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## Table of Contents

CLA's proposals adopted – outcome likely to be:.....	2
□ No more 'Bali 9' cases.....	2
□ No more extraditions without close follow-up and checking .....	2
Steering committee to drive charter of rights debate.....	3
LAST WORD: 'Court in the act' saves death row prisoner.....	4
Wise Solomon opts for making information a right, not a freedom .....	4
'Experts see gains against Asian terror networks' .....	4
Government's record is 'very mixed', CLA says .....	5
Top End cops radio for help .....	6
Mandatory student profiles online cause privacy concern .....	6
Parliament watchdog uneasy about police expanding DNA matching .....	6
Coercive report recommends 20 principles .....	7
'Department permanently on defence', ex-legal head says.....	7
Draft copyright treaty proposes draconian seizure powers.....	7
Survey shows fraud in Australia is a \$1bn problem.....	8
Ludwig leaves card 'smarts' to the private sector.....	8
Fathers subjected to spy cameras: .....	8
When usual laws cut no ice, human rights can't be watered down .....	9
McClelland signals boost for alternative resolution .....	9
New appointments help 'the alternative' gain prominence: .....	9
Reconciliation attempt is mandatory prelude in family law: .....	10
ID scheme proposed for Victorian taxi passengers: .....	10
Integrity Commission oversees Crime Commission: .....	10
More legal aid for the bush: .....	10
Lib Senators punt on new odds for terror law reviewer Bill:.....	10
Website gives access to House material:.....	10
Arrested for witnessing a police raid: .....	11
Are juries worth it? .....	11
Queensland CCL incorporates: .....	11
Australia gives \$54m for land policy reform:.....	11
De facto couples can access federal family law courts: .....	11
Salutary lesson for Australian police: .....	11
CLA's main activities for June 2008: .....	11
New UN instrument lets people speak out on rights.....	13
Fiji police raid TV station, seize master tape.....	13
Sri Lanka Defence Ministry tries to silence media comment .....	13
Indonesian rights groups urge CTF to publish report .....	14
EU gets tougher on migrants.....	15
Canada's federal police watchdog threatens ban on stun guns .....	15
Bush batting .000 as Supreme Court strikes for third time .....	15
US points the bone at man trapped by language .....	16
Death penalty unconstitutional for child rape, court says .....	16
UN's Arbour alarmed by erosion of rights.....	16
Phone firms can tap into sweetheart deal .....	17
Muslim seminary issues fatwa against terrorism .....	17
Torture advocates fail to explain 'besmirching the USA's reputation' .....	17
42 days was aimed at 'terrorising' Opposition, says UK Labour MP .....	18
Murder trial collapses after Law Lords rule against evidence in secret .....	18
'Muddle through' Brits discard security to save a penny .....	18
As athletes train harder, two lawyers lose right to practise.....	19
Criminal defamation used to silence critics .....	19
USA and Europe to scour people's private data.....	19
Sensitive jail file found outside court: .....	20
Refugees numbers reach new record: .....	20
NY honours marriages made other than in heaven: .....	20
Release of violent criminals cause for concern: .....	20
Timor Leste passes lawyers' law:.....	20
UK councils go overboard on 'spying': .....	21
Lords keeps an eye on surveillance: .....	21
Japan executes three:.....	21
President signs genetic non-discrimination Act:.....	21
Enhance the budget – add a dash of terror threat:.....	21
US secret detention camps still exist:.....	21

Calls for justice for Timor Leste:.....	22
DATES: .....	22
LAST WORD: Death row prisoner draws on an affair to remember .....	23

## CLA’s proposals adopted – outcome likely to be:

- **No more ‘Bali 9’ cases**
- **No more extraditions without close follow-up and checking**

Parliamentary Committee agrees with CLA, recommends:

*‘Government should prevent ... exposing an Australian citizen to the death penalty’, and  
Government should monitor status/rights of extradited people*

Report by CLA President, Dr Kristine Klugman

An Australian Parliamentary Committee last week adopted sweeping changes recommended by Civil Liberties Australia to previous laissez-faire government policies so as to prevent:

- exposing Australians to the death penalty overseas, and
- ignoring what happens to people we extradite to other countries

CLA’s submissions to the Joint Standing Committee on Treaties (JSCOT) are directly responsible for both these positive changes recommended by JSCOT to Australian Government policy.

The most outstanding result would be preventing a reoccurrence of the ‘Bali 9’ situation. That is where the Australian Federal Police ‘shopped’ nine Australians – three of whom remain on death row – to Indonesian authorities for drug trafficking when the AFP could have waited, and arrested and charged the nine in Australia.

In a stunning turnaround of what was Howard Government policy, JSCOT has come down firmly on the side of protecting Australian lives:

*The Committee recommends that the Parliamentary Joint Committee on Intelligence and Security be asked to undertake a general review of Australian policy and procedures concerning police-to-police cooperation and other information exchanges, including intelligence sharing arrangements, with a view to developing new instructions to regulate police-to-police and other assistance arrangements not governed by agreements at the treaty level. The instructions should prevent the exchange of information with another country if doing so would expose an Australian citizen to the death penalty. (underline added)*

CLA, along with all other Australian civil liberties and human rights groups, has been campaigning for just such instructions since immediately after the arrest of the Bali 9. The instructions have been fiercely resisted by the AFP, and Howard ministers also refused to act.

CLA’s submission to JSCOT in May 2008 was officially on a treaty with the United Arab Emirates: however, the UAE treaty allowed CLA to raise associated issues.

The CLA paper tipped the balance towards a new, human rights-oriented approach to Bali 9 intelligence-exchange considerations: it was the second time in 18 months CLA had appeared before JSCOT campaigning on the same issue. But with a Labor Government in power JSCOT has a new chair, Kelvin Thomson (Lab, Wills, Vic), and a new human rights-friendly approach, much to the credit of new MHR, Melissa Parke (Lab, Fremantle, WA), and several other 2008 committee members from both sides of politics.

In the second major victory for common sense and meeting Australia's moral obligations, JSCOT has also adopted CLA's proposals to check on people we extradite overseas. This change in policy will guarantee we monitor the status, treatment and health of people Australia sends to other countries.

Currently, Australia acts like Pontius Pilate, extraditing people but undertaking no formal checking, follow-up or monitoring of what happens to them. CLA alone pointed out this glaring anomaly.

"These are two major 'wins' in ensuring Australia is more civil liberties and human rights friendly," CLA CEO Bill Rowlings said.

"The nine Australians who were originally all under threat of the death penalty should never have been arrested in Bali because the AFP had an option to arrest them in Australia.

"We believe the Minister responsible must issue the AFP with detailed instructions so that no other 'Bali 9' case can ever occur again, where Australians are put under a death sentence because of the actions of our national police, who are sworn to protect Australian lives.

"CLA is delighted that such an influential committee as JSCOT has adopted our proposals, and asked for a change in government policy."

He said the change to extradition procedures was also an important step in safeguarding the liberties and rights of Australians, and people for whom Australia had a responsibility. "In terms of extradition to other countries, basically until now we have washed our hands of people, and left them to unknown fates," Mr Rowlings said.

"CLA raised what was happening in our submission to parliament, and they listened. The result shows how parliamentary consultation processes can produce much better outcomes." He congratulated the members of the Joint Standing Committee On Treaties (JSCOT) for being flexibly-minded enough to adopt CLA's suggestions, and to recommend:

- making future extradition treaties require annual reporting to Australia, by the country to which someone has been extradited, on his/her status and well-being;
- that the Australian Government develops and implements formal monitoring by the Department of Foreign Affairs and Trade (DFAT) of each extradition; and
- that the Attorney-General's Department and DFAT provide a comprehensive rundown in their annual reports on extraditions in general during the year, and specifically on each person's outcome: trial, conditions of detention, and health.

JSCOT Report No. 91, tabled in Parliament on 26 June 2008, says, Chapters 2 and 3:

Extraditions: <http://www.aph.gov.au/house/committee/jsct/12march2008/report1/chapter2.pdf>

'Bali 9' intelligence exchange:

<http://www.aph.gov.au/house/committee/jsct/12march2008/report1/chapter3.pdf>

ABC News report on extraditions: <http://www.abc.net.au/news/stories/2008/06/27/2288033.htm>

*The May 2008 submission was written by CLA member Juliette Duong, with extra material by CLA Director/Webmaster Lance Williamson and CEO Bill Rowlings. Williamson and Rowlings appeared in person before JSCOT, and provided a supplementary submission.*



[Return to Table of Contents](#)

## **Steering committee to drive charter of rights debate**

Civil liberties and human rights NGOs have created a steering committee to drive the 'Yes' side of the upcoming public debate on Australia's adopting a charter of rights and responsibilities.

The government in the May 2008 Budget allocated about \$3m for public consultation on a charter during 2008-9. CLA expects Attorney-General Rob McClelland to release a discussion paper very soon.

About 30 organisations were represented at the Sydney meeting of NGOs, called under the aegis of Professor George Williams (a CLA member) and the Gilbert and Tobin Centre at the University of NSW, and the Human Rights and Equal Opportunity Commission. Former CLA Director Diana Simmons represented CLA.

There were presentations on experiences with consultations and Human Rights Acts and Charters in the ACT (by Dr Helen Watchirs) and Victoria (Prof Spencer Zifcak and former Whitlam minister,

Susan Ryan), as well as with consultations in WA (Fred Chaney) and Tasmania (Terese Henning).

The Sydney NGO meeting committed to three goals:

- making sure the government honours its promise to hold an inquiry;
- advocating a charter (probably with the words 'rights and responsibilities' added); and
- increasing public awareness of civil liberties and human rights.

## **LAST WORD: 'Court in the act' saves death row prisoner**

A death row prisoner in Texas owes his life this week to sex. Read how front-of-court hanky-panky caused a miscarriage of justice during a trial. *See story at end of newsletter.*

## **Wise Solomon opts for making information a right, not a freedom**

A major Queensland report setting out a recommended new Freedom Of Information regime could be picked up by the Rudd Government as a national blueprint.

Former journalist and barrister David Solomon handed down his expert panel's 415-page report last month, recommending huge changes to how official information is collected, stored and released.

Federal Cabinet Secretary John Faulkner welcomed the Solomon report. "The Commonwealth will be carefully examining recommendations in that report – and the Government remains committed to its election promise to introduce significant reforms in FOI to enhance transparency," he said.

Queensland Premier Anna Bligh tasked Solomon, Simone Webbe and Dominic McGann to review the state's FOI Act. They recommended the government proactively release more documents so there was less need for FOI.

The Solomon panel proposed a new Right To Information (RTI) Act, under which the government would place documents on publicly-accessible databases; release cabinet documents after 10 years instead of 30; and detail cabinet agendas and non-confidential documents immediately.

Ms Bligh said she supported the recommendations: cabinet would respond to the Solomon report by mid-August. Enabling legislation is likely by early 2009.

As Dr Solomon is also on an advisory committee for the Australian Law Reform Commission's FOI review, the proposed Queensland model may underpin a new national FOI law. – from a report by Sean Parnell in *The Australian*, 12 June 2008

<http://www.theaustralian.news.com.au/story/0,25197,23850368-5006786,00.html>

Copy of the report: <http://www.foireview.qld.gov.au/>

## **'Experts see gains against Asian terror networks'**

The New York Times has revealed publicly that Australia's monitoring of mobile phones in Indonesia has led to arrests and to reducing the terrorist threat in and from that country.

Eric Schmitt reported, under the above headline on 9 June 08, that Australia was providing technical monitoring, as well as ongoing police and legal system training. While the knowledge of Australia's monitoring capacity and activity is widespread in the intelligence and security community, it is not normally featured in metropolitan newspapers.

"In Indonesia, the Australian police provided sophisticated electronic surveillance capabilities that allowed local security forces to locate within days several militants who carried out (the) bombing in Bali in 2002. The Australians are still helping the Indonesian police monitor telephone traffic, and, along with American officials, have helped train Indonesian lawyers, prosecutors and judges."

<http://www.nytimes.com/2008/06/09/world/asia/09terror.html?th&emc=th>



[Return to Table of Contents](#)

## Government's record is 'very mixed', CLA says

A-G Robert McClelland last month claimed the Rudd Government was committed to human rights. He said that, in its first six months in office, the Rudd Government had:

- started to remove discrimination against same-sex couples and their children from Commonwealth laws;
- apologised to Indigenous Australians and initiated a new approach to native title;
- acted on international rights conventions and protocols that the former Government opposed;
- provided one-off additional funding of \$10 million for the Commonwealth Community Legal Services Program;
- begun work on options to harmonise anti-discrimination laws; and
- committed to consulting the Australian people about the best way to recognise their rights and responsibilities.

"The Rudd Government has moved quickly since being elected to promote human rights and responsibilities in Australia and internationally," Mr McClelland said.

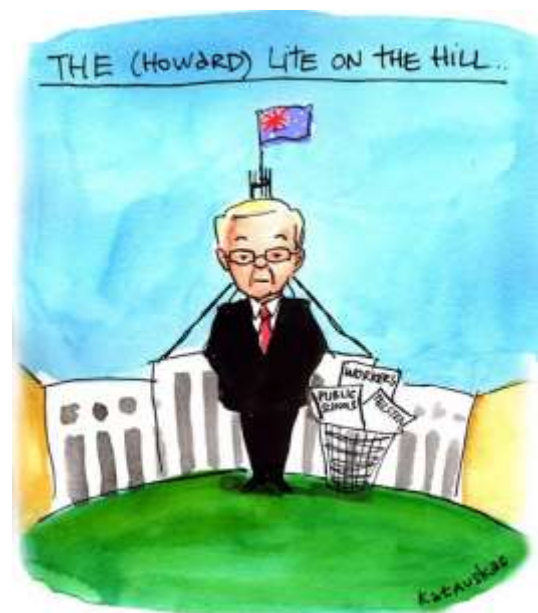
However, critics say the claims are only part of the picture – here are some areas where the Rudd Government has not yet acted on important issues, or is doing exactly the wrong thing:

- sedition remains in Australian law – getting rid of it was a clear, unequivocal election promise;
- refused to hold a public debate on how Australia declares war (or decides to 'intervene' in other countries), and the need for formal reporting to parliament on major military conflicts;
- reneged on a stated policy of supporting the ACT Government's plan to legislate for gay unions;
- refused to abandon discriminatory legislation against Aborigines in the Northern Territory – holding another inquiry instead;
- failed so far to restore Dr Haneef's position on the Gold Coast, and failed to remove restrictions on US peace activist Scott Parkin, the first Australian casualty of the 'war on terror';
- treated public servants with contempt, one woman forced to work 36 hours straight so FuelWatch could be announced, and top echelon executives made to wait like schoolchildren for hours outside Rudd's office door;
- tried to censor photographic artworks, and allowed police to act as censors and arbitrators of cultural content in major art institutions; and
- been part of encouraging wowserism to re-emerge in Australia, after a gap of 100 years – anti-drinking, anti-youth, anti-fun, pro-excessive working hours, pro-religions holding sway, pro-censorship, pro-purulence.

"The report card on the Rudd Government is very mixed," CLA CEO Bill Rowlings said. "Clearly there are worrying attempts to impose Fuddy Ruddy's personal moral values on all Australians. The more weeks that go by, the more we fear that the Fiona Katauskas pre-election cartoon may be appropriate." (*Cartoon from CLA's traveling exhibition*)

**Wowserism:** Prude, puritan, killjoy...or, as Wikipedia puts it, overdeveloped sense of morality which drives some people to deprive others of their pleasures. John Norton, editor of the Sydney Truth newspaper claims to have invented wowserism as an acronym for *We Only Want Social Evils Remedied*.

The Shorter Oxford English Dictionary recognises the word's Australian origins and defines a wowsler as a "puritanical enthusiast or fanatic."





## Top End cops radio for help

Northern Territory police have been running radio ads to boost public support for their campaign for better pay and conditions.

The Northern Territory Police Association (NTPA) hired a communications company before negotiating their next enterprise agreement. "They are having a lot of trouble recruiting and retaining senior police in the Northern Territory," PR company EMC's client manager Mark Robinson said. "Experienced police are leaving because they are overworked and they don't receive adequate pay for working in remote areas or difficult conditions.

"The Association wanted to raise public awareness that these aren't usual wage negotiations; they affect the future of policing in the Northern Territory."

The two 30-second ads highlighted concerns about community safety. The ads outlined the reasons experienced police are leaving the force – stress, overwork, poor pay and conditions – and urged the government to act in the community interest by giving police a fairer deal.

Listen to the ads: <http://www.essentialmedia.com.au/Default.aspx?tabid=2233>

## Mandatory student profiles online cause privacy concern

The Queensland Government proposal to post a photo and details of every state school student online was running into a backlash late last month.

The OneSchool internal database would profile each of the state's 480,000 public school students enrolled from Prep to Year 12. Photographs, personal details, career aspirations, off-campus activities and student performance records are being collected from 1251 state schools.

State Education Minister Rod Welford said parents could be denied access to public education if they refused to consent to their child being profiled on the system. He dismissed concerns from parents about pedophiles hacking into the database.

Education Queensland said details of 180,000 students from 637 schools already were online and the database would be completed by December

By last week, the database was being watered down after parents' complaints to Education Queensland. School principals were leading the erosion, with one northside Brisbane primary school principal writing to parents advising them that photos of students did not need to be posted on their profiles.

Part of the backlash was caused by the Minister's comments that any opposition to the proposal was "ridiculous, extreme and hypothetical."

– from reports by James O'Loan and Melanie Christiansen, Courier Mail, 16 and 23 June 08

<http://www.news.com.au/couriermail/story/0,23739,23868131-952,00.html>



[Return to Table of Contents](#)

## Parliament watchdog uneasy about police expanding DNA matching

The NSW Parliament's Legislation Review Committee is so concerned about allowing police to expand DNA matching that it is writing to the NSW Police Minister, Mr Campbell, for a detailed explanation of what is proposed.

The LRC is the body which advises NSW Parliamentarians on whether proposed legislation violates human rights and civil liberties. It has eight MPs, representing diverse political viewpoints and both city and rural areas of the State.

The LRC's decision came last month after the committee analysed the Crimes (Forensic Procedures) Amendment Bill 2008. The bill expands the DNA samples police can match, including those provided voluntarily under 'limited purpose' restrictions, and would allow matching cross-jurisdiction throughout virtually all of Australia.

"The Committee is unclear on the reasons or benefits of the amendments to allow the DNA profile that is on the volunteers unlimited purposes index to be matched with a DNA profile on the offenders index (currently this is not permitted)," the LRC report said. "Therefore, the Committee

has resolved to write to the Minister to seek clarification regarding the Committee's concerns as well as any benefits of those specific changes to permit the matching of the DNA..."

## **Coercive report recommends 20 principles**

The new *Coercive Information-gathering Powers of Agencies* report by the Administrative Review Council (ARC) has identified 20 best practice principles that powerful government agencies should adopt.

The ARC is a statutory body advising government on administrative law

The report focuses on powers granted for compelling the providing of information, producing of documents, and answering of questions. It considers the powers with specific reference to the legislation and practices of Centrelink, Medicare Australia, the Australian Securities and Investments Commission, the Australian Prudential Regulation Authority, the Australian Taxation Office and the Australian Competition and Consumer Commission.

Examples of recommended best practice include:

- agencies should consider alternative means of obtaining information before using coercive information-gathering powers;
- coercive information-gathering powers should only be delegated to sufficiently senior and experienced officers in an agency;
- coercive information-gathering notices should comply with privacy legislation and inform recipients of their rights in relation to privilege.

Matters covered by the principles include the 'trigger' threshold for using the powers, who in an agency should exercise the powers, conduct of hearings, training, privilege, and exchanging information between agencies.

Report: <http://www.ag.gov.au/arc>

## **'Department permanently on defence', ex-legal head says**

The long-retired, former head of Defence's legal services branch, Stephen Brown, has blown the whistle on how tarnished was – and probably is – the department's approach to Freedom Of Information (FOI) requests.

He told Matthew Moore of the *SMH* that he and his staff were committed to the ideals of freedom of information but were continually frustrated by their lack of authority to make binding decisions.

"The problem, of course, was that under the department's FOI arrangements, the decision-making authority about release rested with the functional area connected with the documents sought," he wrote. "Managers in those areas had a very strong tendency to put up the shutters, using such obvious techniques as delaying decisions, overstating the time involved in locating documents and deciding upon them, and failing to consult applicants in order to refine requests."

Mr Brown also revealed there was extensive, 'arm's length' interference by Ministers and their advisers. – *SMH*, 7 June 08. Details: <http://www.smh.com.au/news/opinion/department-permanently-on-defence/2008/06/06/1212259114378.html>

## **Draft copyright treaty proposes draconian seizure powers**

The USA's draft discussion paper on a possible Anti-Counterfeiting Trade Agreement (ACTA) for the next G8 meeting in Tokyo this month would obliterate the right to privacy at every country's border.

Under the US proposal, any border guard, in any treaty country, could pry into any electronic device for any content that they suspect infringes copyright laws.

They would be able to seize any device – laptop, iPod, DVD recorder, mobile phone, etc – and confiscate it or destroy anything on it, also on suspicion. On the spot, no lawyers, no right of appeal, no nothing, according to a report last month in *The Age* and *SMH*.

The US draft proposes a governing body for copyright protection operating outside organisations like the World Trade Organisation and the UN, including a global police force with intrusive powers way beyond the current concept of safeguarding intellectual property.

The proposed treaty is being sponsored by a small group of US Congress members, all of whom according to *Wikileaks*, have received significant contributions from major record companies and film studios. Further details, and to access US discussion paper:

[http://www.wikileaks.org/wiki/ACTA\\_trade\\_agreement\\_negotiation\\_lacks\\_transparency](http://www.wikileaks.org/wiki/ACTA_trade_agreement_negotiation_lacks_transparency)

Story: <http://www.smh.com.au/news/perspectives/digital-copyright-its-all-wrong/2008/06/09/1212863545123.html>

Dept. Foreign Affairs & Trade, Australia: <http://www.dfat.gov.au/trade/acta/discussion-paper.html>



[Return to Table of Contents](#)

## Survey shows fraud in Australia is a \$1bn problem

The Australian Bureau of Statistics has found, in the first national survey of personal fraud in Australia, taken in 2007, that:

- \$980 million was lost as a result of personal fraud;.
- 453,100 people lost on average \$2,160 as a result of personal fraud.
- 806,000 Australians were victims of at least one incident of personal fraud in the previous 12 months – 5% of the population aged 15 years and over.
- half a million Australians experienced a form of identity fraud. The majority 383,300 (77%) were victims of credit or bank card fraud; identity theft accounted for the balance.
- nearly 6 million Australians (36%) were exposed to a range of selected scams; that is they received, viewed and/or read an unsolicited invitation, request or notification designed to obtain personal information or money or obtain a financial benefit by deceptive means.
- 329,000 people fell victim to at least one type of scam by responding to or engaging with the unsolicited offer, mainly lotteries (84,100 victims), pyramid schemes (70,900) and phishing and related scams (57,800). Report: <http://tinyurl.com/4p4wfc>

## Ludwig leaves card 'smarts' to the private sector

Human Services Minister, Senator Joe Ludwig, last month described the former government's Access Card scheme as "an identity card by stealth".

He signalled at the industry Smart Cards Summit in Sydney that the government was vacating the card scene to private enterprise.

Tough new anti-money laundering laws meant banks and other businesses were more rigorous in enrolling customers, while better identity fraud protection measures and the pilot Document Verification Service were doing more than ever to "tidy up" documents used for proof of identity.



"There is significant potential for these initiatives to support each other," Senator Ludwig (*pictured*) said. "In the welfare area, customers are already required to have a bank account in order to receive payments.

"If a card, smart or otherwise, is the best way to bring all this together, government need not play the central role. It may be enough to build payment transfer standards into the existing National Smartcard Framework and leave the private sector to roll-out and implement," he said.

– from a report by Karen Dearne, *The Australian IT*, 11 Jun 08

<http://www.australianit.news.com.au/story/0,24897,23847150-15306,00.html>

## Fathers subjected to spy cameras:

Meanwhile, one of the Minister's agencies has announced he will be effectively 'spying' on fathers thought to be holding back on child payments.

An 'Optical Surveillance Trial' starts 1 July 2008, and runs 12 months. The Child Support Agency (CSA) will trial spying with a secret, hidden camera "in a limited number of serious cases where



there is a suspicion that a parent has committed an offence” under child support legislation, such as providing false or misleading information.

The CSA will ‘partner’ with the Insolvency Trustee Service of Australia to seize and sell a parent's assets for not complying with a court order to pay outstanding child support.

– media release, 23 June 08, supplied by Nigel Waters.

<http://www.mhs.gov.au/media/media-releases/0806/080623-minister-unveils-tough-new-program.html>

## **When usual laws cut no ice, human rights can't be watered down**

What laws apply when desperate men with guns need water? That's the basis for a research or honours project proposed by Civil Liberties Australia at the University of Canberra over the next two years.

The subject's topicality was demonstrated when the US State of California fell officially into drought last month. Governor Arnold Schwarzenegger warned that the state might be forced to ration water to cities and regions if conservation efforts did not improve.

“Water is like our gold, and we have to treat it like that,” the US State Governor said. Books and movies are full of how men with guns killed for gold in California's early days. When water IS gold, similar behaviour is likely.

The drought declaration — the first for California since 1991 — includes orders to transfer water from less dry areas to those that are dangerously dry. Mr Schwarzenegger also said he would ask the federal government for aid to farmers and press water districts, cities and local water agencies to accelerate conservation. Drought conditions have hampered farming, increased water rates throughout California and created potentially dangerous conditions in areas prone to wildfires.

The declaration comes after the driest California spring in 88 years, with runoff in river basins that feed most reservoirs at 41 per cent of average levels. It stops short of a water emergency, which would probably include mandatory rationing.

CLA's project aims to analyse what would occur if areas of Australia got beyond desperation levels: would it be commercial, criminal or human rights law that took precedence in relations to water rights, and where would the boundaries between them lie?

## **McClelland signals boost for alternative resolution**

Boosting alternative dispute resolution, cutting legal costs and making the justice system more practical are key aims for the Attorney-General Rob McClelland.

“One of Labor's key priorities in Government is improved access to justice,” he said. “We also want to ensure that our justice system is practical, cost efficient and facilitates timely resolution of disputes. Access to justice requires reducing the cost of legal services and removing artificial barriers to justice. There is a leadership role for the Commonwealth to play in this regard.”

Mr McClelland said alternative dispute resolution reduced costs, freed up court time and resources, provided increased privacy and confidentiality for parties, and was less stressful for those involved.

He also foreshadowed a survey of all Commonwealth litigation in the second half of 2008 to collect evidence about the Commonwealth's litigation practices. “The survey would examine whether settlement options have been considered and actively pursued, and whether matters are expected to be resolved without the need to proceed to hearing.”

He said the first survey would cover civil matters, but he may extend it to regulatory and enforcement litigation later.



[Return to Table of Contents](#)

## **New appointments help ‘the alternative’ gain prominence:**

Four new people have been appointed to the National Alternative Dispute Resolution Advisory Council (NADRAC), an independent non-statutory body which advises AG McClelland. They are

John Hodgins, Tom Howe QC, Stephen Lancken, and Ms Lindsay Smith. Professor Tania Sourdin and Mr Warwick Soden have been reappointed, while Ms Josephine Akee, Mr John Spender and Ms Lynn Stephen are retiring. A new industry National Mediator Accreditation System began on 1 January 2008, emphasising the much-increased concentration on alternative dispute resolution under McClelland.

### **Reconciliation attempt is mandatory prelude in family law:**

All people applying to the Family Court for a parenting order must first attend family dispute resolution under changes to family law, except where there is child abuse, family violence or in matters of urgency, AG Robert McClelland announced last month. The changes take effect from 1 July 2008 and are designed to help separating families resolve disputes without litigation.

### **ID scheme proposed for Victorian taxi passengers:**

The Victorian Government and the State's main taxi authority are planning to force passengers to show an identity card, driver's licence or passport before entering a cab. The pilot project will start with an ID scanner at a Geelong taxi rank to track the ID of people queuing for a ride home late at night. A security guard, paid \$200 a night to keep watch late on Friday-Sunday nights, will manage the \$14,000 scanner.

### **Integrity Commission oversees Crime Commission:**

The NSW Crime Commission is now being overseen by the NSW Police Integrity Commission, after one of the CC's top investigators, Mark Standen, formerly of the Australian Federal Police, was charged over a multi-million-dollar international drug syndicate. The 51-year-old has been charged with conspiracy to import 600kg of pseudoephedrine, used to make the drug ice. He also faces a charge of conspiracy to pervert the course of justice. NSW Police Minister David Campbell said the PIC, which has the powers of a royal commission, would oversee all activities of the crime commission. – AAP story, 5 June 08

<http://www.theaustralian.news.com.au/story/0,25197,23814997-2702,00.html>

### **More legal aid for the bush:**

The government is providing \$5.8 million extra funding for legal aid, in regional, rural and remote areas of NSW, Queensland, Western Australia and Tasmania, particularly focused on family breakdown. Other funding through the National Association of Community Legal Centres will help country law graduates complete their practical legal training in regional Australia. These funds are on top of a \$10 million one-off injection for the Commonwealth Community Legal Services Program and a \$7 million one-off injection for legal aid.

### **Lib Senators punt on new odds for terror law reviewer Bill:**

Liberal Senators Judith Troeth (*pictured*) of Victoria and Gary Humphries of the ACT last month tabled a private members' Bill in the Senate for an Act to appoint an independent reviewer of terrorism laws, *Independent Reviewer of Terrorism Laws Bill 2008 [No. 2]*. It is substantively the same Bill that Liberal MHR Petro Georgiou introduced into the House of Representatives in March, which the Rudd Government prevented from being discussed on 19 March. But the new composition of the Senate from 1 July means the Bill may have a chance of success.



### **Website gives access to House material:**

After more than six months work by a small group of volunteers in their spare time, OpenAustralia has been launched. The website, the organisers claim, allows people easier access to follow a particular debate or theme; keep an eye on what a local MP is saying and doing; and comment on and debate the issues with others. <http://www.openaustralia.org/>

## **Arrested for witnessing a police raid:**

Journalist Matt Khoury describes how NSW police have taken new, APEC-conceived, 'move-on' powers and adapted them to try to silence journalists and innocent onlookers when police are conducting raids. Please read the story: if you know 'Sergeant Sullivan', please contact CLA as we would like to speak with him – 12 Jun 08

<http://www.theaustralian.news.com.au/story/0,25197,23849419-17044,00.html>

## **Are juries worth it?**

As jurisdictions around Australia grapple with how best to ensure a fair hearing for alleged criminals, find out what Professor Mark Findlay of the Institute of Criminology, University of Sydney, thinks: <http://www.abc.net.au/news/stories/2008/06/13/2273442.htm>

## **Queensland CCL incorporates:**

The Queensland Council for Civil Liberties has completed its own incorporation, one of its main aims for the year, formally at a Special General Meeting on 28 February 2008. The QCCL will shortly publish its history in book form. Author is Eddie Clarke, with editing by Ellie O'Gorman.

 [Return to Table of Contents](#)

## **Australia gives \$54m for land policy reform:**

Australia will provide \$54 million for a Pacific Land Program to help governments strengthen or improve their land systems, Parliamentary Secretary for International Development Assistance, Bob McMullan, said last month. He said Australia would only support reforms that recognise the continuing importance of customary tenure, and that land policy reform would have to be driven by Pacific Island governments and communities, not by donors. Initial help goes to Papua New Guinea, Vanuatu, Solomon Islands and Timor Leste. Details: Elizabeth James (AusAID) on 0407 280 188. CLA says the funding is welcome, as land tenure is often the basis for inequity and liberties/rights disputes in Pacific Island nations.

## **De facto couples can access federal family law courts:**

The Australian Government last month introduced legislation so de facto couples can access the federal family law courts on property and maintenance matters (they already had access on matters relating to children). The change implements a 2002 agreement between the Commonwealth, States and Territories at the Standing Committee of Attorneys-General, and simplifies the law, the government says.

## **Salutary lesson for Australian police:**

Dr Steven Hatfill, a former US Army scientist labeled a "person of interest" in the 2001 anthrax mailings, has won a \$6m settlement from the US government. Hatfill sued the Justice Department and FBI, alleging that repeated leaks of investigative details to the news media violated his right to privacy and ruined his reputation. A judge said: "There is not a scintilla of evidence that Dr Hatfill had anything to do with this". The anthrax attacks killed five, prompted hundreds to seek treatment, disrupted mail across the USA and closed a Senate office building in Washington for months. The case is unsolved: there have been no arrests. Australian police and security forces, particularly police in WA, should take note that there can be major financial consequences for mis-labelling someone as a "person of interest". [http://www.latimes.com/news/nationworld/nation/la-na-anthrax28-2008jun28\\_0,4309463.story](http://www.latimes.com/news/nationworld/nation/la-na-anthrax28-2008jun28_0,4309463.story)

## **CLA's main activities for June 2008:**

### **Selection of new articles for the website in June:**

- Australia's future: Drop a tier of govt? Become a republic? (Norman Abjorensen, CLA member)
- 'Free expression' underpins internet expansion (report on Seoul OECD meeting, from APF)

- Whatever happened to Scott Parkin?
- AFP should drop Canadian approach to stun guns
- Solomon's wisdom produces Right To Information
- 'Free expression' underpins Internet expansion
- NSW law review body laments lack of bill of rights
- US 'greatness' lost at Guantanamo, US Major says
- Inquiry to scrutinise immigration detention

#### **Submissions:**

Report of Joint Standing Committee on Treaties (UAE: extradition, criminal intelligence exchange) handed down - see lead story;

To inquiry scrutinising immigration detention (Fed Govt): several members contributing, submission closes July 18;

Re change to committal/jury systems, need for greater competency ; re Random Drug Driving (RDD) testing (ACT and interstate).

#### **Media:**

2 June 08: Paul Bleakley, Griffith U. student re Qld law amendment : smoking in cars with kids;

26 June 08: ABC Radio News Kathleen Dyett;

27 June: ABC Radio News: CLA raises concerns over ACT Government moves to change the justice system;

Interview with Community Radio 2xx-fm Bill Tully on the Charter of Rights;

WIN TV interview on police trying to locate witnesses (not alleged offenders) using CCTV at crime scenes.

#### **Promotion:**

Further investigation and organisation for production of a TV advertisement for CLA: visual material sourced, arrangement for production under way with help of Blumers Lawyers.

#### **Meetings: Political**



Ms Anna Burke (*pictured*), Deputy Speaker re Charter of Rights, Inquiry into civil liberties in Australia, re right to peaceful protest in parliamentary precinct without being questioned by police;

Mr Harry Jenkins, Speaker, re right to peaceful protest in parliamentary precinct without being questioned by police, and other matters;

Mr Philip Ruddock, re Charter of Rights;

Mr Duncan Kerr, Parliamentary Secretary for Pacific Affairs, re Charter of Rights (Tasmanian contacts), Pacific Islands civil liberty groups;

Ms Melissa Parke, re immigration, civil liberties in WA, Charter, ABCC (Australian Building and Construction Commission) legislation, sedition, FOI and Whistleblowing;

Mr Daryl Melham, Chair of Caucus, re Charter of Rights, sedition laws

#### **Networking:**

Dr Kevin Bradley, National Library of Australia, re interviewing people for a history project;

Lecture by John Micklethwait, Editor of the Economist, at ANU on Globalisation

Lecture by CLA member, Dr Norm Abjorensen, on Federalism

Contact with groups in Alice Springs

#### **Formal consultations:**

Human Rights Roundtable meeting in Sydney on a Charter of Rights: a meeting of organisations with the aim of producing a unified strategy: CLA representative Diana Simmons

#### **Fund raising:**

Advice sought on setting up a trust fund, plus seeking sponsors.

#### **Students:**

Meeting with eight students at the University of Canberra to define research and honours topics.

#### **Membership:**

Meetings with members Lawson Lobb, Jill Harris, George Williams, Phylli Ives;

Research on possible people to approach for sponsorship.



## INTERNATIONAL

### **New UN instrument lets people speak out on rights**

The UN has adopted a new legal instrument so people can complain about violations of their economic, social and cultural rights to an international human rights body.

The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights will “provide an important platform to expose abuses that are often linked to poverty, discrimination and neglect, and that victims frequently endure in silence and helplessness,” UN High Commissioner for Human Rights Louise Arbour said last month.

“It will provide a way for individuals, who may otherwise be isolated and powerless, to make the international community aware of their situation,” she said, calling the adoption of the text by the Geneva-based UN Human Rights Council “a highly significant achievement.”

She said that the lack of a complaint procedure for economic, social and cultural rights has been “a missing piece in the international human rights protection system,” since the Covenant - which has 158 states parties - opened for signature in 1966. The Protocol is expected to receive final approval by the General Assembly later this year. It will enter into force once ratified by 10 states.

– from UNity, UN Assn of Australia e-newsletter, 20 June 08

### **Fiji police raid TV station, seize master tape**

Fiji police raided the offices of a local television station late last month and seized the master tape of a current affairs program due to go to air that night.

According to local media reports and the Pacific Islands News Association (PINA), police entered the Fiji Television offices on 23 June with a search warrant for tapes associated with the Close Up program.

The tapes reportedly featured an interview with Rajendra Chaudhry, a Suva lawyer and son of the military-appointed Finance Minister. Police ordered Fiji TV not to broadcast the program on the basis that the material may be considered “inciteful”, PINA reports.

In a statement published on Fiji TV’s website, the organisation’s acting chief executive officer, Tarun Patel, said that as a publicly listed company, Fiji TV, intended to retrieve the footage through due process and broadcast it.

PINA described the incident as “counterproductive to the promise of a free media” and voiced concerns about increasing efforts by Fiji’s interim government to control broadcast media.

Fiji Media Council chairman Daryl Tarte condemned the raid and said it was an unwarranted interference in media freedom and an example of official censorship, according to a PINA statement. The move follows the sudden deportation of two expatriate Australian publishers of two local newspapers in February and May this year, causing widespread concern for media freedom under Fiji’s interim government.

### **Sri Lanka Defence Ministry tries to silence media comment**

Sri Lanka’s Defence Ministry is proposing “guidelines” for the media that would effectively throttle media independence.

According to the Free Media Movement (FMM), the guidelines are proposed in an editorial on the ministry’s website which argues that critical media scrutiny of military issues risks national security and is akin to supporting terrorism.

The editorial was posted after another on 31 May that called on “all members of the armed forces to unite and guard against” a “treacherous media campaign [being run] against them”. Journalists were accused of “terrorist propaganda”.

Journalists who report on defence issues have been subjected to a series of attacks, threats and intimidation recently. On 22 May, Keith Noyahr, deputy editor and defence writer for *The Nation*,



was abducted and violently beaten. On 29 May, the home of senior defence reporter Sirimevan Kasturiarachchi, of the *Divaina*, was stormed by an unknown group and he was warned to stop reporting on all matters related to the Sri Lankan Army and defence personnel.

The latest editorial expresses "serious concern" over the "unethical measures" used by "so-called" defence writers to obtain information. It reiterates the earlier threat that any journalist who writes critically about the conduct of the armed forces and the security establishment in Sri Lanka will be branded by the SL Government as a traitor.

The proposed guidelines stipulate, among other things, that the media should not:

- Be critical of military strategy or seek to analyse it.
- Scrutinise promotions and transfers within the armed forces.
- Question military procurements and the processes adopted for these.
- Espouse or discuss anti-war positions.
- Obtain information from military officers other than officially designated spokesmen.

CLA has written to Australia's Foreign Minister, Stephen Smith, asking him to protest formally to Sri Lanka about media persecution. As in Zimbabwe, media attacks may presage a wider assault on the people and democracy.

Late news: Sri Lanka late in June appointed a ministerial-level committee to investigate allegations that local journalists trying to cover the country's civil war have been threatened and harassed.

The investigation follows complaints from both Sri Lankan and foreign human rights groups that the government has been orchestrating much of the alleged intimidation. Cabinet minister Sarath Amunugama said the committee, appointed by President Mahinda Rajapaksa, will also help reporters gain access to government officials to verify stories as well as protect the independence and safety of journalists.

"The media felt that they were under too much surveillance ... we can't deny there was a feeling like that," said Amunugama, who will head the committee.

Last week some 29 international rights groups wrote to UN Secretary General Ban Ki-moon seeking his help to persuade Sri Lanka to "immediately stop all actions which undermine the independence and safety of the news community." Earlier in June the European Commission also raised the issue with the Sri Lanka government. – from a Krishan Francis AP report, 24 June 08



[Return to Table of Contents](#)

## Indonesian rights groups urge CTF to publish report

Human rights organisation, including the Commission for Missing Persons and Victims of Violence (Kontras), the Human Rights Working Group (HRWG) and Indonesian Human Rights Watch (Imparsial) have called on the Indonesia-East Timor Commission of Truth and Friendship (CTF) to

immediately hand over its report to the presidents of Indonesia and East Timor.



Kontras coordinator Hamid Usman (*pictured on the right, with Suciwati, wife of the murdered human rights activist, Munir*) said the delays in delivering the report was of itself dangerous. The report should also be laid before parliaments of both countries and published.. "(Then) both presidents can immediately order the Attorney General to forward the findings of humanitarian crimes that took place to the human rights court."

In East Timor, it is hoped that the CTF report will help resolve human rights violations as recommended by the 27th session of the UN Commission Against Torture on 16 May.

## EU gets tougher on migrants

The European Union voted last month to allow undocumented migrants to be held in detention centres for up to 18 months and banned from EU territory for five years.

The 'return directive' passed the European Parliament 369-to-197, with 106 abstentions.

There is freedom of movement among 25 of 27 EU member states, but no overarching immigration policy. Supporters see the new measure as a means to unify a patchwork of systems governing treatment of migrants who overstay their visas or who, in far lesser numbers, slip clandestinely across borders.

The EU has 224 detention centers for migrants, able to hold 30,871 people. National rules for holding migrants vary; in France, 32 days; in Germany, 18 months; and 8 EU countries have no time limit (and in one, some detainees have been held for eight years).

The new measure limits detention in the eight countries — though two, Denmark and Britain, can opt out of the restriction. Opponents of the directive fear it will encourage countries with shorter detention limits to extend them. — from an article by Caroline Brothers, NY Times, 19 June 08

[http://www.nytimes.com/2008/06/19/world/europe/19migrant.html?\\_r=1&th&emc=th&oref=slogin](http://www.nytimes.com/2008/06/19/world/europe/19migrant.html?_r=1&th&emc=th&oref=slogin)

## Canada's federal police watchdog threatens ban on stun guns

The Royal Canadian Mounted Police should be temporarily banned from using stun guns unless officers are prohibited from firing the electronic stun guns so often, the force's watchdog has said in a report.

The report, prompted by the case of a Polish immigrant who died shortly after mounties shot him with stun guns — or Conducted Energy Weapons — at Vancouver airport and then subdued him, said police were using the stun guns on suspects who did not pose a serious threat.

Paul Kennedy, who chairs the commission on public complaints against the RCMP, said the Taser, also known as a CEW, should only be used against people who were "combative" or posed a risk of "death or grievous bodily harm" to police.

"If the RCMP cannot account for the use of this weapon and properly instruct its members to appropriately deploy the CEW ... then such use should be prohibited until prompt and strict accountability and training measures can be fully implemented," he wrote.

"Our recommendations are designed to hold the RCMP publicly accountable for its use of a weapon that has caused considerable apprehension among Canadians, and to control usage creep," Mr Kennedy said.

Critics say police are using stun guns far too often and point to incidents where officers in British Columbia fired the stun guns at transit fare dodgers and also blasted an elderly man who was lying on a hospital stretcher.

Mr Kennedy said only those above the rank of corporal should be issued the weapons in cities. In rural areas, where police levels are thinner, only members with five or more years' evidence should be allowed to use stun guns.

Read full story, including link to footage of Vancouver Airport stun gun killing:

<http://www.cla.asn.au/0805/index.php/articles/2008/06/20/afp-should-adopt-sensible-canadian-stun->

- Reuters story <http://www.abc.net.au/news/stories/2008/06/19/2279322.htm>

## Bush batting .000 as Supreme Court strikes for third time

The US Supreme Court last month delivered its third consecutive rebuff to the Bush Administration's handling of the detainees at Guantánamo Bay, ruling 5 to 4 that the prisoners there have a constitutional right to challenge their continued detention before a federal court.

The Supreme Courtt declared unconstitutional a provision of the Military Commissions Act of 2006 that, at the administration's behest, stripped the federal courts of jurisdiction to hear habeas corpus petitions from the detainees seeking to challenge their designation as enemy combatants.

Writing for the majority, Justice Anthony M. Kennedy said: "The laws and Constitution are designed to survive, and remain in force, in extraordinary times."

About 270 people remained locked up at Gbay, down from a maximum of about 700. In nearly seven years, no-one Gbay prisoner has been convicted of any offence...except Australian David Hicks, who pleaded guilty in a plea bargain aimed at escaping the hellhole where normal international rules or laws don't apply, according to the Bush Administration. – from a Linda Greenhouse story, NY Times, 13 June 08

<http://www.nytimes.com/2008/06/13/washington/13scotus.html?th&emc=th>



[Return to Table of Contents](#)

## **US points the bone at man trapped by language**

The US military is trying to use bone scan evidence to nudge the age of Mohammad Jawad, an Afghan, from 17 or younger when apprehended to above 18, so they can try him as an adult.

Guantanamo Bay records show Jawad was moved 112 times from cell to cell during two weeks in May 2004 under the 'frequent-flyer program', used to soften up prisoners for interrogation. But Jawad had already confessed by then to throwing a grenade.

Jawad's lawyer, Air Force Major David Frakt, has filed a motion to dismiss attempted murder charges on the grounds that the military tortured his client by subjecting him to sleep deprivation. "It was just gratuitous cruelty," Frakt says.

Jawad's lawyer says his client was 16 or 17 when he threw a grenade at three people, but the military says his age is uncertain and a bone scan suggested he may have been 18 at the time. Trying to kill a soldier is not a crime during war, but the two American soldiers had an Afghan linguist with them, so Jawad is trapped by translation. – from a story by Ben Fox of AP.

**US 'greatness' lost at Guantanamo, US Major says** – <http://www.cla.asn.au/>

## **Death penalty unconstitutional for child rape, court says**

The death penalty is unconstitutional in America as a punishment for the rape of a child, a sharply divided US Supreme Court ruled late last month.

The 5-4 decision overturned death penalty laws in Louisiana and five other states. The court ruled out the death penalty for any individual crime – as opposed to "offenses against the state" like treason or espionage – "where the victim's life was not taken".

Justice Anthony M. Kennedy, writing for the majority, said there was "a distinction between intentional first-degree murder on the one hand and nonhomicide crimes against individual persons," even "devastating" crimes like the rape of a child, on the other.

The decision was the third in six years to place a categorical limit on capital punishment. In 2002, the court barred the execution of mentally-retarded defendants. In 2005, it ruled that the US Constitution bars the death penalty for crimes committed before the age of 18. – from a Linda Greenhouse article, NY Times, 26 June 08.

<http://www.nytimes.com/2008/06/26/washington/26scotus.html?th&emc=th>

## **UN's Arbour alarmed by erosion of rights**

The UN High Commissioner for Human Rights is concerned about treatment of people suspected of committing terrorist acts, and called for reform of legal procedures used in such cases.

"There are concerns regarding the transfer of suspects without due process, and the use of torture, cruel, inhuman and degrading treatment or punishment, which are unacceptable practices," Louise Arbour (*pictured*) reported to the UN Human Rights Council (HRC) in Geneva.

"I am alarmed by the continuing erosion of the right to fair trial which occurs when suspects of terrorist acts are denied the right to obtain a judicial review,"



she said. There was a need to establish specific and effective legislation to avoid vague or overly broad definitions of terrorism.

Commenting on another UN report, on the *Question of the death penalty*, she said that the number "completely abolitionist" countries has increased from 85 to 93 since 2005.

<http://www.un.org/apps/news/story.asp?NewsID=26914&Cr=arbour&Cr1=>

## Phone firms can tap into sweetheart deal

Democratic and Republican leaders in the US Congress struck a deal last month to overhaul the rules on the government's phone-tapping powers, giving de facto legal immunity to phone companies which eavesdropped without warrants after the 11 September 2001 aircraft attacks on the Twin Towers in New York.

The deal gives more scope to intelligence officials eavesdropping on non-American targets. They can conduct emergency phone-taps without court orders on American targets for a week if important national security information would otherwise be lost. If approved by formal votes, as appears likely, the agreement would be the most significant revision of surveillance law in 30 years.

– from an Eric Lichtblau report in the NY Times, 20 June 08

<http://www.nytimes.com/2008/06/20/washington/20fisa.html?th&emc=th>

## Muslim seminary issues fatwa against terrorism

A radical Muslim seminary in India, said to have inspired the Taliban, has issued a fatwa, or edict, against terrorism at a meeting attended by thousands of clerics and students, according to a report in *The Age*.

The Darul Uloom Deoband, a 150-year-old institute controlling thousands of smaller Islamic seminaries in India, vowed to wipe out terrorism.

"Islam rejects all kinds of unjust violence, breach of peace, bloodshed, murder and plunder and does not allow it in any form," said senior rector Habibur Rehman. Thousands of clerics and students cheered as Mr Rehman read out a statement: "The religion of Islam has come to wipe out all kinds of terrorism and to spread the message of global peace."

<http://www.theage.com.au/world/indian-college-issues-fatwa-on-terrorism-20080601-2kh0.html>

## Torture advocates fail to explain 'besmirching the USA's reputation'

The US House Judiciary Committee last month heard long-awaited testimony from David Addington and John Yoo on how torture segued from inhumane to official US policy.

The controversial Bush Administration torture advocates were coerced into testifying under oath after years of resistance and obstruction: each labored to tell the committee as little as possible.

Addington, formerly Vice President Dick Cheney's general counsel and now his chief of staff, was described by Jack Goldsmith, the former chief of the Justice Dept's powerful Office of Legal Counsel, as shaping internal deliberations on detentions, interrogations and warrantless surveillance and unflinchingly pushing them beyond traditional limits.

Yoo (*pictured*), now a Berkeley law professor, was an ideological ally of Addington's in the Office of Legal Counsel from 2001 to 2004, and principal author of two infamous legal memoranda: one, in August 2002, legally blessing interrogations that stopped short only of inflicting pain equivalent to "organ failure, impairment of bodily function or even death;" and then in March 2003 allowing the US Defense Dept to do the same.



The House Judiciary subcommittee is chaired by Jerrold Nadler, a Democrat from New York, who said: "It does not go too far to say the reputation of our nation as the leading exponent of human rights and human dignity have been besmirched by this Administration. I know I speak for many of my colleagues when I say that the more we find out about what was done and how it was justified, the more appalled we have become." Read the full story in the *Washington Independent*:



<http://www.washingtonindependent.com/view/torture-policy>



[Return to Table of Contents](#)

## **42 days was aimed at ‘terrorising’ Opposition, says UK Labour MP**

Diane Abbott, Britain’s Labour MP for Hackney North and Stoke Newington, said the UK Labour Government’s plans to allow holding of terrorist suspects for 42 days without trial would make Britain less safe.

Abbott, who heard the 1996 IRA bombing of Canary Wharf from her kitchen, said: "I won't take lectures from ministers about not taking terrorism seriously. I do not believe, as ministers continue to insist, that there is some sort of trade off between our liberties and the safety of the realm. I believe that what makes us free is what makes us safe and what makes us safe is what will make us free."

The veteran rebel said the government was attempting to expose the Conservatives for appearing soft on terrorism. "This is about positioning, this is about putting the Conservative party in the wrong place on terrorism. We shouldn't play ducks and drakes with our civil liberties in order to get a few months advantage in opinion polls," Nicholas Watt reported in *The Guardian* – 12 Jun 08.

<http://www.guardian.co.uk/politics/2008/jun/12/terrorism.uksecurity>

### **Britain’s slippery slope:**

2000: Terrorism Act allows holding suspects 48 hours (extending to 7 days if approved by judge);

2003: doubled to 14 days:

2006: doubled to 28 days;

2008: up by 50% to 42 days.

2010: *likely to be up by 50% to 63 days*

2012: *indefinite detention of suspects, without trial?*

## **Murder trial collapses after Law Lords rule against evidence in secret**

A \$12m British murder trial has collapsed after a Law Lords’ ruling in a separate case that witnesses should not be allowed to give evidence anonymously.

The trial was halted after lawyers examined the judgment that defendants have the right to know who is giving evidence against them.

Judge David Paget discharged the jury, telling them that the trial had been "derailed". It had been approaching the end of the prosecution case, and the jury had heard evidence given by four witnesses under false names and behind screens.

The trial had come after a four-year inquiry into the shooting and alleged police corruption.

"I am afraid I will have to discharge you and order a retrial in the new year," Mr Justice Paget told jurors. "The House of Lords decided, in a very far-reaching judgment, that evidence from anonymous witnesses cannot be admitted. The reason for that is because of the difficulties caused to the defence if they do not know the identity of witnesses against them and are deprived of investigating why these people may be inaccurate or, worse, untruthful."

Five law lords granted an appeal in the case of Iain Davis, who was convicted of killing two men after a new year’s eve party in London in 2002. They ruled that he was denied a fair trial because the witnesses who identified him as the gunman gave evidence from behind screens and their voices were distorted. <http://www.guardian.co.uk/uk/2008/jun/24/ukcrime.law>

## **‘Muddle through’ Brits discard security to save a penny**

‘Institutional problems’ were the reason two computer discs went missing last year, an Independent Police Complaints Commission probe in the UK reported last month.



The disks, which were put in the normal post from Newcastle to London to save money, held the names, addresses, bank details and national insurance numbers of 25 million people. The head of the Tax Office later resigned and, despite a massive police hunt, the discs have not been found.

"An event like this was certain to happen - the only question being when," said the report by IPCC Commissioner Gary Garland, adding that staff had to deal with a 'muddle through' culture.

The British Information Commissioner, Richard Thomas, warned he would take formal enforcement action, which could lead to criminal prosecutions, if procedures for handling sensitive information were not improved in both the Tax Office and in Defence, which had a laptop containing details of 600,000 recruits stolen.

Many similar losses of supposedly private data in the UK and US beg the question: why are we not hearing about such cases in Australia...are we better, or just lucky, or have losses here been covered up? – from The Guardian and ABC stories, 24-25 June 08

<http://www.guardian.co.uk/politics/2008/jun/25/data.loss.report>

## **As athletes train harder, two lawyers lose right to practise**

Two prominent human rights lawyers lost their licenses to practise after volunteering to defend Tibetans charged in the violent anti-China protests in March.

The crackdown comes ahead of the Beijing Olympics, opening on 8 August.

The two lawyers, Teng Biao and Jiang Tianyong, are known for taking on politically contentious cases, including those alleging official abuses of human rights.

Mr Teng said he learned early in June that judicial authorities had renewed the licence of every lawyer in his firm, except his own. "Obviously, it is because of the Tibetan letter that I signed and also other sensitive cases I handled," Mr Teng told Jim Yardley of the NY Times.

Human rights groups say the authorities initially considered denying licence renewals for numerous lawyers, only to relent in the cases other than those of Mr Teng and Mr Jiang.

Lawyers are increasingly at the cutting edge of efforts to push systemic change in China. Self-styled 'rights defenders' regard the law as a tool to expand and protect the rights of individuals in an authoritarian political system.

But the ruling Communist Party is often wary of lawyers who try to challenge what it regards as the unassailable pre-eminence of the party in society. – 4 June 08

[http://www.nytimes.com/2008/06/04/world/asia/04tibet.html?\\_r=1&oref=slogin](http://www.nytimes.com/2008/06/04/world/asia/04tibet.html?_r=1&oref=slogin)



[Return to Table of Contents](#)

## **Criminal defamation used to silence critics**

Indonesian journalist Risang Bima Wijaya has just been released after six months in jail for 'criminal defamation'.

Risang is a former general manager and editor-in-chief of *Radar Jogja* and journalist with *Jawa Pos* newspaper who was sentenced after a long-running court case over articles published in *Radar Jogja* in 2005 regarding allegations of sexual harassment by newspaper publisher Sumadi M. Wonohito. *Radar Jogja* was also fined US\$600,000 for defaming Sumadi.

The case highlighted the use of criminal defamation laws to target journalists in Indonesia. Criminal defamation laws were a "blunt instrument used to stifle free media," according to the International Federation of Journalists.

There were 41 cases of criminal defamation proceedings against journalists in Indonesia between 2003 and 2007 – IFJ media release 7 Jun 08.

## **USA and Europe to scour people's private data**

The USA and the European Union are close to allowing security and police agencies to scour private information — like credit card transactions, travel histories and internet browsing habits — about people throughout Europe, despite the EU having more stringent laws about governments and businesses collecting and transferring such information.

Negotiators, who have been meeting since February 2007, have largely agreed on draft language for 12 major issues central to a "binding international agreement," a report said. The pact would make clear that it is lawful for European governments and companies to transfer personal information to the USA, and vice versa.

But the two sides are still at odds on several matters, including whether European citizens should be able to sue the US Government over its handling of their personal data, according to a report quoted by Charlie Savage in the *NY Times*. – 28 June 08

<http://www.nytimes.com/2008/06/28/washington/28privacy.html?ex=1215316800&en=3be8fbbb7229a3f7&ei=5070&emc=eta1>

### **Sensitive jail file found outside court:**

A file found on an Auckland street which names high risk New Zealand offenders released from prison, and those due for release, was returned to jail managers last month. Loss of the 30-page tome alarmed Corrections Minister Phil Goff. Corrections Department boss Barry Matthews said the file, which included a list of high-risk people, and included names, some home addresses and details of offences, was found outside a court. Mr Bradbury gave an assurance the file would be returned and the contents kept confidential. – from a report by Maggie Tait, 19 June 08

<http://www.national.org.nz/Article.aspx?ArticleID=28112>

### **Refugees numbers reach new record:**

The UN High Commissioner for Refugees helped a record 25.1 million people in 2007. "After a five-year decline in refugees between 2001 and 2005, we have now seen two years of increases, and that's a concern," UN High Commissioner for Refugees. António Guterres, said last month. Using figures from 150 countries, a report says there were 11.4 million refugees outside their countries, as well as 26 million others displaced internally by conflict or persecution at the end of 2007.

### **NY honours marriages made other than in heaven:**

New York Governor David Paterson has directed all state agencies to revise their policies and regulations to recognize same-sex marriages performed elsewhere, such as in Massachusetts, California and Canada. Gay couples married elsewhere "should be afforded the same recognition as any other legally performed union," the directive said. About 1,300 statutes and regulations in New York governing everything from joint filing of income tax returns to transferring fishing licenses between spouses will have to change. Massachusetts and California are the only US states that have legalized gay marriage, while others, including New Jersey and Vermont, allow civil unions. Forty-one states have laws limiting marriage as a union between a man and a woman. – Jeremy Peters article, *NYT*, 30 May 08.

[http://www.nytimes.com/2008/05/29/nyregion/29marriage.html?\\_r=1&th&emc=th&oref=slogin](http://www.nytimes.com/2008/05/29/nyregion/29marriage.html?_r=1&th&emc=th&oref=slogin)

### **Release of violent criminals cause for concern:**

The representative of the UN High Commissioner for Human Rights, Louis Gentile, expressed concern over early release of prisoners convicted of violent crimes in Timor Leste. His remarks followed release last month of former Minister of Interior Rogerio Lobato and four ex-militia integrationist elements of Team Alpha, including the leader, Joni Marques. In statements reported by the Lusa Agency, Gentile recalled that the beneficiaries of sentence reduction by presidential decree were "convicted of the most serious crimes, including murder, rape and some even of crimes against humanity." – 19 June 08, <http://www.jsmp.minihub.org>



[Return to Table of Contents](#)

### **Timor Leste passes lawyers' law:**

The Timor Leste Parliament last month approved Law No. 2/II/1 on the Regulatory Framework for Private Lawyers and Lawyer Training. "This law provides greater guidance for lawyers in carrying

out their duties both inside and outside of the courts, and to enable them to better contribute to a strong and robust legal system in Timor-Leste,” said Timotio de Deus, Director of the Judicial System Monitoring Program. JSMP hopes several other draft laws, such as the Penal Code and draft law on domestic violence, will also be passed soon.

### **UK councils go overboard on ‘spying’:**

Councils in England have been urged to review the way they use surveillance powers. Under anti-terrorism laws, councils can access phone and e-mail records and use surveillance to detect or stop a criminal offence. FOI figures show some 3,000 people have been targeted in the last year for alleged offences that included dog smuggling, storing petrol without permission and keeping unburied animal carcasses. A sample of fewer than 10% of councils showed that spying techniques were used 1,343 times – supplied by Mark Burdon, QUT.

<http://news.bbc.co.uk/1/hi/uk/7468430.stm>

### **Lords keeps an eye on surveillance:**

The UK’s House of Lords Constitution Committee is evaluating submissions to its inquiry into the impact that government surveillance and data collection have on the privacy of citizens and their relationship with the State. The inquiry, which is set against a backdrop of increased use of CCTV, the creation of the national DNA database, the new NHS Spine and the proposals for ID cards, seeks to find out if increased surveillance and data collection by the state have fundamentally altered the way it relates to its citizens. The deadline for submissions was early June.

### **Japan executes three:**

Japan executed three men in mid-June, bringing this year’s hangings to 10. Justice Minister Kunio Hatoyama has approved 13 executions since August 2007, despite a non-binding UN resolution passed late last year calling on member states to introduce a moratorium. Having executed one person in 2005, Japan operated a de facto moratorium for 15 months until 2006: Justice Minister at the time, Seiken Sugiura, refused to sign execution orders because the death penalty conflicted with his Buddhist beliefs. Japan has since executed 23 people, including nine last year – the highest number since 1976. <http://www.guardian.co.uk/world/2008/jun/17/japan.humanrights>

### **President signs genetic non-discrimination Act:**

US President Bush has signed into law the Genetic Information Nondiscrimination Act of 2008. Both chambers of the US Congress passed the legislation recently. The Act prohibits discriminating on the basis of genetic information in health insurance and employment. CLA believes Australia should have similar legislation. *Genetic Information Nondiscrimination Act, S. 358*: <http://thomas.loc.gov/cgi-bin/bdquery/z?d110:SN00358>

### **Enhance the budget – add a dash of terror threat:**

“One way to enhance your budget is to frame it in terms of terrorism,” said Steven Simon, a senior fellow at the (US) Council on Foreign Relations. “But the problem is that ‘Al Qaeda’ is more art than science – and people project on to the subject a lot of their own preconceptions.”

<http://www.nytimes.com/2008/06/08/weekinreview/08sciolino.html>

### **US secret detention camps still exist:**

“The CIA appears to have overseen or controlled, and in some cases appears still to be running, black sites in Poland, Bulgaria, Romania, Ukraine, Macedonia, Kosovo, Morocco, Libya, Egypt, Djibouti, Somalia, Ethiopia, Iraq, Jordan, Afghanistan, Pakistan, Thailand and, possibly, Diego Garcia. The US appears to be using ships as secret prisons. In just two years the CIA ran 283 flights - which the Council of Europe believes were used for transporting secret prisoners - out of Germany alone.” - George Monbiot, writing in The Guardian, on the George W Bush legacy, 17 June 08 <http://www.guardian.co.uk/commentisfree/2008/jun/17/usa.humanrights>



## Calls for justice for Timor Leste:

More than 90 human rights groups have joined forces to urge the UN to bring Indonesia to account for its occupation of Timor Leste, which ended in 1999. In a joint letter, the group asks the international community to fulfill its long-standing commitment to see that justice is done for crimes against humanity allegedly committed in East Timor during Indonesia's 25-year occupation. The letter was signed by academics and human rights groups, including the East Timor and Indonesia Network. The letter, to UN Secretary General Ban Ki Moon, came as the bilateral Commission on Truth and Friendship prepares to hand its report over to the presidents of Indonesia and East Timor. – Judicial System Monitoring Programme (JSMP). <http://www.jsmp.minihub.org>

## DATES:

**1-4 July, Byron Bay, NSW:** Inter-rational conference: Activating Human Rights and Peace, Byron Bay Community and Cultural Centre; keynote speaker Justice Michael Kirby, High Court of Australia on Making the Universal Declaration of Human Rights a Reality - Sixty Years On; details: [http://www.scu.edu.au/research/cpsj/human\\_rights/index.html](http://www.scu.edu.au/research/cpsj/human_rights/index.html)

**3 July, Sydney:** *The death penalty: Why should Australians care?* Amnesty event at Sydney University Law School Assembly Hall, 6.30pm: speakers include NSWCCCL V-P and Australian Death Penalty Roundtable coordinator, Michael Walton. More info: Jenny Leong 0431 481 038

**6-11 July, Adelaide:** AMUNC meeting of 600 Pacific Island and Australia uni students. Details: [www.amunc.net](http://www.amunc.net); email: [contact@amunc.net](mailto:contact@amunc.net).

**23 July, Sydney:** *You Are Where You've Been*, free all-day seminar on location privacy issues, UNSW Kensington. Keynote speaker: Prof Roger Clarke, chair Austn Privacy Fndtn and CLA member. Brochure [http://www.gmat.unsw.edu.au/lpseminar/index\\_files/youarewhereyouvebeen.pdf](http://www.gmat.unsw.edu.au/lpseminar/index_files/youarewhereyouvebeen.pdf) RSVP to [m.iqbal@student.unsw.edu.au](mailto:m.iqbal@student.unsw.edu.au) for catering, with name, organization, role and contact number/email.

**23-24 July, Canberra:** 3rd Workshop on the Social Implications of National Security: *Australia and the New Technologies: Evidence Based Policy in Public Administration*. More Info, Katina Michael : <http://www.uow.edu.au/~katina/rnsa08.htm> Event is co-located with the *Safeguarding Australia Summit 08* at Hotel Realm in Canberra.

**18 & 19 August 2008, Canberra:** *Public Affairs in the Age of Rudd*, examining political campaigning, 2020 summit, the climate of disclosure, lobbying, the relationship between ministers and departments and the 24/7 Rudd work ethic. <http://publicaffairs.alliance.org.au/the-news/latest-news/-canberra-conference>

**21-23 August, Brisbane:** UN Assn of Australia national conference, Parliament House, Brisbane. Sessions on climate change, life long education, governance, peace, conflict and resolution, human rights, sustainability and global compact. Info: UNAA Qld: unaabalmain@optusnet.com.au on ph/fax 07 32541096.

**3-5 September, Paris, France:** 61st Annual DPI/NGO Conference commemorating 60th Anniversary of the Universal Declaration of Human Rights

**12-13 September, Melbourne:** National Indigenous Legal Conference (and Ball), RACV Club. Info: Aislinn Martin (03) 9607 9474/ 0413 009 072; f 03 9607 9438; E: [amartin@liv.asn.au](mailto:amartin@liv.asn.au)

**19-20 Sept 2008, Dublin, Ireland:** Celebrating 60 years of the UDHR - conference explores how the Universal Declaration of Human Rights (UDHR) can contribute to education provision. Hosted by the Centre for Human Rights and Citizenship Education, Amnesty International Irish Section, and the Irish National Teachers Organisation. More info: [Brian.Ruane@spd.dcu.ie](mailto:Brian.Ruane@spd.dcu.ie)

**3 October, Melbourne: 2008 Protecting Human Rights Conference**, Melbourne Law School, 185 Pelham Street, Carlton, \$150 / \$75 concession, issues at state, territory and national levels in Australia, draft Bills being considered in Tasmania and Western Australia, and discussion of similar Acts in other countries. Details: (03) 8344 1011 or [law-cccs@unimelb.edu.au](mailto:law-cccs@unimelb.edu.au) Web: <http://cccs.law.unimelb.edu.au>

**19-22 October, Manila, Philippines:** Global Congress of Women in Politics and Governance, Web: [www.capwip.org](http://www.capwip.org) Congress information - registration form: <http://www.capwip.org/3rdglobalcongress.htm>

**30 October - 2 November, Athens, Greece:** 13th International Anti-Corruption Conference, [info@13iacc.org](mailto:info@13iacc.org)

**7-8 November 2008, Germany:** Social Web – civil society towards networked protest politics, University of Siegen. Drawing on concepts of associative, deliberative or participatory democracy, the conference will explore new internet opportunities through widening the scope for active public debates. <http://www.e-politik.de/blog/18032008/Social-Web-Towards-Networked-Protest-Politics.html>

**28-30 November, Canberra:** inaugural ACT Human Rights Arts and Film Festival. Contact Sarah Bassiuni for more info or to volunteer some time to help: 6267 2707

**2009: 20 Feb, 2009:** worldwide: World Day of Social Justice

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

### ***LAST WORD:* Death row prisoner draws on an affair to remember**

A convicted murderer, whose execution was scheduled for mid-June, received a last-gasp reprieve, because his judge and prosecutor had an affair during his trial.

Charles Hood, 38, was sentenced to death in 1990 for killing his supervisor and the supervisor's girlfriend the year earlier in Plano, Texas.

Early last month, his lawyers petitioned the court to stay his execution at the prison in Huntsville, Texas, and to nullify his conviction based on evidence that the judge in his case was in a relationship with the prosecuting attorney.

A dozen professors of ethics and law wrote to the Texas Court of Appeal and to Texas Governor Rick Perry arguing that if the judge and the prosecutor were in a relationship at the time, Hood's conviction should be overturned. "An impartial judge is an essential component of the American adversary system," the professors wrote. – *from an AFP story, on the ABC website*

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<mailto:secretary@cla.asn.au>



[Return to Table of Contents](#)