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Tasmania holds fresh hope for human rights

Tasmania could be on the brink of a new human rights charter, the third bill of rights in Australia.

The state may show the way for other Australian states without bills of rights. It could also demonstrate national leadership where the Rudd federal government last month pulled back from long-standing Labor Party commitment to implement a national bill of rights (see below).

Tasmania and WA have already held formal consultations about introducing a human rights act for their states. Both produced overwhelming support for a bill or charter of rights to be introduced, but legislation in both states was shelved, awaiting federal leadership.

In October 2007, the Tasmanian Law Reform Institute recommended a Charter of Human Rights be enacted for the state. After releasing an issues paper in September 2006, the TLRI received 407 submissions, more than ever received on any other legal issue. Of these 94% were in favour.

In WA, the consultation committee held 95 meetings, including 40 public meetings within the state, and received 400 submissions. It surveyed 400 people and found 89% supported WA having a charter of rights.

Two Australian jurisdictions have enacted human rights instruments: ACT brought in a Human Rights Act in July 2004, Victoria a Charter of Rights and Responsibilities in June 2006.

The split in the Tasmania Parliament – 10 Labor, 5 Greens, 10 Liberal – makes it possible for a Bill of Rights to be introduced and debated. As most Greens, many Labor and some Liberal MPs support a Bill of Rights, the legislation may carry in the Tasmania Legislative Assembly.

However, it may face a rougher passage in the Legislative Council, though MLCs will possibly be mindful of the overwhelming public support in Tasmania for a Bill of Rights.

Details of Tasmanian and WA consultations and reports:

<http://www.law.utas.edu.au/reform/>

<http://acthra.anu.edu.au/news/WA.htm>

Australians bowled for a duck as Captain Rudd sends Macca to the crease

Attorney-General Robert McClelland had CLA's full sympathy last month.

There he was, sent in to bat by team skipper Kevin Rudd at the National Press Club to explain why Australia would not be permitted to have the Bill of Rights that probably more than 75% of Australians – and Macca himself – want.

Macca is the type of batsman who, playing straight, believes in traditional values where democracy depends on people, who have intrinsic rights as well as the mandated responsibility to vote, and where politicians and bureaucrats should not tamper with or chew on the ball.

They should certainly not spit in the face of the crowd, according to Macca and a handful of others in the team.

Captain Rudd, the archetypical apparatchik first coached by then-Queensland Premier Wayne Goss, is much more like John Howard: can't bat, can't bowl when it comes to the Human Rights Shield competition. (Some, like cartoonist Fiona Katauskas, describe Captain Kevin as 'Howard Lite on the Hill').

Rudd never supported a bill of rights. Such a bill would take away power from the faceless backroom men Rudd represents so well, and give it to parliament and the people, as opposed to the Executive. It is not necessary to believe in democracy to be PM of Australia – you just need to believe in media spin, photos on the front page with children, and numerology.

Macquarie Bank lobbyist and American civil war fetishist, Robert Carr, summed things up well:

"What has triumphed – and we owe this to the Prime Minister – is ... that political culture counts more than pious abstractions... The rejection of the Brennan report shows Rudd does not feel intimidated by a leftover item from two previous Labor governments." <http://snipurl.com/vupyd>

Captain Rudd certainly does not feel intimidated by the wishes of the people. Frank Brennan's committee overwhelmingly recommended a Bill of Rights for Australia. They had consulted around the nation for about nine months and received a massive number of email submissions in support over the now-wasted 12-month process of a national consultation. Holding a national consultation was Labor policy, watered down just before the 2007 election from an earlier and long-standing commitment by Labor to introduce a Bill of Rights.

Surveys have shown somewhere between 65 and 90% of Australians support a bill of rights. But Captain Rudd won't allow it, and some others in the Canberra Capital Cricket Club (CCCC) are not prepared to stand up to a bully.

Just shows why Australia needs a bill of rights, so that political bullies don't prevail, and Australians get a fair go.

Meanwhile, CLA's report on the Human Rights Shield first innings shows:

Australians: 0 Captain Rudd's CCCC: -365

Bullying is a major problem in Australia: summit needed

The Australian Human Rights Commission held a summit in late April on bullying and like problems...but only discussed online bullying problems, not those in parliamentary processes.

"Addressing problems, like racism, bullying or harassment on the internet presents significant challenges," A-G McClelland told the summit in his opening address.

"For example, on the one hand, the fundamental principle of freedom of expression is important in Australia. On the other hand, it is also important to ensure that all Australians are protected from vilification, bullying and harassment. Balancing these rights to ensure Australians are protected from fear and harm is of great concern for the government."

The irony is that Mr McClelland can utter these words with a straight face after himself being bullied by the PM over a bill of rights.

Mr McClelland praised himself for his work: "Last week, I was very pleased to launch Australia's human rights framework". The "framework" – all we get in lieu of a bill of rights – includes:

- human rights education in primary and secondary schools;
- \$6.6 million extra for Australian Human Rights Commission PR in the community;
- \$3.8 million to try to make Commonwealth public servants aware of human rights: they'll even get a "toolkit" and be guided on how to develop policy and implement government programs; and
- \$2 million for non-government organisations (NGOs), basically to keep them quiet about the fact that the Rudd Government has failed to bring in a bill of rights.



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Palm Island coroner's report due out

Coroner Brian Hine is expected to hand down the Queensland Coroner's Court decision in the Cameron (Mulrunji) Doomadgee inquest in Townsville on 14 May.

Mr Doomadgee, 36, died after an interaction with Senior Sergeant Chris Hurley on 19 November 2004 on Palm Island, off Townsville. The death, just before noon and shortly after Mr Doomadgee was taken into custody on a public nuisance charge, set off riots on the island during which police buildings were burned down.

An autopsy found Mr Doomadgee died of massive injuries, including broken ribs and a liver almost split in two. Sen Sgt Hurley was acquitted of Mr Doomadgee's manslaughter in 2007.

Defence to get power to spy on civilians?

Defence intelligence may get the power to tap phones in Australia and ASIO officers be allowed to carry weapons, under sweeping changes recommended in a secret review of the intelligence services, Dan Oakes reported in the *SMH* last month.

A review is also recommending that the overseas spy agency, ASIS, be allowed to carry weapons again, as they were once before, and to engage in "paramilitary" activities overseas.

"It is understood the review is being driven by the Department of Prime Minister and Cabinet, and will be submitted to the secretary of the department, Terry Moran, soon. From there, it will be given to the Prime Minister, Kevin Rudd, and other ministers," the *SMH* reported.

Giving the Defence Signals Directorate, the military electronic spy agency, domestic wiretapping powers to pry into transnational crime and terrorism would change the nature of DSD, CLA believes. Currently there are tight laws restricting DSD spying on Australian citizens.

Sources said that, under the proposed new powers, DSD would be able to perform domestic wiretaps after a formal request by ASIO or ASIS, requiring only a warrant from a judge.

<http://snipurl.com/vump7>

Furtive Five meet on secrets for second time

Attorney-General Robert McClelland has just been to Washington for the second 'Quintet' meeting of A-Gs from the UK, USA, Canada, NZ and Australia...the Furtive Five, CLA calls them.

The Quintet – that's what they officially call themselves – is a supra-national, non-parliamentary, secret meeting of high-powered legal officers from selected countries.

They swap intelligence on national security, counter-terrorism, violent extremism and organised crime, if their media releases are to be believed. Out of meetings like this come proposals like that in the item above (***Defence to get power to spy on civilians?***)

The Quintet organises and promotes extra-legal cooperation, off the books and away from parliamentary and media scrutiny. No agenda is announced, no minutes are published, no-one knows what the Quintet really discusses: it is an off-limits gathering with all the trappings of a James Bond movie. Mr McClelland is 005.

If you would like to read the media spin and 'waffle' from Mr McClelland's office on the recent meeting, please go to :<http://snipurl.com/vuqi4>

After the first Quintet meeting late in 2009, so far as CLA is aware there was no report to parliament and no MPs were able to ask questions about it. The Australian Parliament has never approved the Furtive Five meetings, or even debated them.

This is how Australia currently makes foreign policy: note that the Foreign Minister of Australia is not even involved.

Govt descends to new low on refugees

The Rudd Government has excised Afghanistan from the world for six months, and Sri Lanka for three months, according to the view from Australia.

This tops even the Howard Government's bastardry in excising hundreds of islands off the coast of Australia from being part of Australia.

The move appears to be for political expediency and no other reason. Rudd, like John Howard before him, is aiming to contrive a solution to lots of refugees seeking asylum in Australia in the lead-up to an election.

In both Sri Lanka and Afghanistan, wars have been responsible for forcing people to flee. In Afghanistan's case, Australia is part of the coalition waging war in that country. In other words, we are part of the problem...but no longer part of the solution.

Amnesty has condemned the government's suspension of the processing of new asylum claims by Afghan and Sri Lankan nationals, labelling it an appalling act of political point scoring, and fundamentally inconsistent with Australia's international obligations under the 1951 UN Refugee Convention.

It is worse than that, CLA believes. Rudd's Australia is now a place of rampant bullying, officially recognised, and Executive-led fear-mongering, where refugees are painted as scourges, not victims.



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Stance on human rights has everything – except a charter

Professor Sarah Joseph is director of the Castan Centre for Human Rights Law at Monash University. (Extract from her opinion item originally published by The Age on 22 April 2010)

"The huge majority of the people who contributed to or were surveyed during the National Human Rights Consultation favoured a human rights charter. In fact, the level of response to the consultation was the largest in Australia's history.

"So what, one wonders, has caused the government to reject the key recommendation arising from that consultation? After all, the arguments against charters of rights are not new – the government would have been aware of them before establishing the consultation process. Attorney-General

Robert McClelland merely stated that a charter would 'divide the community'; there was little elaboration.

"Alas, the government's response – as well as other recent acts, such as suspending asylum applications from Afghanistan and Sri Lanka – indicates that human rights have been given a low priority during this election year.

"In largely retaining the "safe" status quo, the government has chosen to deny Australians any right of redress when their human rights are abused." <http://snipurl.com/vuvc3>

UN says Australian sex offenders retained in jail should be freed

The UN's Human Rights Committee has ruled that Australia is under an international obligation to provide a remedy – including release from prison – for sex offenders who are being held in Queensland prisons for rehabilitation after their sentences have expired.

The UN committee upheld a complaint against the Queensland law that permits continued detention of sex offenders, the Dangerous Prisoners (Sexual Offenders) Act, Chris Merritt reported in *The Australian*.

One of Queensland's most notorious sex offenders lodged a challenge with the UN committee. The detention order he successfully challenged before the UN committee was rescinded by the Queensland Supreme Court. He is on remand awaiting trial on other charges. But about 30 sex offenders in Queensland are believed to be detained under the same provisions.

The UN committee ruled that the law that had permitted this man's continued detention breached article nine of the International Covenant on Civil and Political Rights. The decision, which is not legally binding, is a major victory for the sex offender, who had tried unsuccessfully to persuade the High Court to strike down the Queensland law as unconstitutional.

The UN committee also upheld a challenge against the equivalent law in NSW, lodged by pedophile Kenneth Davidson Tillman. <http://snipurl.com/vuvdt>

Kristina's list will have the opposite effect to Schindler's

The NSW Premier, Kristina Keneally, has told NSW Corrective Services to audit the 750 "worst of the worst" prisoners in NSW with a view to keeping them in jail when their sentences expire.

If the NSW bureaucracy 'judges' that a prisoner is not rehabilitated or has not taken responsibility for their crimes, the prisoner will be kept in jail indefinitely under new powers akin to the Crimes (Serious Sex Offenders) Act, under which extended detention is legal and there is strict monitoring of selected offenders.

Expanding Extended Supervision Orders (ESOs) would allow NSW to lock up people who had served their time.

The proposed NSW system is against international treaties to which Australia is signatory. The Australian Government has a responsibility to legislate to prevent States breaking international human rights law, CLA says.

NSW bail laws rewrite will miss the mark, critics say

The NSW Government plans to rewrite the state's bail laws this year...but does not intend to make the major changes critics say are vital.

A-G John Hatzistergos says he will publish a draft bill and a discussion paper proposing "operational" initiatives.

An odd consortium of lawyers, corrective services' staff and the Director of Public Prosecutions, Nicholas Cowdery, are combining to demand changes to laws which they say are undermining the presumption of innocence and the separation of powers. The Bail Reform Alliance – organised by retired magistrate Max Taylor – includes the NSW Law Society, Young Lawyers, Public Service Association, Council for Civil Liberties and Welfare Rights Centre.

Mr Taylor said governments had undermined the notion of "innocent until proven guilty" by "smashing" the presumption in favour of bail for a string of offences, Joel Gibson reported in the *SMH*. Tougher bail laws have helped swell the number of prisoners on remand to more than 20%

of the jail population (now 10,200) without evidence it leads to falling crime rates, he said.

<http://tiny.cc/u77zu>



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Cowdery lets rip at Carr and Hatzistergos

NSW's top prosecutor has named Attorney-General John Hatzistergos the most interventionist of his tenure, and former premier Robert Carr the most prone to politicising law and order.

Nicholas Cowdery, QC, will retire in March 2011 after 16 years in the job, a period in which he fought running battles with government over his budget and tough stance on human rights.

The 64-year-old last month told ABC's *Lateline* program the first three attorneys-general he answered to were "very reasonable and moderate", while Mr Hatzistergos was more interventionist and "hands on". "That has been a challenge because it has required us to attend to tasks and report to the Attorney-General in ways that were not previously required," Mr Cowdery said. "That put added strain on the office."

Mr Cowdery also criticised Mr Hatzistergos for being too media driven, particularly in his efforts to make it harder to get bail – increasing the number of people in remand who will ultimately be released without compensation for having been in custody. "These amendments to the legislation have usually followed some sort of tabloid outburst," he said.

Of the premiers he had worked under, Mr Cowdery said Mr Carr was the most likely to use law and order for political gain, particularly at elections. "Bob Carr was pretty good at it," he said.

<http://www.smh.com.au/nsw/cowdery-lets-rip-at-carr-and-hatzistergos-20100422-td2q.html>

Computer network doesn't check out, ANAO says

A \$28 million Howard government plan to create a high-tech system to address identity crime has been plagued by technical difficulties and failed to achieve its aims, the Australian National Audit Office said, according to a report by Mark Davis in the SMH.

The National Document Verification Service, announced by the Coalition in 2006, is a computer network supposed to link federal and state government agencies responsible for key identity documents such as birth certificates, passports and drivers' licences. It is meant to check the veracity of documents presented by people as proof of identity when applying for services or benefits at a wide range of agencies.

More than 18 months past its four-year project deadline, the \$25 million IT hub intended to allow authorities to authenticate a vast range of commonly used ID documents issued by legions of federal and state agencies is yet to enrol many of the expected users and is nowhere near fully operational.

The national Document Verification Service (nDVS) has been handling fewer than 10 transactions a day instead of the expected one million daily, while no fraudulent documents were identified in more than 50,000 transactions to the end of November 2009.

Over its first two years in operation, the service had not identified a single fraudulent document and 38% of its responses had been errors – including "false negatives" where a document could not be verified even though it was genuine. – from SMH and Australian reports

<http://www.smh.com.au/technology/identity-crime-computer-system-a-flop-20100422-tg2h.html?skin=text-only>

<http://www.theaustralian.com.au/australian-it/auditor-slams-document-verification-service/story-e6frgax-1225856571730>

WA judges hit out at 'law and order' purge

Two senior WA judges have pointedly criticised what they say are excesses of the State Government's "law and order" purge.

Making a farewell speech to the Supreme Court of WA, Justice Christine Wheeler said imprisonment does little to deter crime: it may even increase crime. "...often young people, people

with young children, people with mental problems, are in gaol for longer than is strictly necessary or sometimes when not necessary at all."

Judge Wheeler said the over-reliance on imprisonment as a punishment was one reason behind her decision to retire. "The disconnection to a degree between what I do, as I see my duty to do it, and what empirical evidence suggests it would be better to do, is one reason that maybe it's time to give it away."

The retiring Chief Judge of the District Court, Antoinette Kennedy, accused the government of creating a culture of fear in WA and eroding civil liberties.

"It's cheap and it doesn't require any leadership to say we're going to increase all penalties and we're going to lock everybody up longer. But, to actually convey to the community, no, we're not doing that because it doesn't work, we're going to do these other things such as early intervention - that requires leadership, and it requires more than a 30 second television grab, I'm afraid."

The Liberal-National Government, since late 2008, has:

- introduced mandatory jail sentences for a range of offences; and
- brought in anti-hoon laws and foreshadowed stop and search laws, anti-association laws, and laws which would see juvenile offenders "named and shamed";

With more people going to prison at one end, and a new, "tough" parole board not letting as many people out at the other, WA's prisons are bulging.

Of course, Indigenous West Australians bear the brunt of any "law and order" crackdown, comprising nearly half (44%) of all prisoners in the state, when they make up about 3% of the population.

Attorney General Christian Porter in early 2009 refused a CLA request to introduce a special program aimed at lowering the percentage of Indigenous people in WA's jails to below 40%. We offered to work with him to produce a plan that works.



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Excessive police power does not prevent crime, Opposition suggests

The WA Opposition's Shadow Police Minister wants new laws banning patrons from licensed premises reviewed before police are given even more powers.

The Coalition Government plans to let police instantly ban drunk or violent patrons from entering pubs and clubs for up to one year.

Opposition Police spokeswoman Margaret Quirk says she is not convinced that this latest government move would be effective. "I think they're flying the kite a bit on it," she said. "People want laws that will work well, that are effective and that will deter the commission of an offence – we want fewer victims.

"I don't think this will do what the Government says it's going to do."

Lawyer Terry Dobson, representing a woman banned by police for four years when originally charged with 'serious wounding', said his client may appeal against the ban given that the more serious charge has been dropped.

"This prohibition order comes as a result of the unlawful wounding charge and it's wrong, it's really wrong that we're getting to the stage that people get banned from doing things and it's not done by the courts. It should be done by either a magistrate or a judge," Mr Dobson said.

<http://www.abc.net.au/news/stories/2010/04/18/2875857.htm>

<http://www.abc.net.au/news/stories/2010/04/16/2875269.htm>

Doppler speed cameras to double speeding fines revenue

Money raked in from speeding fines is expected to nearly triple when new "super cameras" line the streets of Perth from August.

The 30 new speed cameras will add to the 25 operating. Used only in WA, the Doppler radar-based camera, a Multanova, is usually tripod-mounted on the side of the road. Police Media's Ros

Weatherall said in 2009 that one of the cameras, destroyed in a case of “roadside rage”, would cost \$200,000 to replace.

Coupled with extra revenue from new red light cameras, the total windfall from speeding fines is expected to leap from \$40 million to \$112 million.

The new super cameras are expected to catch more motorcyclists with the new technology – they can photograph the front and back of vehicles. <http://tiny.cc/usl26>

Police want to reverse burden of proof: Minister appears to agree

Police and the Police Minister in WA seem determined to introduce a system where people are penalised by loss of demerit driving points if they can't prove themselves innocent.

The proposal to reverse the burden of proof is a further example of how the traditional rule of law in Australia is being turned on its head, CLA wrote in a media release issued last month.

Read more: <http://www.cla.asn.au/0805/index.php/media/2010/innocent-to-lose-demerit-points>

COAG decides new national legal law

Draft legislation aiming for national regulation of the Australian legal profession has gone to the Council of Australian Governments (COAG) for decision.

Basically, COAG will decide what it wants...then undertake a sham “public consultation”.

As A-G Robert McClelland himself explains: “In April 2009, COAG agreed on a concrete plan to achieve national regulation of the legal profession through the appointment of a specialist Taskforce and Consultative Group to produce draft uniform legislation within 12 months”.

So, COAG now has “concrete” draft legislation, and the chance of any meaningful change at this stage is remote beyond belief. Anyone wanting to engage in an exercise in futility has until 13 August to make a submission about the “concrete” draft.

The “concrete” draft Bill:

- establishes a National Legal Services Board and Ombudsman as central, uniform standard setters and to manage compliance and complaints;
- creates national practising certificates and a national register of admissions to allow lawyers to practise nationally;
- requires lawyers to tell their clients enough to make informed decisions about services to be provided and the likely costs; and
- introduces a new ‘conditional admission’ so foreign lawyers can more easily practise in Australia.

“Australia is now very much a national economy and for that reason we need to tackle disparate, complex systems of regulation to deliver a truly national profession,” A-G McClelland said. He claims the new Bill will cut regulation of the legal profession from 4700 pages to 200.

Why, CLA says, should a Bill to regulate a profession take up 200 pages? Surely it could be done in 50 or fewer if competently drafted? COAG should demand that the drafters go back to their word processors and try again.



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Airport users asked to act as spies on fellow travellers

People using Adelaide Airport will be part of a trial 'airport watch' system this month.

The trial, which runs to the end of May, will test new procedures to help identify and respond to suspicious activity at the airport.

Anyone working at or travelling through Adelaide Airport will be encouraged to identify and report suspicious activities or behaviour.

“Community involvement is key to effective security, whether that be in our neighbourhoods or our airports,” the Department of Transport said in announcing the trial...which is precisely what CLA

has been saying, and reinforces that full-body scanners are an expensive waste of time as well as being dangerous in giving a false sense of security.

http://www.infrastructure.gov.au/department/media/2010/d2_2010.aspx

State Government to pay protesters \$700,000

Protesters beaten by police, sprayed with capsicum and locked in a shipping container will receive more than \$700,000 from the South Australian government.

SA Supreme Court Justice Timothy Anderson found the treatment of the 10 people during a demonstration at the Beverley Uranium mine in 2000, was degrading, humiliating and frightening.

In 2002, the Police Complaints Authority found one police officer had used excessive force in striking a protester with a baton while another used capsicum spray on a protester who was already injured and posed no threat, AAP reported.

The PCA also found police were negligent in detaining protesters in a shipping container and that none of the 31 arrests made during the protest were lawful.

Justice Anderson said the shipping container should not have been used at all. "It was degrading, humiliating and frightening," he said. "It was an affront to the civil liberties of the protesters.

"The conditions were oppressive, degrading and dirty, there was a lack of air, there was the smell from capsicum spray and up to 30 persons were crammed into a very small space."

Plaintiffs will receive varying amounts with the largest single payment of \$95,100 going to Lucinda White who was assaulted, sprayed and verbally abused before being locked up for about seven hours. "People have a right not to be bashed, beaten and falsely imprisoned by police," she said. "We have a right to protest. I am absolutely stunned this sort of thing can happen in South Australia." <http://tiny.cc/9gex3>

50% of WA's female prisoners are Indigenous

WA's recent prisoner stats show that for the first time in the history of WA, the number of Indigenous women held in custody has risen to be more than 200, Dr Brian Steels writes.

"That placed them, not for the first time, at 50% of the total adult female population in WA. This is an absolute disgrace in a western society showing just how it treats its first nation people," he says. Indigenous people comprise about 3% of the WA population.

Dr Steels represents the Asian Pacific Forum for Restorative Justice, at the Centre for Social and Community Research at Murdoch University in WA.

<http://www.correctiveservices.wa.gov.au/files/about-us/statistics-publications/statistics/mg-report-1004.pdf>

Crime down, taxpayer cost of jailing people up: Gittins

"The level of property crime in Australia fell during the noughties, but the rise in the rate of imprisonment seems to have played only a small role in bringing that about," Economics Editor of the SMH, Ross Gittins, wrote late last month.

"The dominant factors were the reduction in the use of heroin and the improvement in the economy.

"So while the rate of crime has been falling, the rate of imprisonment has been rising. Over the 10 years to 2008, it rose 20 per cent faster than the growth in the Australian population. This means our rate of spending on the prison system is growing strongly, though no politician ever wants to tell us for fear of being seen as soft on crime. Why aren't the politicians spending more on hospitals? Partly because they're spending a lot more on prisons.

"On any day, more than 27,000 people are being held in Australian jails, at a cost to the taxpayer of more than \$200 a day for each prisoner. Throw in the cost of building new jails and the total cost now exceeds \$2.6 billion a year. In real terms, the cost is growing about 3 per cent a year faster than the growth of the nation's population." <http://snipurl.com/vun51>



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Greens want more help for mentally ill, legal centres

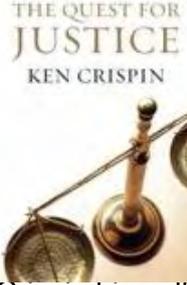
The ACT Greens are calling on the Territory Government to set up a legal centre for people with mental health problems and to improve funding for community legal centres.

Legislative Assembly Speaker and Greens MLA Shane Rattenbury said many people can't afford a lawyer or don't qualify for legal aid. He said the government has an obligation to help them.

Mr Rattenbury acknowledges the financial situation is tight, but he says the changes would save money in the long term. "We know that for every dollar spent in a community legal centre more than \$100 is saved later in the justice system overall," he said. <http://tiny.cc/azdk6>

Crispin pursues The Quest for Justice

Analysing what's going wrong with Australia's scales of legal governance and proposing how to fix an imbalanced system lies at the core of former Supreme Court judge Ken Crispin's new book, *The Quest for Justice*, being published by Scribe at the end of this month (May).

The Quest for Justice
KEN CRISPIN

Answers: What is justice? How does our legal system work? How can we trust a system that is so changeable and widely criticised? And are our laws really effective?

The blurb says: "...it has become obvious that rights such as freedom of speech, freedom of association, and freedom from detention without trial are becoming increasingly threatened. In the face of the tough-on-crime rhetoric of police and politicians, the 'war on drugs', the 'reforms' to increase conviction rates, and the loss of rights due to fear of terrorism all point to an erosion of rights in western societies. Are we any safer as a consequence? Or could our flight from traditional principles actually be making things worse?"

Crispin himself painted the book's backdrop in his October 2007 retirement speech from the ACT Supreme Court: "Sadly, the decade in which I have been a judge has seen the law in many Australian jurisdictions buffeted by fear, and knee jerk responses have often been embraced as if they had been handed down from Mount Sinai. It is fashionable to chant mantras like 'Tough on Crime' but judges must do justice, not merely appease simplistic demands for toughness," he said.

The book's five sections cover the Role of the Law, the Adversarial System, Sentencing, the 'War on Drugs' and the 'War on Terrorism'. Written to be understandable to a lay person, it will also be a useful reference for lawyers.

Crispin describes the law as "society's form of self-defence" as he critiques, among other things, how external influences and the pressure of instant communication and media are shaping a new form of 'legality' amid information excess and gratification overload.

The blurb describes the book as "the definitive guide to justice as we know it". Details: Scribe, 352pp, ISBN (13): 9781921640438, rrp \$35.

<http://www.scribepublications.com.au/book/thequestforjustice>

State to review DNA evidence rules

Much greater use of DNA has prompted a NSW Government review amid police complaints about red tape, legal doubts about the strength of convictions and concerns about privacy.

Premier Kristina Keneally last month announced the six-month review, to be chaired by the former Supreme Court Justice Graham Barr. She said the government was responding to police, who complain that the process of gaining consent to collect DNA samples is too complicated.

Ms Keneally said a 37% increase in the use of DNA evidence had led to more than 7000 charges and almost 4600 convictions in NSW since 2001.

But the review is also asked to address growing fears about the privacy implications of the 42,750 DNA samples collected and stored in NSW, and the half-a-million around Australia.

There have been calls for increased protection for police, victims of crime and juvenile offenders who provide DNA samples for investigations, which could subsequently be used to implicate them in future inquiries. The review will also consider what rules should apply to police using DNA evidence to investigate crimes past and present.

DNA evidence itself goes on trial in the High Court this month, when Benjamin James Forbes will argue it was not sufficient to prove his guilt beyond reasonable doubt in a sex-assault case where the victim was not able to identify her attacker.

Legal experts have said the case could undermine hundreds of other convictions based on the same science. <http://snipurl.com/vuvyyv>

The NSW review comes as Peter Ford is about to report on his review of DNA provisions in the federal Crimes Act.

Committee goes north to try to help Indigenous youth

The House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs is holding meetings in early May in Brisbane, Darwin and Cairns as part of its inquiry into the high level of involvement of Indigenous juveniles and young adults in the criminal justice system.

In Brisbane, representatives of Queensland Government departments, Magistrate Stephanie Tonkin, Province Promotions, the Ipswich Community Justice Group, Mental Health Alcohol Tobacco and Other Drug Services, the Youth Advocacy Centre and BoysTown will appear before the committee.

In Darwin, the committee will hear from representatives of NT Government departments, Phoenix Consulting, the Menzies School of Health Research, Youth Justice Magistrate Sue Oliver, and the North Australian Aboriginal Justice Agency. The committee will also speak with the Central Australian Aboriginal Legal Aid Service, the Central Australian Youth Justice Committee, and the Central Australian Youth Link-up Service via a videoconference link.

In Cairns, the committee will hear from the Families Responsibilities Commission, ACT for Kids, Professor Chris Cunneen, the Cairns and Innisfail Community Justice Groups, and the Cairns Flexible Learning Centre.

For details of the Committee's public hearing program, check the website at: <http://www.aph.gov.au/house/committee/atsia/sentencing/hearings.htm>

Australia will sign on to Cybercrime Convention

Australia will accede to the Council of Europe Convention on Cybercrime, since July 2004 a binding international treaty on the issue, which 40 nations have signed on to.

It is both a guide for nations developing comprehensive national legislation on cybercrime and a framework for international co-operation between signatory countries.

The convention promotes a coordinated approach by requiring countries to criminalise four types of offences:

1. those against the confidentiality, integrity and availability of computer data and systems, including illegal access to computer systems, illegal interception, data interference, systems interference and the misuse of devices;
2. computer-related offences, including forgery and fraud;
3. content-related offences, including child pornography; and
4. offences related to the infringement of copyright and other related rights.

But the Convention is a minefield for individual rights: it permits:

- authorities from one country collecting data in another country;
- disclosure of specific computer data;
- collecting and recording traffic data in real-time;
- a 24/7 cross-border network of investigators; and
- extradition and exchange of information.



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Aussie students win international moot

Law students from the ANU recently won an international legal competition in Washington DC, USA, from 126 other teams representing 75 other countries.

The Jessup International Law Moot Court Competition is the 'world cup' of international mooting (mooting is a mock trial, used mainly in academia for learning purposes).

The students presented oral and written arguments on a hypothetical international law case to a simulated International Court of Justice. This year, the problem addressed 'the right to self-determination and the lawfulness of measures taken to protect the economic resources of a state'.



(L to R) were Sneha Rangnath, Sam Thorpe, Ellen Chapple, Sarah [redacted] were coached by ANU's senior lecturer Wayne Morgan, and culty adviser Jon Lovell.

runner-up in the Australian leg of the competition, held in Canberra in [redacted] the team beat the Australian winner – the University of Western [redacted] one of the highest ranked US law schools, Columbia University, in

...meanwhile in Vienna, CLA member Dearne Fulton of Griffith University Law School's moot team finished in the top 16 of 251 teams from 62 countries in Vienna, Australia. She and Zara Shafruddin were recognised with honourable mentions, ranking them in the top five per cent of the students competing.

CLA eAGM records 57% vote

Of the 266 votes issued for the 2009 annual general meeting, 152 voted...a 57% vote, which is very encouraging.

The President's, Treasurer's and Annual Report were unanimously accepted by members. There was 1 vote against accepting the eAGM 2008 minutes and 2 votes did not approve the financial statements. (No comments were received with these votes, so it is not known whether they expressed dissatisfaction, or someone clicked the wrong voting buttons).

The Board will consider minor changes to next year's eAGM procedures so that members get the annual and other reports emailed in advance of the voting period.

In 2011, there will be an election for the Board. Anyone considering standing is encouraged to get in touch with the secretary/CEO to be kept up-to-date during 2010 with what the Board is considering for the longer-term future.

– Returning Officer, Bill Rowlings

Report on **CLA** activities in April:

The main activity for this month was a visit by President Kris Klugman and CEO Bill Rowlings to Melbourne, Launceston and Hobart.

In Victoria, the aim to was to be able to update the May Board meeting on civil liberties in that state, and to collect ideas and suggestions from members for closer cooperation with Liberty Victoria, and expansion into major centres outside the Melbourne Central Business District.

In Tasmania, the objective was to create interest and promote membership of CLA after the demise of the Tasmanian Council for Civil Liberties and collapse of its website. On inquiry, we found the principal organiser, Paul Storr, had died. We made contact with another member of TCCL who we had met on a previous visit to Hobart. He was ill and unable to met us, but wished us well.

There is a need for at least one active group in Tasmania, to network nationally and make the CLA executive and board aware of local issues and legislation which could have national implications. To this end, we met with a number of interested people, and with CLA members in Tasmania. In general, we found a great deal of interest and commitment to being involved, which was very encouraging.

In Melbourne, we visited CLA members for an interchange of information on current civil liberties issues: Mary Walsh (voluntary euthanasia advocate and community activist), Lyn Allison (ex-Democrats leader and active in a wide range of community affairs), Lesley Vick and Ken Davidson

(editors of D!ssent magazine), Rhys Michie (law graduate, interest in shield laws), and Bob Sercombe (ex-MP and consulting to nations in the Pacific).

Topics covered included:

- power of attorney to protect privacy of computer personal information when someone dies;
- conditions put on NGOs by government funders re their operations;
- official visitors needed at detention centres;
- CLA project to review rules in prisons;
- nursing homes: the right of old people to be treated as adults, with rights, rather than as children (federal law disallows use of restraints, staff need constant supervision re quality of care);
- mental health in prisons;
- euthanasia legislation;
- current 'tough on crime' TV and print campaign of Victorian Opposition: how to provide a balanced message; and
- regional human rights body for Pacific nations.

We were very alarmed by the "tough on crime" campaign advertisements of the Victorian Opposition, running now before an election has even been called, and afraid the election rhetoric may descend into what Bob Sercombe calls a 'race to the bottom'.

In Launceston, we met with Ross Story and Rod Synfield, representatives of the Tasmanians Against Pulp Mills (TAP) group, and offered help in framing strategies. We explained our interest was in inequity of s11 of the Pulp Mill Assessment Act, which is an anti-individual rights section.

At night, we held a public meeting organised by local CLA member Jim Collier at an old church/hall called Chalmers, generously made available by owner Ken Partridge. Attendance probably suffered from a torrential storm with record rainfall half an hour before the appointed start time. In spite of the weather, about 25 drenched people attended and enjoyed an Irish folk song from local folk singer, Brian Mooney, to open proceedings.

Following a brief explanation of the purpose of the visit and activities of CLA, various issues were raised, including:

- planning issues;
- forestry burning off (sinusitis, hay fever, asthma);
- nepotism in politics;
- SLAP writs;
- internet censorship/blacklist.

Several people joined CLA, and the atmosphere during the meeting and afterwards was positive.

On our return through Launceston, we had a long meeting with CLA member Jim Collier to discuss future activities. We also met Don Wing, Independent Member Tasmanian Legislative Council, who is extremely supportive: he is very interested in prison reform, and curbing the powers of COAG, SCAG and the 40-plus federal ministerial councils.

In Hobart, we met with current and prospective CLA members: Margaret Reynolds (ex Senator Queensland and now working with a disabilities organisation), Greg Barns (barrister and human rights activist), Senator Bob Brown (leader Greens), Kate Burton and Andrew Wilkie (focus of discussion on structure and liability insurance), Prof Kate Warner (Law Reform Institute, UTas, student contacts). We left leaflets for Prof Michael Tate and Dr Rick Snell, whose names had been suggested as contacts.

Topics in meetings ranged over current issues in Tasmanian parliament following the elections and changes in balance of power. Of particular interest is whether this gave an opportunity to introduce a state bill of rights, following the federal failure to follow the recommendations of the community consultation process.

Greg Barns volunteered to take on a leading role with CLA on CL and HR issues. This will form an invaluable communication link for CLA in and from Tasmania, and CLA should be able to help him and his local group with a national approach to prison reform issues.

We had a phone conversation with former federal and recently-retired state MP, Michael Hodgman, who was unable to meet us but who is very supportive. We also met briefly with Tom Errey and Robin, who had passed on the CLA web site address to interested people. We unfortunately did not meet with Dr Terese Henning of UTas (who led the statewide consultation for a Tasmanian bill of rights) due to her student essay marking workload.

In Bendigo on the way back to Canberra, we met with long-standing CLA member Keith McEwan who reported on his recent trip to Townsville. Though he did not get to Palm Island as he had planned, he had valuable discussions on local Aboriginal issues and was able to provide a detailed rundown for future CLA activity in the area.



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Other CLA activities in April:

Meetings:

Robert Briggs re current issues in the USA

Beryl Rawson re Dying with Dignity

Tim Vines, media spokesperson, re schedule

Ms Vicky Dunne, Member ACT Legislative Assembly, re ACT legislation

Submissions:

National Security Legislation Amendment Bill (Rhys Michie)

Parliamentary Committee on Law Enforcement (Rhys Michie)

Media:

City Park Radio, Launceston;

Media release issued on CLA's reaction to Rudd Government's dropping of the Bill of Rights:

<http://www.cla.asn.au/0805/index.php/media/2010/australians-lose-over-rights>

Sarah Mennie (Sunday Times, SA) about nightclub ID issues;

Online news blog about airport security (backscatter x-rays) and general civil liberties;

Some Canberra Times and ABC media people have asked to be added to CLA's mailing lists.

Administrative:

Lynne Bliss worked on collecting information on members interests and skills;

Annual return material completed and submitted to registrar-general;

Meetings for Melbourne, Launceston and Hobart organised and confirmed;

Treasurer Kevin Pople re membership and finances.

Functions/lectures:

Prof John Braithwaite of ANU on Restorative Justice, prison reform.

AUSTRALIAN BRIEFS

Michaelsen co-authors book: CLA member Chris Michaelsen has co-authored a book with Shirley Scott and Tony Billingsley entitled *International Law and the Use of Force: A Documentary and Reference Guide*. It was published earlier this year by Praeger Publishers:

<http://www.greenwood.com/catalog/C36259.aspx>

Equivalent of one state not enrolled: Nearly 1.4 million people - about 6% of the population, and roughly equivalent to all South Australians - are not enrolled to vote with a federal election imminent, the Australian National Audit Office says. In a report on the Australian Electoral

Commission's administration for the 2007 election, the office says the proportion of eligible voters not on the electoral roll has been climbing for a decade. It says there were 1.1 million "missing voters" not on the rolls on polling day in 2007, and the number had increased to almost 1.4 million by December 200 – Mark David, writing in the *SMH*.

Walker is new magistrate: Lorraine Walker, a barrister in the ACT for the past 10 years, is the Territory's newest magistrate. In her 23 years in the legal profession she has been a partner of a law firm, a crown prosecutor, a solicitor, and a legal officer in the Royal Australian Air Force. She has also been tutoring at the ANU legal workshop in advocacy and skills and mentoring junior practitioners. She takes up her new position on 19 July 2010.

28 Australian police assist in Afghanistan war: Six more Australian Federal Police deployed to Oruzgan Province in Afghanistan last month. They are helping the Afghan National Police develop core policing capabilities, and mentoring and advising training staff at the Tarin Kowt Provincial Training Centre. The AFP has been given \$32m over two years to support Afghan "peace-building initiatives". The latest deployment brings the number of AFP members in Afghanistan to 28. *There has been no debate in parliament on whether Australia should have any police in Afghanistan, CLA notes: the deployment is an Executive - not a parliamentary - decision.*

Discrimination law to be simplified: The federal government plans to combine federal anti-discrimination legislation into a single Act. Currently, Commonwealth anti-discrimination laws are in four separate and distinct laws: the *Racial Discrimination Act 1975*, the *Sex Discrimination Act 1984*, the *Disability Discrimination Act 1992*, and the *Age Discrimination Act 2004*. In re-writing the laws, the government will review the complaints handling process and the related role and functions of the Australian Human Rights Commission.

Peace books its comparative place: The first book is out in a long-term project entitled *Peacebuilding Compared. Anomie and Violence: Non-Truth and Reconciliation in Indonesian Peacebuilding* by John Braithwaite, Valerie Braithwaite, Michael Cookson and Leah Dunn is now out. The book is free from ANU E Press

at: http://epress.anu.edu.au/anomie_citation.html

Hard copies are available for \$29.95 from the same address. For more about Peacebuilding Compared and other publications, go to: <http://peacebuilding.anu.edu.au>



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INTERNATIONAL

Special Rapporteur releases global study on torture

The UN Special Rapporteur on Torture says the conditions in which the vast majority of the world's 10 million prisoners and detainees are held are "appalling" and amount to inhuman and degrading treatment.

In a global study to conclude his five-year term, Professor Manfred Nowak said that he was "simply shocked by the way human beings are treated in detention".

He said there was an "urgent need" for the Human Rights Council to consider drafting a Convention on the Rights of Detainees to codify the human rights of persons deprived of their liberty, as set out in the UN Standard Minimum Rules for the Treatment of Prisoners and other 'soft law' instruments. He also recommended that the international community establish a Global Fund for National Human Rights Protection Systems.

His 71-page report was presented to the 13th Session of the United Nations Human Rights Council, held in March 2010.

Police admit killing...31 years later

Thirty-one years too late, London's Metropolitan Police have admitted their role in killing New Zealander Blair Peach during an anti-racism protest in London in April 1979.

A report kept secret for 30 years concluded that Blair Peach 'almost certainly' died after a blow from a policeman from a Special Patrol Group van, the first on the scene.

Commander John Cass, who ran the Met's internal complaints bureau and led the inquiry into Peach's death, could not identify which particular officer, but recommended that three be charged with "perverting the course of justice" – basically, telling lies – about the incident. They were never charged.

The Cass report was suppressed in 1980 by the late Dr John Burton, the coroner who oversaw the inquest into Peach's death. Documents released at the same time as the Cass report indicate Coroner Burton may have been heavily biased in favour of police. <http://snipurl.com/vuns5>

Chief nurse calls for change in drug strategy

The UK's National Health Service should offer heroin to drug addicts and open "consumption rooms" where users can go to inject under medical supervision in order to cut crime and keep public spaces free from dirty needles, the head of Britain's biggest nursing union said today.

Dr Peter Carter, general secretary of the Royal College of Nursing (RCN), said providing heroin on the NHS would cut crime rates and help wean addicts off the drug.

Speaking in a personal capacity after a debate on the issue at the RCN's annual conference in Bournemouth, he said: "I do believe in heroin prescribing. The fact is, heroin is very addictive. People who are addicted so often resort to crime, to steal to buy the heroin."

He said he was aware of the controversy over how chronic drug users should be treated, but said: "It might take a few years but I think people will understand. If you are going to get people off heroin then in the initial stages we have to have proper heroin prescribing services."

The statement provoked an immediate reaction from academics and from within the nursing profession, with many saying that this was a "slippery slope" which could see the state subsidising other addictive drugs such as cocaine.

However there is emerging research that this strategy can work. Pilot studies run by academics at King's College's national addiction centre suggest that allowing users to inject heroin under medical supervision could cut local crime rates by two-thirds in six months.

Of 127 users involved in the pilots, three-quarters "substantially reduced" their use of street drugs, while their spending on drugs fell from £300 to £50 a week. The number of crimes they committed fell from 1,731 in three months to 547 in six months. <http://snipurl.com/vv9a7>

Anti-gay MP to be banned from UK

The British Government is preparing to ban a Ugandan MP from travelling to the UK if he is successful in passing a law that would impose the death penalty in Uganda for being gay.

The UK Foreign Office, the Department for International Development and the Borders Agency are planning to block the visa of born-again Christian MP David Bahati if he does not drop legislation that would see consenting adults who have gay sex imprisoned for life and impose the death penalty on those with HIV – which will be called "aggravated homosexuality".

The bill also proposes the death penalty for those having gay sex with anyone under the age of 18, with someone disabled or what the legislation describes as "serial offenders". It also calls for life prison sentences for those "promoting homosexuality", which could come to mean human rights groups or those who fail to inform on a gay couple.

A wave of anti-gay sentiment is allegedly sweeping Africa and putting pressure on homosexual people in Zimbabwe, Zambia and Nigeria.

<http://www.guardian.co.uk/global/2010/apr/19/uganda-death-penalty-gay-mp-banned-from-uk>



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Coroner flees the country after his report criticises police

Vanuatu's coroner has left the country after threats were made against him and his family. The NZ judge, Neville Dawson, had released a damning report into the fatal beating of a man in police custody. The report strongly criticised the police paramilitary unit in Vanuatu. It claimed there was a culture of police brutality apparently condoned at the highest levels of the police force. Justice Dawson cancelled all appointments with friends over the Easter weekend, saying that he had to pack his luggage to go on holiday but, he also told his friends, he didn't know when he would be back in Vanuatu. The NZ Foreign Ministry says it will assess his safety while he is on holidays, *Radio Australia* reported.

USA puts its own citizen on assassination list

A Muslim cleric linked to the attempted bombing of a Detroit-bound airliner has become the first US citizen on a list of suspected terrorists the CIA is authorised to assassinate, the *Washington Post* reported last month.

Anwar al-Awlaki, who lives in Yemen, has survived at least one strike carried out by Yemeni forces, with US assistance, against a gathering of suspected al-Qaeda operatives.

Because he is a US citizen, adding Awlaki to the CIA list required special approval from the White House, officials said. The move means that Awlaki would be considered a legitimate target not only for a military strike carried out by US and Yemeni forces but also for lethal CIA operations. "He's in everybody's sights," said the US official.

India needs 2.5m just to do the counting

India began a national census of its 1 billion-plus population last month with a 2.5 million-strong army of census-takers fanning out across the country to conduct what has been billed the world's largest administrative exercise.

The census, conducted every 10 years, has a new element this year with collection of biometric data in which every citizen over the age of 15 will be photographed and fingerprinted for a new national population register of the country's 1.2 billion population.

"It is for the first time in human history that an attempt is being made to identify, count, enumerate and record and eventually issue an identity card to 1.2 billion people," home minister Palaniappan Chidambaram said.

So far, India has not had a system of issuing a national identity number or card to its citizens. The collection of biometric data using a combination of fingerprint and facial identification will be linked with another massive exercise launched last year to ensure that every Indian gets assigned a single identity number. <http://www.guardian.co.uk/world/2010/apr/01/india-begins-census-billion-people>

Walker puts personal stamp on 'phantom' defence

In an extraordinary case in the USA, federal judge Vaughn Walker has ruled against the government, and in favour of the EI-Haraiman Islamic Foundation Inc.

The complex case arose when the US government tried to list the foundation as supporters of terrorists: the foundation countered by saying it supported communities in the Middle East which needed humanitarian aid.

During initial proceedings, the US government lawyers inadvertently sent, to the foundation lawyers, copies of the electronic surveillance logs (wiretaps, in US parlance) of US spook agencies against the foundation. When the government lawyers realised their mistake, they demanded the material back. It was returned.

Then EI Haraiman took legal action, claiming the wiretapping was illegal, and so no evidence from it could be used. The US government said: "Prove it was illegal - show us the documents". But EI-Haraiman no longer had them.

This “Texas two-step” continued until the judge got fed up with the US government, the defendants in the action. Here’s part of what he said:

“Defendants’ nit-picking of each item of plaintiffs’ evidence, their remarkable insinuation (unsupported by any evidence of their own) that the (relevant) intercepts might have been pursuant to a FISA warrant and their insistence that they need proffer nothing in response to plaintiffs’ prima facie case do not amount to an effective opposition to plaintiffs’ motion for summary judgment.”

He then pulled the plug on the US government, its prevaricating lawyers and their “phantom” defence strategy of producing nothing to support their case.

Privacy principles to be reviewed in 2011

In 2010 the OECD is marking the 30th anniversary of its Guidelines on the Protection of Privacy and Transborder Flows of Personal Data, the first international statement of core information privacy principles.

Australian Michael Kirby, the recently retired High Court judge, chaired the OECD expert group that developed the guidelines in 1980. (Read his Paris speech on the 30th anniversary at: <http://www.cla.asn.au/>)

ON 25-26 October in Jerusalem, the OECD will hold a conference on the evolving privacy landscape. The event will be hosted by the Israeli Law, Information and Technology Authority, and held with the 32nd International Conference of Data Protection and Privacy Commissioners.

A final anniversary event will focus on the economic dimensions of privacy and will be held at the OECD in Paris on 1 December.

The work in 2010 will lay the foundations for a review of the guidelines, to begin in 2011. This assessment, called for by Ministers in the Seoul Declaration for the Future of the Internet Economy (2008), will determine whether the Guidelines need to be revised or updated to address the current privacy environment. See: www.oecd.org/sti/privacyanniversary



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UN treaty may be needed to protect privacy: Commissioner

The world may need a UN treaty to protect privacy because of cloud computing, online search engines and the globalisation of direct marketing, NZ Privacy Commissioner Marie Shroff has suggested.

Draft international standards on the protection of privacy were agreed at a privacy commissioners' conference in Madrid in November 2009, but Ms Shroff said these were "very much a work in progress."

Some of the issues a treaty might tackle could include the collection of information by international search engines, companies' contracting call centres in developing countries to carry out international telemarketing, and protecting personal information when people used credit cards to buy from countries with no privacy law. <http://www.stuff.co.nz/technology/3546868/UN-treaty-on-privacy-possible/>

Sex offenders to get review of their 'life' registration

A British Supreme Court ruling has opened the way for sex offenders to challenge whether they should remain on the sex offenders' register for life.

The ruling backed a case brought by two convicted sex offenders who challenged their indefinite inclusion on the register without any right to a review, claiming it breached their human rights.

One, convicted of rape when he was 11, argued that being on the register had prevented him taking his family on holiday or playing football. The other offender, Angus Aubrey Thompson, now 59, was jailed for five years for indecent assault 14 years ago. Their lawyers argued they had been labelled for life without any opportunity to demonstrate they had reformed.

The current UK legislation says that any sex offender sentenced to a prison sentence of at least 30 months is placed on the register for life and has a duty to keep the police informed of any change of address or travel abroad.

The Supreme Court decision follows an appeal by the British Home Secretary against an earlier appeal court ruling that the lack of any review was incompatible with the European convention on human rights, in particular the right to respect for a private and family life.

<http://www.guardian.co.uk/uk/2010/apr/21/sex-offenders-register-life-appeal>

INTERNATIONAL BRIEFS

Drone operators in US may be international criminals: Gary Solis of Georgetown Law School argues that any civilian operators of drone attacks, dropping bombs on Afghanistan and Pakistan, are unlawful combatants under the laws of war and thus potential war criminals. This means CIA operatives in the suburbs outside Washington DC could be tried by another country...if the US trials of Guantanamo Bay detainees are legal. http://www.washingtonpost.com/wp-dyn/content/article/2010/03/11/AR2010031103653_pf.html as reported in *Justinian*.

Firms want online privacy law updated: US technology firms and privacy groups want privacy laws overhauled because the government has too much access to private online data. Google, eBay and others have launched the Digital Due Process coalition, seeking to update the Electronic Communications Privacy Act (ECPA) of 1986, passed before internet usage exploded. They want warrants to be needed before e-mails and texts are handed over to law enforcement agencies, and more protection for both data stored online and mobile tracking information. <http://news.bbc.co.uk/2/hi/technology/8595775.stm>

Judge orders suit against stun gun maker to proceed: A California judge has ordered a case against the manufacturer of stun guns, Taser International, to start in August. Steven Butler, 48, was stunned three times by police for refusing to get off a bus. The lawsuit claims the stunning caused his heart to stop, requiring resuscitation, and that severe brain damage resulted, leaving him permanently disabled. <http://www.aboutlawsuits.com/taser-brain-injury-lawsuit-trial-set-9221/>

Everyone can be Ms Nice Guy online: On the Internet, no one knows you are a bastard: the degeneration of the level of discourse online has led to a debate in the US as to whether anonymous comments should be barred: <http://www.nytimes.com/2010/04/12/technology/12comments.html?src=tw&tw=nytimes>

Scanners should be banned, coalition argues: A coalition of organizations has submitted a formal petition to the US Department of Homeland Security demanding that the agency suspend the airport body scanner program. The "uniquely intrusive search" is unreasonable and violates the US Constitution, they claim. Also, the program fails to comply with several federal laws, including the Religious Freedom Restoration Act, the Privacy Act of 1974, and the Administrative Procedures Act. The 30 organizations also argue that the machines are ineffective and that there are better, less costly security technologies. The filing observes that the TSA has routinely misled the public about the ability of the devices to store and transmit detailed images of travelers' naked bodies. http://www.epic.org/alert/epic_alert_1706.html



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Supreme Court rules affair's fair: The US Supreme Court has refused to review the death sentence of Charles Dean Hood, an inmate on death row in Texas for a double murder. He is asking for the review because the judge and the prosecutor in his case had been having an affair in the lead-up to the trial. "The right to a fair hearing, before an impartial judge, is at the heart of the

nation's judicial system. If money raises a serious question about that impartiality, love seems to be at least as worrisome. The Supreme Court, sadly, failed in its duty to clearly draw that line," the *NY Times* said in an editorial.

<http://www.nytimes.com/2010/04/28/opinion/28wed2.html?th&emc=th>

Spying, Civil Liberties and the Courts: A constitutional challenge to the 2008 US law that vastly expanded the government's ability to eavesdrop without warrants should be allowed to proceed in court, the *NY Times* said in an editorial last month.

<http://www.nytimes.com/2010/04/16/opinion/16fri2.html?th&emc=th>

Fear is the constant: Nuclear fear of the 'Cold War' days in the 1950s is directly comparable to the fear that now applies to terrorists, Scott Shane has reported in the *NY Times*. "Declassified documents from the 1950s lay out a strikingly familiar story, in which Communist agents played the role of today's Al Qaeda," he says.

<http://www.nytimes.com/2010/04/16/world/16memo.html?th&emc=th>

DATES:

(You may have to copy and paste URLs to reach these sites)

2-3 May, Brisbane: Director-General of UNESCO, Irina Bokova, will give the keynote speech at the UNESCO World Press Freedom Day 2010 conference, hosted by UQ. Rego: www.wpfd2010.org Details: Marsali Mackinnon, 07 334 63092 or E: m.mackinnon@uq.edu.au

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

07 May, Hobart: Highlights from a Career in Canberra: Duncan Kerr, MHR, Member for Denison, 3pm, Rm 205, Arts Building, U. Tasmania, Sandy Bay. Videolinked to Room L202, Faculty of Arts, U. Tas Launceston Campus. Info: Dr. Richard Eccleston, 03 6226 2896 Richard. Eccleston@utas.edu.au

7 May, Canberra: Geoff Skillen, Office of International Law, Attorney General's Department, Canberra: *Prosecution under Australian Law of International Crimes committed outside Australia*

http://law.anu.edu.au/CIPL/Lectures&Seminars/2010/Geoff_Skillen.pdf

10-17 May, Australia: Law Week, <http://www.lawweek.com.au/> for details of each state/territory.

11 May, Perth: *Terrorism: the biggest fear is fear itself*, public lecture by Professor Herbert Huppert, Director of the Institute of Theoretical Geophysics at the University of Cambridge . Webb Lecture Theatre, Geography Building, 6pm. <http://www.ias.uwa.edu.au/lectures/huppert>

12 May, Brisbane: Comparative Perspectives on Right to Human Dignity in Age of Terror, Prof Simon Bronitt, Director CEPS, Griffith U. Rm 2.06, Bld. N54 (Bray Centre), video link to: Gold Coast Campus, Rm 3.01, Bld. G23 . RSVP: Joanne or Clare on (07) 3735 3747 or slrc-events@griffith.edu.au

18 May, Canberra: Centre for International and Public Law (CIPL) celebrates its 20th anniversary. http://law.anu.edu.au/cipl/Lectures&Seminars/2010/20year_Anniversary.pdf

21 May, Melbourne: Children, Young People and Privacy conference, Office of the Victorian Privacy Commissioner, <http://www.privacy.vic.gov.au/>

21 May, Canberra: Associate Professor James Stellios, ANU College of Law: *s75(v) of the Constitution: A Complex Mechanism of Federal Government*

<http://law.anu.edu.au/CIPL/Lectures&Seminars/2010/Stellios.pdf>

7-9 June, Wollongong: ISTAS 10 - Social Implications of Emerging Technologies conference, Novatel Northbeach, Details: Katina Michael at: katina@uow.edu.au More info: www.ieeessit.org

15-18 June, San Jose USA: Computers, Freedom and Privacy conference converges for the first time ever in Silicon Valley. Details: <http://cfp.acm.org/wordpress/?p=6>

24-26 June, Canberra: 18th annual ANZSIL conference: International Law in the Second Decade of the 21st Century: Back to the Future or Business As Usual? University House, Canberra. Details: <http://law.anu.edu.au/ANZSIL/index.html>

25 June, Canberra: Annual Kirby Lecture, by ANU Vice-Chancellor Gareth Evans.

26 June, World: International Day in Support of Victims of Torture.

4-10 July, Australia: NAIDOC Week: Aboriginal and Torres Strait Islander celebrations.

<http://www.naidoc.org.au/>

6 July, Sydney: 'Better more cameras than more crime' debate on CCTV. Coty Recital Hall, Angel Place, 6.40pm, for later broadcast on ABC Radio. Details: <http://www.iq2oz.com/events/event-details/2010-series-sydney/05-july.php>

13 Aug, 2010, Sydney: United Nations Association of Australia national conference 2010, NSW Parliament, with theme, *State of the World post Copenhagen*. Info: Peter Airey: office@unaansw.org.au

20-23 Aug, Montreal, Canada: Civicus World Assembly, details: <http://www.civicassembly.org/>

30 Aug – 1 Sept, Melbourne: 63rd UN Department of Public Information/Non-Governmental Organisations (DPI/NGO) conference: global health as it relates to the Millennium Development Goals. Details: <http://www.un.org/dpi/ngosection/index.asp>

1 Sept, Brisbane: Prof David Weisbrot of Macquarie Law School, Macquarie U. on "[DIY Genetics: Carbolic Smoke Ball Meets the Internet](#)" at [Griffith U.](#) Rm 2.06, N54, Nathan campus with videolink to Room 1.04, G34, Gold Coast campus and Room 2.27, L03, Logan campus.

15 Sept, World: International Day of Democracy: <http://www.ipu.org/dem-e/idd/overview.htm>

17-25 Sept, Brisbane: IFIP Human Choice and Computers International Conference, part of the IFIP world conference, details: <http://www.wcc2010.com/HCC92010/index.html> Sessions include ethics and ICT governance, surveillance and privacy.

21-22 Oct. Adelaide: 2010 Institute of Public Administration Australia national conference, Adelaide Convention Centre, details: <http://www.ipaa.org.au/>

10-13 Nov, Bangkok: 14th International Anti-Corruption Conference (IACC). Details: <http://14iacc.org/>



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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\[at\]cla.asn.au](mailto:secretary[at]cla.asn.au)

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