



Addressing stigma and discrimination against people with (a history of) hepatitis C through human rights law

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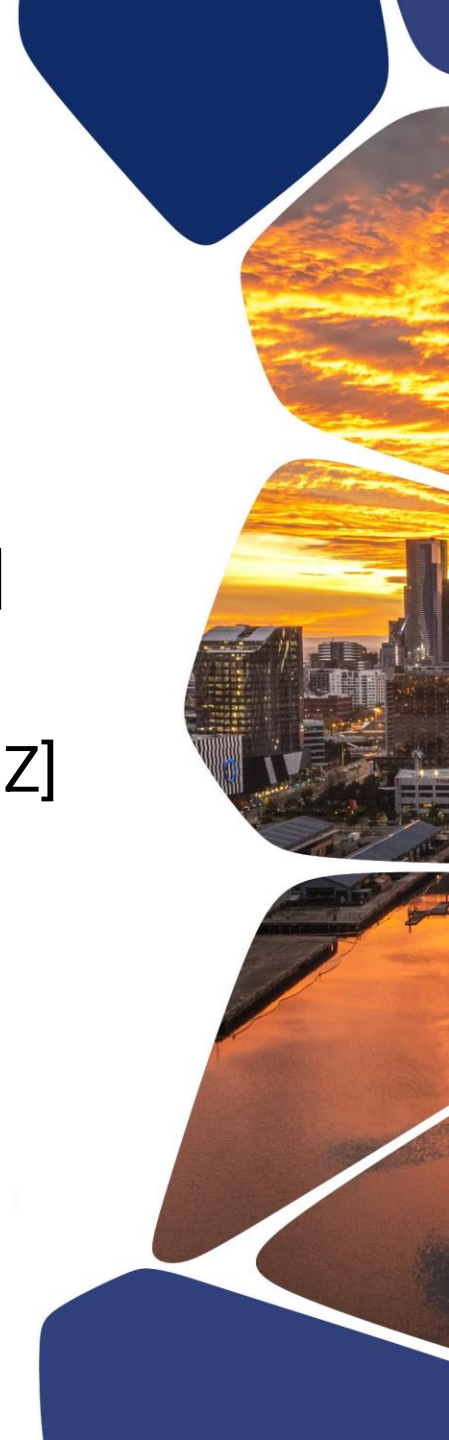
Acknowledgment of country





Acknowledgment of affected communities in viral hepatitis





Disclosure of interest

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Hepatitis C-related stigma and discrimination in a post-cure world

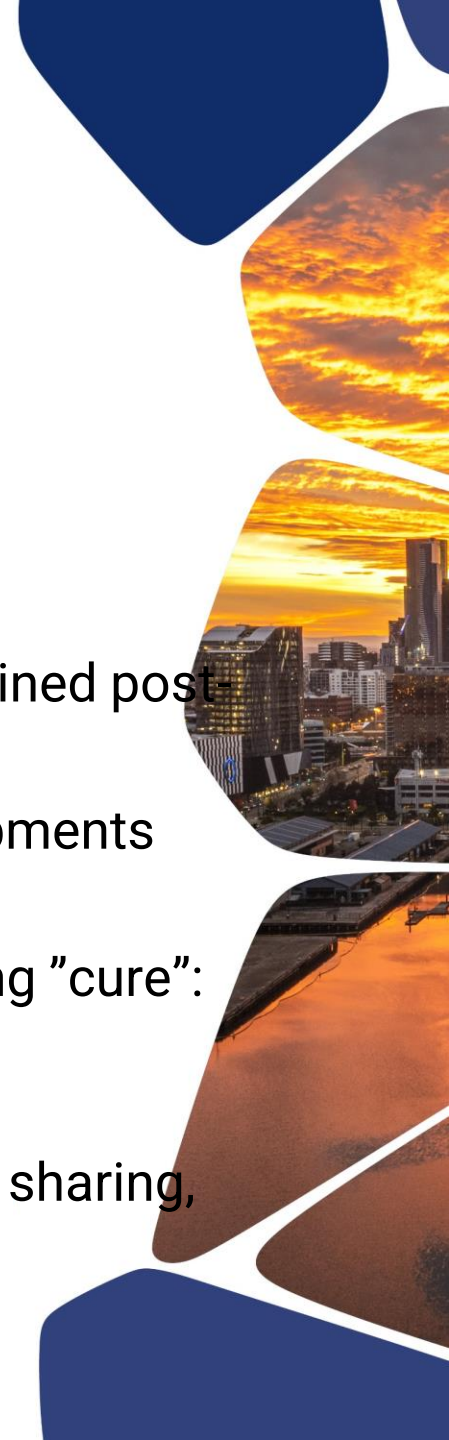
Dion Kagan, Emily Lenton, Sean Mulcahy, Kate Seear, Adrian Farrugia, kylie valentine, Michael Edwards, and Danny Jeffcote

<https://genderlawanddrugs.org>



Legal approaches to cure and post-cure

- In mapping legal frameworks impacting people with (a history of) hepatitis C:
 - **59 statutes** were found / **232 cases** were found
- Four papers have been published drawing on data from our legal mapping:
 - **Criminal:** Seear et al, 'Complicating cure: How Australian criminal law shapes imagined post hepatitis C futures' (2023) 45(1) *Sociology of Health and Illness*
 - **Insurance:** Mulcahy et al, 'Insurance discrimination and hepatitis C: Recent developments and the need for reforms' (2022) 32(2) *Insurance Law Journal*
 - **Social security and migration:** Mulcahy et al, 'Performing hepatitis C, problematising "cure": The construction of hepatitis C (cure) in social security and migration law' (2025) 27(1) *Law and Literature*
 - **Health privacy:** Mulcahy et al, 'Between public and private: Electronic health record sharing, health privacy, and hepatitis C' (2023) 30(4) *Journal of Law and Medicine*



- **98 out of 232 cases involved the criminal law**
 - Sentencing
 - Crimes compensation
- ***Peters v R* (No 2) [2019] VSCA 292**

Anaesthetist jailed for infecting patients with hepatitis C

By court reporter [Sarah Farnsworth](#)

Posted Thu 7 Mar 2013 at 10:56am, updated Thu 7 Mar 2013 at 3:50pm

Anaesthetist who infected 55 women with hep C to challenge conviction

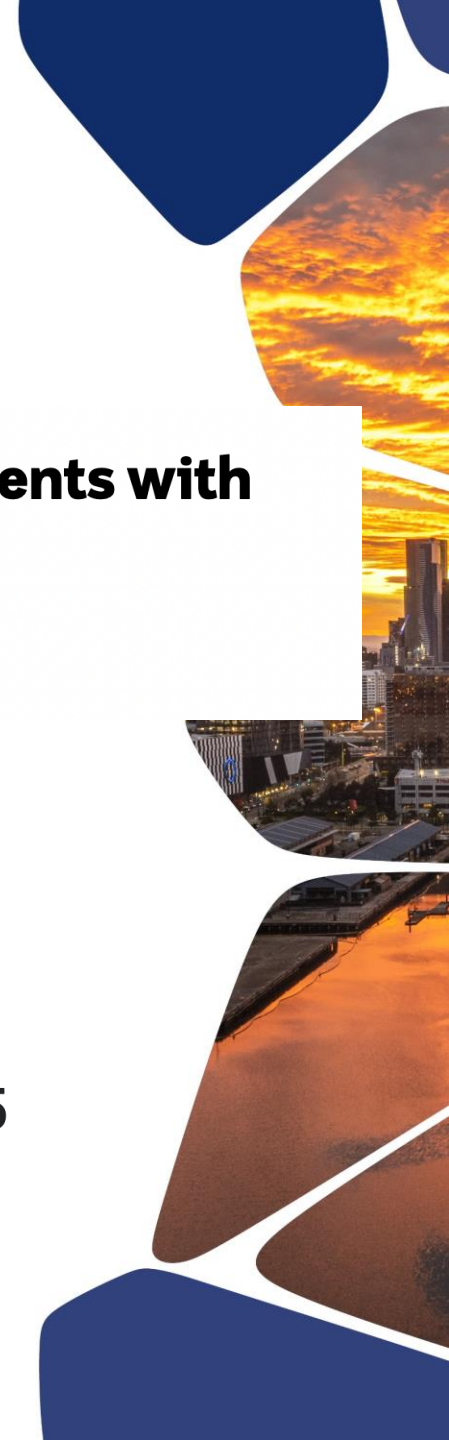
Cameron Houston & Chris Vedelago

October 9, 2018 – 7:40pm

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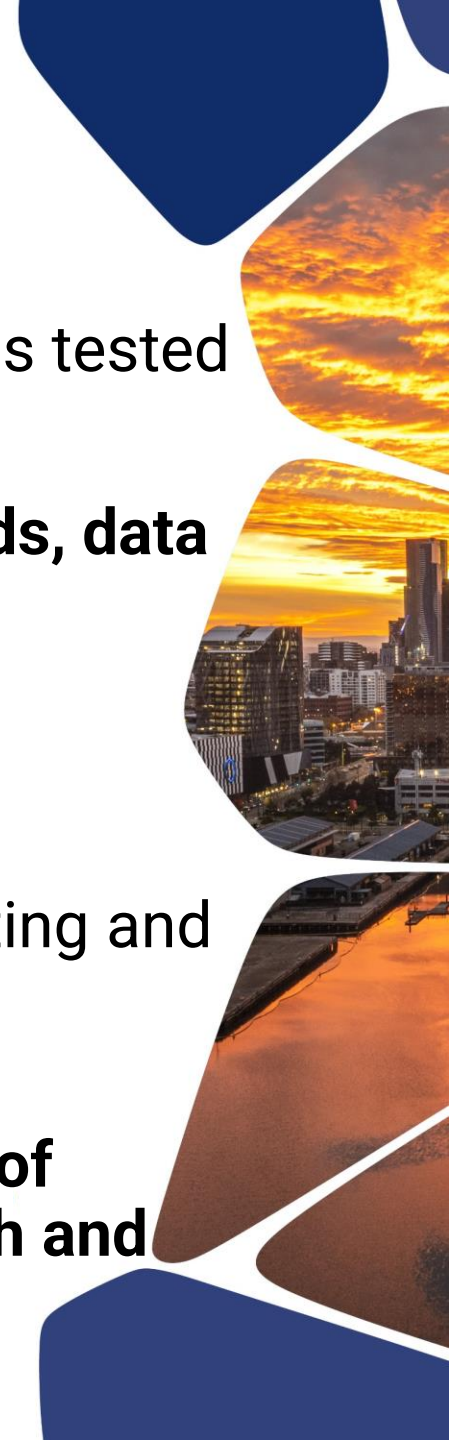
Disgraced anaesthetist loses appeal after infecting 55 women with hepatitis C

A Melbourne doctor serving 14 years in jail has tried to argue that the disease he intentionally infected pregnant women with is not that serious.



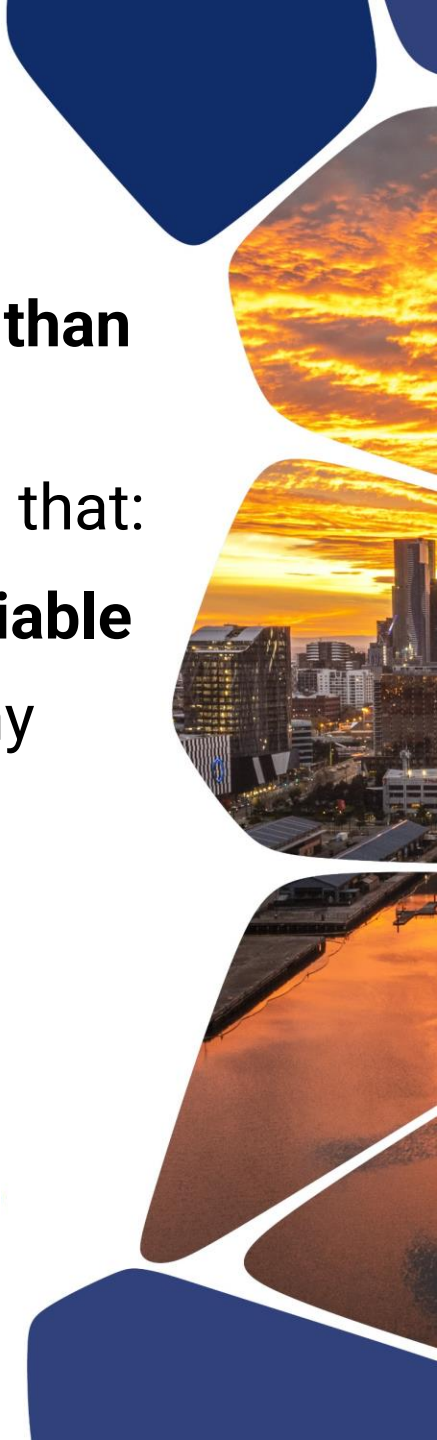
Health privacy law

- Australia has named and identifiable notifications whenever someone is tested for hep C
- The **named notification system** raises issues regarding **medical records, data and privacy**
- What can be done:
 - Simplify the process for **accessing and correcting health records**
 - Ensure **health providers' use of health information** is privacy-protecting and stigma-reducing
 - Hospitals, health services, and research ethics departments should scrutinise new testing and treatment models for **potential breaches of privacy or consent, or other unintended consequences for the health and human rights of people with (a history of) hepatitis C**



Insurance law

- People with hepatitis C are less likely to have private health insurance than individuals without, which may create barriers to accessing healthcare
- Australian states and territories need to swiftly enact reforms to ensure that:
 - Decisions about insurance are transparently **proportionate and justifiable**
 - Insureds are given **access to actuarial or statistical data** on which any decision is based
- These reforms will:
 - Lead to the replacement of **blanket exclusions**
 - Reduce **premiums or waiting periods**
 - Give consumers **information** with which to challenge decisions
 - Promote reliance on **higher quality data** when making decisions
 - Narrow the **broad exceptions** that insurers use to discriminate





Is drug-use stigma a breach of human rights law?: Insights from Australia

Sean Mulcahy, Kate Seear, and Carla Treloar

International Journal of Drug Policy (2025) 143



Prohibition on torture

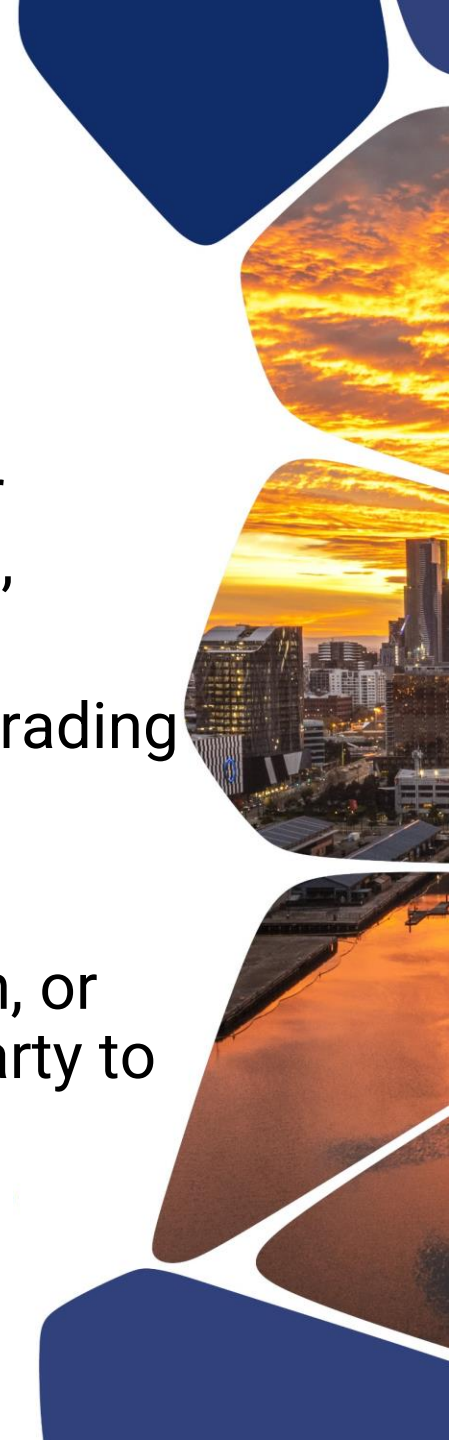
- Article 7 of the *International Covenant on Civil and Political Rights* ('ICCPR'):

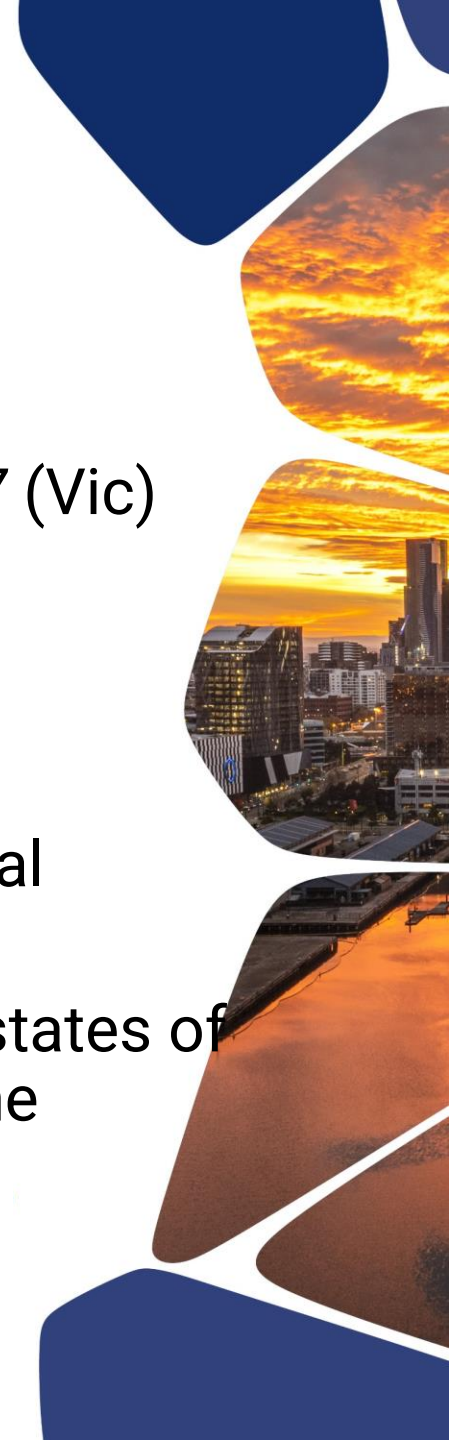
“No-one shall be subjected to torture or to cruel, inhuman or degrading treatment”



Prohibition on cruel, inhuman, or degrading treatment

- Article 16 of the *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* ('CAT') prohibits other acts of cruel, inhuman, or degrading treatment which do not amount to torture
- The Convention does not provide a definition for cruel, inhuman, or degrading treatment
- A potentially capacious prohibition
- There is a broad uptake of the prohibition on torture and cruel, inhuman, or degrading treatment internationally, including in Australia, which is a party to both the ICCPR and CAT



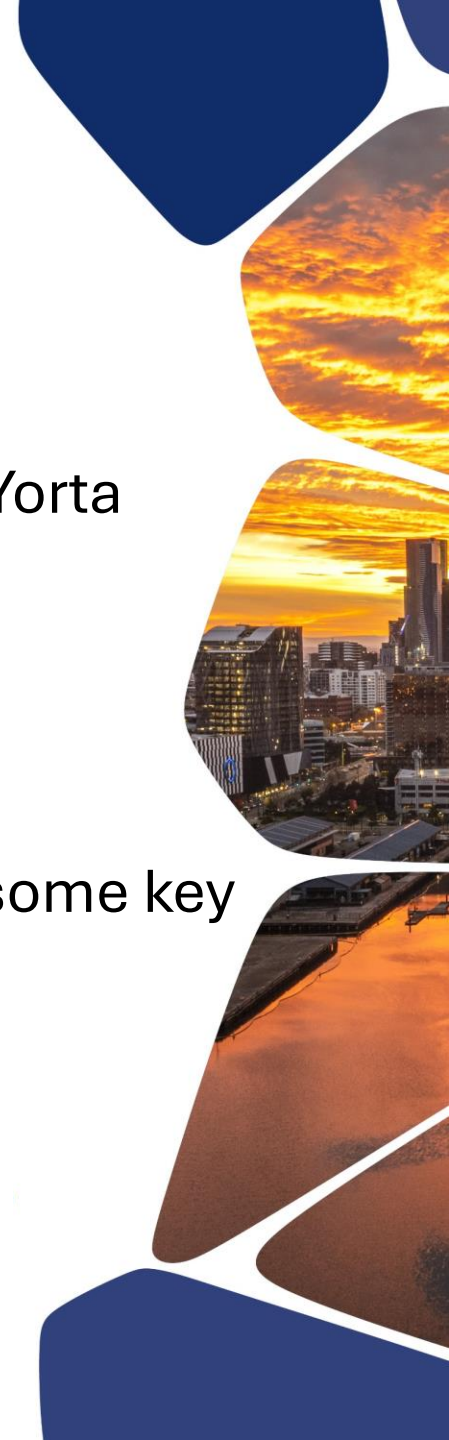


Australian human rights law

- Section 10 of the *Charter of Human Rights and Responsibilities Act 2007* (Vic)
“A person must not be –
(a) subjected to torture; or
(b) treated or punished in a cruel, inhuman or degrading way”
- Similar provisions exist in the human rights acts in the Australian Capital Territory and Queensland
- There is no national human rights act and no human rights acts in the states of New South Wales, Western Australia, South Australia, Tasmania, and the Northern Territory
- There is an active campaign for an Australian human rights act

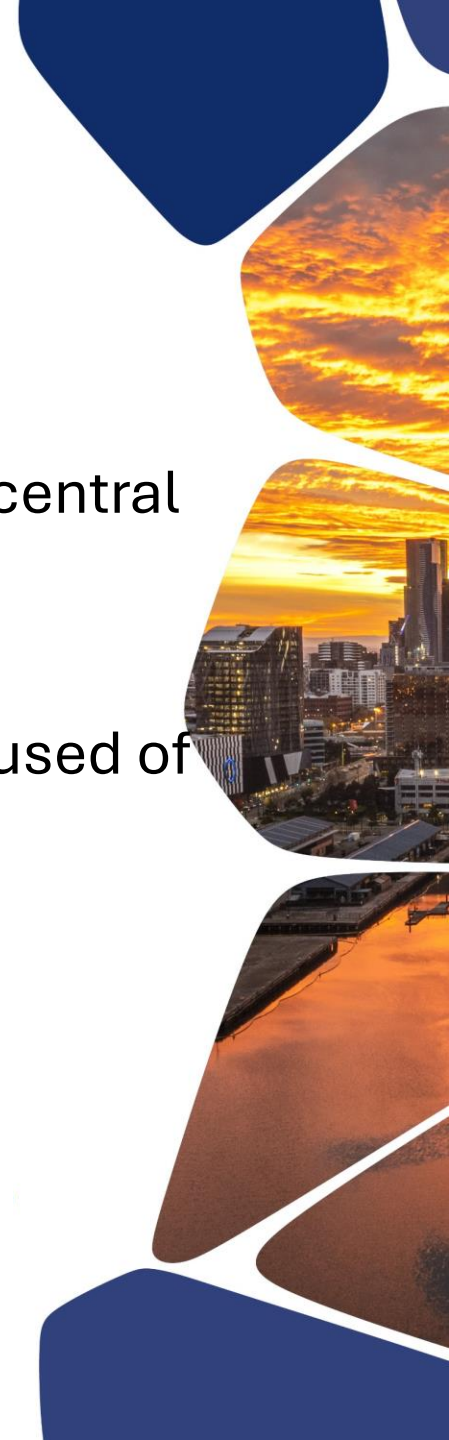
Inquest into the death of Veronica Nelson

- Veronica was a 37-year-old Gunditjmara, Dja Dja Wurrung, Wiradjuri and Yorta Yorta woman.
- She died in police custody on the 2 January 2020.
- A very large judgment spanning 366 pages, my contribution will focus on some key aspects of it relating to stigma.



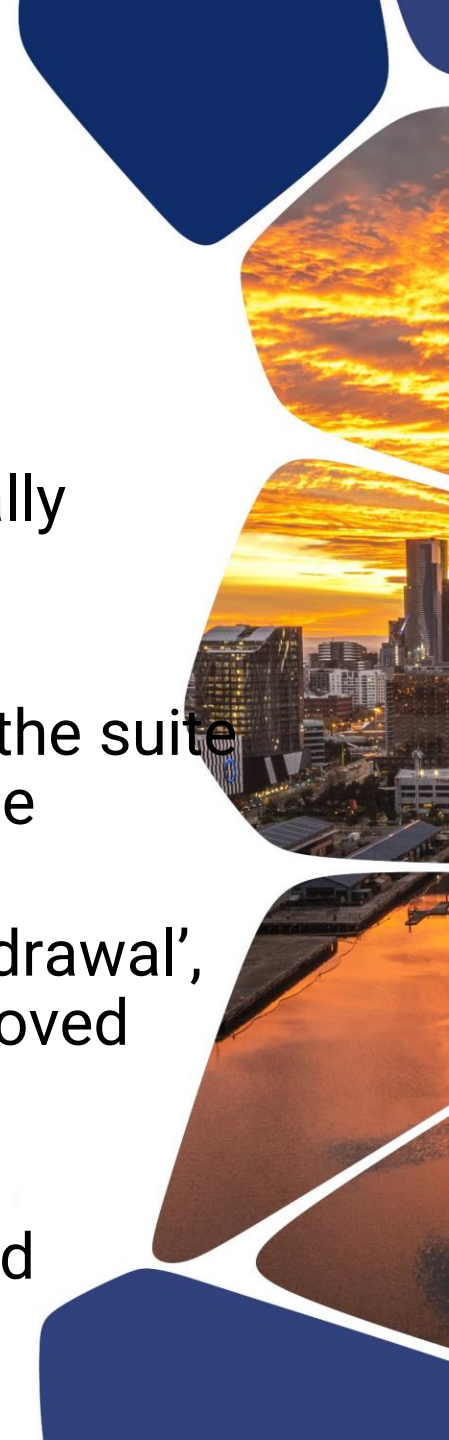
Background

- On 30 December 2019, Veronica was with her brother at a train station in central Melbourne, Australia.
- She was stopped and arrested by Victoria Police.
- There were warrants outstanding for her arrest, as Veronica had been accused of thefts from shops.
- She was arrested, taken to the cells, remanded in custody overnight.
- She represented herself the next day in Court and bail was refused.
- She was transferred to the women's prison.
- She used the prison intercom 49 times over the next 36 hours or so.
- She was found dead in her cell at 7:55am on 2 January 2020.



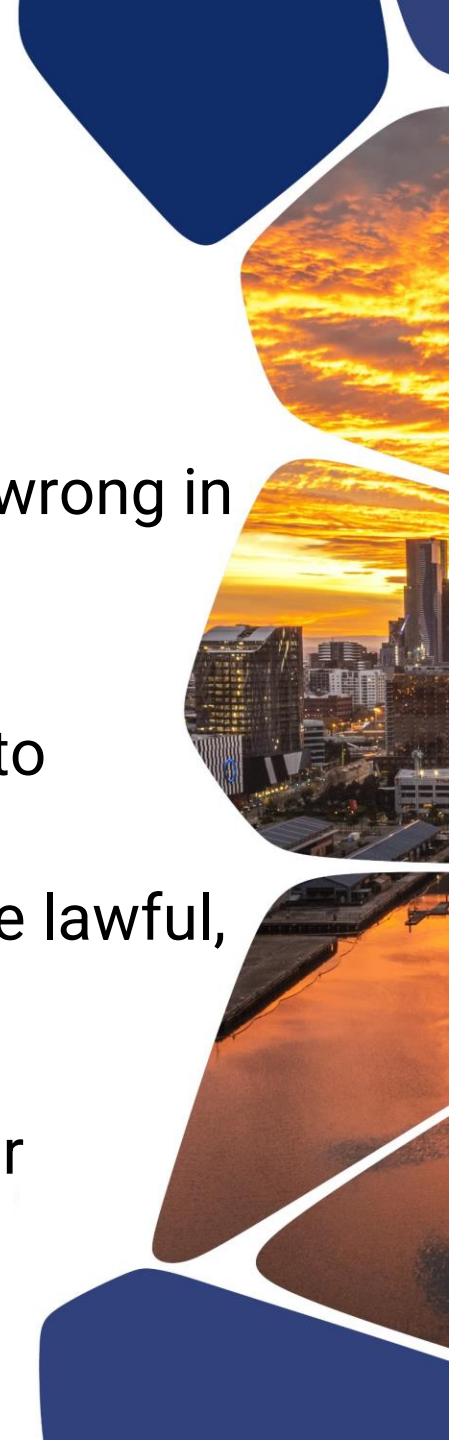
Key findings

- The Coroner found that:
 - This was ‘evidence of pervasive stigma’, and that this stigma ‘causally contributed to Veronica’s passing’.
 - Stigma was ‘inherent’ in some policies and practices.
 - Inherently stigmatising that prisoners ‘are inhumanely not afforded the suite of pharmacotherapy that would otherwise be available to them in the community’.
 - Also stigmatising that people might be ‘forced into involuntary withdrawal’, and that ‘prisoners who do access substitution therapy may be removed from the program for non-compliance’.
 - Veronica’s treatment was ‘inhumane, cruel and degrading’,
 - ‘Drug-related stigma’ had shaped the nature of care she received and contributed to her death, and these were human rights violations.



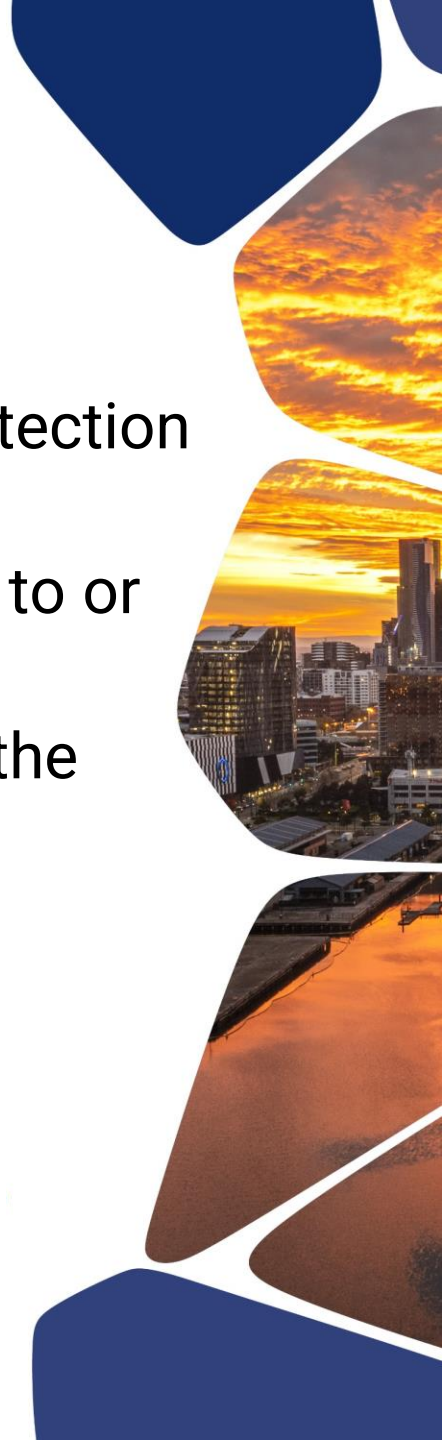
Analysis

- It recognises drug-related stigma as both a properly legal object and a wrong in and of itself.
- Stigma *as a matter of fact* and *as a matter of law*.
- This is a potentially radical reading that might open other practices up to critique or remedy.
- It critiques shame, humiliation, and other practices often assumed to be lawful, necessary and productive: a means of initiating change, abstinence or 'recovery', and of fixing people.
- It challenges the tendency to think about suffering as either deserved or acceptable, normal, natural or inevitable.
- Calls into question punitive approaches to treatment, inadequate and insufficient access to treatment and the lack of person-centred care.



Conclusions

- Australia has a unique – and very limited – system of human rights protection that falls well short of that in other countries.
- Australians have limited rights protections and there are constant risks to or violations of rights at play.
- There is very limited ability to take claims of human rights breaches to the courts.



Key actions and takeaways

- Key Action 1: Advocate for better conditions through submissions to parliamentary inquiries, in conversations with government, through advocacy work, and more
- Key Action 2: Advocate for human rights charters in each state and territory
- Key Action 3: Join the push for a national bill of rights at www.humanrightsact.org.au

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