

- email newsletter of Civil Liberties
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Table of Contents

Secretary + vice-president to speak	1
Syrian authorities break up protest by HR activists	1
Brisbane AGM for Amnesty	2
US Supreme Court to hear pleas on detainees in April	2
UN Commission on Human Rights must reform, says Amnesty	2
PM opposes Bill of Rights, gay adoption in ACT	3
Privacy Fears Erode Support for a Network to Fight Crime	3
China Approves Amendments to Constitution on Human Rights	4
Human rights to be taught in (Egyptian) universities	5
May I See Your ID?	5
- from UNITY United Nations Association of Australia	6
Nigerian CL body sues for the right to vaccinate	7
Supreme Court to Decide Mandatory Identification Case	7
UK support for ACT human rights legislation	8
Conference in NZ	8

Secretary + vice-president to speak

CLA's Bill Rowlings has been asked to speak on *'Government legislation and the impact on free speech and civil liberties'* at a two-day conference in Sydney in August.

He will be one of the keynote speakers on the second day of the 17-18 August Australian Public Relations and Corporate Communications Summit, on 17-18 August at the Four Seasons Hotel in George Street, Sydney.

"The conference provides a perfect opportunity for us to put down some markers on the national civil liberties and human rights debates," Rowlings said this month (April).

"I expect to address the concept of 'corporate' civil liberties and responsibilities, as well as two-way responsibilities in relation to email free speech and the 'liberties' or otherwise associated with Australian government employment contracts."

Rowlings, the CLA secretary-treasurer and vice-president (government), is an acknowledged 'public intellectual' in the field of communication and public relations, and has lectured and tutored in the field in NSW, Victoria and the ACT, as well as co-authoring a tertiary PR textbook.

Ideas and contributions from CLA members for items to be included in the address are welcome. Please email to the address above.

- from ABC News (USA) carrying an AP report, 8 March 2004:

Syrian authorities break up protest by HR activists

ABC News reported that Syrian authorities had dispersed a protest by human rights activists on the 41st anniversary of the ruling party's accession to power.

The demonstrators were demanding political and civil reforms.

Witnesses were reported to have said several demonstrators were taken away in buses by Syrian police, and that news photographers and reporters were also arrested.

ABC News said the protest outside the Syrian Parliament in Damascus was organized by the Committees for the Defense of Democratic Liberties and Human Rights in Syria. It would have been the first of its kind in a country where political activity was tightly controlled, ABC News said.

The report said that one of about 20 demonstrators raised a banner that read: "Freedom for Prisoners of Opinion and Conscience." The banner was quickly torn up by agents, who snatched the notebooks of journalists gathered to cover the sit-in.

The leader of the protest was believed to have been Aktham Naisse, a lawyer from the northern town of Latakia. Naisse helped found the HR group in 1991 and spent seven years in detention until being pardoned in 1998 by late Syrian President Hafez Assad.

- from *ACLU (USA) newsletter*
'Stand up for freedom': ACLU 2004 Membership Conference, San Francisco, California, 6-8 July:

"On July 4th, we celebrate the birth of freedom in America.

"On July 6th, we redouble our efforts to protect it," says the ACLU

- from *10 March, Amnesty email:*
Brisbane AGM for Amnesty

□ □ □ □ □ is holding its national annual general meeting and human rights conference in Brisbane in September 2004. Further information from Valerie Thomas, ACT/SNSW Branch President on Valerie_Thomas@amnesty.org.au and Regional Activism Coordinator Bede Carmody bcarmody@amnesty.org.au.

- from *American Civil Liberties Union (ACLU) e-newsletter, 12 March 2004*
US Supreme Court to hear pleas on detainees in April

Anthony D. Romero, executive director of ACLU, spoke at the US National Press Club in March about the US's detention of enemy combatants at Guantánamo Bay, Cuba.

"Hundreds of people called enemy combatants by the US government languish in legal limbo at Guantánamo Bay," Romero said. "With no access to courts, or legal counsel, these policies are fundamentally lawless and trespass on our most deeply held values of fairness and due process."

More than 600 people from 44 countries, including teenagers, are being held at Guantánamo. The ACLU is part of a broad-based coalition that filed a friend-of-the-court brief before the US Supreme Court on behalf of the Guantánamo detainees.

The brief calls for a review of the legality of the US government's detention of the prisoners and argues that, under the terms of the US Constitution, the Geneva Conventions and the Universal Declaration of Human Rights, they cannot be detained indefinitely at Guantánamo without some review of their legal status. Arguments on Guantánamo procedures will be heard by the Supreme Court on 20 April.

In a related matter, the US Supreme Court is scheduled on 28 April to review the US President's authority to designate an American citizen an enemy combatant and detain him indefinitely. Decisions on both legal matters are expected by end-June.

- from *UNITY, the national publication of the United Nations Association of Australia, March 12, 2004 No 373*
UN Commission on Human Rights must reform, says Amnesty

By failing to act promptly and effectively, the United Nations Commission on Human Rights risks becoming irrelevant, said Irene Khan, Secretary General of Amnesty International, on the eve of the 60th session of the Commission (beginning 15 March).

"The Commission is the pre-eminent human rights body within the UN. It was created to uphold human rights and denounce violations wherever they occur. But instead, time and time again, the Commission has behaved in a highly fractious, self-interested, politically expedient manner, turning a blind eye to human rights violations and allowing perpetrators to operate with impunity," said Ms Khan.

"Countries with appalling human rights records, such as Algeria, China, Indonesia, Saudi Arabia, Russia and Zimbabwe, have escaped serious scrutiny, while the scandalous situation of detainees held by the United States at Guantanamo Bay, Cuba, has not even made it to the Commission's agenda."

"All too often the Commission has ignored the finding and recommendations of its own rapporteurs and experts. All too often, Commission members have failed to implement the resolutions and decisions of the Commission, damaging its credibility and undermining its effectiveness," she added.

"We challenge the Commission to reform itself by establishing transparent and objective criteria for selecting the countries it will scrutinise, and by putting in place a more effective system for monitoring and evaluating the implementation by States of the Commission's recommendations," said Ms Khan.

PM opposes Bill of Rights, gay adoption in ACT

The Prime Minister, John Howard, says the idea of the ACT having a Bill of Rights is ridiculous.

He was commenting on radio on the fact that the ACT is the first jurisdiction in Australia to have a Bill of Rights, following the passage of the *Human Rights Act* by the ACT Legislative Assembly.

He is quoted as saying, "If you're going to have things like that, they should be done on a nationwide basis. ... But this is political correctness inside the Labor Party parading itself for all the world to see, but then the ACT is a different constituency than some other parts of Australia.

"I'm not saying any less a constituency – a wonderful place and wonderful people – but it reacts differently to these things."

It is expected that Mr Howard will discuss with Cabinet colleagues the ACT Bill of Rights and the recent ACT legislation allowing gay couples to adopt children. The Federal Government has the constitutional power to over-rule Territory law.

– *original source, Canberra Times*

– *from NY Times, 15 March 2004*

Privacy Fears Erode Support for a Network to Fight Crime

By JOHN SCHWARTZ

Matrix, a controversial multi-state program in the US that hoped to find criminals or terrorists by sifting through databases of public and private information, has lost more than two-thirds of its member states and appears to be withering under its critics' attacks.

The Matrix program - the name is derived from Multistate Anti-Terrorism Information Exchange - was originally developed for the state of Florida by Seisint, a Florida company, in response to the 11 September terrorist attacks. At its peak, 16 states were members, and the program received pledges of \$12 million from the federal Department of Homeland Security and the Department of Justice.

Supporters of Matrix envisioned it as a powerful computer-driven program that could integrate information from disparate sources - like vehicle registrations, driver's license data, criminal history and real estate records - and analyze it for patterns of activity that could help law enforcement investigations. Promotional materials for the company put it this way: "When enough seemingly insignificant data is analyzed against billions of data elements, the invisible becomes visible."

This kind of system has long been the stuff of dreams for high-technology companies, which saw in it both a valuable service to society and a chance to recapture profits after a long technology downturn. But it also drew strong opposition from civil liberties organizations, which found Orwellian overtones in the collection and analysis of database information that would include people who have committed no crime.

The American Civil Liberties Union (ACLU) filed Freedom of Information Act requests to uncover the inner workings of the system, and other

high-tech policy groups, including the Electronic Privacy Information Center and the Electronic Frontier Foundation, have voiced concerns.

The announcements made last week by New York and Wisconsin that they were withdrawing from Matrix means that only five states remain actively involved – Florida, Michigan, Pennsylvania, Connecticut and Ohio. Utah has suspended its participation, and in January Governor Olene S. Walker appointed an oversight committee to evaluate security and privacy issues.

States provide information like arrests and convictions, Social Security numbers, driver's license data and birth and marriage records. Seisint, the company that created Matrix, then adds what the company has described as "in excess of 7 billion public records from thousands of locations on U.S. individuals and businesses, including information about neighbors, relatives and associates."

Opponents of the program say the ability of computer networks to combine and sift mountains of data greatly amplifies police surveillance power, putting innocent people at greater risk of being entangled in data dragnets. The problem is compounded, they say, in a world where many aspects of daily life leave online traces.

In a recent report on the program, the A.C.L.U. called Matrix "a body blow to the core American principle that the government will leave people alone unless it has good reason to suspect them of wrongdoing."

The same critics have called Matrix a state-run version of Total Information Awareness, a program that was being developed in the Pentagon to search an even broader array of databases for patterns of terrorist activity. Congress froze financing for that program last year in response to a public outcry over the privacy implications of the system.

Mr. Steinhardt said that his organization was worried that other, similar programs might be operating more stealthily. "While we're gratified by the demise of T.I.A. and the continuing collapse of Matrix, there's a much larger phenomenon of widespread surveillance that still occurs out there," he said. "What we're not sure about is what's still operating underground."

- from NY Times, 15 March 2004

China Approves Amendments to Constitution on Human Rights

By CHRIS BUCKLEY

BEIJING, March 14 — China's Parliament formally approved constitutional amendments on Sunday that address private property and human rights.

At the same time, the country's new prime minister promised to rein in the overheated economy.

The steps came on the closing day of the annual meeting of the National People's Congress, during which Prime Minister Wen Jiabao and other top officials continued their efforts to recast the government as a protector of the poor and powerless.

Chinese legal experts and even lawmakers said the changes, which were decided in closed-door sessions of the governing Communist Party last fall and formally approved Sunday, would not remove government restrictions on protest. China's Constitution is subordinate to the party and is amended often to reflect changes in official ideology.

In a news conference at the end of the legislative session, Mr. Wen indicated that the government would maintain a piecemeal approach to political changes while focusing on the economy and the rickety banking system.

"I think this test won't be any less easy than SARS," said Mr. Wen, referring to the epidemic that spread across China last year.

"If we adjust well, we may be able to keep the ship of the Chinese economy steady at a relatively fast clip. If we don't, it will be difficult to avoid setbacks."

The 2,900-member legislature approved 13 changes to the Constitution. "The state respects and preserves human rights," says one. "Citizens' lawful private property is inviolable," states another, as well as saying the state will protect private property and give compensation when property is confiscated.

- from *Arabic News*, 13 March 2004

Human rights to be taught in (Egyptian) universities

Egypt's Universities Supreme Council is to discuss, during its coming meeting, teaching human rights curriculum in the Egyptian universities.

The subject will include basic principles, customs and conventions regarding human rights according to the syllabus of each faculty, said Dr. Abdul Hadi Ebeid Ameen, Secretary General of the Council, noting that the council will also address the criteria of the teaching staff who will be seconded inside and outside in line with laws and rules among the various universities.

From *New York Times*, 17 March 2004

OP-ED COLUMNIST

May I See Your ID?

By NICHOLAS D. KRISTOF

Someday we'll look back with shame at the infringements of civil liberties in the last few years.

There's been a broad pattern of injustice to individuals (mostly Muslims) in the name of protecting security for the rest of us.

Think of the detention of more than 1,200 Muslim immigrants in the US, the jailing of children in an extra-legal zone in Guantánamo, and the unending imprisonment, without access to lawyers, of "enemy

combatants," even when they are American citizens.

But that ground has been well poked over. For me, the tougher question is whether there are some areas where we should be more aggressive about sacrificing our liberties.

In fact, I think there are two where we could significantly increase our security with a negligible cost in freedom.

First, we should adopt a national ID card. Surprisingly, this is anathema to many conservatives. If the right is willing to imprison people indefinitely and send young people off to die in Iraq in the name of security, then why is it unthinkable to standardize driver's licenses into a national ID?

More than 100 nations have some kind of national ID card. And the reality is that we're already moving toward a government ID system — using driver's licenses and Social Security numbers to prove who we are — but they neither protect our privacy nor stop terrorists. Instead, they simply promote identity theft.

At least seven of the 11 September hijackers, some living in Maryland hotels, managed to get Virginia ID cards or driver's licenses, which can be used as identification when boarding planes. Americans routinely travel to and from Canada, Mexico and the Caribbean with just a driver's license.

Some US officials privately fret that security may depend on a harried immigration officer in Maine who is handed a forged Guam or North Dakota driver's license.

One undercover federal study underscored the vulnerability last year by using off-the-shelf materials to forge documents that were then used to get driver's licenses in seven states and the District of Columbia. The forgeries worked in each place attempted.

So why not plug this hole with a standardized, hard-to-forge national ID card/driver's license that would have a

photo, a fingerprint and a bar code that could be swiped to check whether the person is, for example, a terror suspect who should not be allowed on to a plane?

We could simultaneously reduce identity theft and make life tougher for terrorists.

The other area where I'd like to see a tougher approach has to do with "cookbooks" to make anthrax, sarin and other chemical, biological or nuclear weapons. Over the last few years, I've collected a horrifying set of booklets, typically sold at gun shows or on the Internet, detailing how to make mustard gas, VX, anthrax or "home-brew nerve gas."

"One of the greatest feelings in the world is knowing you have the technology to wipe out your whole neighborhood," one booklet declares.

Another book says: "Nerve gases have been called 'the poor man's atom bomb,' with good reason. They make the World War I gases look like kid's stuff. I'm sure you'll be surprised how easy to make and use these little gems are." It offers advice on how to distribute the nerve gas to devastate a city, "using one or more ultralight aircraft."

In fact, biological and chemical weapons are not quite that easy to make or use. But a cult or terrorist group, particularly if a member had a background in chemistry, could make sarin, just as the Aum Shinrikyo cult in Japan did before releasing it in the Tokyo subways in 1995.

Sure, I cherish the First Amendment. But remember what Alexander Bickel, the eminent First Amendment scholar, told the Supreme Court when he argued on behalf of this newspaper (*NY Times*) in the Pentagon Papers case. Pressed by the justices on whether publication could be blocked if 100 Americans would certainly die as a result, he reluctantly agreed: "I am afraid that my inclinations to humanity overcome the somewhat more

abstract devotion to the First Amendment."

WMD cookbooks present such an exceptional situation. They have as little free-speech value as child pornography, and they are more dangerous. We have been largely spared chemical and biological attacks because the knowledge needed to make effective weapons hasn't been easy to get. Now in these cookbooks we're seeing "information proliferation" that empowers terrorists.

In these exceptional circumstances, we are — I hate to admit it — better off banning books.

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- from UNITY United Nations Association of Australia

19 March 2004 No 374

With the ACT Government legislating Australia's first Bill of Rights and the Prime Minister, John Howard, voicing his opposition, the stage is set for a possible federal over-ruling of Territory law.

In this atmosphere, several articles culled by the Parliamentary Library would be of interest to those debating the issue. They are:

Keith, K.j. **The New Zealand Bill of Rights experience: lessons for Australia.** *Australian Journal of Human Rights*, vol 9 No. 1, June 2003; pp119-34

McClelland, Robert. **How is a Bill of Rights relevant today?** *Australian Journal of Human Rights*, , vol 9 No. 1, June 2003; pp11-20.

McDonald, Leighton. **New directions in the Australian bill of rights debate.** *Public Law*, Spring 2004 pp22-32.

Williams, Daryl. **Against constitutional cringe: the protection of human rights in Australia.** *Australian Journal of Human Rights*, , vol 9 No. 1, June 2003; pp 1-9.

22 March 2004, via Agence France Press

Nigerian CL body sues for the right to vaccinate

In Nigeria, civil liberties campaigners are suing a national Islamic organization because of its opposition to polio immunisation.

In the northern Nigerian state of Kano, Islamic clerics and the local government are rejecting the vaccine, saying it is unfit for human consumption because it sterilises male children.

Last week, a Nigerian government-appointed expert panel dismissed claims that the drug contains anti-fertility agents, adding it was safe.

The Civil Rights Congress (CRC) has gone to the Nigerian high court seeking an injunction to restrain the Supreme Council of Sharia in Nigeria from opposing the use of the vaccine.

"We have gone to court to dismiss this spurious claim by the Sharia council that the vaccine is unsafe, and to let the whole world know that the right of the child to good health is being denied," CRC's General Secretary Nasir Abbas told AFP.

He said the case was due for hearing on 5 Apr 2004.

- from NY Times, 22 March 2004

Supreme Court to Decide Mandatory Identification Case

By LINDA GREENHOUSE

WASHINGTON — A Nevada rancher's refusal four years ago to tell a deputy sheriff his name led to a Supreme Court argument today on a question that, surprisingly, the justices have never resolved: whether people can be required to identify themselves to the police when the police have some basis for suspicion but lack the probable cause necessary for an actual arrest.

The answer, in a case that has drawn intense interest from those who fear increased government intrusion on personal privacy, appeared elusive.

One of the many wrinkles in the case is that once a person is actually

arrested, the right to remain silent is guaranteed by the Fifth Amendment. To that extent, a person who falls under a lesser degree of suspicion may be seen as having less constitutional protection.

Another wrinkle is that there is no claim that the police cannot run a check on a license tag or — if the suspect is driving — ask to see the driver's license. In this case, Mr. Hiibel's daughter was behind the wheel, Mr. Hiibel (the rancher) was outside the truck, and the case was not treated as a traffic investigation.

As a matter of Fifth Amendment analysis, one question is whether giving one's name is sufficiently "testimonial" to invoke the constitutional protection against self-incrimination. "The question, it seems to me, is whether a name itself has intrinsic testimonial consequences," Justice Anthony M. Kennedy told Mr. Dolan, the public defender.

If it did not, Mr. Dolan replied, "the government could require nametags."

In briefs filed with the court, civil liberties groups warned that a rejection of Mr. Hiibel's claim to privacy in this case could open the door to such measures as national identification cards.

One group, the Electronic Privacy Information Center, said that government databases are now of such "extraordinary scope" that "systems of mass public surveillance" could result from a ruling that authorized "coerced disclosure of identity."

But the justices appeared eager to avoid a broad ruling and to confine their eventual decision to the specific context of a suspected crime. "We're all concerned about national ID cards and all that kind of stuff," Justice John Paul Stevens said at one point.

23 March 2004, media release from ACT Chief Minister

UK support for ACT human rights legislation

The ACT human rights legislation was soundly endorsed in high level talks in London initiated by Chief Minister Jon Stanhope, according to an ACT Government media release.

Mr Stanhope met with Cherie Booth QC, an international human rights lawyer and wife of British Prime Minister Tony Blair, and Professor Francesca Klug OBE, a prominent British human rights academic at 10 Downing Street, the release said.

Professor Klug assisted in the development of the UK legislation and was involved in the consultation on the ACT bill of rights.

Mr Stanhope also met with the Right Honourable Jean Corston MP, the Chair of the Joint Parliamentary Committee on Human Rights and Lord Lester QC of Herne Hill, a very highly regarded human rights academic, at Westminster to discuss the operation of the human rights legislation.

“In our talks, both Ms Booth and Professor Klug expressed strong support for the ACT Human Rights Act. The ACT legislation was closely modelled on the United Kingdom’s Human Rights Act and it is interesting and worthwhile to study the UK experience,” (Mr Stanhope said).

“The UK legislation was enacted some three and a half years ago and at that time there was significant opposition to the proposal, just as there was in the ACT.

“But just as in the ACT, the British opposition has proven to be misinformed and alarmist. Despite dire predictions to the contrary by outspoken opponents, there has been no rush of litigation.

“And concerns that there would be a transfer of power from the executive to the judiciary have been demonstrated to be equally unfounded.

“Indeed, I was interested and pleased to observe that the UK Human Rights Act, despite being opposed at the

outset by the Opposition, now attracts bipartisan support,” said Mr Stanhope.

“The participants at both meetings made the point that the enactment of human rights legislation by the ACT now meant it could no longer be said that Australia was the only common law country without human rights legislation and could therefore no longer be regarded as a human rights backwater,” said Mr Stanhope.

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Conference in NZ

July 11-13 Conference *Living and Learning Together* -- role of human rights education in strengthening communities in New Zealand and the Pacific. Hosted by NZ Human Rights Commission and the NZ National Commission for UNESCO, Auckland. Info: Lili Tuioti or Rosi Fitzpatrick, TEUIA Consultancy, PO Box 78 321, Grey Lynn, Auckland, New Zealand. Ph: **+64 9 360 0257**, fax: **+64 9 360 0258**, e-mail: tkconz@xtra.co.nz or, Victoria Gregory (Human Rights Commission) victoriaq@hrc.co.nz
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