

Australia gets a national Liberty Tree through CLA initiative

In a significant new project, with national impact, Civil Liberties Australia has organised the planting of Australia's national Liberty Tree.

The tree, a kurrajong*, will be planted in the National Arboretum in Canberra on 10 December 2011.

It will become the central feature of Australia's new National Arboretum, right in the middle of the site's "spine".

The NA is due to open officially in 2013 as a highlight of the centenary of Canberra as the national capital on 12 March.

The Central Valley Spine is the core walkway of the 250ha (620 acre) site, where usually kings and presidents plant individual feature trees.

The Liberty Tree will be planted by former ACT Chief Minister Jon Stanhope on 10 December 2011. It will commemorate his piloting into law of the first Human Rights Act in Australia, which took effect on 1 July 2004. He will be joined by a child born on that day as co-planter of this potent national symbol for today and the future.

PHOTO: Graeme Hansen



The plaque will honour Mr Stanhope's driving vision and persistence behind steering through the legislation and creating the arboretum. As well, CLA's part in conceiving and bringing to fruition the national Liberty Tree will be noted.

By commemorating both the first HR Act on 1 July and HR Day on 10 December, CLA and the nation will have two occasions, mid-year and end-year, to highlight our ongoing commitment to civil liberties, human rights, freedoms and the national status annually of equality and a 'fair go' in Australian society.

We expect on one or both days each year a major human rights lecture will be delivered.

More details soon...including how every CLA member may get to plant their own liberty tree if they like. There will also be information of why the kurrajong is such a symbolic tree of liberty.

* *brachychiton populneus* For a full description, see:

http://www.nationalarboretum.act.gov.au/tree_stories/kurrajongs

Law bodies want mandatory sentencing thrown out Australia-wide

The Law Council of Australia and Law Institute of Victoria have urged the Victorian Government to abandon mandatory sentencing.

LCA President Alexander Ward, calling it "an issue of national importance", is concerned mandatory sentencing has returned to the political agenda in several Australian jurisdictions.

"Mandatory sentencing represents an affront to established principles of criminal justice, particularly in view of Australia's international human rights obligations," Mr Ward said.

In addition to the LIV, the Law Council's constituent bodies in Western Australia, Queensland, New South Wales and South Australia have also strongly opposed the introduction of mandatory sentencing.

They are worried about the disproportionately harsh effect mandatory sentencing can have on Indigenous Australians, offenders with mental health issues, children and young people.

"Mandatory sentencing laws are the antithesis of fairness and have no place in the Australian criminal justice system," Mr Ward said.

Govt's privacy response – only – misses two main phone hacking lessons

Reviewing privacy law in Australia was a reasonable interim response to phone hacking in the UK, CLA told Justice Minister O'Connor last month, but the government's only action so far missed the two major lessons for Australia from the scandal.

CLA called on the minister and the government to announce how else it would respond.

"The Australian privacy initiative is strongly stimulated by the phone hacking scandal in the UK," CLA CEO Bill Rowlings said in a letter to Mr O'Connor. "However, there are three major lessons stemming from the recent British experience, not merely one."

Mr Rowlings said the three lessons were:

- Phone hacking by media is wrong;
- Behind-the-scenes, consensual hobnobbing and back-scratching by senior police with media and politicians is wrong and dangerous to democracy; and
- Politicians who are poll-followers and tarts to media proprietors are both wrong, and held in contempt by the public.

"The Australian Government's sole response to these three lessons so far has been to introduce new personal privacy legislation, and to question customary Australian media freedom in provocative public comments.

Police power had escalated significantly in Australia over the past decade, and the chumminess and cosiness between police and politicians was sounding alarm bells to CLA members, he said.

"Where is the issues paper from the government on politicians reforming themselves? CLA supports privacy reform...but we'd support politicians' reform with even greater zeal.

"We are concerned that the only 'lesson' being addressed in Australia as a result of the events in the UK is precisely the wrong one to focus on, and that the two highly relevant lessons for Australia from the UK events are being ignored.

"We would be grateful if you would reply as to whether or not you/the government propose to take action on the two more fundamental lessons from the UK.

"Will you produce issues papers on excessive police influence over ministers/AGs in Australia, and on the politicians' bowing to the wills and whims of media proprietors and specialist commentators in this country?" the CLA letter said.

Police arrest themselves in the foot!

Police throughout Australia are pushing for new, expanded, national laws against bikie gangs...because legislation over the past five years federally and in states has largely been so excessive and incompetent as to be ruled invalid by the High Court.

Australian and NZ police met for two days in Parramatta last month, where they claimed that bikie gangs are rapidly expanding, nationally and internationally, and jumping borders to avoid prosecution – hence new laws were needed.

However, on the same day police made their claim, coordinated raids at 19 locations across Sydney by 200 police arrested 10 people over large-scale money laundering and tax fraud allegedly by bikie gangs. <http://tiny.cc/sqw4c>

As usual, police claims for extra laws demonstrate their inability to use appropriately the enormously wide criminal law powers they already have. Since 9/11, in the name of anti-terrorism, police have been given sweeping new laws, intrusive surveillance powers and tools, and massively increased numbers, funding and technology. Yet still they say it's not enough!

Police also want Citizen Spy Centres in each state to "co-ordinate" mass surveillance across everyone's normal lives. The so-called "fusion" centres would combine the resources of the Australian Taxation Office, the Australian Securities and Investments Commission, Australian Customs as well as state and federal police, *ABC Radio* reported. The Australian Crime Commission set one up last year and similar centres have been established in the USA. <http://tiny.cc/ht4x5>

For more than 10 years, since 2000, civil liberties have been going in the wrong direction – backwards – in Australia. When will we start getting rid of useless laws, instead of piling on even more swingeing laws that are increasingly extraordinarily excessive, CLA asks.

‘Pork Barrel Act’...where has the money gone?

Since 2007, under the *Proceeds of Crime Act (2002)*, the federal government has approved \$43m, with \$23m to “support community based crime prevention” and \$20m “provided government agencies for law enforcement projects” (*Media release, Minister for Home Affairs and Justice, 30 June 2011*).

The government has not listed how and how much it has paid itself – which government agencies benefited from the \$20m – from a program that could easily be used for pork barreling in electorates on the “community-based” side, and to further research and activities of interest to the ruling party on the “government agencies” side.

The *Proceeds of Crime Act (2002)* enables money from assets of crime and money confiscated under Commonwealth law to be “returned to the community”.

But we need a much closer inspection of how it is being “returned” – for example, much of the money is going to instal CCTV cameras which give people and communities a false sense of security (see “*Feted ‘crime fighting tool’, CCTV...*” below).

NT aspirants starts law-and-order auction 12 months out!

NT Police have seized more than \$7m worth of goods from criminals over the past eight years.

Large boats, luxury cars and even a rural property have been confiscated under Territory laws introduced by the Labor Government eight years ago, James Glenday reported on *ABC Radio*.

CLA wants to know where the money has gone.

Chief Minister Paul Henderson says the legislation proves his government is tough on criminals.

Opposition's shadow Attorney-General, John Elferink (*pictured*), says the laws were not tough enough. "It is essentially a small tax on the drug trade," he said, and the Opposition says it will campaign against crime at the NT election on 25 August 2012.

<http://tiny.cc/ng037>

Oh no! More than 12 months out from a Territory election, and the law-and-order auction has started already!



Feted ‘crime fighting tool’, CCTV, fails to capture bikie murder

CCTV failed to record the alleged murder at Sydney Airport which caused a rash of interstate legislating of new “bikie” laws, since tagged as excessive and illegal in the High Court.

The camera with a view of the site of the death of a bikie club member was not working on the day: it had not worked for between two and four years, Neil Mercer reported in the *SMH*.

“Passenger Roger Whyte witnessed the killing of Anthony Zervas, a Hells Angels associate, at Sydney Airport; he turned to a security guard and, pointing to a bollard, said: “This is the murder weapon ... it is going to have the fingerprints of the perpetrators on it,” Mercer wrote.

“The guard replied: “Well, OK, but that's not such a problem because all of this would have been caught by the security cameras anyway.”

But it wasn't. The fatal brawl between the Hells Angels and Commanchero bikies inside Australia's busiest air terminal, which arose out of a chance meeting, was not captured at all.

The camera had been out of order for “at least two years”, a witness told the trial in the NSW Supreme Court last month.

Six members of the Commanchero are charged with murdering Mr Zervas, 29, on 22 March 2009. Mahmoud Hawi, 30, Christian Adam Menzies, 28, Farres Abounader, 29, Ishmail Eken, 28, Usama Potrus, 28, and Zoran Kisacanin, 24, have pleaded not guilty. They have also been charged with riot and four have been charged with affray. David Padovan, 27, a member of the Hells Angels, has been charged with riot and affray. Read more: <http://tiny.cc/avkny>

CrimTrac wants you...in its 'big brother' facebase

CrimTrac, which operates Australia's network of police data holdings, wants a national database of faces to troll through CCTV cameras trying to solve 'cold' crimes.

Most people want crimes prevented, but CrimTrac plans to concentrate on solving crime instead. They already use number plate recognition technology, held in a national rego database, to try to find stolen cars.

The Australian last month revealed how the Australian Crime Commission's Fusion Centre -- set up a year ago to bring experts and data together to forge better intelligence holdings through the use of sophisticated computer profiling -- had already identified 53 previously undetected serious organised crime figures.

Now CrimTrac, a key partner in the Fusion Centre, has given an insight into the future of the data wars, where databases will store and share more than just fingerprints, DNA samples and criminal records, and eventually be able to provide real-time analysis.

CrimTrac chief executive officer Doug Smith said he believed Australia should have a central database of facial images for policing and national security, Sean Parnell reported.

"It is very desirable from a policing point of view to have a single source of images of drivers' licence photographs, passport photographs, prisoner's photographs," he said. <http://tiny.cc/g6jwww>

Police chief floats 'flying porkers' policy

ACT Policing wants to use unmanned drone aircraft over Canberra.

Chief Police Officer Roman Quaedvlieg said it was "absolutely" possible that police spy drones could be in the skies above the ACT within five years.



The police chief promoted the "pigs might fly" option while defending the force's 'chase every car' policy, which the ACT Greens want applied to vehicles involved in major criminal offences only, not teenager joy-riding.

Seven people have died in conjunction with local police chases around the national capital in the past seven years. Police cars have a more lethal record than police guns. <http://tiny.cc/v7hnw>

CLA welcomes new police ideas, provided they don't make the situation worse. In the UK (see photo), police plan to use unmanned spy drones for routine monitoring of antisocial motorists, protesters, agricultural thieves and illegal rubbish dumping in a

significant expansion of covert state surveillance, the *Guardian* reported.

They will be deployed first for the 2012 London Olympics. <http://tiny.cc/4xsuo>

DCM, T, MJA-G, MRGL, MAP brings in "toughest" laws

The NT has introduced what the government says are some of the toughest alcohol reform laws in the country: the new provisions also create a banned drinker register.

Ms Delia Lawrie, who is Deputy Chief Minister, Treasurer, Minister for Justice and Attorney-General, Minister for Racing, Gaming and Licensing, and Minister for Alcohol Policy said the landmark legislation would give police and the courts the tools to target alcohol-related crime and anti-social behaviour.

"Alcohol is the biggest cause of crime in the Territory with 60% of assaults and 67% of domestic violence incidents involving alcohol, costing our community an estimated \$642m a year," she said. Problem drinkers taken into police custody three times in three months, or who commit any alcohol-related offences, will be placed on a banned drinker register and will participate in mandatory rehabilitation programs.

"Problem drinkers who have been banned can attend treatment to have their bans reduced," Ms Lawrie said. "The problem drinker bans provide a direct health intervention for problem drinkers without criminalising alcoholism.

"Breaching the bans will lead to increasing treatment requirements and longer bans, and possible referral to the Alcohol and Other Drugs Tribunal (ADT)."

Police, health and social workers and family members can refer people to the ADT, which will have the power to recommend a range of interventions, including income management.

All people buying take-away alcohol will have their photo identification (ID) scanned to ensure banned drinkers cannot purchase grog anywhere in the NT.

The government has also increased penalties for licensed premises breaching the Liquor Act, and for people who buy alcohol for minors or banned drinkers. <http://tiny.cc/kw288>

Lab broadcasts more widely than the mamas and the papas

The SA Government has ordered an urgent investigation into its medical laboratory, Medvet, over a security breach in which the personal details of people seeking paternity and drug tests were published online.

Group legal action against the SA Government, or individual compensation claims, have been threatened.

Customer invoices from Medvet, wholly-owned by SA Health, showed address and product order of hundreds of people. Most invoices were for personal drug and paternity tests, which Medvet sells for up to \$770, while claiming "privacy and confidentiality is our priority". <http://tiny.cc/jn2ko>

Interior surveillance is latest airport check technique

Customs and Border Protection will soon test internal body scanning technology as a way to boost the detection of drugs that are being imported inside the bodies of drug couriers.

The changes to the Customs Act 1901 will allow accredited Customs officers to offer suspects the option of an internal body scan at an international airport, as part of a year-long trial.

Customs needs "reasonable suspicion" someone's carrying drugs internally and the suspect must consent before a scan can occur. If a person refuses, they undergo the current practice of a hospital examination, a Minister for Justice media release last month explained.

Last year, 48 drug couriers were identified attempting to import more than 27kg of illicit drugs in their bodies, including heroin and cocaine, Justice Minister Brendan O'Connor said. More than 200 people were taken to hospital for examination, with less than a quarter found to be carrying drugs.

"As Minister for Privacy, I'm acutely aware of community concerns about the use of such technology." Mr O'Connor said. "I'd like to assure the public that this technology will be subject to strict controls.

"Most importantly, body scanning technology will not be used on all travellers or used randomly – it will only be used where there is a reasonable suspicion that a person is carrying drugs internally. In addition a suspect must consent to the use of body scanning technology."

Prisoners die soon after release

Former prisoners are dying soon after release, a new report has found.

"Research published last month in the *Medical Journal of Australia* suggesting ex-prisoners are dying at alarmingly high rates, and often within the first four weeks outside prison, highlights

government and community failure to support adequate health and reintegration programs for this marginalised group,” Australian Lawyers Alliance national president, Greg Barns, said.

Mr Barns was discussing the research by Dr Stuart Kinner and colleagues from the Burnet Institute’s Centre for Population Health showing one in five ex-prisoners dying within a year of release and up to 30% within four weeks of release.

“Too many prisoners are not receiving treatment for drug usage while in prison and, when released, gravitate back to that world and often overdose,” Mr Barns said.

More info: ALA public affairs manager, Mandy Wyer, on 0418 270 656.

Election processes to be freed up...but no electronic voting yet

Parliament elections committee chair, Daryl Melham, said last month there’s room for improvement in helping people vote and ensuring future federal elections are run efficiently and effectively.

His committee’s report, tabled last month, makes 37 recommendations, some of which include:

- enabling direct enrolment of eligible electors and update of details by the Australian Electoral Commission based on data provided from trusted sources;
- allowing enrolment at time of voting in some circumstances;
- permitting the use of electronic or digitally formed signatures to enrol;
- changing the objection process requirement that removes electors from the roll; and
- a savings provision to help address the growing number of informal votes which, had it applied to the House of Representatives at the 2010 federal election, could have saved as many as 307,156 of the 729,304 informal votes.



Report: <http://www.aph.gov.au/house/committee/em/elect10/report.htm>

Fact sheets: <http://www.aph.gov.au/house/committee/em/elect10/media.htm>

– photo shows Mr Melham with CLA President, Dr Kristine Klugman, in July 2011

Tough drug laws will hit the little guy, not Mr Bigs, CLA says

Fines for small amounts of cannabis rise tenfold or more under new WA drug laws from today (1 August).

Less than 30g of cannabis leaps from \$100 fine to a potential \$2000 and possibly two years in jail. Growing up to two marijuana plants goes from a \$200 fine to a maximum \$2000 fine...and you can serve two years in jail just for one plant. The fine for any business selling bonges and the like to kids goes from \$25,000 to maybe \$120,000, and two years jail.

"We are declaring war on drugs and this is just the beginning," Police Minister Rob Johnson told *The Sunday Times*.

Anyone found with more than 10g of cannabis will be charged with drug possession and face court. If found guilty, they will get a criminal record. Yesterday, anyone caught with 30g or less received a small fine and no record, *Perth Now* reported.

Other changes include:

- People caught with 10g or less will have to attend mandatory education sessions.
- The sale of smoking implements to adults will also be outlawed, with fines of up to \$50,000. At the moment it is an offence to sell smoking paraphernalia to children only.

Police Commissioner Karl O'Callaghan said he welcomed "any law reforms that will help combat the scourge of this insidious criminal industry in WA". CLA would agree with him, but we guarantee you that these laws will be used more to persecute little guys rather than the “criminal industry”.

An improvement under the new laws is that offenders convicted of minor cannabis possession will be able to apply to have a conviction 'spent' after three years, rather than 10. <http://tiny.cc/w9b49>

CLA has rare win: full reporting about extradition to occur

There's a new bill before Parliament, the *Extradition and Mutual Assistance in Criminal Matters Legislation Amendment Bill 2011*, which will lead to a CLA-generated improvement in monitoring human rights.

After four years of lobbying, CLA's proposal for the government to report details about people we extradite to face trial overseas has been adopted by the Attorney-General's Department.

The AG's annual report will in future carry reports of extradition requests granted by Australia and other follow-up information. <http://www.cla.asn.au/index.php/2011/cla-wins-full-extradition-reports>

The new bill is designed to improve extradition and mutual assistance by:

- extending opportunities for bail in extradition proceedings;
- reducing time in extradition custody when someone has consented or waived extradition proceedings;
- allowing trial in Australia instead of extradition;
- expanding law enforcement tools that can be used to assist in foreign cases; and
- increasing protections by allowing refusal due to discrimination on gender or sexual orientation.

WA parole board comes under close scrutiny for breaking the law

WA's highest court has found that the state's parole board breached statutory obligations in the way it dealt with three offenders.

Two men with bikie links and a convicted murderer took the Prisoners Review Board to the Court of Appeal over its decision to cancel their parole.

They argued they were dealt with unfairly: the appeal court upheld some of their arguments. It found the board failed to provide the men adequate reasons for its decision to cancel their parole and adopted an inflexible policy on whether they should be allowed to appear before it.

However the court ruled the men had not established that their parole cancellation should be overturned, although it invited their lawyers to make further submissions on the matter. <http://www.abc.net.au/news/stories/2011/07/08/3265081.htm>

CLA is starting to take a detailed interest in how competently and fairly – or otherwise – parole boards throughout Australia operate. If you have any first-hand knowledge, or can point to a relevant recent article, please let us know: E: secretary@cla.asn.au

As well, we are starting to campaign in the ACT, where the Attorney-General is the only person who can approve a murderer being released on parole: CLA believes such decisions should be the province of a statutory or judicial body. Some states require a minister to endorse a recommendation of a parole board, which we believe is also too political.

Australia's 'best linguists' to be examined

The role of Indigenous languages in helping Indigenous communities is being examined by the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs.

Some Aborigines can speak three languages as well as English. Indigenous people are possibly – and potentially – Australia's best linguists.

This is the first such inquiry to examine how learning of Indigenous languages can help overcome disadvantage and achieve competency in English. Focus will be on:

- the contribution Indigenous languages can make to strengthening Indigenous identity and culture;
- the potential benefits of including the languages in early education;

- whether current maintenance and revitalisation programs for Indigenous languages are working; and
- how well Indigenous languages policy is working across all Australian governments.

Submissions by 19 Aug 2011.

Terms of reference/details: www.aph.gov.au/atsia or (02) 6277 4559.

Aussie Bahai's brother charged with conspiracy against Iran

The brother of an Australian is one of 11 Bahais reportedly charged in Iran for delivering higher education to young Bahais banned from university because of their religion.

Farhad Sedghi, brother of Nasser Sedghi, a prominent businessman in Dubbo, has been teaching accountancy for 24 years to young Iranian Bahais at the Baha'i Institute of Higher Education.

Nineteen Bahais associated with BIHE were arrested during nationwide raids in May 2011. Eleven, including Farhad Sedghi, remain in detention, according to an Australian Bahai media release.

They have now reportedly been charged with "conspiracy against national security by establishing the Bahai Institute for Higher Education" and "conspiracy against the Islamic Republic of Iran by establishing the Bahai Institute for Higher Education."

New laws for spring

The Australian Parliament, this winter, passed these laws in the Attorney-Generals' portfolio:

- *Sex and Age Discrimination Legislation Amendment Act 2011* – protections against sex discrimination and sexual harassment;
- *Electronic Transactions Amendment Act 2011* – reflects international standards on electronic commerce;
- *Acts Interpretation Amendment Act 2011* – helps to understand and interpret laws;
- *Personal Property Securities (Corporations and Other Amendments) Act 2011* – final amendments before the suite of such laws becomes effective, later in 2011;
- *Trans-Tasman Proceedings Amendment and Other Measures Act 2011* – streamlines A-NZ civil legal cooperation. The scheme is due to start early in 2012; and
- *Intelligence Services Legislation Amendment Bill 2011* - excessive new law which gives security and intelligence spooks too much additional power (see article on website).

Fusion melts boundaries of privacy and data holdings

The National Criminal Intelligence Fusion Centre – one of Australia's biggest Big Brothers – identified 53 new targets in its first year.

Whether they were legitimate targets or not, we'll never know, because the centre fishes across Australia data holdings and its work is highly secret. There is no doubt however that it skims the boundaries of legality in terms of what it could, should and does analyse.

Fusion produced 974 intelligence reports that it sent to 53 partner agencies. Most came from "proactive data matching projects"...accessing data from just about anywhere to analyse cash flows, patterns of crime and people and businesses possibly involved in criminal enterprises. In other words, it went fishing across Australia's data holdings.

The Australian Crime Commission runs Fusion. It links Commonwealth agencies including Customs and Border Protection, Australian Federal Police, Australian Transaction Reports and Analysis Centre, Australian Securities and Investments Commission, Australian Taxation Office, Centrelink and the Department of Immigration and Citizenship...and, of course, the spook agencies, ASIO and ASIS and the military equivalents like DSD.

Fusion's data goldmine is so attractive all the state police forces want to dig in the same seam (see '*Police arrest themselves in the foot!*' above).

Quintet 'transcends governments', says US A-G Holder

The third meeting of the "Quintet" of Attorney-Generals was held in Australia last month: it comprises the AGs of the USA, NZ, UK, Canada and Australia, who meet once a year.

Eric Holder (*pictured*), the US Attorney-General, said afterwards: "These (Quintet) ties transcend parties and governments in each of our nations..."

Precisely! That's what's wrong with self-selected cabals – they "transcend governments" and become power fiefdoms in their own right.

Which is dangerous.

There's little doubt they will start out benign in their early years.

But, as time passes, cabals like the quaintly-named Quintet have the potential to be and do evil. They deserve the closest monitoring.



Australian briefs

Women climb the percentages: Australian women have achieved 30% of seats in Parliament from 1 July 2011, without quotas. Jessica Irvine, writing in the *SMH* last month, said that UN Women, the new UN body promoting gender equality, found that of the 28 other countries that have broken the 30% "critical mass mark", 23 got there by using quotas. Australia has 67 female MPs out of 226 seats, or 29.6%, which rounds to 30. Australia is one of 19 countries with a woman as elected head of state or government.

90% worry about identify theft: Research shows nearly 1:6 Australians have been a victim or known a victim of identity theft or misuse in the past six months, and that 90% of people are worried about it. The survey of 1,200 people, by Di Marzio Research, will help develop a national identity security strategy. More info on protecting identity: www.ag.gov.au/Identitysecurity

Fardon never to be released: Serial sex offender Robert John Fardon, 62, who has spent more than 30 years in prison for sexual offences against women and children, will stay in jail in Queensland. Released in 2006, he breached parole orders and went back to jail. In May 2011, acting Supreme Court judge Julie Dick ordered his supervised release, but the state appealed. Last month, the Court of Appeal ordered he be kept in jail indefinitely, saying his failure to follow previous release orders meant it could not be satisfied the community would be protected if he was again freed. Fardon may appeal to the High Court. <http://tiny.cc/1zgbk> Serial rapist and murderer Lloyd Clark Fletcher is fighting to stay in jail, forever, in Queensland.

Try before your goal: The Civil Dispute Resolution Act 2011 operates in federal courts from today (1 August 2011). Parties must state how they have tried to resolve their dispute before legal proceedings can start in the Federal Court of Australia or in the Federal Magistrates Court (with some exemptions). The act implements part of the 2009 National Alternative Dispute Resolution Advisory Council report, *The Resolve to Resolve – Embracing ADR to Improve Access to Justice in the Federal Jurisdiction*. <http://www.fedcourt.gov.au/>

Gray out, Burns in: From today, the former Chief Magistrate, John Burns, replaces Justice Malcolm Gray as one of the four permanent judges of the ACT Supreme Court. Mr Burns has served as a magistrate and coroner in the ACT since 1990.

Two ways to close a numerical gap: SCAG – the Standing Committee of Attorney-Generals – has committed to closing the gap between indigenous and non-indigenous incarceration rates across Australia, but apparently with no plan of how to do so, nor even commitment to commission such a plan. WA may be showing one way it could be done: the state is increasing the non-indigenous incarceration rate to match that of the indigenous. While WA accounted for 16% of the

national prisoner population in 2010, it contributed 92% to the increase in prisoner numbers between 2009 and 2010 – Rex Widerstrom.

CLA's main activities for July:

Liberty Tree

During July, CLA confirmed details for the ceremonial planting of Australia's Liberty Tree, a kurrajong, at the National Arboretum in Canberra, on World Human Rights Day, 10 December 2011. Please put it in your diaries. The Liberty Tree will be planted by, and to honour, Jon Stanhope, ACT Chief Minister until May 2011, who introduced the first human rights act in Australia on 1 July 2004. The December date was chosen to honour the UN General Assembly's adoption and proclamation, on 10 December 1948, of the Universal Declaration of Human Rights (UDHR), the first global enunciation of human rights.

Analysis: CLA report on the NT - for a comprehensive rundown, see CLA web site:

[Statehood for NT needs a firmer foundation of rights/liberties](#)

Human Rights: Submissions are due by 31 August on Australia's proposed national human rights action plan, the Attorney-General's pale imitation of a Human Rights Act. The draft baseline study and instructions for providing feedback are at: http://www.ag.gov.au/www/agd/agd.nsf/Page/Humanrightsandantidiscrimination_AustraliasHumanRightsFramework_ConsultationDraftBaselineStudy. The President attended a briefing in July on the issues.

ACT - Economic, Social and Cultural Rights: CLA's President and CEO attended the public launch, by ACT A-G Simon Corbell, of a discussion paper. Submissions are invited to the ACT Government over the possible inclusion of economic, social and cultural rights into the Human Rights Act 2004. Submissions close 19 August 2011. On-line survey: <http://www.surveymonkey.com/s/JJY8366> More information: contact ACT Govt's Human Rights Unit on 02 6207 0534 or email escr.consultation@act.gov.au

Projects:

- FOI investigations re agendas and minutes of COAG and SCAG (Council of Australian Governments, Standing Committee of Attorneys-General).
- WA jails: re health and excessive juvenile detention: Dr Mal Washer, Brian Steels
- Parole: issue of political decision by ACT AG only about whether to release murderers; parole board operations nationally, but particularly in WA.
- Annual human rights lecture in planning.
- Proceeds of crime/forfeiture laws, states/territories and nationally.
- Enduring power of attorney/law reform in NT.

Win: Government to follow up on extraditions: letter of advice from Minister Brendan O'Connor - see website: [CLA wins: full extradition reports](#)

Submissions:

- Australian Curriculum, Assessment and Reporting Authority: urging inclusion of civil liberties and human rights.
- Australian Law Reform Commission: Classification – Arved von Brasch
- Cybercrime
- Human Rights sub committee of Joint Standing Committee on Foreign Affairs, Defence and Trade on China and Vietnam dialogues (human rights).

- Immigration detention: due 7 August.
- Mental health/detention centres: Tony Nikolic
- Parliamentary Joint Committee on Law Enforcement: inquiry into unexplained wealth, forfeiture laws, inequity: due 17 August.
- Sentencing issues (ACT)

Meetings:

John Faulkner MP: Ministerial Councils and FOI requests, human rights framework
 ANU law student Alice Farquharson re internship on IT ethics code: not proceeding
 Melissa Parke MP: Treaties Committee, genes research/patenting
 Daryl Melham MP, Caucus Secretary: parliamentary democracy and party mechanisms
 Phillip Ruddock MP: corruption in aid countries, anti-terrorism legislation review
 Margaret O'Callaghan: Pacific aid projects
 Jon Stanhope and Emma Delandre: Liberty Tree
 Journalists Winsome Burn and Estelle Blackburn
 NT Ombudsman Carolyn Richards re NT group, Liberty Tree; Graeme Hansen, photos of tree
 Dr Helen Watchirs, ACT Human Rights and Discrimination Commissioner: Bimberi juvenile detention centre review, international developments in juvenile detention technical education
 Graham Boyd ACLU re drug law reform in Australia and USA
 Dr Asmi Wood ANU Law School, re Muslim and Indigenous issues

Consultation meetings:

Personally Controlled Electronic Health Records: urging more time for consultation, and privacy.
 Launch of community consultation re ACT Human Rights Act – whether economic, social and cultural rights should be included.

Main Media interactions:

Tim Vines:

Topic: WA Police Conducting Drug Searches Without Probable Cause:

- Interview with WA Times and WA Journalism student
- New post for CLA Website

Topic: Drinkers Registry and Compulsory Alcohol Treatment Orders in the NT

- TV interview for 6.30 with George Negus show (Channel 10)

Topic: Police Crackdown on Drug Use at Gay Nightclubs

- Interview with DNA Magazine (Sydney)

Topic: SCAG Proposal for Parental Access/Age Limit for Facebook

- Interview with AdNews magazine.

Topic: Police Chases, ACT Greens Policy and Possible use of Aerial 'Drones'

- Interview with ABC Radio (ACT)
- Interview with Canberra Times

Topic: Derryn Hinch Conditions of Sentence, Suppression Orders in Sex Offence Cases

- Interview with The Australian

Rex Widerstrom, WA:

Topic: Prison Populations, Early Death Upon Release

- Media Release

INTERNATIONAL

Kenya shows the way to Oz over transparency

When violence erupted after the 2007 Kenyan elections, a team of activists produced Ushahidi, a digital open-source platform to monitor crises in near real-time.

Taking its name from the kiswahili word for testimony, or witness, Ushahidi has since been deployed to monitor unrest in the Democratic Republic of the Congo, track violence in Gaza, and gather global reports about the spread of swine flu.

Around the same time, a partnership between Vodafone and Safaricom, Kenya's largest mobile operator, produced M-PESA, the mobile banking system that has revolutionised the way many Kenyans manage their money.

Projects from Ushahidi to M-PESA have put Kenya firmly on the map of ICT innovation in international development – a position and a trend the Kenyan government now seems eager to promote. Last month, Kenya became the first sub-Saharan African country to launch a national open data initiative, opening the books on public expenditures, parliamentary proceedings and the locations of public services.

The Kenya Open Data Initiative (KODI), which went live last month, holds more than 160 datasets organised under six subheadings: education, energy, health, population, poverty and water and sanitation. Users can explore data at the country-level, but also by county or constituency. The platform includes newly created geospatial boundaries for Kenya's 47 counties and geocoded datasets can be visualised quickly using simple built-in tools. Data is pulled in from the national census and government ministries as well as from the World Bank.

"Our information is a national asset, and it's time it was shared: this data is key to improving transparency; unlocking social and economic value; and building Government 2.0 in Kenya," says the KODI website.

The initiative, launched by the Kenyan government, aims to promote data-driven decision making and help improve government transparency and accountability.

- <http://www.guardian.co.uk/global-development/poverty-matters/2011/jul/13/kenya-open-data-initiative>

In Israel, freedom to call for protest action is banned

Israel's supposed democracy is struggling to save international face because of a new law which silences critics of building in and occupation of the West Bank.

Parliament approved the law 47-38, so now any public call for a boycott — economic, cultural or academic — against Israel or its West Bank settlements is forbidden. Just calling for a boycott is a punishable offense.

Israeli citizens can now bring civil suits against people and bodies who organise boycotts, and the violators can be forced to pay cash penalties. Companies and organizations supporting a boycott may be barred from bidding on government contracts. Non-profit groups could lose tax benefits.

The new law makes it spurious for Israel to continue to claim it is the "only democracy" in the Middle East. The new boycott laws are more reminiscent of Egypt or Libya or Syria than of the type of nation that Israel purports to be, CLA says. <http://tiny.cc/uyhmfh>

Brit torture inquiry endures painful start

The British government's plans for an inquiry into the UK's role in [torture](#) and rendition after 9/11 are in disarray after [human rights](#) groups denounced it as a sham and lawyers for the victims said they were boycotting the hearings.

Detailed terms of references and protocols under which the inquiry will be run by Sir Peter Gibson, a retired judge, show that key hearings will be held in secret and the cabinet secretary will have the ultimate say over what the public will and will not learn.

Individuals renditioned and tortured during the so-called “war on terror” will not be permitted to ask questions of MI5 or MI6 officers and the inquiry will not seek evidence from foreign intelligence agencies, such as the CIA, about British involvement in the torture and abuse of detainees. <http://www.guardian.co.uk/world/2011/jul/06/uk-torture-inquiry>

Police may warn women about potential partners

Plans aimed at reducing the number of deaths from domestic violence are being considered by the British Home Secretary.

Police would be able to warn women if a new partner had a violent past under plans to reduce the number of deaths and injuries from domestic abuse being considered by the home secretary, Theresa May.

The growth of online dating, coupled with the recent launch of a national police database, has encouraged the government to look at new ways to protect potential victims.

A proposal for a "Clare's law" – after 36-year-old Clare Wood, who met her murderer through an internet website – is to be launched in London on Monday by Wood's father, Michael, and the former Labour cabinet minister Hazel Blears, who said May had written an "encouraging" letter on the issue. Wood's killer, George Appleton, set her body on fire before hanging himself in February 2009.

An investigation by the Independent Police Complaints Commission later criticised individual and systemic failures in the way Greater Manchester police had handled Wood's previous allegations that Appleton had harassed, assaulted and threatened to kill her. It emerged that he had a history of violence against women.

The campaign has won backing from Louise Casey, the government's victims commissioner, and the Home Office confirmed on Sunday that it was looking closely at the idea, which would also protect men seeking new partners.

The idea of "Clare's Law" follows the introduction of Sarah's Law giving information on child sex offenders following the murder of Sarah Payne by paedophile Roy Whiting in 2000. The evaluation of a pilot scheme on this published last year showed fathers raising concerns over their former partners' new boyfriends were among the largest groups requesting information. <http://tiny.cc/5wq40>

Intelligence bill splits Indonesia's power brokers

Indonesia should put the passage of a controversial intelligence bill on hold until there is a more comprehensive assessment of its security needs, according to the International Crisis Group.

An ICG briefing examines how the bill's moved to the top of Indonesia's legislative priorities.

“The idea of giving a formal legal basis to the intelligence agencies is good, but a concept paper on national security strategy should have come first, with an assessment of the challenges the country faces and the appropriate roles for different agencies in addressing them,” says Achmad Sukarsono, an ICG south-east Asia analyst. “The drafting process was backwards”.

Prepared in late 2010, the draft was originally scheduled for enactment in July 2011 but has been delayed by differences among four major constituencies: lawmakers, the administration of President Susilo Bambang Yudhoyono, civil society and the State Intelligence Agency (Badan Intelijen Negara, BIN).

Controversy lingers around three issues:

- whether BIN should have arrest and detention powers;
- whether wiretapping and other intercepts should require a court order; and
- how to ensure oversight and accountability mechanisms consistent with democratic governance.

The government wants more powers and less oversight than even BIN itself sees as desirable, while civil society organisations fear a return to abusive practices of the past. Legislators want to

give a legal mandate to the only part of the security structure that still lacks one, as well as to put in place better intelligence coordination and more safeguards against rogue activities.

The debate is further complicated by plans for other security-related legislation, including a broader national security bill and proposed amendments to anti-terrorism law. <http://tiny.cc/5xo0t>

Can your computer testify against you?

A case running in the USA could have international ramifications: the defendant, Ramona Fricosu, is accused of fraudulent real estate transactions.

During investigations, the government seized an encrypted laptop from the home she shares with her family, and then asked a court to compel Fricosu to type the password into the computer or turn over a decrypted version of her data.

But the Electronic Frontiers Foundation, assisting Fricosu, told the court that the demand is contrary to the US Constitution, forcing Fricosu to become a witness against herself.

"Decrypting the data on the laptop can be, in and of itself, a testimonial act -- revealing control over a computer and the files on it," said EFF Senior Staff Attorney Marcia Hofmann. "Ordering the defendant to enter an encryption password puts her in the situation the Fifth Amendment was designed to prevent: having to choose between incriminating herself, lying under oath, or risking contempt of court."

The US Government has offered Fricosu some limited immunity, but has not given adequate guarantees that it won't use the information on the computer against her.

"Our computers now hold years of email with family and friends, Internet browsing histories, financial and medical information, and the ability to access our online services like Facebook. People are right to use passwords and encryption to safeguard this data, and they deserve the law's full protection against the use of it against them" said EFF Staff Attorney Hanni Fakhoury. "This could be a very important case in applying Americans' Fifth Amendment rights in the digital age."

Full amicus brief: https://www.eff.org/files/filenode/us_v_fricosu/fricosuamicus7811.pdf

UK takes in record haul in criminal proceeds

In Britain last year, a record \$240m of assets, including sports cars, watches, diamond earrings, designer clothing and fine china was recovered from criminals under proceeds of crime laws.

The Home Office said it was the highest take since the introduction of the Proceeds of Crime Act 2002, according to a *Guardian* report.

Officials estimate that there are 38,000 organised criminals active in Britain working in 6,000 groups involved in the drugs trade, human trafficking, child exploitation and cybercrime as well as more traditional areas such as armed robbery and organised vehicle theft.

They estimate organised crime costs the UK \$30-60bn a year socially and economically. The Australian estimate, promoted by A-G Robert McClelland and Justice Minister Brendan O'Connor, is \$10-15bn.

In 2013 the UK is setting up a National Crime Agency, which will drive a "national operational agenda" against "serious and complex crime". The NCA will for the first time have the power to direct other police forces and law enforcement agencies, and be able to link local to national and cross-border efforts to tackle organised crime.

<http://www.guardian.co.uk/uk/2011/jul/28/record-loot-recovered-british-criminals>

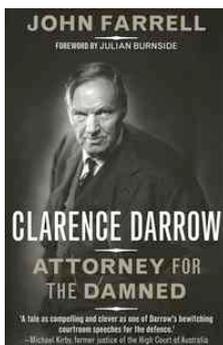
International briefs

Iranian women demand end to violence: Five hundred female activists and supporters are demanding an end to violence on women in Iranian society. Their statement, signed by the International Campaign for Human Rights in Iran, protests the "systematic violence against

women,” “constant insults and humiliation,” and “blaming of victims for acts of sexual violence against them” by government authorities, and defends a woman’s right to choose her clothing. They also ask Iranian judicial and security authorities to be accountable for sexual violence and rape against male and female prisoners in Iranian prisons. <http://tiny.cc/7uj3l>

Pacific lawyers get a leg up: Australia is providing an extra \$475,000 to help develop the legal profession in Pacific countries and strengthen expertise in the rule of law. The announcement coincided with the Commonwealth law ministers meeting in Sydney last month. As part of the meeting, Australia hosted a Pacific young lawyers forum for more than 20 people to promote the professional development of young Pacific lawyers and strengthen the capacity of the Pacific law and justice sector. The forum also launched the South Pacific Lawyers Association.

Civ lib doyen’s career explored in new book



Attorney for the Damned: Scribe this month publishes a new biography of renowned American civil liberties lawyer, Clarence Darrow, by John Farrell.

Entitled *Clarence Darrow, Attorney for the Damned*, it tells the story of a man who left a promising career as a railroad lawyer a century ago to champion poor workers, blacks, and social and political outcasts against big business and corrupt officials.

“His name remains a legend. And in this new book, (the author) explains why, weaving a tale as compelling as one of Darrow’s bewitching courtroom speeches for the defense,” former High Court judge Michael Kirby says in a puff piece.

<http://scribepublications.com.au/book/clarencedarrow>

DATES

4 - 6 Aug, Noosa, QLD: Australian Psychologists Society Forensic Psychology conference. Contact: events@psychology.org.au

11 Aug, Sydney: Annual Hal Wooten lecture: speaker Martha Nussbaum, 6.30-8pm, GO2 Law Bldg, UNSW. She is Ernst Freund Distinguished Service Professor of Law and Ethics, Philosophy Dept of Chicago Law School, and Divinity School. She is also a Board Member of the Human Rights Program and founder and Coordinator of the Center for Comparative Constitutionalism.

7-9 Sept, Sydney: Criminal Justice in Australia and NZ - Issues and Challenges for Judicial Administration, E: aija@monash.edu

9-10 Sept, Canberra: 10 years on from 9/11: the impact on public law conference, Centre for International and Public Law, ANU: contact Kim.Rubenstein@anu.edu.au

9 Sept: Annual Geoffrey Sawer lecture to be delivered by the CJ of the Canadian Supreme Court, Beverley McLachlin. Conference opening by Professor Michael L'Estrange, Director of National Security College, ANU.

12-13 Sept, Paris: New ICC Rules of Arbitration. Info: events@iccwbo.org or www.iccevents.org

13 Sept, Brisbane: Assoc Prof Katharine Gelber: Speech Matters; Free Speech in Australia, Level 1 Duhig Bldg, 3-4pm. Info: Rebecca Ralph 07 3346 7407 <http://www.cccs.uq.edu.au/index.html?page=152146>

16 Sept, Canberra: Lunchtime lecture 1-2pm: Glen Patmore, Senior Lecturer in Law, The University of Melbourne: Constitutional Change and Australian Republicanism. Venue: Staff Library, ANU College of Law

21 Sept, World: International Day of Peace

21 Sept, Darwin: Prof George Williams speaks on Whether the NT needs its own Charter of Rights, for the NT Committee for Human Rights Education. Info: jeswynn.yogaratnam@cdu.edu.au

22 Sept, Melbourne: Democracy v Communism, Remembering the 1951 Referendum on the Banning of the Communist Party. Details: j.damoussi@unimelb.edu.au

26-28 Sept, Brisbane: Crime, Justice and Social Democracy Conference, Queensland University of Technology (QUT) at Gardens Point (City Campus), Brisbane: Prof Pat Carlen, U. Kent, Prof Elliott Currie, U. California; Prof John Pratt, Victoria University of Wellington. Details: <http://www.crimejusticeconference.com/index.html>

26-28 Sept, Geelong: ANZ Society of Criminology conference, Sheraton Four Seasons Hotel. Details: <http://www.anzsoc.org/cms-conferences/conferences.phps>

6-8 Oct, Brisbane: Change the World: Amnesty International Human Rights Conference, Royal on The Park Hotel, Brisbane. Details: <http://hrc.amnesty.org.au/>

27 Oct, Hobart: Continuing Legal Education Association Australasia (CLEAA) Annual Conference. Contact: www.cleaa.asn.au or cleaa@leocussen.vic.edu.au

28-30 Oct, Perth: CHOGM (Commonwealth Heads of Government Meeting): Biennial summit involving 53 leaders from Commonwealth nations.

10–11 Nov, Sydney: International conference 'Climate Change and Migration in the Asia- Pacific: Legal and Policy Perspectives'. NSW Parl House.

15-17 Nov, Perth: 3rd Australian Public Sector Anti-Corruption Conference – conference organised by the corruption bodies of WA, Qld and NSW. Details: <http://www.iceaustralia.com/apsacc2011/index.html>

10 Dec, World: Human Rights Day.

10 Dec, Canberra: Planting of Australia's Liberty Tree, conceived and sponsored by Civil Liberties Australia, by former ACT Chief Minister, Jon Stanhope, at Australia's National Arboretum: http://www.nationalarboretum.act.gov.au/tree_stories/kurrajongs (See lead item in this newsletter).

2012:

TBA: Planning is under way for a workshop on 'Critical and Historical Approaches to Rights', to be held at UNSW in 2012 by the by the Gilbert and Tobin Centre of UNSW with the the Philosophy Depts of UNSW and Sydney U. <http://www.gtcentre.unsw.edu.au/>

19-22 April, Sydney: Commonwealth Lawyers Association regional law conference. Info: www.commonwealthlaw2012.org

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