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### **State organisations agree to formally establish national civil liberties organisation**

A two-day meeting of five State/Territory civil liberties organisations has decided unanimously to form a national civil liberties entity.

The likely name of the incorporated association will be the Australian Council for Civil Liberties (ACCL).

One of its primary focuses will be campaigning for a national Bill of Rights.

Groups attending the meeting were the NSW Council for Civil Liberties, Liberty Victoria, the Queensland Council for Civil Liberties, the SA Council for Civil Liberties and Civil Liberties Australia (ACT).

The historic gathering took place at the Glebe offices in Sydney of the NSW CCL on 25 and 26 June 2005.

"This is a most significant step forward for civil liberties in Australia," CLA President Dr Kristine Klugman said.

"The goodwill evident at the meeting means we can anticipate shared campaigns, exchange of intelligence and information, and a national thrust to counter the right-wing forces that are in danger of shaping Australian society more towards a 'police state', or a collection of police states.

"Too often in the past it has been easy for organised government departments and agencies to divide and scatter the impact of civil libertarians.

"We hope that an active, organised, representative ACCL will lead the way in tackling national issues on behalf of all Australians.

"We should not allow reactionary forces to whittle away freedoms that have been hard won over many decades."

She said that, while CLA (ACT) was instrumental in calling the meeting, all State bodies attending were equally enthusiastic about working together formally.

Several practical steps are under way:

- State CL bodies had until a 30 June deadline to forward copies of individual constitutions and articles of association to former Victorian CCL/Liberty president Greg Connellan;
- Connellan will draft a proposed national constitution and articles of association by end-August and circulate them to state presidents for consideration and agreement;
- a Yahoo Groups site has been set up to facilitate frequent communication and intelligence sharing among State/Territory CL groups;
- work is under way by Victorian and NSW representatives on a national website which will be hosted by NSW;
- active steps are being taken to encourage the forming of workable, representative CL groups in those States and Territories not at the June meeting;
- it was agreed that a primary aim of a national body would be campaigning for a national Bill of Rights; and
- to establish, within 2-3 years, a national Civil Liberties Foundation with a board which includes eminent people to raise funds (such as by sponsorships and bequests) and conduct national education programs.

The group also agreed to work towards a national civil liberties conference, including a meeting of national 'ACCL' officer bearers – in conjunction with a two-day Victorian symposium and oration in 2007.

As a first product of the cooperation, it was agreed to develop a CL guide to terrorism law/rights for the media.

ACT terrorism expert and PhD student in Civil Liberties/Terrorism, Christopher Michaelsen, has agreed to prepare the first outline for the 'Journos' Terror Guide'.

Those attending the two-day meeting were: NSW - Cameron Murphy, David Bernie, Stephen Blanks, Michael Okoye (NSW CCL intern from New York University, USA); Victoria – Greg Connellan, Adam Pickvance, Lucie O'Brien; South Australia – George Mancini; Queensland – Michael Cope; ACT – Kristine Klugman, Anthony Williamson, Bill Rowlings.

Also present on the Sunday were Pauline Wright, David Leung and Derek Hand of NSW.

The group heard from visiting speakers: on Saturday, Howard Glen of Human Rights Australia, and on Sunday, Professor George Williams, head of the Bill of Rights Project UNSW, and chair, Human Rights Consultation Committee Victoria, and Anna Johnston, chair of the Australian Privacy Foundation.

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### **Momentum continues to build for national Bill of Rights**

Streams of activity among law, media and civil libertarian groups are funnelling towards a major campaign for an Australian Bill of Rights (BoR).

The 'Australian Council of Civil Liberties' (ACCL – see story above) formally agreed to mount a campaign.

The New Matilda online news magazine is mounting a campaign, led by former Labor Federal Minister Susan Ryan, for a BoR.

New Matilda has the first draft of a Bill – it was largely prepared by Professor George Williams, who is Director of the Gilbert + Tobin Centre of Public Law at UNSW.

The Centre is itself a campaigner for a national BoR.

Williams chairs the newly-formed, four-person Victorian Human Rights Consultation Committee which is investigating whether a BoR should be introduced to that State.

As well as this activity, the Australian Lawyers Alliance is planning to campaign for a national BoR under just-installed new president, Richard Faulks.

Undoubtedly, there are other organizations working on the same issue.

It would seem the best role CLA and an ACCL might play is to coordinate the diverse activity by calling people together to discuss how to maximise the impact of individual activities.

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### **ACT conference reviews one year of Australia's first Human Rights Act**

An all-day conference at the ANU on 28 June reviewed the impact of the first 12 months of operation of the ACT's Human Rights Act.

The act is the first 'Bill of Rights' in Australia.

Opening the conference, the man responsible for the Act, ACT Chief Minister Jon Stanhope, said:

"It ought to be an occasion for observing that the dire warnings of the anti-bill-of-rights brigade have not manifested themselves.

"On the contrary, a second Australian jurisdiction is now seriously looking at the prospect of formally recognising its residents' basic rights, and critics of our own journey have been reduced to complaining that the ACT Human Rights Act has *not* clogged the courts, *not* gone to judges' heads and *not* brought civil society down around our ears."

However, he said, the threats to individuals and human rights throughout the world, including Australia, were so dire that it was not a time for rejoicing.

*(See excerpt from Stanhope speech at end of this newsletter – where he quotes a CLA member).*

Other speakers said the main success of the ACT HR Act had been in reviewing

legislation before it was put before the Parliament and became law.

ACT Human Rights Commissioner Helen Watchirs and Deputy Chief of the ACT Justice and Community Safety Department, Elizabeth Kelly, both stressed how much the proposed Electro-Compulsive Therapy legislation had been improved by being forced to go through a process where the draft was evaluated against the Human Rights Act.

Watchirs also said the HR Act had chalked up another significant first – the new jail for the ACT would be built to a design and operating principles which took account from the outset of human rights considerations.

The ACT Director of Public Prosecutions, Richard Refshauge, said the HR Act had been cited in about 11 or 12\* cases in the first year.

Of these:

- 8 were in the Supreme Court;
- 1 in the Court of Appeal; and
- 1 in the Administrative Appeals Tribunal.

Of these, one bail application had been argued on the basis of the right to liberty of the person,

Another mention was in the case of a person charged with driving causing death, where the court was asked whether it was fair to convict and sentence a person based on the current law when more lenient law was about to be introduced.

Both Refshauge and Gabrielle McKinnon, the person formally appointed under an Australian Research Council Grant to conduct a one-year and four-year review of the Act, agreed that it had not been a decisive issue in any matter in the courts in the first year.

In response to a question, Professor George Williams (see story above) said he believed there was room for BoRs – or charters of rights - at every level of government, because each level was responsible for different issues.

There was no reason, he said, why every local government council and every

State and Territory could not have its own BoR.

“Even in those circumstances, I think there would still be a need for a national BoR,” he said.

The papers presented at the conference will be available on the websites of the organisers:

[www.regnet.anu.edu.au](http://www.regnet.anu.edu.au)

[www.gtcentre.unsw.edu.au](http://www.gtcentre.unsw.edu.au)

A further review of the ACT HR Act was due on 1 July in a half-day session run by Commissioner Watchirs.

There will be a report on that in the next CLArion.

*\* the number depends on whether or not you include mere passing mention*

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### **‘Shut your GoB’ is message to US**

The American Civil Liberties Union (ACLU) is part of a national push by US civil libertarians to shut down Guantanamo Bay detention centre.

Civil Liberties Australia (CLA) is urging Australian civil liberties and human rights bodies to swing in behind the ACLU campaign.

CLA has nicknamed Guantanamo Bay as 'GoB', and is mounting a campaign for Australian civil libertarians and human rights advocates to email American politicians and bureaucrats to *'Please, shut your GoB'*.

Just send 2 or 3 emails to 2 or 3 US and politicians and news outlets.

And then send a note to 2 or 3 of your friends, suggesting they do likewise.

Copies of the emails should be sent to Australian Government politicians and news outlets, if you are in Australia, or to the politicians and outlets in your home country.

According to the ACLU, the problem with how America is treating its prisoners from Afghanistan and Iraq is far wider than just the appalling behaviour at GoB.

"Some prisoners are being held in complete secrecy," the ACLU says.

"The (US) government continues to hold prisoners, known as 'ghost detainees', in secret prisons around the globe.

"These prisons were created after President Bush signed a secret presidential order based on a secret memorandum scheming to keep prisoners off prison rolls and outside the reach of the Red Cross."

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– from Carter Centre website, 7 June 05

### **Ex-Pres Carter calls for shutting down Guantanamo Bay**

Former US President Jimmy Carter has called for closing Guantanamo Bay and other secret US jails around the world.

His call came at the end of a two-day conference titled 'Human Rights Defenders on the Frontlines of Freedom: Advancing Security and the Rule of Law,' chaired by Mr Carter and UN High Commissioner for Human Rights, Louise Arbour.

Human rights defenders from 14 nations attended the conference, which was sponsored by the Carter Centre for Human Rights.

"The US continues to suffer terrible embarrassment and a blow to our reputation as a champion of human rights because of reports concerning abuses of prisoners in Iraq, Afghanistan, and Guantánamo," Mr Carter told a media conference.

He said the US Government needed to:

- Close down Guantánamo and two dozen secret detention facilities run by the US as soon as practicable
- Reaffirm the US commitment to due process and international law and give unequivocal assurances that all provisions of the Geneva Conventions on the treatment of prisoners and the Convention Against Torture and Cruel, Inhuman, and Degrading Treatment, including during interrogations, would be strictly enforced
- Assure no detainees are held incommunicado and that all know the

charges against them and be assured of fair trials

- Terminate the policy of 'extraordinary rendition' (transfer of detainees to foreign countries where torture has been reported)

- Establish an independent commission with authority to investigate places where terrorism suspects are held in US custody and make a full report to the world, as called for by bipartisan congressional leaders, and

- look to multilateral mechanisms when seeking to advance freedom and democracy, especially the UN Office of the High Commissioner for Human Rights, which is a willing partner in this endeavor.

The conference heard concerns about the policies of governments around the world, including the following:

- In **Indonesia**, efforts to reform the state intelligence body, implicated in many human rights violations, are being resisted in the name of safeguarding security.

- In **India, Russia, and Egypt**, the law is used to undermine human rights obligations and constitutional rights, as human rights leaders are harassed and civic organizations are shut down.

- In conflict zones such as **Chechnya** (Russian Federation) and **Colombia**, gross crimes against humanity – and especially the targeting of human rights activists – are justified as counterterrorism, obstructing defenders' vital contributions to conflict resolution.

- Persistent poverty contributes to insecurity and violence in countries as diverse as **Kenya, Nigeria, and Uzbekistan**.

- Human rights defenders in countries where tensions could escalate into conflict, such as **Indonesia** and some areas of **India and Thailand**, face harassment, physical abuse, forced

disappearances, and death from governments, paramilitary groups, and non-state actors. Perpetrators for such violence, especially in places like **Colombia and Peru**, must be prosecuted.

- The most extreme human rights violations against defenders are occurring in **Burma, Uzbekistan and Zimbabwe** and require a concerted international campaign led by neighboring states to press those governments to uphold the rule of law and basic respect for human rights.

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– from UNity, 24 June 2005 (e-newsletter of the UN Assn of Australia)

#### **Action launched against detention centres firm**

Five human rights non-government organisations (NGOs) have launched a complaint in the United Kingdom and Australia against Global Solutions Ltd (GSL) for complicity in serious human rights violations in Australian immigration detention centres.

"GSL advertises that its policies 'are guided by respect for the human rights and fundamental freedoms as laid out in the Universal Declaration of Human Rights'. Yet Australia's detention regime for asylum seekers has been found to be in clear breach of international human rights," say the NGOs.

The complaint – by the International Commission of Jurists (ICJ), Rights and Accountability in Development (RAID), the Human Rights Council of Australia (HRCA), Children Out of Detention (ChilOut) and the Brotherhood of St Laurence – is based on the Guidelines for Multinational Enterprises of the Organisation for Economic Co-operation and Development (OECD).

For more information, International Commission of Jurists at [http://www.icj.org/news.php?id\\_article=3706&lang=en](http://www.icj.org/news.php?id_article=3706&lang=en)

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– from *Civil Liberty*, journal of the NSW CCL, June 2005

#### **NSW CCL ACTION LIST**

These are NSWCCCL's recent or current activities:

**Submission:** to the Review of the ASIO questioning and detention powers.

**Submission:** to the Inquiry into the Cornelia Rau matter

**Death penalty:** organising a cross-party Australian Parliament working group to promote legislation to eliminate capital punishment, including the adoption of the Second Optional Protocol into domestic law. This is a UN treaty which promotes elimination of the death penalty.

**ABS longitudinal census dataset:** meeting with the Australian Bureau of Statistics to express privacy concerns re its longitudinal census data project.

**Photo ID card:** liaising with the Australian Privacy Foundation in opposition to the NSW Government's proposal to introduce a new photo identity card for non-drivers.

**File sharing litigation:** appearing *amicus curiae* (as a 'friend of the court') in the case of Universal Music and Others v Sharman Licence Holdings and Others.

**Submission:** NSW Ombudsman's Office request investigation of accidents and deaths association with high-speed police chases.

**Subcommittee established:** to prepare a shadow report to the UN Human Rights Committee under the International Covenant on Civil and Political Rights (ICCPR). The Australian Government is currently preparing a report as part of the ICCPR, and it is intended the NSWCCCL's shadow report will offer an alternative view of civil and political rights in Australia.

**Submission:** to the Senate Legal and Constitutional Committee on a bill amending the Criminal Code and the Telecommunications (Interception) Act. This bill concerns new powers for surveillance and interception of private communication like telephone calls and emails.

**International campaign against mass surveillance:** supported by the American Civil Liberties Union. NSWCCCL endorses this campaign and is preparing a supplementary report on surveillance in Australia.

**Hosted:** Inaugural meeting of Australian Council for Civil Liberties, 25-26 June.

Contact NSWCCCL if you would like more information on any of these matters – 02 9960 7582, or nswcccl@mail2me.com.au

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### **CLA ACTION LIST:**

These are the recent or current activities of CLA in the ACT and beyond:

**Submission:** lodged to ACT Legislature's Standing Committee on Legal Affairs, on inquiry into Police Powers of Crowd Control.

**Submission:** being prepared for the committee, into Sentencing in the Criminal Jurisdiction in the ACT (also known as 'mandatory sentencing).

**Submission:** to the ACT Government on Gay Marriage, in preparation.

**Submission:** on Strict Liability legislation, for the Legal Affairs Committee, tendered.

**Stun guns:** questions re ACT Policing and the Australian Federal Police (CLA), questions placed on notice and FOI request (Liberal Opposition) – lodged.

**Submission:** to Victorian Human Rights Consultation Committee – in preparation.

**Conference:** one-day, at ANU, on Assessing the First Year of the ACT Human Rights Act – attended by President Dr Kristine Klugman and Secretary-Treasurer Bill Rowlings.

**Workshop:** Community Consultation after one year of the Human Rights Act: how has it worked, how could/should it be changed (1 July 2005 – president and secretary to attend).

**National CL Group:** acted as secretariat to enable inaugural meeting in Sydney 25-26 June.

**Student chapters:** CLA sub-groups being investigated at ANU, U. Canberra and Australian Catholic University.

**Annual lecture:** major set-piece lecture for Canberra, being investigated after first choice speaker was unavailable.

**Journos' Guide to Terror:** First outline being developed by Christopher Michaelsen.

**Website:** under consideration.

**Campaign:** Launching 'Please Shut your GoB' email campaign against the USA's Guantanamo Bay detention centre.

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– from UNity, cited above

### **UK's Immigration, Asylum and Nationality Bill proceeds on 5 July**

The second reading of Britain's Immigration, Asylum And Nationality Bill will occur on 5 July.

The Bill builds primarily on two published UK Government proposals:

*"Controlling our borders: Making migration work for Britain"* the Home Office five year strategy for asylum and immigration, published in February 2005; and

*"Confident Communities in a Secure Britain,"* the Home Office Strategic Plan, 2004-2008 published in July 2004.

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– from FIDH email, mid-June 05

### **3 arrested in Ethiopia**

Three people from the Ethiopian Human Rights Council (EHRCO) have been arrested and disappeared, according to the International Federation for Human Rights (FIDH, in French).

The arrests follow their monitoring of the electoral process on 15 May 2005, and their investigations into a violent crackdown on demonstrators who denounced electoral fraud in Addis Ababa on 8 June (at least 26 died and 100 were injured).

Mr Tsegu Birhanu, head of the Monitoring and Investigation Department of EHRCO, and Mr. Yahred Hailemariam, his assistant, were arrested by security forces on 13 June.

They had been visiting hospitals to take photographs of wounded demonstrators or the bodies of the slain.

Mr Tadesse Chernet had earlier been arrested on 8 June at his home in Addis Ababa.

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– from UNity, 24 June 2005

**WHO publishes new book on rights of the mentally ill**

As part of an ongoing effort to improve conditions for the mentally ill, WHO has published the *WHO Resource Book on Mental Health, Human Rights and Legislation*.

It includes input from consultations with hundreds of experts and stakeholders throughout the world, leaders in psychiatry, psychology, law, and human rights, as well as representatives from mental health service users, family groups and NGOs.

To access the new WHO book, go to: [http://www.who.int/mental\\_health/policy/en/](http://www.who.int/mental_health/policy/en/)

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– from NY Times, 16 June 2005

**US House of Reps blocks library inquiries under Patriot Act**

From a report by CARL HULSE

WASHINGTON - The US House of Representatives has voted to undo that part of the USA Patriot Act which makes it easier for federal investigators to review the records of libraries and bookstores on national security grounds.

Critics of the power, approved in the aftermath of the 11 September attacks, said it was an excessive grant of authority to the Federal Bureau of Investigation and Justice Department that threatened privacy and fundamental constitutional rights.

A coalition of liberals and conservatives said the 238-to-187 House vote should send a message to the administration that lawmakers are leery of maintaining all elements of the (terrorism) law even as President Bush seeks to renew the act.

President Bush has threatened to veto the measure if it impedes the Patriot Act.

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– from Liberty (UK), 8 June 2005

**Europe's HR Commissioner criticises ABSOs and anti-terror laws**

"Human rights are not a pick and mix assortment of luxury entitlements but the very foundations of democratic societies" the Council of Europe Human Rights Commissioner has warned.

Alvaro Gil-Robles' report into the state of Human Rights in the UK was a sober reading in relation to a number of flagship Government policies – in particular Control Orders (under the Prevention of Terrorism Act 2005) and aspects of Anti-Social Behaviour Orders; described as "ASBO-mania", said Shami Chakrabarti, director of Liberty.

"This important report from a respected international human rights' watchdog must be taken extremely seriously by anyone who values democracy or Britain's reputation in the world," he said.

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– 9 June 2005

**Reformers in Saudi Arabia seek simple rights we take for granted**

Arab reformers are isolated dissidents, sometimes labeled heretics, much like those persecuted under Soviet totalitarianism, says Neil MacFarquhar writing in the New York Times.

"Even those who pursue the mildest forms of protest are slapped with long prison sentences," he says.

"The right to assemble does not exist, political parties are banned along with nongovernment organizations, and the ruling princes constantly tell editors what they can print. Local television is almost all clerics, all the time.

"The many Islamic theological institutions that maintain the rule of the Saud princes determine the parameters of any public debate," he says.

MacFarquhar said they evaluated everything through the prism of the Wahhabi teachings unique to Saudi Arabia, vehemently rejecting any alternative.

For many reformists, the lack of free speech grated most; obtaining it was a

far higher priority than elections or other formal ingredients of Western democracy.

He quotes Saudi writer Turki al-Hamad as echoing a statement heard from reformers across the kingdom and the Arab world:

"Sometimes I don't want elections here, I want public freedoms and public rights.

"Give me those things and everything else will come automatically," Mr Hamad said.

A key problem, the writer says, is the utter lack of civil rights. Saudis are taught in schools and told in mosques that actions by state institutions like the religious police cannot be questioned because they operate under the mantle of Islam.

In a particularly graphic example, a 31-year-old businesswoman was hauled in by the religious police in February, accused of office adultery and using drugs.

The woman said her father was ill so she went to his office to fill in (for him) and to open the safe. The business was raided by the religious police, formally known as The Society for the Promotion of Virtue and the Prevention of Vice.

"Don't you fear God?" she recalls them screaming, demanding that she not address them from behind a desk because women don't belong there.

"It is a sin that you are sitting in this office around men."

The woman says one of the men groped her while ostensibly searching for drugs before dragging her kicking and screaming into an unmarked Toyota.

She had called her husband, but when he tried to collect her from the station, they pretended she was elsewhere.

Instead they locked her into a roach-infested jail for a couple of days and forced her to endure an extended lecture by the prison's religious sheik about the sin of adultery.

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– from ACLU email, 10 June 2005

## **New security hire forces US Congress to face the Colonel of the issue**

The American Civil Liberties Union has filed a lawsuit against the US Library of Congress after Diane Schroer's job offer was rescinded when she told them that she was transitioning from male to female.

Schroer, 49, retired from the Army as a Colonel in 2004 after 25 years of distinguished service.

After careful deliberation under the care of a doctor, Schroer decided to become a woman.

While still presenting as a man, Schroer applied for a job with the Library of Congress as the senior terrorism research analyst, was offered the job, and accepted immediately.

Before starting work, Schroer took her future boss to lunch to explain that she was transitioning from a man to a woman and thought it would be easier for everyone if she simply started work presenting as a female.

The future boss said nothing at the lunch to suggest that this would be a problem.

But the following day, Schroer received a call from the future boss rescinding the offer, telling her that she wasn't a "good fit" for the Library of Congress.

"After risking my life for more than 25 years for my country, I've been told I'm not worthy of the freedoms I worked so hard to protect," said Schroer.

"All I'm asking is to be judged by my abilities rather than my gender."

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– from HR First, 2 June 2005

## **Uzbek authorities charge HR campaigner for speaking out**

After violence broke out on 13 May in Andijan, Uzbekistan, President Islam Karimov said that 169 'bandits' were killed.

Other sources estimate the civilian death toll could be 750 men, women and children.

Saidjahon Zainabitdinov, chairman of the human rights group *Apelliatsia* (Appeal)

in Andijan, witnessed the security forces using lethal force on May 13.

After commenting to international press, Mr Zainabitdinov was arrested and detained incommunicado for three days.

He now faces prosecution under criminal libel laws.

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– from NY Times, 10 June 2005

### **Canada's High Court rules for private health insurance on HR grounds**

Reported by CLIFFORD KRAUSS

TORONTO – Canada's Supreme Court has ruled that private medical insurance is legitimate in Quebec...because of Quebec's charter of human rights and freedoms.

The decision is a blow to the publicly-financed national health care system in Canada.

Legal experts believe the decision may lead to sweeping changes to the system.

Canada provides free doctor's services paid for by tax.

It was the only industrialised county that outlawed privately-financed purchases of core medical services.

But in recent years patients have had to wait longer for diagnostic tests and elective surgery, while wealthy and well-connected people either sought care in the USA or used influence to jump queues.

The court ruled that the waiting lists had become so long that they violated patients' "life and personal security, inviolability and freedom" under the Quebec charter of human rights and freedoms, which covers about one-quarter of Canada's population.

"The evidence in this case shows that delays in the public health care system are widespread, and that, in some serious cases, patients die as a result of waiting lists for public health care," the Supreme Court ruled.

"In sum, the prohibition on obtaining private health insurance is not constitutional where the public system fails to deliver reasonable services."

One of the two men who took the case to the Supreme Court was George Zeliotis, a chemical salesman forced to wait a year for a hip replacement while prohibited from paying privately for surgery.

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– from UNity, newsletter of the UN Assn Australia. 10 June 2005, No 422

### **Falun Gong takes legal action against Foreign Affairs Minister on banners**

Falun Gong has filed proceedings in the ACT Supreme Court against Foreign Minister Alexander Downer seeking an injunction to stop him relying on certificates under the Diplomatic Privileges and Immunity Regulations 1992.

These are the formal documents that stop Falun Gong displaying banners and using amplified music outside the Chinese Embassy in Canberra.

Falun Gong wants the court to declare that they had a reasonable cause to display banners and use amplified sound in exercising their right to freedom of expression in Australia and that the Foreign Minister had a ministerial duty to uphold that right.

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– from CLA member, Doug Cocks June 2005

...an extract from his book *Future Makers, Future Takers* in which he ruminates on the 'Bill of Rights' question on behalf of an imaginary Post-Materialism political party.

Read on...

### **The social contract**

Over the past decade or two a gradual redefinition of democracy has been taking place – from an almost exclusive reliance on parliamentary representation towards a concept of democracy as enforceable rights (G. Sturgess, *The Australian*, 11 Apr 1997).

The concept of citizenship in Western societies is evolving to include more rights and responsibilities for individuals.

The *social contract* is the partly tacit, partly explicit understanding that people have of their rights and their responsibilities as members of Australian society.

The Post-Materialism party believes that an expansion and formalisation of citizens' rights and responsibilities is fundamental to achieving the radical social transformation we seek.

For example, if the powers of government to regulate capitalism do decline over coming decades, having an endorsed social contract may strengthen the judiciary's capacity or a free press capacity to protect individuals from irresponsible economic power and a reactionary social order.

More positively, it helps citizens trying to define their social role to know that the community must (or, at least, must try to) provide them with certain opportunities and that they have a right to those opportunities only to the extent that they accept certain responsibilities and duties.

Herein lies the danger of a legally enforceable social contract, a bill of rights for example.

What if rights are in conflict (ie cannot be satisfied simultaneously) or just cannot be met due to forces beyond the parties' control?

One answer is to leave questions of rights to the common law but we believe that this is inadequate.

Our two-pronged answer is to enact a legally enforceable Bill of Rights covering statutorily-derived matters that can be circumscribed, namely, traditional political rights (eg freedoms of expression, association, movement etc) and civil rights, while proclaiming a morally binding Charter of Reciprocal Responsibilities covering economic, social and environmental responsibilities of both citizens and the community.

Ideally, this charter of good intentions would be a preamble to the constitution, although this could make updating difficult as concepts of rights and responsibilities continue to evolve.

It would be particularly concerned with emerging economic and social rights.

### **Examples of emerging social and economic rights:**

A right to be healthy. The community has a responsibility to ensure that everyone has access to adequate health care and the individual has a responsibility to care for his own health.

A right to an 'effective standard of communications'. eg rights to fax, telephone and data services and, eventually, free access to the Internet.

A right to clean air and water and a responsibility to keep the community's air and water clean.

A right to enjoy the natural world; and a responsibility to protect it.

A right to economic security if prepared to undertake socially useful work.

A right to play a useful role in society.

A right to be treated without *a priori* discrimination.

A social right of access to effective legal representation, something going beyond the legal right of equality before the law.

A right to an adequate income in old age and access to humane residential and community care.

A right to pain relief and a right to die when you have stopped growing or helping others to grow.

A right to be informed annually of all personal information held in any public or private data bank.

A right to a standard of transport that allows one to participate fully in the life of the community.

A right to both a vocational education and an education in life-skills.

A right to have children provided that this is balanced by taking responsibility for their physical and mental health at birth and beyond.

Balancing the community's moral responsibility for assuring these and other rights, the good citizen's general moral responsibility is to think about and proactively do what s/he can to ensure that Australia remains a good place for

all to live in; and, in personal relations, to treat others as they themselves would be treated, eg with compassion and fairness.

In office, the Post-Materialism Party will review the case for making formal citizenship a pre-requisite for participation in the social contract, both for foreign- and native-born residents.

\*\*\* *Feedback/comments on this proposed 'Post-Materialism' model are welcome – send to the editor, CLArion.*

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– from UNity, cited above

### **Keep up with your MP's reading**

The June *Update* (a list supplied to Australian Parliamentarians by the Parliamentary Library) includes these:

#### **BILL OF RIGHTS**

Brennan, Frank. Australia's judicial isolation. *Eureka Street*, vol.15, no.2, Mar 2005: 18-23.

de Percy, Michael. National security versus civil Liberties: towards an Australian Bill of Rights. Paper presented to the Australasian Political Association Conference, Uni of Adelaide, 29 September – 1 October 2004. *Speech*, 29 September-1 October 2004: 25p.

Evans, Simon and Carolyn Evans. The law: a Bill of Rights for Victoria. *Australian Policy Online*, 6 May 2005: 4p.

Thampapillai, Vinoli. Why it's time for a Bill of Rights: Law Society urges debate. *Law Soc. Journal*, vol.43, no.3, April 2005: 66-8.

Hiebert, Janet L. Interpreting a Bill of Rights: the importance of legislative rights review. *British Journal of Political Science*, vol.35, no.2, April 2005: 235-55.

#### **CITIZENSHIP**

Smith, Merryn L. Is international citizenship gendered? Paper presented to the Australasian Political Association Conference, University of Adelaide, 29 September – 1 October 2004. *Speech*, 29 September-1 October 2004: 21p.

#### **CONSTITUTION**

Galligan, Brian and Fred Morton. Australian rights protection. Paper presented to the Australasian Political Association Conference, University of Adelaide, 29 September – 1 October 2004. *Speech*, 29 September-1 October 2004: 19p.

Stellios, James. Choice of law and the Aust. Constitution: locating the debate. *Federal Law Review*, vol.33, no.1, 2005: 7-55.

**CONSTITUTIONAL LAW:** Kirby, Michael. International law: the impact of national constitutions. 7th Grotius Lecture. *Speech*, 30 March 2005: 21p.

**COURTS:** Pfander, James E. Article I tribunals, Article III courts, and the judicial power of the United States. *Harvard Law Review*, vol.118, no.2, Dec. 2004: 643-776.

**FREEDOM OF INFORMATION:** O'Brien, Denis. FOI law is well and truly in need of an overhaul. *Public Sector Informant*, 1 March 2005: 16-7.

**FREEDOM OF THE PRESS:** Jost, Kenneth, Sandra Baron and Bruce Fein. Free-press disputes: are courts blocking the public's right to know? *CQ Researcher*, vol.15, no.13, 8 April 2005: 293-315.

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– 1 June 2005, public meeting, Canberra

### **Terrorism is Enemy No 1 of a free society – Prof. Chazan**

By Dr Kris Klugman, President CLA

“Terrorism is a gross violation of human rights: it constitutes crime against humanity.”

This is the view of Prof Naomi Chazan, former Deputy Speaker of the Israeli Parliament and dynamic supporter of people's rights, giving the B'nai B'rith Anti-Defamation Commission annual oration 'Human Rights in the Age of Global Terrorism' in Canberra on 1 June 2005.

“The response of free societies to growing terrorism has been thoroughly ineffective and runs the risk of undermining and violating human rights in order to combat violations of human rights,” she said.

Prof Chazan posed two critical questions:

- how has this cycle developed, where terrorism begets acts which foment more terrorism?
- is it possible to break this cycle?

Human rights are fundamental, incorporating a belief that people are basically equal, regardless of diversity.

Modern societies are very heterogeneous – it's OK to disagree, but the individual has to find a way to coexist by complying with certain rules of society.

Probably the best instrument to achieve this is democracy: but freedom is about self-restraint:

- freedom to dissent as opposed to incitement; and
- freedom to protest as against rebellion.

"Terrorism is not new. It is a tactic, a horrible instrument of a political struggle, not a philosophy. Almost all the wars of the 21<sup>st</sup> century are civil wars – local roots but global reach.

"The objectives of terrorism are to destabilise, de-legitimate, to shake faith in the basic principles of society.

"Terrorism is the weapon of the weak, who have lost faith and want to inflict their condition on the rest of the population. There is racism underlying terrorist tactics – abhorrence of difference."

Prof Chazan said that the roots of terrorism lie in poverty, political frustration and loss of hope.

Contemporary terrorism has taken on an ethnic or religious face and has become ethno-religious terrorism.

This conviction holds that: "We have all the answers and we have absolutely no respect for anyone else."

Terrorism will succeed if these tactics cause us to lose our belief systems, Prof Chazan said.

She posed the question: how do you combat terrorism without losing your human face. Or how can you find a human face in somebody you abhor?

Prof Chazan asserted that reactions since 11 September 11 have been quite inadequate, and counter productive.

They have included:

1. intervention: by invasions, targeted killings: intervention using the tool of terrorism to defeat terrorism, so involves violations of human rights.

2. prevention: security measures, can be tolerated, house demolitions, check points, building walls more questionable, but detention without trial, torture, profiling individuals on race, culture and religion is fomenting a clash of civilisations.

"The responses to terrorism is that the current methods are NOT WORKING, STUPID!," she said.

"To protect our own rights we undermine our own rights and we hurt ourselves. Extremist have set the agenda and we are buying in to their agenda.

"The true answer is a belief in human rights or a battle for moderation:

1. use belief in parts – different views, diversity;
2. renew people's hope – give people something to lose;
3. gross poverty is the raw material for terrorism: deal with poverty and political instability, find a just peace.

"Our aim is to survive as a society with values we can be proud of. We should use human rights as an instrument to break the cycle," she said.

"We have to reaffirm our belief in what we believe to be true – equality in diversity – not justify actions because the situation is precarious. We need to sustain belief in our society, belief in our values," Prof. Chazan said.

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– from a speech, 28 June 2005

### **Chief Minister Stanhope on community v individual rights**

*Excerpt from speech by ACT Chief Minister Jon Stanhope to the conference on Assessing the First Year of the ACRT Human Rights Act (see story above):*

...The notion of 'community rights' is superficially appealing. But as Christopher Michaelson (*NB: spelling should be ...en*) pointed out in a recent opinion piece in the *Canberra Times*, in

a liberal democracy it is *individuals* who enjoy legal rights and shoulder obligations, not society as a whole.

Only individuals are capable of choice, action and the pursuit of interests. The community is not an organism that makes decisions.

Of course, individual rights can only be enjoyed so long as they do not violate the rights of others. That is already a reality.

The interests of individuals are thus already balanced against the interests of other individuals and against the interests of the community as a whole.

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### Events and Opportunities:

*(with thanks to UNity)*

#### **August 5 –11**

The Asia Regional Training Workshop presented by the New Tactics in Human Rights Project and Forum-Asia, Chiang Mai, Thailand. More information, see: [www.newtactics.org/main.php/TraininginPractice/AsiaWorkshop](http://www.newtactics.org/main.php/TraininginPractice/AsiaWorkshop)

#### **September 8-9**

National Conference on Mental Health and Human Rights, Parliament House, Canberra. Hosted by SAVE Australia. Info: <http://www.save.org.au/> Maqsood Alshams – 0422 085 222 and Louise Pratt MLC – 0417 099 625

#### **November 3**

City of Sydney Peace Prize Lecture by UN children's rights worker Olara Otunnu in the Seymour Centre. Sydney. Info: Andrew Potter, 02 9351 4514 or Professor Stuart Rees, (02) 9411 5139 (a.h)

**December 9** The 2005 Human Rights Medal and Awards presented at a luncheon at the *Sheraton on the Park*, Sydney, from midday to 3pm. Info: phone (02) 9284 9618 or email [hrawards@humanrights.gov.au](mailto:hrawards@humanrights.gov.au) or go to [www.humanrights.gov.au/hr\\_awards/](http://www.humanrights.gov.au/hr_awards/)

**France:** "*The Search for Justice: The effective impunity of law enforcement officers in cases of shootings, deaths in custody or torture and ill-treatment*" go to:

<http://amnesty-news.c.topica.com/maadm3KabfMPabfE1obb/>

**For more information on the UN's counter-terrorism work** and the Report of the High-level Panel see the UN website: [www.un.org/terrorism](http://www.un.org/terrorism) and [www.un.org/secureworld](http://www.un.org/secureworld). or contact Jennie Watson, Information Officer, UNIC Sydney on (02) 9262 5111

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### **Postgrad research scholarship available in Law at UNSW**

The Gilbert + Tobin Centre of Public Law in the Faculty of Law, University of New South Wales, is looking for someone to undertake a PhD scholarship as part of a five-year research project on terrorism and the law.

The position should suit an applicant interested in researching the relationship between public law and legal responses to terrorism.

The scholarship is for three years of full-time study, with a tax-free \$24,650 a year.

Applicants need to be Australian citizens or permanent residents and hold an undergraduate degree with Honours or equivalent.

This scholarship is supported through the Centre's Terrorism and Law Project, funded by an Australian Research Council Discovery Grant for the next five years.

Contact Andrew Lynch on (02) 9385 2257 or at [a.lynch@unsw.edu.au](mailto:a.lynch@unsw.edu.au)

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*Please send us by email any snippets that take your fancy.*

*Just make sure you add the attribution to the source or sources (say, newspaper and bylined author), plus the date of happening and/or publication...and your name and membership details (eg, NSW CCL, or Qld CCL, or whatever).*