Victorian *Charter of Human Rights and Responsibilities Act 2006* has significant omissions. To contrast the two pieces of legislation, as a relevant example, the Australian Capital Territory's ACTHRA gives effect (where the Victorian Act does not) to the International obligations under the *International Covenant on Civil and Political Rights* (ICCPR), as follows:

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8 Hoel, Adrian, and Judy Putt, Compensation for wrongful conviction, *AIC Trends & issues in crime and criminal justice series,* Australian Institute of Criminology, Canberra May 2008.

9 Kaiser, Archibald, *Wrongful Conviction and Imprisonment: Towards an End to the Compensatory Obstacle Course*, Windsor Yearbook of Access to Justice, Vol 9, 1989, University of Windsor (Nova Scotia, Canada) Faculty of Law),

- Juvenile Offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status (Article 10(3) of the ICCPR). This fundamental human rights provision is enacted only in the ACT, by operation of Section 20 of the ACTHRA.

- Persons wrongly convicted of criminal offences and subsequently exonerated because of a miscarriage of justice shall be compensated according to law (Article 14(6) of the ICCPR). This fundamental human rights provision is enacted only in the ACT by operation of Section 23 of the ACTHRA.

AUSTRALIA'S PERFORMANCE IN ADOPTING ITS INTERNATIONAL OBLIGATIONS UNDER THE ICCPR FOR THOSE WRONGLY CONVICTED – THE INTERNATIONAL COMPARISON

Among developed or OECD nations, Australia is probably the world's worst performer in recognising its international obligations to exonerees under the ICCPR. Australia's refusal (and the refusal of its constituent Australian States, excepting the ACT) to ratify Article 14 (6) of the ICCPR and enact conforming legislation is one of the most significant impediment to exonerees receiving justice from whichever of the the governments that wrongly sent them to prison.

Of the 160 States Parties that have ratified the ICCPR, only eight countries maintain reservations to article 14(6). Five (Trinidad and Tobago, Malta, Guyana, Belize and Bangladesh) have expressly recognised the right to compensation but have stated that they are too impoverished to implement such a system.

Of the remaining three non-conforming nation states, both the US and New Zealand have made substantial efforts to give effect to the obligations of the ICCPR. The majority of US states have enacted legislation compliant with Article 14(6). New Zealand has adopted (since 2001) a guided discretionary system of compensation under the *Compensation and Ex Gratia Payments for Persons Wrongly Convicted and Imprisoned in Criminal Cases* provisions. In Australia, only one territory, the ACT, has enacted conforming legislation.

The fact is that Australia has done nothing in over 30 years since the ICCPR was ratified by Australia in 1983. This is despite repeated criticism by the UN itself. At its ninety-fifth session in Geneva in 2009, the United Nations Human Rights Committee once again criticised Australia's human rights record in relation to restitution for persons wrongly convicted. The Committee regretted that Australia has not withdrawn its reservation to Article 14(6) of the ICCPR, and should withdraw it. The UN Committee stated (as it has in just about every 5-year report on Australia's human rights performance):

> "While taking note of the State party's explanations, the Committee regrets that it has not withdrawn any of its reservations entered upon ratification of the Covenant. The

> State party should consider withdrawing its reservations to …. Article 14 para 6 …… of the Covenant."

Australia has maintained the following reservation to the ICCPR since 1983:

> "[T]he provision of compensation for miscarriage of justice in the circumstances contemplated in paragraph 6 of article 14 may be by administrative procedures rather than pursuant to specific legal provision."

In fact, Australia is not conforming with its own treaty reservation. The reference to "administrative procedures" is illusory. There have been no administrative procedures adopted in over 30 years anywhere in Australia (ACT excepted). An absolute discretion retained by the executive is not an "administrative procedure". As Professor Kaiser has pointed out, retention of such discretion by the executive shows "the state has clearly indicated the low priority it gives to the plight of the wrongly convicted".

Apart from the single exception of the Australian Capital Territory, Australia alone in the world of nations, has taken no steps to legislate or introduce restitution guidelines for exonerees. The immense costs of the Queensland's justice system's mistakes are simply passed on to the wrongly convicted and their families.

Curiously, the Australian Government found it appropriate to recently announce that it is putting up its hand for a seat on the UN Human Rights Council.

Thus, in my respectful submission, Queensland, if it is genuine in wishing to step up to the mark on recognising human rights, should be guided by the *ACT Human Rights Act 2004* as its preferred model as far as exonerees rights are concerned.

As a final note, Justice Michael Kirby said in 1991:

> "We, the judges and lawyers, must go on trying to improve the system of criminal justice. Without arrogance or self-satisfaction we must learn from the lessons which miscarriages of justice teach us. We must have the humility to acknowledge error. We must have a sense of urgency to ensure improvements in our institutions. And we must never rest content with institutional injustice which we have failed to repair when it was in our province to do so. Doubtless these are most exacting standards. But it is the highest tribute to our judicial forebears that they are the standards which our communities expect of us today. We must not fail". [10]

RECOMMENDATIONS:

10 Kirby, M. (The Hon Justice) (1991) "Miscarriages of Justice – Our Lamentable Failure?" *Commonwealth Law Bulletin* Vol.17 July pp.1037-1054

This submission supports the introduction of Human Rights Act for Queensland. It recommends:

1. That Queensland enact a Human Rights Act, which closely follows the provisions of the *ACT Human Rights Act 2004* (ACTHRA);

2. That such Act provide for the adoption of two universally accepted international human rights obligations under the *UN International Covenant on Civil and Political Rights (ICCPR*), namely:

    a. the separation of juveniles from adults while in custody, and
    b. the right of fair and just compensation for exonerees, that is, for those Queensland citizens who have been subject to a miscarriage of justice, wrongly convicted by a court of a criminal offence, subsequently imprisoned, and then exonerated of the crime of which they were convicted.

Michael O'Keeffe
[redacted]

17 April 2016

ATTACHMENT 1

LIST OF AUSTRALIAN CASES OF WRONGFUL CONVICTION UP TO 2011

Source :Wrongfully Convicted Database maintained by Forejustice and *Justice Denied* magazine, http://forejustice.org/db/location/innocents_l.html .

Note that dates used refer to the date of **original** conviction, not the date of discovery of innocence, which can be a decade or more after conviction. For instance, the WA case of **Daryl Beamish** was wrongfully convicted of the wilful murder of Jillian Brewer in 1961, and sentenced to death by hanging. The death sentence was commuted to life imprisonment and he served 15 years. His conviction was finally overturned in 2005, after it was established that serial killer Eric Edgar Cooke had murdered Ms Brewer.(See https://en.wikipedia.org/wiki/Darryl_Beamish).

The case of **John Button** (see below 1963) is almost identical.

Angel, Jeanie	Australia	1989
B, Unnamed Defendant	Australia	
Beamish, Darryl	Australia	1961
Boekeman, Janel Anne	Australia	
Bui, Hong	Australia	2006
Burglary, Man convicted of	Australia	
Busuttil, John	Australia	2011
Butler, Lawrence	Australia	
Button, Frank Alan	Australia	2000
Button, John	Australia	1963
Campbell, Belinda Mary	Australia	2007
Campbell, Don Gordon	Australia	
Campbell, Garry	Australia	2007
Campbell, Ian	Australia	2007
Campbell, Vivian	Australia	2007
Carol, Raymond	Australia	

Catt, Roseanne	Australia	1991
Chamberlain, Lindy	Australia	1982
Chamberlain, Michael	Australia	1982
Chaytor, Steven	Australia	
Chishimba, Tyrone	Australia	2009
Condren, Kevin	Australia	1984
Conor, Colin	Australia	2006
Davy, Raymond Paul	Australia	2006
De Simone, Giuseppe	Australia	2007
Deutschburg, Chris von	Australia	1983
Di Maria, Joshua	Australia	2009
D'Orta-Ekenaike, Ryan	Australia	1996
Dowling, Tim	Australia	2007
Dunn, Ross	Australia	1979
Easterday, Clark	Australia	1993
Edwards, Ben	Australia	2008
Ettridge, David	Australia	2003
Father, Queensland	Australia	2010
Fazzari, Salvatore (Sam)	Australia	2006
Fingleton, Di	Australia	2003
Frederick, Michael	Australia	2004
Fysh, Stuart	Australia	2012
Gardiner, Stephen	Australia	2005
Geesing, Raymond	Australia	1983
Goldie, Adele	Australia	2007
Grandmother, Unnamed	Australia	2006
Grant, William Christopher	Australia	2006
Greensill, Josephine Mary	Australia	2010
H, PA	Australia	2008
Hanson, Pauline	Australia	2003
Hayman, Suezanne	Australia	1987
HAZ, 58-year-old man	Australia	2010
Hoser, Raymond	Australia	1988
Hutton, Drew	Australia	2011
Ireland, Dean	Australia	1993
Ireland, Len	Australia	1993
Irving, Terry	Australia	1993
J., A.	Australia	2009

Jama, Farah	Australia	2008
John Sharpley, Robert	Australia	2010
Keenan, Francis Robert	Australia	2007
Kelly, Desmond Patrick	Australia	2006
Keough, Henry	Australia	1970
Klamo, Tomas	Australia	2007
Lam, Cuong	Australia	2006
Landini, Henry	Australia	1983
Law, Bryan	Australia	2007
Lodge, Matthew James	Australia	2011
Lustig, Peter	Australia	
Makasa, Likumbo	Australia	2009
Mallard, Andrew	Australia	1994
Manley, Jonathan	Australia	1993
Martens, Frederic Arthur	Australia	2006
Martinez, Jose	Australia	2006
May, Scott Alan	Australia	2008
Michael King, Stefan	Australia	
Mickelberg - (2010 conviction), Ray	Australia	
Mickelberg, Brian	Australia	1983
Mickelberg, Peter	Australia	1983
Mickelberg, Raymond	Australia	1983
Mraz, (First name withheld	Australia	
Mulenga, Mumbi Peter	Australia	2009
Mulhearn, Donna	Australia	2007
Penza, Franco Michael	Australia	2009
Pereiras, Carlos	Australia	2006
Perry, Emily	Australia	1981
Poduska, Paul Jacob	Australia	2007
Pohl, Johann (Ziggy)	Australia	1973
Potter, Graham	Australia	
Raiskio, Elsa	Australia	2011
Rotumah, Brett	Australia	2007
Rotumah, Steven	Australia	2007
Ryan, Ronald	Australia	

S, AL	Australia	2011
Sharpley, Robert John	Australia	2010
Splatt, Edward	Australia	1978
Spratt, Kevin John	Australia	2009
Stafford, Graham Stuart	Australia	1991
Stegman, Geoffrey Robert	Australia	1993
Stevens, Laurie	Australia	2003
Szitovszky, Christopher Leslie	Australia	
Taufahema, Motekiai	Australia	2002
Tauszik, Anthony John	Australia	2005
Thaiday, Patrick Dominic	Australia	2008
Thomas, Joseph	Australia	2006
Thomas, Joseph 'Jack' Terren	Australia	2006
Tran, Hoang Quang	Australia	2006
Tran, Long Thanh	Australia	2006
Van, Hung	Australia	2006
X, Mr.	Australia	
Zamudin, Ardi Zam	Australia	
Zukanovic, Mirza	Australia	2010