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Help decide strategy for human rights charter

CLA will hold an open debate on Saturday 4 April about how to ensure an Australian People's Charter of liberties and rights becomes the foundation for democracy in the nation.

The meeting will be held at the National Europe Centre, ANU campus in Canberra, from 4-6pm.

It will discuss strategies and tactics to convert the issue of human rights from a vague 'national consultation' process, now under way, into one or more practical, defined instruments on which the people and parliament can make a decision.

Professor Simon Bronitt, international law expert and head of the National Europe Centre at ANU, will open Saturday's proceedings by outlining lessons Europe has learned – from 60 years of a convention on human rights and a court of human rights – that might apply to Australia.

CLA's CEO Bill Rowlings will outline where the issue stands in public and political terms, and its likely short-term future.

Members can then contribute to deciding when, where, why and how CLA will take the issue forward.

Any members not able to make the 4 April meeting are invited to contribute by putting their views forward by email or in a letter to secretary@cla.asn.au or Box 7438 Fisher ACT 2611 Australia.

The meeting will also hear formal declaration of board members and voting for acceptance of reports resulting from the recent CLA electronic annual general meeting, eAGM.

Submissions quickly reach 7000

At late March, more than 7,000 written submissions were already lodged as part of the national human rights consultation process...though the vast majority were brief, email-generated comments.

Attorney-General Robert McClelland revealed the flavour of early consultation meetings when he spoke at a Queensland Law Society Symposium.

"The committee tells me that, in their face-to-face meetings, they are hearing stories about everyday struggles by some of the most disadvantaged in the community – people with disabilities, older Australians, and those who regularly 'sleep rough' –about the challenges of accessing basic services such as a roof over their heads.

"They have also spoken about the 'voiceless' and the 'powerless' turned away by authorities on a daily basis from their 'homes' – some of them bus shelters or under bridges.

"For many of these people, accessing the justice system is difficult and stressful and without assistance they struggle to resolve the legal issues which they face.

"The report will canvas the community's views about the range of options for human rights protections, their advantages and disadvantages, and an assessment of the level of community support for each option," the A-G said.

More: <http://www.humanrightsconsultation.gov.au/>

CLA is planning in early April to finalise its long-term strategy towards achieving an Australian People's Charter. See above for details of the members' meeting; details in May *CLArion*.

LAST WORD: How to keep your rights – and lefts – contained

Staff at a US high school created a cage and let misbehaving male students duke it out bare knuckle as a form of exhaustive control. The pugilist-promoting principal and his teachers have escaped criminal or disciplinary charges, which just goes to show that there can be no holds barred in American education. *See the last item in this newsletter for the full details.*



Queen's succession change may create Australian opportunity

British Prime Minister Gordon Brown has opened the way for possibly the greatest constitutional upheaval in centuries – including in Australia – by supporting moves to change the laws on succession of the British monarch.

PM Brown has said he is committed to addressing the "anomaly", dating back to the 1701 Act of Settlement, which bans Catholics from marrying into the British royal family. The Queen is said to be "open to dialogue", *The Guardian* reported late last month.

Any change to laws governing British succession and citizen fealty opens an opportunity for Australia to consider moving to a republic. It makes sense to tidy up anachronistic historic ties, now outdated, in the case of Australia.

At the very least, moves in Britain will dramatically rekindle the Australian debate about a republic. Laws governing the position of the British monarch can only be amended with the agreement of countries such as Australia, Canada and New Zealand where the Queen is also head of state. PM Brown will raise the issue at the next Commonwealth heads of government meeting, to be attended by the Queen, which takes place in the Caribbean in November.

The British PM has talked about changes with leaders of Commonwealth countries, who would have to give their approval, *The Guardian* reported. So far, Australian PM Rudd has not disclosed any details of his personal discussions with Mr Brown.

A BBC poll showed 81% of people favour the succession law being changed to allow the heir to the throne to marry a Catholic.

<http://www.guardian.co.uk/politics/2009/mar/27/gordon-brown-royal-succession>

FOI suddenly holds more promise

There will be no more application fees and a public monitor will control access to documents under Freedom of Information requests: these are part of sweeping changes which Special Minister for State, Senator John Faulkner, announced last month.

The changes are designed to make it easier to find out about information held by the government and to force the publishing of information until now kept secret.

The public monitor, called information commissioner, will independently supervise the new laws. He or she will be able, on appeal, to order release of documents.

Departments will no longer have the power to withhold documents because they might embarrass governments, cause a loss of confidence, could lead to misunderstanding or confusion, or cause unnecessary debate.

In NSW meanwhile, proposals to protect whistleblowers were inadequate and weaker than recommendations put forward by the same parliamentary committee three years ago, critics say.

According to the Sydney Morning Herald (19/3/09), the committee has called for an oversight body to monitor the NSW Government's response to public disclosures, but has fallen short of giving it the power to intervene in investigations. "I think it is a perfect outcome for a government in NSW not interested in whistleblower reform," said Professor Peter Bowden, the NSW president of Whistleblowers Australia.

The Independent Commission Against Corruption committee of NSW Parliament has recommended an oversight body be established, to monitor the response of the public authorities to the Protected Disclosures Act. It recommended the Ombudsman should have a role in advising government officials on protected disclosures. Report:

<http://www.smh.com.au/national/protections-for-whistle-blowers-inadequate-20090318-926c.html>

CCTV fails again over bikie brawl at airport

Separate surveillance systems that don't talk to each other, cameras and tapes not working because of lack of maintenance, and no one on watch – these are the reports of those trying to prove criminal behaviour by warring groups at Sydney Airport last month.

Exactly the same failings have emerged in most cases where CCTV surveillance should have produced a clear, recorded view of who did what to whom.

"There are four, five different CCTV systems covering the sky bridge to the check-in area to the roadway and the car park," a source told the *Sydney Morning Herald*. "The systems aren't in a standardised format and they're not recorded at a central point so [police investigators] have to try and get them into a format that can be used for evidentiary purposes."

The source said at least one of the video systems featured old technology that was incapable of recording footage from several different cameras simultaneously. This meant that some footage may have been lost.

Qantas is responsible for video coverage inside the terminal where the fight occurred. Sydney Airport Corporation covers the surrounding roadways and car parks where the attackers fled after the brawl.

– based on a report by Paul Bibby and Yuko Narushima

<http://www.smh.com.au/text/articles/2009/03/24/1237656930418.html>

A-G encourages law students to put their opinions in writing

The recent appointment of Virginia Bell to the High Court paid respect to the community legal background from which she first came, Attorney-General Robert McClelland told University of Canberra law students in March.

The appointment demonstrated that people could attain the highest legal office starting from the civil liberties/human rights sector of the legal fraternity.

The Attorney-General encouraged students to get involved in community activities: on campus, with liberties and rights bodies, speaking in public and the media, and particularly writing articles expressing their opinions.

"I encourage you to start putting yourself down in writing now, as a student," he said. "I can assure you that, when it comes to evaluating who should be appointed as judges, one of the things we look at is their written work, over their careers. It's never too early to start," he said.



The A-G was speaking on 18 March 2009, at the Innovation Centre of the Uni of Canberra (UC), at a careers night organised by UC's Isaacs Law Society. *He is pictured with CLA President, Dr Kristine Klugman, at the event.*

It is one of his many attendances at university forums throughout Australia by an Attorney-General who seems to be particularly committed to encouraging the next generation. Recently, for example, he attended the Equity and Diversity program launch at the University of Western Sydney. There he was able to view the CLA cartoon exhibition as he entered the vestibule of the event venue, thanks to

the UWS Equity and Diversity chief, the former Human Rights and Equalities Commissioner, Sev Ozdowski, a CLA member.

Speaking directly with the President of CLA, A-G McClelland emphasised it was important for civil liberties organisations to keep each other informed of their initiatives and the responses to legal and parliamentary committee inquiries.



Mandatory sentencing is wrong, CLA says

Judges and lawyers will find their way around new laws in WA to automatically jail people who assault police, a criminal court barrister says.

A bill before the WA State Parliament introduces mandatory sentences for people found guilty of assault and grievous bodily harm against police officers.

Australian criminal barrister Greg Barns said similar laws in Hawaii and Florida have not reduced the number of assaults against police. "Mandatory sentencing laws just don't work ... because ... they don't actually reduce rates of crime."

The proposed WA legislation follows public outrage over the acquittal a man who headbutted Constable Matt Butcher outside a northern suburbs tavern in Perth last year, leaving him paralysed. The bill imposes penalties of six months for offenders found guilty of bodily harm against an officer and 12 months for grievous bodily harm. Thousands of people rallied at WA's Parliament House in mid-March to support mandatory sentencing.

CLA believes mandatory sentencing is wrong. "Only the jury or judicial officer who has sat through the entire case can decide guilt or innocence...people getting a snippet of the case from print or electronic media are not in a position to make a proper judgement," CLA President Dr Kristine Klugman said. "And only the magistrate or judge who has heard every word, from both sides, can determine the most appropriate sentence. Sentencing is not a parliamentary prerogative: it is a judicial function."

Fate of mentally ill taken from hands of politicians

People in NSW declared unfit for trial or not guilty because of mental illness will no longer be detained or released "at the Governor's pleasure", following widespread concern that patients' detention was being continued unfairly for populist or political reasons.

New mental health legislation starting last month stripped the NSW Health Minister and the State Governor of the final say over detention, release and treatment of such patients. A specialist tribunal will decide in future, Louise Hall wrote in the *SMH*.

"The changes follow a report by a former Supreme Court judge, Greg James, which was scathing of the system under which mentally ill or unfit people accused of a crime were often detained in jail or a jail hospital for longer than the sentence had they been convicted of the offence," she wrote.

<http://www.smh.com.au/national/fate-of-mentally-ill-taken-from-hands-of-politicians-20090320-94q6.html>

Court upholds privacy ruling against nightclub scanning IDs

Australia's nightclubs may need to take notice of a court ruling in Canada, which declared nightclubs there must stop scanning drivers' licences before allowing people in.

Alberta Court of Queen's Bench Justice Carolyn Phillips upheld a ruling from Alberta's privacy commissioner ordering a Calgary nightclub to stop the practice.

In February 2008, Information and Privacy Commissioner Frank Work ordered Tantra nightclub and its parent company, Penny Lane Entertainment, to stop scanning driver's licences and to destroy any information that it had collected through this practice.

The Australian Privacy Commissioner has launched an inquiry into the practice by nightclubs here after a formal submission from Civil Liberties Australia and many other complaints by individuals.

<http://www.cbc.ca/canada/edmonton/story/2009/03/25/edm-court-ruling-scanning.html>

(See other important Canadian developments in 'International' section, below)

NZ and Australia 'harmonise' legal arrangements

Australian Attorney-General Robert McClelland and New Zealand Minister for Justice Simon Power met in Canberra last month to introduce measures aimed at 'harmonising trans-Tasman legal arrangements', according to a media release.

They discussed progress on the implementation of the Trans-Tasman Court Proceedings and Regulatory Enforcement Treaty, signed in July 2008.

The treaty includes a number of innovative measures, such as expanding the range of court judgments that can be enforced across the Tasman, and simplifying the related processes.



SA police on notice: don't drive dangerously while chasing vehicles

The South Australian Supreme Court has confirmed the conviction and loss of licence of a police officer for dangerous driving during a fatal high-speed chase.

Timothy Mark Hughes, 35, was fined \$300 last year and lost his licence for six months over the chase in 2005. It ended in the death of motorcyclist Adam McNamara. Hughes appealed, backed by the South Australian Police Association Justice Richard White dismissed the appeal last month.

The Police Association says laws relating to high-speed chases need to be reviewed. CLA says dangerous driving is dangerous driving, and obviously so if the result is a death. Police throughout Australia need to be aware they should not break the law in trying to enforce it.

Police in South Australia should particularly remember that two of their prime duties are to: (a) uphold the law, and (f) regulate road use and prevent collisions.

Australian Federal Police are developing a new 'Clea Code' – an initiative of CLA – as a standard which could be adopted by police forces throughout Australia to cut as many unnecessary deaths from police car chases as possible. The code is named after Clea Rose, a young university student killed when hit by a vehicle being chased by police in central Canberra in August 2005.

WA gun shop owner charged over mini-Rambos

The owner of a West Australian gun shop where two boys allegedly stole weapons that were then smuggled to Queensland has been charged with weapons offences.

Two boys, aged 14 and 11, allegedly smuggled a cache of weapons, including a Ruger revolver, a point-22 pistol, 3000 rounds of ammunition and 14 knives, in their check-in luggage on flights from Karratha in Western Australia to Perth and then to Cairns this month.

The 63-year-old firearms dealer was charged after Licensing Crime Squad detectives conducted a security and firearms compliance audit of the shop at Karratha, 1500km north of Perth. The man was charged with failing to lodge returns for firearms transactions, failing to keep firearms and ammunition safe while not trading and failing to keep ammunition safe.

The boys – brothers – were intercepted at Cairns Airport in early March as they prepared to board a flight to Weipa to visit their father, Marissa Calligeros of the *Brisbane Times* reported.

The 14-year-old was charged with three counts of unlawful possession of a weapon and one count each of possession of ammunition, bringing stolen goods to Queensland and possession of tainted property. He appeared in Weipa Children's Court last month. The younger boy was not charged.

<http://www.brisbanetimes.com.au/news/national/wa-gun-dealer-charged-over-stolen-weapons/2009/03/24/1237656898444.html>

Government wants to cut its legal bill

A major review is under way into how the federal government procures legal services following a huge rise in legal expenses by Commonwealth agencies in 2007-08.

Total legal services expenditure of agencies – operating under the Financial Management and Accountability (FMA) Act 1997 – jumped from \$408m to more than \$510m a year before.

Attorney-General Robert McClelland said: "Even after accounting for the inclusion of new agencies reporting their expenditure for the first time, it is clear that we need to do more to control the legal expenses of Commonwealth agencies.

"This review will look at the existing arrangements for the procurement of legal services and provide advice on how the Commonwealth can most efficiently purchase legal services to deliver value for money for taxpayers. It will also examine how the Commonwealth can more efficiently use in-house legal services."

Former Clayton Utz partner, Sibylle Krieger, and former senior public servant, Tony Blunn, will conduct the review, reporting by the end of October 2009.

Survey shows Oz legal sector growing strongly

A survey by the International Legal Services Advisory Council (ILSAC), Australia's market for international legal services grew from \$543 million in 2004-05 to \$675 million in 2006-07.

"Australia's legal services industry currently generates around \$20 billion and employs more than 120,000 people. Legal services are intrinsic to every export sector of the economy," the President of the Law Council of Australia, John Corcoran, said.

The market for Australian legal services in Asia has grown twice as fast (56.4%) as for the rest of the world (25.5%) from 2004-05 to 2006-07.

NSW to allow secret searches, hacking

NSW Police are being given sweeping new powers to search people's homes and hack into their computers without their knowledge...and keep the secret raid quiet for up to three years.

The move comes on top of plans to introduce legislation to take away the rights of just one sector – so far – of the population, motorbike clubs. The bikie legislation is due to be debated in the NSW Parliament this month.

Premier Nathan Rees, told the *Sydney Morning Herald*: "If you are a serious criminal you should be very anxious. We now will have the power to enter your home without you knowing and collect evidence for subsequent prosecutions."

The State Government admits police have already used the measures, even though the Supreme Court ruled the practices unlawful in 2006.

Police Minister Tony Kelly says the reforms will allow police to collect enough evidence for a prosecution without tipping off criminals. He says all applications for the covert search warrant will have to go before a Supreme Court judge.

He says a judge would initially authorise the search to be kept secret for up to six months but police could apply for notification to be delayed for up to 18 months, or three years in exceptional circumstances.

The laws will apply to offences punishable by at least seven years' jail, including drugs and firearms offences, homicide, kidnapping, assault, money laundering, hacking, organised theft and corruption. They will allow officers to impersonate another person while executing the search warrant.

However, the NSW Parliament's own monitor, the Legislation Review Committee, says that the broad covert search warrant powers significantly trespass on personal rights and liberties, particularly for people not suspected of serious criminal activity.

"The Committee has also resolved to write to the NSW Attorney General inquiring whether any public consultation was conducted in relation to the Bill and if not, the reasons behind this decision."

– Legislation Review Digest (NSW), No 2: 10 March 2009, commenting on the Law Enforcement (Powers and Responsibilities) Amendment (Search Powers) Bill 2009

<http://www.abc.net.au/news/stories/2009/03/04/2507007.htm?>



Police can scan against four million fingerprints in the field

NSW Police can now scan fingerprints of alleged offenders in the field, and cross check them against four million prints on the national fingerprint database.

Police may verify the identification of alleged offenders only when they are issued with a Field Court Attendance Notice (FCAN) or a Criminal Infringement Notice (CIN).



Within 90 seconds, the new handheld device (pictured) cross checks electronically with the National Automated Fingerprint Identification System (NAFIS) which contains prints from every State jurisdiction.

If the offender is on the national fingerprint database, police can check for any outstanding arrest warrants, warnings or breaches of bail they may have on their record. The devices use Telstra wireless mobile telecommunications technology. Similar scanners are in use in the USA and UK.

http://www.police.nsw.gov.au/news/latest_releases

French High Court allows secret police reports, uncurbed

The High Court of Australia has endorsed using secret evidence in minor matters, reinforcing the need for some form of basic written rights in Australia.

A unanimous, seven-judge decision of the new High Court, under new Chief Justice Robert French, approved South Australia police presenting secret criminal intelligence to a judge to stop a liquor licence being issued.

In 2005, Genargi Krasnov, a nightclub owner, failed to get a licence for a karaoke bar in Adelaide's central business district, even though his criminal record consisted only of traffic offences. Mr Krasnov went all the way to the High Court to challenge the powers of the South Australia Police after they gave criminal intelligence to the courts. He was not given the chance to see the police file or defend himself against it.

"I think it's a worrying decision," said constitutional law expert and CLA member, Professor George Williams. "Normally judges are very jealous in guarding the concept of natural justice."

– from a report by Catharine Munro, SMH, 5 Mar 09

<http://www.smh.com.au/national/court-ok-with-using-covert-evidence-20090304-8o11.html>

Police watchdog has lost its bite: claim

Queensland civil libertarians have called for parliamentary oversight of police, saying the police watchdog has lost its bite after 20 years.

The calls come after the Crime and Misconduct Commission rebuked an officer who applied a stun gun to a 16-year-old girl and accused the police service of failing to learn from mistakes.

But CMC chairman Robert Needham dismissed the call for more oversight and defended the decision to not insist on disciplinary action against the constable in the stun gun incident, according to a report by Michael Wray in the *Courier Mail*.

Queensland Council of Civil Liberties vice-president Terry O'Gorman said the CMC had proved "largely ineffectual" at reining in wayward police behaviour.

Mr Needham said he had been forced into making his most public attack on police after frustration at their attitude towards the incident. "I've been expressing my view for quite a while and it seems to cause no change of attitude in the Queensland Police Service," Mr Needham said.

He said it was the "harshest criticism" he had delivered in his four years at the commission.

<http://www.news.com.au/couriermail/story/0,23739,25137988-3102,00.html>

<http://www.news.com.au/couriermail/story/0,23739,25144841-952,00.html>

Meanwhile, in the USA, a boy aged 15 died in Michigan USA last month after police used a stun gun to subdue him.

Police claimed it was not clear that Brett Elder's death was directly linked to the stunning incident.

Elder's aunt Cindy Hender, who saw what happened, told local television her nephew "was flopping around and looked like a fish out of water ... His whole body was bent over".

Police said medical personnel were summoned "due to the subject's reactions" and Elder was rushed to a hospital where he was pronounced dead.

A police officer was suspended pending the outcome of the investigation.

<http://www.news.com.au/story/0,27574,25233711-23109,00.html>

Stun guns can cause seizures, says medical journal

Stun guns can cause brain seizures, authorities have been warned after a police officer was accidentally hit in the head.

The officer was "hit mistakenly by a Taser shot meant for the suspect" during an arrest attempt, and the stun gun's two electrified darts hit his upper back and the back of his head.

"Immediately after being shot he was found by his colleague to be unresponsive and foaming at the mouth," according to a report published in the Canadian Medical Association Journal.

The seizure continued for about a minute and the officer did not regain full consciousness until he was taken to hospital, where he then felt dazed for several hours.

The risk of seizure should be added to a list of possible adverse effects alongside the chance that being shot with a stun gun could exacerbate heart problems, the report states.

The NSW Ombudsman called late last year for a two-year freeze on the issuing of stun guns to police officers, warning that not enough was known about their risks.

"This is another good example why they should accept exactly what the Ombudsman said," said NSW Council of Civil Liberties vice-president David Bernie. "The Ombudsman has reviewed their use, and has given a recommendation and the Government is ignoring it."

Mr Bernie said stun guns were promoted as an alternative to a gun but they were now being used "as a matter of course" to subdue people, where a gun had always been an officer's last resort.

<http://www.news.com.au/couriermail/story/0,,25199715-952,00.html>

Australia boosts funding for Asia-Pacific human rights

The Australian Government is providing \$1.9 million to the UN Office of the High Commissioner for Human Rights to promote and protect human rights in the Asia-Pacific region.

Foreign Affairs Minister Stephen Smith made the announcement during the annual consultation with Australian human rights Non-Government Organisations, which CLA attends (represented this time by President Dr Kristine Klugman, but previously by Dr June Verrier, Rosheehan O'Meagher and Bill Rowlings).



The \$700,000 increase on funds provided in 2007-08 reflects the government's commitment to working with the UN, and to advancing human rights; Australia recognises the substantial contribution the UN High Commissioner, Navanethem Pillay (*pictured*), and her office makes in promoting and protecting human rights, Mr Smith said.

Australia's contribution will support the Office's initiatives on regional co-operation on human rights, including engagement with ASEAN, the Pacific Islands Forum and SAARC, the South Asian Association for Regional Cooperation. Some \$500,000 will promote and protect human rights in the Asia-Pacific, including by strengthening regional cooperation. At the same time, Australia has increased funding to the UN's refugee agency by \$4.4m to 14.3m, the Minister for Immigration and Citizenship, Senator Evans, announced.

The same Navi Pillay has announced a new handbook, entitled 'Working with the UN Human Rights Programme: A Handbook for Civil Society'.

"It is my hope that this Handbook will be used to facilitate civil society actors' understanding of and access to the UN human rights system. It is a modest but significant resource in our joint endeavour to make human rights, dignity and equality a universal reality," she said.

<http://www.ohchr.org/Documents/Publications/NgoHandbook/ngohandbook.pdf>

Australians refused insurance because of poor genes

Australian can't get insurance protection because of their genetic make-up, researchers show in the first study in the world to provide proof of genetic discrimination, according to a report by Deborah Smith in the *SMH*.

The findings have led to renewed calls by experts for policies to ensure the appropriate use of genetic test results by the insurance industry.

The director of the Centre for Genetics Education at Royal North Shore Hospital in Sydney, Associate Professor Kristine Barlow-Stewart, said the research also showed consumers needed to be better informed about their rights.

She and her colleagues surveyed more than 1000 people who had attended clinical genetic services about their experiences of discrimination.

The researchers proved 11 cases of genetic discrimination. Their results are published in the journal *Genetics in Medicine*.

In one case a man with a faulty gene increasing risk of breast and prostate cancer could not get income protection and trauma insurance that would have let him claim if he developed other forms of cancer.

In another case, two women with the same genetic fault linked to breast cancer applied for income protection to the same insurer three years apart. One was denied any type of cover, while the other was offered insurance with an exclusion of breast cancer.

The different decisions were justified by the Insurance and Financial Services Association on the grounds of updated scientific information. "But I don't believe consumers should be penalised while the insurance companies are learning," said Professor Barlow-Stewart.

An expert assessment panel should be established to advise on which tests are sufficiently well understood to be used for insurance purposes, she said. This was one of the recommendations of a 2003 report by the Australian Law Reform Commission.

Under industry guidelines, insurers cannot compel people to have a genetic test, but those who have been tested must reveal their results. It is only legal for companies to use this information if they can justify their decisions.

<http://www.smh.com.au/national/australians-refused-insurance-because-of-poor-genes-20090309-8tc6.html?page=-1>

For more on this subject, including a CLA Research Paper by Karlie Brown:

<http://www.cla.asn.au/0805/index.php/articles/2008/dna-us-legislates-why-not-australia#more94>



Health identifier is a privacy minefield for COAG

Health ministers from throughout Australia said last month that more consultation on privacy protections was necessary before any national health ID scheme could start.

The Council of Australian Governments recently gave the National E-health Transition Authority (NEHTA) the go-ahead to develop an individual health identifier for patients and providers with Medicare.

The national ID scheme is meant to speed the flow of patient information throughout the health system, reducing the need to take histories twice, and helping health professionals gain a better overall view of patients' health.

Although there is agreement that such an identifier needs to be developed, there are major privacy issues about access to the information, Suzanne Tindal of ZDNet reported. Legislation must also pass parliaments before identifiers can start operating.

A conference of Australian health ministers last month decided that it was "essential" that privacy arrangements meet community expectations, and balance the protection of personal details with achieving healthcare benefits through sharing information.

Privacy consultations are under way. COAG will consider the reports by the middle of 2009

<http://www.zdnet.com.au/news/software/soa/Health-identifier-still-privacy-minefield/0,130061733,339295334,00.htm>

New Native Title law may hasten settlements

A new Native Title Amendment Bill 2009 allows the Federal Court to manage native title claims from start to finish, introducing earlier opportunities for negotiated settlements.

According to the Attorney-General, Mr McClelland, where parties are deadlocked or unwilling to see common ground, the court's case management powers can ensure native title matters do not languish and are appropriately resolved.

The Bill will also:

- allow the Court to make consent orders about matters beyond native title that would assist with the negotiation of broader agreements;
- recognise the way Indigenous communities record traditional laws and customs; and
- streamline the recognition processes for native title representative bodies.

BRIEFS – Australia:

Youths get legal help online: Youthlaw, a Melbourne-based community legal centre, has launched *Youthlaw Online* with the help of \$150,000 from the Australian Government. A-G Robert McClelland said: "The service is unique in that it is tailored for young people, uses technology they are familiar with and gives them the confidence to seek out assistance, even if they live some distance from their nearest legal centre." The initiative uses real-time video and document sharing capabilities that will enable young people across Victoria to consult with lawyers based at Youthlaw's Melbourne office.

CLA welcomes new shield laws: CLA believes the proposed new shield laws for journalists are a stride (but not a great leap) forward, and much better than what is in place now. The Media and Entertainment and Arts Alliance (MEAA, the journalists' union) called them a "welcome and long overdue development that will provide much-needed protection for journalists". Attorney-General Robert McClelland last month announced legislation that will deliver a degree of protection to journalists by giving judges discretion not to jail reporters for refusing to reveal their sources.

WA appears to have policing problem, not crime problem: "As many as 16,000 offenders wanted by police are on the loose – including armed robbers, violent criminals and rapists. The *Sunday Times* can reveal there are at least 15,689 outstanding warrants in WA and some fugitives have been on the run for more than 40 years."

<http://www.news.com.au/perthnow/story/0,21598,25119305-948,00.html>

Australian gains high post: Professor Ron McCallum has been elected as Rapporteur to the UN Convention on the Rights of Persons with Disabilities. He will report to the UN General Assembly on the recommendations and activities of the Committee on the Rights of Persons with Disabilities. Australia was among the first Western countries to ratify the relevant Convention and its Optional Protocol in July 2008. Prof McCallum, a leading Australian law academic, was elected as Australia's representative to the UN Committee on the Rights of Persons with Disabilities in November 2008. – from joint media release of Foreign Minister Smith and A-G McClelland

Adviser/ambassador swaps: The Prime Minister has appointed Phillip Green OAM as his senior adviser for Foreign Affairs, Defence and National Security. Mr Green was formerly High Commissioner to South Africa (2004-2008) and to Kenya (1998-2000).

http://www.pm.gov.au/media/Release/2009/media_release_0845.cfm He replaces Gary Quinlan, who will be the new Australian Ambassador to the UN, in place of former Liberal Minister, Robert Hill, from May.

Women gain more rights to appeal: The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) came into force in Australia on 4 March

2009. Australian women can appeal to the CEDAW committee, once all domestic avenues have been exhausted, where they believe their rights under the convention have not been respected. Australia has been a party to CEDAW since 1983 and to the Optional Protocol to the convention since December 2008.



Secret cameras pluck trucks in NSW: private cars next? Speed cameras that catch drivers by monitoring their time over long routes will operate against trucks in a measure secretly endorsed by the NSW cabinet last month, the SMH reported. The scheme could later be extended to private vehicles. Safe-T-Cams will be record truck drivers who pass camera points within the minimum journey time, opening them up to a fine. In Victoria, point-to-point speed cameras, as well as covert mobile speed cameras, are already in place. – Linton Besser, Transport Reporter, SMH, 02 Mar 09
<http://www.smh.com.au/text/articles/2009/03/01/1235842248277.html>

Credit card fraud up: Online credit card fraud increased by about 50% last year, according to the Reserve Bank of Australia. The figure comes after the Australasian Consumer Fraud Taskforce reported a 60% increase in fraud early last month and warned consumers to take extra precautions during the economic downturn. <http://www.theage.com.au/national/credit-card-fraud-up-50-in-past-year-20090324-98yk.html>

Young people get help over rights: The Australian Human Rights Commission has launched '*Let's talk about rights*' - a guide to help young people participate in the national human rights consultation. The guide features examples and stories of real-life human rights issues in Australia and outlines ways in which human rights could be better protected. <http://humanrights.gov.au/letstalkaboutrights/youth.html>

INTERNATIONAL

Fiji's military boss wants newspaper closed

Fiji's deputy army commander has called for the closure of the country's biggest newspaper claiming it is "non-cooperative" and "biased."

Colonel Pita Driti says the *Fiji Times* should be shut down immediately because it failed to publicise the military's "positive achievements", according to an *ABC News* report.

Fiji Times editor Netani Rika has described Colonel Driti's statement as "unfortunate". He says the military should be able to distinguish between criticism of the interim regime and that of the army, and called on the army to specify which achievements the newspaper had not reported.

Mr Rika says the newspaper has always addressed issues that affect ordinary people and would continue to do so as long as they were allowed to. Two *Fiji Times* publishers have been deported since the military seized power.

<http://australianetworknews.com/stories/200903/2526464.htm?desktop>

CLA's latest research paper on Fiji, by Shane Svoboda: <http://www.cla.asn.au/page/students.php>

Malaysia bans opposition newspapers

Malaysia's government has imposed a ban on two main opposition newspapers, ahead of key political developments, the BBC reported last month.

Harakah and *Suara Keadilan* have been told they cannot publish for the next three months. The ban came just before the swearing in of controversial prime minister, Najib Razak, and with only weeks to go to important by-elections.

Harakah and *Suara Keadilan* are the main publications of the Pan-Malaysian Islamic Party and the People's Justice Party, which belong to a three-party opposition alliance that has made major

inroads against the ruling National Front coalition in the past year. Report:
<http://news.bbc.co.uk/2/hi/asia-pacific/7959518.stm>

Water is a need, not a right, conference decides

An international conference decided last month that access to safe drinking water was a "basic human need," but not a "human right," as some delegates had proposed.

The statement, coinciding with the United Nations' World Water Day, was issued at the end of a three-day ministerial meeting at the 5th annual World Water Forum in Istanbul, Turkey.

"We acknowledge the discussions with the UN system regarding human rights and access to safe drinking water and sanitation. We recognize that access to safe drinking water and sanitation is a basic human need," the statement said.

The lack of binding protocols at the forum, held every three years to safeguard the world's freshwater supplies, prompted about 20 dissenting member countries to issue their own declaration, defining safe drinking water as a human right.

More than a billion people lack access to clean water, and 2.5 billion are without water for sanitation, the UN estimates. The Organization for Economic Cooperation and Development (OECD) predicts that, by 2030, nearly half of the world's population will live with freshwater shortages. Most of the people affected will live in China and South Asia.

<http://www.cbc.ca/world/story/2009/03/22/water-forum.html>



The world's drugs strategy is in turmoil

The UN's strategy on drugs had failed for the past 10 years, a European Commission report claimed last month as an international conference in Vienna set future policy for the next 10 years.

There was growing dissent among delegates about what the future worldwide drugs strategy should be, *The Guardian* reported.

Referring to the UN's existing strategy, the report's authors said that they had found "no evidence that the global drug problem was reduced. Broadly speaking, the situation has improved a little in some richer countries while for others it worsened, some sharply and substantially, among them a few large developing or transitional countries."

The policy had merely shifted the problem geographically, they said. "Production and trafficking controls only redistributed activities. Enforcement against local markets failed in most countries."

The UN Commission on Narcotic Drugs is due to formulate a strategy.



In London, Lady Meacher (*pictured*), speaking on behalf of more than 30 members of the House of Lords, warned that the existing hardline prohibitionist strategy, led by the US, had been deeply damaging. It was now being challenged by politicians, scientists and lawyers around the world, she said. "We are concerned that the war on drugs has failed and the harm it has caused is far greater," said Lady Meacher. "What we want the UN to do is accept that the previous declaration was hopelessly unrealistic."

<http://www.guardian.co.uk/world/2009/mar/11/un-drug-strategy>

New York abandons harsh 1970s-era drug laws

State Governor David Paterson and New York legislative leaders have agreed to dismantle much of what remains of the New York's strict 1970s-era drug laws, once the toughest in the USA.

Mandatory minimum prison sentences now in place for lower-level drug felons would go, giving judges the authority to send first-time nonviolent offenders for treatment instead of into prison. The plan would also expand drug treatment programs and widen the reach of drug courts at a cost of at least \$72 million.

New York's drug sentencing laws, imposed during a heroin epidemic that was devastating urban areas nearly four decades ago, helped spur a nationwide trend toward mandatory sentences in drug crimes, which most states have now dispensed with.

"We're putting judges in the position to determine sentences based on the facts of a case, and not on mandatory minimum sentences," said Jeffrion Aubry, who has led the effort for repeal.

The deal comes as the state is facing a \$23 billion budget deficit for the coming fiscal year. And finding the money needed to pay for drug addiction programs, which could reach near \$115 million, will prove difficult, those involved in the negotiations said. But in the long run, the changes are expected to save money because sending offenders to treatment is less expensive than spending \$65,000 a year to keep them confined.

<http://www.nytimes.com/2009/03/26/nyregion/26rockefeller.html?th=&emc=th&pagewanted=print>

Big Ben to get an even bigger Big Brother

In future, every citizen of Britain could be under pre-emptive surveillance constantly. This is what former security chief David Omand has outlined the vision in a study of intelligence methods described by privacy campaigners as a plan for a vast breach of human rights.

"Finding out other people's secrets is going to involve breaking everyday moral rules," he said in the paper for the Institute of Public Policy Research, an influential think tank. "Application of modern data mining and processing techniques does involve examination of the innocent as well as the suspect to identify patterns of interest for further investigation." Analysts say the study by Omand, the cabinet's Security and Intelligence Coordinator in 2002-05, may indicate further changes security agencies may seek in coming years.

It may also point to changes in Australia...because British surveillance systems are often emulated by countries who see Britain as a leader in using technology to snoop on its own people, like Australia For Omand's paper (you must register first):

<http://www.ippr.org.uk/members/download.asp?f=%2Fecomm%2Ffiles%2FNational+Security+Strategy%2Epdf>

Rights may be updated, and better defined

Jack Straw, the British Justice Secretary, last month revealed plans for a list of Britons' rights and responsibilities redrawn for the 21st century – 300 years after their first introduction in a 1689 Act.

The Bill of Rights and Responsibilities would reaffirm every citizen's right to equal health care if they become ill, decent treatment if they become a victim of crime, free education for every child and universal access to good housing. The statement of responsibilities could include the duty to pay taxes and obey the law, as well as vote in elections, undertake jury service if summoned and treat public sector staff with respect.

The moves were set out in a green paper, with the British Government planning to draw up more detailed proposals next year. Mr Straw acknowledged there was no prospect of legislation before the general election, which has to take place by June 2010.

The notion of trusting the writing of rights to a discredited, tired government was pilloried by commentators, who particularly asked if treating public sector staff with respect was a one-way, or two-way, concept. It was also noted that the government's initiative may be an attempt to create a 'wedge' issue leading up to the 2010 elections. – from a report by Nigel Morris, 24 Mar 09

<http://www.independent.co.uk/news/uk/politics/straw-sets-out-rights--for-21stcentury-britons-1652679.html>



State is misusing anti-terror laws against protestors

Laws intended for counter-terrorism are being misused in an increasingly heavy-handed approach to policing protests, a new British parliamentary report warned last month.

The 70-page report, published by the Joint Committee on Human Rights after almost a year's inquiry, said it was concerned by evidence of the use of the powers, under legislation including the Terrorism Act, against peaceful protesters.

The report came as pressure mounted on authorities over plans for policing the current G20 summit in London. The findings are likely to anger demonstrators, after the news that thousands of riot police will be deployed.

<http://www.guardian.co.uk/uk/2009/mar/23/police-terrorism-protest-g20-law>

Go online to find a crim near you

Members of the public in Britain will soon be able to type their postcode into a criminal justice website and find out who the convicted criminals are in their neighbourhood, the Home Secretary announced last month.

Jacqui Smith said the government was "working in the direction" of ensuring that every court in England and Wales would be able to put the outcome of their cases into the public domain to let people know about the consequences faced by those who break the rules.

The move is part of a major change in how police throughout the UK deliver their services to the public. <http://www.guardian.co.uk/uk/2009/mar/04/criminal-justice-website>

Britain's databases are fundamentally flawed

A quarter of all Britain's largest public-sector database projects, including the ID cards register, are fundamentally flawed and clearly breach European data protection and rights laws, according to a report published last month.



Claiming to be the most comprehensive map so far of Britain's "Database State" (name of the report), it says that 11 of the 46 biggest schemes, including the national DNA database and the Contactpoint index of all children in England, should be given a "red light" and immediately scrapped or redesigned.

The report, Database State by the Joseph Rowntree Reform Trust, says that more than half of the the government's 46 databases and systems have significant problems with privacy or effectiveness, and could fall foul of a legal challenge.

<http://www.guardian.co.uk/politics/2009/mar/23/dna-database-idcards-children-index>

European 'serial killer' turns out to be swabber jobber

A 16-year hunt for a female serial killer has collapsed into farce after DNA that linked crimes across Europe was traced to contaminated cotton swabs from a factory.

Years of searching for someone linked to six murders and other crimes have been wasted, as the predator does not exist.

Police are reeling with embarrassment. They now say they were fooled by the DNA of a single factory worker who mishandled the sterile swabs used by police in Germany and other European countries.

Tests showed her DNA at 40 crime scenes in Germany, Austria and France. She was linked to two stranglings and the murder of a 22-year-old policewoman in Germany in 2007. The rogue DNA was also found at the scene of the execution-style killings of three Georgian car dealers in Germany.

– from a report by Allan Hall, from Berlin, in the *SMH*

<http://www.smh.com.au/world/rogue-dna-swabs-derail-hunt-for-female-serial-killer-20090327-9e63.html?skin=text-only>



UN rules Suu Kyi's detention illegal

The UN has ruled that continued detention of Burma's pro-democracy leader Aung San Suu Kyi violates that country's laws and international law.

Suu Kyi, a Nobel peace prize laureate, has spent 13 years under house arrest, with the ruling junta extending her detention recently despite international condemnation.

"The latest renewal of the order to place Ms Suu Kyi under house arrest not only violates international law but also national domestic laws of Myanmar," said a legal opinion by the UN Working Group on Arbitrary Detentions that has been sent to the Burmese government.

Although the ruling is unlikely to release Suu Kyi, it is uncommon for the world body to accuse a member country of violating its own laws.

<http://www.guardian.co.uk/world/2009/mar/24/aung-san-suu-kyi-detention-illegal>

Afghan student's 20 years for blasphemy confirmed

The Supreme Court in Afghanistan has upheld a 20-year prison sentence for an Afghan university student journalist accused of blasphemy.

The student's family and lawyers said last month that the court handed down its decision secretly on 12 February. They claim the secret procedure is illegal, a *NY Times* report said.

The student, Parwiz Kambakhsh, 24, from northern Afghanistan, was arrested in 2007 and sentenced to death for blasphemy after accusations that he had written and distributed an article about the role of women in Islam. Mr Kambakhsh denied having written the article and said he downloaded it from the Internet. His family and lawyers say he has been denied a fair trial.

In 2008, an appeals court in Kabul commuted the death sentence to 20 years' imprisonment, a decision that was upheld by a tribunal of the Supreme Court last month.

Mr. Kambakhsh still had the right to appeal the tribunal's decision.

Another journalist, Ghows Zalmai, has been sentenced to 20 years in prison for blasphemy after publishing a Dari translation of the Koran that hard-line clerics disputed, said Human Rights Watch.

<http://www.nytimes.com/2009/03/12/world/asia/12afghan.html>

Journalists/media workers killed at rate of two a week

The International Federation of Journalists' (IFJ) has released its global report on the killings of journalists in 2008, *Perilous Assignments*.

The report shows that 109 journalists and media workers were killed in 2008 as a result of their work. Globally, this marks a significant drop from the record of 175 killings in 2007.

However, Asia-Pacific region countries, including India, Philippines and Pakistan, are among the most dangerous in the world for journalists. Thirty-three journalists were killed in the region in 2008. Of these, 23 were victims of premeditated murder.

DETAILS: <http://www.ifj.org/en/articles/the-ifj-says-impunity-and-callous-indifference-remain-threats-as-new-wave-of-media-killings-wipes-out-optimism-over-death-toll-in-2008>

REPORT: <http://www.ifj.org/assets/docs/051/091/eb26233-523985b.pdf>

Executions jump to 2390

The number of executions worldwide increased significantly last year, with China responsible for almost three-quarters of the total of 2390 executions worldwide in 2008.

About 72% – 1718 – took place in China. In 2007, executions totalled 1252, according to Amnesty.

In 2008, there were also at least 8,864 death sentences handed down in 52 different countries. Iran executed 346 people and Saudi Arabia 102.

The USA executed 37 people in nine states. Four people were released from death row in the US last year after being found innocent, taking to 130 the number exonerated since 1973.

Spanish move may 'imprison' Bush officials in USA

Criminal proceedings have begun in Spain against six senior officials in the Bush administration for the use of torture against detainees in Guantánamo Bay.

Baltasar Garzón, the Spanish counter-terrorism judge whose prosecution of General Augusto Pinochet led to his arrest in Britain in 1998, has referred the case to the chief prosecutor before deciding whether to proceed.

Gonzalo Boyé, one of the four lawyers who wrote the lawsuit, said the prosecutor would have little choice under Spanish law but to approve the prosecution.

"The only route of escape the prosecutor might have is to ask whether there is ongoing process in the US against these people," Boyé told the *Observer* newspaper. "This case will go ahead. It will be against the law not to go ahead."

The officials named in the case include the most senior legal minds in the Bush administration: Alberto Gonzales, a former White House counsel and attorney general; David Addington, former vice-president Dick Cheney's chief of staff; Douglas Feith, who was under-secretary of defence; William Haynes, formerly the Pentagon's general counsel; and John Yoo and Jay Bybee, who were both senior justice department legal advisers.

If Garzón decided to go further and issued arrest warrants against the six, it would mean they would risk detention and extradition if they travelled outside the USA. It would also present President Barack Obama with a serious dilemma. He would have either to open proceedings against the accused or tackle an extradition request from Spain.

<http://www.guardian.co.uk/world/2009/mar/29/guantanamo-bay-torture-inquiry/print>



French President to cut off internet access

The French government has been accused of 'Big Brother' tactics over an anti-piracy bill which aims to punish people who repeatedly illegally download music and films by cutting off their internet access for up to a year.

The proposed law will create a new state surveillance agency to monitor internet users online.

With the help of internet service providers and tip-offs from music and film companies, web surfers illegally downloading music, films or video games will be identified. They will first receive an email warning, then a registered letter, and if caught again they will see their web access cut off for up to a year.

The bill is a pet project of the French president Nicolas Sarkozy, who has taken advice from music and film industry leaders as well as his showbusiness friends who warn that France's creative industries are on their knees as a result of illegal downloading. The president's wife, the singer Carla Bruni, has long advocated a crackdown on piracy.

The culture minister, Christine Albanel, has argued that France is "the world number one" in illegal downloading. In 2006, an estimated 1bn pirated files were shared in France. A recent poll found 57% of 18-24 year-olds admitted they had made illegal downloads and one in three French internet users admitted to online piracy.

But although the senate has passed the bill, a heated row over civil liberties is expected as parliament debates the law. Christian Paul, a Socialist MP leading opposition to the law, said it would create a precedent for "massive surveillance" of the internet and society as a whole.

<http://www.guardian.co.uk/world/2009/mar/11/france-internet-anti-piracy>

Canadian commissioner proposes 'filtering' nakedness

Whole Body Imaging (WBI) technologies – described in the media as “naked scanners” – raise significant privacy concerns that must be addressed, says Ontario’s Information and Privacy Commissioner, Dr. Ann Cavoukian.

“These technologies, which are being deployed as a voluntary passenger-scanning security measure in a growing number of airports around the world, pose a serious threat to privacy since they produce high-quality images of an essentially naked body beneath a passenger’s clothes.”

The risk to privacy could easily be mitigated through the use of a strong “privacy filter,” Dr Cavoukian claims.

She has released a white paper entitled, *Whole Body Imaging in Airport Scanners: Activate Privacy Filters to Achieve Security and Privacy*, which outlines how the activation of privacy (or modesty) filters can reduce the amount of unnecessary personal details captured by WBI technologies. <http://www.ipc.on.ca>

Juveniles have their crimes expunged

Hundreds of teenagers who were subjected to months in custody by a corrupt judge have had their convictions quashed by Pennsylvania's highest court in a judicial scandal dubbed "kids for cash".

The state's supreme court ruled that the judge, Mark Ciavarella, had violated the constitutional rights of the teenagers who came before his court, by failing to ensure they were properly legally represented.

In February, Ciavarella and another senior juvenile judge, Michael Conahan, pleaded guilty to having taken \$2.6m (£1.78m) from the co-owner and builder of a private detention centre. The judges were accused of setting up a system to ensure a steady flow of children committed to custody in the care of the private firm in return for kickbacks.

Ciavarella handed down custodial sentences for children as young as 14 for offences such as as stealing a \$4 jar of nutmeg or creating a satirical MySpace page of their headteacher.

<http://www.guardian.co.uk/world/2009/mar/27/corrupt-judge-pennsylvania-victims>

Kenyan activists slaughtered on downtown street

Two Kenyan human rights activists who provided evidence to a senior UN investigator over execution-style murders by police were assassinated on a busy Nairobi street last month.

Oscar Kamau Kingara, the director of the Oscar Foundation, and its programme coordinator, John Paul Oulo, were shot at close range in their car by gunmen less than a mile from the presidential residence. Only a few hours earlier the government had publicly accused their organisation, which runs free legal aid clinics for the poor, of being a front for a criminal gang.

A coalition of civil society organisations released a statement blaming police for the murders.

The Kenya National Commission on Human Rights (KNCHR) and the UN demanded an immediate investigation into the deaths. Police have denied any involvement and attributed yesterday's killings to "rivalry or thuggery".

The Oscar Foundation made its name investigating police abuses. Since 2007 it has reported 6,452 "enforced disappearances" by police and 1,721 extrajudicial killings.

Many of those killed were alleged members of the feared Mungiki gang, which runs Mafia-like networks but was also used by members of President Mwai Kibaki's party to launch retaliatory attacks during last year's election violence.

Kingara, a 37-year-old lawyer who founded the organisation in 1998, recently presented his detailed findings on police killings to two parliamentary committees.

He and Oulo, a former student leader, met and briefed Philip Alston, the UN special rapporteur on extrajudicial, summary or arbitrary executions, when he was conducting a 10-day investigation in security force abuses in Kenya last month.

Alston's scathing report, which criticised Kibaki and called for the sacking of the police chief and the attorney general, caused uproar in Kenya and deeply angered the authorities.

<http://www.guardian.co.uk/world/2009/mar/06/kenyan-activists-shot-dead>

Prison spending mushrooms as crime rate declines

One in every 31 adults, or 7.3 million Americans, is in prison, on parole or probation, at a cost to the US states of \$75 billion in 2008, according to a new study.

Criminal correction spending is outpacing budget growth in education, transportation and public assistance, based on state and federal data. Corrections spending by states quadrupled in the past two decades...as crime rates fell by about 25% in the same period.

The report, by the Pew Center on the States, is the first breakdown of spending in confinement and supervision in the past seven years.

States have shown a preference for prison spending even though it is cheaper to monitor convicts in community programs, including probation and parole, which require offenders to report to law enforcement officers. A survey of 34 states found that states spent an average of \$45,000 a year on prisoners, compared with \$2000 on probationers and \$4250 on parolees.

The study found that despite more spending on prisons, recidivism rates remained largely unchanged. http://www.nytimes.com/2009/03/03/us/03prison.html?_r=1&emc=eta1

Assisted suicide may go to conscience vote

The British Prime Minister retains his long-held opposition to the legalisation of assisted suicide, but believes it is a matter for parliament, not the government, to decide in a free vote.

Patricia Hewitt, the former Health Secretary, is tabling an amendment to the Coroners and Justice Bill that would protect people helping terminally ill relatives and friends travel abroad for an assisted suicide.

A series of high-profile cases in Britain, including Debbie Purdy, who has multiple sclerosis, and Daniel James, 23, who was paralysed after a rugby injury, have placed increasing pressure on the authorities to clarify their policy.

Hewitt said: "In the long term we need a bill to change the law to allow terminally ill, mentally competent adults suffering at the end of their lives the choice of an assisted death, within safeguards, in this country.

Her amendment, which bears the signatures of MPs from all three major parties, would mean that any act "done solely or principally for the purpose of enabling or assisting (an individual) to travel to a country or territory in which assisted dying is lawful" would not be treated as "encouraging or assisting" suicide.

In Britain, as in Australia, more than 75% of the population supports the notion of assisted suicide (including more than 70% of Catholics).

<http://www.guardian.co.uk/society/2009/mar/20/gordon-brown-assisted-suicide>

20 years' jail for using the wrong Word

The Kabul Appeal Court in Afghanistan has upheld the verdict and 20-year prison sentence of Ghous Zelmay, a former journalist and spokesperson for Afghanistan's Attorney-General, on charges of wrongly interpreting religious scripture.

Mr Zelmay was arrested in November 2007, shortly after he published a translation of the Koran in Dari, one of Afghanistan's two official languages. The translation was published without the original Arabic script accompanying it, and was deemed to have several inaccuracies.

In September 2008, Mr Zelmay was sentenced by a trial court to 20-years' jail. An appeal court has now confirmed the sentence.

<http://asiapacific.ifj.org/en/articles/ifj-alarmed-by-sentencing-of-afghan-journalist>

BRIEFS - International:

EU moves to stockpile message data: A European Union directive is about to come into force, obliging all ISPs to keep copies of data on who is communicating with whom, when and where they communicate, and what type of communication it is...but not the content of the messages. ISPs must keep the information on file, available should a terrorist, criminal or corporate legal case require access to it. The scheme starts on 6 April in the UK.

<http://www.computing.co.uk/computing/analysis/2238170/isps-comply-snooping-law-sunday-4515931>

Pakistan's lawyers achieve justice: There is renewed hope for a return to the rule of law in Pakistan after the former Supreme Court Chief Justice Iftikhar Mohammed Chaudhry and 60 other judges were reinstated last month after being removed from their posts in 2007. The move follows a relentless campaign by the lawyers of Pakistan. The government has also promised to free opposition activists and leaders arbitrarily detained over last month, and to lift the ban on public demonstrations in the capital and provinces. There is an expectation that the judiciary will open and re-open corruption cases against politicians.

Anonymous posters must come out of the dark: A Canadian court has ordered the owners of the *FreeDominion.ca* to disclose all personal information on eight anonymous posters to the chat site. The required information includes email and IP addresses. The court ruled that anonymous posters have no reasonable expectation of privacy, a major blow to online free speech in Canada.

<http://yro.slashdot.org/article.pl?sid=09/03/25/1758235&from=rss>

Spook guidelines to go out into the warmth: The British Government has bowed to growing pressure over allegations of Britain's complicity in torture by promising to draw up and publish new guidelines for security and intelligence agencies involved in interrogating detainees abroad. Announcing the unexpected move to MPs, PM Gordon Brown said he condemned torture "absolutely" but had asked the intelligence and security committee (ISC) to help draw up new guidelines to have systems that are "robust". In a separate move, the PM told MPs that compliance with the new guidelines would be monitored by intelligence services commissioner Sir Peter Gibson, a former appeal court judge, who will report annually.

<http://www.guardian.co.uk/uk/2009/mar/19/mi5-terror-interrogations>



Lords tackle privacy: House of Lords Constitution Committee - Second Report: *Surveillance: Citizens and the State*, 21 Jan 2009. "We recommend that the Government amend the provisions of the Data Protection Act 1998 so as to make it mandatory for government departments to produce an independent, publicly available, full and detailed Privacy Impact Assessment (PIA) prior to the adoption of any new surveillance, data collection or processing scheme, including new arrangements for data sharing. The Information Commissioner, or other independent authorities, should have a role in scrutinising and approving these PIAs. We also recommend that the Government – after public consultation – consider introducing a similar system for the private sector." <http://www.publications.parliament.uk/pa/ld200809/ldselect/ldconst/18/1802.htm>

17 Uighurs back in no man's land: A US appeals court has overturned an earlier court order that 17 Uighur (western China) men caught up in the Guantanamo nightmare should be released into the USA. The 17 can't be returned to China, because they are stateless. The cases are reminiscent of the Al Kateb case in Australia, where the High Court ruled 4-3 to keep al Mr Al Kateb in indefinite Immigration detention...forever.

Inquests can go behind closed doors: Inquests in Britain can now be held in private and without a jury for the first time in sensitive cases involving national security after MPs, with a majority of just 34, voted for a change in the law. The amended Coroners and Justice Bill means a High Court judge will decide whether proceedings should be held behind closed doors if they affect national security, the relationship between the UK and another country or the prevention or

detection of a crime. Even relatives and reporters can be excluded from proceedings.
<http://www.telegraph.co.uk/news/newsttopics/politics/lawandorder/5040338/Inquests-can-be-held-in-private-after-MPs-back-fundamental-change.html>

A reminder re mandatory internet filtering:

CLA's other website, *CensorFree*, lets you keep up with the debate about Mandatory Internet Filtering under Communications Minister Stephen Conroy. <http://www.censorfree.com.au/>

DATES:

1 April, Sydney: *The Statute of Liberty: how Australians can take back their rights*, public lecture by barrister, Doughty head of chambers, benchmaster, recorder and visiting professor, Geoffrey Robertson, City Recital Hall, Wed 1 April 09, 6.30-7.45, Info/bookings: www.cityrecitalhall.com

5-9 April, Hong Kong: 16th Commonwealth Law Conference, www.commonwealthlaw2009.org

7 Apr, Canberra: *Covert Policing*, 4th workshop on social implication of national security, hosted by National Europe Centre, ANU. Call for papers: Email 250 word abstracts to katina@uow.edu.au by 30 January; 2009 Workshop
http://www.anu.edu.au/NEC/conferences_workshops/2009_CrossingBorders/CrossingBorders.php?&p=1

8-9 Apr, Canberra: Crossing Borders - Promoting regional law enforcement cooperation: European, Australian and Asia-Pacific perspectives,
http://www.anu.edu.au/NEC/conferences_workshops/2009_CrossingBorders/CrossingBorders.php?&p=1

23 April, Parramatta, Sydney: *The Personal and the Political: Women in Australian Politics*, address by Minister for the Status of Women, Tanya Plibersek. 5.30 for 6pm, UWS Parramatta, Building EA, Room 19. RSVP: d.mey@uws.edu.au or 02 9678 7374.

29 Apr - 2 May, Manila, Philippines: Inter-Pacific Bar Association meeting and conference; details <http://www.ipba.org/>

3 May, World: World Press Freedom Day: details: http://portal.unesco.org/ci/en/ev.php-URL_ID=1530&URL_DO=DO_TOPIC&URL_SECTION=201.html

1-6 June, Oslo, Norway: Global Forum on Freedom of Expression, week-long membership meetings, open conference sessions and festival events, all dedicated to exploring and celebrating free expression. Contact: Christopher Wilson (+47 2301 4696) Info: <http://expressionforum.org>

1-4 June, Washington DC, USA: Computers Freedom and Privacy conference,
http://www.cfp2009.org/wiki/index.php/Main_Page

5-9 June, Fiji: 11th Australian Family Lawyers' Conference, www.aflc.com.au

14 June - 3 July 2009, Montreal, Canada: Applications close 21 Nov 2008. The International Human Rights Training Program (IHRTTP) is an annual three-week training session with 120 participants from 60 countries. Information: <http://www.equitas.org/english/programs/IHRTTP.php>

20 June, world: World Refugee Day (World Refugee Week June 14-20)

27 June - 3 July, Bali, Indonesia: 'Criminal Justice - Diagnosis Terminal' conference, contact: jodi.truman@johntoohey Chambers.com.au

2-4 July, Wellington, NZ: Australian and NZ Society of International Law annual conference, call for papers deadline 2 March 09. Details: <http://law.anu.edu.au/anzsil/conferences.html> or cipl@law.anu.edu.au

5 July, Australia: NAIDOC Week (National Aborigines & Islanders Day of Celebration)

6-7 August, Canberra: 2009 National Administrative Law Forum, contact Jenny Kelly 02 6251 6060

1-4 Sept, Sydney: XIX World Congress, International Society for Labour and Social Security Law,
<http://www.labourlawsydney.com/>

17-20 Sept, Perth: 36th Australian Legal Convention, <http://www.law09.com.au/>

21 Sept, world: International Day of Peace

12-13 Nov, Canberra: CIPL/ANU Public Law weekend, including annual Sawyer lecture and dinner.

10 Dec, world: Universal human rights day www.cla.asn.au

2010:

4-7 May, Melbourne: Non -adversarial Justice: Implications for the Legal System and Society conference, E: ajja@law.monash.edu.au (Call for papers closes 1 Feb 2010)

10/10/10, World: Target date to start the CLA-promoted death penalty moratorium – 10/10 for Life.



BOOKS:

The Assault on Liberty: : What Went Wrong With Rights' Fourth Estate, 2009 By Dominic Raab.

Book review: <http://www.guardian.co.uk/books/2009/feb/08/assault-on-liberty-review>

...from an interview on PM - Monday, 9 March , 2009. Reporter: Mark Colvin

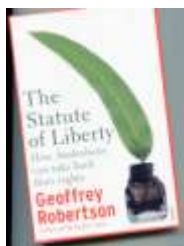
Dominic Raab is an international lawyer and legal adviser to UK Conservative shadow ministers.

DOMINIC RAAB: The attack on our freedoms in Britain over the last 12 years has been unprecedented. Just to give you a flavour, we have the longest period of detention without charge in the free world; 28 days here compared to say 12 in Australia and the Government has kept trying to increase it.

We have proportionately the most CCTV cameras and the largest DNA database in the world. We've seen a massive increase in surveillance and we have also seen the introduction of identity cards, with 50 items of personal information on each and every citizen which will be shared around government.

And the bottom line is that this government is pawning our freedoms that millions have died defending. And they matter because these freedoms define both the character of our country and our citizenship of it.

<http://www.abc.net.au/pm/content/2008/s2511458.htm>



For a REVIEW, by CLA President Dr Kristine Klugman, of *Statute of Liberty - How Australians can take back their rights*, Geoffrey Robertson, ISBN 978 1 74166 682 3 (pbk) Vintage/Random House Australia, 2009, 244pp, please go to the CLA website: <http://www.cla.asn.au/>

CLA's main activities for March 2009

Conducting eAGM: Successful first-time achievement, noting issues where some improvements can be made. It required quite a deal of work of the web master and secretary, including sending ballot papers to people without email, who were less familiar with dealing with electronic communication or with dual email addresses. It is to be hoped members will contribute motions for debate once the method becomes more familiar. The system allows repeated 'blog-style' debate for up to three weeks.

Board meeting: As there were nine nominations, seconded, for 12 board positions, returning officer, secretary Bill Rowlings, declared at the March board meeting that the nominees were elected. This meant one addition to the previous board, Melissa Hinson, who begins as Assistant Treasurer to Treasurer Kevin Popple, but will eventually take over the role, with Mr Popple remaining on the board.

Volunteer help: Lynne Bliss is assisting with administrative work one day a fortnight. Other members are encouraged to volunteer for tasks.

Submissions to Inquiries:

- Judicial Reform Inquiry, by Senate
- Proceeds of Crime review of Sherman Report, by A-G's Department

Meetings:

University of Canberra forum on Charter of Rights, organised by the Isaacs Society with speakers Hilary Charlesworth, John McMillan, Sen Gary Humphries and Jack Waterford, chaired by George Williams

University of Canberra Legal Careers Night, addressed by A-G Robert McClelland. CLA attended and spoke with interested students

CLA talk to ACT Voluntary Euthanasia Society - 'Yes we can!' (available as PowerPoint/Keynote presentation, includes 40 years of polls in Australia)

Media:

Reorganisation underway re CLA media spokesman

Murder Bill - Interview ABC radio

Police interaction: Clea Code – notification from ACT AG Simon Corbell that the newly-developed code will be included in police car chase training

Ongoing campaigns:

Stun guns - replies coming in from Police and Corrective Services Ministers re CLA letter suggesting adopting new Canadian Police guidelines.

Model Litigants - some indication that requirements are receiving more attention

Rights to protest outside Parliament House – follow up letters sent to Presiding Officers, with copies to MPs Dreyfus, Parke and Melham

Cartoon exhibition:

On display at the University of Western Sydney (managed by Dr Sev Ozdowski)

Contents currently being updated, managed by Phylli Ives

Follow-up on Australia Day letters:

To the Prime Minister: [Liberties/Rights Committee of Parliament](#)

CLA asks the Prime Minister to set up a Joint Standing Committee for Civil Liberties and Human Rights in the Australian Parliament. Other nations – the UK, the USA – have such committees, but Australia doesn't. NO REPLY YET.

To the Defence Minister: [Captives taken by Australian troops](#)

CLA asks Mr Fitzgibbon questions about captives taken by Australian troops in Iraq and Afghanistan, and what ongoing responsibility Australia has for them. We also seek to find out whether Australia is supporting the UK/US base at Diego Garcia in the Indian Ocean, where detainees are kept in circumstances similar to Guantanamo Bay. REPLY: from Fitzgibbon office, weasel words; considering follow-up actions.

To the ACT MPs: [Time to act on behalf of disempowered citizens](#)

CLA asks the the four Members of Parliament representing the ACT to correct the massive under-representation of ACT citizens in the House of Representatives: one MHR per 120,000 people, compared to 1:60,000 for the NT, or 1:90,000 for Australian States. Also, it's time to change the law so that decisions of the ACT Legislative Assembly and the NT and Norfolk Island can't be overturned on the whim of a Prime Minister. NO REPLY YET FROM ANY OF THE FOUR.

To the WA Attorney-General and Minister for Corrective Services:

[Reduce the indigenous numbers in jails in WA](#)

WA jails its indigenous citizens at a rate massively higher than other Australian States. The problem is a cycle of alcohol/drugs-jail-release-alcohol/drugs-jail...all without proper State intervention to try to break the cycle. CLA asks Mr Porter to make a personal commitment to change the system, and to reduce indigenous jail rate among the 3913 people in WA jails from currently 42.3% of the jail population to below 40% by Australia Day 2010. NO REPLY YET.

LAST WORD: How to keep your rights – and lefts – contained

Some schools have counsellors to settle disputes between students. But South Oak Cliff High School in Dallas USA preferred another, more direct method: bare-knuckle fighting inside a steel cage.

According to a 2008 report, staff sanctioned use of "the cage" – a section of the boys' changing room barricaded by wire mesh and steel lockers – to settle disputes and bring unruly students under control.

In one incident, according to the report compiled by the local school district, the school principal at the time, Donald Moten, told staff to place two fighting pupils, "in the cage and let 'em duke it out". On another occasion, according to the report, a member of the school's security staff tried to fight a student in the cage, but the principal intervened.

The incidents are alleged to have taken place between 2003 and 2005. According to the report, the principal, school security staff and other employees, "knew of the practice, allowed it to go on for a time, and failed to report it".

Frank Hammond, a counsellor at the 1500-pupil school who was dismissed and has since filed a whistle-blower lawsuit, said: "It was gladiator-style entertainment for the staff. They were taking these boys downstairs to fight. And it was sanctioned by the principal and security."

No criminal charges were filed, but disciplinary action was taken...against the staff.

Original report from the Dallas Morning News, then from Dan Glaister in Los Angeles for The Guardian UK

<http://www.guardian.co.uk/world/2009/mar/19/cage-fighting-high-school-dallas>

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CLArion is the monthly e-newsletter of Civil Liberties Australia A04043, Box 7438 FISHER ACT 2611 Australia. Responsibility for election comment in *CLArion* is taken by CLA's Public Officer, Bill Rowlings, of Fisher, ACT. Please feel free to report or pass on items in *CLArion*, crediting CLA and/or the original source. We welcome contributions for the next issue: please send to: <mailto:secretary@cla.asn.au>

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