

## CLA Director elected to head law society

CLA Director Noor Blumer is the newly-elected President of the ACT Law Society.

A partner in Blumers Personal Injury Lawyers in Canberra, Noor (pictured) has extensive experience on councils and committees, including as a former President of Australian Women Lawyers. Noor said one of the things she would work on as president is ways to reduce the extended backlog of cases before ACT courts.

More information: <http://www.cla.asn.au/>

Her husband, Mark Blumer, is a former National President of the Australian Lawyers Alliance. Current President of the ALA is Greg Barns. Both are also CLA members.



## If you missed them...

- Excellent commentary by CLA member Dr Chris Michaelsen (pictured) on Australia's counter-terrorism law and policy being 'close to moral and political bankruptcy';
- Reporting, which you won't find in many other places, of Attorney-General Robert McClelland admitting the massively disproportionate numbers of Indigenous Australians in jail is a "national shame", by CLA CEO Bill Rowlings;
- The Attorney-General's criticism of WikiLeaks is classical double standards: apparently, it's OK for the government to leak against people, but anyone leaking against the Australian Government commits a heinous crime, Bernard Keane says.
- Australia's anti-terrorism laws restrict democratic freedoms and would never have been allowed to pass in the USA, CLA member Prof George Williams writes



...all newly available on the CLA website: <http://www.cla.asn.au/>

## Govt gives people the chance to have a cyber say

People and businesses are nominally being given a say in Australia's first cyber\* white paper.

The government released a public discussion paper last month. The white paper is meant to cover everything from consumer protection to cyber safety-crime-security and cyber defence.

Inevitably it will be spook and police-heavy, more focused on what Australians can't do than expanding the opportunities of what we can do.

–Cyberspace is a shared domain and no single nation can address the security challenges alone," says the media release announcing the project. This is code for the fact that we, as Australians, have to adopt whatever America says, CLA believes.

–The White Paper will allow us to provide an even stronger input into international efforts to fight cybercrime and ensure cyber security across borders," the release, signed by five ministers, said.

This means Australian ministers get invited to international conferences and photo opportunities, but no-one takes much notice of what they say.

The Department of the Prime Minister and Cabinet is leading development of the Cyber White Paper, which is expected to be released in the first half of 2012. The Public Discussion Paper is available at [www.cyberwhitepaper.dpmc.gov.au](http://www.cyberwhitepaper.dpmc.gov.au). Submissions are open until 15 November.

\* A dictionary defines "cyber" as "of, relating to or characteristic of the culture of computers, information technology and virtual reality".

## ALRC pre-empts judgements...and swears people to secrecy

A benchmark focus group will view ~~v~~iolent, offensive and confronting material” in Sydney this month (October)...and must swear to secrecy in advance, the Australian Law Reform Commission is dictating.

Participants must stay mum about ~~a~~ll aspects” of the focus group activity, designed to test the boundaries of censorship classifications. They must sign a ~~s~~tatement of ethical principles that will govern participation in the project and privacy”.

~~A~~ll discussion and participation must be confidential,” the ALRC orders.

Those invited will be viewing content possibly allowed in higher level categories (MA15+ and above, including the Refused Classification category). The ALRC says it is a testing a new method for ~~p~~ossible community consultation to test community standards”.

Material to be viewed will be ~~v~~iolent, offensive and confronting”, the ALRC’s invitation letter says.

CLA believes this statement seems to pre-empt the judgement of the people being invited to take part. This pre-conditioning statement may skew the outcome, and invalidate the results,CLA says.

The invitation, from the ALRC Commissioner in charge of the National Classification Scheme Review, Terry Flew, has been issued to selected people to make up three focus groups.

Two groups, formed after a national advertisement calling for voluntary participants, will comprise community members whom the ALRC and the specialist research consultancy Urbis Keys Young believe represent ~~a~~ broad cross section of the Australian population”.

The third – ~~t~~he benchmark group”, as the ALRC letter says – will be made up of ~~i~~nformed stakeholders who will represent a range of divergent views”.

All participants invited are being offered pre- and post-event counselling.

In the invitation letter, the ALRC promised it would release its discussion paper at the end of September which ~~w~~ill include the (ALRC’s) preliminary views about classification categories for a new national classification scheme”.

## **Penalties, like sentencing, is a national mess**

Australia’s system of penalty fines is a blind mess, with wide disparities, crazy offences and little enforcement, a [news.com.au](http://news.com.au) examination found last month.

Their report backs up CLA’s findings on inconsistency...where growing a handful of hydroponic marijuana plants gets you a three-month suspended sentence in Tasmania but a two-year/six months home detention in the NT...plus a potential proceeds of crime claim of \$1.5m.

The *News* analysis found that committing an offence on one side of a state border can cost you five times as much as on the other side. According to the NSW Sentencing Council (SC), fines are set with no consistency.

"Attention has rarely been given to any coordination of the operation of penalty notices as a whole," the SC has said. ~~A~~s a result, the fixing of penalty amounts is uncoordinated, leading to considerable differences between offences which do not seem to be justified by the differences in their objective seriousness.”

- If a city ranger spots your expired parking ticket in Victoria, it could cost you \$24. In NSW it’s nearly four times as much;
- Failure to pick up after your dog in Canberra is \$50. In Hobart it’s \$300;
- Holding your mobile while driving will cost you \$300 in Tasmania or Queensland, but in the NT it’s considered five times less serious; and
- Serious cases of animal cruelty could cost you up to \$100,000 and two years jail in Queensland, but in the NT it’s one year and \$13,000. <http://tiny.cc/x36sh>

Australia is crying out for national leadership, by Attorney-General Robert McClelland, on the issue of sentencing, CLA says.

~~T~~here should be bi-partisan commitment to a decade of working to ensure equal rights and responsibilities of Australians no matter where they live across the nation,” CLA’s CEO Bill Rowlings said. ~~A~~justing and balancing laws is what the federal and other governments should be doing, not bringing in more and more excessive anti-terrorism laws.”

–There should be a national legal review, to remove useless and outdated laws, and to align laws and penalties nationwide.”

## **Feds want to streamline anti-discrimination laws**

The federal government has launched a discussion paper seeking views on how to consolidate federal anti-discrimination laws...but has squibbed the issue of gay marriage.

Since 1975, there have been five pieces of legislation: Racial Discrimination Act 1975, Sex Discrimination Act 1984, Disability Discrimination Act 1992, Age Discrimination Act 2004 and the Australian Human Rights Commission Act 1986. "These acts are substantially inconsistent and unnecessarily complex," according to Attorney-General Robert McClelland.

The discussion paper does not cover the Marriage Act or involve the issue of same-sex marriage. Submissions close 1 February 2012. The discussion paper and further information are at: [www.ag.gov.au/antidiscrimination](http://www.ag.gov.au/antidiscrimination) Exposure draft legislation is planned for early 2012.

## **Committee recommends watering down Charter of Rights**

The Victorian Parliament's Scrutiny of Acts and Regulations Committee last month tabled its review of the Victorian Charter of Human Rights and Responsibilities after its first five years.

The SARC committee recommends against repeal of the Charter, but also recommends that courts have no role or a substantially reduced role in enforcing human rights and providing remedies when they are breached. It also proposes that government departments and public services have no or reduced obligations to act compatibly with rights.



Premier Ted Baillieu (pictured) seems less convinced of the committee's proposed path, however, and has taken responsibility back into his department and away from that of the Attorney-General's.

The SARC report is available at:

<http://www.parliament.vic.gov.au/sarc/article/1446>

See Rhys Michie's analysis on the CLA Home page at: <http://www.cla.asn.au/> *Premier emerges as possible Charter champion* and a useful analysis, also on

the Home page: *Backgrounder: rights law in Australia*.

## **High Court rules Malaysia 'solution' invalid**

A 6-1 majority of the full bench of the High Court of Australia ruled last month the government's declaration that Malaysia was an appropriate country to which to send asylum seekers was invalid. The court found that a country must be bound by international or domestic law to provide protection for asylum seekers if it is to be an appropriate destination for them.

The High Court held that Malaysia is not legally bound to provide the access and protections the Migration Act requires for a valid declaration. Malaysia is not a party to the Refugees Convention or its Protocol.

The arrangement which the Minister signed with the Malaysian Minister for Home Affairs on 25 July 2011 said expressly that the document was not legally binding.

The parties agreed that Malaysia is not legally bound to, and does not, recognise the status of refugee in its domestic law. <http://tiny.cc/bhf85>

## **Ombudsman scathing over mental health care in prison**

A report by Victorian Ombudsman George Brouwer, tabled in State Parliament, says many prisoners are not receiving adequate treatment for Hepatitis C, mental health problems or drug dependence.

Mr Brouwer was scathing of the mental health care provided to men, describing it as "grossly inadequate". There is one mental health bed for every 88 male prisoners, compared with one bed for every 16 female inmates.

Nearly a third of the prison population is classified as being at risk of mental illness. Schizophrenia and bipolar disorder are almost 10 times higher in prisons than in the community.

Among Victorian prisoners, 41% have Hepatitis C, compared with just 1% in the wider population. But, the ombudsman says, only three of Victoria's 14 prisons provide Hepatitis C treatment.

<http://tiny.cc/e648l>

### CCC fails to inquire into police complaints



The Parliamentary Inspector of WA's Corruption and Crime Commission has found that over the past two years the CCC received 381 complaints about police using excessive force, but investigated only one of them.

The report tabled in parliament highlighted two cases which the inspector, former WA Supreme Court judge Christopher Steytler (*pictured*), says should have been thoroughly investigated. In one, a man complained that after being handcuffed by an officer in Fremantle, he was kicked several times and stunned a stun gun, which made him fall on his face: he was later denied medical treatment.

The charges against him were later dismissed and he complained to the CCC, which referred the matter to police. An internal investigation found the officers acted appropriately.

<http://www.abc.net.au/news/2011-09-08/report-slams-ccc-investigations/2877234>

### Allsorts groups to spend \$12.4m on HR education

The government has handed out 15 grants worth \$12.4m to an allsorts grab-bag of organisations to mount Australia's human rights (HR) education program this year.

For example, Assyrian people in Australia will get a 12-week course, and the Sydney Sikh community will be educated on domestic violence.

A Lismore refugee group is being funded to provide wall hangings on the Universal Declaration of Human Rights to local schools...but their website says they have already done so to 29 local schools by 30 June 2011, so it's a moot point about how many local schools are still to be reached.

Attorney-General Robert McClelland said the successful projects were "innovative education programs". "The centrepiece of Australia's Human Rights Framework is human rights education, with a strong focus on community education," he said.

The recent announcements mark the second round of Australia's Human Rights Framework – Education Grants. Details at [www.ag.gov.au/hrgrants](http://www.ag.gov.au/hrgrants)

The list of successful grant projects for 2011-12 is:

**ACT Council of Social Services** - Information seminars and web-based resources for community sector organisations on their rights and obligations as community service providers to vulnerable people in the ACT.

**Information on Disability & Education Awareness Services (IDEAS)** - 12-week course for Assyrian people with a disability and their associates to develop awareness raising, self-help and advocacy skills.

**Ted Noffs Foundation** – HR youth program to engage and educate young people from Liverpool/Fairfield about human rights issues that affect their lives using hip hop and arts based workshops and performances.

**Women's Health West** - Human rights and advocacy training to women from newly-arrived communities to strengthen their capacity to exercise leadership and facilitate change.

**Aboriginal and Torres Strait Islander Healing Foundation** - HR education for Indigenous community members across Australia and development of human rights education resources in local languages.

**National Committee for HR Education - NT Chapter** - Developing pedagogy in HR education for Indigenous children in remote communities and a one-day seminar in 12 remote community schools.

**NSW Gay and Lesbian Rights Lobby** - Workshops to educate, sex, sexuality and gender diverse people about the current extent of anti-discrimination protections.

**Advocacy for Inclusion** - Self-advocacy training packages in human rights for people with disabilities, supporters and the broader community.

**Multicultural Youth SA** - Newly arrived refugee youth to lead a campaign to increase respect, acceptance and intercultural understanding of cultural diversity.

**North Queensland Combined Women's Services** - HR education workshops for regional, rural and remote NQ communities on the Convention on the Elimination of all Forms of Discrimination against Women.

**Boronia Multicultural Services** - Education and training for the Sikh community in Sydney on addressing domestic violence as a human rights issue within the community.

**Australian Centre for Capacity, Ethics and Protection from Exploitation of People with Disabilities (ACCEPD)** - Interactive workshops and tailored resources across sectors on the legalities and practicalities of decision-making capacity.

**Council on the Ageing (WA)** - A conference, seeking to raise awareness about Human Rights issues affecting older people in Australia, to celebrate the International Day of the Older Person.

**Wantok Musik Festival** - Bringing together high profile Indigenous and non-Indigenous musicians to produce a song and music video to educate the Australian public about responsibilities under the Convention on the Elimination of Racial Discrimination and the UN Declaration on the Rights of Indigenous Peoples.

**Sanctuary Northern Rivers** - Provide a wall hanging of the Universal Declaration of Human Rights at local schools for permanent display in a public place for all to see.

## Happy holidays...to the AG and his department's staff

The federal government will once again in 2011-12 undertake its annual Christmas-New Year "abuse the volunteers" campaign: this time, the Department of the Attorney-General is first off the mark.

(Normally the Health Department, or an agency in the privacy/security field, is first).

In December, probably about the 20th, the AG's department will release the National Action Plan (NAP) Exposure Draft for its planned human rights "National Action Plan"...and expect civil society volunteers to toil away, improving the public servants' putative work, over the holiday period.

The NAP is all Australia gets – instead of the Bill of Rights that about 85% of Australian's want, according to a national survey run by the department as part of the "national consultation on human rights" in 2009.

From about 21 December 2011 until the end of January 2012, the public servants of AGs will trot off for their annual holidays to places around Australia and the world...leaving pale-faced volunteers in organisations like CLA to scour through the department's draft, trying to prevent the worst of its misapprehended atrocities.

Likewise the AG will no doubt take a hard-earned break, and be unavailable for discussions or meetings with civil society. (Last year, he was too busy being Australia's Minister for Disasters to do any "First Legal Officer of the Land" work).

Then, after civil society volunteers have spent THEIR holidays doing free work for the government throughout January 2012, the consultation period will close about 1-5 February 2012...after everyone at the department has had time to gather round the water cooler for a week or so to swap stories of surfing sunburn on the south coast and/or tummy upsets in Kuta or Bali.

Less than a month later, in early March 2012, the AG will launch the NAP, which will be almost exactly the same document issued as draft just in time to allow the public servants to take off on a month's break.

Here's how the department describes the same process:

*"It is also important, where consultations inform specific areas of policy development, that time is given to make sure the Government's approach to the issues raised is articulated as clearly as possible in the final Plan.*

*"Taking these factors into account, the Attorney-General has agreed that the Department aim for the following revised timeframe:*

- *December 2011 – launch of the final Human Rights Baseline Study, and release for public consultation the National Action Plan Exposure Draft. While the baseline study consultation sought views as to what could or should be in the NAP, the ED will be a statement of the Government's intent as to the commitments in the NAP. However, it will be important for the Government to consider any comments stakeholders have on the ED and any appropriate changes.*
- *February 2012 – close of consultations on the NAP Exposure Draft.*
- *March 2012 – launch of final National Action Plan."*

Given that the Gillard government, AG Robert McClelland and the AG's department totally ignored the overwhelming message sent by Australians in response to the 2009 national human rights consultation, why would anyone have any confidence that they would take any account of anything civil society said this time around? Ignorance – or the Art of Ignoring – is their forte.

But they have graciously given those of us in the civil liberties/human rights volunteer field all of the traditional January holiday period to slave away at their behest to try to deliver an improved NAP

that is a comatose copy of a real Bill of Rights... just so the AG and his department can tick the consultation box".

## **'Find my car' app can also catch crooks**

Westfield shopping centres have a new app\* which means you'll never lose your car in the shopping centre car park again – but which also keeps track of vehicle movements so police can track down vehicles, including stolen and unregistered ones.

The creepy, creeping reach of surveillance technology now extends to your local shopping.

Westfield Bondi Junction in Sydney recently [added to its iPhone app](#) the ability for shoppers to find their parked car by entering its license plate number, Ben Grubb reported in the *SMH*. Cameras photograph every car in the car park.

The app also promotes Westfield and the shopping centre more generally...opening hours of each retailer, special offers and search for a store's location in the shopping centre.

But Westfield said police could also use it to find stolen or unregistered vehicles. In a statement, NSW Police said it worked closely with security at Westfield Bondi Junction and utilised their technology "when required".

The basic app is available for all Westfield stores Australia-wide. But only the Bondi Junction centre is trialling the app for finding cars by their number plate. They will roll it out to the other Westfield centres nationally if the Bondi Junction trial is successful. <http://tiny.cc/4kmat>

\* "app": a small, usually free or very cheap, software program which adds an extra feature – like finding local restaurants, for example – to a mobile phone's or computer tablet's abilities.

## **Govt takes privacy seriously...at last**

Home Affairs and Privacy Minister Brendan O'Connor has released an issues paper mooting new laws so Australians can take civil legal action if their privacy is invaded.

The Australian Law Reform Commission recommended – in 2008 – a statutory cause of action for invasions of privacy after a 28-month investigation of privacy laws. The NSW and Victorian Law Reform Commissions have since made similar proposals.

The ALRC would let individuals seek a remedy from a court where their private life has been seriously invaded in a way that ordinary Australians consider highly offensive. Now, you can complain to the Australian Information Commissioner, who can ask but not compel businesses to take action to rectify the breach.

The issues paper discusses:

- whether we need a statutory civil action for redressing invasions of privacy; and
- if so, elements of a cause of action, and the defences/remedies possible.

The consultation period will extend for six weeks. Submissions close on Friday, 4 November 2011.

Copies of the Issues Paper are available at <http://www.dpmmc.gov.au/privacy/causeofaction/>

## **Call for stricter controls on police use of pepper spray**

Victoria's Human Rights Law Centre is calling for stricter controls on police use of pepper spray.

The Human Rights Law Centre says police shootings are far less common than the use of non-lethal force, citing figures for Victoria Police deploying force, on average, every 2½ hours. Almost three-quarters of these incidents involved pepper spray or foam, and there was "overwhelming feedback" from vulnerable groups that police were overusing it, the HRLC said.

In a report on police use of force, the rights group also says the Victorian Crimes Act or other laws should rein in the "very broad test" for how, and to what extent, officers can use any force.

A new test, according to the report, should reflect the terms of Victoria's Charter of Human Rights and its explicit protections for the right to life and freedom from torture and ill-treatment.

Police Association secretary Greg Davies said: "I wonder whether they examined the human rights breaches against police officers in the more than 2500 assault-police charges that were laid in the

past year." CLA thinks Mr Davies' hubris may have resulted from something he ate.  
<http://tiny.cc/oe9k8>



### **Stun guns are not replacing drawn pistols**

NSW Police are drawing their pistols just as frequently now as they did before stun guns came in, new figures show.

Government figures show the number of times police officers used their firearms since stun guns were issued in October 2008 has been consistent, at about 800 times a year. But stun gun use is going through the roof: they were used 407 times in 2009 and 1169 times in 2010 (figures for both types of weapon include times they were drawn but not fired).

"When police began using stun guns in 2008 they were ... a preferable alternative than the use of firearms," the Greens MP David Shoebridge said. "If stun guns were genuinely being used in place of firearms, then police use of firearms would be decreasing." <http://tiny.cc/9thex>

### **TGA facilitates Dr Nitschke's prescribing of Nembutal**

Prominent doctor Philip Nitschke has received permission to import to Australia drugs used in assisted suicides.

But Dr Nitschke is worried he is being "set up" by the federal Therapeutic Goods Administration, which approved the importation of sleeping drug Nembutal, the London *Daily Telegraph* reported.

Dr Nitschke has said he will provide the drug to a woman in South Australia who is expected to live a few more months only and has said she wants to die painlessly. However the doctor has been forced to specify that the drugs are only to help her sleep.

"The drugs will be provided to her with clear instructions," he told *The Adelaide Advertiser*. "They are to help her sleep. If she breaches those instructions she will be aware there are significant dangers. The patient will also have to sign a statutory notification that she is aware of the risks associated with taking more than one tablet a night to help her sleep."

A woman suffering from motor-neurone disease but being treated by another doctor in NSW was also being prescribed the drug. Neither woman's identity was revealed.

The timing of Dr Nitschke's announcement was clearly intended to bring pressure on the South Australian Parliament, which is due to debate the issue. He said the ease with which he received permission to import the Nembutal, a brand name for the drug pentobarbital, made him suspicious that the TGA was setting him up.

The SA Parliament will vote on a bill which provides a medical defence for doctors who provide treatment that shortens a patient's life. There are also two bills aimed at legalising voluntary euthanasia on the notice paper for debate – one from Labor MP Steph Key and the other from independent Dr Bob Such.

Both major political parties are allowing a conscience vote on all three bills. <http://tiny.cc/jbp0p>

### **Australian briefs**

**Govt tests boundary of 'presumed innocent':** CLA's legal experts say the NSW Government is testing the boundaries of "innocent until proven guilty" by suspending the licences of two taxi drivers charged with child sex offences in the 1990s. The Administrative Decisions Tribunal determined the men were of good repute, overturning a Department of Transport cancellation. <http://tiny.cc/h7hrf>

**Police will be matchmakers:** A new database gives police vehicle patrols in NSW direct access to drivers' licence photos. The equipment is to be installed in police cars in a joint initiative with the state Roads and Traffic Authority. Police Minister Mike Gallacher says the technology will be used to identify people and verify they have a valid licence. CLA says it is another creeping extension of state surveillance of the innocent. <http://tiny.cc/x4tv0>

**Liverpool may kiss goodbye to freedom of choice:** Sydney's third largest central business district, Liverpool, will consider a blanket ban on smoking within its city limits next month. Liverpool City Council Deputy Mayor Ned Mannoun says the proposed law would continue the push to encourage healthy behaviour. "We want to make sure... that people who choose to live healthy and happy lives are the priority," Mr Mannoun said. The way will soon be open to declare Liverpool a Freedom-Free Zone, CLA says. <http://tiny.cc/3d8y1>

**Police inaugurate stun gun use against unarmed man:** The first time Canberra's general duties police used their newly-issued stun guns was against an unarmed man after an eight-minute, high-speed car chase last month. Police allege the driver got out of the car and rushed toward a sergeant of 20 years experience, who drew and fired his stun gun. The AFP's Operational Safety Committee will investigate, but their findings will be secret. CLA has pointed out to the ACT Government that use of stun guns in WA has not reduced injuries to police. <http://tiny.cc/vh794>

**Shopkeepers won't become school police:** The ACT Greens and ruling Labor voted down last month a plan by the ACT Liberal leader Zed Seselja to legislate for shopkeepers to have the power to ban students who should be in school. "We should be doing everything we can to ensure students get a proper education, not threatening legal action against shopkeepers who work with school communities to try to dissuade wagging," he said. Look out for more 'law-and-order' nonsense from parties as people gear up for elections in the NT in August 2012 and the ACT in October.

**Lawyers 'generate' \$13bn a year:** The Australian legal profession "generates about \$13 billion in economic activity each year", AG Robert McClelland said last month in a media release. He wants a national legal profession, rather than separate state and territory regulation. Draft legislation to that effect is available on the AG Department website: [www.ag.gov.au](http://www.ag.gov.au)

**Banned list fuels black market – claim:** The NT's banned drinker register – with 1300 names on it in just a few months – was fuelling a grog black market in Alice Springs, Country Liberals' spokesman for Central Australia, Matt Conlan, said last month. "Those who seek alcohol will do whatever they can to get it if they cannot get it through legal means," he said. A spokeswoman for Police Minister Paul Henderson says police believe the banned drinkers register is one of the best tools to counter antisocial behaviour. <http://tiny.cc/rp2p9>

**Most vulnerable are better protected:** Legislation making it easier for asylum seekers, including boat arrivals, to gain protection in Australia passed Parliament last month. There is now broader criteria for asylum seekers qualifying for protection beyond the narrow definitions of the Refugee Convention, including women fleeing honour killings, people facing serious harm or risk of torture, or fleeing persecution based on sexual preference. The Complementary Protection bill cements Australia's compliance with its international obligations not to return people at risk. It also removes the need for the Immigration Minister to intervene personally in such cases. <http://tiny.cc/0fgfq>

**Sentencing to be reviewed:** NSW Attorney-General Greg Smith last month announced a review of sentencing laws, to be completed by October 2012. He said: "We need to encourage the use of more non-custodial and community-based sentences as a viable alternative to full-time incarceration for less serious offences." <http://tiny.cc/0tckj> Court statistics show sentencing delays have doubled in the past decade, and reveal that it takes on average three and four months before a convicted person is sentenced in the NSW District and Supreme Court respectively. <http://tiny.cc/fumpw>

## **CLA's main activities for September:**



## Projects

National Liberty Tree: arrangements proceeding for planting of the CLA-organised national liberty tree by former ACT Chief Minister Jon Stanhope on UN Human Rights Day, 10 December, at the National Arboretum. We are investigating buying seeds of Kurrajong for distribution to CLA members for local planting.

## Meetings

Fiona Patten and Robbie Swan, Australian Sex Party: censorship issues;

Dr Mal Washer MP: Aboriginal detention WA, project to improve health of prisoners (particularly juvenile prisoners) by moving responsibility for health in WA jails from Corrective Services to the Department of Health;

Kirsty Magarey: re current projects;

Laurie Ferguson MP;

Mark Metherell, SMH journalist, re operation of COAG;

John Burge, new member;

Tim Vines, Saskia Vervoorn re media releases and computer links

## Events

Hearings, etc at Parliament House attended:

- Joint Standing Committee on Electoral Matters hearing evidence from the Australian Electoral Commission on political funding inquiry: Sen Bronwyn Bishop in full pursuit of AEC over use (non-use) of their coercive powers (reference Thomson case)
- Joint Standing Committee on Migration, evidence from Department of Human Services on social inclusion/problems in targeting most needy
- Joint Committee on Public Accounts and Audits heard evidence on National Funding Agreements from the Productivity Commission (difficulty of comparable data across States, operational areas), relative to role of COAG Reform Council.
- Peter Mares, *Temporary Migration and its Implications for Australia*, Senate Occasional Lecture

## Upcoming commitments:

**DRIP:** Implementing the United Nations Declaration on the Rights of Indigenous Peoples (DRIP) symposium 7 Oct 2011 - Parliament House. CLA President and CEO to speak on policy implementation research.

**ISAA annual conference lecture:** *Images of 11/11: Are you afraid of who's watching you?* plus impact of Australia's terror laws. Address by CLA CEO Bill Rowlings, to the Independent Scholars Association of Australia, National Library of Australia, 3-4 November.

**CCTV World 2011, 29 Nov-1 Dec, Sydney:** CLA Media Director Timothy Vines will be a key speaker. Details: <http://www.acevents.com.au/cctv2011/index.html#about>

## Submissions

Comments on Australia's fifth annual report under the Convention against Torture, to the AG's Department.

## Media

- Suspended Sentences - WA talkback radio;
- Effort was begun on compiling an up-to-date list of media contacts throughout Australia, for two purposes: issuing of media releases and as outlets for possible CLA 15- and 30-second radio ads, which are in development.

- The Punch, News Ltd/Corp national online journal: article on the finding of Andrew Bolt guilty under the Racial Discrimination Act.

## International

### Australia's UN stand wrong, Evans says

Labor's longest-serving foreign minister, Gareth Evans, has warned that the Prime Minister, Julia Gillard, stands "on the wrong side of history" in opposing a Palestinian state joining the UN.

Mr Evans was speaking about the Palestinian bid for statehood, Daniel Flitton reported in *The Age last month*.

US diplomats were reportedly desperate to keep the bid stalled under consideration in the Security Council, saving Washington the need to wield its threatened veto.

But Mr Evans, who is president emeritus of the International Crisis Group, claimed changing direction on the Israel- Palestine conflict would hugely benefit the West in relations with the Islamic world, and said accepting a Palestinian state "once and for all" would bolster Israel's security.

"Being on the wrong side of history is never a comfortable position," Mr Evans wrote. "And that is exactly where the US, Israel and its closest friends – including Australia – will be if they resist the tide of international sentiment in favour of moving now to recognise Palestinian statehood."

Ms Gillard effectively ruled out Australian support for the Palestinians joining the UN after she told the Labor caucus the vote was not the path to peace. Foreign Minister Kevin Rudd recommended Australia abstain in the vote.

### EDITORIAL: the NYT says...on the openness of high courts

The Reporters Committee for Freedom of the Press proposed last week that the (US) Supreme Court adopt a new rule saying every document filed in or by the court "shall be available to the public for inspection" unless it orders that the document be sealed. That presumption of openness would be in the interest of everyone — the Supreme Court, lawyers who practice before the court, scholars who study the court and, of course, the American public.

It is sometimes necessary to restrict public access to court documents — to protect privacy, genuine secrets and people in danger, and for other reasons. But in the (p)ast 18 years, the court has gone from allowing records to be sealed in two cases per term to 24 last term out of 9,066 petitions for review. While the fraction remains tiny, the increase is disturbing.

The Reporters Committee urges the court to adopt a rule about the presumption of public access like that of the US Court of Appeals for the Seventh Circuit. Judge Frank Easterbrook of that circuit wrote, "The political branches of government claim legitimacy by election, judges by reason. Any step that withdraws an element of the judicial process from public view makes the ensuing decision look more like fiat." His argument is compelling. <http://tiny.cc/s1knu>

### Saudi women become slightly more equal

Saudi Arabia's women can vote and stand for office in future local elections and join the advisory Shura council as full members, King Abdullah announced last month.

The king did not address the issue of women being allowed to drive. Although there is no written law against women driving, they are not issued licences. Saudi women must also have written approval from a male guardian - a father, husband, brother or son - to leave the country, work or even undergo certain medical operations.

The very conservative country is ruled by an absolute monarchy supported by conservative Wahhabi clerics, and religious police patrol the streets to ensure public segregation between men and women. <http://tiny.cc/y8y9c>

### Former MI5 boss attacks Iraq invasion

Lady Eliza Manningham-Buller, the former head of Britain's MI5, last month delivered a withering attack on the invasion of Iraq, decried the term "war on terror", and suggested there should be talks with al-Qaida.

Recording her first BBC Reith lecture on the theme, *Securing Freedom*, she made clear she believed the UK and US governments had not sufficiently understood the resentment that had been building up among Arab people, which was only compounded by the war against Iraq.

She also said the 9/11 attacks were "a crime, not an act of war". "So I never felt it helpful to refer to a war on terror," she said. <http://tiny.cc/1pd5j>

### **Official blindness to new drugs compounds the problem**

New "legal highs" are being discovered at the rate of one a week in Europe, outstripping attempts to control their availability and exposing what some experts claim is the "ridiculous and irrational" government policy of prohibition.

Twenty new synthetic psychoactive substances were identified in the first four months of 2011, according to Paolo Deluca, co-principal investigator at the Psychonaut Research Project, an EU-funded organisation based at King's College London, which studies trends in drug use.

He said officials at the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), an early-warning unit, had detected the 20 new substances for sale by May this year. In 2010 the agency had noted 41 new psychoactive substances, a record number, many of which were synthetic cathinone derivatives that can imitate the effects of cocaine, ecstasy or amphetamines.

Deluca said that, given the plethora of new substances, government attempts to ban legal highs is not a feasible solution. <http://tiny.cc/m9qzv>

### **Stun guns continue to be used against children**

An inquiry is under way after Manchester police used a stun gun on a 16-year-old schoolboy.

They deployed the weapon after responding to an emergency call from the teenager's mother, locked her out of the family home in Wythenshawe, Manchester, following an argument.

The woman reportedly told the officers the age and name of her son. He came out of the property with his hands out, but there was a scuffle and the stun gun was used. He was then arrested on suspicion of assaulting two police officers but was later told he would face no charges.

His family, who do not wish to be named, want an apology and are considering taking legal action. <http://tiny.cc/j2vt0>

### **Targeted races pipped on the post-arrest paperwork**

British police forces with some of the worst records of targeting black people have stopped recording ethnicity of people stopped/asked to account for their movements, the *Guardian* says.

Five out of the 10 forces most likely to use [stop-and-account](#) powers disproportionately against black people – West Midlands, Avon and Somerset, Thames Valley, Sussex and Hertfordshire – don't record race any more. They have used a government change in the rules introduced in March, which was aimed at cutting bureaucracy.

In total, 21 out of 43 forces in England and Wales will stop recording details, according to responses to requests under the Freedom of Information Act. A high court challenge is being brought over the decision. <http://tiny.cc/bc2y8>

### **Senators claim justice officials are relying on secret judicial ruling**

US Senators Ron Wyden and Mark Udall are pressing senior Obama administration officials over secret interpretation of the Patriot Act, which appears to go way, way, way beyond what most in the public believe on simply reading the bill.

Apparently, US Department of Justice figures are relying on a secret court ruling – of the Foreign Intelligence Surveillance Court, whose opinions are classified – which says the government can

spy on a ton of people under the Patriot Act, even though the text of the law seems to suggest otherwise. <http://tiny.cc/0vgh4>

**Lawsuit claims Microsoft continues tracking:** Microsoft allegedly tracks the location of its mobile customers even after users request that tracking software be turned off, according to a new lawsuit. The proposed class action in a Seattle federal court in the USA, says Microsoft intentionally designed camera software on the Windows Phone 7 operating system to ignore customer requests that they not be tracked, Dan Levine reported in the *SMH*. <http://tiny.cc/01wk1>

**Dutch ban burka:** The [Dutch](#) government has banned the burka, joining France and Belgium. Women caught wearing a burka in public, on the streets or public transport and in schools or hospitals will be fined \$500. There will be exemptions for around mosques, and for foreign women in transit lounges of international airports. Cabinet ministers argue that the burka does “not fit into our open society and women must participate fully”. Anti-Islam politician Geert Wilders has campaigned for the ban for years. <http://tiny.cc/8jfvu>

**Banned faithful saved by fire:** Praying is now banned on the streets of Paris. Apparently, on two roads in the Goutte d'Or district of Paris's 19th arrondissement, more than 1000 people used to block the street every Friday. Under an agreement signed as the ban came in, believers can use the premises of a vast nearby fire station while a bigger mosque goes up. <http://tiny.cc/10sjo>

## DATES

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

**7 Oct, Canberra (Parliament House):** All-day symposium on how best to implement the UN Declaration on the Rights of Indigenous Peoples (DRIP) in Australia. CLA President Dr Kristine Klugman and CEO Bill Rowlings will speak on CLA's research into major policy implementation in the ACT and NT.

**14 Oct, Melbourne:** Seminar, Human Rights, Civil Society and the Rule of Law, with US Ambassador to Australia, lawyer Jeffrey Bleich, 12.45 - 2pm, \$20/15 concession (includes lunch), Blake Dawson, Level 26, 181 William St, Melbourne. Organiser: Human Rights Law Centre [www.hrlc.org.au](http://www.hrlc.org.au)

**25-26 Oct, Sydney:** Cyber Security for Government 2011. Details: <http://www.cyber-security-conference.com.au/Event.aspx?id=540274>

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

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

**3-4 Nov, Canberra:** Annual conference of the Independent Scholars Association of Australia. CEO Bill Rowlings will speak on the laws, surveillance and other excessive anti-terrorism measures which are the 1-year legacy...and counting...of "9/11".

**10-11 Nov, Sydney:** International conference 'Climate Change and Migration in the Asia-Pacific: Legal and Policy Perspectives'. NSW Parl House. Register online: <http://tiny.cc/wxv49>

**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>

**29 Nov-1 Dec, Sydney:** CCTV World 2011, at which CLA Media Director Timothy Vines will be a key speaker. Details: <http://www.acevents.com.au/cctv2011/index.html#about>

**9 Dec, Canberra:** Senate Occasional Lecture, organised by CLA: Former ACT Chief Minister, Jon Stanhope, on *Human Rights in Australia*. Details: [http://www.aph.gov.au/senate/pubs/occa\\_lect/index.htm](http://www.aph.gov.au/senate/pubs/occa_lect/index.htm)

**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](http://www.nationalarboretum.act.gov.au/tree_stories/kurrajongs)

17-19 Dec, Taipei, Taiwan: 3rd annual conference, Asian Criminological Society, at National Taipei U. <http://asia2011.ntpu.edu.tw/>

**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 Gilbert and Tobin Centre of UNSW with 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](http://www.commonwealthlaw2012.org)

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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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