



Judicial Conference of Australia

**Media release by the President
of the Judicial Conference of Australia
4th May 2017**

The President of the Judicial Conference of Australia, Justice Robert Beech-Jones, submitted a letter in the following terms to The Australian in response to an article published on 17 April 2017.

JCA CRITICISES MISCONCEPTIONS OF THE ROLE OF THE COURTS

An article in *The Australian* entitled “Former cop savages judiciary” and published on 17 April 2017 reports on a manifesto released by the Community Advocacy Alliance which, as reported, conveys a number of misconceptions about the role of the courts.

The article reports a spokesman for the Alliance asserting that the judiciary ignores sentencing laws set by Parliament and that as a response “there should be a bipartisan parliamentary subcommittee created to review sentences handed out by judges and magistrates”. The spokesman is also reported as having complained of a lack of accountability in the system of appeals within the Courts “because, of course, the people hearing the appeals are the same people giving lenient penalties in the first place”.

The article reports the manifesto as stating that the separation of powers doctrine “must be reviewed by government” because its “current use” means that the judiciary is acting without accountability. Instead it is said that the “government”, presumably the legislature, “must claw back the power to hold the judiciary to account for performance”.

In referring to the separation of powers, the manifesto appears to be complaining about judicial independence. Judicial independence is the principle that the judiciary exercises the power to resolve disputes, including the imposition of sentences for criminal conduct, independently and according to law.

This principle is not a mere “policy” of either the executive or legislative arms of government that they can “review” and potentially “claw back”. Instead it is a fundamental constitutional principle upon which all three arms of government in this country, namely the legislature, the executive and the judiciary, operate.

The complaint about a lack of accountability in relation to the imposition of sentences is unfounded. There exists in most Australian jurisdictions a comprehensive system of appeals against sentences for both the prosecution and accused. Judges do not sit on appeals from sentences they hand down.

The system of appeals and judicial accountability is facilitated by the obligation imposed on all judicial officers to provide reasons for their decisions. On that point many, if not most, of the sentencing judgments in higher courts for serious offences are published on the internet and are directly available to the public.

If anyone has a concern about the sentence imposed for serious crimes then they can read the sentence decisions for themselves. Even if they disagree with the sentence that was imposed they will be reassured that judges and magistrates are not ignoring the sentencing laws made by Parliament.

The Judicial Conference of Australia is the professional association of judges and magistrates in Australia.

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