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– 30 June 2004, from a report in the New York Times

FBI agent calls in Legal Aid to help free the man he arrested

A Nepalese man was arrested as a suspected terrorist in New York in October 2001 for videotaping a street scene which included a 12-storey building where the FBI occupied three floors.

Purna Raj Bajracharya, a 47-year-old Buddhist, was filming NY street scenes to take back to his wife and sons in Katmandu. He had no idea there was an FBI office in the vicinity.

But the travelogue became film noir as Mr Bajracharya ended up spending three months in solitary confinement in prison in a 2m x 1m cell illuminated 24

hours a day. He was stripped, humiliated, and subjected to secret court hearings over the three months.

Mr Bajracharya had overstayed a tourist visa (by about four years), and so was labelled a suspected terrorist.

The case became so bound up in bureaucratic red tape that even the arresting officer, FBI agent James Wynne, 50, despaired of a solution. He – the arresting FBI officer – called in the Legal Aid Society to help extricate the man from US patriotic paranoia run riot.

The innocent, diminutive Mr Bajracharya was eventually loaded on a plane to Katmandu in January 2002, still shackled and dressed in orange prison garb.

– from SMH, 01 July 2004, p11

‘In any society, it’s a risk to take freedoms for granted’

– *George Williams*

Harmonising with a common theme about rights being eroded in the current climate of new laws against terrorism, Williams favours an Australian bill of rights as protection for people and society.

In a book just launched, he makes three suggestions:

1. the 'lack of protection for fundamental rights in Australia presents a compelling case for reform';
2. the initiative should come from the Australian people and their elected representatives, rather than the courts (by this he means that there should be a bill of rights enacted by Parliament); and
3. there should be a gradual approach to broadening the extent of rights.

Williams suggests we mimic Canada, who introduced a bill of rights in 1960, followed by a broader constitutional version in 1982.

Williams finds it ironic that our current Government is in favour of Bill of Rights for Iraq...but not for Australia.

Williams' book *The Case for an Australian Bill of Rights: Freedom in the War on Terror* UNSW Press, was launched on 01 July at the National Museum of Australia in Canberra.

— *précis* by Diana Simmons

- editorial, NY Times 03 July 2004

Human Rights and the Court

The (US) Supreme Court has upheld an important law that offers victims of torture, genocide, slavery and war crimes worldwide a day in court, and a shot at justice.

The law, the arcane Alien Tort Claims Act, was originally written to fight piracy in 1789, but it has been used by foreigners to sue in American courts for overseas human rights violations.

Holocaust survivors used the act to pry damages from the Swiss banks that held the assets of Nazi victims.

In Myanmar, people who say they are victims of slave labor are using it to sue an American company involved in a gas pipeline project.

Victims of the Abu Ghraib prison abuses are now suing the prison's private contractors under the act.

Human rights advocates rely on the law to adjudicate a wide range of crimes that might otherwise never get to court.

International businesses hate the law and consider it a license for American courts to stray from their jurisdiction and hold them accountable for the sins of unsavory foreign governments. The Bush administration agrees.

But in its first ruling on the act, the Supreme Court properly sided with the cause of human rights.

Justice David Souter's opinion, in a 6-to-3 decision on the fate of the act, tries to strike a balance by upholding it but limiting its applicability to those crimes of universal jurisdiction that

nations have agreed are particularly heinous.

The actual case before the court — a lawsuit by a Mexican doctor illegally detained for a few hours during an investigation into the death of an federal Drug Enforcement Administration officer — didn't come close to meeting that threshold, and was thrown out.

The Supreme Court also said that lower courts should be sensitive to how cases could affect American foreign policy. Judges should treat such claims warily.

The Bush administration is too quick to argue that the application of the act will impede the war on terror and poison relations with friendly governments.

- from Falun Gong media source
06 July 2004

Australian shot twice in foot: freedom to protest under fire

South African police have classed a shooting of an Australian Falun Gong practitioner visiting South Africa as attempted murder.

Mr. David Liang, 41, was shot in both feet and will require two operations.

Nine Australians FG supporters were visiting South Africa to try to initiate a lawsuit against two visiting Chinese officials, Vice President Zeng Qinghong and Minister of Commerce Bo Xilai

While Mr. Liang was driving the Australians' car, a vehicle that had been following them pulled alongside and a man opened fire with an AK-47 assault rifle. The front tyre was shot out and Mr. Liang was shot in both legs.

The assailants made no attempt to rob the Australians.

— from UNity No 387, 01 July 2004
(UN Assn of Australia newsletter)

Passport legislation tightened

The Australian Government has introduced the Australian Passports Bill which includes measures to combat identity fraud and possible misuse of passports.

According to the Minister for Foreign Affairs, Mr Downer, the Bill addresses limitations in the 66-year-old Passports Act and clarifies the Government's power to cancel or refuse to issue passports for national security and law enforcement reasons.

Under the Bill:

- Penalties for passport fraud will rise from \$5000 or two years in jail to \$110,000 or 10 years in jail;
- The Minister will have discretion to refuse the issue of passports to applicants who have lost more than two passports in five years.

The validity of their subsequent travel documents may also be limited and higher fees may be imposed on people who persistently lose passports.

- Refusal or cancellation of a passport will be allowed if an Australian is likely to engage in, is charged with, or has been sentenced for specific serious crimes including child sex tourism, child abduction, sexual slavery, drug trafficking, people smuggling and terrorism.

The Bill also provides for the introduction of facial biometric technology as an effective means of verifying identity.

- from QCCL newsletter, February 04

Queensland CCL fires up with website, newsletter

Queensland Council for Civil Liberties President Ian Dearden reported in their latest newsletter (February) that the QCCL website 'continues to be one of the shining lights of our achievement over the past two years'.

Run by John Ransley, the website includes press releases, speeches, submissions, newsletters and annual

general meeting reports.

E: john.ransley@bigpond.com

QCCL: www.qccl.org.au

Nicole Forrest has taken over their newsletter, with the February 2004 issue emerging 'after a long hiatus', according to the president.

For 2004, QCCL's two big projects were preparing the history of the organisation, and appointment a project officer.

Mandy Lister, a fourth year Law and International Business student at Griffith University, has taken up that position.

- from UNity No. 388, 09 July 2004

(e-newsletter of the UN Assn of Aust.)

UN Under-Secretary-General visits

The UN Under-Secretary-General for Management and acting Security Coordinator, Catherine Bertini, will visit Australia from 03 to 13 August as a guest of the Department of Foreign Affairs and Trade.

Bertini administers the UN's human, financial and physical resources and the security of all UN personnel worldwide.

She will be in Sydney from 5-9 August, Canberra from 9-11 August and Melbourne 11-13 August.

Ms Bertini, an American, was appointed by Secretary-General Kofi Annan in January 2003. She had served for 10 years as executive director of the UN World Food Program (WFP), the world's largest international humanitarian agency

Before joining WFP, Bertini served as Assistant Secretary of Agriculture for Food and Consumer Services at the US Department of Agriculture, and as Acting Assistant Secretary of the Family Support Administration in the US Department of Health and Human Services.

- from UNity, as above

Call for African HR court

The African Union (AU) Assembly of Heads of State and Government should ensure the establishment of an effective and functioning African Court on Human and Peoples' Rights (African Court), Amnesty International urged in a statement last month.

- from ACLU email 17 July 2005

Pizza leaves a marked trail

How will our daily lives be affected once our privacy is gone, asks the American Civil Liberties Union?

Just go to this story to find out:

<http://www.aclu.org/pizza?orgid=EA071504B&MX=1405&H=0>

"Right now, you probably don't think twice about the electronic trail you leave with each credit card purchase, ACLU executive director Anthony Romero says.

"But you should know that under provisions of the USA Patriot Act, government agents now have the power to access those records without your knowledge.

"Astonishingly, if he deemed it necessary, Attorney General Ashcroft could get authorization from a secret court to place wiretaps on your phones without probable cause.

"He can demand records of your reading habits from bookstores and libraries; he can even make and keep a copy of the key to your house.

Romero urged action if Americans wanted to stop "this massive erosion of our personal privacy".

- from UNity No 389 16 July 2004
(e-bulletin of the UN Assn of Aust)

Human rights in the Pacific

Amnesty International Australia's inaugural human rights conference will discuss *Human Rights: A Pacific Agenda - Partnerships and Perspectives*.

The conference, to be opened by the Secretary General of Amnesty International, Irene Khan, will be held on 4-5 September at the Brisbane Convention and Exhibition Centre.

Human Rights: A Pacific Agenda aims to promote dialogue and understanding between key actors in the Pacific region on critical issues affecting the promotion and protection of human rights, including Australia's role.

Interventions in the Solomon Islands, East Timor and Papua New Guinea will be reviewed.

The challenges facing human rights defenders in the region will be addressed.

The prevalence of violence against women and the human rights of refugees and asylum seekers will be explored.

Program and registration form are available online:

http://www.amnesty.org.au/whats_happening/hrc/home

For more information e-mail: afitzsimmons@amnesty.org.au

Freedom on the air

There was extensive discussion of the legal aspects of freedom of speech and freedom of assembly on ABC Radio's National Law Report (8.30am-9am) on 20 July.

Access to a transcript should be available on the RN website.

– *John Shaw*.

HR's Sev O to speak

Sev Ozdowski will speak at the National Press Club in Canberra on Wednesday 25 August.

Sev is the Australian HR Commissioner, and also is acting Disability Discrimination Commissioner.

CLA benefits from speaker fee

Secretary-Treasurer Bill Rowlings has organised for CLA to benefit from a \$500 speaking/expenses fee for his talk at a national communications event.

He is speaking on CL issues in relation to public relations, marketing and communications roles.

The two-day conference is being held at the Four Seasons Hotel on George Street at Circular Quay, in Sydney on 17 and 18 August.

Ironically, a row has broken out because the Action on Smoking and Health (ASH) interest group has objected to the fact that a tobacco industry spokesperson is one of the conference speakers.

It seems ASH is happy for its own message to go out in public, but doesn't appreciate having its arguments rebutted!

Like to know your right to refuse?

NSW Council for Civil Liberties is one of three groups behind a new booklet which explains people's rights in relations to ASIO and the Australian Federal Police.

The new, 42-page booklet – *Terrorism Laws: ASIO, the Police and You* – is a 'practical guide to people's rights and responsibilities under the terrorism laws'.

The booklet's co-producers were the Australian Muslim Civil Rights Advocacy Network and the University of Technology's Community Law Centre.

It was launched at the NSW State Parliament building Justice John Dowd, a former Liberal State Attorney-General and NSW Opposition Leader who has long been a strong supporter of civil rights.

The booklet is available at:
<http://www.amcran.org/booklet/TerrorLawsV1.html>

– John Shaw

ACLU signs on to 'list watch' for a few dollars more

The American Civil Liberties Union has split its own board by promising the US Government it would not knowingly employ people whose names appear on 'watch lists' of suspected supporters of terrorism.

Some members of the ACLU say the promise to not employ people known to be on government terrorism lists is a big mistake.

The promise was made so that the ACLU could continue to receive money from federal employees.

However, other board members believe that the move is a token gesture.

– from ACLU email, 22 July 2004

Shirty protest arrest overturned

The city of Charleston, West Virginia, recently dropped trespassing charges against a couple protesting a visit by President Bush at a Fourth of July celebration.

Jeff and Nicole Rank were arrested at a rally for the President after they removed an outer layer of clothing to reveal homemade anti-Bush t-shirts.

Local law enforcement officials took the couple away in handcuffs after they refused to cover the t-shirts.

- from UNity No 390, 23 July 2004
(newsletter of UN Assn of Australia)

Legal aid policy

(The) Labor (Party) has announced plans to review and reform the funding model and guidelines for Commonwealth Legal Aid which, it says, would remove the existing severe restrictions on use of Commonwealth Legal Aid money to allow the allocated Legal Aid money to

go further and give Legal Aid Commissions more discretion to use money effectively and in the best interests of their clients.

(Labor) would also “scrap the flawed and discriminatory tender process for Aboriginal and Torres Strait Islander Services that is currently underway and allow Legal Aid Commissions and other responsible legal service bodies to efficiently manage their funds and apply them in the best interests of their clients. ...”

More information and full speech to the Law Institute of Victoria:
Nicola.Roxon.MP@aph.gov.au

– 21 July 2004

Vietnam reacts to US criticism

Vietnam has reacted strongly to a US House of Representatives decision to restrict US aid because of HR concerns.

The US legislation prevents the US Government from boosting non-humanitarian aid to Vietnam over the current \$US40m unless Vietnam frees political and religious prisoners and improves its HR record, according to Ben Prowse of *AFP* as reported in *The Jakarta Post*.

– 22 July 2004

Malaysian Minister discounts 2000 maids raped and assaulted annually

Malaysian Home Affairs Minister Azmi Khalid admitted to Reuters that each year more than 2000 maids in his country suffer physical and sexual abuse.

But that figure was OK, he inferred, because it is “less than 1 per cent of maids (who) are subjected to physical abuse’, according to a Reuters report in *The Jakarta Post*.

The US-based HR Watch claimed many of the 240,000 maids in Malaysia were raped or assaulted,

worked up to 18 hours a day seven days a week, and denied even their meagre pay of \$US0.25 an hour, the Reuters report said.

More than 90% of the near 0.25m maids in Malaysia are from Indonesia.

ENDS ##### ENDS ##### ENDS #####
