

## Index

CLA releases four Australia Day letters for 2009.....	2
<i>LAST WORD:</i> Importers planning stunning welcome for police?.....	2
National rights consultation delayed a month.....	2
CLA's inaugural electronic AGM (eAGM) makes progress:.....	2
Could Royal Commissions become People's Inquiries?.....	3
Stop locking people up from here to Christmas, Innes says.....	4
Academic warns we'll all have chip on our shoulder.....	4
Police lose another batch of secret information.....	5
When CCTV footage is needed, the system fails the people.....	5
Cold cases start to warm up in Australia.....	5
Shadow Minister wants to cut 'law and order' election auctions.....	5
New watchdog appointed to inspect CCC.....	6
Health privacy issues start to escalate.....	6
Pan disaster appears to evoke no response.....	6
Sedition to get the academic treatment.....	7
Penal practice to come under microscope.....	7
Michaelsen to publish on 'overblown' terror threat.....	8
INTERNATIONAL.....	8
Oh Lord, won't you buy me some mercenary bends?.....	8
Obama sends signal to America (and Australia?) about transparency.....	8
UK Foreign Secretary admits 'war on terror' was mistake.....	9
US appeals court: detainee IDs can be secret.....	9
Gbay judge says 'No' to President's trial delay request.....	10
Former PMs sign on to try to free Aung San Suu Kyi.....	10
Police set to step up hacking of home PCs.....	10
Rumsfeld sued after detainees' suicide.....	11
UK may slash 30-year release rule to 15 years.....	11
Pakistan editor wins media freedom award.....	11
'Pacific should get its own human rights body'.....	12
Fiji's High Court ruling contemptuous of free speech.....	12
BRIEFS:.....	12
Sri Lankan attacks on media continue:.....	12
Government ignores media killings:.....	12
4600 slaves rescued:.....	13
Thai forces 'frequently' use torture:.....	13
Saudi cleric says OK for girls to marry at 10:.....	13
Court costs to more than double:.....	13
Sharp rise in US unionists:.....	13
France's gives free papers to youth:.....	13
A. Freedom's on the slide:.....	13
B. Freedom and liberty on the rise in the UK:.....	14
STUDENTS:.....	14
UN international law fellowship.....	14
CLA main activities for January 2009.....	14
DATES:.....	15
<i>LAST WORD:</i> Importers planning stunning welcome for police?.....	16

## **CLA releases four Australia Day letters for 2009**

Civil Liberties Australia each year selects 2-4 topics for Australia Day, drawing the attention of people in positions of power to opportunities for change and improvement in Australian society, or to problems that need fixing.

The 2009 letters cover:

- To PM: Establishing a Liberties/Rights Committee of Parliament;
- to Defence Minister: Issues relating to captives taken by Australian troops;
- to Territory MPs: Adequate parliamentary representation for disempowered citizens;
- to WA A-G and Corrective Services Minister: Reduce indigenous numbers in jails in WA.

To read the 2009 CLA Australia Day letters, please go to:

<http://www.cla.asn.au/0805/index.php/articles/2009/australia-day-letters-2009>

## **LAST WORD: Importers planning stunning welcome for police?**

Forces of law and order in Australia may be starting to face the threat of stun guns being used on them! A police raid in WA late in January has allegedly unearthed numerous stun guns – among other weapons – being used to protect a claimed marijuana crop. The stun guns are part of an order of 24 recently landed in Melbourne and Perth. Read the full story: *see last item in this bulletin.*

## **National rights consultation delayed a month**

Father Frank Brennan, chair of the National Human Rights Consultation Committee, has requested and received a one-month extension to the reporting date of the National Human Rights Consultation.

“The committee requested a short extension to enable it to consult more Australians on this important issue, whether they live in city, country or remote communities.” Attorney-General Robert McClelland said.

The committee will now report to Government by 31 August 2009. Consultation details:

<http://www.humanrightsconsultation.gov.au/>

## **CLA's inaugural electronic AGM (eAGM) makes progress:**

Nominations for the CLA Board, and for Notices of Motion, closed on 23 January (see full timetable below). The next phase is for members to consider the documents usually tabled at a ‘physical’ Annual General Meeting – please go to the CLA website to read (or to download a PDF copy) of these 2008 reports:

- Minutes of the 2008 AGM,
- President's Report for 2008,
- Treasurer's Report for 2008, and the
- CLA Annual Report for 2008.

Website location: <http://www.cla.asn.au/eagm.php> (click on link)

As a member, you're entitled to comment on these documents, just as if you were present at a ‘physical’ AGM. Please follow the prompts if you would like to have a say.

Between Friday 6 March and Friday 27 March, members will be able to vote to signify their approval – or otherwise – of these documents. We will remind members at the time that it is important to vote: we need an email-voting quorum of at least 20% of CLA members to take part in the eAGM.

As only 9 people nominated for the CLA Board (maximum 12), the 9 are elected (if they get a seconder from the membership, which is likely). You can second a nominee by clicking on their link and lodging your second. The nominees are:

[Melissa Hinson](#)

[Dr Kristine Klugman OAM](#)

[Anne Cahill Lambert AM](#)

[Jessica Mohr](#)

[Kevin Popple](#)

[Bill Rowlings](#)

[James Staples](#)

[Anthony Williamson](#)

[Lance Williamson](#)

(Ms Hinson, if seconded, will be the new member of the Board)

Timetable:

1 Jan: Nominations/notices of motion open 23 Jan: Nominations/notices period closes

30 Jan: Period for consideration/discussion of nominations, notices and eAGM documents opens

27 Feb: Consideration/discussion period closes

1 Mar: 2008 Board finalises documents for member voting

6 Mar: Voting opens

27 Mar: Voting closes

4 April: eAGM declaration of results/outcome by Returning Officer



[To Table of Contents](#)

## Could Royal Commissions become People's Inquiries?

The Australian Government has asked the Australian Law Reform Commission to review the Royal Commissions Act 1902...and, while they are about it, they should suggest a new name, CLA says.

The review will examine a range of matters including whether in some inquiries less formal alternatives to a Royal Commission may be appropriate, Attorney-General Robert McClelland said in announcing the ALRC's new task.

"Royal Commissions have been an important means of inquiry and source of advice to government since Federation. But they have tended to be highly technical, time consuming and expensive," Mr McClelland said.

"While there will always be a need to be able to establish a Royal Commission, it is timely to consider whether faster and more flexible inquiries may be appropriate in some cases."

He said that John Clarke, who inquired into the case of Dr Mohammed Haneef said that having powers under the Royal Commissions Act would not have overcome some particular difficulties raised in that inquiry. However, very few external commentators agree with Mr Clarke's sanguine view of how he allowed his inquiry to be emasculated.

In almost directly refuting the Clarke comment, the Attorney-General said that less formal inquiries in other areas could benefit from having some of the powers of a Royal Commission, including the ability to compel the attendance of witnesses and production of documents, as well as protection from suit for defamation.

As well as questioning the flexibility of existing arrangements, the ALRC will examine updating legislation to give inquiries enough powers and people affected enough protection.

The ALRC will identify and consult with key stakeholders, including relevant Commonwealth, State and Territory agencies, and provide its final report by 30 October 2009.

What should we call 'Royal Commissions'? Lodge your suggestion at: <http://www.cla.asn.au/>

Further information is on the ALRC website at [www.alrc.gov.au](http://www.alrc.gov.au)

## REMEMBER:

CLA has another website, *CensorFree*, where you can keep up with the raging debate about Mandatory Internet Filtering under Communications Minister Stephen Conroy.

<http://www.censorfree.com.au/>

## Stop locking people up from here to Christmas, Innes says

Detention of people on Christmas Island should cease, Human Rights Commissioner Graeme Innes said last month when releasing his 2008 report on conditions in immigration detention.

The report calls on the government to translate its 'new directions' for Australia's immigration detention system into policy, practice and legislative change as soon as possible.

"While we have seen improvements in the way Australia treats immigration detainees, we are still seeing children held in detention facilities, people detained for prolonged and indefinite periods and dilapidated detention centres used for accommodation," said Mr Innes. "Now we also have the disturbing reality that the massive, prison-like Christmas Island facility is open for business."

Commissioner Innes said the report's major recommendations included:

- minimum standards for conditions and treatment of persons in immigration detention should be legislated;
- the Migration Act should be amended so that immigration detention is the exception rather than the norm and the decision to detain a person is subject to prompt review by a court;
- detention of people on Christmas Island should cease;
- the recommendations of the national inquiry into children in immigration detention should be implemented by the government.

[http://www.unityunaa.info/human\\_rights.html](http://www.unityunaa.info/human_rights.html)

## Academic warns we'll all have chip on our shoulder

All Australians could be implanted with microchips for tracking and identification within the next two or three generations, a prominent Wollongong academic says.

Michael G Michael from the University of Wollongong's School of Information Systems and Technology, has coined the term "uberveillance" to describe the emerging trend of all-encompassing surveillance.

"Uberveillance is not on the outside looking down, but on the inside looking out through a microchip that is embedded in our bodies," Dr Michael told the online news service, *ninemsn*.

Microchips are commonly implanted into animals to reveal identification details when scanned and similar devices have been used with Alzheimers patients. US company VeriChip is already using implantable microchips, which store a 16-digit unique identification number, on humans for medical purposes.

Although uberveillance was only in its early phases, Dr Michael's wife, Katina Michael – a senior lecturer from UOW's School of Information Systems and Technology – said the ability to track and identify any individual was already possible.

"Anyone with a mobile phone can be tracked to 15m now," she said, pointing out that most mobile phone handsets now contained GPS receivers and radio frequency identification (RFID) readers.

"The worst scenario is the absolute loss of human rights," she said.

<http://www.cla.asn.au/0805/index.php/oddspot/>

See CLA's story on the 'uberveillance' development, 10 days earlier than *ninemsn*, at:

<http://www.cla.asn.au/0805/index.php/oddspot/>

 [To Table of Contents](#)

## **Police lose another batch of secret information**

Police at Victoria's specialised surveillance unit have been ordered to resubmit their lists of criminal associates because the highly confidential information is missing.

Members of the 40-officer squad have been ordered to fill out new forms, because the originals have been lost, Andrea Petrie of The Age reported.

The squad was already under scrutiny after two surveillance dossiers were leaked to alleged criminals, including a murder suspect, compromising investigations.

Deputy Commissioner Simon Overland said police were not yet sure how the surveillance profiles had been leaked, but it seemed likely that "at least (one) corrupt officer has released that information".

By last November all police had to submit forms detailing all associations with people with criminal records. Police were also ordered to inform on colleagues whom they believed associated with people who could damage the force's reputation.

<http://www.theage.com.au/national/secret-police-lists-lost-20090119-7ktx.html?page=-1>

## **When CCTV footage is needed, the system fails the people**

VicRoads staff monitored the cameras on West Gate Bridge daily for traffic management purposes, but the footage was not recorded, it was revealed after a tragic death late last month.

The VicRoads footage could not help in the alleged murder of a baby daughter, 4, by her father's dropping her over the Melbourne bridge last week. Several cameras on and around the West Gate Bridge would have captured the scene.

VicRoads road user services director Dean Zabrieszach said: "VicRoads cameras are in place for traffic management only – VicRoads does not record footage for privacy reasons." About 300 cameras are involved: common sense says their footage should be available in cases of possible violent crime, and that not recording the tapes for a limited period, under strict privacy guidelines, is a waste of an already-existing community resource.

Victoria Police has access to the same stream of footage, but a spokesman was unsure if the footage was recorded.

<http://www.theage.com.au/national/traffic-cameras-surveil-not-record-20090129-7t2o.html>

## **Cold cases start to warm up in Australia**

Police in NSW have charged a man with two sexual assaults allegedly committed more than 12 years ago because of a DNA match discovered under a cold case project.

Evidence from crimes since the 1970s is being examined, but families of victims have been warned not to expect police to solve historic cases as easily as it is done in fictional TV shows, according to Geesche Jacobsen in the *Sydney Morning Herald*.

The 39-year-old man was charged with the sexual assault on a 15-year-old girl in Parramatta in August 1996, and another attack on an 18-year-old in the same suburb. A DNA match was made as police reviewed fingerprint and DNA evidence from old crime scenes with modern technology under its three-year cold case justice project.

<http://www.smh.com.au/text/articles/2009/01/28/1232818532091.html>

## **Shadow Minister wants to cut 'law and order' election auctions**

Shadow NSW Attorney-General Greg Smith has declared that, with 10,000 inmates in NSW jails and a recidivism rate of 43.5%, the punitive approach was not working.

"It seems to me that our prisons are full of people who suffered learning difficulties in their youth or had a deprived upbringing or have drug addiction or mental problems. There's a lot of those people in our jails. I am not excusing the conduct that got them into jail but I think that some of them need more of a kick along from the system," he said.

Before becoming the Liberal MP for Epping, Mr Smith was the state's deputy director of public prosecutions for five years. Three years ago he persuaded an appeal court to keep the notorious

killer Katherine Knight, who stabbed, decapitated and skinned her partner, locked away forever. He also led a successful appeal to increase the sentence of a pedophile murderer from 30 years to the term of his natural life.

Now the NSW Opposition has pledged to end the "law and order auction" in a dramatic break with the tradition of promising to increase punishments and fill jails that has characterised every state election campaign since 1988.

Emeritus Professor in Criminal Law at the University of NSW, David Brown, said that after the Unsworth government lost the 1988 election to Nick Greiner, the new ALP leader, Bob Carr, bought into the law and order auction.

"Once Carr let the law-and-order genie out of the bottle, it became standard political competition to posture over who was toughest on crime, setting up a dynamic that no-one, up to now, has had the courage to end," Professor Brown said

He strongly opposed the death penalty "because you might make a mistake, and I still don't believe in an eye for an eye and a tooth for a tooth".

<http://www.smh.com.au/articles/2009/01/07/1231004105755.html>

### **New watchdog appointed to inspect CCC**

The former WA Court of Appeals president, Christopher Steytler, becomes parliamentary inspector for the Corruption and Crime Commission from today (1 Feb).

Justice Steytler retired last week after four years as president of the WA Court of Appeal and 14 years as a judge. Born in Cape Town in South Africa, he obtained degrees in arts and law. In his CCC role, he replaces Malcolm McCusker.

<http://www.thewest.com.au/default.aspx?MenuID=77&ContentID=121462>

 [To Table of Contents](#)

### **Health privacy issues start to escalate**

The NSW Health Records and Information Privacy Regulation 2006 is to be repealed on 1 March 2009...but NSW Health is continuing its e-health trial for three months.

The regulation effectively exempts the Healthelink pilot from Principle 15 of the HRIP Act (the requirement to seek patients' express consent for putting their records in a shared electronic health record system), enabling NSW Health to adopt the opt-out "consent" model for the pilot.

According to the National E-Health Transition Authority (NEHTA) website, nearly 45,000 people have a Healthelink electronic health record. Seven hospitals and nine community health centres are in the pilot and more than 150 general practitioners participate. The pilot Healthelink includes a potential patient population of 170,000 people in greater western Sydney and Maitland areas.

There are more than 200 healthcare providers who have access to their patient's Healthelink record – in hospital emergency departments, community health and in general practice.

The Healthelink EHR pilot will continue to operate until June 2009. Subject to the approval of a business case, a state-wide rollout could commence in 2009-10.

Privacy issues in relation to health are likely to become a major issue over the next few years, with the birth and growth of NEHTA. Info: <http://www.nehta.gov.au/>

### **Pan disaster appears to evoke no response**

The Rudd Government has refused to disclose whether it has taken, or will take, any action against public servants named in a class action that could cost taxpayers \$120 million.

A Health Minister spokesman Justine Elliot declined last month to say whether Therapeutic Goods Administration officers Rita Maclachlan, Pio Cesarin and Noel Fraser remained in their posts, after they were named in a lawsuit lodged in the Federal Court. Two other TGA staff named – national manager Terry Slater and chief good manufacturing practice auditor Robert Tribe – left the organisation years ago of their own accord.



The class action lawsuit involves 165 shareholders, creditors and customers of the complementary medicine maker Pan Pharmaceuticals, and seeks more than \$120 million compensation for losses arising from Australia's biggest medicines recall in 2003.

Pan collapsed after the sudden recall of 1600 of its vitamins and health supplements, ordered by the TGA which linked one of the manufacturer's drugs to the hospitalisation of 19 people. Pan founder Jim Selim (a CLA member) won \$55 million in August 2008 from the Commonwealth in a settlement, after Federal Court judge Arthur Emmett urged the government to consider its position or risk an even bigger award.

The settlement, on the urging of the judge, prevented the public servants having to appear in court and be cross-examined on their actions. The industry put the cost of the recall at 1000 jobs and up to \$450 million in lost revenues among material suppliers, pharmacies, health food shops and others reliant on Pan products.

The 'legal' actions taken by the TGA should be subjected to critical examination by the Office of Legal Services Coordination in the Attorney-General's Department

– from an article by Siobhain Ryan, 03 Jan 08

<http://www.theaustralian.news.com.au/story/0,25197,24867392-23289,00.html>

### **Sedition to get the academic treatment**

A Macquarie University academic has received \$239,600 to find out: *Can saying something make it so? Sedition, speech act theory and the status of freedom of speech in Australia.*

The four-year investigation in the Political Science department will be headed by Dr S Sorial. His successful application to the Australian Research Council says:

“A good grasp of the conceptual underpinnings of sedition laws and conceptual clarity is an essential precursor to law reform in this area. By applying theories of the relation between speech and action drawn from philosophy of language to the assessment of sedition laws, the project will enhance Australia's research skills in political philosophy and clarify a grey and contested area of law.

“Any number of groups in Australian society, including writers, journalists, artists, academics, politicians and political activists, could be affected by these laws. Consequently, a clarification of this area is both urgent and vital for national interests.”

CLA supports the repeal of the sedition laws, which A-G McClelland has promised will occur during 2009 – leaving academic investigation of the sedition aspects of this project as questionable.

### **Penal practice to come under microscope**

A group of academics based on NSW University will spend the next two years, and \$550,600, to undertake “the first comprehensive Australian investigation of penal policy and practice at national and state and territory levels”.

*The Prison Project: Penal Culture and the Re-invention of the Prison in Australia*, was approved for an Australian Research Council Discovery Grant in late 2008, and the researchers – Prof C Cunneen; Prof DB Brown; Dr MM Brown; A/Prof E Baldry; Mr AD Steel – now have until the end of 2010 to complete their study.

Their application says that “The Prison Project addresses the issue of increased use of imprisonment over recent decades. The research will provide analysis of the reasons and justifications for the increased use of imprisonment, particularly in the context of perceived effects on crime and the substantial public costs incurred by correctional services.

“The project will document and analyse the effects of changes in sentencing law and practice, and administrative changes in penal policy.”

 [To Table of Contents](#)

## **Michaelsen to publish on 'overblown' terror threat**

Member Christopher Michaelsen, back from two years as an anti-terrorism officer of the Office for Democratic Institutions and Human Rights (ODIHR), based in Warsaw and Vienna, joined the Law Faculty at the University of NSW, and has then become associated with the Gilbert and Tobin Centre of Public Law on that campus.

He will be in Canberra shortly to work on finalising his PhD thesis for publishing: it focuses on how the Howard Government portrayed the threat of terrorism and whether Australia's domestic response has been proportional.

Mr Michaelsen argues that the terror threat to Australia was and is very low, that it has largely been misrepresented and that most of the government's response has been ill-conceived and counter-productive.

Concerning the last of those comments, he has held those views for more than five years: belatedly, the British Foreign Secretary appears to be in virtually total agreement (see below).

## **INTERNATIONAL**

### **Oh Lord, won't you buy me some mercenary bends?**

Peers who bend or break rules on lobbying – such as not taking bribes – could be suspended or expelled from parliament, the leader of the House of Lords, Lady Royall, signalled as she sanctioned two investigations into the 'Erminegate' affair.

She told the Lords in an emergency statement that the inquiries would "justly and swiftly" determine whether four Labour Lords had broken the rules by discussing payments of up to \$250,000 to facilitate amendments to the law to benefit a business.

Scotland Yard said its specialist crime unit was considering a complaint from the Liberal Democrats alleging that two of the peers, Lord Taylor and Lord Truscott, could have broken bribery laws by entertaining the offer of cash to change legislation. A recording was released by the Sunday Times of Lord Taylor saying firms paid him up to about \$200,000 a year.

The other two peers, Lord Snape and former Defence Minister Lord Moonie, were also accused by the Sunday Times, after an undercover operation, of offering to use their influence to deliver an amendment to legislation. All four deny wrongdoing.

They will be called to give evidence to the Lords Interests sub-committee, chaired by Lady Prashar, the former first civil service commissioner. The committee's members also include the former lord chancellor, Lord Irvine.

<http://www.guardian.co.uk/politics/2009/jan/27/cash-influence-lords>

### **Obama sends signal to America (and Australia?) about transparency**

President Obama moved swiftly on the first full day of his presidency to impose new rules on government transparency and ethics, freeze the salaries of his senior aides, mandate new limits on lobbyists and demand that the government disclose more information.

...Oh, as well as banning torture and secret US prisons overseas, halting Guantanamo Bay 'trials' and moving to shut down the prison entirely.

"Starting today," Mr. Obama said, "every agency and department should know that this administration stands on the side not of those who seek to withhold information, but those who seek to make it known."

He described "the beginning of a new era of openness in our country. For a long time now there's been too much secrecy in this city," he told reporters at a swearing-in ceremony.

"Let me say it as simply as I can. Transparency and the rule of law will be the touchstones of this presidency."

The President issued several new policy statements. A new policy on Freedom of Information directed that "All agencies should adopt a presumption in favor of disclosure" and called for the Attorney General to develop new FOI guidelines reflecting that principle. A broader statement on Transparency and Open Government directed agencies to "harness new technologies to put



information about their operations and decisions online and readily available to the public," and ordered preparation of recommendations for an Open Government Directive. A new executive order rescinded an order issued by former President Bush that imposed increased restrictions on public access to presidential records.

More details: <http://www.fas.org/blog/secrecy/>

 [To Table of Contents](#)

## **UK Foreign Secretary admits 'war on terror' was mistake**

The British Foreign Secretary, David Miliband, last month said that the use of the "war on terror" as a Western rallying cry since the 11 September 2001 attacks was a mistake that may have caused "more harm than good".

In an article in *The Guardian*, Mr Miliband said the war on terror was misconceived and that the West could not "kill its way" out of the threats it faces. British officials quietly stopped using the phrase "war on terror" in 2006, but this is the first time it has been comprehensively discarded by a British minister.

In a speech in Mumbai in India, on the same day as the article and in one of the hotels that was a target of terrorist attacks in November, the British Foreign Secretary said the concept of a war on terror was "misleading and mistaken".

"Historians will judge whether it has done more harm than good," Mr Miliband said, adding that the whole strategy was dangerously counterproductive, helping otherwise disparate groups find common cause against the West.

"The more we lump terrorist groups together and draw the battle lines as a simple binary struggle between moderates and extremists or good and evil, the more we play into the hands of those seeking to unify groups with little in common," Mr Miliband said, in a clear reference to the signature rhetoric of the era of US President George W. Bush.

"We should expose their claim to a compelling and overarching explanation and narrative as the lie that it is. Terrorism is a deadly tactic, not an institution or an ideology," he said.

"Democracies must respond to terrorism by championing the rule of law, not subordinating it."

CLA notes that these are exactly and precisely the arguments used by civil libertarians throughout the world when trying to combat excessive and repressive 'war on terror' legislation, from as early as late-2001. The Australian legislation – more than 50 separate Acts of the Australian Parliament – should now be thoroughly reviewed, and probably more than 90 per cent of it thrown out if it infringes the traditional rule of law in this country, as much of it does.

<http://www.guardian.co.uk/politics/2009/jan/15/war-on-terror-miliband>

## **US appeals court: detainee IDs can be secret**

A federal appeals court ruled last month that the US Administration can keep secret the identities of detainees who claim they've been abused at Guantanamo Bay, Cuba.

The 2nd US Circuit Court of Appeals reversed a lower court judge's ruling regarding alleged detainee abuse by military personnel, as well as alleged detainee-against-detainee abuse.

The purported misconduct by military personnel included spraying detainees with water hoses, striking them, using pepper spray against them and splashing them with cleaning products.

A three-judge panel ruled that detainees and their families have a privacy interest in their identifying information. The government had argued that the detainees faced possible harm if their identities were revealed.

The appeals court said that The Associated Press, which sought the identities, had not shown how the public interest would be served by disclosing them. The appeals court said abuse is the type of information people would ordinarily not wish to make known, so abuse victims were entitled to privacy protection. – from a report by Larry Neumeister, AP News, 05 Jan 09

<http://wire.antiwar.com/2009/01/05/us-appeals-court-detainee-ids-can-be-secret-2/>

## **Gbay judge says 'No' to President's trial delay request**

A military judge in Guantanamo Bay late last month denied the Obama Administration's request to delay proceedings for 120 days in the case of a detainee accused of planning the October 2000 attack on the USS Cole warship, an al-Qaeda strike that killed 17 US servicepeople and injured 50. The decision throws into some disarray the Administration's efforts to buy time – 120 days – to review cases before closing the US military prison in Cuba.

The Pentagon may have to temporarily withdraw the charges against Abd al Rahim al-Nashiri, a Saudi citizen of Yemeni descent, and all other detainees. Nashiri is facing arraignment on capital charges on 9 February and Judge James Pohl, an Army colonel, said the case would go ahead, effectively rejecting the plea of his President and Copmmander-in-Chief.

[http://www.washingtonpost.com/wp-dyn/content/article/2009/01/29/AR2009012902021\\_pf.html](http://www.washingtonpost.com/wp-dyn/content/article/2009/01/29/AR2009012902021_pf.html)

## **Former PMs sign on to try to free Aung San Suu Kyi**

A total of 112 former presidents and prime ministers, including Malcolm Fraser and John Howard, representing more than 50 countries have written to UN Secretary General, Ban Ki-moon asking for Security Council action over Aung San Suu Kyi and other political prisoners in Burma.

"If the Burmese junta continues to defy the UN by refusing to make these releases by the end of the year, we urge you to encourage the Security Council to take further concrete action to implement its call for the release of all political prisoners," the letter, organised by the Oslo Center for Peace and Human Rights and Freedom, says.

Late last year the Burmese military sentenced 215 students and labor activists, Cyclone Nargis relief workers, monks—and even their lawyers—to draconian prison terms. The venerable U Gambira, a leading monk of last year's popular protests, was sentenced to 68 years.

## **Police set to step up hacking of home PCs**

The UK Home Office has quietly adopted a new plan to allow police across Britain routinely to hack into people's personal computers without a warrant, according to the *Sunday Times* newspaper.

The move, which follows a decision by the European Union's council of ministers in Brussels, has angered civil liberties groups and opposition MPs. They described it as a sinister extension of the surveillance state which drives "a coach and horses" through privacy laws.

The hacking is known as "remote searching". It allows police or MI5 officers who may be hundreds of miles away to examine covertly the hard drive of someone's PC at their home, office or hotel room.

Material gathered in this way includes the content of all e-mails, web-browsing habits and instant messaging.

Under the Brussels edict, police across the EU have been given the green light to expand the implementation of a rarely used power involving warrantless intrusive surveillance of private property.

The strategy will allow French, German and other EU forces to ask British officers to hack into someone's UK computer and pass over any material gleaned.

A remote search can be granted if a senior officer says he "believes" that it is "proportionate" and necessary to prevent or detect serious crime – defined as any offence attracting a jail sentence of more than three years.

However, British opposition MPs and civil liberties groups say that the broadening of such intrusive surveillance powers should be regulated by a new act of parliament and court warrants. They point out that in contrast to the legal safeguards for searching a suspect's home, police undertaking a remote search do not need to apply to a magistrates' court for a warrant.

<http://www.timesonline.co.uk/tol/news/politics/article5439604.ece>

 [To Table of Contents](#)

## **Rumsfeld sued after detainees' suicide**

The parents of two detainees who committed suicide while held at Guantanamo Bay have filed a wrongful death suit against former Defense Secretary Donald Rumsfeld, as well as more than 100 military officers and personnel, alleging that Gbay's brutal conditions and torture led their sons to kill themselves.

The 79-page complaint, filed last month in the US District Court, was brought by the fathers of Yesser al-Zahrani and Salah Ali Abdullah Ahmed al-Salami, two of the three Guantanamo prisoners who hung themselves in their cells on 10 June 10 2006. Alongside allegations that physical and mental torture left the detainees psychologically damaged, it claims that crucial missteps by guards and medical officers after the men were found hung led to their deaths

<http://www.law.com/jsp/law/LawArticleFriendly.jsp?id=1202427397043>

## **UK may slash 30-year release rule to 15 years**

The UK's "30-year rule" under which government records of cabinet minutes and private memos are released to the public should be slashed to just 15 years, an independent inquiry said last month.

The panel, chaired by Paul Dacre, the editor of the Daily Mail, and supported by Prof Sir David Cannadine and Sir Joe Pilling, urged the government to review the existing strategy for the preservation of digital records "as a matter of urgency" to ensure that these records are placed in a sustainable storage environment by the time they are 10 years old.

The review team was asked to consider changes to the rule, introduced in 1968 by Prime Minister Harold Wilson, in the light of the Freedom of Information Act 2000.

The review recommends that the new 15-year rule – which would apply retrospectively to all documents – be phased in over a period of 15 years.

It also calls for:

- An independent review of the rules on the publication of memoirs by former ministers, civil servants and special advisers to "overhaul and update" them in the light of a reduction to the 30-year rule and the introduction of the Fol Act.
- Amending the civil service code to help ensure civil servants keep full, accurate and impartial records of government business.
- Clarifying that special advisers (to Ministers), as temporary civil servants, have a duty to keep a full record of their non-political activities, which will be archived and released in the same way as any other official documents.

<http://www.guardian.co.uk/politics/2009/jan/29/30-year-rule>

## **Pakistan editor wins media freedom award**

Najam Sethi, editor-in-chief of *Friday Times* and *Daily Times*, published from Lahore in Pakistan, has been awarded the 2009 Golden Pen of Freedom Award.

The Golden Pen of Freedom is an annual award made by WAN to recognise the outstanding action, in writing or deed, of an individual, a group or an institution in the cause of press freedom.

"Extremists have always used coercion to silence their critics and that is exactly what is happening now," Mr Sethi says. "This is a battle that the media and the country cannot afford to lose."

Due to the editorial policies of the newspapers, which condemn autocracy and religious fundamentalism, Mr Sethi has been at odds with both Pakistani authorities and religious groups for many years. He has been threatened with death by the Taliban and other radical Muslim groups, and has been jailed and beaten for offending the government.

The award will be presented at the World Newspaper Congress and World Editors Forum, the global summit meetings of the world's press, to be held in Hyderabad, India, from 22 to 25 March – summit: <http://www.wanindia2009.com> award: <http://www.wan-press.org/article17978.html>

## **'Pacific should get its own human rights body'**

The Pacific Islands should set up a regional human rights body to help reverse decades of poor governance and improve safeguards for women and children, a leading Pacific rights group has recommended, the Sydney Morning Herald reported (5/1/09).

In a submission to a federal parliamentary inquiry, the Pacific Regional Rights Resource Team says human rights violations in the region are "very rarely" reported. Individual states do not have the capacity to run their own human rights bodies and should band together to form a body that could monitor compliance and eventually investigate violations, it says.

The Pacific states are one of the last remaining regions in the world without a mechanism for protecting and monitoring human rights and have only one national human rights institution – the widely discredited Fiji Human Rights Commission. A push in the 1980s to set up a regional body failed largely because of concerns about the imposition of Western values and fears that a regional grouping would be dominated by Australia and New Zealand.

The inquiry into human rights mechanisms and the Asia-Pacific is conducted by the Australian Parliament's Joint Standing Committee on Foreign Affairs, Defence and Trade. REPORT: <http://www.smh.com.au/articles/2009/01/04/1231003847102.html>

– from UNity, the UN Assn of Australia weekly newsletter

 [To Table of Contents](#)

## **Fiji's High Court ruling contemptuous of free speech**

Hefty fines and suspended jail sentences have been imposed on a Fiji newspaper, chief editor and publisher in a contempt of court ruling by Fiji's High Court.

In a decision last month, the court fined *The Fiji Times* about \$84,000 over its publication in October 2008 of a letter to the editor which criticised a High Court ruling upholding the legality of Fiji's 2006 military coup.

The paper's editor in chief, Netani Rika, was reportedly sentenced to three months' jail, suspended for two years. Publisher Rex Gardner was discharged on condition that he enters into a good behaviour bond without surety for 12 months.

The case was pursued despite the newspaper printing a front-page article in early November 2008 admitting responsibility for contempt and offering to pay costs.

Similar charges, also pursued by the Attorney-General's office, have been laid against the *Daily Post* for publishing the same letter. The court is set to hear that case in April.

Throughout 2008, various efforts were made by the interim military government of Frank Bainimarama to block critical reporting. The publisher and managing director of the Fiji Sun, Russell Hunter, was deported in February while *Fiji Times* publisher Evan Hannah was deported in May. New Zealand journalist Barbara Dreaver was refused entry to the country in December, reportedly due to her previous reporting on the regime's alleged failure to assist a poverty-stricken village. Fiji Times publisher Rex Gardner was evicted in January 2009.

– from International Federation of Journalists, <http://tinyurl.com/aaajni7>

## **BRIEFS:**

**Sri Lankan attacks on media continue:** Sri Lankan newspaper editor Upali Tennakoon and his wife were stabbed on their way to work last week, the latest in a string of attacks on Sri Lankan journalists. Just weeks ago Lasantha Wickrematunge, the editor of another Sri Lankan newspaper critical of the government, was gunned down on his way to work. Read more: <http://tinyurl.com/aqj472>

**Government ignores media killings:** An International Press Freedom Mission last month condemned a "culture of impunity and indifference" over killings and attacks on journalists in Sri Lanka. It reported that since the beginning of 2009, the killing of a senior editor and an attack on the facilities of a popular independent TV channel have led to total paralysis of the media community. Launching a new report, *Media Under Fire: Press Freedom Lockdown in Sri Lanka*,

the International Mission criticised the Sri Lankan Government over its inaction and failure to take the attacks, murder and assassination of reporters seriously.

<http://www.ifj.org/en/articles/global-media-rights-groups-condemn-culture-of-impunity-and-indifference-in-sri-lanka>

**4600 slaves rescued:** Brazil's work ministry said its anti-slavery task force, a roaming unit designed to crack down on modern-day slavery, had freed 4,634 workers from slave-like conditions in 2008. The task force, which often works with armed members of the federal police, said it had undertaken 133 missions and visited 255 different farms in 2008. The ministry said former slaves had been paid \$5m in compensation. Brazil officially abolished slavery in 1888 but thousands of impoverished Brazilians are still being lured into debt slavery.

**Thai forces 'frequently' use torture:** The use of torture by Thai security forces is "frequent and widespread" in the country's south, where government forces are battling a separatist insurgency, Amnesty International alleged recently. It said four people were known to have died in custody after enduring techniques such as electric shocks and simulated suffocation. – info: AlertNet.org/Reuters or UNity 57, 17 Jan 09

**Saudi cleric says OK for girls to marry at 10:** Saudi Arabia's most senior cleric was quoted last month as saying it is permissible for 10-year-old girls to marry and that those who think they're too young are doing the girls an injustice. Sheik Abdul-Aziz Al Sheikh, the country's grand mufti, said during a lecture that those who say women should not marry before the age of 25 were following a "bad path," according to the pan-Arab Al-Hayat newspaper. The government-run Human Rights Commission condemned marriages of minor girls, saying such marriages were an "inhumane violation" and rob children of their rights. The commission's statement followed a ruling by a court in Oneiza in central Saudi Arabia last month that dismissed a divorce petition by the mother of an eight-year-old girl whose father married her off to a man in his 50s.

REPORT: <http://au.news.yahoo.com/a/-/world/5262472/tenyearold-girls-marry-cleric/>

**Court costs to more than double:** British Government plans to hike court fees for civil proceedings such as debt cases have been branded a "stealth tax" on people sunk by the recession. A consultation paper issued by the Ministry of Justice has set out possible increases for a range of fees in civil and family courts in England and Wales. The aim is to increase from the current 78% the contribution fees make to covering the \$1.3 billion-a-year cost of running the courts. According to *The Independent*, this could see charges for some debt proceedings increase by as much as 233%. <http://www.guardian.co.uk/uk/feedarticle/8317119>

**Sharp rise in US unionists:** Union membership in the United States rose last year by the largest amount in 25 years, a gain of 428,000 members, according to a report released by US Bureau of Labor Statistics this week. It is the second year in a row that union membership in the US has grown, following decades of decline – MEAA newsletter, 30 Jan 09

**France's gives free papers to youth:** The French Government will offer all 18-year-olds a free daily copy of the newspaper of their choice, as part of a 600 million euro plan to save the ailing newspaper industry. Read more: <http://tinyurl.com/at14ae> and <http://tinyurl.com/ao24gx>

**A. Freedom's on the slide:** The reports of Freedom House, an American lobby group, are considered a reasonable annual assessment of the state of freedom in the world. The new 2009 edition paints a sombre picture of how the world fared during George Bush's time in office. An initial five years of improvement were followed by a three-year decline – less in 2008 than previously, but still disappointing.

[http://www.economist.com/world/international/displaystory.cfm?story\\_id=12936575](http://www.economist.com/world/international/displaystory.cfm?story_id=12936575)





[To Table of Contents](#)

**B. Freedom and liberty on the rise in the UK:** The UK's Manifesto Club has decided to make Summer 2009 a 'Freedom Summer' and will be organising a host of events around the UK and Europe throughout the summer - from seminars and debates, to demonstrations and picnics - to celebrate 'freedom' in all its forms. <http://www.manifestoclub.com/> At the same time, *The Guardian* newspaper has embarked on a month-long campaign to promote 'liberty central' throughout the nation. <http://www.guardian.co.uk/commentisfree/libertycentral> There are many excellent articles already in the ongoing coverage.

## STUDENTS:

### UN international law fellowship

Applications for the 2009 United Nations International Law Fellowship, slated for the Peace Palace in The Hague, Netherlands, from 6 July to 14 August 2009, are now being accepted. Deadline for applications is 25 February. The Fellowship Program will be conducted in English. Forms: Direct from the UN Institute for Training and Research on E: [ilp@unitar.org](mailto:ilp@unitar.org) or at: [www2.unitar.org/diplomacy/fell\\_applicationforms.htm](http://www2.unitar.org/diplomacy/fell_applicationforms.htm)

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### CLA main activities for January 2009

January was a quiet period, with many people on holidays: a chance to catch up on thinking and filing!

The principal activity with public impact was deciding on and writing up the issues to be covered in CLA's annual Australia Day letters ( see <http://www.cla.asn.au/> Australia Day Letters - 2009 ) and sending them.

Another important activity was organising the eAGM, including nominations for the board of directors and notices of motion. This work was done by Director/Webmaster Lance Williamson and CEO Bill Rowlings.

The 2008 board members have all renominated, and one new person has nominated for the board. There are no other nominations, or any notices of motion. The formal reports for 2008 are now on the website: please read them. Voting to approve/disapprove the reports takes place in March. Please vote: we need to get to a quorum of 20% of membership (we'll send around reminders).

On Saturday 4 April at the National Europe Centre, ANU, Canberra, CLA member Prof Simon Bronitt will be speak on the Human Rights Consultation currently under way throughout Australia.

Treasurer Kevin Popple has introduced the intricacies of the finance system to Melissa Hinson who has kindly offered assistance and innovation in the Treasury area, and has nominated for the board. If seconded, as expected, she will become the ninth board member – we can have a maximum of 12, so there is still room to appoint another one or two board members if the right people in the right places or areas of expertise come forward.

The other major activity in January was to continue the work on a broadening topic of people being 'abused' – mostly legally – by Australia's system of law and order. Major reform is obviously needed across:

- Model Litigant Obligations, and how governments meet or don't meet them;
- Unrepresented Litigants; and
- Costs of people proven innocent, or succeeding in their case, in some jurisdictions.

We also worked on:

- nightclub ID and privacy (ABC radio interview);
- submissions on proposed changes to murder legislation (ACT);
- prison issues nationally, including torture and cruel/unusual punishment;
- FOI; and
- a possible submission on blasphemy.

## DATES:

**7-8 Feb, Canberra:** Judicial Reasoning: Art or Science? conference at ANU,

[http://law.anu.edu.au/nissl/JudReas\\_09.htm](http://law.anu.edu.au/nissl/JudReas_09.htm) Email: [judicialreasoning@njca.anu.edu.au](mailto:judicialreasoning@njca.anu.edu.au)

**11 Feb, Canberra:** 5.30-6.30pm, free, ANU Multicultural Public Lecture Series 2009: *Issues facing the Muslim Community in Australia Post 9/11*, Ms Shakira Hussein, Centre for Asian Societies and Histories, John Curtin School of Medical Research. Inquiries: [events@anu.edu.au](mailto:events@anu.edu.au)

**12 Feb, Canberra:** 5.30-6.30pm, free, ANU Multicultural Public Lecture Series 2009: ANU Multicultural Public Lecture Series 2009: *Pasifika Australia*, Dr Katerina Teaiwa, Pacific Studies Convenor, Southeast Asia Centre, Faculty of Asian Studies. Inquiries: [events@anu.edu.au](mailto:events@anu.edu.au)

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

**20 Feb, Sydney:** Constitutional Law Conference and dinner, [www.gtcentre.unsw.edu.au](http://www.gtcentre.unsw.edu.au) or E: [gtcentre@unsw.edu.au](mailto:gtcentre@unsw.edu.au)

**2 March, Melbourne:** *Human Rights Spoilers and What To Do About Them*, Carroll Bogert, Associate Director, Human Rights Watch, 6-7.30pm Blake Dawson, 25/181 William St. Details - email: [admin@pilch.org.au](mailto:admin@pilch.org.au)

**5-6 March, Dili, Timor-Leste:** Women for Peace conference, including Interactions between formal and traditional justice. Details: Peace conference co-ordinator [mena.peace@alolafoundation.org](mailto:mena.peace@alolafoundation.org) or [filpau@yahoo.com](mailto:filpau@yahoo.com)

**16-17 March, Melbourne:** Human Rights Conference, Victorian Equal Opportunity and Human Rights Commission, at the Melbourne Park Function Centre. Call for abstracts open until 3 Nov. <http://www.humanrightsconference.com.au/>

**19 March, Canberra:** annual Kirby lecture in international law: Prof Hilary Charlesworth of ANU, 6.30-7.30pm

**5-9 April, Hong Kong:** 16th Commonwealth Law Conference, [www.commonwealthlaw2009.org](http://www.commonwealthlaw2009.org)

**7 Apr, Canberra:** *Covert Policing*, 4th workshop on social implication of national security, hosted by National Europe Centre, ANU. Call for papers: Email 250 word abstracts to [katina@uow.edu.au](mailto:katina@uow.edu.au) by 30 January; 2009 Workshop

[http://www.anu.edu.au/NEC/conferences\\_workshops/2009\\_CrossingBorders/CrossingBorders.php?&p=1](http://www.anu.edu.au/NEC/conferences_workshops/2009_CrossingBorders/CrossingBorders.php?&p=1)

**8-9 Apr, Canberra:** Crossing Borders - Promoting regional law enforcement cooperation: European, Australian and Asia-Pacific perspectives,

[http://www.anu.edu.au/NEC/conferences\\_workshops/2009\\_CrossingBorders/CrossingBorders.php?&p=1](http://www.anu.edu.au/NEC/conferences_workshops/2009_CrossingBorders/CrossingBorders.php?&p=1)

**29 Apr - 2 May, Manila, Philippines:** Inter-Pacific Bar Association meeting and conference; details <http://www.ipba.org/>

**1-6 June, Oslo, Norway:** Global Forum on Freedom of Expression, week-long membership meetings, open conference sessions and festival events, all dedicated to exploring and celebrating free expression. Contact: Christopher Wilson ( +47 2301 4696 ) Info: <http://expressionforum.org>

**1-4 June, Washington DC, USA:** Computers Freedom and Privacy conference, [http://www.cfp2009.org/wiki/index.php/Main\\_Page](http://www.cfp2009.org/wiki/index.php/Main_Page)

**5-9 June, Fiji:** 11th Australian Family Lawyers' Conference, [www.aflc.com.au](http://www.aflc.com.au)

**14 June - 3 July 2009, Montreal, Canada:** Applications close 21 Nov 2008. The International Human Rights Training Program (IH RTP) is an annual three-week training session with 120 participants from 60 countries. Information: <http://www.equitas.org/english/programs/IH RTP.php>

**20 June, world:** World Refugee Day (World Refugee Week June 14-20)

**27 June - 3 July, Bali, Indonesia:** 'Criminal Justice - Diagnosis Terminal' conference, contact: [jodi.truman@johntoohaychambers.com.au](mailto:jodi.truman@johntoohaychambers.com.au)

**2-4 July, Wellington, NZ:** Australian and NZ Society of International Law annual conference, call for papers deadline 2 March 09. Details: <http://law.anu.edu.au/anzsil/conferences.html> or [cipl@law.anu.edu.au](mailto:cipl@law.anu.edu.au)

**5 July, Australia:** NAIDOC Week (National Aborigines & Islanders Day of Celebration)

**1-4 Sept, Sydney:** XIX World Congress, International Society for Labour and Social Security Law, <http://www.labourlawssydney.com/>

**17-20 Sept, Perth:** 36th Australian Legal Convention, <http://www.law09.com.au/>

**21 Sept, world:** International Day of Peace

**12-13 Nov, Canberra:** CIPL/ANU Public Law weekend, including annual Sawyer lecture and dinner.

**10 Dec, world:** Universal human rights day [www.cla.asn.au](http://www.cla.asn.au)

**2010:**

**4-7 May, Melbourne:** Non -adversarial Justice: Implications for the Legal System and Society conference, E: [ajja@law.monash.edu.au](mailto:ajja@law.monash.edu.au) (Call for papers closes 1 Feb 2010)

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

**LAST WORD: Importers planning stunning welcome for police?**

Forces of law and order in Australia may be starting to face the threat of stun guns being used on them! Police said they seized stun guns, a loaded pistol and 84 cannabis plants in a joint raid late last month with custom officers on a Beverley property, 100km east of Perth.

The raid was part of an investigation into the alleged importation of prohibited weapons, discovered by X-ray machines at Perth and Melbourne mail centres.

Police allege that a Lukin St house contained a hydroponic cannabis crop in two bedrooms and other cannabis plants growing in a shade house, as well as a number of stun gun devices, loaded Glock piston and batons.

Investigations began on January 19 when Customs and Border Protection officers intercepted a total of 24 stun guns at the Perth and Melbourne International Mail Centres using X-ray equipment.

A 39-year-old Beverley man has been charged with cultivating cannabis with intent to sell or supply and possessing cannabis with intent to sell or supply, and is due to appear in the Northam Magistrates Court on February 2.

The alleged importation of the prohibited weapons is contrary to the Customs Act 1901. Customs investigations continue. – *report by Perth Now, online version of the Sunday Times*

<http://www.news.com.au/perthnow/story/0,21598,24983765-948,00.html>

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*CLArion* is the monthly e-newsletter of Civil Liberties Australia A04043, Box 7438 FISHER ACT 2611 Australia. Responsibility for election comment in *CLArion* is taken by CLA's Public Officer, Bill Rowlings, of Fisher, ACT. Please feel free to report or pass on items in *CLArion*, crediting CLA and/or the original source. We welcome contributions for the next issue: please send to: <mailto:secretary@cla.asn.au>

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[To Table of Contents](#)