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Message from CLA President Kris Klugman:

HAPPY 2006. LET'S HOPE IT'S A BETTER YEAR FOR PEOPLE'S LIBERTIES AND RIGHTS THAN 2005 WAS.

...and on that note, here's a bumper sticker produced by one of our members, (Catholic priest, father) John Parsons of Gunning. The sticker is aimed at making fun of Attorney-General Philip Ruddock's sedition laws so he takes the action he has promised to fix them. Stickers are \$15 each if you'd like one (cost price \$10 each, so there's a small donation to CLA involved).



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CLA issues warning to New Year revelers to beware stun guns

CLA has tried to alert revelers to the dangers of new police weapon technology – stun guns – being tested in the ACT.

On 29 December 2005, CLA issued the following media release:

Canberra's revelers should beware of police with stun guns on New Year's Eve, CLA president Dr Kristine Klugman warned today.

"Stun guns, which can deliver 50,000 volts of electricity, are being specially trialed by ACT Police over New Year's Eve," the president of Civil Liberties Australia (ACT) said.

"In September, Police Minister John Hargreaves specially asked the police to extend a trial of Taser stun guns so that the six ACT weapons could be tested on New Year's Eve."

Dr Klugman said CLA had previously warned the Police Minister that stun guns had been involved in dozens of deaths in the USA and Canada.

"We urged Mr Hargreaves to stop the ACT trial until the results of a two-year US Department of Justice trial in the USA were available, in late 2006."

However, Mr Hargreaves ignored the plea, and instead extended the ACT trial to include the 2005-6 New Year's Eve, she said.

Appearing before the Legislative Assembly's Standing Legal Affairs Committee, (SLAC) on 23 September 2005, Mr Hargreaves said: "The biggest event in the ACT with respect to alcohol-fuelled partying is the evening of New Year's Eve. I am asking the Chief Police Officer to consider extending the (stun gun) review for a week or so, so that we can actually have it evaluated over the New Year partying regime."

(ends media release)

Urgency disappears from Terror Bill sedition review

After a Government-driven, searing urgency to pass the Terror Bill “before Christmas”, Attorney-General Philip Ruddock appears to be experiencing no concomitant urgency whatsoever about his promised formal review of the sedition division of the new legislation.

CLA sought a copy of the terms of reference to the Australian Law Reform Commission, but was told, in mid-December: “The ALRC is yet to receive terms of reference from the Attorney-General.”

“I am unable to describe the scope or nature of the review. I will let you know once we have received finalised terms of reference,” said research manager of the ALRC, Jonathan Dobinson, in an email.

If, like us, you would like to keep a close watch on the review – when/if it happens – visit the ALRC website at: www.alrc.gov.au

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– from Malcolm Turnbull website and Daily Telegraph

Turnbull signals new law on ‘inducement to terrorism’ in 2006

‘Sleeper’ alternative Prime Minister, Malcolm Turnbull, has sent a clear signal a new raft of ‘anti-terror’ laws may be coming our way in 2006.

Writing an op-ed piece in the Sydney Daily Telegraph, Turnbull said:

“Sedition laws have a bad reputation.

“Originally designed centuries ago to prohibit political agitators stirring up the masses into riot and rebellion against His Majesty, they were last used, in their Australian form, against a communist unionist more than fifty years ago.

“So many prophets, preachers and political heroes (including Jesus, St Paul, Ghandi and Mandela) have been charged with ‘sedition’, the word itself is laden with connotations of heavy handed Governments stamping out dissent.

“Thankfully our sedition laws have been unused for more than half a century and were assumed to be a dead letter...

“Responding to a request from the (Liberal) backbench committee and the Senate Committee, the Attorney General has agreed to a review of the sedition laws by the Australian Law Reform Commission in (2006).

“I believe we should move the term ‘sedition’ out of the law books and into the history books.

“Both the term ‘sedition’ and some of the language associated with it is archaic and difficult to understand.

“We can complete the reform process started with (the Terror Bill) amendments and ensure the law is expressed in clear contemporary language and focused on the real threat: those urging violence and terrorism.

“The United Kingdom’s new anti terror laws also provide it is an offence to make a statement glorifying terrorism if the person making it believes, or has reasonable grounds for believing, that it is likely to be understood by its audience as an inducement to terrorism.

“This is a very clear, but nonetheless controversial, attempt to confront those who are the ultimate promoters and encouragers of suicide bombers.

“(The 2006) review should also consider whether our law requires a sharply focused provision of this kind.” Mr Turnbull wrote.

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– from UNity, UN Assn of Australia e-newsletter, 16 Dec 05

Senate calls for submissions on ADF aid to civilian authorities

Individuals and organisations are invited to make a submission to a parliamentary inquiry into the *Defence Legislation Amendment (Aid to Civilian Authorities) Bill 2005*.

The Senate referred the Bill to the Senate Legal and Constitutional Legislation Committee on 8 December, with written submissions requested by Monday, 16 January 2006. The committee is due to report by 7 February 2006.

The Bill seeks to amend Part IIIAAA of the *Defence Act 1903* to boost the Australian Defence Force's (ADF) ability to support domestic security and to provide powers and protections for ADF personnel during callouts, including powers to search and seize and to use force in specified circumstances.

Proposed amendments include:

- Use of Reserves in domestic security operations;
- ADF call-out notification requirements;
- Expedited call-out procedures for sudden and extraordinary emergencies;
- Identification of called-out ADF personnel;
- Criminal laws and procedures applicable to called-out ADF personnel; and
- ADF powers to protect designated critical infrastructure and respond to domestic security incidents or threats in offshore areas or the air.

The Bill, second reading speech and Explanatory Memorandum are at www.aph.gov.au/senate_legal and hard copies are also available from the Secretariat. For more information, contact the Secretariat on ph (02) 6277 3560. Email LegCon.Sen@aph.gov.au

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– from Human Rights First email, 21 Dec 05

Killer of Indonesian activist Munir gets 14 years

Pollycarpus Budihari Priyanto was sentenced to 14 years jail for his role in the murder of Munir, the Indonesian human rights hero poisoned last year on a Garuda Airlines flight to Amsterdam.

While prosecutors treated the murder as an individual crime, in his verdict the judge noted that others were involved and should be investigated.

"The defendant was not alone. There is another party that legal authorities should find through a more thorough investigation," Judge Cicut Sutiarto said.

Human Rights Watch says Munir's friends and family have little hope for further justice because:

- The official fact-finding team was disbanded in June and its report has not been released;
- Despite its recommendations, no follow-up commission was created;
- The police investigation has faltered, with most investigators reassigned to other cases; and
- Nearly all convictions in human rights cases in Indonesia are reversed on appeal.

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– from HREOC media release, 15 Dec 05

Graeme Innes is new Human Rights Commissioner

Mr Graeme Innes AM has been appointed Human Rights Commissioner and acting Disability Discrimination Commissioner, replacing Mr Sev Ozdowski whose term expired in early December.

Human Rights and Equal Opportunity Commission (HREOC) President Mr John von Doussa QC said: "Mr Innes has a wealth of experience in the human rights and equal opportunity area; he is a dedicated advocate on disability issues and has worked within the commission for 12 years.

"He was instrumental in the development of the Commonwealth Disability Discrimination Act and in the continuing development of the UN Convention on the Rights of People with Disabilities."

"He has worked in equal opportunity in NSW, WA and nationally and will bring to the Commission his expertise as a legal practitioner, an advocate and a negotiator."

Commissioner Innes, who is blind, has been deputy disability discrimination commissioner since 1999 and has been a member of various tribunals: the NSW Administrative Decisions Tribunal; the NSW Consumer, Trader and Tenancy Tribunal; and the Social Security Appeals Tribunal.

He was also a Hearing Commissioner with HREOC.

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– from UN Assn of Australia email, 02 Dec 2005

HREOC's Ozdowski exits with 'Rights of Passage'

A new report launched by the Human Rights and Equal Opportunity Commission (HREOC) on 29 November provides a unique snapshot into young peoples' knowledge about human rights and their views on a wide range of contemporary rights-related issues.

'Rights of Passage: A Dialogue with Young Australians about Human Rights' was launched by Human Rights Commissioner, Dr Sev Ozdowski OAM.

It was the final project launched before his five-year tenure ended on 07 December.

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– from ARC website, Dec 05

Court evidence to become 'virtual' and 360-degree visual

The Australian Federal Police and prosecutors are developing new 'virtual' crime scenes and simulation display technologies to explain complex information to jurors, hoping to simplify court processes and shorten trials.

At the cutting edge of this development are interactive displays, including computer simulations and 360-degree crime scene reconstructions, according to a grant award notification from the Australian Research Council (ARC).

Six partner organizations, led by the University of Canberra, have been awarded nearly \$360,000 over three years to work out the best technological solutions that fit within the court system.

Judges will use empirical information about how juries use such information in order to develop appropriate guidelines for admitting interactive visual evidence, while court planners and architects will use the project data to identify implications for court procedures and design.

Partners with UC are the AFP, Australian Institute of Judicial Administration, PTW Architects, Integrated Media Pty Ltd, Lyons Architects and the Director of Public Prosecutions

Researchers involved in the project are Dr D Tait, A/Prof J Goodman-Delahunty, Prof JM Kyd, Dr JM Horan, Prof GW Brawn, Dr GP Battye, Prof JR Ogloff, Dr CJ Lennard, Ms DH Jones, Ms A Wallace and Adjunct Prof RC Refshauge.

They will spend \$82,000 in 2006, \$153,000 in 2007 and \$123,000

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– from ARC and ANU websites, Dec 05

ANU law boffins very slow – and very expensive – to walk the talk

In one of the slowest and most costly ‘cases’ ever, it will take five years and \$150,000 to produce an oral history of the High Court of Australia.

That is correct: an ‘oral’ history. 5 years, \$150,000.

Dean of the ANU’s Law Faculty, Prof Michael Coper, along with Dr F Wheeler and Dr JM Williams have received an Australian Research Council grant, no. LP0667725, for a project entitled *Judicially Speaking: An Oral History of the High Court of Australia*.

The project runs from 2006 through 2010.

Partner organisations with the ANU academics are the High Court of Australia and the National Library of Australia.

“This project will leave a basic research legacy by creating a history of the High Court in the words of those closest to it,” the grant award documentation says.

“The Court is among our most under-researched national institutions.

“By deepening understanding of how the High Court has operated in the past, including in response to social and political change, the project will enrich debate about how it should function in the future.

“It will provide new insights into the evolution of Australian law to meet the challenges of tomorrow and will preserve vital national heritage in the form of the recollections of prominent national figures.”

Leaving aside the semantics of how a ‘project’ can ‘enrich debate’, the sum of \$150,000 and five years time to record “recollections of prominent national figures” appears to be at the more generous and less cost- and time-effective end of the ARC grant spectrum.

MEMO: ARC and ANU Law Faculty: There is one law you may not be aware of, the Law of Puffery, which states: *the more grandiloquent-sounding, the less substance*.

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– from UN Assn of Australia email, 02 Dec 2005

JCAAD reports on ASIO’s questioning and detention powers

The Parliamentary Joint Committee on ASIO, ASIS and DSD (JCAAD) tabled its report on 30 November on the inquiry into the Review of Division 3 of Part III of the *ASIO Act 1979* entitled *ASIO’s Questioning and Detention Powers - Review of the operation, effectiveness and implications of Division 3 of Part III in the Australian Security Intelligence Organisation Act 1979*.

The report was tabled in the House of Representatives on 5 December.

The committee was required to review the operations, effectiveness and implications of Division 3 Part III of the ASIO Act and to report before 22 January 2006.

The sunset clause for this provision comes into operation on 22 July 2006. This report is meant to inform the reintroduction of the Act next year prior to the sunset clause.

The committee recommends a sunset date of 2011, with a similar joint committee being tasked to hold an inquiry in advance of the final date.

The report is available on the committee’s web site at:

http://www.aph.gov.au/house/committee/pjcaad/asio_ques_detention/index.htm

For more information, call the committee secretariat on 02 6277 4348.

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Griffiths questions how ASIO, AFP and State police interrogate terrorists

New CLA member Ken Griffiths has written to five key security officials questioning Australia's interrogation regime for terrorist suspects.

He sought the same information from Attorney-General Philip Ruddock, ASIO CEO Paul O'Sullivan, AFP boss Mick Keelty and NSW and Victorian police commissioners, Ken Moroney and Christine Nixon.

What he asked was:

- What interrogation techniques are your officers authorised to use in questioning terrorist suspects?
- Are any non-Australian involved in the interrogations?
- Who trains your officers in these techniques: are non-Australian nationals involved?
- Are you aware of any unauthorised interrogation techniques that have been used in the interrogations?

By mid-December, Griffiths' 25 November letters had evoked a response from Victoria and NSW Police only.

Victoria:

Detective Inspector D.A. McWhirter wrote:

"...due to the possible inferences that could be drawn from the questions contained within your letter and the direction of the queries I consider that I cannot furnish you with any information at this stage.

"There may be limited information that I can provide in response to the type of questions that you have raised.

"I would appreciate if you could clarify the nature of your enquiry and the intended use of any information that you may receive."

CLA wondered whether DI McWhirter was signalling that the answer(s) could be different, depending on "the intended use" of the information.

On 16 December, he wrote again:

"I am only able to provide a response from a Victoria Police perspective on the queries you have made. I am not able to comment on issues that may involve Federal legislation.

"...Victoria Police conduct interviews not interrogations...(they) comply with the provisions of Section 464 of the Crimes Act 1958 (Victorian Legislation) when interviewing people in custody."

NOTE: DI McWhirter's highly specific answers leave open the questions:

Have non-Australians been involved in questioning suspects in Victoria under Federal legislation?

Have unauthorised interrogation (or interviewing) techniques been used in relation to suspects in Victoria?

NSW:

Assistant Commissioner for Counter Terrorism in NSW, Norman K. Hazzard, acknowledges the sessions are "interrogations", not just "interviews".

"Our officers are required to question suspects in accordance with the law, that is to respect that a person has the right to silence. Interviews are electronically recorded for production to a court if necessary. No unlawful techniques have been used to question suspects.

"Non Australian nationals could be used in interrogations as interpreters to assist police."

The NSW answers leave open similar questions to the Victorian ones: are police and/or security agents of the USA, the UK or of other nations quizzing terrorist suspects arrested in Australia?

We still don't know.

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– email from George Williams, 20 Dec 05

Victoria plans to introduce human rights legislation

Victoria is to introduce a charter of human rights and responsibilities, the State's Attorney-General, Rob Hulls, announced on 20 December.

Mr Hulls said the State Government would enact a charter (in 2006) in line with the central recommendation of an independent panel appointed to examine the need for human rights laws.

"This commonsense move will simplify our laws and bring together Victorians' human rights in one piece of legislation," he said.

"These rights are currently either unprotected or scattered across the statute books haphazardly. Australia is the only western democracy with no clear human rights protection."

Mr Hulls thanked the independent panel – chaired by Professor George Williams with Olympian Andrew Gaze, Rhonda Galbally and former Victorian Attorney-General Haddon Storey – for seven months of widespread consultation.

He said Victorian Government departments would have to comply with the charter, and future legislation would be developed with regard to the rights set out in it.

Chair Williams said the panel participated in 55 community consultation meetings, information sessions and public forums and had 75 focused consultations with government and other bodies.

The panel also received more than 2,500 written submissions.

"Overall, 84 per cent of the people we talked to or received submissions from (or 94 per cent if petitions and the like are included) said that they wanted to see the law changed to better protect their human rights." Professor Williams said.

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– from email from Anne O'Rourke, vice-president of Liberty Victoria, 07 Dec 05

Fitzpatrick dinner to bring civil libertarians together

A gathering of civil libertarians from throughout the nation is being planned for mid-2006 to honour Brian Fitzpatrick, the man credited with initiating public emphasis on liberty and rights issues, and sowing the seed for CL and HR organizations, in Australia.

A former President of Liberty Victoria, June Factor, is chairing the planning committee for the dinner, which is being hosted by Liberty Victoria and Free Speech Victoria.

The dinner is being planned for June/July of 2006, in Melbourne.

A similar function was held in 1984, with 300 people attending the memorial dinner. The committee is trying to track down those who attended that event.

Justice Michael Kirby of the High Court is being asked to give the main speech, with noted political speechwriter and wordsmith author Don Watson likely to give the warm-up address. Comedian Max Gillies will be asked to be the MC (as he was in 1984, in the character of Bob Hawke).

The book on Fitzpatrick, written by Don Watson, is available from Liberty Victoria. It covers the early history of the Australian CL movement.

To request a copy of the book: contact Liberty Victoria on 03 9670 6422 or fax: 03 9670 6433 Email: info@libertyvictoria.org.au

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- national campaign ACT launch, held 05 Dec 05

Stanhope calls for national Bill of Rights

A national bill of rights would help Australia avoid inconsistency and knee-jerk policy-making by making decision-makers measure their actions and intentions against a clear minimum standard, ACT Chief Minister Jon Stanhope told the launch of a national campaign for a bill of rights.

The campaign is by online journal *New Matilda*, which has drafted a proposed national Human Rights Act, and hopes to have it tabled as a Private Member's Bill in the Australian Parliament.

(There is already an existing Bill, promoted by the Democrats Senator Natasha Stott-Despoja, recently re-placed on the Senate's Notice Paper and awaiting debate and voting).

Mr Stanhope, at the launch, said that a bill of rights would draw decision-makers back, again and again, to a form of words, requiring them to explain their behaviour in the reflected light of those words and to measure their intentions against the standard established by those words.

This process was already happening in the ACT, the first (July 2004) Australian jurisdiction to enact a Human Rights Act, he said.

"Having a bill of rights here in the ACT - in the form of the Human Rights Act of 2004 - has compelled my own Government to confront this year of not-so hypothetical challenges in a manner unlike that of the rest of the country."

Extract from Stanhope speech:

"(The) campaign for a national bill of rights is timely. One of the unexpected consequences of the moral dilemmas we have all faced in recent times has been that the notion of a national bill of rights has greater momentum now than it has had for many decades.

"Now, perhaps more than at any time since the nations of the world came together to codify basic human rights in the wake of global war, we must remind ourselves that human rights are not luxuries, to be indulged in during the good times.

"Nor, in the context of the death penalty, or indeed, the anti-terrorism debate, should human rights be things conferred on those who abide by our laws. They belong to those who offend against our standards too.

"That is why, here in the ACT, where we are building the Territory's first ever jail, we are constructing it on the bedrock of human rights. These foundations will affect the way it looks, the way it runs, the interactions between inmates and staff, the opportunities for rehabilitation we offer prisoners, and the dignity we will permit them to retain, even at a time when we are depriving them of their liberty.

"It is also why the complementary anti-terrorism legislation the ACT proposes...will comply with the ACT Human Rights Act. I intend to show that it is possible to have tough security laws that respect human rights.

"And I intend to expose our draft to the fullest possible consultation before its passage."

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Letter to the CLArion Editor:

The words we use have power to shape the way we think. The trap into which liberal thinkers often fall is to let 'the Establishment' control the discourse – by using their terms we are already at a disadvantage in presenting our views.

In relation to the current focus on "international terrorism," we should refuse to be corralled by the mainstream media and its attack-dogs into using the terminology with which THEY are comfortable.

For example, in relation to the attack on the World Trade Centre in 2001, liberals really ought to resist such formulae as "September 11," "9/11," or worse, "Nine-one-one" (coincidentally the Emergency Number in the USA). We are Australians and we should insist on using our dating system which runs DD/MM/YY, i.e. 11 September 2001.

We should try to avoid "The War on Terrorism" or even less desirable, "The War on Terror." How do you fight an abstract noun? How do you know when you've won?

This continual battle of "Good" against "Evil", of course, not only fits in with their philosophy of life, but is the chief means by which our Glorious Leaders keep us in a state of fear which only they can resolve.

We would do better referring to the new laws as "The 'Disappearance' Legislation" (a.k.a. the Ghost Laws), or, more prosaically, "Legislation to Increase the Powers of the Security Services" (a.k.a. LIPSService Laws).

Trying to fight against THEM using THEIR terminology is like fighting with one hand tied behind one's back.

– CLA member, Dr Neal K. Wilkinson

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CLA's McEwan reviews Quamby audit

CLA member Keith McEwan has analysed the key aspects of the report on the Human Rights Audit of Quamby Youth Detention Centre.

The ACT Human Rights Office undertook the audit earlier in 2005.

McEwan says the audit report contains many sensible and practical recommendations.

Included are suggestions for allowing inmates more chance to communicate with family and friends, and giving them better options for complaining privately about the detention regime.

For an electronic copy of McEwan's Quamby audit analysis document, email the CLA secretary with your request (E: rowlings@netspeed.com.au).

Anyone interested in prison reform may also like to see the just-released Mahoney Report on WA's corrective and justice systems, just released. An electronic copy of this report is also available from the secretary.

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– extract from speech, 4 November 05 by *Alastair Nicholson AO RFD QC*

Terror Bill produces the fear it seeks to pre-empt, says eminent judge

What does not seem to have occurred to the proponents of this type of legislation (the Terror Bill) is that the very climate of fear and concern that produces it and which they have assiduously promoted is just what the terrorists want.

The enactment of legislation which strikes at our liberties like this confirms to them that for all our talk of freedom and democracy we are no better than them and that the methods that they use thereby gain a measure of legitimacy that it would not otherwise have had.

I think that it should be remembered that this is not a war that confronts us, despite the misnomer of the 'War on Terror', but rather the activities of dangerous criminal gangs. These people should be characterised as criminals rather than terrorists, which title gives them a certain cachet and dignity that they do not deserve.

I believe that to characterise them as criminals draws a much sharper distinction between them and members of the community or religious persuasion from which they largely come.

It also puts into perspective my concern that the activities of a group of such criminals has panicked us into the taking of extreme measures that are more dangerous to our liberties than the threat posed by the criminals themselves.

'The Role of the Constitution, Justice, the Law, the Courts and the Legislature in the context of Crime, Terrorism, Human Rights and Civil Liberties', address to the Post-Graduate Criminology Society, University of Melbourne, 4 Nov 2005 by *The Honourable Alastair Nicholson AO RFD QC, Honorary Professorial Fellow, Department of Criminology, The University of Melbourne* (email the CLArion editor if you would like a full copy of the speech).

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– email from CLA member, Jane Campbell

History of CL in NSW about to be published

An 86,000-word history of the Council for Civil Liberties in NSW (NSWCCL) is due for release shortly.

The history, by Scott and Dot Campbell, will tell the story of the 40-plus year history of the civil liberties movement in Australia's most populous and, at one time at least, police-dominated State.

CLA member Jane Campbell has sent us preview details of the publication, written by her parents, who are long-standing stalwarts of the NSW CCL. A précis of Chapter 1 is:

Introduction: general overview of the formation and role of the NSW Council for Civil Liberties in 1963. It describes the climate of the '60s and the event that led to the formation of the Council by Ken Buckley, an academic at Sydney University, Dick Klugman, a medico and later MHR, and the late Jack Sweeney QC, an industrial advocate and later judge of the Federal Court. They brought together a range of interested citizens concerned about the continuing erosion of civil liberties in Australia. The chapter describes the rationale for the organisation, its mission and its development over 40 years.

Other chapters cover: Censorship, Aboriginal Rights, Police, Immigration and Asylum Seekers, Children's Rights and Welfare, Women's Rights and Abortion Rights*, Legal Issues and a Bill of Rights, and the final chapter, Whither Civil Liberties in Australia.

We will advise when copies are available for sale.

** CLA board member James Staples was one of the key players in changing the abortion laws and system in NSW.*

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– from ACT Chief Minister's media release, 02 Dec 05

Same-sex relationships to get the official nod as 'civil unions'

The ACT Government is expected in March to present legislation providing for civil unions in the ACT, paving the way for same-sex couples to have their relationships formally recognised for the first time.

The government is moving in line with submissions by CLA supporting recognition of rights for same-sex couples.

“Civil union will deliver equality under ACT law for couples who either do not have access to the Commonwealth Marriage Act or who prefer not to marry,” ACT Chief Minister Mr Stanhope said in making the announcement in early December 05.

The 400 submissions received in response to a Government position paper were divided almost equally between supporters of recognition and opposers.

“These laws will extend a basic social and legal right to a new group of individuals,” he said. “This will not diminish or erode a right that is already held by the bulk of the population.”

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- from UN Assn of Australia newsletter, 02 Dec 2005

Jurists’ concern over ASIO raids

ASIO raids on the homes of Melbourne’s Sri Lankan Tamil community in late November highlight serious concerns that counter-terrorism laws may ensnare innocent charitable donors in their net.

The International Commission of Jurists also fears that the laws may be used by foreign governments to pursue their own political agendas.

Federal officers seized computers, bank records, telephone records and other material from a number of homes in Melbourne in the recent raids.

They were seeking evidence to support allegations that certain people were involved in providing financial assistance to the Liberation Tigers of Tamil Eelam (LTTE or ‘Tamil Tigers’) in Sri Lanka.

The LTTE have been locked in a civil war in the island nation for over 30 years, seeking an independent Tamil state in the north and east of the island state.

More information: International Commission of Jurists Australia **02 9286 8767** or email info@ICJ-Aust.org.au or website: www.ICJ-Aust.org.au

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- from Media union e-newsletter, 16 Dec 05

Beattie wants media on a leash

Queensland Premier Peter Beattie says media self-regulation isn't working and believes journalists should be subject to freedom of information (FOI) laws like governments.

"Why shouldn't people be able to use a form of FOI legislation to require a media outlet to reveal what evidence it used in compiling a story?" the Premier said.

Beattie also called on the Fairfax newspaper group to launch a Queensland-wide newspaper to compete against News Limited's Courier-Mail.

The Courier-Mail, a broadsheet for 159 years, plans to go tabloid in 2006.

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– from Interights email, 8 Dec 05

UK House of Lords rejects use of torture evidence

‘The use of torture is dishonourable. It corrupts and degrades the state which uses it and the legal system which accepts it.’ [Lord Hoffman, para 82]

In a unanimous decision in the case of *A & Ors v Secretary of State for the Home Department*, the UK House of Lords has found that evidence obtained through torture is inadmissible in any proceedings before UK courts.

The judgment sends a clear signal that the use of torture is universally forbidden under all circumstances, and that states have positive duties to give effect to that prohibition, Interights said.

Interights is a UK-registered charity established in 1982 which focuses on equality, liberty and security and economic, social and cultural rights. It combined with 13 other non-government organizations (NGOs) to intervene in the case.

The Lords rejected the notion that courts can condemn torture while using evidence obtained through torture, noting that such use encourages these abhorrent practices.

The admissibility in proceedings of such evidence was described by Lord Bingham as "unreliable, unfair, offensive to ordinary standards of justice and decency and incompatible with the principles that should animate a tribunal seeking to administer justice."

Read the full House of Lords, judgment here: <http://www.interights.org/doc/aand.pdf>

– contributed by CLA member, Robert Briggs

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- from Human Rights First email, 14 Dec 05

Activists in Russia threatened by proposed new law

A draft federal law threatens the independence and existence of non-government organisations (NGOs) operating in Russia.

The draft passed its first reading by a 370-18 vote in the lower house of the Russian legislature, or State Duma, on 23 November

If made law in its current form, foreign NGOs, including human rights and humanitarian groups, would be prohibited from operating within Russia if they cannot re-register as domestic legal entities.

Organizations with offices in Russia have already indicated that given the burdensome registration requirements, they will most likely be faced with closure.

In addition, domestic charitable and human rights organizations will be prohibited from receiving foreign funding.

A main goal of the draft law, according to President Vladimir Putin, is to prevent foreign influence in Russian political activities.

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– from ACLU email, 07 Dec 05

ACLU files suit against US Govt, alleging rendition and torture

The American Civil Liberties Union has filed suit on behalf of a European allegedly kidnapped by the CIA and held in a secret detention centre.

The US president and the secretary of state continued to deny these unlawful practices, the ACLU executive director, Anthony Romero, said.

"We abide by the law of the United States. We do not torture," said President Bush in a White House press conference.

But the same morning the world heard a different story from Khaled El-Masri, a German citizen who was kidnapped during a vacation and transported, or "rendered," to Afghanistan where he was drugged, beaten and held in secret for five months.

The practice of "extraordinary rendition" violates the Constitution and United States law, the ACLU says.

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– from New York Times, 8 December 2005

Rift emerges at ACLU on two big issues, says NY Times story

From a report by STEPHANIE STROM

The executive director of the American Civil Liberties Union (ACLU), Anthony D. Romero, departed the war crimes trials at Guantánamo Bay recently for a hurried cross-country trip to Los Angeles.

He was aiming to smooth out a soured relationship with one of the organization's biggest donors, insurance magnate Peter B. Lewis, who was unhappy with Mr. Romero and the board and was threatening to suspend his contributions.

After a breakfast with Mr Lewis at the Beverly Hills Hotel in August 2004, Mr Romero assuaged his concerns and persuaded him to continue his financial support, including an \$US8.5 million gift largely to buy a new office building in Washington.

Mr. Romero has had less success winning over his critics within the organization itself. Among issues big and small, they have fumed over his commitment to name the new building the Peter B. Lewis Center for Civil Liberties – allegedly without consulting the board or its executive committee.

But the big picture dispute is over the style of the 'new' ACLU and what its principle philosophies and strategies should be.

However, even Mr Romero's critics attest to his fund-raising prowess since taking over just four days before the 11 September 2001 aircraft attacks on the Twin Towers and the Pentagon.

As of July 2005, ACLU membership had jumped 81 per cent, to 558,000, since Mr Romero joined. Likewise, annual revenue rose 34 per cent, to \$59 million, in the year ended March 31.

If you would like to read the full story of problems we might like to have, email the editor for a copy of the story to be sent to you.

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– from a report by Joseph Khan in the New York Times, 13 December 2005

Chinese legal cases rise dramatically

Ordinary citizens in China had embraced the law as eagerly as they had welcomed capitalism, Joseph Khan reported last month.

“The number of civil cases heard (in 2004) hit 4.3 million, up 30 per cent in five years, and lawyers have encouraged the notion that the courts can hold anyone, even party bosses, responsible for their actions,” he wrote.

Chinese leaders do not discourage such ideas, entirely, he said. They needed the law to check corruption and to persuade the outside world that China was not governed by the whims of party leaders.

“But the officials draw the line at any fundamental challenge to their monopoly on power,” he wrote.

“Judges take orders from party-controlled trial committees. Lawyers operate more autonomously but often face criminal prosecution if they stir up public disorder or disclose details about legal matters that the party deems secret,” Khan wrote.

<http://www.nytimes.com/2005/12/13/international/asia/13lawyer.html?th&emc=th>

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– from ACLU media release, 01 Dec 05

Staffers prevent audience beating around the Bush

White House event staffers unlawfully removed two Denver residents from a town hall discussion with US President Bush because of an anti-war bumper sticker on their car, the American Civil Liberties Union charged in a federal lawsuit filed recently.

"The government should not be in the business of silencing Americans who are perceived to be critical of certain policy decisions," said ACLU senior staff attorney Chris Hansen, the lead counsel in the case. "The President should be willing to be in the same room with people who might disagree with him, especially at a public, taxpayer-funded town hall."

The lawsuit was filed on behalf of Leslie Weise and Alex Young, who were removed from a 21 March 05 event.

The presidential visit was open to the public and advertised as a town hall "conversation" on Social Security reform.

Weise and Young, who had obtained tickets for the event from the office of their Congressman and had caused no disruption at the town hall, were removed from the event solely because of their perceived political views as represented by a bumper sticker on their car, saying '*No More Blood for Oil*'.

Similar incidents have occurred at presidential visits across the country, at town hall meetings in Arizona, North Dakota and New Hampshire, the ACLU says.

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– from ACLU email, 20 Dec 05

FBI spies on internal activists under counter-terror powers, says ACLU

The American Civil Liberties Union has released new FBI documents, uncovered through Freedom of Information Act requests on behalf of more than 150 domestic political and religious groups in 20 US states.

The documents confirm that the FBI is using its counter-terrorism resources to monitor and infiltrate peaceful activist groups such as People for the Ethical Treatment of Animals, Greenpeace and United for Peace and Justice.

It is now clear that the FBI has expanded its definition of "domestic terrorism" to include citizens and groups that participate in lawful protests or civil disobedience, the ACLU says.

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– from New York Times, 19 Dec 2005

Secretary Rice defends domestic eavesdropping in USA

From a report by JAMES RISEN and ERIC LICHTBLAU

US Secretary of State Condoleezza Rice has defended eavesdropping on Americans without seeking warrants, saying the program was carefully controlled and necessary to close gaps in the nation's counter-terrorism efforts.

President Bush secretly authorised the National Security Agency (NSA) to tap the phones of people suspected of terrorist activities.

During TV interviews, Ms Rice said the program was intended to eliminate the "seam" between American intelligence operations overseas and law enforcement in the USA.

She said the normal process of obtaining court-approved search warrants was too cumbersome for fast-paced counter-terrorism investigations.

The Federal Bureau of Investigation (FBI) and NSA must obtain search warrants from a special court before conducting electronic surveillance of people suspected to be terrorists or spies.

National security law experts and civil liberties advocates say that the US government can get an emergency warrant within hours, sometimes minutes, if they can show an imminent threat.

Under 'extraordinary' circumstances, the US government also can wait 72 hours after beginning phone tapping to get a warrant, but the administration did not seek to do that under the special program, which monitors the international communications of some people inside the USA.

The Patriot Act passed by the US made it easier for the government to get warrants from the court for phone taps and physical searches, changing the standards in some critical areas.

But the law specifically bans searches without warrants on Americans except in extraordinary circumstances, like within 15 days of a formal declaration of war.

The Bush administration did not cite any exemption for the internal eavesdropping program.

The White House claims that the US president has the authority to allow such searches in the interests of national security.

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– from a Washington Post report, via CLA member Robert Briggs, 21 Dec 05

Judge quits over Bush's spy program, Post reports

WASHINGTON – A US judge has quit as an officer of a special court in protest over President Bush's secret authorising of a spy program internally within the USA without judicial warrants, the Washington Post has reported.

The Post said that US District Judge James Robertson acted because he was worried that the surveillance program Bush authorised may not have been legal.

If so, the program may have tainted the deliberations of the court Robertson resigned from.

Robertson was one of 11 judges of the secret Foreign Intelligence Surveillance (FIS) Court, which oversees government applications for secret surveillance or searches of foreigners and US citizens suspected of terrorism or espionage.

The Post said the judge was concerned information gained from the warrantless surveillance under Bush's program could have then been used to obtain warrants under the FIS program.

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– from New York Times report, 17 Dec 05

Senators foil Bush bid to cement Patriot Act in place

From a report by Sheryl Gay Stolberg and Eric Lichtblau

The US Senate has voted not to re-authorise the American anti-terrorism bill known as the USA Patriot Act.

The Senate is now at odds with President Bush, who has said the nation will be left vulnerable to attack if the measure is not quickly renewed.

The Patriot Act greatly expanded the government's surveillance and investigative powers following the 11 September 2001 aircraft attacks on New York's Twin Towers.

But a sunset clause meant the Act had to be re-authorised by Congress.

The debate was a passionate fight about the balance between national security and personal privacy, the New York Times reported.

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– from UNity, UN Assn of Australia e-newsletter, 16 Dec 05

Myanmar a basket case for human rights, Amnesty International claims

Hundreds of thousands of people have been displaced, both within and outside the country, Amnesty says.

Other human rights (HR) violations include torture, extrajudicial executions, and forcible relocation, requirement to take part in unpaid forced labour and military portering, and the forcible recruitment of children to the military.

There is widespread impunity enjoyed for these violations by state officials, according to Amnesty.

More Myanmar AI info: <http://amnesty-news.c.topica.com/maaejmiabmPU0bfE1obb/>

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– clipping from CLA member Diana Simmons, from Sydney Morning Herald 051215

Regional forums may be further option for raising death penalty issues

CLA member Jamie Mackie featured in the Sydney Morning Herald in December with an analytical piece considering the future direction of ASEAN.

ASEAN – the Association of South East Asian Nations – does not share common political or economic objectives, Jamie said, but may do so in the longer-term future...perhaps even starting now.

However, one thing ASEAN does have in abundance is countries who enforce the death penalty.

Perhaps we should start to work on and within regional forums such as ASEAN, as well as within Australia and by direct appeal to individual Asian nations, to develop a death penalty-free region.

Events and Opportunities:

1 February 2006: United Nations Information Centre (UNIC) moves from Sydney to Canberra at Level 1, 7 National Circuit, Barton ACT 2600.

Until March 2006, Sydney: The Face of Human Rights Photo exhibition, Justice & Police Museum, Cnr Phillip & Albert Streets, Circular Quay, Sydney. Celebrating 150 years in Australia by the the Consulate General of Switzerland. Human rights and their violation have many faces – what do these faces look like? Weekends 10am – 5pm, open daily in January. Cost: Free with museum entry. More information: www.eda.admin.ch/australia_all/e_home/cult/present.html or phone the Consulate General of Switzerland on 02 8383 4010

10-12 April 2006, Sydney: Australasian Law Reform Agencies Conference (ALRAC)

Sydney, 10–12 April 2006. Details:

<<http://www.alrc.gov.au/events/events/alrac/index.html>>

19-22 April: *Community Development in a 'Global Risk Society'* conference www.deakin.edu.au/cchr/cd or contact Anne OKeefe, Centre for Citizenship and Human Rights, Deakin U. **03 5227 2113** or email: anne.okeefe@deakin.edu.au

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