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CLA calls for Senate inquiry into civil liberties in Australia

Australia needs a full and open public inquiry into the state of civil liberties in this country, Civil Liberties Australia says.

In letters to Prime Minister Kevin Rudd, the Labor Leader in the Senate (Senator Chris Evans) and members of the Senate Legal and Constitutional Committee, CLA has asked for a major public inquiry to be launched in 2008, and run for up to two years.

The Australian Civil Liberties Inquiry would examine:

- How the rights and responsibilities of Australians had changed over the past 10 years;
- What liberties and freedoms Australians should enjoy, what restrictions were appropriate, and what responsibilities citizens had to their nation; and
- How laws, systems and culture should be changed over the next 10 years to achieve the desired life- and work- style Australia aspired to.

“We’ve had a decade of Australia’s civil liberties moving in one direction, and more than six years of intense anti-terrorism laws which have dramatically changed Australia’s legal and personal rights and responsibilities,” CLA President Dr Kristine Klugman said.

“Reviewing those laws piecemeal is totally inappropriate.

“What we need is an overall inquiry into what freedoms and liberties we want and should have, and what responsibilities go with them.

“CLA is calling on the PM and the Senate to agree to launch the inquiry from mid-2008.

“We believe the first six months of 2008 should be used to call for academic, legal and community debate.

“We ask Australians news outlets, who have done the nation such a great service with their *Right To Know* campaign, to get behind this initiative which extends and amplifies the core concepts of their campaign.

“We’ve written to Mr John Hartigan of News Limited, requesting for his support,” Dr Klugman said.

Acknowledging that the Labor Government had promised an inquiry into an Australian bill of rights, Dr Klugman said that the Senate inquiry into how Australia’s civil liberties had changed, and what we wanted them to be, would make the ideal precursor to a fuller debate about a future bill or charter of rights.

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LAST WORD: Female rape victim sentenced to 200 lashes

The Wahabi system of justice in Saudi Arabia is mighty tough. A female victim raped by seven men has had her sentence more than doubled to 200 lashes after she appealed its severity. Read the full story at the end of this bulletin.

Labor’s promises: CLA to keep close watch on delivery

The incoming Rudd Labor Government has promised significant changes in the area of civil liberties.

CLA will be holding the new government to its commitments, which include:

- an inquiry into whether Australia should have a bill of rights;
- abolishing sedition, and implementing the Australian Law Reform Commission (ALRC) proposals;
- apologizing to Indigenous Australians for wrongs of the past;
- ensuring persecution of refugees ends when they reach Australia;
- improving public interest disclosure (whistleblower) legislation, and changing the culture* in the Australian Public Service so that disclosure in the public interest is seen as a good thing;
- implementing recommendations of the 1996 ALRC Open Government Report

- creating a new Information Commissioner to be above a new FOI Commissioner and the existing Privacy Commissioner, all co-located and statutory officers;
- enacting journalist shield laws (CLA will work to strengthen the proposed laws);
- reviewing suppression orders and contempt laws.

For a detailed look at the Labor policies

Government Information: Executive Summary (2pp)

http://www.alp.org.au/download/071026_information_policy_exec_summary.pdf

Government Information election policy document (20pp)

http://www.alp.org.au/download/now/071026_government_information_policy.pdf

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Rudd indicates personal commitment to FOI reform

Mr Rudd, of his own volition on the *7.30 Report* on the ABC, promised a code of conduct with which ministers would be required to comply, according to Matthew Moore, writing in the *SMH* on 29 Nov 07.

Mr Rudd also volunteered: "But let me just give you one core example. I'm determined to do something about freedom of information. This is notoriously seen as something that executive governments don't like because it causes information to go out which might be embarrassing. I'd like to, by contrast, encourage a culture of disclosure within government departments."

Mr Rudd will be helped by the departure of the Secretary of the Department of Prime Minister and Cabinet, Dr Peter Shergold, who was a notorious opponent of FOI and public interest disclosure.

By contrast, the head of the Australian Public Service Commission, Ms Lynelle Briggs, was re-appointed to her post for another three years in one of the last acts in the last hours of the Howard government, before the caretaker principles kicked in.

Ms Briggs has shown no inclination towards the freeing up of FOI, and has been hostile to public interest disclosure provisions in the APS.

WA developments head a busy November for CLA

CLA's board, at its November meeting, endorsed the forming of a WA branch.

The move follows an investigation of the status of civil liberties in WA undertaken in September.

CLA's President, Dr Kristine Klugman, and CEO, Mr Bill Rowlings, presented a report to the board which showed that an existing group* in WA was not functioning in the way and at the level needed to fully influence civil liberties and rights in the State.

CLA's WA branch will be headed by Mr Peter Dowding.

Mr Dowding SC is a barrister at the WA Bar, and was Premier of WA between 1988 and 1990. He has had a close interest for more than 30 years in Indigenous, legal aid and other liberties issues.

It is expected that expert international FOI and whistleblower academic, Dr Johan Lidberg of Perth's Murdoch University, will also be closely involved.

In other activity during November, CLA met with Justice Michael Kirby of the High Court (President, CEO, Sarah Bassiuni, Max Jeganathan); ACT Supreme Court Chief Justice Terry Higgins and Justice Malcolm Gray, Speaker of the ACT Legislative Assembly Wayne Berry and Opposition Leader Bill Stefaniak, and Clerk of the Senate, Mr Harry Evans.

CLA's media spokesperson, Max Jeganathan, was interviewed on TV and radio, including over the difficult issue of where pedophiles who have served their time in prison are allowed to live.

CLA issued several media releases, including:

- a call for Senate reform;
- welcoming proposed improvements to FOI legislation in the ACT Assembly;
- criticism of findings in a case involving police pepper spraying a 10-year-old girl in WA; and
- excesses by ASIO and AFP officers in the case involving Sydney medical student, Mr ul-Haque.

Two members returned from overseas – Father John Parson from several months trying to help peace in the Middle East, and Christopher Michaelsen from 18 months working on human rights issues in Europe. Keith McEwan, now of Victoria, re-visited the ACT.

As well, there were several meetings held involving future internships. One was with Karlie Brown for her DNA internship through ANU Law School. Other meetings, for internships at the University of Canberra, were with UC internship supervisor Don Fleming and student Valerie Thomas, who is looking for a law firm to supervise her 40-hour project requirement.

As well, CLA began discussions with Dr Jaimie Beven of Murdoch University's Law School on possibly introducing a similar program.

** The Council for Civil Liberties for Western Australia. A copy of the CLA report the board on the status and functioning of CCLWA is available to CLA members who would like it.*

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Feds likely to support civil unions for gays

THE incoming Attorney-General, Robert McClelland, has said that Labor was unlikely to block a proposed ACT law to recognise same-sex couples, the SMH reported.

The ACT's proposal was repeatedly stymied by the Howard Government, which used its executive power, rather than a parliamentary vote, to block the ACT legislation.

The ACT Attorney-General, Simon Corbell, is planning to reintroduce a civil partnerships bill, which will give legal recognition to unions between same-sex couples.

In the lead-up to the election, the Coalition agreed to award same-sex couples the same rights on Commonwealth public sector superannuation as those enjoyed by heterosexual couples.

<http://www.smh.com.au/news/national/law-will-recognise-gay-unions/2007/11/30/1196394622498.html>

Solomons heads towards constitutional crisis

Solomon Islands Attorney General, Mr Julian Moti QC, has filed a suit in the SI High Court to challenge the constitutionality of the SI Governor-General's proclamation last month which set down 13 December as the date for the next meeting of Parliament.

The Government, led by Mr Soggavare, is disputing whether the G-G has the power under the Constitution to unilaterally set a date for parliament to meet.

According to Mr Moti and Mr Soggavare, the G-G is bound by the Constitution, which they claim lays down that the G-G must consult with the PM before setting a date.

The issue could result in extra-judicial action – possibly involving Australian Federal Police and Australian troops – before resolution. CLA Director and ANU Law student Amanda Alford is in SI working with Transparency International.

WA labours under threats from CCC, ABC says

The journalists' union in Western Australia has raised concern about the increasing number of reporters being pressured to reveal their sources to the state's Corruption and Crime Commission (CCC), according to the ABC.

An ABC reporter was threatened with a fine of \$60,000 or a prison term if she did not reveal her source for a story regarding the Andrew Mallard case. Read more:

<http://www.abc.net.au/news/stories/2007/11/28/2103129.htm?section=australia>

– from MEAA weekly e-bulletin, 071130

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Free speech being eroded: report

Free speech and media freedom in Australia are slowly being whittled away by legal restrictions and a secretive culture among public officials, according to a damning new report.

An audit by former NSW ombudsman Irene Moss highlights how much information Australians are being denied access to.

The audit, commissioned by a coalition of major media groups, says there are 500 pieces of legislation and at least 1,000 court suppression orders in force that restrict media reporting or the release of information to the public.

They were part of a "growing culture of secrecy, defensiveness and mutual mistrust" on the part of government and other public bodies, Ms Moss said.

Ms Moss, also a former chair of the NSW Independent Commission Against Corruption (ICAC), said the findings should ring alarm bells for Australians concerned about democracy and free speech.

The Moss report was "deeply troubling" and presented a clear need for legislative reform, head of Australia's *Right To Know Coalition*, News Ltd chief executive John Hartigan said. The coalition also includes the ABC, Fairfax, AAP and representatives from commercial radio and television and the media union, MEAA.

– from The Age, 5 Nov 07

<http://www.theage.com.au/news/National/Free-speech-being-whittled-away-report/2007/11/05/1194117927878.html>

http://www.alliance.org.au/documents/071031_right_to_know_report.pdf

Dropping ID card helps Labor make savings

The department responsible for the identity card would lose \$1.2 billion in funding over four years as the new government cancelled the project and slashed costs, Karen Dearne reported in *The Australian* late last month.

"The Access Card was one of the policies that showed hubris and which was part and parcel of the Howard government's downfall," says Tim Warner, a prominent Victorian Liberal who led the *Access Card No Way* campaign.

Mr Warner said Australians owed a debt to retiring Senator Natasha Stott Despoja and the Democrats for achieving a measure of accountability on the issue.

"Kudos also to Liberal senators Brett Mason, Mitch Fifield and John Watson for bucking party discipline and sending the card back to the drawing board in March," he said. "Otherwise we would have a contract in place, and Labor made it clear they would not repudiate any contracts signed by the Coalition."

MHR Tanya Plibersek foreshadowed Labor's plans to dump the card in March, describing the project as "ill-conceived, poorly executed and cost(ing) a great deal more than the Government imagines or is prepared to admit".

– 27 Nov 07

<http://www.australianit.news.com.au/story/0,24897,22823422-15306,00.html>

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Cost of ID card and passport rises to \$230 in UK

The future cost of providing an identity card combined with a new-generation biometric passport in the UK has now passed the \$230 per person.

The latest official estimate last month put the total price tag of the scheme at \$12.9 billion over the next 10 years.

– from an Alan Travis report in *The Guardian*, 9 Nov 07

<http://www.guardian.co.uk/idcards/story/0,,2208157,00.html>

Police riot powers entrenched permanently in NSW

The NSW Government is entrenching temporary, two-year powers given police immediately following the 2005 Cronulla race riot.

Police will have permanent powers to close bars and hotels, stop and search vehicles and people, seize cars and phones and disperse mobs.

The NSW Terrorism (Police Powers) Act will be expanded so police can also search vessels and aircraft without warrants.

Civil liberties groups say more, not less, oversight of officers is needed. NSW Council for Civil Liberties president Cameron Murphy said it was not necessary for the laws to be permanent because there had been no similar event since the Cronulla riot.

NSW Ombudsman Bruce Barbour said: "There should be detailed annual reporting and some form of ongoing independent scrutiny."

– from various reports, including SMH and AAP

<http://www.smh.com.au/text/articles/2007/11/13/1194766675272.html>

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Fee scrapped for FOI requests in Victoria

John Brumby has scrapped the \$22 fee for Freedom of Information requests in Victoria and narrowed the scope of the 'cabinet documents' exemption, under laws announced on Wednesday. He has given bureaucrats an extra 30 days to respond to requests, taking the total time to 75 days.

<http://www.theaustralian.news.com.au/story/0,24897,22794673-7582,00.html>

Decision in 30 days 'unrealistic', says Tassie Ombudsman: In his annual report to state parliament, Tasmania's Ombudsman Simon Allston said the 16-year-old FOI Act had particular areas that needed addressing, according to a report on the ABC. This included the requirement for him to make a decision on applications within 30 days, which he described as 'unrealistic' because cases can often involve a large number of documents and difficult issues. <http://au.news.yahoo.com/071121/21/150zb.html>

Crunch time for FOI in WA, says FOI expert: It's crunch time for FOI in WA, writes Murdoch University's lecturer in Journalism, and FOI expert, Dr John Lidberg. "The current proposed changes and amendments to the Act are watering down an already cumbersome piece of legislation," he says. "In a way it's also crunch time for the State Government's trust in the public to handle information that is arguably held on its behalf by the Government." Read his article at: <http://www.cla.asn.au/>

FOI documents don't become subjected to 'Choices': The Howard Government succeeded before the election in keeping secret hundreds of pages of documents canvassing options for another wave of industrial relations reform, the *Sydney Morning Herald* reported. While the Prime Minister, John Howard, and the Workplace Relations Minister, Joe Hockey, were insisting Work Choices would not change, their lawyers were blocking access to documents which apparently demonstrated they had seriously considered going further. Now the election is over, there would appear to be no reason to keep the documents secret.

<http://www.smh.com.au/articles/2007/11/19/1195321697339.html>

Questioners to be quizzed over questionable behaviour

The Australian Federal Police are inquiring into themselves, and the Australian Security and Intelligence Organisation is being inquired into, following a doubly self-made crisis involving the Sydney university student, Izhar ul-Haque.

The Inspector-General of Intelligence and Security (IGIS), Ian Carnell, will use his royal commission-like powers to look into the conduct of two ASIO officers.

NSW Supreme Court judge Michael Adams found that they had kidnapped and falsely imprisoned Mr ul-Haque, a medical student, when trying to question him legitimately in November 2003. The judge also criticised AFP officers for their behaviour while questioning the man, and what he described as the truthfulness of evidence by comparison with that of Mr ul-Haque.

In a scathing judgment, Justice Adams last month ruled all police records of interviews in the case were inadmissible as evidence. He abandoned the trial and the charge against Mr ul-Haque, of training with a terrorist group, was dropped.

"I have decided that the records of interview are inadmissible because of the conduct of the ASIO and AFP officers," the judge said.

AFP Commissioner, Mr Mick Keelty, said his inquiry would require the co-operation of ASIO, and possibly other counter-terrorism entities, and would probably be headed by a judge, according to a *Sydney Morning Herald* report.

Mr Carnell, unusually, launched his inquiry himself, rather than waiting for the issue to be referred to him by a minister or a formal complaint being lodged.

He will examine ASIO's general policies and practices when interviewing individuals of security interest at the time Mr ul-Haque was illegally detained and interrogated in 2003.

Justice Adams noted in his judgment that while at least two ASIO officers had broken the law by kidnapping and falsely imprisoning Mr ul-Haque, their behaviour appeared to be in accordance with the spy agency's protocols.

– from several reports, including that of Tom Allard, SMH

<http://www.smh.com.au/text/articles/2007/11/14/1194766770306.html>

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Spooks mushroom in ASIO's hidden recesses

ASIO recruited 349 people – almost one a day – in 2006-7 and experienced a net growth of 246 for the year, a staffing increase of 22 per cent.

Numbers grew from 1110 to 1356, a staging post on the way to 1860 staff just over two years from now, which will be a further 37 per cent increase on the 30 June 2007 staff numbers.

This is a spy service which will almost certainly be out of control well before it reaches peak numbers in 2010. It will have trebled in size in about seven years, from about 600 to more than 1800.

ASIO's budget went from \$181.1m in 2005-6 to \$234.8m in 2006-7. It is expected to be \$423.9m by the 2010 financial year. That's a budget growth over the past 12 months of 30%, and a further growth over the next three years of 80%. ASIO's budget is even more out of control than its staffing numbers.

– Bill Rowlings

Read article: <http://www.cla.asn.au/>

Minister ordered review of 450 detainees

Then-Immigration Minister Kevin Andrews last month ordered a snap review of all 450 people held in immigration detention in Australia to establish whether an administrative error meant locking them up was technically unlawful, *The Australian* reported.

The review prompted the release of 13 immigration detainees in just three weeks. It focused on whether notification letters were addressed to the visa applicant or their "authorised recipient", usually a migration agent.

Mr Andrews sought advice from the commonwealth Solicitor-General about changing the law. <http://www.theaustralian.news.com.au/story/0,25197,22772644-2702,00.html>

CLA supported by Law Council, Democrats

Echoing a proposal by CLA (see lead story), the Law Council of Australia has called for an independent, transparent and broad ranging inquiry into Australia's anti-terrorism laws.

CLA is calling on the new Senate, after 1 July 2008, to mount a public inquiry into civil liberties in Australia. This different emphasis changes the debate to what laws all Australians need, rather than what laws police forces might like to have.

"For six years since late-2001, the emphasis has been on making laws tailored to what police officers and security agents want so they can impose a martial law-type clamp on Australian society," CLA President Dr Kristine Klugman said.

"What we need are proper laws safeguarding the liberties of ordinary Australians in the first instance, with exceptional powers for police and security services in declared circumstances beyond normality.

"We don't want to continue living in a police state, where security agencies can kidnap citizens off the streets, as a NSW Supreme Court judge found last month.

"It's time for a new agreement on Australians' liberties and rights, and allowing the criminal law to catch people who act outside the law," she said.

The Australian Democrats' spokesperson on terror laws agreed.

"The Howard Government's patchwork set of anti-terror laws created a culture of unaccountability and confusion in law enforcement and security agencies," Senator Natasha Stott Despoja, said last month.

"Repeated instances of incompetence show that the laws simply aren't working and that human rights and fundamental legal principles have been wound back too far under the guise of 'national security'. The only way to resolve the issue is by a comprehensive, independent and public inquiry," she said.

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USA launches new witch-hunt body: McCarthyism on steroids

The USA is about to pass a new Act, the Violent Radicalization and Homegrown Terrorism Prevention Act.

The Act passed the House of Representatives by an overwhelming 405 to 6 vote on 24 October and is now awaiting approval by the Senate Homeland Security Committee, and passage by the entire Senate.

It creates a congressional commission empowered to hold hearings, conduct investigations, and designate various groups as 'homegrown terrorists', proposing new legislation so the government can take punitive action against both the groups and the individuals affiliated with them.

Like Joe McCarthy and the House Un-American Committee of legendary notoriety in US history, the commission will travel around the USA and hold hearings to find the terrorists and root them out.

"Unlike inquiries in the past where the activity was carried out collectively, the act establishing the Violent Radicalization and Homegrown Terrorism Prevention Commission will empower all the members on the commission to arrange hearings, obtain testimony, and even to administer oaths to witnesses, meaning that multiple hearings could be running simultaneously in various parts of the country," Philip Girardi writes.

The bill does not spell out terrorist behavior and leaves it up to the Commission itself to identify what is terrorism and what isn't. Language inserted in the act does partially define "homegrown terrorism" as "planning" or "threatening" to use force to promote a political objective, meaning that just thinking about doing something could be enough to merit the terrorist label. The act also describes "violent radicalization" as the promotion of an "extremist belief system" without attempting to define "extremist."

In eighteen months' time, a Center of Excellence for the Prevention of Violent Radicalization and Homegrown Terrorism will be established to study the lessons learned.

"The view that 9/11 has 'changed everything' is unfortunately all too true. It has unleashed American paranoia, institutionalized mistrust of foreigners, and created a fantasy universe in which a US beset by enemies must do anything and everything to counter the alien threat.

"What is not needed is groups of congressionally empowered vigilantes roaming the country at will looking for 'homegrown terrorism'," Girardi writes.

– from stories supplied by Jeff Miles and Robert Briggs

http://www.huffingtonpost.com/philip-giraldi/the-violent-radicalizatio_b_74091.html

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ACT plans major reform of sexual assault support

ACT Attorney-General, Mr Simon Corbell, last month announced nearly \$4 million to reform the criminal justice system for victims of sexual assault.

The Sexual Assault Reform Program is a major inter-agency initiative involving victim agencies, the Canberra Rape Crisis Centre, child advocates, police, prosecution, courts and the legal profession. New funds have been made available for:

- three new positions to improve victim support and coordination (Canberra Rape Crisis, the Office of the Director of Public Prosecutions and the Victims of Crime Coordinator's Office), comprising \$1.2 million over 4 years;
- a multi-media victim information package (\$80,000) that provides victims with information about the investigation, prosecution and court process and sources of victim support;
- establishing remote witness facilities, including fit-out for two court rooms with state-of-the-art technology to enable victims and witnesses to give best evidence without fear and intimidation (almost \$1 million);
- An additional police officer and expanded prosecution resources, totalling \$1 million;
- Funds for a law reform specialist to work with justice agencies to accelerate legislative reform in key areas such as pre-recorded victim statements (\$200,000); and
- Developing an accredited inter-agency training and evaluation of the reform initiative (over \$500,000)

British lose (half) the plot

The personal records of 25 million people were lost in the mail in Britain last month.

Two compact discs with the bank details and addresses of 9.5 million parents and the names, dates of birth and social security numbers of 15.5 million children (about half the population of children) have gone missing.

A low-level Department of Revenue and Customs employee is reported to have put them in the post, unregistered and unrecorded. The colossal mistake is thought to have scuttled any chance the UK had of introducing an ID card for citizens.

Kenyans investigate killing of 100 youths each month

The Kenyan National Commission on Human Rights (KNHCR) is investigating nearly 500 alleged executions and disappearances of young men between June and October 2007.

Nearly 500 bodies of young men have been deposited in various mortuaries in the country by the police and the KNHCR has evidence suggesting that other bodies were dumped in the bush for hyenas and other wild animals to eat.

Almost all the cadavers bear classic execution signs of a bullet behind the head exiting through the forehead.

http://www.knchr.org/dmdocuments/Execution_Disappearance.pdf

UN resolution to call for death penalty moratorium

Seventy-five countries have co-sponsored a draft resolution, for voting at the UN General Assembly this month, which calls for all countries to introduce a moratorium on death penalty executions.

Ten countries – Albania, Angola, Brazil Croatia, Gabon, Mexico, New Zealand, the Philippines, Portugal (for the EU) and Timor Leste – co-authored the draft resolution. No less than 130 of the 192 UN member states have already abolished the death penalty in law or practice. However, twenty-five countries executed people in 2006. The UN General Assembly has adopted two resolutions on capital punishment, in 1971 and 1977, proclaiming it desirable that the death penalty be abolished in all countries.

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Australian decries executions of juveniles in Iran

The UN's Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Philip Alston, has criticized Iran's imposing the death penalty against juveniles.

It was probably the only country in the world that did so systematically, the Australian told the UN General Assembly.

He estimated there were at least 75 juveniles in prison "on death row basically" in Iran. The Government "never responds to any communications I send them," he said.

In addition, he said at least 173 people have been executed for offences such as adultery, unlawful sexual relations and homosexuality, while laws that allow for stoning to death in these cases are "barbaric by any standards."

He also spoke out against the use of the death penalty in Singapore, pointing out that the more than 400 people executed there since 1990 – the highest per capita rate in the world – had been executed based on a "mandatory" death penalty that took no account of extenuating circumstances.

<http://www.un.org/apps/news/printnews.asp?nid=24437>

GPS no way to track cheats

(from an) Editorial: The Sydney Morning Herald 1 November 2007

You have to admire the enthusiasm of those fighting drugs in sport. But electronic surveillance of athletes? That is going too far.

The suggestion has been made by a world-renowned Australian drug researcher, Michael Ashenden, at a conference in Iceland on sport and ethics. Dr Ashenden suggested athletes wear watches or bracelets containing global positioning devices, instead of having to report their movements, in advance, to drug-testing authorities.

Then the authorities would have no problems finding athletes for surprise tests, while athletes would be saved the bother of having to repeatedly report their movements. A win-win, thought Dr Ashenden, and many at the conference seemed to agree. They should think again.

The proposal is an affront to the integrity of all athletes. Further, the proposed GPS devices would be an indefensible invasion of the athletes' privacy, while the information the devices gathered would be open to abuse.

<http://www.smh.com.au/text/articles/2007/10/31/1193618970693.html>

CLA says: There is usually an excellent riposte to people who would play fast and loose with others' civil liberties: let them be the first to experience the particular innovation they propose. In this case, Dr Ashenden could become a world-renowned guinea pig for 24-hour surveillance for, say, five years.

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\$64m Tcard given its ticket of leave

NSW is dumping the controversial Transport card (Tcard) contract after years of delays and a \$64 million bill.

Transport Minister John Watkins last month told ERG Limited, the Perth company contracted in 2003 to introduce the Tcard system, to quit.

Tcard aimed for one ticket useable on all forms of public transport - trains, buses and ferries. "Enough is enough," Mr Watkins said. "This has been a very frustrating project."

– supplied by Anna Johnston

<http://www.smh.com.au/news/national/64m-tcard-fiasco-over/2007/11/09/1194329499286.html>

Commonwealth launches report on civil paths to peace

Conflict and terrorism can be better addressed through civil, not military means according to a new report commissioned by the Commonwealth Heads of Government.

The report, into the causes of conflict, violence and extremism in Commonwealth countries, was launched on 9 November 2007.

Civil Paths to Peace was prepared by the Commonwealth Commission on Respect and Understanding, chaired by the Nobel laureate Amartya Sen.

The report argues that solutions to conflicts should be rooted in core principles such as human rights, democracy, gender equality, the rule of law and a transparent and accountable political culture. The Commission supports the use of civil paths to peace: paths, which the Commission believes, yield better results than military action.

Paperback, 96pp, ISBN 978-0-85092-870-9, \$34.50. <http://publications.thecommonwealth.org/>

Crime victims get 'one-stop shop'

The ACT has created Victim Support ACT, a new agency within the Territory's Department of Justice and Community Safety, which is claimed to be a one-stop shop for victims of crime.

The new agency brings together the counselling and recovery team from the Victims Services Scheme and staff from the Victims of Crime Coordinator's Office.

The 2007-08 ACT Budget committed \$581,000 to help reduce waiting times for victims to access counselling services. Details: <http://www.victimsupport.act.gov.au/>

Attacks on Jews rise dramatically

Attacks on the Jewish community are at a high, following 638 reports covering assault, vandalism, intimidation and harassment in the year to the end of September.

This is twice the previous annual average and 8 per cent higher than the record in 2002.

The Executive Council of Australian Jewry meeting in Melbourne last month heard that the attacks mainly occurred in Sydney and Melbourne, the home of the country's largest Jewish communities. "In other cities, you are not going to have large groups of people walking to and from synagogues on the weekend," said former council member Jeremy Jones, who compiled the annual audit.

<http://www.theaustralian.news.com.au/story/0,25197,22845689-2702,00.html>

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Roadside vendor hits a T-shirt snag

Preben Mikkelsen, a 56-year-old grandfather who grills sausages roadside for a living, may go to jail for 10 years in Denmark for being a 'terrorist sympathiser'.

His crime? Selling T-shirts bearing the logos of two groups classed by the EU as terrorist organisations: the Popular Front for the Liberation of Palestine (PFLP) and the Revolutionary Armed Forces of Colombia (FARC).

Danish Justice Minister Lene Espersen is gunning for Preben and six other Danes. Mikkelsen could be in jail by Christmas for his part in one of Europe's most curious court cases: the T-shirt terror trial.

His crime was sticking a poster up in his van for T-shirts. The T-shirts were designed, printed, marketed, and sold over the internet for \$35 (about \$10 of which was to go to PFLP and Farc humanitarian projects) by his co-accused – a teacher, two students, a copy shop owner, a website host and a government worker.

All are members of a Danish activist group called Fighters+Lovers and are charged with 'sponsoring terrorism', a crime under post-9/11 Danish anti-terror laws that carries a maximum prison sentence of 10 years.

The case has caused the biggest debate about free speech in Denmark since the 2005 row about cartoons featuring the prophet Muhammad, and has been rumbling along in a Copenhagen court since September. A verdict is expected on 13 December.

Whatever the verdict, the case is almost certain to end up in the European court of human rights in Strasbourg.

<http://www.guardian.co.uk/international/story/0,,2218613,00.html>

Red Cross refused access to Guantanamo

A confidential 2003 manual for operating the Guantanamo detention centre shows that it was official policy to deny detainees access to independent monitors from the International Committee of the Red Cross (ICRC).

The manual said one goal was to "exploit the disorientation and disorganization felt by a newly arrived detainee," by denying access to the Koran and by preventing visits with Red Cross representatives, who have a long history of monitoring the conditions under which prisoners in inter-national conflicts are held.

The document said that even after their initial weeks at Guantanamo, some detainees would not be permitted to see representatives of the Red Cross. It was permissible, the document said, for some long-term detainees to have "No access. No contact of any kind with the ICRC."

– from article by William Glaberson, NY Times (supplied by Neal Wilkinson)

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Law Lords say control orders breach human rights

The British Government must rethink aspects of control orders imposed on terrorism suspects, the law lords have said, while ruling that the overall system can remain.

In a complex series of decisions, Britain's most senior judges said that the most restrictive aspect of the regime, an 18-hour home curfew, breached the human right to liberty. However, shorter curfews, possibly up to 16 hours, were acceptable.

The law lords stopped short of condemning the entire control orders system, which restricts the movements and actions of suspected terrorists without the need for a trial.

They also ruled that control orders must be subject to the same fairness procedures as a civil trial, something that had been breached in certain cases. These cases were referred back to the high court for reconsideration.

But the five-strong panel said that control orders do not constitute a criminal penalty and as such, do not have to involve the much stricter requirements of criminal fair trial procedure - a major victory for the British Government.

<http://www.guardian.co.uk/terrorism/story/0,,2202266,00.html>

French internet pirates soon to be scuttled

French web users illegally sharing files will lose their net access, thanks to a newly-created anti-piracy body granted wide-ranging powers.

France's music and movie makers and its net firms have brokered a deal to curb casual piracy rather than tackle large scale pirate groups.

Net firms will monitor what their customers are doing and pass on information about persistent pirates to the new independent body. Those identified will get a warning and then be threatened with either being cut off or suspended if they do not stop illegal file-sharing. The agreement between net firms, record companies, film-makers and government was drawn up by a special committee created to look at the problem of the net and cultural protection.

<http://news.bbc.co.uk/2/hi/technology/7110024.stm>

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UN torture agent examines Indonesia

The UN's special agent for investigating human rights abuses, Manfred Nowak, has just completed two weeks gathering information across the Indonesian archipelago.

He will present a report to the UN Human Rights Council in Switzerland.

Prof Nowak became the UN's Special Rapporteur on Torture in December 2004. He is a professor of constitutional law and human rights at the University of Vienna and director of the Ludwig Boltzmann Institute of Human Rights.

Prof Nowak visited conflict areas in Aceh, Poso and Papua.

He is the third UN rights representative to visit Indonesia in 2007. High Commissioner for Human Rights, Louise Arbour, made a five-day visit in July, and Hina Jilani, the UN secretary-general's special representative on human rights defenders, traveled to Indonesia in June.

EU moves to more repressive travel laws

Franco Frattini, the European Union's commissioner for justice, introduced two new anti-terror proposals last month.

The first would criminalize terrorist recruitment efforts and the spread of terrorist information via the internet. The second would increase the collection of personal data on airline passengers, including telephone numbers and email addresses. The information would be retained for 13 years.

The plan to collect more data, modeled after the US system of information gathering, has been criticized by lawmakers and rights groups who say it undermines privacy rights.

– from Human Rights First email, 9 Nov 07

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A pointless attack on liberty that fuels the terror threat

Ministers set on locking people up without charge should listen to the Muslim mainstream, not the neocon fringe, Seumas Milne wrote in *The Guardian* last month.

"The man has gone but his spirit lives on," he wrote. "Tony Blair's determination to turn the war on terror into a permanent undeclared state of emergency in Britain, where the 'rules of the game have changed', ended in defeat two years ago when he failed to raise the limit on detention of terrorist suspects without charge from 14 to 90 days.

"With a (British) parliamentary compromise of 28 days in the bag – already far longer than any other state in the western world – it might have been expected that his successor would be content to leave well alone. Not a bit of it. Gordon Brown is back for more, pressing the case...for the right to imprison people without charge for 56 days, or however close to that figure he can manage.

"What started a generation ago as a two-day limit on detention without charge, as exists for American citizens in the US, was fixed at 7 days in 2000; ratcheted up to 14 in 2003; raised again to 28 in 2006; and is now heading for two months of effective internment.

"The arbitrariness of this ratcheting-up is obvious: in spite of the fact that we're talking about the country's most basic civil liberties, it has clearly been a matter of 'think of a number...and double it'.

<http://www.guardian.co.uk/commentisfree/story/0,,2207050,00.html>

Canada forswears silence on slim majority

Canada's Supreme Court has upheld the murder conviction in a test case on whether police interrogation tactics should square with the Canadian Charter of Rights and Freedom's long-protected right to silence.

(The case has overtones of the issue involving ASIO and AFP officers in the ul-Haque case in Sydney recently – see above).

The Canadian court ruled 5-4 against the appeal from Jagrup Singh, a 31-year-old from Surrey, British Columbia, of his 2002 conviction for second-degree murder.

Singh was accused of firing a handgun through the open door of a bar after being kicked out for fighting in April 2002. The stray bullet struck the head of bystander Rick Lof.

According to court's case summary, Singh told the police that he did not want to talk, that he had nothing to say, that he knew nothing about the shooting and that he wanted to return to his cell.

Interrogating officers ignored his pleas and pressed on with questioning. Eventually, in a second interview, Singh confessed.

The judge hearing his trial in 2002 admitted Singh's statements into evidence and a jury convicted him. However, under Canada's Charter, an accused has the right "not to be compelled to be a witness" against himself in criminal proceedings.

Justice Morris Fish, writing for the four-member minority, believed police had exceeded their rights. "The question on this appeal is whether 'no' means 'yes' where a police interrogator refuses to take 'no' for an answer from a detainee under his total control," Fish wrote. "As a matter of constitutional principle, I would answer that question in the negative, allow the appeal and order a new trial."

– from a report by CBC News, 1 Nov 07, supplied by Robert Briggs

<http://www.cbc.ca/canada/story/2007/11/01/scoc-singh.html>

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Online data mining sucks away your privacy

Internet advertising is the latest flashpoint in the privacy debate, an article in the New York Times said last month.

"It's a digital data vacuum cleaner on steroids, that's what the online ad industry has created," said Jeff Chester, executive director of the Center for Digital Democracy. "They're tracking where your mouse is on the page, what you put in your shopping cart, what you don't buy. A very sophisticated commercial surveillance system has been put in place."

http://www.nytimes.com/2007/11/01/technology/01Privacy.html?_r=1&th&emc=th&oref=slogin

To market, to market, to be a fat pig...

Yahoo executives feel 'horrible' about political arrests of internet users in China

US search engine Yahoo have admitted they feel bad about turning over information to Chinese authorities that led to the imprisonment of two Chinese Internet users, including a journalist who was sentenced to 10 years in prison.

They also admitted for the first time that they were aware it was a criminal investigation. However Yahoo also said that it's better to co-operate with authorities in the Chinese market than not be in that market at all.

See: <http://online.wsj.com/article/SB119436469294284018.html?mod=djemMM>

– from MEAA weekly bulletin, 9 Nov 07

US spook chief: You get privacy when your definition matches ours

Donald Kerr, a top intelligence official with the US government, says that citizens need to change their definition of privacy to match the government's definition.

He is one of many in the intelligence community who finds Americans' views on privacy to be antiquated and unreasonable, Ken Fisher writes, based on an Associated Press report.

Kerr believes that privacy is not synonymous with anonymity. Americans who want to see anonymity at the center of privacy policies needed to give up this notion, Kerr says.

"Too often, privacy has been equated with anonymity; and it's an idea that is deeply rooted in American culture... but in our interconnected and wireless world, anonymity - or the appearance of anonymity - is quickly becoming a thing of the past," Kerr said.

Americans needed to shift their definition of privacy to centre instead on the proper maintenance and protection of personal data by government and business entities.

Kerr said that "privacy, I would offer, is a system of laws, rules, and customs with an infrastructure of Inspectors General, oversight committees, and privacy boards on which our intelligence community commitment is based and measured. And it is that framework that we need to grow and nourish and adjust as our cultures change."

– 11 Nov 07, supplied by Jan Whitaker, Austn Privacy Fndtn

<http://tinyurl.com/ys4jdo>

EU reopens probe into CIA renditions

EU investigator Giovanni Fava last month announced the discovery of evidence alleging Ukraine's involvement in the CIA's extraordinary rendition program.

Mr Fava claimed the CIA used Ukraine's airstrips, and he continues to investigate whether the CIA also used a Ukrainian military facility.

Alleged evidence includes a secret Ukrainian government document authorizing a CIA plane to land in Ukraine five times in August 2005. Ukrainian Defense Minister Anatoly Gritsenko denied the allegations as "nonsense," and CIA spokesperson Mark Mansfield refused to comment on the charges.

Mr Fava drafted a report last year identifying more than 1,000 secret CIA flights with stopovers on European territory since 2001.

<http://www.washingtonpost.com/wp-dyn/content/article/2007/11/14/AR2007111402038.html>

His announcement regarding the discovery of new evidence against the Ukraine prompted the European Parliament to reopen an investigation into Europe's participation in the CIA's secret flights and prisons.

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Rumsfeld led off the hook in France

A Paris prosecutor has thrown out a complaint against former U.S. Defense Secretary Donald Rumsfeld for torture in Iraq and at the Guantanamo military base.

Groups mounting the action immediately asked Prosecutor Jean-Claude Marin to reconsider his decision that Rumsfeld is protected by immunity from prosecution.

The complaint was filed 25 October during a visit by Rumsfeld to Paris. Attorney Patrick Baudoin, president of the International Federation of Human Rights, said the prosecutor threw out the complaint on 16 November. A letter from the prosecutor said the former US Defense Secretary is covered 'by extension' under immunity accorded to heads of state or government and foreign ministers for acts during their time in office.

– supplied by Robt Briggs

<http://www.iht.com/articles/ap/2007/11/23/europe/EU-GEN-France-Rumsfeld-Torture-Complaint.php>

LAST WORD: Rape victim's sentence doubled

A 19-year-old Saudi Arabian female raped by seven men has had her conviction doubled to 200 lashes.

She was convicted for being alone in a car with an unrelated male when the seven kidnapped the pair, and raped both of them in Qatif, a city in the Eastern Province.

Sentenced to 90 lashes, she appealed against the severity of the punishment. She has now been sentenced to 200 lashes and six months in jail.

LAST WORD 2: Highlighting craziness

There's an interesting article on p11 of the October 2007 edition of *The Whistle* about the Ombudsman's office's engaging two psychiatrists to do a review on psychiatric illnesses in citizens' raising vexatious complaints to the Ombudsman.

The headline is: 'It's official: crazy citizen are on the increase'.

Whatever you do, don't highlight sentences with a coloured marker, underline, use capitals or exclamation marks or make notes in margins on copies of correspondence written by others which you send to the Ombudsman – or you'll be labelled a mental case.

The October Edition of *The Whistle*, journal of Whistleblowers Australia (WBA) will be found via this link: http://www.uow.edu.au/arts/sts/bmartin/dissent/contacts/au_wba/

FINAL COUNT on the 2007 election:

A total of 1,421 candidates nominated to run in the 2007 federal election, Electoral Commissioner Ian Campbell has reported.

There were 367 Senate candidates for the 40 Senate vacancies and 1,054 candidates for the 150 House of Representatives seats across Australia.

There were 407 female candidates and 1,013 male candidates. In one case gender information was not supplied.

A total of 1,421 candidates also stood at the 2004 federal election.

DIARY DATES

6 Dec, Sydney: Human Rights and Arts Film Festival, Sydney, launch at Chauvel Cinema, details: <http://www.hraff.org.au/>

9-10 Dec, Perth: Human Rights and Arts Film Festival, Perth, with films at Film and Television Institute. Details: <http://www.hraff.org.au/>

10 December, World: Human Rights Day www.ohchr.org

10 Dec, Sydney: HREOC Human Rights Medal and Awards ceremony, Sheraton on the Park. Details: http://www.humanrights.gov.au/about/hr_awards

10 December, Canberra: ACT Human Rights forum.

10 –12 Dec, Adelaide: ACRAWSA 2007 Conference: Transforming Bodies, Nations & Knowledge. Issues of racial power and privilege in local and global contexts. Further info: <http://www.conference2007.acrawsa.org.au/>

2008:

8-27 June, Canada: 29th Annual International Human Rights Training Program, Ste-Anne-de-Bellevue, Québec, Canada. Contact the IHRTTP Team at <mailto:ihrtpp-pifdh@equitas.org>

2010: **10/10/10, World:** Target date for the start of the **CLA**-promoted moratorium on the death penalty – **10/10 for Life**.

CLArion is the monthly e-newsletter of Civil Liberties Australia A04043, Box 7438 FISHER ACT 2611 Australia. 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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