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## **Exclusive: No Human Rights Bill for Australia**

Australia will NOT get a Human Rights Bill – certainly not in this parliament, probably not ever under Prime Minister Kevin Rudd.

The chances of one in the next parliament (2011-2013) are very, very slim.

Supporters from all sides of parliament are hanging on by their fingernails to one chance in a thousand that they can keep the issue on the agenda for another few years.

As a sop to public opinion, following a huge national consultation process about a bill of rights, a schools education program on human rights is likely to be announced in the May Budget. Also probable is a national PR program, to make the government look as if it is extremely human rights friendly, when in fact it won't legislate to that end.

There will possibly be some form of compatibility statement, tabled with each new Bill in future, if not in this parliament, then maybe in the next. The Scrutiny of Bills Committee has just announced an inquiry which includes this question (see story below).

There may, at last, be a Human Rights Committee introduced in the next parliament, not this one.

From discussion around the two chambers last month, CLA believes the problem is that a human rights act is not supported by PM Kevin Rudd and a few very senior Cabinet Ministers. They dominate a more quiescent group within the Labor Caucus, probably numerically superior, who believe Australia should have a Bill of Rights.

And in a clear sign that the proposed internet filter is being taken off the agenda, ready for an election, the government has set up a joint select committee on cyber-safety (see story below).

## **COAG, SCAG and Councils give rise to resentment**

COAG, SCAG and their 41 illegitimate children, the Ministerial Councils for This, That and Everything Under The Sun, are in the firing line at long last!

The bodies represent the most undemocratic development in Australian political life over the past two decades. They make decisions, then tell parliamentarians that the legislation flowing from the decisions can't be changed "because everyone has agreed".

Finally, there are signs that some non-consultative COAG, SCAG and MC excesses may be reined in. *See story later.*

## ***LAST WORD:* Finn's fair-weather fun foiled by roving camera**

Finnish police are investigating whether Google's Street View camera invaded a man's privacy by revealing him sitting on his porch, on a chair, wearing a shirt but with no trousers on. Someone at Google could go to jail for a year if the company is found to have a case to answer. *Read more at the end of this bulletin.*

***EARLY WORD:*** In a sign of possibly divine intervention into Australia's election cycle, the Pope will declare Blessed Mary MacKillop a saint on 17 Oct 2010. For some time, betting has been on PM Rudd choosing 16 Oct as the federal election day. The Pope's choice of sainthood date makes an Australian election the day before, while the nation is in heightened religious euphoria, an almost certainty. PM Kevin Rudd may consider himself truly blessed by the Pope's choice of date.

## **Scrutiny Committee scrutinises itself**

The Scrutiny of Bills Committee is inquiring into how it operates, now and into the future.

The key issue is whether every Bill tabled in parliament should have a human rights compatibility statement attached, prepared by the bureaucracy. In the absence of an Australian Bill of Rights, this would force Ministers and the Public Service to pay more attention to human rights principles before putting draft laws forward.

The inquiry will examine:

- (a) whether its powers, processes and terms of reference remain appropriate;
- (b) whether mechanisms for oversighting delegated legislation are optimal; and
- (c) what, if any, additional role the committee should undertake in relation to human rights obligations applying to the Commonwealth.

The committee plans to investigate what happens in overseas parliaments as part of the inquiry.

[http://www.aph.gov.au/Senate/committee/scrutiny/future\\_direction\\_2010/tor.htm](http://www.aph.gov.au/Senate/committee/scrutiny/future_direction_2010/tor.htm)

## **Joint Committee parks Rudd's internet filtering, only to promote it later**

A new Joint Select Committee on Cyber-Safety will inquire into:

- the online environment for children in Australia;
- cyber-safety threats, like bullying, viewing illegal and "inappropriate" content, exposure to fringe fads and substance abuse ideas, identity theft and privacy breaches;
- what Australia and the world is currently doing, and could do, about child cyber safety, maximising benefits of technology innovation;
- how to prepare a PR program to boost awareness;
- whatever else Communications Minister Stephen Conroy and the House of Representatives or the Senate wants to add.

Setting up the committee is a cynical display of using the parliamentary system for electoral advantage. The committee can meet while the parliament is adjourned, and "may report from time to time"...but it won't deliver its final report until 11 February 2011, well after the next election.

That means the government can back off from the over-commitment and excessive comments of Senate Conroy, keep the issue on the high boil during an election campaign by making announcements when it chooses, but not have to actually DO anything.

It leaves opponents of internet filtering – that is, censorship by a rosy name – clutching at thorns in a lead-up to an election. <http://www.aph.gov.au/house/info/liveminutes/index.htm>

## **Labor, Libs gang up on Greens to sabotage war debates**

A Senate Committee has refused an historic opportunity to give power back to the Australian people – and, instead, further entrenched Executive authority.

The Foreign Affairs, Defence and Trade Legislation Committee has recommended against a Bill – *Defence Amendment (Parliamentary Approval of Overseas Service) Bill 2008 [No. 2]* – that could have forced public parliamentary debate on Australia after the PM and Cabinet had made a decision to go to war, and on whether to stay at war or withdraw from war.

While claiming to be for "open and public debates about the deployment of Australian service personnel to warlike operations or potential hostilities", the committee has refused the Bill outright instead of proposing amendments that would have satisfied criticisms of drafting.

Despite concluding that "(The Committee) agrees with the views of most submitters that the Australian people, through their elected representatives, have a right to be informed and heard on these important matters", the committee has refused to provide the opportunity to make such debate a mandatory part of government decision-making.

"(The Committee) is of the view that the bill leaves too many critical questions unanswered to be considered a credible piece of legislation. It believes that, while well intended, the bill may have unforeseen and unfortunate consequences that need to be identified and resolved before further consideration could be given to proposed legislation."

The so-called 'War Powers' Bill was a decades-old piece of unfinished business, first introduced by the Australian Democrats in the 1980s and carried forward recently by the Australian Greens.

"This is a wasted opportunity to strengthen our democracy by insisting that governments consult the people through their elected representatives before taking our soldiers into war zones," said Greens Senator Scott Ludlam.

Because both Labor and Liberal politicians on the committee refused to hold public hearings, Senator Ludlam held a 'pseudo hearing' at Parliament House last month. CLA took part.



*Photo shows the 'pseudo hearing'. Senator Scott Ludlam is second from right. CLA's representatives are at left rear. (Felicity Hill photo)*

The Hansard-recorded minutes of that 'hearing' form a dissenting section of the report. It can be accessed at: [http://www.aph.gov.au/Senate/committee/fadt\\_ctte/dapaosb08/index.htm](http://www.aph.gov.au/Senate/committee/fadt_ctte/dapaosb08/index.htm)

Core members of the Committee who effectively voted against this chance to introduce open public debate on Australia's going to war, and give power back to the people, were Senators Mark Bishop, ALP, WA (Chair), Russell Trood, LP, QLD (Deputy Chair), Don Farrell, ALP, SA, Michael Forshaw, ALP, NSW, Helen Kroger, LP, VIC. Senator Scott Ludlam, AG, WA was also a core member of the committee: he produced a minority report.

## **You bet your life: health insurer's cheap DNA test could prove costly**

For two years, CLA has been calling on the government to introduce legislation to protect people from losing insurance or superannuation because of DNA tests.

Nothing has been done. Now comes word of recent developments which highlight why the legislation, already passed in the USA, is needed in Australia.

Insurance company NIB is offering customers cut-price genetic tests...but results of the tests could cause higher premiums or bar people from life insurance or insurance payouts, Nick Miller wrote in the *SMH* last month.

NIB says it has no ulterior motive and wants to help its members manage their health. The company has sent some customers a letter inviting them to take a DNA test to assess their risk of getting preventable illnesses such as diabetes, heart attacks and some cancers. A half-price deal with a US company, Navigenics, enables a full genetic test that usually costs \$1000.

However, experts warn that taking up the offer could lead to privacy and financial risks - which the company only admits to in fine print at the end of the letter. Sydney academic Kristine Barlow-Stewart, a key government adviser on genetics technology, said the move was concerning. "It certainly raised red flags for me," she said.

Once someone has taken a test they can be forced to reveal the results to obtain life insurance, income protection or mortgage insurance and even membership of some superannuation funds which include life insurance.

Insurers can then use the information to increase premiums. If a customer concealed the fact they'd had the test, the insurer may refuse to pay out the policy. <http://tiny.cc/J8xXx>

## **Human Rights Council to review Australia**

Australia is due for its Universal Periodic Review (UPR) at the 10th Session of the UN Human Rights Council in 2011.

The UPR reviews the human rights records of all 192 UN member states once every four years. While Australia's turn is a year away, NGO submissions to the process are due by 1 Sept 2010.

CLA members are invited to submit brief items for CLA's contribution to the review: areas of interest might be: refugees and Christmas Island, Indigenous Australians and the Anti-

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Discrimination Act, internet filtering/censorship, equal suffrage in state/territory/federal voting, Australian taking part in the Iraq war 'illegally', etc.

## **McMillan to become IC, in charge of OIC**

Professor John McMillan will be Australia's inaugural Information Commissioner (IC).

Making the announcement, Cabinet Secretary Senator Joe Ludwig said Professor McMillan's extensive experience would be fundamental in establishing a successful Office of the Information Commissioner (OIC).

"(He) will have a significant role in implementing the Government's information policy reforms and in promoting and leading a pro-disclosure culture across government."

OIC will be an independent agency with oversight of freedom of information and privacy matters.

The Government's FOI reform bills are currently before Parliament. Professor McMillan will start as Information Commissioner Designate on 8 March 2010, stepping aside as Commonwealth Ombudsman after seven years in the role.

Commenting after the announcement, Prof McMillan said: "A key feature of the new reforms is the emphasis on pro-active disclosure of information by government agencies. There will be an irreversible change in government culture. The ground rules for information disclosure and publication are being rewritten."

CLA is delighted with the appointment. Prof McMillan has a chance to re-shape the culture of the Public Service in Australia from one of introverted secrecy to being as open and transparent as possible. It will not be an easy job, but the rewards for the nation will be better governance.

## **Parliamentary committee opts for on-the-spot electoral enrolling**

A new parliamentary report into electoral matters had recommended amendments to the Commonwealth Electoral Act 1918 to allow:

- the Australian Electoral Commission to automatically enrol electors on details provided by 'trusted agencies'; and
- electors to enrol on election day and to issue a provisional vote, if someone can produce suitable identification.

Chair of the Joint Standing Committee on Electoral Matters, Daryl Melham, (ALP, Banks) said: "Declining electoral enrolment continues to present a significant challenge."

An electronic version of the report – Inquiry into the implications of the Parliamentary Electorates and Elections Amendment (Automatic Enrolment) Act 2009 (NSW) for the conduct of Commonwealth elections – is on the committee's website at

<http://www.aph.gov.au/house/committee/em/autobill2009/report.htm>

## **New serious crime legislation is fraught with potential abuse**

New, more draconian legislation against organised crime and the proceeds of organised crime has passed federal parliament.

"The increasingly sophisticated and aggressive nature of organised crime requires a tough response. It is important that we have strong, tailored and effective laws in place to combat serious organised crime," Attorney-General, Mr McClelland, said when the laws passed.

However, CLA believes some of the provisions in the legislation go overboard. They enable freezing of a person's total assets on a magistrate's order merely on police 'suspicion' – this introduces concerns that the laws could be used for 'witch hunts' or punitively by rogue police.

The Crimes Legislation Amendment (Serious and Organised Crime) Bill 2009 and the Crimes Legislation Amendment (Serious and Organised Crime) Bill (No. 2) 2009 implements measures agreed to by State and Territory Attorneys-General – that is, by SCAG. The laws:

- widen the net for confiscating assets and dealing with suspected money laundering;
- require individuals suspected of unexplained wealth to demonstrate it was legally acquired – CLA says this is a reversal of Australia's traditional concept of 'innocent until proven guilty';

- allow much wider phone, fax, email, SMS, internet interception;
- allow police to operate under cover for infiltration purposes;
- boost police powers to search and seize, and access electronic data; and
- create joint liability for Commonwealth offences, where it has not existed before.

“The passage of the Bills represents another important step in the coordinated national effort to combat serious and organised crime and delivers on the Government’s commitment to address organised crime as a priority,” the media release says.

CLA says that, where similar laws have been used in WA and the NT, they have led to what appears to be police and DPP abuse of the powers. How these national laws are used will require close watching.

## **ASIO agents have their travel horizons widened**

Under the new Anti-People Smuggling and Other Measures Bill 2010, the Australian Security Intelligence Organisation (ASIO) can extend its reach offshore to investigate people smuggling and border security threats.

ASIO will also collect foreign intelligence about people smugglers and their networks.

This is a dramatic extension of ASIO’s traditional role, which previously has been strictly confined to within Australia.

The Bill also creates new offences for people who finance or provide support for people smuggling activities as well as much more severe penalties.

CLA continues to be concerned by the sweep of new laws which are turning Australia into a surveillance society, expanding police and spook agency powers locally and internationally, and spending huge amounts of money which could be better used on helping mentally ill and aged Australians. See **Terrorism: ugly word, trivial threat** on the CLA website for a rundown of the excessive expenditure on security by the Howard and Rudd Governments: <http://tiny.cc/2OqYN>

## **McClelland supports those who take on the hard cases**

Attorney-General Robert McClelland (*pictured*) late last month came out in strong defence of lawyers – and groups like CLA – who take on difficult cases and challenges.



“It is my strong personal view that independence within our justice system is fundamental,” Mr McClelland said.

“Lawyers (*and CLA-type organisations, CLA says*) must be free to take up the causes of all citizens without fear or favour, even when these causes are not palatable to governments or evoke the scorn and ridicule of the popular press.

“This principle is fundamental to access to justice and to the rule of law.”

We agree with the A-G, and congratulate him on his speech, to the Law Society of WA on ‘National Legal Profession Reform’.

In the speech, he said: “Currently, regulation of the legal profession totals over 4,700 pages of legislation, regulations and rules across the country and the legal profession acts which adopt this regulation currently range between about 400 and 600 pages.”

He is trying to get the regulation down to a sensible, common level, and to introduce a supervisory regime which includes non-lawyers. Hear, hear!

## **‘Tough on crime’ is really ‘tough on taxpayer’**

Former judges Harold Sperling, Tony Fitzgerald, and Chris Geraghty have joined academics and defence lawyers to argue for change in thinking about NSW prisons.

They are lobbying for “justice reinvestment” policies starting to operate in the UK and USA. They concentrate on spending money to reduce numbers in prison and repeat offending.

CLA has been saying for some time that “tough on crime” policies are really “tough on taxpayers” – they don’t cut either crime rates or fear of crime in the community.

Without change, the lawyers and academics say, NSW must build a medium-sized prison annually or a large prison every two years to maintain its growing prison population, according to an article by Joel Gibson in the *SMH* last month.

NSW has more than 10,000 prisoners; it costs about \$98,000 a year (or \$270 a day) to keep each of them in jail, according to Productivity Commission figures\*.

Prisoner numbers grew by almost 5% in 2008-9 and have increased by more than 4% each year since “truth-in-sentencing” reforms of 1999. The operating costs and capital expenditure of the NSW prison system has topped \$1 billion, more than one-third of the amount spent nationwide.

NSW has twice as many prisoners as Victoria, almost twice the rate of imprisonment and four times as many custodial facilities – 57 compared to 14. <http://tiny.cc/eXbGf>

Every state and territory (and nation, for that matter) where “law and order” politicians have pumped up media outrage in lead-up to elections for decades has exactly the same type of prison population problem as NSW.

The nation needs some statesmen and women in parliaments, rather than politicians who think the answer to crime is creating new laws. See **Labour suffers ‘legislative diarrhoea’** later in this newsletter

\* *Report on Government Services 2010, Productivity Comm, Canberra, Jan. 2010: 8.1 to 8.48*

## **SPECIAL REPORT: Full body scanners**

*The next few items cover aspects of the airport scanners issue.*

### **Who runs Australia’s airports?**

Deputy head of the US Department of Homeland Security, Jane Holl Lute, met Australian Transport Minister Anthony Albanese for a one-hour briefing at Sydney Airport in January, reports say.

Within a month, in direct response to US ‘requests’, Albanese announced full body scanners would operate at Australian airports.

Since July 2009, Mr Albanese had been sitting on a report from the Australian Department of Transport on a three-airport trial in Australia which basically said the scanners were NOT needed here. But it appears that, when the Americans clicked their fingers, the government jumped.

Thousands of Australians will be subjected to massive inconvenience and privacy invasion because the government apparently refused to take departmental advice following a proper trial.

Airline travel at times may grind close to a virtual halt in future because of this decision...unless Australians are prepared to spend 90 minutes or more at an airport before getting on their 60-minute flight between east coast capital cities.

### **Five CL/privacy bodies ask for scanner assessment**

Five of Australia's leading privacy and civil liberties groups had earlier called on the federal government to hold an open, public assessment of the privacy and health implications of full-body scanners before any machines were introduced here, *The Age* reported last month.

CLA was one of those bodies.

Transport Minister Anthony Albanese claimed to have only just received a departmental report – completed seven months ago – into a 2008 trial of the scanners from the Office of Transport Security.

The privacy groups, led by the Australian Privacy Foundation and including CLA and the Victorian, NSW and Queensland civil liberties organisations, jointly wrote to Mr Albanese requesting a “privacy impact assessment” be undertaken.

[Letter at <http://www.privacy.org.au/Papers/BodyScan-MinTpt-100120.pdf> ]

In the six-week Australian trial, from October 15 to November 28, 2008, almost 70,000 travellers volunteered for full-body security scans at Melbourne, Sydney and Adelaide airports, with Deakin University's Intelligent Systems Laboratory helping with data collection and modelling. "Curiosity" was the reason most often cited reason by passengers for wanting to be scanned, the department found. <http://tiny.cc/e5Hzs>

### **How long does a scan take? Depends on the technology...**

Six minutes per passenger...that's how long it will take for a "screening" by at least one of the full body scanners proposed by the Rudd Government.

That's 10 passengers per hour. To load one jumbo, you would need 50 hours of screening. That's two days per aircraft if every passenger is to be scanned.

If everyone can't be scanned – and at these figures, that is impossible – the Rudd Government has engaged in a \$200m lottery in relation to aircraft safety, which will cast the dice in favour of planes leaving Australia for the USA.

The pretend security is primarily to make the Americans happy. Rather than keeping Australians safe, as Prime Minister Rudd claims, the spending is designed to prevent aircraft being blown up over American airspace, and therefore is designed mostly to keep Americans safe.

Why are the scanners not justified?

- scanners proposed to be used do not identify bombs like the "underpants" bomb used by a Nigerian youth to try to blow up a plane landing in the USA at Christmas 2009;
- scanners proposed do not identify liquid bomb materials; and
- no scanner at any airport anywhere in the world, ever, has stopped a suicide bomber.

The young Nigerian would-be bomber nearly succeeded because of the incompetence of the US security services. They were incapable of linking several pieces of totally informative intelligence, including the alleged bomber's father nominating the young man by name to American security officials as a danger.

Because of US incompetence, every Australian travelling internationally – and many travelling within Australia – will be subjected to useless scanning which is a total invasion of the person, in that it produces detailed images of intimate parts of the body which the vast majority of people do not want revealed to anyone.

*The Age* reported that Australia's foremost anti-terrorism expert, Clive Williams of the ANU, said the money could be better spent on strategies that weeded out terrorists before they got to the screening gate. "By the time somebody (who) has intent gets to the screening point, they can get through screening if they're well organised."

### **Will Obama be full-body scanned on the way out of Australia?**

With President Obama coming to Australia this month, the \$200m Rudd Government expenditure on scanners can be thought of as a "Welcome to Australia" greeting card for him.

But will President Obama be full-body scanned before leaving on his flight culminating in the USA?

About \$18m of the \$200m is being used "to increase the number of firearm and explosive-detection dogs at major airports by 50%". There is no published, independent study proving that such dogs are much use at all. The best study of drug detection dogs (by the NSW Ombudsman over a two-year period) showed that the dogs were wrong 73% of the time.

Both the scanners, and the dogs, are nothing but PR stunts paid for by the Australian people.

Of the \$200m, \$12.3m will go towards maintaining the presence of Australian Federal Police officers at big airports (see story below).

Why do the AFP need \$12.3m extra? What is their normal job?

The Government has increased funding to the AFP by \$111 million this year...apart from the amount above.

In 2009/10, the AFP will receive about \$1.3 billion in funding. "We are restructuring elements of the AFP as part of the implementation of the Beale Review of policing in Australia. We're also taking steps to improve the AFP's capacity to combat organised crime," the government said last month. When will parliament call to account the governments (both Howard's and Rudd's) for the amounts being spent – wasted – on excessive, unnecessary police and security measures in Australia? Since 11 Sept 2001, billions upon billions of dollars have been spent on police and security services – massively more staff, more powers, more toys. The formal terrorist threat level to Australia has not moved one iota up or down in the past nine years.

### **Interpol chief slams body scanners as 'waste of money'**

The head of Interpol last month launched a scathing attack on the use of full-body scanners at airports, according to an Associated Press report.



Speaking to AP at the World Economic Forum in Davos, Interpol Secretary-General Ronald K. Noble (*pictured*) argued that better intelligence and information sharing between countries is required, rather than wide-scale body scanning technology.

He questioned "the amount of money and resources that go into these [body-scanning] machines", and argued that passport fraud\* is a bigger travel threat.

"The greatest threat in the world is that last year there were 500 million, half a billion, international air arrivals worldwide where travel documents were not compared against Interpol databases," he told AP.

*\* Since his statement, the alleged Israeli passport fraud issue has emerged.*

### **Airport scans: art from the inside out, signed**

A Bollywood heart-throb has made a mockery of an invasive new airport security system set to be introduced to Australia.

The British Transport Secretary has said publicly that images taken by new full-body X-ray scanners, which capture in detail the human anatomy, would be destroyed immediately and not pose a risk to travellers' privacy.

But Indian actor Shahrukh Khan temporarily put paid to the government's claims, telling BBC talk show host Jonathan Ross that he autographed printed scans of his own body for two female security officers.

"I came out [of the scanner] and then I saw these girls and they had these printouts," Khan said. "So I looked at them, I thought maybe it's a form you're supposed to [sign] ... and you could see everything inside. And then I've autographed them for them."

Khan later admitted his statement was a wind-up: all the British news outlets fell for it, and so helped to publicise his visit to the UK.

<http://tiny.cc/q3MOq>

## **ENDS SCANNER STORIES**

### **Referendums to tweet to a new tune**

There's a new proposal for sweeping changes to how Australians get information before a referendum.

The Legal and Constitutional Affairs Committee has released its report, *A Time for Change: Yes/No?*, which found that the written material for electors before a referendum was insufficient and more diverse communication was needed to properly inform the public.

The committee's key recommendation is to establish a referendum panel before a referendum. The panel, independent of government, would develop a communications strategy for the referendum.

A Yes/No pamphlet would still go out to all households, but the panel could also use the Internet, Facebook, Twitter and text messaging to electors.



The Chair of the Committee, Mark Dreyfus, says it is important to modernise how electors are informed, given new communications technology. The committee also recommended that:

- The Yes/No Pamphlets be retained, but sent to every household rather than every elector;
- Parliamentarians continue to authorise the Yes and No arguments; and
- National civics education is brought in to improve knowledge of the Constitution.

The government's response to the report may not occur until the new parliament in 2011.

### **Police protect whistleblower's identity**

*An article which originally ran in this space has been removed because a person mentioned in it appealed successfully against a conviction.*

### **Watchdog will review anti-terrorism and security laws**

An Independent Monitor of counter-terrorism and national security laws will soon be in place.

He or she will annually review whether national security laws are effective and accountable, and if they include appropriate safeguards to protect peoples' rights. The report will go to the Prime Minister Kevin Rudd and to Parliament.

The Greens amended the legislation in the Senate to provide for direct annual reporting to Parliament, as well as for the publication of reports on specific investigations.

### **Govt rushes Health ID in face of civil society concerns**

Consumer groups, civil liberties people and privacy experts are worried about the Rudd Government introducing a half-baked national health identifiers scheme – a number to uniquely identify every Australian – without protections and safeguards.

The government is locking the new ID numbers for patients and medical providers into flawed privacy regimes. Health Minister Nicola Roxon introduced the "anti-privacy" bill into parliament last month.

"This is about politics and what you can get away with before other regulatory issues are resolved," said David Vaile, executive director at the Cyberspace Law and Policy Centre at the University of NSW, as reported by Karen Dearne in *The Australian*. "But good politics doesn't necessarily make good system design.

"The larger scheme is all about bringing tens of thousands of different information technology systems together, yet discussions about risks and regulatory controls are off into the distance."

The Healthcare Identifiers Bill will become the foundation for secure messaging between doctors and for keeping of individual health records electronically. It establishes an identity service – your health number – under a scheme which Medicare will run from July.

Last year, the federal and state health ministers – meeting as one of the 43 "unaccountable" and secretive Ministerial Councils that now govern Australia – failed to agree on a uniform privacy framework for patient identifiers.

The new Rudd/Roxon laws will apply ahead of a promised rewrite of the Privacy Act for the digital age, based on recommendations of the Australian Law Reform Commission.

Health ID numbers are a hot potato topic as consumer advocates have repeatedly warned of the dangers of abuse or exposure of personal medical information, as well as the potential for government-issued numbers to morph into a broader national identity scheme.

The Rudd Government seems fixated on giving people numbers, CLA observes.

### **GUSI numbers set to track children's movements**

Deputy Prime Minister Julie Gillard (*pictured*) wants to introduce "Gillard Unique Student Identifier" numbers for all school children to be able to track them between different schools, systems and states.

The numbers will be known as GUSIs (pron. 'gooseys').



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She said GUSIs would mean she could evaluate schools and teachers "with full rigour". Details could be published on the *My School* website.

The Australian Education Union federal president, Angelo Gavrielatos, said the GUSI idea raised serious issues about privacy and the ethical use of student data.

## **Five un-named people go to jail for longer than 'life'**

Longer than a life sentence (23-28 years) for five people who can't be named who did not commit an offence but conspired to do so if a jury got its decision right, against an unnamed target somewhere in Australia which can't be identified.

A sense of unease prevails when normality in Australia's courts is turned on its head as has occurred in the recent Sydney terrorist trial, in which sentences were handed down last month.

Unfortunately, Australians are being kept in the dark: we don't know whether our security and police forces have done a magnificent job, or whether circumstantial evidence has been cobbled together to produce an unfair outcome in the Supreme Court of NSW at Parramatta under Justice Anthony Whealy.

We do know that Justice Whealy was not satisfied that the accused men had intended to kill...but he was satisfied that, because of their extreme views, what they intended contained the possibility that life would be taken.

Justice Anthony Whealy said the men had been inspired by "intolerant, inflexible religious conviction" and remained unrepentant.

Someone who is pro-abortion could make the same comment about anti-abortionists...and vice versa, CLA says. Australian courts customarily convict and sentence people based on their actions, not on their views. This secretive trial may be a low-water mark in Australian justice.

Until further information is produced in relation to this case, CLA can make no comment on whether the sentences are too little, appropriate or excessive. On the face of it, being roughly double what might apply in a 'usual' murder trial, they appear to have set new upper limit benchmarks for a case involving a very large amount of circumstantial evidence.

Surely, the Australian people are entitled to be told more than they have been so far. It would be understandable if Muslims in Australia felt the five men have received special treatment, in the absence of published facts to back up very long sentences.

A media release after the sentencing, from the office of the A-G, Robert McClelland, said:

*This concludes the longest and most complex federal counter-terrorism case in Australia's history, with the trial extending over nearly a year and involving approximately 300 witnesses, 3,000 exhibits and 30 days of surveillance evidence.*

Yes, and Australia has become a nation which holds secret trials out of the public eye.

## **Anonymous blogger found, forced to pay**

A Perth company and its chief have won \$30,000 in damages and costs, an apology, and undertakings from a Victorian that he won't post more defamatory comments.

Lawyer Martin Bennett told Tony Wright, writing in *The Age*, that the hunt for the man's true identity proved the stuff of private detective novels updated into the age of blogs.

It is, Mr Bennett said, one of a very few such actions in Australia against the author of anonymous postings on an internet forum. He predicts it is the tip of a legal iceberg.

"There has been an increasing proliferation of internet chat sites where people feel free to hide their identities and make defamatory comments about companies and their executives and directors," he said in a statement released after the case in the Supreme Court of Western Australia was resolved.

The action against Graeme Gladman began after highly uncomplimentary comments appeared last November under pseudonyms on the HotCopper website, a stockmarket forum. It was resolved last month, with Mr Gladman agreeing to pay damages totalling \$20,000, taxed legal costs of \$10,000, and to provide apologies and undertakings not to publish further defamatory postings.

Mr Bennett has two other cases pending before the WA Supreme Court. <http://tiny.cc/0DOZG>

## **Curbs needed on police use of DNA, OPC says**

DNA samples provided by victims of crime should not be tested to try to implicate them in future offences, according to the Office of the Privacy Commissioner (OPC).

Their samples should be stored separately to those of criminals.

The proposal follows similar calls for a separate database and stricter rules for police and other volunteers who give their DNA to assist investigations. As well, CLA is calling for legislation to protect people in the civil area from insurance and superannuation rules which discourage people seeking information to improve their health.

Crime victims often provide DNA in rape and serious assault cases: such co-operation has led to some people being linked to unrelated crimes, Joel Gibson wrote in the *SMH*.

The OPC told a federal government review of DNA laws that a separate register is needed for victims and they "should be able to stipulate the uses to which their sample is put". In circumstances where the victim is not able to do so, their DNA profile must only be used for the purposes of investigating the crime for which they are recognised as a victim," the OPC said.

Many of the samples on the national DNA register don't belong to suspected criminals, but to victims, missing persons and volunteers.

State and federal laws limit the use of volunteers' DNA, but victims do not have the same protections. <http://tiny.cc/2OgYN>

## **'Screening' creates an empty facade of child safety**

The NSW state employment screening system saw 14 people who had been assessed in 2008-09 as posing a significant risk going on to get jobs working with children.

A NSW Auditor-General report showed gaping holes in a system meant to protect children.

"There's a safety net, it's got holes and those holes need to be mended quick smart," Auditor-General Peter Achterstraat told Adele Horin, writing in the *SMH*.

The first audit of the program since it began 10 years ago found that:

- it did not reliably identify all people who posed a risk;
- not all employers were checking everyone they should; and
- the agency which implements the program, the NSW Commission for Children and Young People, did not monitor employer compliance.

No employer had been fined for a failure to properly screen its workers. Forms signed by the state's 1.3 million volunteers attesting to their suitability for employment with children were never checked by the commission, the auditor said. <http://tiny.cc/efVia>

## **Children's DNA kept so they reach adulthood with a criminal record**

The DNA of nearly 1800 young offenders in NSW has been stored on a database to allow police to catch them if they commit crimes in future.

The government defends the system, in place since 2000, saying it only affects children who continue to commit crimes. But a former children's court magistrate, Barbara Holborow, said children were entitled to enter adulthood without a record, and keeping the DNA on an offenders' database "smacks of a criminal record".

Ms Holborow said it was acceptable to store their DNA until they became adults because it helped police. "But when that juvenile turns 18, if they have only offended once, then that DNA should be destroyed so they don't have a criminal record."

All criminal records for juveniles sentenced to no more than six months in prison become "spent" after three years, which means they do not have to be disclosed when seeking employment, insurance or credit, according to a report by Geesche Jacobsen in the *SMH*. <http://tiny.cc/YErIW>

## **COAG, SCAG and Ministerial Councils give rise to Caucus resentment**

COAG, SCAG and their 41 'illegitimate' children, the Ministerial Councils for This, That and Everything Under The Sun, are in the firing line...finally!

The bodies represent the most undemocratic development in Australian political life over the past two decades.

Some explanation:

**COAG** is the Council of Australian Governments, comprising the PM, State Premiers, Territory Chief Ministers and the President of the Australian Local Government Association. It was PM Paul Keating's invention in 1992, but has morphed into the de facto Board of Management of Australia. (Over it sits only the Executive, the PM, kitchen cabinet, selected advisers and the chosen few bureaucrats on particular issues).

**SCAG** is the Standing Committee of Attorneys-General; all Australian A-Gs, plus the NZ A-G.

**There are at least 41 other Ministerial Councils:** Transport, Indigenous Affairs, Health, Consumer Affairs, Justice, Energy, Food, Drug Strategy, etc, etc, etc, etc.

Basically, what happens is that the PM and Premiers in COAG, the Attorneys-General in SCAG, and the respective Ministers in the other MCs, get together and decide how Australia will operate. They agree to change laws, establish new structures and systems, treat citizens in particular ways...the things that parliaments used to do.

For the past two years, CLA has been complaining vehemently about the system of COAG, SCAG and Ministerial Councils.

We claim they almost totally exclude consultation with the people, and they produce lowest common denominator agreements and decisions. SCAG, for example (plus some of the other MCs, we believe) operates to a blackball vote: that is, one A-G can veto a sensible law or scheme for the rest of Australia.

That's why Australia has never had an R18+ computer/video game category. The A-G of SA, Michael Atkinson, is dead against it for personal reasons unfathomable by all other A-Gs and 99% of Australians. But he – one man – has put a personal veto in place to stop the category.

CLA also says that COAG, SCAG and the MCs emasculate parliaments. What happens is that these bodies, meeting secretly with no pre-announced agenda and with only 'spun' or 'sexed up' decisions emanating afterwards, agree on a way to do something, then produce policy or laws which go before the various parliaments – federal, state and territory. Backbenchers and bodies like Senate or Upper House review committees are told: "No, you can't change that policy or legislation, the states/feds have already agreed to it."

For years, we have been the sole liberties/rights/policy body speaking out on this issue...and we didn't appear to be getting anywhere.

But suddenly, help is at hand. The federal Labor Caucus is up in arms because they are being bypassed by Ministers, who agree at these secret MC meetings to take certain actions.

There's a long-standing Caucus rule that Ministers are not to make binding agreements unless Caucus has agreed to a proposal. But Ministers have been ignoring the rule and identifying more with the MC 'clubmates' than with their Caucus colleagues.

So Caucus has put its collective foot down. With luck, some semblance of democracy will return to Australian decision-making.

CLA wanted a public inquiry – a national commission– to scope how COAG, SCAG and MCs should operate so that the Australian people can have input before decisions are made.

The new Scrutiny of Bills inquiry (see above) is a pale imitation of what is needed, but at least it gives us a change to air our concerns nationally, in public.

## **Major UN conference in Australia for first time**

The 63rd UN Department of Public Information/Non-Governmental Organisations (DPI/NGO) conference will be held in Melbourne from 30 August to 1 September.

It will be the first time Australia has hosted a UN event of this size and only the third time that the DPI/NGO conference has been held outside UN Headquarters.

The conference brings together hundreds of non-governmental organisation representatives from around the world to focus on a topic of interest related to the work of civil society and non-governmental organisations in collaboration with the UN.

The 2010 conference will focus on global health as it relates to the Millennium Development Goals. Details: <http://www.un.org/dpi/ngosection/index.asp>

## **Rights to a lawyer: CLA continues battle with ACT Policing and Ombudsman**

CLA has had partial success in calling to account ACT Policing officers who would not allow a person detained over an alleged DUI offence to see a lawyer in police cells.

The ACT Ombudsman (ACTO) has agreed to counsel ACT police over the fact that they must allow people whom they are holding access to a lawyer.

However, still unresolved is whether that access is immediately upon being detained/taken to a police station, or only after being charged, as police contend.

CLA continues to pursue the matter: we are concerned that ACTO is so far refusing to take responsibility for enforcing the ACT Human Rights Act, whereas CLA contends ACTO is the only body in a place to do so in relation to ACT Policing.

## **Report on **CLA** activities in February:**

### **Meetings:**

Rosemary Budavari, Law Council of Australia: re training of officers for compliance with Treaty obligations, anti-democratic effect of operation of Ministerial Councils, etc.

Tony Kidney, new student internship organiser, Uni Canberra.

UNSW: Liaison via CLA member Chris Michaelsen re internship initiative.

### **Students:**

Decided not to continue association with Uni Canberra as methods of operation not sympatico.

Kelly Floyd ANU: changed from CL topic on homelessness/mental health to family law.

### **Cartoons:**

Lynne Bliss reorganising and updating, will arrange venues. Emails sent to interstate members re sourcing relevant cartoons.

### **Groups:**

Teleconference with Rex Widerstrom Perth WA.

Follow up with Cairns.

Preparation for Launceston, Hobart.

### **Board**

Policy decisions on operation of groups within CLA.

Annual Report, President's report, Treasurer's report approved for web publication prior to eAGM.

Resignation of Foundation Director Jim Staples for age reasons.

### **Submissions:**

NADRAC (alternative dispute resolution);

War Powers: attend/take part in 'pseudo hearing' organised by Sen. Scott Ludlam, A. Greens;

National Drug Strategy 2010-2015;

Two federal Bills on child safety: Serious Offences; Misrepresentation of Age; and

Video/Computer Games R18+;

### **Articles:**

By President: prepared for *Order*, the national magazine of the Order of Australia.

By Director James Staples (pictured): *The criminal liability (?) of John Howard for the subversion of the Commonwealth of Australia Constitution Act* – re war-making



powers of the Australian Govt, with particular relevance to Iraq. 'Blog of the Day' on Open Forum:  
<http://tiny.cc/St5mw>

### **Conferences/ Forums:**

Contribution to discussions of the National Advisory Committee on Alternate Dispute Resolution Roundtable (armed with suggestions from 12 CLA lawyer members).

Magistrates Court for hearing high profile case involving a member.

Hearings (2) of House of Representatives Standing Committee on Indigenous and Torres Strait Islander Affairs, re Indigenous juveniles in criminal justice system.

Woroni student newspaper staff meeting: CEO gave talk on new production.

Forum on War Powers organised by Greens Scott Ludlam: CEO gave address, spoke to submission.

ANU Centre for European Studies: launch 2010 program

Department Foreign Affairs and Trade Non-government Organisation consultation.

### **Meetings:**

Darryl Melham MP: re Charter of Rights, terror laws revision, operation of COAG.

Mark Dreyfus MP: re Charter, monitoring of terror laws, operation of COAG, whistleblower legislation, referendums.

Kelvin Thomson M:P re COAG, Treaties.

Ken Crispin: former Supreme Court judge, operation of DPPs across Australia.

Prof Duncan Chappell: criminologist, re mental health legislation.

Malcolm Turnbull MP: re COAG, internet censoring.

Rob Oakeshott MP: re COAG/SCAG, election spending accountability etc.

*Photo shows CLA President Dr Kristine Klugman and Mr Oakeshott.*

Dr Jarvis Hayman, ANU, member: re research project, coronial issues.

Dr Melissa Parke MP: re internet filtering, extradition, AFP and Bali 9.



### **Cases:**

John Waldon, behaviour of Moama police, ongoing (ref. Kuru case, HC).

### **Vale:**

Michael Firestone, CLA member: quiet and conscientious worker for mental health.

### **Media:**

Media activities in February covered a mixed issues with radio interviews of topics from the death penalty to Julia Gillard's proposed student numbering system. Activity for the month included:

- A joint press release with Digital Tasmania about restrictive internet blogging laws during the Tasmanian election (on 20 March).
- Radio interviews discussing the South Australian restrictive blogging laws - our action combined with others have seen the SA Attorney-General declare that no one will be prosecuted for breaking the law during this election (on 20 March), and that the laws will be repealed when the new parliament sits.
- Radio interview with Mark Paton (ACT) about the death penalty and Tony Abbotts wavering remarks on ABC radio.
- Radio interview on Radio Adelaide to discuss Julia Gillard's proposed student registration scheme.
- Radio interview with ABC Canberra to discuss the new Surveillance and Serious and Organised Crimes bills, introduced into the ACT Legislative Assembly.

### Media releases:

- CLA calls for legislation on DNA to protect people's insurance policies, 15 Feb.
- CLA welcomes WA Premier's watching brief on citizen's liberties, 16 Feb.
- Tasmania should abandon \$12,000 fine, 3 months' jail for anonymous election comment, 19 Feb.

## AUSTRALIAN BRIEFS

**More OpenGate than SmartGate?:** Australian Privacy Foundation Chair, Prof Roger Clarke, says the SmartGate automatic Immigration/Customs check at Australia's main international airports has a "tolerance so high, anyone cheating has a very good chance of getting through if they look even vaguely like the person whose passport is being used". Prof Clarke, who is also a CLA member, says during tests a large group swapped passports and successfully made it through checks. "Eight out of 100 were incorrectly permitted through. That's a huge number, so security aspects are dreadful," he said. The biometric SmartGate self-process system is in use at airports in Adelaide, Brisbane, Cairns, Melbourne, Perth and Sydney...and, from this month (March), the Gold Coast.

**More raids than the police and ASIO:** The Australian Tax Office, with more than 200,000 unannounced raids a year on offices, homes and vehicles, appears to be more intrusive than Australian federal, state and territory police forces, and spooks, combined. The Ombudsman, John McMillan, said the ATO was "raiding by the book", so that everything was OK...trouble is, the ATO appears to have written the book – or, at least, the brochure – on raiding!  
<http://www.smh.com.au/national/taxman-free-to-break-in-to-homes-20100215-o2vn.html>

**Insurance industry intransigent on DNA:** The insurance industry has rejected a call to stop using prospective customers' genetic profiles to raise insurance premiums or deny cover. A similar, voluntary ban in Britain was introduced in 2001 and later extended to at least 2014, but the local industry has refused to follow suit, despite concerns they may be deterring people from potentially life-saving genetic testing, Nick Miller reported last month in the *SMH*. <http://tiny.cc/iavOm>

**'Fourth Force' gets new chief:** Tim Barrett is promoted to Rear Admiral, from Commodore, as part of heading up Australia's 'Fourth Force', Border Protection Command (on top of Navy, Army and Air Force). He is responsible for deploying Customs and Border Protection and Defence assets, which includes a fleet of vessels and the civilians and armed forces manning them. Barrett took over from Rear Admiral Allan du Toit last month. Also last month, the Fourth Force sought tenders for a separate communications system.

**Bikies on a ride into the top court in the land:** The High Court will hear an appeal by the South Australian Government against a ruling that part of its bikies control order legislation is invalid. In a majority decision last year, SA's Supreme Court ruled invalid part of the legislation allowing for control orders to be made against known bikies. The court found the independence of magistrates was undermined because the legislation gave them no chance to examine the basis on which the Executive had made a decision to ban a particular group.

**Judges appointed, DPP takes up:** Robert Mazza is the new judge of the Supreme Court of WA (*pictured*), replacing Justice Geoffrey Miller who retired on 11 December 2009. Judge Mazza starts on March 8 in the general division of the court after leaving his post of six years as a judge of the District Court of WA. John Gerard Staude replaces him on the District Court of Western Australia from the same day. Barrister Joseph McGrath took up from 1 Feb as the new Director of Public Prosecutions for WA.  
*(Peter Bowdidge photo)*



**New drug info centre launched:** The new Australian Illicit Drug Data Centre (AIDCC) has been launched. It will collect, collate, analyse and disseminate information on illicit drugs – from a media release by Adam Smith, AFP National Media Team, 0448 441163.

**Torture officially on its way to being outlawed:** The Rudd Government's Crimes Legislation Amendment (Torture Prohibition and Death Penalty Abolition) Bill 2009 seeks to outlaw the death penalty for State crimes, and torture generally. It passed the lower house last month, and is in the Senate. CLA believes the law has great potential to give better protection from arbitrary punishment and vindictiveness to prisoners in jails.

## INTERNATIONAL

### **Parliamentary committee wants to abandon control orders**

A committee of the UK Parliament last month urged the government to abandon control orders because they cost too much and have done "untold damage to the UK's international reputation as a nation which prizes the value of fairness".

The all-party joint committee on human rights, made up of MPs and Lords, said the control order system – which imposes severe restrictions on terror suspects who cannot be taken to court – was "no longer sustainable".

It called for the system to be scrapped and said the current regime was now "not capable of ensuring the substantial measure of procedural justice that is required", according to a report by Andrew Sparrow in *The Guardian*.

Control orders, introduced in the UK 2005, allow virtual house arrest on terrorism suspects who cannot be prosecuted. They are applied when intelligence not admissible in an ordinary court suggests someone is a threat to national security.

There were 12 control orders in force in Britain in December 09, with 9 relating to British citizens.

The committee said it was particularly concerned about the impact of control orders on individuals and their families, and that the cost of control orders suggested they were not value for money.

The UK government says it spent \$22m on control orders between 2006 and 2009, \$4.6m of that on administration and the rest on legal costs. The committee said this figure was an underestimate because it did not include the cost of court hearings. <http://tiny.cc/v7tlz>

### **US President gives civil liberties oversight panel short shrift**

President Obama is under pressure from his own Democrats and civil liberties groups for not filling positions on an oversight panel formed in 2004 to make sure the government does not spy improperly on citizens.

The Privacy and Civil Liberties Oversight Board was recommended initially by the bipartisan Sept 11 commission as an institutional voice for privacy inside the intelligence community. Its charter was to recommend ways to mitigate the effects of far-reaching surveillance technology that the federal government uses to track terrorists.

The panel was established in 2004 under the Bush administration as part of the executive office of the president. Its independence was unclear for several years. Congress responded by increasing the board's budget, expanding its powers and moving it outside the presidential executive office in 2007.

Since taking office, Mr. Obama has allowed the board to languish. He has not even spent the panel's allocation from the fiscal 2010 budget.

One commentator said: "The national security establishment represents more than 50,000 people and hundreds of billions of dollars. The fact there is no independent oversight board for that organization is deeply troubling."

### **Obama's sins of omission deny civil liberties over first year**

Glenn Greenwald, writing in *Salon*, has documented how poorly President Barack Obama has performed in the civil liberties area in his first year in office.



“...one of the most notable aspects of the first year of the Obama presidency has been how many previously controversial Bush/Cheney policies in the terrorism and civil liberties realms have been embraced,” Greenwald writes.

“From indefinite detention and renditions to denial of habeas rights, from military commissions and secrecy obsessions to state secrets abuses, many of the defining Bush/Cheney policies continue unabated under its successor administration.”

The article reaches a conclusion summed up in the last line: “Ronald Reagan and George W. Bush: Far Leftist Civil Libertarian Extremists”.

[http://www.salon.com/news/opinion/glenn\\_greenwald/](http://www.salon.com/news/opinion/glenn_greenwald/)

## **MI5 plunged into legal crisis**

Britain’s MI5 faced an unprecedented and damaging crisis last month after one of the country’s most senior judges found that the Security Service had failed to respect human rights, deliberately misled parliament, and had a “culture of suppression” that undermined government assurances about its conduct.

The condemnation, by Lord Neuberger, the master of the rolls, was drafted shortly before the foreign secretary, David Miliband, lost his long legal battle to suppress a seven-paragraph court document showing that MI5 officers were involved in the ill-treatment of a British resident, Binyam Mohamed.

Amid mounting calls for an independent inquiry into the affair, three of the country’s most senior judges – Lord Judge, the Lord Chief Justice, Sir Anthony May, President of the Queen’s Bench Division, and Lord Neuberger – disclosed evidence of MI5’s complicity in Mohamed’s torture and unlawful interrogation by the US.

So severe were Neuberger’s criticisms of MI5 that the government’s leading lawyer in the case, Jonathan Sumption QC, privately wrote to the court asking him to reconsider his draft judgment before it was handed down.

The judges agreed but Sumption’s letter, which refers to Neuberger’s original comments, was made public after lawyers for Mohamed and media organisations, including the Guardian, intervened.

They argued that Neuberger had privately agreed with Sumption to remove his fierce criticisms without giving them the chance to contest the move.

In his letter, Sumption warned the judges that the criticism of MI5 would be seen by the public as statements by the court that the agency:

- did not respect human rights;
- had not renounced participation in “coercive interrogation” techniques;
- deliberately misled MPs and peers on the intelligence and security committee, who are supposed to scrutinise its work; and
- had a “culture of suppression” in its dealings with Miliband and the court.

<http://tiny.cc/1Yn7c> <http://tiny.cc/fVczC>

## **Labour suffers ‘legislative diarrhoea’**

British Labour has introduced 14,300 new offences since taking office in 1997, with current Prime Minister Gordon Brown’s administration inventing crimes at more than one a day.

Thanks to Labour, it is now illegal to swim in the wreck of the Titanic or to sell game birds killed on a Sunday or Christmas Day – eventualities overlooked by previous governments, the London Daily Telegraph reported.

Some of the more inventive crimes dreamt up by Labour include “disturbing a pack of eggs when directed not to by an authorised officer” and reporting the door of a merchant ship to be closed and locked when it isn’t.

Labour also introduced laws against activities which would already have been covered by previous legislation – such as “causing a nuclear explosion”.

Liberal Democrat Home Office spokesman Chris Huhne said Labour has spent 12 years "suffering from the most acute and prolonged bout of legislative diarrhoea". <http://tiny.cc/NRacU>

## EU shows moral right is not always with the SWIFT

The European Parliament has comprehensively overturned a deal to allow US spooks to pore through European bank transfers, allegedly to track funds supporting terror groups.

The EU voted 378-196 against the deal; there were 31 abstentions.

The issue is highly pertinent to Australia. We also could – and should – not allow the US to pry into the private affairs of Australians.

President of the EU Parliament, Jerzy Buzek (*pictured*), said there should be more safeguards for civil liberties.

European governments must now renegotiate with the parliament over an interim arrangement for data sharing for some months while the EU tries to resolve a longer-term agreement with the USA.

The EU wants reciprocity: in other words, European authorities could see US banking information if the US authorities could see European data.

The current kerfuffle follows a secret program launched after the 11 Sept 01 terror attacks that skirted Europe's strict privacy rules.

The secret deal, unannounced for about four years, transferred millions of pieces of personal information from the US offices of the bank transfer company SWIFT to American authorities.

SWIFT is the Society for Worldwide Interbank Financial Telecommunications. It is the global electronic payments consortium used by banks worldwide.

By the end of 2010, it will move its data stores from the USA to Switzerland, so that the USA needs an international agreement to keep the data flowing.

SWIFT is based in Belgium, but has an office in Australia.

It is believed records of Australians' international transfers may also have been illegally caught up in the USA covertly accessing SWIFT records since before 2006.

Privacy authorities in Australia have ducked for cover rather than standing up for the privacy rights of Australians. <http://tiny.cc/ObQsW>



## INTERNATIONAL BRIEFS

**Prisoners to sue for voting rights:** About 83,000 British prisoners could sue if not allowed to vote in the general election this year. A European legal ruling, six years old, means prisoners must have their voting rights restored, but British ministers have procrastinated, fearing a backlash from the electorate. The Barred From Voting campaign – organised by the Prison Reform Trust and Unlock, the national association of reformed offenders, and supported by the Prison Governors Association and the civil rights group, Liberty – claims there will be widespread legal challenges to the election if it goes ahead without prisoners having voting rights. Guardian 7 Feb 10. <http://tiny.cc/C46wl>

**Games people play, with security:** The budget for Winter Olympic Games security was originally pegged at \$C175 million in Vancouver's Olympic bid. By Games time last month, this snowballed to more than five times that figure, \$C1 billion. That's the security bill for 15,500 police, military and private security guards, backed by a lethal arsenal of military hardware. There were 5,500 competitors and officials taking part in the games, roughly a third the number of security people. The Canadian dollar is worth about the same as the Aussie dollar.

**Wronged prisoners get compensation – in some states:** A Florida man wrongfully imprisoned for three years and seven months has accepted \$198,000 in compensation, becoming the first person to receive compensation under the state's Victims of Wrongful Incarceration Compensation Act. Leroy McGee was convicted of robbery in 1991, a crime he did not commit, *Jurist* reports.

According to the Innocence Project, the federal government, the District of Columbia, and 27 states have compensation statutes of some form, while 23 states do not. <http://tiny.cc/LuRYS>

**Bush legal pair escape sanctions:** Two former high-level Bush administration officials, John Yoo and Jay Bybee, who provided legal memos justifying harsh interrogations of terror suspects, are likely to escape formal punishment. Current Justice Department Deputy Associate Attorney General David Margolis said that they should not have their law licences revoked. Margolis concluded "that these memos contained significant flaws. But...all flaws do not constitute professional misconduct.... I conclude that Yoo and Bybee exercised poor judgment by overstating the certainty of their conclusions and underexposing countervailing arguments." Civil liberties advocates had demanded that the lawyers face legal sanction because their memos were used to justify waterboarding, a form of torture. <http://www.mcclatchydc.com/251/v-print/story/86581.html>

**70 journos die in new record:** Seventy journalists were killed in 2009, the worst year since records began 30 years ago, the Committee to Protect Journalists says. A massacre of 31 journalists in the Philippines broke the old record of 67 deaths, set just two years earlier. Some 150 journalists are currently in jail, including 60 in Iran where the CJP says the authorities have in effect criminalised journalism. The group said online journalists were particularly vulnerable to repression. According to its report, *Attacks on the Press 2009*, online reporters made up more than half the news workers in prison worldwide. <http://news.bbc.co.uk/2/hi/8519204.stm>

## **DATES:**

(You may have to copy and paste URLs to reach these sites)

**2 Mar, Sydney:** Privacy in the Asia-Pacific: 2010 Update, details and registration form at <http://www.cle.unsw.edu.au/seminars/docs/2010/Privacy.pdf>

**3-4 March, Sydney:** 1st Asian Privacy Laws Symposium (by invitation only)

**4 Mar, Perth: 12.30-1.30pm:** *Judicial Independence - the Apartheid Years*, lecture by George Bizos SC, human rights lawyer, Kim Beazley lecture theatre. Details: Miriam Everall 08 9360 6820. Email: [m.everall@murdoch.edu.au](mailto:m.everall@murdoch.edu.au)

**4 Mar, Perth: 6-7pm** *Human Rights Pre and Post Democracy in South Africa*. Lecture by George Bizos SC, human rights lawyer. University Club Theatre Auditorium, UWA. <http://www.ias.uwa.edu.au/lectures/bizos>

**6 Mar, Australia-wide:** Stop Internet Censorship in Australia, nationwide protest day. <http://www.facebook.com/>

**8-11 March, Melbourne:** 5th Australasian Drug Strategy Conference, Melbourne Convention Centre, details: <http://www.adsc2010.com>

**10 Mar, Brisbane:** CEPS/ISSR Seminar: 'Queensland Community Engagement Trials: preliminary results of the world's first randomized field trial of police legitimacy'. Prof Lorraine Mazerolle and Dr Sarah Bennett. Details: Kylie Baker 07 3735 1051 or email: [k.baker@griffith.edu.au](mailto:k.baker@griffith.edu.au) Web: <http://tiny.cc/P4WVr>

**12-14 March, Melbourne:** Rise of Atheism conference, Atheist Foundation of Australia and Atheist Alliance International, Melbourne Convention and Exhibition Centre. Info: <http://www.atheistconvention.org.au/>

**15 March, Canberra:** Prof Allan Borowski of La Trobe U: Evaluation of the Children's Koori Court of Victoria. RSVP to Austn Inst. of Criminology: [aic.events@aic.gov.au](mailto:aic.events@aic.gov.au) by COB Friday 12 March 2010.

**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/>

**18 Mar, Perth:** Fundraising breakfast: Dr Geoff Gallop on the topic: 'The Case for a Bill of Rights in Australia'. Banquet Hall, UWA 7-9 am. Details: [http://www.universityclub.uwa.edu.au/uniclub/events/events\\_around\\_the\\_club#HRAFF](http://www.universityclub.uwa.edu.au/uniclub/events/events_around_the_club#HRAFF)

**2-3 May, Brisbane:** Director-General of UNESCO, Irina Bokova, will give the keynote speech at the UNESCO World Press Freedom Day 2010 conference, hosted by UQ. Rego: [www.wpdf2010.org](http://www.wpdf2010.org) Details: Marsali Mackinnon, 07 334 63092 or E: [m.mackinnon@uq.edu.au](mailto:m.mackinnon@uq.edu.au)

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

**21 May, Melbourne:** Children, Young People and Privacy conference, Office of the Victorian Privacy Commissioner, <http://www.privacy.vic.gov.au/>

**9-10 June, Wollongong:** ISTAS 10 - Social Implications of Emerging Technologies conference, Novatel Northbeach, Details: Katina Michael at: [katina@uow.edu.au](mailto:katina@uow.edu.au) More info: [www.ieeesit.org](http://www.ieeesit.org)

**15-18 June, San Jose USA:** Computers, Freedom and Privacy conference converges for the first time ever in Silicon Valley. Details: <http://cfp.acm.org/wordpress/?p=6>

**24-26 June, Canberra:** 18th annual ANZSIL conference: International Law in the Second Decade of the 21st Century: Back to the Future or Business As Usual? University House, Canberra. Details: <http://law.anu.edu.au/ANZSIL/index.html>

**25 June, Canberra:** Annual Kirby Lecture, by ANU Vice-Chancellor Gareth Evans

**6 July, Sydney:** 'Better more cameras than more crime' debate on CCTV. Coty Recital Hall, Angel Place, 6.40pm, for later broadcast on ABC Radio. Details: <http://www.iq2oz.com/events/event-details/2010-series-sydney/05-july.php>

**13 Aug, 2010, Sydney:** United Nations Association of Australia national conference 2010, NSW Parliament, with theme, *State of the World post Copenhagen*. Info: Peter Airey: [office@unaansw.org.au](mailto:office@unaansw.org.au)

**20-23 Aug, Montreal, Canada:** Civicus World Assembly, details: <http://www.civicusassembly.org/>

**30 Aug – 1 Sept, Melbourne:** 63rd UN Department of Public Information/Non-Governmental Organisations (DPI/NGO) conference: global health as it relates to the Millennium Development Goals. Details: <http://www.un.org/dpi/ngosection/index.asp>

**17-25 Sept, Brisbane:** IFIP Human Choice and Computers International Conference, part of the IFIP world conference, details: <http://www.wcc2010.com/HCC92010/index.html> Sessions include ethics and ICT governance, surveillance and privacy.

**21-22 Oct. Adelaide:** 2010 Institute of Public Administration Australia national conference, Adelaide Convention Centre, details: <http://www.ipaa.org.au/>

## **LAST WORD: Finn's fair-weather fun foiled by roving camera**

Finnish police have started a criminal investigation into Google's Street View for suspected breach of privacy legislation, an official said last month.

Police in Raahe, north of Helsinki, began investigating at the request of a man whose picture could be seen online on Google maps, he said.

"You can see a man sitting in a rocking chair," Detective Sergeant Hannu Vainionpaae told *AFP*. "He is wearing a shirt but no trousers."

Street View takes a ground level panoramic view of locations using still photographs taken by cameras atop specially-equipped vehicles.

According to Finnish law, unauthorised surveillance holds a maximum penalty of fines and one year in prison, while the distribution of material in breach of privacy carries a maximum two-year prison term and fines, Sgt Vainionpaae said.

<http://www.theage.com.au/digital-life/digital-life-news/candid-google-street-view-image-prompts-privacy-complaint-20100214-nzkk.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\[at\]cla.asn.au](mailto:secretary[at]cla.asn.au)

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