

Airport scanners set to embarrass breast/gender groups

'Porn' on the 1st of July...just to keep our American friends happy

Full body scanners which start operating at Australian airports this 1 July will identify prosthesis wearers, including breast cancer survivors, and transgender passengers.

Earlier this year the federal government announced that the new scanners to be installed in eight international terminals would show only a generic stick figure image to protect passengers' privacy. But documents released under FOI show that, in meetings with stakeholders, Office of Transport Security representatives confirmed the machines would detect passengers wearing a prosthesis.

Breast Cancer Network Australia has alerted its 70,000 members that prosthesis wearers should carry a letter from their doctor and speak to security staff before passing through the body scanner to ensure discreet treatment. While breast implants would not be detected, prosthetic breasts used by those who have had a mastectomy will be. During the meetings, OTS officials confirmed the situation would also apply to transgender passengers, the *SMH* reported. <http://tiny.cc/xs5pfw>

The scanners – forced on the Australian Government by the US Administration – won't achieve their aim, which is to stop a copycat "underwear" bomber. "They are simply impractical and literally a waste of time, as well as being privacy-invasive," CLA's CEO Bill Rowlings said.

"Nobody, not even the Australian Dept of Transport, believes these scanners will make people feel safer and more comfortable. It's another example of reactive stupidity by government, which reinforces the belief that terrorists are continuing to win in interrupting the ordinary lives of Australians."

Americans celebrate the 4th of July as their Independence Day: in future, Australia can celebrate the 1st of July as the day we declared that we depend on instructions from the USA for how Australians live our lives.

Government fails two groups in one sitting

Refugees drownings can be counted, and they will be. But Aborigines squeezed into a half-life without their liberties and rights make for no such dramatic statistics.

The Parliament of Australia failed both groups late in June.

Refugee rules are in turmoil, as the spotlighted parliament itself was also for two days, before the government decided to park its political problem briefly by the customary pea and thimble trick of forming a committee.

But Australia's Aborigines in the Northern Territory lost their rights in virtual silence, in the early hours of the morning, without fanfare and out of sight of national media.

Parliament rushed through new legislation, deliberately erroneously labelled "Stronger Futures".

The new law replaces the Australian Government's intervention powers in the NT, and allows the government to dictate how Aborigines spend their money, and what they can and cannot buy.

Instead of 'stronger futures', it is 'stolen present'. The law, which would not pass parliament if it related to any Australian State, once again turns Aborigines into second-class citizens in their own country.

Instead of the bad old days of stealing children, the government now takes away the rights of Aborigines to live their lives as they choose.

If the "NT Intervention" – the dramatic, last gasp bid of a paralysed Howard government to regain respectability in Aboriginal affairs, continued by the incoming Rudd government – had been a success, the present Gillard government may have some justification for laws along the lines just passed which, in practical terms, selectively target one racial group in one territory.

But the NT Intervention has failed in at least 50% of cases, even giving the government the benefit of the doubt, CLA says.

An Aboriginal leader from the NT community where the Federal Government intervention began is calling on all Indigenous Territorians to protest against the Stronger Futures legislation, the ABC has reported. Vincent Forrester says the situation in the community of Mutitjulu, south-west of Alice Springs, has deteriorated since the Intervention and will only get worse under the new laws.

"I am calling on all Aboriginal Territorians for civil disobedience," he said. "It must take place because they are taking our rights away and we are supposed to be Australians." <http://tiny.cc/yqgngw>

New National Liberty Tree thrives in its premier position!

CLA members will be pleased to know that CLA's National Liberty Tree at the National Arboretum in Canberra is showing new growth.

The Kurrajong (*brachychiton populneus*) is ideally placed to be the focus for civil liberty and human rights events for a century to come. If members have ideas about the kind of happenings we could stage, please contact us.

The Liberty Tree is near the Arboretum's education/information/food centre, 10m from the main children's playground...and a tier above the tree planted by the Prime Minister, Julia Gillard.

The PM's tree – guarded by wooden structure and plastic covering – can be seen at left in the photo, taken in mid-June, in which CLA President Dr Kristine Klugman (and her dog) are seen checking that all is well.



ODD SPOT:

Yachties may be banned from the lake below the sea

The Arabana people are rejoicing after their native title rights to the Lake Eyre area in central Australia were acknowledged recently by the Federal Court...but members of one local club fear the decision may lead to their traditional, common law rights being drained from under them.

Lake Eyre Yacht Club members try to sail on the lake on the rare occasions when it fills (about once every 10 years).

One arm of the SA Government, the national park bureaucrats, is trying to ban the yachties, while other state authorities – maritime and transport – provide formal boating rules under the SA Harbours and Navigation Regulations 2009...which include coverage of Lake Eyre!

Club commodore Bob Backway, who is a retired technical officer with homes in both 'nearby' (about 100km away) Marree and Melbourne, claims the trailer-sailer and small catamaran yachties have a common law right to sail on the transient Lake Eyre, which is 15m below sea level.

Despite his claim, SA's Environment Department last year hit him with a \$345 fine for sailing without a permit, but he has refused to pay. The matter of prosecution is still up in the air.

"I told them I was prepared to go to jail over it," Bob said. "Lake Eyre is a national park: national parks, and the waterways in them, are for all Australians to enjoy equally. We are a multicultural society, and no one culture can own the public estate."

The Federal Court confirmed the Arabana native title over the Lake Eyre area – or Kati Thanda, as Arabana people call the lake – and surrounding desert country, a total of more than 70,000 sq km. In return, the Arabana agreed to give up their claim over the township of Marree, which has a population of 70.

Aaron Stuart, chairman of the Arabana Aboriginal Corporation, has been quoted as saying Lake Eyre is "like Uluru" (Ayers Rock) to his people who believe that their ancestral spirit, Warrina, lives

in the lake and is disturbed by boats. There are other Arabana people who are happy for yachties and others to enjoy the lake...whenever Aquarius deigns to pour down the waters.

Bob says the rights of all Australians also reside in the lake, and that it is no-one's right to exclude yachties, swimmers, kids who wade in the shallows, or bird lovers – provided they've paid their Lake Eyre park permits.

Who would have thought that the High Court may eventually have to rule on maritime law as it applies to the dead centre of Australia!

Have your clicked on to the CLA website recently: the above, and a host of other interesting articles, can be seen and read at: <http://www.cla.asn.au/>

Chaplains not blessed by High Court

The High Court of Australia last month ruled that the federal government's funding of the Liberal-initiated and Labor-continued school chaplain program is invalid.

The case, Ronald Williams v the Commonwealth of Australia & Others, involved the validity of the National School Chaplaincy Program.

A 6-1 majority of the HC ruled that payments made by the Commonwealth under the chaplaincy funding agreement were not supported by s61 of the Constitution – that is the agreements and payments under the scheme were beyond the executive power of the government.

However, the HC ruled unanimously against Mr Williams' challenge on the basis that the chaplaincy scheme involved a "religious test", which is prohibited under the Constitution, nor did the chaplains "hold office...under the Commonwealth". <http://tiny.cc/y656fw>

CLA says...All things shall come to PASS

One thought of mischievous import has crossed our minds since the Williams decision in the High Court called into question federal funding allocations. The Commonwealth never introduced a legislative 'Charter of Human Rights', only adopting a non-statutory 'Framework for Human Rights'. Under the framework, the Attorney-General's Department funds various NGOs and community groups to deliver human rights information. Now, those payments might be unlawful following the HC decision. One way to fix it...PASS the bill of rights the government shied away from!

Native title set for double review

Parliament is to consider new legislation – and there is to be a wholesale review of bodies operating in the space – in relation to native title.

AG Nicola Roxon said the aim of new law was to improve the flexibility and scope of Indigenous Land Use Agreements, create clear requirements for good faith in negotiations, and allow agreements about historical extinguishment of native title in parks and reserves.

"We will clarify that income tax and capital gains tax will not apply to payments from a native title agreement," she said.

At the same media conference, Indigenous Affairs Minister Jenny Macklin announced the terms of reference for a review of native title.

The review will examine not only native title representative bodies and native title service providers, but also consider the role and impact of other servicing native title groups. – Roxon/Macklin media release, 6 June 12

Possible submissions:

CLA has been asked to make submissions on the following Bills/inquiries:

- Workplace bullying (House of Reps, Standing Committee on Education/Employment <http://tiny.cc/tb69fw> – closes 29 June, but late subs may be accepted)

- Gathering and use of criminal intelligence (Joint Cttee on the Aust. Comm for Law Enforcement Integrity - JC ACLEI: <http://tiny.cc/5l6fgw>)
- Integrity and corruption risks of overseas Commonwealth enforcement agency activity (JC ACLEI, see above) <http://tiny.cc/ss6fgw>
- Provocation (partial defence) Inquiry – NSW Parliament, closes 10 Aug: <http://tiny.cc/n759fw>
- Public Interest Disclosure (ie, “whistleblowing” – ACT Legislative Assembly) -

If you would like to be lead author of, or contribute to, any of the submissions above, please email the CEO as soon as possible: secretary@cla.asn.au

Military court likely to get the ayes right, this time

A newly-introduced *Military Court of Australia Bill 2012* aims to set up a Military Court of Australia under Chapter III of the Constitution – that is, as a proper court under Australia’s Constitution.

The move follows the half-hearted, ham-fisted attempt by the Howard Government to establish a military court: the High Court ruled the Howard ‘court’ to be unconstitutional, throwing military justice into disarray for three years.

“Military Court judges will be able to sit overseas and on military bases, so the court will be flexible enough to meet the needs of the ADF,” Defence Minister Stephen Smith said.

Uniformed legal officers will continue to prosecute and to defend Defence employees charged with a service offence. Judges must, by virtue of their training or experience, understand the nature of service in the ADF – but cannot be serving ADF members or reservists, due to the need for judges to be independent from the chain of command.

The *Military Court of Australia (Transitional Provisions and Consequential Amendments) Bill 2012* will provide arrangements for transition to the new Military Court and includes additional enhancements to the Australian Defence Force military discipline system, not directly associated with the establishment of the Military Court.

Treaty approval may help protect ‘jailed’ refugees...and ‘paved’ refugees

Refugees held in jails – “detention centres” – in Australia may now have slightly more protection.

Parliament’s Treaties Committee has approved the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment done at New York on 18 December 2002. It boosts protection for people detained and can make the jailers more accountable for the conditions of the ‘prisons’.

Treaties Committee chair, Kelvin Thomson (pictured), said “the committee has recommended that the Australian Government works with the States and Territories to implement a national preventive mechanism as quickly as possible.”

“Institutions stand to benefit from improved risk management and regular monitoring as cost savings flow from fewer cases of litigation and investigation arising from allegations of ill treatment during detention,” Mr Thomson said.

‘Paving paradise...’ <http://tiny.cc/57b8fw>

Showing the breadth of the Treaties Committee’s undervalued and unappreciated work, it also approved another five treaties including amendments to the Convention on the Conservation of Migratory Species of Wild Animals to include the eastern curlew, which migrates around the world annually.

“Like many other migratory shorebirds it is highly vulnerable to areas of its habitat being paved over for industrial or housing developments,” Mr Thomson said. “It and other shorebirds have declined from areas in the Yellow Sea in Korea which they used to use as feeding areas, and I hope that all countries which are party to this convention will take their responsibilities under it seriously”, Mr Thomson said.

Treaties Committee Report 125: <http://tinyurl.com/8xcqny8> or phone (02) 6277 4002.



What's good for the geese should be good for the High Court ganders

The High Court of Australia has changed the rules it operates under...but the court does not have to make its rules human rights-friendly.

This extraordinary situation is explained in the HC's announcement that new rules apply from today, 1 July. The new rules give state solicitors-general more time to lodge written submissions when intervening in a case, and also update other HC procedures.

The HC says: "Section 9 of the Legislative Instruments Act 2003 provides that Rules of Court made for the High Court are not legislative instruments for the purposes of that Act. The *Human Rights (Parliamentary Scrutiny) Act 2011* does not apply to any such Rules of Court and no statement of compatibility for the purposes of that latter Act is included in the Explanatory Statement."

The HC should certainly be above political interference...but its procedural rules should be subjected to scrutiny, because they can have a major bearing on how accessible justice is to the Australian people. CLA calls on the Chief Justice, Robert French, to voluntarily issue a statement of human rights compatibility when it amends its rules, and to set an example for other courts, such as the Federal Court, the Family Court and the Federal Magistrates Court – from a media release, AG Roxon and Smith, 21 June 2012.

New inquiry looks at international risks

The Joint Committee on the Australian Commission for Law Enforcement Integrity is inquiring into corruption risks around the international operations of Commonwealth law enforcement agencies, including:

- Australian Federal Police;
- Australian Crime Commission;
- Australian Customs and Border Protection Service;
- Australian Taxation Office;
- Australian Transaction Reports and Analysis Centre;
- CrimTrac;
- Australian Quarantine and Inspection Service; and
- the Department of Immigration and Citizenship.

http://www.aph.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=aclei_ctte/criminal_intelligence/index.htm

Bail review proposes return to presumption of innocence

A review of the NSW Bail Act has reported that there should be a presumption in favour of bail for all offences apart from serious sexual assault and violence.

Because existing laws involve a presumption against granting bail for many offences, prisons are filling as the state abandons basic principles of justice, such as the presumption of innocence.

The state government requested the Law Reform Commission review, conducted by retired judges Hal Sperling and James Wood, in response to inconsistencies in the existing bail act which the former Labor government toughened, resulting in a dramatic increase in the numbers in prisons.

"In recommending a presumption in favour of bail, we do not envisage that people who present a serious risk of absconding, committing serious crime, or threatening another's safety should be released," the report says. <http://tiny.cc/3rq3fw>

Beak speaks out about cells crisis

NT chief magistrate Hilary Hannam has criticised the availability of cells at Darwin's Magistrates Court, saying the situation is at crisis point, particularly regarding children.

She says the holding cells are "dreadful" and has called on the NT Government to upgrade them.

"It has in recent times really reached what you'd have to call crisis point," she said. "There have been occasions where we're had up to 45 people in custody, we only have nine cells."

She said children as young as 10 sometimes had to wait most of the day in the crowded cells.

<http://tiny.cc/2mn3fw>

NT gears for election

With the NT Legislative Assembly election writs out on 6 August for a Saturday 25 August election date, interest groups are ensuring their individual agendas clamour for attention.

But the overall dilemma in the NT is the "punishment" mentality that over-rides a preferable liberties and encouragement approach, CLA believes.

Instead of enabling the children and the people of the NT to flourish, the attitude of governments, territory and federal, appears to be to put as many constraints and restrictions in place as possible. In relation to the law, this translates to locking people up for increasing periods (including children) and confiscating their assets wherever possible.

Across the board, people are being de-powered and thwarted, instead of being empowered to improve their lives and elevate their aspirations. Where the people do need help, because of illness, the wrong institutions are being brought to bear (see next story) because government (parliament and bureaucracy) thinking is based on a negative approach.

If the next government, opposition and independents would take a positive, proactive approach to running the territory – perhaps only for the first year, as a trial – fresh air along with fresh thinking might sweep through the alabaster-white columns of the parliament building.

Such a novel approach would comprise a powerful examples for Territorians in the first instance, and possibly for the nation and its federal parliament also. The NT is well placed, in the quality of its relatively young people and the investment opportunities in the people themselves and in industry and business, to show a lead to the rest of Australia as it matures into readiness to become a state of its own.

Territorians vote on Saturday 25 August for a parliament of 25 seats in an election with instant run-off voting in single member electorates. The poll timetable is:

- **Issue writ:** Monday 6 August
- **Close roll:** Wednesday 8 August
- **Close nominations:** Friday 10 August, 12 noon
- **Mobile polling starts:** Wednesday 15 August
- **Election day:** Saturday 25 August

Mentally impaired held in NT jails indefinitely

Medical experts want the NT Government to stop jailing mentally impaired people indefinitely.

Four men are held in the Alice Springs jail without being convicted of a crime and/or with no release date because they have been deemed "unfit to plead". There is nowhere appropriate to hold them, and nowhere where they can get proper treatment for their mental health problems.

Christopher Leo, 31, is being held in the maximum security section of Alice Springs prison because the NT has no other facilities for him. Apparently born with foetal alcohol syndrome, he is coming up to his fifth year in prison.

Mr Leo was jailed after assaulting a woman in 2007. Two years later, Justice Brian Martin conducted a review hearing in which he strongly criticised the government for not providing an alternative to prison. If Mr Leo had been able to plead, Justice Martin said, he would have received a 12-month sentence only for the assault.

"Custody in jail is quite inappropriate for people like Mr Leo: they cannot receive the necessary treatment and support that should be available to them. The need for that facility is acute," he said.

The Territory's Deputy Chief Minister, Delia Lawrie, told ABC TV *Lateline* that six people were deemed unfit to plead in NT jails. Another three were in community care with 24-hour supervision.

Ms Lawrie said a new complex, to house eight adults and eight young people, would open in Alice Springs in 2012. There would be another in Darwin at a later date, and a specialist forensic health centre will open in 2014.

But there are already concerns that the Alice Springs facility is grossly inadequate for the current and future needs of the people in the centre of Australia.

Former Central Australian policeman Ian McKinlay, who looks after several mentally impaired prisoners in the Alice Springs jail, says leaving prisoners like Mr Leo in prison with no release date is "heartbreaking".

"That would be torture for him. For an Indigenous person to be kept in that type of environment, not to be able to get out to country and family, that would be as cruel as you can get," he said. "It is a heartbreaking thing to see. He is bewildered and he doesn't understand why he is there."

Some experts believe the facilities under construction and promised in the NT will still be nowhere near sufficient to deal with a mushrooming problem. – Sources: various ABC media reports, and from people involved in the cases.

FOI: Waterford has a beef about the weight not being right

One of the elder statesmen of the Canberra media scene last month revealed what he calls "Australia's longest-running unfulfilled FOI request."



Jack Waterford (pictured), editor-in-chief and peripatetic columnist of the Canberra Times, says it was one "lodged originally by me on December 2, 1982, the day FOI began."

"It was for appendix H of the report of the 1981 royal commission into meat substitution," he said. "It was held back, we were told, so that the AFP and Director of Public Prosecutions could investigate charges against prominent unnamed people accused of involvement in pretending that kangaroo, horse, donkey and other exotic viands were prime Australian beef sent to America. Some, we knew from gossip, had very powerful political connections.

"The Department of the Prime Minister and Cabinet in early 1983 "deferred" my request, saying the investigation was still continuing, and that disclosure might compromise the ongoing inquiries. Last August (2011) I renewed my request.

"I got a letter (in June 2012): PM&C is still "consulting" with other agencies about giving me access. But it is worried that the business of consulting interested parties and agencies – gosh, who could these be – about its own files on the subject might be too onerous a task for it. That makes it 10,782 days since I filed the request, with no sign, even since I renewed it 188 days ago, of being any closer to finding out what stumped our plod." <http://tiny.cc/ka6pfw> – provided by Mary Lander.

Marriage rego goes to the dogs

Queensland has changed the law on same-sex unions, renaming them registered relationships.

But the relationships won't flourish: the government plans to introduce laws to ban single people and same-sex couples from having a surrogate child.

There will be no state-sanctioned ceremonies for same-sex pairs, and couples who want to end their relationships can simply de-register it by applying to Births, Deaths and Marriages.

Gay rights campaigners claim watering down the laws has made the process like registering a dog. However, some members of the government are also unhappy, as they had wanted the Civil Partnerships Act repealed entirely. <http://tiny.cc/l598fw>

Unions obliged to have secret ballot...before election vote

Queensland is also proposing new electoral donation laws to stop unions giving money to political parties unless the donation is approved by a secret ballot of members.

Premier Campbell Newman says he decided to act after he saw a media report that the ALP was considering increasing its union affiliation fees by 40%.

NSW recently brought in donation laws which forbid unions and corporations from making any political donations, and allow individuals to donate a maximum of \$2,000 a year. <http://tiny.cc/w8iagw>

Government to boost whistleblower protection

The ACT Government plans to give extra protection to those who blow the whistle on wrongdoing in the public sector.

The Public Interest Disclosure Bill provides more ways of making disclosures, sets out oversight responsibilities, and allows whistleblowers to seek compensation if they suffer for bringing wrongdoing to light.

The government has introduced the bill in the Legislative Assembly, encouraging people to speak out about corruption and dodgy administration. It follows a 2006 report that highlighted problems with the current law.

Under the proposed laws, whistleblowers could be compensated if they suffer for speaking out.

The laws would apply to all organisations publicly funded or having a public function, and to government contractors, community partners and volunteers.

Griffith University professor AJ Brown (pictured) says some of the measures are the first in the country. "The fact that the ACT has taken such care and bit the bullet on exploring new ways of trying to strengthen the legislation to do it is just simply a very good example to other governments of the seriousness with which they need to try and tackle the issue," he said.



Police asking to 'Get Smart' by using lapel cameras

The federal police union wants police on the beat in Canberra – the only place where the Australian Federal Police can educate trainees in community policing – issued with lapel cameras. The move came a day after the ACT announced its local police would get camera-equipped stun guns.

Appearing on the front page of the daily newspaper, *The Canberra Times*, for two days in a row, CLA's National Media Director said the lapel cameras would raise similar privacy issues to CCTV...but with the heightened sensitivity that it would be recording at face level and in connection with law enforcement officers.

He said it was important to put in place safeguards over recording, storage, use and disposal, particularly to avoid 'best of' tapes compiled by police and leaked online. If the lapel cameras increased the accountability of police and afforded them some protection, the idea would be worth discussing, he said.

He also offered CLA's services to the police union should they wish community input in devising guidelines around use of the mini-cameras.

It is not well known that CLA sits on the ACT Advisory Committee for CCTV cameras, and has done so since its inception. CLA also helped in a major way to write the protocols under which CCTV operates in and at Canberra's major public spaces. <http://tiny.cc/yqbvfw>

Australian briefs

Australia to kill by drone? Australia may soon kill people remotely using drones. The US has decided to sell Reaper hunter-killer drones to Italy, and ADF Chief General David Hurley has told a Senate estimates committee that Australia is thinking about buying the unmanned aerial vehicles (UAVs). "I wouldn't discount the fact that we might have armed UAVs, thinking through our force structure review into the future," General Hurley said. <http://tiny.cc/2l0efw>

Who's that with the googly eyes...everywhere? Google has a new app, called Coordinate, which will tell the boss where you are in the field based on your mobile file location data...in real time. So, Big Brother can not so much watch you as 'coordinate' you 24 hours a day. Well I'll be Googled...and so will you! <http://tiny.cc/9rlggw>

Moss's extended roles extended in time: The term of Philip Moss as Integrity Commissioner has been extended until July 2014. He was appointed in 2007 as the Australian Commission for Law Enforcement Integrity (ACLEI) to oversee the Australian Federal Police and the Australian Crime Commission as well as conducting investigations into the former National Crime Authority. In July 2011 his role was expanded to oversee the Australian Customs and Border Protection Service. In April 2011, he was given responsibility also for the Department of Agriculture, Fisheries and Forestry – Biosecurity Staff (formerly AQIS), the Australian Transaction Reports and Analysis Centre (AUSTRAC); and CrimTrac. The role is massively over loaded, understaffed and under-funded, CLA says.

Govt plans to bribe children: The ACT Government plans to bribe teenagers with the promise of movie tickets and gift vouchers if they entrap businesses selling smokes to minors. Five years ago the government tried something similar, but their bid for 'purchase assistants' failed. Selling cigarettes to minors can result in a penalty of \$22,000 for individuals and \$110,000 for companies. <http://tiny.cc/din3fw>

NZ may ban killers having children: The NZ Government is considering laws which would ban convicted child killers having children. Social Development Minister Paula Bennett says a new law may empower courts to remove babies at birth from parents who are convicted child killers or abusers. In 2011, nearly 150 children were taken away from their parents within a month of birth due to safety fears. Peter Dunne, leader of United Future – which backs the government – says the idea harkens back to the days of Nazi Germany and has no place in a democratic society. <http://tiny.cc/xbp3fw>

Telstra makes privacy gaffe: CLA believes the Australian Privacy Commissioner must step in to lay down rules preventing Telstra tracking the internet use of its Next G mobile phone users and sending their internet history to a company in the USA. Telstra says it is collecting the information for use in a new internet filter product, but internet users are outraged and are demanding the Australian Privacy Commissioner investigate. CLA believes they have every right to be outraged, and should be able to sue Telstra for abuse of their private information: Australian corporations do not understand that people's privacy has an intrinsic value. <http://tiny.cc/0dingw>

CLA's main activities for June:

Coverage of events this month concentrated on police matters, with stun guns, lapel cameras and chases being what most interested media people. National Media Spokesperson and CLA Director Tim Vines reported these contacts:

High speed police chases: Triple J Hack (for backgrounding for upcoming coverage)

Stun guns: ABC Canberra (Online), ABC Canberra (Radio), Canberra Times

Lapel cameras for police: Canberra Times, ABC Radio, Win News (online)

Reconciliation Week screening: 'Land Bilong Islanders' attended

Promotion:

Production of radio ads underway

Updates and visit to National Arboretum re Liberty Tree

Research:

Software, for new book on civil liberties

High Court cases: gene patents, possible amicus role in SA case

Meetings with members:



Dr Mal Washer MP (pictured right, with CLA CEO Bill Rowlings, left) re WA and Australian juvenile imprisonment rates, HIV Aids in jails (start of national program)

Melissa Parke MP re gene patents bill

Keith McEwan: Indigenous issues

Dr Helen Wiles: geriatric services

Tim Vines: media matters

Lynne Bliss: small business activities

Benjamin Smith re UC activities, submission writing

Parliamentary activity, in addition to above:

Parliamentary hearings: Treaties Committee background work

Lectures:

Parliamentary Scrutiny of Treaties in UK (lessons for Australia), Centre International and Public Law, ANU

Drug Reform: Prof Nicholas Cowderly, lecture ACT Legislative Assembly

INTERNATIONAL

Independent reviewer wants terrorism laws to be relevant

Stinging insects kill as many people in England and Wales as terrorist attacks do, a terrorism law expert says.

The Independent Reviewer of Terrorism Legislation, David Anderson, said that anti-terror laws could be relaxed as no-one in the country has been killed or injured by a terror attack in more than two years, and the risk from extremists had fallen “markedly”, according to a report in the London *Daily Telegraph*.

"Whatever its cause, the reduction of risk in relation to al-Qaeda terrorism is real and has been sustained for several years now," he said.

"The annualised average of five deaths caused by terrorism in England and Wales over this period compares with total accidental deaths in 2010 of 17,201, including 123 cyclists killed in traffic accidents, 102 personnel killed in Afghanistan, 29 people drowned in the bathtub and five killed by stings from hornets, wasps and bees."

But he added that the “almost incessant” creation of new legislation since 9/11 has left counter-terrorism laws “bitty, messy” and hard to understand. “There is always a political risk in scaling back powers designed to protect the public. By taking that step, the Coalition Government is to be congratulated for delivering on its rhetoric and making a genuine ‘correction in favour of liberty’.”

<http://tiny.cc/bk4lgw>

German court strengthens right of parliament

Germany's Federal Constitutional Court has ruled that the German parliament has a right to be heard on the eurozone crisis, deciding that Angela Merkel's government failed to keep the legislature adequately informed about plans for the \$620 billion bailout fund.

The court upheld a complaint by the opposition Green party, which claimed it had to get details about European Stability Mechanism negotiations from its sister party in Austria. It said that in

future parliament must have "early and effective influence" on the decision-making process before binding decisions are made by the government.

The ruling is the latest to strengthen parliamentary rights, illustrating Germany's struggle to balance quick decision-making in a fast-moving crisis with cross-party demands for democratic accountability.

The chief justice, Andreas Vosskuhle, said: "Democracy has its price. But to skimp on it could be very expensive." <http://tiny.cc/tdk5fw>

For Turkey, irony is a delight

Which country in the world currently imprisons more journalists than any other, Mehdi Hasan asked in an article in *The Guardian* last month?

The People's Republic of China? Nope. Iran? Wrong again.

The rather depressing answer is the Republic of Turkey, where nearly 100 journalists are behind bars, according to the Organisation for Security and Co-operation in Europe (OSCE).

"Yes, that's right: modern, secular, western-oriented Turkey, with its democratically elected government, has locked away more members of the press than China and Iran combined," he wrote. "But this isn't just about the press – students, academics, artists and opposition MPs have all recently been targeted for daring to speak out against the government of prime minister Recep Tayyip Erdogan and his mildly Islamist Justice and Development Party, or AKP.

"There is a new climate of fear in Istanbul. When I visited the city (recently) to host a discussion show for *al-Jazeera English*, I found journalists speaking in hushed tones about the clampdown on free speech. Within 24 hours of our arrival, one of my al-Jazeera colleagues was detained by police officers, who went through his bag and rifled through one of my scripts.

"They loudly objected to a line referring to the country's 'increasingly authoritarian government'. Who says that Turks don't do irony?" <http://tiny.cc/tgrqfw>

Zimbabwe heads to polls in 2012, or maybe 2013

Civil liberties and rights in an important African – and Commonwealth – nation are about to come under greater scrutiny.

The *Zimbabwe Mail* is reporting that his Zanu PF party is battling to portray President Robert Mugabe, now 88, as "fit and energetic" in preparation for the next election, due soon.

To illustrate their story, they chose this less-than-flattering candid photo.

President Mugabe wants the election in 2012 but Prime Minister Morgan Tsangvirai wants it in March 2013, when the parliamentary term is up.

The plan was to hold a referendum towards a new constitution before the election, but that now looks in doubt.



Church obsessed with sex...making them most un-gay

The Church of England is carrying out a "masterclass in melodramatic scaremongering" by an emotive warning to the UK Government against legalising gay marriage, a rights activist says.

The CofE claimed introducing same-sex marriage could force the church out of conducting weddings on behalf of the state. The statement came in a submission to the government consultation on gay marriage, which closed last month.

Ben Summerskill, chief executive of Stonewall, which campaigns for gay rights, told BBC Radio 4's Today program: "Many bishops in the Church of England today will be rather pleased because once again they are not talking about global poverty or the HIV pandemic – they are talking about the subject that obsesses them, and that is sex.

"I have not come across such a masterclass in melodramatic scaremongering – that somehow this is the biggest upheaval since the sacking of the monasteries – since as a journalist myself a decade ago I was summoned to a government briefing to be told about weapons of mass destruction in Iraq."

He said Stonewall's five-yearly polling of public attitudes showed that between 80-85% of people in the UK under 50 support extending the legal form of marriage to gay people; three in five – 60% of people of faith in modern Britain – say gay people should be able to get married. <http://tiny.cc/9tksfw>

Three strikes and you're outed

Illegal downloaders will receive warning letters from their internet service providers (ISPs) from 1 March 2014, under a draft code of drawn up by OFCOM, the UK Government's media regulator.

The draft says ISPs must send letters to customers warning them when a film, TV or music company alleges that there has been illegal downloading from their computer. Anyone getting three warning letters in a year will face having anonymous information of their downloading and filesharing history provided to copyright owners, enabling the owners to seek a court order to reveal the customer's identity so they can take legal action against piracy.

Internet users will be able to appeal against a report on their alleged infringement, at a cost of about \$30, which will be refunded if they are successful. <http://tiny.cc/2wggfw>

Police warrants comprise a Dotcom 'con'

A NZ High Court judge has ruled that police search warrants used to seize property from Megaupload's founder Kim Dotcom were illegal: they did not properly describe the offences to which they were related.

Mr Dotcom was arrested in January when the FBI shut down his file-sharing website among claims it had cost copyright holders more than \$500m in lost revenue from pirated films and other content.

On the Megaupload site, the sign at right is now all that features.

The FBI agents had been accused of underhanded behaviour by Dotcom's lawyers

after they secretly copied data from his computers and took it overseas. Justice Helen Winkelmann also ruled it was unlawful for copies of Dotcom's computer data to be taken offshore. She ordered that no more items taken in the raids could be removed from NBZ, and instructed the Attorney-General to return clones of the hard drives held by New Zealand police.



She said no one had addressed whether police conduct also amounted to unreasonable search and seizure, but her preliminary view was that it did.

Detective Inspector Grant Wormald said that his understanding was that the AG would direct that the items seized would immediately be sent to the US to be examined there. <http://tiny.cc/vmulgw>

Drone killings are a direct threat to world human rights

The US policy of using aerial drones for targeted killings is a major challenge to international law, the UN special rapporteur on extrajudicial killings, summary or arbitrary executions, Christof Heyns, has said.

He told a conference in Geneva that President Obama's CIA attacks in Pakistan, Yemen and elsewhere would encourage other states to flout long-established human rights standards.

In his strongest critique so far of drone strikes, Heyns suggested some may even constitute "war crimes", *The Guardian* reported. His comments come amid rising international unease over the surge in killings by remotely piloted unmanned aerial vehicles (UAVs).

Addressing the conference, which was organised by the American Civil Liberties Union (ACLU), a second UN rapporteur, Ben Emmerson, who monitors counter-terrorism, announced he would be prioritising inquiries into drone strikes. The barrister said the issue was moving rapidly up the international agenda after China and Russia this week jointly issued a statement at the UN Human Rights Council, backed by other countries, condemning drone attacks.

If the US or any other states responsible for attacks outside recognised war zones did not establish independent investigations into each killing, Emmerson said, then "the UN itself should consider establishing an investigatory body". <http://tiny.cc/uuacgw>

If we track crime online, maybe soon we'll bet on the results

UK police forces should develop crime-tracking applications so that people can follow their cases through the system, the Institute for Public Policy Research says.

The IPPR found that not knowing about what was happening in a case was a key cause of frustration for victims and undermined their confidence in the criminal justice system. It wants details on the progress of cases – arrests, investigations, judgments and court transcripts – to be published online by police, courts and the prosecutors, as long as it is legally safe to do so.

IPPR recommended that online "crime maps" should be made interactive and display real-time information, which could help prevent and reduce crime.

It praised a pioneering website called *TrackMyCrime*, set up in March 2011 by Avon and Somerset Constabulary to allow victims of crime to access the progress of the investigation of their crime as well as contact the officer leading the investigation – *Press Association* <http://tiny.cc/c2lffw>

Army to withdraw from drug 'war': civilian safety paramount

The top three contenders for Mexico's presidency have all promised a major shift in the country's drug war strategy, placing a higher priority on reducing the violence in Mexico than on using arrests and seizures to block the flow of drugs to the USA, according to *El Paso Inc*, a weekly Texas newspaper circulating in the city that straddles the US/Mexico border.

The candidates are vowing to continue to fight drug trafficking, but say they intend to withdraw the Mexican army from the drug fight. They believe the army is unfit for police work and has contributed to the high death toll, which has exceeded 50,000 since the departing president, Felipe Calderon, made the military a cornerstone of his battle against drug traffickers more than five years ago.

Mexican analysts say the candidates are responding to growing frustration with the current anti-drug approach. Calderon has long portrayed the violence, much of it cartel infighting, as a sign that traffickers are on their heels, an idea that has lost resonance with the public. <http://tiny.cc/2znrfw>

Human rights lawyer sentenced to 13 years in jail

An Iranian human rights lawyer has been sentenced to 13 years in prison by a Tehran revolutionary court.

Abdolfattah Soltani was originally given 18 years but appealed and has now been told more years will be taken off if he denounces the Iranian Nobel peace laureate Shirin Ebadi, according to Soltani's daughter Maede, who lives in Germany.

Abdolfattah Soltani co-founded the Centre for Human Rights Defenders with Ebadi. A court initially sentenced the 58-year-old to 18 years in prison on charges which included co-founding the centre, spreading anti-government propaganda and endangering national security. <http://tiny.cc/tbeufw>

Half the doctors get half-good outcome from appeal

Convictions against nine Bahraini doctors accused of playing leading roles in anti-government protests last year have been quashed and sentences against a separate nine doctors downgraded by an appeals court.

In a contentious ruling that follows widespread international condemnation of the medics' trials, one senior orthopedic surgeon, Ali al-Akri, still faces five years' imprisonment, while another, Ibrahim al-Dimistani, has been sentenced to three years, *The Guardian* reported.

Bahraini authorities immediately issued arrest warrants for the nine medics still facing jail time. Two more doctors from an original group of 20 did not appeal against earlier verdicts of 15 years in custody, which were handed down by a military court. They are understood to have fled.

The appeal verdicts dropped the two most serious charges levelled against the group – that they had possessed arms and occupied the Salmaniya medical clinic in the heart of the Bahrain capital, Manama. Most external observers believe the doctors were trying to heal patients. <http://tiny.cc/y0awfw>

International briefs

Snooping costs: The British Government's "online snooping" scheme to track email, Facebook, Twitter and other web use comes with an official pricetag of at least \$2.8bn over the first decade and an official warning that the figure may well prove to be an underestimate, the Home Office has revealed. Ministers have already agreed to pay all the costs of the scheme, which will require phone and internet companies to collect and store for 12 months the records of internet and mobile phone use in Britain for access by police and intelligence services. (Australia already has a similar scheme in place). <http://tiny.cc/ehawfw>

Age shall not be allowed to weary them...: UK doctors will break the law later this year if they withhold medical help to patients purely on the basis of their age. The British Government has announced that a blanket ban on discrimination in the health service will come into force in October. Ministers promised "all people, regardless of age, will receive a personal, fair and diverse service, based on their individual needs, not their age". Health staff will also have to show they considered the wellbeing and dignity of older people. <http://tiny.cc/sjmsfw>

Irish eyes are watching...human rights films: The Irish Council for Civil Liberties has just screened its annual human rights award films in Dublin. Those shortlisted were: *Padres* (directed by Liz Lobato); *Hold on Tight* (Anna Rodgers); *A Hard Road Travelled* (Kevin Flynn); *Machine Man* (Rosier Corella); *Chen Guangcheng: Caged Bird* (Trish McAdam) and *Leave to Remain* (Anna Byrne).

Blacks suffer police targeting: UK police forces are up to 28 times more likely to use stop-and-search powers against black people than white, research from the Equality and Human Rights Commission shows. The EHRC looked at police stop powers where officers do not require

suspicion of involvement in crime, known as section 60 stops. The power is used most by the (London) Metropolitan police, which carried out three-quarters of the stops between 2008-11, some 258,000 in total. The next heaviest user was Merseyside with 40,940 stops. <http://tinyurl.com/7cvhfry>

US AG is contemptible: US Attorney-General Eric Holder is in contempt of Congress, by a 255 to 67 vote, for refusing to release documents relating to a botched gun running sting known as Fast and Furious. He faces a fine or time in jail. The sting aimed to track weapons bought on behalf of US law enforcement authorities and deliberately smuggled to Mexican drug cartels, but a large number of the guns went missing, and two were later found at the murder scene of a US border patrol agent. CLA believes Mr Holder should be held in contempt for other aspects of his tenure relating to his role in abusing the rights of Guantanamo Bay detainees, and both American and non-American citizens killed by drone attack. <http://tiny.cc/31gngw>

Snooping to cost extra \$2.8bn: The head of MI5, Jonathan Evans, has stoutly defended a new bill, which critics call a "snoopers' charter" because it extends the breadth of material that internet service providers must keep. Under the proposals, records will be kept of all internet use, including activity on social networking sites, as well as details of mobile phone calls and texts. This information will have to be kept for a year at a minimum cost to the British Government of \$2.8bn.

German decision may further circumscribe doctors here: Guidelines on circumcision from a peak Australian medical body refute the findings of a German court that circumcising young boys represents grievous bodily harm. But Australian law does not protect a doctor from being accused of assault or abuse after performing a circumcision, experts say. The court in Cologne declared that the procedure violated a child's "fundamental right to bodily integrity". The court said the right of the child outweighed that of the parents. <http://tiny.cc/1wulgw>

Hang time for judicial appointments: Lower federal courts in the USA are clogged with cases because about 70 judicial vacancies are remaining open. As always happens with an approaching presidential election, the opposition is blocking all judicial appointments – in this case, the Republicans are confident that President Romney will appoint only ideologues and "movement conservative" judges fully responsive to corporate and party wish lists, says Roger Fitsch Esq, writing for the Justinian legal blog: <http://www.justinian.com.au/>

DATES

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 (pictured), 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

11 Aug, Melbourne: Stop Aboriginal Deaths in Custody: 2012 Winter Action, 11am-1pm, Old GPO, cnr Burke & Elizabeth Sts. <http://www.isja-msg.com/> E: Alison Thorne at alison.thorne@ozemail.com.au

23-25 Aug, Brisbane: 'Doing Justice for Young People in Australia and New Zealand', 23-25 August 2012, Sebel Citigate Hotel. Info: <http://www.aija.org.au/Youth%20Justice%202012/Programme.pdf>

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)

28-29 Aug, Canberra: Investigating Operational Incidents in a Military Context: Law, Justice, Politics. University House, ANU: http://law.anu.edu.au/coast/events/operational_incidents/conf.html

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/>

2015:

June, England: 800th anniversary of Magna Carta

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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