

Entrapment for workers, climate of fear...but no tests for politicians

The Federal Government plans to use entrapment – what it calls “integrity tests” – on police, customs and crime commission workers to make them afraid, according to the Minister for “Justice”, Jason Clare.

The honey-pot tests will create temptations and put them in people's paths.

According to the “Justice” Minister, examples of entrapment include:

- a stooge handing in a cashed-up wallet to officers and seeing what happens;
- leaving valuables at dummy crime scenes to see if anyone steals;
- another stooge (maybe the same one) offering a Commonwealth officer a bribe; and
- planting false information in a database to try to catch out somebody passing on information.



Mr Clare (left) said he will announce more draconian measures later. “The power of (entrapment - Ed.) is that it puts fear in the mind of people thinking of acting corruptly...If it creates a climate of fear, that's a good thing.” – media release, and interview Marius Benson ABC Radio National, 30 March 2012.

Apparently only Mr Clare's selected targets will be tested: politicians are not to be treated equally, CLA understands...but all lesser Commonwealth workers, and all Australian citizens, should be very afraid of Mr Clare.

ODD SPOT: Let Security see the light...ness

“Back in the 90s German airports came up with a brilliant idea of weighing all laptops and referencing to a manufacturer's table. Any weight deviation would suggest something untoward. My laptop, when they weighed it, turned out to be underweight for some reason. Herr Security looked mighty perplexed until I reassured him that it was because the battery was flat.” – Steve in a commentary on an article on 12 April 2012 at 17.38pm locally in a blog, ‘Jack of Kent’:

<http://jackofkent.com/2012/04/my-trousers-and-airport-security/>

eAGM voting results

CLA's electronic Annual General Meeting voting ended early last month .

The two-month process began on 1 February with the calling for any motions from members. As none came forward, we moved on to the voting phase to consider the President's and Treasurer's reports for the year 2011* and the Annual Report...as you would at an AGM.

This phase concluded on 2 April, with 131 members voting, for a 54% eAGM vote. The CLA Board considers this an excellent result, showing that members are keen to utilise the option of electronic communications and voting. The required ‘quorum’ is 20%, so members have done the organisation proud by their responsiveness.

There were 120 e-votes, and 11 paper votes by members who do not use email. Of the three questions – do you approve the President's Report, Treasurer's Report, and Annual Report – the vote for approval was unanimous, 100%.

Thirty-four (34) members chose to comment, with all comments being favorable. Some were:

- *Please continue to be my conscience for me – I haven't got the time;*
- *The decision to concentrate on the media looks sound.*
- *Thank you to all official and contributing CLA members for your vigilance and expertise for a very necessary public cause. Many Australians will never know how much they are indebted to you.*

- *Very supportive of the great and tireless work CLA is doing.*
- *Fair dinkum, the world has gone mad. Got to save the rights of individuals to be individuals. Free speech, free choice, etc...*
- *CLA is increasingly more important as the media is becoming so dominant in setting the direction of political debate and in controlling the release of information required for debate...*
- *Please record my thanks for taking the time to visit the NT. We are swamped with issues in this part of the world.*
- *I love your work...electronic participation is terrific to continue to engage members.*
- *I think the president's report and CLA's annual report are excellent. CLA is well run.*
- *As a proud member of Amnesty International over the decades, an organisation held in high regard throughout the world, I am equally proud of being a member of Civil Liberties Australia. While AI has a membership of three million in 150 countries and CLA has a somewhat smaller membership of some hundreds, both organisations are performing similar functions in upholding human rights. If eternal vigilance is required to protect hard-won freedoms in our country, then CLA deserves the support of all who live here.*

Indigenous man gets \$100,000 for police assault

The NT Government must pay more than \$100,000 compensation to an Indigenous man wrongfully arrested, imprisoned and assaulted by police.

Supreme Court Justice Dean Mildren found that police had unlawfully apprehended Marcellus Majindi, from Ngiui on Bathurst Island, in April 2010 in Darwin because he seemed drunk.

The court was told Constable Adam Fitzell hit Majindi on the head with a baton, Carolyn Herbert reported on *ABC Radio Darwin*.

Later, when at the Darwin police watch house, Majindi spat at another officer, Senior Constable Wayne Miller. Miller then punched Majindi on the side of the head, while another person held the prisoner down.

Justice Mildren ordered the government to pay Majindi \$90,000 in compensatory damages, and an extra \$5,000 to Majindi on behalf of Senior Constable Miller and \$10,000 for Constable Fitzell. But the judge ruled that Majindi must pay \$3,000 to Senior Constable Miller for spitting at him.

Northern Territory Police have declined to comment on whether any disciplinary action will be taken against the two officers. Territory Ombudsman Carolyn Richards says the Police Commissioner can take disciplinary action against an officer at any time. "The Police Commissioner always retains the right to dismiss a police officer if it is in the public interest that the person be dismissed," she said. "There is no time limit on the exercise of that power." <http://tiny.cc/5gdncw>

Cairns assault: kicked twice to back of head

In a similar case to the one above, a Cairns Qld Police Constable Alex Alexander has been convicted of common assault against a female Aboriginal prisoner in the Cairns watchhouse in September 2011. Magistrate Jane Bentley found that, after taking her to the ground of the watchhouse and restraining her face down in an arm lock and knee to the back, that Alexander without justification then kicked her twice to the back of the head.

To their great credit, CLA believes, watchhouse officer Mark Webb and shift supervisor Sergeant Melanie Flynn both spoke out to back claims that Constable Alex Alexander had struck the grandmother twice with his boot to the head or neck.

Sentencing was due late-April.

AFP airport police are 'window dressing', insiders say

Aviation insiders call them "window-dressing for a nervous public" but the Australian Federal Police insists its airport teams are the frontline against terrorism.

At Brisbane Airport, a team of 104 AFP officers patrol the domestic and international terminals, undertaking an average of 23 walk-throughs each day.

Aviation officials have questioned the need for such a strong permanent police presence at airports, suggesting they were there simply "to make the government look tough on terror".

One senior executive said in his experience, the officers were expensive window-dressing. "When you add the body scanners, the ritual humiliation of old ladies with knitting needles and the farcical air marshals, it all adds up to billions of dollars to prevent what? A politician being called soft on terror, that's what," he said.

Alice Springs Airport discontinued using its AFP force this year but they remain in place at Sydney, Melbourne, Adelaide, Hobart, Perth, Darwin, Canberra, Brisbane, Gold Coast and Cairns airports, costing about \$200 million a year.

By the way, local State police have to respond to airport incidents which are "outside the AFP's jurisdiction," according to the Robyn Ironside's report in the *Courier-Mail*. <http://tiny.cc/dscucw>

Workers win right to dignity over drug tests

Workers at a NSW energy company will no longer have to give urine sample for drug tests, after a ruling by Fair Work Australia.

The arbitrator has ruled in favour of trade unions, which had argued the state-owned Endeavour Energy should use oral swabs for testing instead.

Scott McNamara, from the United Services Union, says Fair Work Australia found urine testing was invasive and unjust. "The tribunal took a view that drug testing is not for social monitoring. Drug testing is to seek if you are fit for work, and that gets down to workplace safety," he said. "What people do on the weekend does not necessarily have a bearing on what they do during the day. It's similar to alcohol consumption."

Jim Casey (*pictured right at centenary celebrations: FBEU pic*) from the Fire Brigade Employees' Union, says it is a matter of dignity. "We'll happily cop random drug and alcohol testing the day that surgeons, lawyers and politicians are required to," he said. "Leaving that aside, the question about urine testing for us is a question about dignity. We turn up to work, we do a dangerous job, we do it well, and I don't think that it's appropriate that we be required to urinate on request from our management." <http://tiny.cc/yhs0bw>



Farmer sues over 'right to be GM-free'

A WA farmer from Kojunup is suing his neighbour for allegedly contaminating his crops with genetically modified (GM) material in a landmark case for organic farming in Australia.

Farmer Steve Marsh last month lodged a Supreme Court writ seeking to recover loss and damages from his neighbour, GM canola farmer Michael Baxter, the West Australian reported.

Mr Marsh claims a GM canola seed blew into his farm in 2010, contaminating his land and causing the partial loss of his organic status.

The National Association for Sustainable Agriculture removed accreditation from more than 70% of his farm, resulting in "significant," losses as he could no longer sell his oats and wheat at the premium price gained for organic produce. <http://tiny.cc/w0yecw>

Vietnamese student died after stunning by police

A little-reported case of a stun gun-associated tragedy highlights the need for better training with the weapon, Geesche Jacobsen reported in the *SMH* last month.

Two junior police officers entered the backyard of a suburban Sefton home and were told to wait while colleagues out front were getting ready to move in with police dogs to restrain an agitated 25-year-old Vietnamese student.

But within 40 seconds Thinh Ba Le had been shot with a stun gun and handcuffed. Minutes later he was dead. Unlike the death of a Brazilian student in Sydney in March 2012, which received global coverage, Mr Le's death in October 2010 went largely unreported.

NSW Coroner Mary Jerram found police had acted "very well" when they were suddenly confronted by Mr Le holding two knives rushing towards them, but the court heard the role the stun gun played in his death was unclear. The coroner said she would write to Police Commissioner Andrew Scipione suggesting better training in the handling of critical incidents. <http://tiny.cc/r0ajcw>

Barrister who failed to pay tax fined \$5000

The Victorian Civil and Administrative Tribunal last month handed down a decision against barrister Mr Nigel Mark Turner stemming from tax offences. Mr Turner pleaded guilty to one charge of professional misconduct brought against him by the Legal Services Commissioner.

The charge arose from failure to lodge income tax returns and business activity statements that resulted in over \$270,000 in unpaid taxes and over \$63,000 in unpaid GST. The conduct related to earnings between the financial years of 1997 to 2006.

Mr Turner was found guilty of professional misconduct, reprimanded, fined \$5,000 and ordered to pay the costs of the Legal Services Commissioner amounting to over \$8,000. Mr Turner must also notify the Commissioner of any failure to comply with his tax obligations within 7 days.

Details: [VCAT decision](#) – Legal Services Board of Victoria, 5 April 2012 <http://tiny.cc/svqjcw>

CLA NT highlights questionable behaviour by Police Commissioner

The Criminal Lawyers Association of the NT (CLA NT) is concerned about police behaviour after two people died in a car crash after a police car chase on Easter Saturday in Alice Springs.

Because of the chase, the NT Coroner will investigate the fatalities of the man and woman as deaths in custody.

Media in the NT were not notified of the accident for 12 hours: in the meantime, police had reportedly told the *ABC* early Sunday morning that there had been no major incidents in Alice Springs overnight. As well, the NT Coroner was apparently not informed for eight hours when normally it is mandatory to inform the coroner as soon as possible.

The president of the CLA NT, Russell Goldflam, says police must be seen to be open and transparent when deaths in custody are being investigated. "Police must do everything they can to ensure there's no suspicion that anything's being kept from public view," he said. <http://tiny.cc/geskcw>

In further questionable behaviour, the NT Police Commissioner, John McRoberts, has apparently broken his own rules by approving police officers' actions before an inquiry is held. A media release quoted him as saying:

"The Police Officers acted appropriately in attempting to stop the vehicle initially before ceasing to follow the vehicle once the fleeing driver sped off at a dangerous speed." – NT Police media release 8 April 2012.

However, the police rules for announcing deaths and coroners' inquiries are very clear that no police officer should justify the actions of police in advance of an inquiry. The rules say:

"The nominated police spokesperson shall liaise with the Coroner's Office prior to the release of any media comment to ensure any subsequent police investigation or Coronial inquiry is not compromised. Furthermore, the police spokesperson is not to express an opinion as to the question of justification of police actions resulting in the death."

Civil Liberties Australia (CLA) is urging the Coroner to investigate the allegations of misbehaviour by the NT Police Commissioner as part of the inquiry into the road deaths. Clearly, no-one – least

of all a police commissioner – should be above obeying the police rules.

Opposition swells to misleading ‘Stronger Futures’ bills

A report in April from the Australian Lawyers Alliance (ALA), after its screening of the film *Our Generation* at Parliament House in February, includes information on tracking the government’s proposed and misleadingly-titled “Stronger Futures” legislation.

You can ‘track’ the three bills by browsing the Bills link on the Parliament House website – <http://www.aph.gov.au/> – and inserting their correct titles:

- Stronger Futures in the Northern Territory Bill 2012
- Stronger Futures in the Northern Territory (Consequential and Transitional Provisions) Bill 2011
- Social Security Legislation Amendment Bill 2011

The ALA is supporting the directors of *Our Generation*, in partnership with ANTaR, who have produced a national campaign against the legislation, ‘*Stand for Freedom*’, accessible at www.standforfreedom.org.au

ACT Greens want open-slayer police chase policy curtailed

The ACT Greens Police spokesperson (and Speaker of the ACT Legislative Assembly) Shane Rattenbury has revealed that 6 of 10 submissions support his proposal to trial a new police car chase policy in the ACT for 24 months.

The policy would basically reverse the current pro-chase assumptions of police.

“The main thing we have learnt is that once you take the time to read through the evidence and give it some thought, most people conclude that a trial of a new policy makes sense,” Mr Rattenbury said. “The more you read the clearer it becomes that chases put innocent road users in danger for the sake of relatively minor traffic infringements. Most people conclude that a better balance can be struck where police only chase for serious crimes that justify the risk.

“Currently in the ACT 9 out of 10 pursuits are for traffic related infringements or suspected stolen cars, which means we are endangering life for these relatively minor offences. With six recent deaths on Australian roads involving police pursuits this is a serious issue that we need to discuss. I am hopeful this work of the Greens will lead to a trial at some point in the future.”

A copy of the report on public consultation is available by contacting the Rattenbury office on 02 6205 0005 or by visiting www.act.greens.org.au/a-community-discussion-on-police-car-chases

Chase officer charged with dangerous driving causing death

The officer driving a police car which killed a Perth mother-of-three, 50-year-old Sharon D’Ercole, after a crash at an intersection in April has been charged with dangerous driving causing death.

WA Police investigators charged a 27-year-old first class constable a week after the fatal accident. The Gang Crime Squad officer allegedly ran a red light while attempting to stop a stolen Audi sedan, but had not been given radioed approval for the high-speed chase.

WA Police emergency driving policy says officers cannot continue a pursuit without permission from the Police Operations Centre duty inspector. They must also be an approved pursuit driver and not exceed 140km/h.

The police vehicle collided with a Toyota Corolla at an intersection in suburban Dianella. It has been reported that officers sought permission to engage in a pursuit at 11.05am but a minute later they called for an ambulance.

The officer charged will appear in the Perth Central Law Courts on 22 May. He has been stood aside from operational duties.

“I class pursuits as a lethal force option...it’s a little bit like drawing a gun, it could result in someone being...killed,” WA Police Commissioner Karl O’Callaghan said in commenting on the case. <http://tiny.cc/obz1cw> <http://tiny.cc/p2z1cw>

Coroner calls for non-flammable pepper spray

A Victorian coroner wants police in that state to use pepper spray that won't burst into flames. Jane Hendtlass' recommendation follows an inquiry into a bizarre death where police sprayed a mentally ill man who had doused himself with an accelerant and was flicking a cigarette lighter, threatening to set himself alight.

A policeman sprayed the man with capsicum spray in a bid to get him to drop the lighter. But a spark from the lighter ignited the contents of the pepper spray, which then ignited the accelerant on the man. He died the next day.

Police involved in the incident were unaware the pepper spray was flammable. <http://tiny.cc/i7z4cw>

Australian briefs

ALRC to review copyright: The Australian Law Reform Commission will review the operation of copyright in the digital environment "to ensure the *Copyright Act 1968* continues to be effective in the 21st century", according to AG Nicola Roxon. Stakeholders were given the chance to comment on the proposed draft terms of reference until 27 April 2012...that is, for about two weeks. Too late now! Info is at: <http://tiny.cc/3kdlcw>

CETS targets child porn viewers: The federal government is spending \$4.58 million to expand a Child Exploitation Tracking System to all police forces in Australia after a trial by Queensland, the AFP and CrimTrac in 2011. CETS lets police compare seized child exploitation images against a national database of material. The AFP has reportedly arrested 850 offenders for 1123 charges related to child sex offences in the past six years – Minister Clare media release 02 Apr 12.

ASIO should be accountable – ex-ombudsman: Former ombudsman Allan Asher says ASIO's security rulings against asylum seekers should be open to review. He says it is a fundamental part of the legal system to allow appeals and scrutinise decisions. "To have unreviewable decisions for which no reasons are given is just way out of kilter with everywhere in the world, and it just looks like Guantanamo Bay," he said. CLA believes reasons for all ASIO decisions – such as the one which expelled American activist Scott Parkin in 2005 – should be released publicly, at least to an outside monitoring body made up of "non-spook" citizens. <http://tiny.cc/l2x5bw>

Murder appeal lodged: Susan Neill-Fraser has lodged an application to appeal her murder conviction in the High Court. The 57-year-old was sentenced to 23 years' jail with a 13-year non-parole period after being found guilty of killing her physicist partner of 20 years, Bob Chappell. Mr Chappell disappeared from the couple's yacht *Four Winds* off Battery Point, Hobart, on Australia Day, 2009, and his body has never been found. <http://tiny.cc/bz6xcw>

CLA's main activities for March:

LETTERS from members:

Guarantee of free speech lost in the High Court

Dear *CLArion*: I am writing to respond to the article (*CLArion* April 2012) about Lex Wotton and the loss of his/our implied Constitutional right to free speech. The High Court decision is a joke, surely?

The State and its corrupt informers and officers can frame an innocent person, sentence the framed person to hard labour for life and then, to top it off in the aftermath of many years of extreme abuses behind closed doors/on the inside for which a civilian would be harshly penalised, release the person on to parole and order the innocent person be gagged.

Imagine being set up, falsely accused, framed and being sentenced to Life then seeing all your abusers not be held accountable, and you are then gagged for the best part of four decades?

But then the evidence is, who actually cares? From observation – close at that – I would argue that there is not one single solitary person who gives a hoot. That's the difference between speech and action.

One represents injustice and the condoning of such abuses and the other which is non-existent represents what would otherwise be a stand for all that is just and right and true - which of course we can all let Lex know is merely an ideal. He is gagged: I am gagged. The law and policy makers who say gag orders are legal might like to reflect a moment on the absence of their own moral platforms and the criminality they dish out to others.

Lex Wotton is black. I may not be 'black' but I suffer the same abuses handed down by the State who silences him for the benefit of themselves, his abusers. So much for the Australian Constitution which, sadly even in the face of injustice, I have respected – what a lie, what a farce, is the “implied guarantee” of free speech it is supposed to contain.

I seem to remember a prisoner being falsely accused of the murder of a young Rockhampton woman who was not even dead! A bit like being jailed for stabbing someone who has not been stabbed. Should Lex Wotton even have been in prison in the first place? – AJ, CLA member, Rockhampton.

'All-costs win' is a loss for rule of law

Noel McLaughlin (Letters 3 April 2012 *Canberra Times*) misrepresents (columnist) Jack Waterford's position on the AFP. Jack was not criticising the personal bravery of individuals. Rather, what I understood him to be saying is that the AFP have been encouraged, both by sweeping anti-terrorism legislation, and the enthusiastic and uncritical support of a previous Attorney-General, to use their authority and resources inappropriately in a 'win at all costs' way. Little consideration seems to have been given to ensuring that those charged with enforcing the law do so in accordance with what the law actually says, and not what they think it says. What's required is an independent, transparent and broad ranging review of federal law enforcement culture. One term of reference should be directed towards restoring equilibrium between individual rights and general community safety. Such a review might be conducted by the Australian Commissioner for Law Enforcement Integrity, in conjunction with other contemporary matters.

– Don Malcolmson, CLA member, Canberra

Letters out:

- To Attorney-General Nicola Roxon, asking for annual liberties/rights award to honour William Roy Hodgson, the Australian who was one of nine drafters of the Universal Declaration of Human Rights (see article on CLA website);
- To Prime Minister Julia Gillard, asking for response to the CLA's 2011 and 2012 Australia Day letters – no response to either yet.

Media:

Article: Dead to rights: how an Aussie hero framed the world's conscience (Bill Rowlings) on newmatilda website: <http://newmatilda.com/> ;

Article: Fear raising during 10 years of anti-terrorism, *Dissent*, Autumn-Winter 2012 edition: <http://www.dissent.com.au/>;

Comment: Smokers' rights in the open air, for Women's Health magazine (Tim Vines, BR);

Comment: Privacy in 'bmag', Brisbane magazine (TV).

Comment: Roadside drug testing for Monash Journalism student (TV)

Comment, not published, on the equal application of the law to all uniformed (and non-uniformed) 'enforcement' officers (TV).

- email secretary@cla.asn.au if you would like a copy of any of these.

Meetings/lectures:

- Basil Fernando, Asian Human Rights Commission, at ACFID, see story below and web report;
- Prof William Buss, visting from USA, on Australian-US Constitutions, Senate lecture (disappointing);
- Seminar by ASIC on Registration of Business Names (useful for 7-year-olds)
- Seminar series CIPL-ANU: UN HR Committee and the right to enter ones' own country, Jennifer Cavenagh, AG's Dept
- Bernard Keane, *Crikey*
- Margaret Reynolds, former Senator
- Simon Bronitt, Director of the ARC Centre of Excellence in Policing and Security (CEPS)

Grant application:

Under Australia's Human Rights Framework: Education grants - for course on civil liberties for U3A members

Submissions:

- Treaties Ratification Bill 2012;
- Supplementary submission to Senate Committee on airport screening: querying lack of risk assessment which is mandated by Australian Government security policy.

Emerging ssues:

Human Rights integration into sustainable development – UN's Navi Pillay;

National guidelines for police car chases;

NSW Ombudsman – scrutiny of police powers;

Proposed ACT Supreme Court security upgrade, including "Eichmann" dock;

Determining "outcomes" of the meeting of the Standing Council on Law and Justice (SCLJ - the SLUDGE Council) held on 12-13 April 2012 in Canberra, AC

International

Latin America calls for new world drug policy

A historic meeting of Latin America's leaders, attended by US President Barack Obama, heard from serving heads of state that the war on drugs had been a failure and that alternatives to prohibition must be found.

The Summit of the Americas, in Cartagena, Colombia last month, was seen by foreign policy experts as a watershed moment in the redrafting of global drugs policy in favour of a more nuanced and liberalised approach.

Otto Pérez Molina, the president of Guatemala, who as former head of his country's military intelligence service experienced the power of drug cartels at close hand, pushed his fellow Latin American leaders to use the summit to endorse a new regional security plan that would see an end to prohibition. In the *Observer*, Pérez Molina wrote: "The prohibition paradigm that inspires mainstream global drug policy today is based on a false premise: that global drug markets can be eradicated." <http://tiny.cc/jz8fcw>

Ex-MI6 man says war on drugs has failed

The "war on drugs" causes organised crime, a former deputy head of MI6 says in a study published by the venerable thinktank, the International Institute for Strategic Studies.

"Drugs have been the commodity which more than any other has primed the pump for the massive rise in organised criminality witnessed since the end of the cold war", writes Nigel Inkster, former MI6 director of operations and intelligence, and author, with Virginia Comolli, of *Drugs, Insecurity and Failed States* published by the IISS last month.

Drugs still account for about 50% of the profits of organised criminal groups even though many have diversified into other lucrative activities such as people-smuggling, counterfeiting, and cyber crime, they say. In principle, therefore, collapsing the black market in drugs ought to have a significant beneficial impact on levels of violence and criminality.

The IISS study is the result of a growing realisation that levels of violence fuelled by narcotics are getting worse, and growing pressure from Latin America for a rethink of current laws prohibiting drugs. It quotes a UN report which warned in 2009: "Collusion between insurgents and criminal groups threaten[s] the stability of West Asia, the Andes, and parts of Africa, fuelling the trade in smuggled weapons, the plunder of natural resources and piracy".

While demand for heroin and cocaine appears to be levelling off in the developed world, the authors point out that Russia and Iran now have substantial populations of heroin addicts, possibly as high as three million in Iran.

Amid all the descriptions and comments on the violence, instability, and corruption in Afghanistan, very few mentions drugs. Yet Afghanistan is the source of 85% of the heroin consumed on the streets not only of western Europe, but of Russia and Iran, along with the rest of the world.

<http://tiny.cc/g3l0cw>

Deeper understanding needed to address violations

Torture, detention and rape are used as instruments of political and social control: to reduce or solve these injustices, we need better information on the varied political realities of the countries in which they are endemic.

This was the central message to representatives of Australian human rights organisations by Basil Fernando, Director of Policy and Program Development, Asian Human Rights Commission last month at the Australian Council for International Development in Canberra.

The AHRC was founded in 1986 by a prominent group of jurists and human rights activists in Asia. It is an independent, non-governmental body, which seeks to promote greater awareness and realisation of human rights in the Asian region, and to mobilise Asian and international public opinion to obtain relief and redress for the victims of human rights violations.

Based in Hong Kong, and employing country specific nationals, the AHRC covers 12 SE Asian countries. Mr Fernando stressed the need to promote appropriate legal and administrative reforms, particularly in judicial and police practices. When torture is part of the system and no adequate judicial system exists to address abuses of human rights, systemic change is needed, he said.

He described the situation in Sri Lanka, where a three-decade civil war was bloodily concluded in May 2009. The rule of law did not apply to the Tamils and provided them with no protection, despite laws which supposedly were shields. The President, under Article 35.1 is above the law, holding supreme power.

Mr Fernando saw positive human rights developments occurring in Hong Kong and South Korea, with Indonesia making progress. China had improved as compared to a decade ago, though Tibet was firmly under military control, he said. Cambodia's war crimes tribunals had made little impact on current practices. In Pakistan, the Supreme Court had played a significant role in asserting human rights.

He urged Australian NGOs to encourage Asians in Australia to join in working towards better implementation of human rights principles in their countries of origin.



Photo shows Mr Fernando with Dr Kristine Klugman, President of Civil Liberties Australia.

Regs rule, OK?

"The rise of the regulation has been meteoric," David Rowntree wrote in *The (London) Guardian* last month (echoing the experience in Australia).

"In 1948, the first year for which I can find statistics, (the UK) parliament passed 24 statutes, while the government introduced 44 sets of regulations.

"Last year, parliament passed 25 statutes, but the number of regulations had risen to 3,133, ranging from the sublime (the Wine Regulations 2011) to the ridiculous (the Health and Social Care Act 2008 (Primary Dental Services, Private Ambulance Services and Primary Medical Services) (Regulated Activities) (Transitory and Transitional Provisions) (Amendment) Order 2011).

"The overwhelming majority of British law is now made by regulations, dreamed up by whoever happens to be sitting in the ministerial chair at the time, and then simply imposed on the nation with only the clump of a rubber stamp to mark the occasion.

"I think that's the really interesting legal story – a coup d'état by government, wresting control of the country from parliament." <http://tiny.cc/4072cw>

Does any CLA member know of a similar count for Australia?

Human genes can't be patented: US Supreme Court

The US Supreme Court has thrown out a lower court ruling allowing human genes to be patented.

The court overturned patents belonging to Myriad Genetics Inc of Salt Lake City on two genes linked to increased risk of breast and ovarian cancer. Myriad's BRCA Analysis test looks for mutations on the breast cancer predisposition gene, or BRCA. Those mutations are associated with much greater risks of breast and ovarian cancer.

The court's decision sends the case back down for a continuation of the battle between the scientists, who believe that genes carrying the secrets of life should not be exploited for commercial gain, and companies that argue that a patent is a reward for years of expensive research that moves science forward.

In 2010, a federal judge ruled that genes cannot be patented. US District Judge Robert Sweet said he invalidated the patents because DNA's existence in an isolated form does not alter the fundamental quality of DNA as it exists in the body nor the information it encodes.

But last year, a divided panel of the federal appeals court in Washington that handles patent cases reversed Sweet's ruling. The appeals court said genes can be patented because the isolated DNA has a "markedly different chemical structure" from DNA within the body.

The Supreme Court threw out that decision in late March, and sent the case back to the lower courts for re-hearing. The court said it was following its own precedent in another case recently in which it ruled that the laws of nature are unpatentable. In that case, the court unanimously threw out patents on a Prometheus Laboratories test that could help doctors set drug doses for autoimmune diseases like Crohn's disease.

The US Patent and Trademark Office has been awarding patents on human genes for almost 30 years.

Testing for mutations in the 'BRCA' genes has been around for just over a decade. Women with a faulty gene have a three to seven times greater risk of developing breast cancer and a higher risk of ovarian cancer. Men can also carry a BRCA mutation, raising their risk of prostate, pancreatic and other cancers. The mutations are most common in people of eastern European Jewish descent. <http://tiny.cc/2bxjcw>

Flawed FBI lab work results in man being put to death

US Justice Department officials knew for years that flawed forensic work might have convicted innocent people nationwide, but prosecutors failed to notify defendants or their lawyers even in many cases they knew were troubled.

Officials started reviewing the cases in the 1990s after reports that sloppy work by examiners at the FBI lab was producing unreliable forensic evidence in court trials. Instead of releasing the

findings, they made them available only to the prosecutors in the affected cases, Spencer Hsu reported in the *Washington Post* last month.

As well, the Justice Department reviewed only a limited number of cases and focused on the work of one scientist at the FBI lab, despite warnings that problems were far more widespread and could affect potentially thousands of cases in federal, state and local courts.

The result is hundreds of defendants remain in prison or on parole for crimes that might merit exoneration, a retrial or a retesting of evidence using DNA because FBI hair and fibre experts may have misidentified them as suspects.

In one Texas case, Benjamin Herbert Boyle was executed in 1997, more than a year after the Justice Department began its review. Boyle would not have been eligible for the death penalty without the FBI's flawed work, according to a prosecutor's memo. <http://tiny.cc/7huwcv>

International briefs

Strip-search for all in USA: The US Supreme Court ruled last month that jails do not violate privacy rights by routinely strip-searching everyone, even people arrested on minor traffic offences. By a 5-4 vote on conservative-liberal ideological lines, the court ruled that privacy rights involving the searches were outweighed by security concerns by jails about a suspect hiding drugs, weapons or other contraband. The decision could have broad impact as nearly 14 million Americans spend time in jail or prison every year, including an estimated 700,000 people in jail for less serious misdemeanor offences. <http://tiny.cc/piw6bw>

Who will keep watch on private police? The UK watchdog, the Independent Police Complaints Commission, wants the power to investigate all staff who carry out police duties to preserve public confidence. The IPCC has no automatic power to interview or discipline private staff, even if misconduct or individual failures contribute to a death. Private UK firms are being invited to take over some responsibilities of the West Midlands and Surrey police forces, including investigating crimes, managing intelligence, patrolling neighbourhoods and collecting CCTV footage. More than 60 private firms attended the recent "bidders' conference" for contracts, with critics questioning the suitability of some companies showing interest. <http://tiny.cc/z3i5cw>

DATES

13–14 June, Sydney: Anthropology – Culture and Rights: scepticism, hostility, mutuality: exploring the relationship between the concept of culture and the concept of human rights, U. Sydney. Info: <http://sydney.edu.au/news/arts/2247.html?eventid=9138>

14-15 June, Sydney: Crime prevention and communities: Social and environmental strategies for safer neighbourhoods – Sydney Convention & Exhibition Centre. <http://tiny.cc/j1xa8>

15 June, Melbourne: Annual Dinner, HRLC/PILCH: keynote speaker Les Malezer, Co-Chair of the National Congress of Australia's First Peoples. Further details: rightsagenda@hrlc.org.au

12-13 July, Hobart: The ANZ Critical Criminology Conference 2012, Faculty of Arts, Sandy Bay Campus, U. Tas. Email: R.D.White@utas.edu.au; Telephone: 03 6226 2877

20 July, Melbourne: Annual Castan Centre human rights law conference, speakers include Gareth Evans, Susan Ryan. Spring St conference Centre, 1 Spring St. Info: castan.centre@monash.edu

6-8 Aug, Canberra: CIPL Workshop, ANU: Connecting International Law with Public Law, Engendering governance: from the local to the global. Info: Katharine.Young@anu.edu.au

27-31 Aug, Rarotonga (Cook Is): 43rd Pacific Islands Forum. <http://tiny.cc/t24en>

28 Aug, Adelaide: National Police Accountability Network meeting (see item below)

29-31 Aug, Adelaide: National Community Legal Centres conference 'Weathermakers...Creating a Climate of Change' conference. Web: <http://tiny.cc/sk87bw> Ph: 07 5580 8 677
Email: naclc2012@conferenceonline.com.au

6 Sept, Sydney: Corruption Prevention Network 2012 forum. <http://tiny.cc/1515bw>

20-22 Sept, Canberra: Public Law Weekend (including International Law Day) at ANU:
Law's Challenge to Democracy – Democracy's Challenge to Law. Details: cipl@law.anu.edu.au

20 Sept, Canberra: Annual Kirby Lecture on International Law at ANU to be presented by former International Court of Justice Judge Christopher Weeramantry, now at Monash U.

21 Sept, Canberra: 15th Geoffrey Sawer lecture at ANU: to be presented by Professor Adrienne Stone, University of Melbourne, constitutional law expert currently engaged on a four-year project researching "Freedom of Expression in Democratic States".

13-14 December, Sydney: international workshop on '[States of Surveillance – Counter-Terrorism and Comparative Constitutionalism](#)'. Gilbert and Tobin Centre, UNSW. Info: f.davis@unsw.edu.au

2013:

12-14 Mar, Brisbane: NatStats Conference, "A better informed Australia: the role of statistics in building the nation". <http://blog.abs.gov.au/Blog/natstats.NSF/>

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)

ENDS ENDS ENDS