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Video and TV feature prominently in May activities

CLA launched several new projects during May, joined a Pacific-wide video conference on governance in island nations, featured on *Meet The Press* on Australia-wide television, and took part in a national roundtable of civil liberties organizations on the death penalty.

Among a wide range of initiatives, May saw projects get under way on:

- **Pacific Island nations:** Member Sarah Bassiuni is leading an analysis of the laws, liberties and rights of a range of Pacific and similar countries, such as Papua New Guinea and Timor Leste. She is working with law students, qualified lawyers and others, including senior barrister John Purnell.
- **Aboriginal Deaths In Custody (ADIC):** Member Shreeya Muthusamy has gathered about 25 members of the federal government's graduates' network, as well as law students, for a project analysing outcomes from the ADIC process, which began 20 years ago this year. Their final report will focus on what lessons exist today to guide planning for the future.
- **Protest Rights at Parliament House:** Led by President Dr Kris Klugman, this project includes eight ANU law students as well as high school teacher Rowan Ford, whose lone, silent protest against the treatment of David Hicks caused overbearing officialdom to pounce.

At the ANU, CLA took part in a five-way video conference analysing the rights and legal issues around police/military intervention experiences of countries such as Timor Leste, Papua New Guinea and Fiji. Also on the telelink were Auckland and Canberra experts, including the skilled moderator of the 'Pacific Leaders Link' conference, Dr David Hegarty of the Research School of Asian and Pacific Studies.

CLA President Dr Klugman was a guest on *Meet The Press*, the iconic national Sunday morning news analysis show on Channel 10. She was quizzed on issues to do with David Hicks and the upcoming APEC conference in NSW. *Sydney Morning Herald* columnist, Gerard Henderson, did not like her pointing out that no evidence against Hicks had ever been produced by any US or Australian authority in a court and subjected to cross-examination.

Director Vic Adams represented CLA on a national roundtable meeting by teleconference between Sydney and Melbourne venues. A fuller report is expected for the next *CLArion*.

***LAST WORD:* Justice is blind to the web**

"What is a website?" asked a UK judge last month in a case at Woolwich. It took a professor and PowerPoint to drag him into the 21st century. See full story at end of this bulletin.

Students to gain full voting rights for \$10

The CLA board met in early May, and made one determination that will affect the organisation's 70 student members.

The board decided to introduce a \$10 membership fee for students from 1 July. The 2007 annual general meeting in March voted to bring in a fee for student membership, leaving it to the board to decide the amount.

The \$10 figure has been set to be affordable, encouraging students to join formally, while being sufficient to ensure they make a conscious decision to become full participating and voting members of CLA.

In future, new uni students will be offered free, non-voting membership at orientation or market day events, usually in late February or early March, until 1 July.

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Submissions under way on legal privilege, WA human rights

CLA is currently preparing submissions on two important issues: Client Legal Privilege (CLP) and the formal WA inquiry into Human Rights Bill for that State.

Barrister Doug Hassall, who is also lecturer in Evidence law at ANU, will lead the CLP submission process, with CLA Director and lawyer Anthony Williamson as co-author. They will be advised by Jeff Miles and James Staples as reviewers/editors.

A group yet to be formed will make an early submission to the WA Human Rights Consultation Committee, led by former federal Minister Fred Chaney, with whom CLA President Dr Kristine Klugman and CEO Bill Rowlings met in late May (see story below).

Stand by for ID card announcements

There is an 'Australian Smart Cards Summit 2007' taking place in Sydney on 5, 6 and 7 June, with the Minister for Human Services, Chris Ellison, scheduled to speak, along with Professor Allan Fels, chair of the Access Card Task Force.

It is expected there will be announcements made as to the future of the Access Card proposal at this conference. <http://www.acevents.com.au/cards2007/>

Laughing With Knives from 8 October

The CLA Cartoon Exhibition, a project under the leadership of Director Dr June Verrier, will open on 8 October at the ACT Legislative Assembly in Canberra, sponsored by Speaker and CLA member, Wayne Berry.

All State Parliaments have been asked to feature the exhibition.

The exhibition, which will feature 18 or more top Australian cartoonists, each with a handful of their best cartoons on civil liberties and human rights issues, has a brilliantly-conceived title: *Laughing With Knives*. That is the descriptive Chinese phrase for biting political cartoonery.

NSW A-G decides he knows better than judges

The NSW government is planning new laws to make it harder for people accused of sex crimes to prove the victim consented.

But in doing so NSW Attorney General John Hatzistergos is treading on dangerous ground where judges are usually best-placed to make decisions.

Announcing the proposed new laws late last month, he said: "While it's too early to say whether this measure would increase the number of convictions, defining consent in black and white ensures the courts don't transform acquiescence into consent."

"The government's proposal will help lessen confusion for jurors and remove the ambiguity around a difficult issue by not merely leaving it open to the court's interpretation.

The history of well-meaning legislative intrusion is littered with justice gone haywire when governments took interpretation and discretion out of the hands of judges, where it generally belongs.

Fortunately, the NSW Government is allowing two months for consultation on this legislation; people with detailed knowledge of this area of the law are encouraged to consider submissions to help improve the ultimate outcome.

Mr Hatzistergos said he had also asked the NSW Judicial Commission to put together an education package for District Court judges to teach them to get tough on defence barristers to prevent hostile questioning of victims. <http://www.judcom.nsw.gov.au/index.php>

He also said he would call on the Court of Criminal Appeal to streamline appeals in rape cases and prevent delays.

These curbs on judicial discretion, and a politician 'teaching' and guiding judges, is a worrying trend in Australia's largest state under a new A-G.

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New Power of Attorney laws now in force in national capital

The *ACT's Powers of Attorney Act 2006*, which became operative at the end of May, comprises the latest comprehensive, updated scheme for powers of attorney in Australia.

It covers arrangements for property and personal and health care matters, and includes explicit obligations of attorneys. There are also simplified forms for making a general power of attorney and an enduring power of attorney, which are available on the ACT legislation register: <http://www.legislation.act.gov.au/>

Also operative is the ACT's new *Medical Treatment (Health Directions) Act 2006*, which allows giving written directions to refuse, or require the withdrawal of, medical treatment.

Links with uni likely to lead to internships

A productive CLA meeting with University of Canberra Professor of Law, Murray Raff, and Human Rights lecturer, Dr Tony Delkin, established the basis for a possible internship program and for other project-based activities involving U. Canberra law students.

Muslims share concern over biased citizenship questions

Australia's Muslims shared the widespread concerns in the Australian community over the citizenship test being introduced by the Australian government, President of the Australian Federation of Islamic Councils, Mr Ikebal Adam Patel, said last month.

"AFIC does not oppose regulated immigration, (but) believes that a test with biased questions targeting particular cultural or ethnic groups goes against the very values of democracy and a fair go that the government is trying to inculcate," he said.

"Reasonable proficiency in English, familiarity about this country, and knowledge about the Australian lifestyle are undoubtedly some requirements that would-be migrants should demonstrate.

"However, it is unfair and un-Australian to expect them to study Anglo-Celtic and Judaeo-Christian values, especially when those migrants are coming from a different religious and cultural background.

"These questions do not in any way add value to all Australians by being inclusive in these testing times but by their very nature are openly antagonistic," he said.

Mr Patel said AFIC would like the proposed test to be objective and value-neutral. He urged the government to publish the questions for wider discussion in the community before finalising the questionnaire.

– from AFIC media release, 24 May 07 (Mr Patel is a CLA member)

Similarly, the Federation of Ethnic Community Councils of Australia has welcomed some Budget initiatives but still has concerns about 'tests' for citizenship.

While welcoming better support for humanitarian entrants, FECCA chairperson Voula Messimeri said: "FECCA believes however, that too much emphasis has been placed on citizenship rather than support services and community initiatives that are critical to building an inclusive society."

Security agencies engage in ‘prolific snooping’: Senator

The Australian Government was “increasingly at ease with eavesdropping on private conversations, watching private citizens and encroaching on civil liberties,” Senator Natasha Stott Despoja told the Senate in May.

Her comments followed release of the annual report on the Telecommunications (Interception) Act.

Australia issued 75 per cent more warrants than the total number of US ‘wiretap’ warrants, representing 26 times the rate on a per capita basis, she said, quoting a previous Senate report. Senator Stott Despoja described the actions of security agencies as ‘prolific snooping’.

“The government is creating a climate of fear through broader use of interception and surveillance powers, (and) dobbing on neighbours through additional funding this year for its terrorism hotline, plus plans for an identity card in the form of the access card.

“I call on the government to, as a matter of priority, commission urgent independent research into the state of surveillance in this country,” Senator Stott Despoja said.

<http://www.aph.gov.au/hansard/senate/dailys/ds090507.pdf> (p93 of Hansard, 107 of the pdf)

According to Attorney-General Philip Ruddock, intercepts helped in nearly 1500 convictions over 12 months, supported more than 2000 arrests and the progression of more than 3000 prosecutions. Many of these ongoing prosecutions represent the culmination of investigations that have spanned a number of years, he said.

Protest team report seeks police changes

The Federation of Community Legal Centres in Victoria has released the Human Rights Observer Team report, *Final Report: G20 Protests November 17-19, 2006 Melbourne*.

The report recommends that the Victoria Police assess their protocols, training and disciplinary procedures in the light of events at the G20 demonstrations.

It recommends that Victoria Police should assist injured persons as soon as possible during protests, even if the injury has resulted from police action; that police always wear clear non-removable identification; that any future use of barricades in protests should be assessed in the light of the right of peaceful assembly; and that Human Rights Observers and other independent bodies should be treated with respect and courtesy at all time by police members.

The report commends Victoria Police for not using long-range capsicum spray canisters or powers under the Terrorism (Community Protection) Act. Report:

www.communitylaw.org.au

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New Bill introduces legal privilege for journalists

A new federal Bill aims to protect journalists against forcibly revealing confidential sources.

The Evidence Amendment (Journalists’ Privilege) Bill will amend the Commonwealth Evidence Act 1995 to create a form of privilege. In deciding on whether journalistic privilege applies, courts will take into account the:

- nature of the proceedings
- importance of the evidence
- likely harm to the journalist’s source
- other means to obtaining the evidence, and
- means available to limit the impact of disclosure.

In a departure from the NSW laws, which were used as a model, a court must give the greatest weight to the risk of prejudice to national security.

Journalists believe the job is only half done: "While journalists' sources remain unprotected at federal law by an anti-corruption body and whistleblower legislation, it is a farce to suggest this Bill will in any way address the deplorable state of press freedom in this country," federal secretary of the Media Entertainment and Arts Alliance, Chris Warren, said.

Moss appointed to media freedom review

Australia's Right to Know, a coalition of major media groups, has appointed former NSW Independent Commission Against Corruption (ICAC) Commissioner Irene Moss to head a review of media freedom in Australia.

She is expected to report by the end of October 2007. Full story:

<http://www.theaustralian.news.com.au/story/0,20867,21783642-7582,00.html>

News Ltd chairman and chief executive John Hartigan said free speech restrictions meant Australia was "a lightweight democracy" compared with Canada, New Zealand and Britain. "Two international studies ranked Australia 35th and 39th on a world press freedom index," Mr Hartigan said. "Parties of all persuasions, whether federal or state, have allowed this to continue."

The campaign was initiated by News Ltd and is backed by Fairfax Media, the ABC, the commercial radio and television industries, SBS, AAP and Sky News.

The Media Entertainment and Arts Alliance outlined the scale of the problem recently in its annual press freedom report. MEAA secretary Chris Warren said restrictions had become so severe that the Australian public was being denied crucial information, with main problem areas including:

- The Freedom of Information Act rendered almost useless by the High Court and the federal Government.
- Terror trials were conducted largely in secret under court orders obtained by the federal Government.
- Companies were using strategic litigation to silence public debate.
- Journalists threatened with imprisonment for upholding their code of ethics.
- Whistleblowers charged with criminal offences for revealing maladministration by the federal Government.

<http://www.theaustralian.news.com.au/story/0,20867,21702688-2702,00.html>

Series of meetings helps plan CLA's future projects

CLA met formally with Senators Andrew Bartlett (refugees) and Andrew Murray (whistleblowers/public interest disclosure) of the Democrats last month.

We expect movement on a new public interest disclosure Bill in the near future.

Meetings were also held with Shadow Ministers to flesh out their positions following the Labor Party's national conference. Discussions took place with Shadow Homeland Security Minister Arch Bevis (Bali 9, the death penalty and national security legislation), and Robert McClelland, the Shadow Attorney-General (a new Asia-Pacific legal initiative, yet to be announced, and climate/environment refugees).

Meetings with several CLA members – Elizabeth Kelly, John Purnell, John Lieber, Lynne Bliss, and Bernadette Boss – helped shape the direction of possible future projects.

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Brown plans a constitution for the UK

The likely new British Prime Minister, Gordon Brown, plans to give the UK a written constitution for the first time...helping to boost claims in Australia for a written Bill of Rights.

Chancellor Brown signalled his intention the same day in May that PM Tony Blair announced his formal resignation date. Mr Brown said he wanted to build a shared national consensus for constitutional reform that:

- strengthened the accountability of all who hold power;
- was clear about the rights and responsibilities of being a citizen in Britain today;
- defended the union; and
- was vigilant about ensuring that the hard-won liberties of the individual, for which Britain has for centuries been renowned round the world, are at all times upheld without relenting in our attack on terrorism.

Aides indicated the Brown statement was shorthand for a written constitution, stronger ministerial code, review of the royal prerogative, and financial freedoms for local government.

If the Constitution-less UK, which has a Bill of Rights, gets a Constitution after not having one for more than 1000 years of 'modern' parliaments, there is a strong argument that the Bill of Rights-free Australia, which has a Constitution, should get a Bill of Rights after not having one for more than 100 years.

There is also an argument that the Australian version of the 'royal prerogative' should be abolished as an undemocratic anachronism.

Ruddock spends \$10.4 billion, makes 'number of arrests'

"Since September 11, we have spent more than \$10.4 billion to improve our counter-terrorism capability," the Attorney-General, Mr Philip Ruddock, said last month.

"We have had some notable successes in preventing incidents occurring in Australia, with a number of arrests made in recent times," he said.

Mr Ruddock was releasing a report on lessons learned from the London bombings of July 2005, two years ago. Report: <http://www.ema.gov.au/>

(It is believed there have been about 30 arrests – and only a handful of terrorism convictions – over the past five years in Australia. This would equate to a cost of about \$350 million, and 1.7 new federal Acts of Parliament, per arrest on the Attorney-General's figures).

Fraser says Howard Government has abandoned rule of law

Former Australian Prime Minister Malcolm Fraser said the Howard government promoted "fear politics", which damaged the Australian psyche and lit the fires under intolerance.

Speaking at the Australian National University in May, he said there had been a concerted attack on the rule of law since the vessel *Tampa* arrived off Christmas Island, carrying 400-plus refugees, just before the 11 Sept 01 Twin Towers aircraft attacks on the USA.

"From these points on, the politics of fear dominated the domestic environment," he said.

The Howard government had abandoned respect for the rule of law on refugees, human rights and the war on terrorism, Mr Fraser said.

Students vie for Kirby Cup

Students from across the nation will take part in the final of the Kirby Cup Law Reform Competition in early July.

The competition is a unique opportunity for Australian law students to gain recognition for their vision for law reform. It is organised and sponsored by the Australian Law Reform Commission, in collaboration with the Australian Law Students' Association (ALSA).

Held annually as part of the ALSA Conference, it will be decided at the ANU in Canberra on 5 July, during their 2007 national gathering.

Finalists are:

- Peter Clay and Vanja Tekic, Murdoch University;
- Tom Smyth and Christian Strauch, Australian National University; and
- Susan Cirillo and Radhika Withana, University of Sydney.

Anzac spirit invoked for courts, sentences

Australian Attorney-General Philip Ruddock and New Zealand Associate Justice Minister Clayton Cosgrove last month announced their governments would negotiate a new bilateral treaty covering civil court proceedings and enforcement of judgments.

The "Anzac" reforms will be based on recommendations made in December 2006 by the Trans-Tasman Working Group on Court Proceedings and Regulatory Enforcement. The report is available at: <http://www.ag.gov.au/Trans-TasmanCourtProceedings>

Police pursuits: crash, injure, kill

With police pursuits back in the headlines, this précis of a 2005 Queensland study into the practice shows that pursuits have a woeful record involving crashes, injuries and deaths.

"The results show that approximately 630 pursuits occur per year in Queensland across the study period, and that half of all pursuits are initiated for traffic offences while an additional quarter are initiated for stolen cars.

"A total of 29 per cent of pursuits involved a collision, 11 per cent resulted in some sort of injury, and 11 people were killed during the five-year study period.

"In relation to an issue that appears to justify the initiation of some police pursuits – that fleeing drivers provide opportunities for police to apprehend serious offenders – examination of the charges data against the fleeing driver showed that very few apprehended drivers were charged with crimes more serious than what was known at the time the pursuit was initiated."

Title: Police pursuits in Queensland: research, review and reform; author(s): Gabi Hoffmann, Paul Mazerolle. Journal: *Policing: An International Journal of Police Strategies & Management* ISSN: 1363-951X Year: Sep 2005 Volume: 28 Issue: 3 Page: 530 - 545. DOI: 10.1108/13639510510614591 Publisher: Emerald Group Publishing Limited

<http://www.emeraldinsight.com/Insight/viewContentItem.do?contentType=Article&hdAction=Inkhtml&contentId=1514955>

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Government continues to spend big on security, control orders

The Australian Government will spend \$1.1 billion in additional funding over five years in the Attorney-General's portfolio area on issues such as national security, law enforcement and family law, the 2007 Australian Budget reveals.

The Budget provided \$35.7 million for national security and counter-terrorism measures including implementing control orders and protecting national security information, according to papers released by the A-G, Mr Philip Ruddock.

Long-term, purpose-built accommodation for aviation policing and security teams at 11 major airports will cost \$151.4m over four years. Nearly \$80 million over four years is going to the

new Australian Maritime Identification System (AMIS), for detecting and identifying vessels entering or operating in Australia's offshore maritime areas.

There is also funding for a vessel "dedicated to protecting the environmentally sensitive Ashmore Reef" (*This would appear to be 'code' for a Refugee Apprehension Border Boat Indianocean Territory, or RABBIT*)

"Extra funding will enable Customs to identify international travellers who may be of interest to security and intelligence agencies," Mr Ruddock's media release said. (*It is not known what this is code for*).

The Australian Federal Police will continue to be stretched thin around the world. There's \$2.5 million over three years for the AFP to continue working alongside Sudanese Police to restore law and order in Sudan.

Domestically, the Government is spending \$73.6m to improve the "resilience of the electronic operating environment for business". The money will expand the Computer Emergency Readiness Team, conduct an international cyber-exercise program against electronic attacks and increase the investigative capacity of policing agencies, the media release says.

The Australian Crime Commission gets \$8.7m to counter 'identified repeated links between organised crime and the domestic security industry'.

The Government is providing a miserly \$5m a year extra for legal aid: "Access to legal aid will be improved with \$19.7 million in new funds over four years (which) will provide more legal aid services in regional, rural and remote Australia".

Other 2007-2008 Budget funding includes:

- \$20m over two years for the ongoing national security public information campaign (that is, largely TV advertising);
- \$4m over four years for Customs to enforce reporting of cross-border movements of cheques and money orders to prevent terrorist financing;
- \$7.7m over four years to fund the ongoing counter-terrorism exercise program; and
- \$7.8m over four years for Customs to focus on border security matters (*more code, of unfathomable meaning*).

The Australian Government funds 48 magistrates, 40 Family Court judges, 4 judges of the Family Court of Western Australia, 49 Federal Court judges and 7 High Court Justices, according to post-Budget comments by Attorney-General Ruddock.

Privacy concerns over Government net plans

Privacy advocates fear the introduction of a single-user name and password for accessing all online government services has the potential to become a digital national ID card.

The May Federal Budget allocated \$42m towards creating a single sign-on service as part of the Australian Government Online Service Point – to enable transactions with multiple government agencies, and moving between government websites without the need to reconfirm identity.

In addition, *australia.gov.au* will use "smart forms" to automatically draw a user's details from various government departments - such as inserting Medicare details into electronic tax forms. The site will also offer a National Government Service Directory and a change of address service to eliminate the need for users to notify multiple government departments.

<http://www.theage.com.au/news/technology/privacy-concerns-over-government-net-plans/2007/05/07/1178390224540.html>

Labor would legislate federally on FOI, whistleblowers

According to the Media, Entertainment and Arts Alliance (MEAA), the Australian Labor Party has agreed to amend its privacy and free speech platform to:

- legislate for proper Freedom of Information laws that enable Australians to access appropriate information about government activities;
- implement the ALRC recommendations on sedition laws;
- provide shield laws for protecting confidential sources and genuine protection for whistleblowers; and
- review laws to decriminalise reporting of matters of public interest.

More info: <http://www.alliance.org.au/>

WA likely to get human rights legislation

The WA Government's Attorney General Jim McGinty last month announced he wanted Western Australia to adopt human rights legislation.

A proposed Human Rights Act would consolidate basic human rights in one key piece of law, he said as he appointed a committee for a public consultation process, chaired by former Federal Liberal parliamentarian Fred Chaney. Also on the committee are Executive Director of the WA Council of Social Service Lisa Baker, former Anglican Archbishop of Perth Dr Peter Carnley and Associate Professor in the field of child health, Colleen Hayward.

They will report by 16 November 2007.

The committee's role is to:

- consider and consult with Western Australians about how greater awareness of, respect for, and observance of, human rights can be achieved at all levels of the State Government and throughout the Western Australian community;
- ask the community what it thinks about the Government's preferred model for a WA Human Rights Act which is set out in a draft Bill;
- identify a human rights framework that will serve the needs of Western Australians in the future rather than to look at past and present policies and actions; and
- recommend to the Government about matters which should be addressed in a WA Human Rights Act to create a human rights culture in the State.

Professor George Williams, who chaired the Victorian Human Rights Consultative Committee which led to the introduction of the Victorian Charter of Rights, will assist the committee.

<http://www.humanrights.wa.gov.au/index.htm>

CLA will make a submission to the inquiry: email secretary@cla.asn.au if you would like to help formulate the paper.

In a meeting with CLA in late May, committee chair Chaney said he would be interested in hearing in detail of positives and negatives from the ACT's Human Rights Act experience.

He also said it was important for civil liberty groups to focus on providing advice about how a culture of human rights could be inculcated into day-to-day activities and thinking of West Australians.

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Amnesty supports CLA call for death penalty moratorium

Amnesty International says a death penalty free world is possible if key governments show political leadership.

Echoing CLA's call for a moratorium from 10/10/10 (10 October 2010), Secretary General Irene Khan said: "Amnesty is calling for a universal moratorium on executions. Six countries – Iran, Iraq, Sudan, Pakistan, the USA and China – were responsible for 90 per cent of all executions in 2006. These hard core executioners are isolated and out of tune with global trends."

According to Amnesty executions worldwide fell from 2,148 in 2005 to 1,591 in 2006. There were more than 1,000 executions in China last year.

Women prime targets of civil liberties crackdown

Reports says arrests and detentions of women's rights activists have occurred as part of a crackdown on civil liberties by Mahmoud Ahmedinejad's government in Iran.

A new law will limit the number of female students at colleges, and require all female government employees to leave work by 6pm to take care of their families.

As well, Iran has arrested more than 200 women for dressing improperly, according to reports from *USA TODAY* and *Associated Press*.

– from *UNity, UN Assn of Australia e-newsletter, 11 May 07*

Islanders win right to return home

Chagos Islanders have won the right to return to their archipelago in the mid-Indian Ocean.

They will have to live cheek-by-jowl with the occupiers of their main island, Diego Garcia, now a globally strategic US airbase.

The families were ordered from the islands 30 years ago by the British Government, which then leased the main island to the USA.

Explaining the Court of Appeal's decision, Lord Justice Sedley said that "while a natural or man-made disaster could warrant the temporary, perhaps even indefinite, removal of a population for its own safety and so rank as an act of governance, the permanent exclusion of an entire population from its homeland for reasons unconnected with their collective well-being cannot have that character and accordingly cannot be lawfully accomplished by use of the prerogative power of governance".

– from *The Guardian, 23 May 07*

<http://www.guardian.co.uk/international/story/0,,2086261,00.html>

Governments erode human rights: Amnesty

Amnesty International last month accused armed groups and governments, including Australia's, of eroding human rights and creating an increasingly polarised world.

In its 2007 report, the London-based human rights group said Britain was damaging the rule of law and the independence of the judiciary – particularly in relation to anti-terror legislation.

It castigated governments around the world for their "fear-mongering and divisive policies" that undermined the rule of law and sowed the seeds for more violence and conflict.

<http://www.guardian.co.uk/terrorism/story/0,,2086281,00.html>

For the 2007 Amnesty report, go to: <http://thereport.amnesty.org/Homepage>

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From Magna Carta to magna fine

New British Government plans for extra police powers to stop and question people were greeted with a barrage of criticism late last month.

The British Home Office confirmed that the power would be included in a counter-terrorism bill to be announced in early June.

The new powers, contained in a leaked letter from the counter-terrorism minister, Tony McNulty, to Prime Minister Tony Blair, would make it an offence punishable with a \$12,000 fine for a person to withhold their identity or refuse to answer questions.

<http://www.guardian.co.uk/terrorism/story/0,,2089605,00.html>

Civil society calls for consultation on proposed US Africa

The topic of a 'United States of Africa' – or a Union Government of Africa, UGA – is to top the agenda at an African Union summit in Accra, Ghana, in June.

UGA is seen by its proponents as a way to cut through the internecine wars that bedevil the continent from west to east.

The goal of political and economic integration in the form of a "United States of Africa" accompanied the formation of the African Union in 2002 but the issue divides the body's 53 members.

Pentagon plans to expand security overseas for 'stability'

The Pentagon last month proposed a project to expand American funding to support counter-terrorism programs abroad.

If passed, the so-called Building Global Partnerships Act of 2007 will grant the US Secretary of Defense \$900 million to fund military and security groups in foreign countries which are working towards "combating terrorism and providing stability".

UNICEF: Child soldiers to be released in CAR

Rebels in the Central African Republic have agreed to let go about 400 children they had used as soldiers, UNICEF reported last month.

"This move signals a voluntary step on the part of armed groups in CAR toward respecting children's rights," a UNICEF spokeswoman said, calling it a positive step in a war-ravaged country that has not signed an international treaty denouncing the use of child soldiers.

House of Lords to investigate impact of surveillance

The UK's House of Lords Constitution Committee is inquiring into the impact that UK government surveillance and data collection has on privacy and relations between citizens and the state.

The inquiry comes with the government pushing for increased data sharing between public sector agencies and controversy over schemes such as a national ID card program and uploading health data to a central "spine" under the UK's \$30 billion National Program for IT.

The committee will consider which forms of surveillance or data collection might be constitutionally proper or improper and whether the 1998 Data Protection Act offers sufficient protection for the public, Tash Shifrin reported in UK's *Computerworld* magazine.

Committee chair Lord Holme of Cheltenham said: "The nature and extent of surveillance and data collection have changed dramatically in recent years. We now have close to 4.2 million CCTV cameras in the UK and, with the introduction of the National Health Service spine and the ID card database, the government will hold more information about us than ever before."

<http://www.macworld.co.uk/digitallifestyle/news/index.cfm?>

http://www.parliament.uk/parliamentary_committees/home_affairs_committee/hacpn070327no18.cfm

Widow compensated by airline for poisoning death

Suciwati, the widow of a prominent Indonesian rights activist Munir Said Thalib, who died from poisoning aboard a Garuda flight, will receive \$90,000 in damages from the airline.

A Jakarta court found the airline guilty of negligence for failing to take adequate action to prevent the death of Munir from arsenic poisoning.

Garuda has been at the centre of a storm over Munir's 2004 murder, amid claims of a cover-up in the original police investigation. Two airline executives face court currently, while a former Garuda pilot was convicted, then freed on appeal, for being involved in the death.

<http://www.radioaustralia.net.au/news/stories/s1925325.htm>

– from a report by Radio Australia

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Police killers of innocent man on train face no charges

The family of Jean Charles de Menezes, a young Brazilian shot dead in error by police hunting a suicide bomber in south London in 2005, reacted angrily to the announcement last month that no officer involved in the shooting would face disciplinary proceedings.

One of his relatives said the police were being allowed "to get away with murder".

None of the 11 officers whose actions were investigated will face proceedings, the Independent Police Complaints Commission ruled. No decision has yet been made about the four senior officers who authorised the shooting at Stockwell underground station on 22 July 2005 as Menezes was on his way to work.

– from an article by Duncan Campbell, The Guardian, 12 May 07

<http://www.guardian.co.uk/crime/article/0,,2078089,00.html>

– excerpts from an editorial in The New York Times, 2 May 07

Spying on Americans

For more than five years, President Bush authorized government spying on phone calls and e-mail to and from the United States without warrants. He rejected offers from Congress to update the electronic eavesdropping law, and stonewalled every attempt to investigate his spying program.

Suddenly, Mr. Bush is in a hurry. He has submitted a bill that would enact enormous, and enormously dangerous, changes to the 1978 law on eavesdropping. It would undermine the fundamental constitutional principle — over which there can be no negotiation or compromise — that the government must seek an individual warrant before spying on an American or someone living here legally.

... his bill grants immunity to telecommunications companies that cooperated in five years of illegal eavesdropping. It also strips the power to hear claims against the spying program from all courts except the Foreign Intelligence Surveillance Court, which meets in secret.

It would allow the government to collect vast amounts of data at will from American citizens' e-mail and phone calls. The Center for National Security Studies said it might even be read to permit video surveillance without a warrant.

It's not clear whether that (*a real debate on security issues*) can happen under this president. Mr Bush long ago lost all credibility in the area where this law lies: at the fulcrum of the balance between national security and civil liberties.

UK police to use more stun guns

The UK will dramatically increase the number of stun guns carried by its police, issuing the 50,000-volt shock weapons to 'ordinary' officers not authorised to carry normal firearms.

A Home Office spokesman said: "A 12-month trial will extend (use of stun guns) to specially trained units, who will not necessarily be authorised firearms officers."

The spokesman said the trial would only be given the go-ahead after the UK's defence scientific advisory council sub-committee reports this month on the devices' long-term medical effects. The trial, to begin in September, will involve 11 police forces in the UK. More than 3,000 Taser-brand stun guns have already been distributed to special firearms officers.

TSA loses hard drive with personnel details

The US Transportation Security Administration (TSA) has lost a computer hard drive containing Social Security numbers, bank data and payroll information for about 100,000 employees, according to a report by Matt Apuzzo for Associated Press.

The hard drive went missing early May from a controlled area at the headquarters of TSA.

TSA, a division of the US Homeland Security Department, employs about 50,000 people and is responsible for security of the nation's transportation systems, including airports and train stations.

In 2006 a laptop with information for more than 26.5 million military personnel was stolen from a US Veterans Affairs Department employee's home.

<http://www.huffingtonpost.com/huff-wires/20070505/tsa-missing-data>

UK teachers given power to search students for knives

The British Education Secretary, Alan Johnson, has defended new powers to allow teachers to search pupils for knives without consent from 1 June.

Mr Johnson said the England-wide reforms, which have just become law, would be a "power not a duty".

<http://education.guardian.co.uk/schools/story/0,,2091928,00.html>

Environmental refugees to need UN help

Tens of millions of people are expected to join the growing tide of those forced to leave their homes due to environmental conditions, and they will need UN protection, UN University professor Janos Bogardi said last month, according to the Environment News Network.

<http://www.enn.com/globe.html?id=1651>

– see CLA 2006 internship paper by Brooke Horne on the legal status of climate refugees under international refugee law: <http://www.claact.org.au/pages/uni.php>

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Conference tries reconciling Trade and Human Rights

The intersection between trade and human rights is increasingly coming under question in international forums.

For example, the Institute for Agriculture and Trade Policy, the North-South Institute, Social Watch and Amnesty International have just completed (28-29 May, Ottawa, Canada) a conference on *'Reconciling Trade and Human Rights: the New Development Agenda'*.

The conference explored ways in which the human rights framework could inform new strategies for trade, development, and the eradication of poverty. For more information: <http://www.dd-rd.ca/hrtradeconf>

14 nations join the HR Council

There are 14 new members on the UN Human Rights Council, formed last year to replace the discredited Human Rights Commission.

The new countries elected by the UN General Assembly last month, were Angola, Bolivia, Bosnia, Egypt, India, Indonesia, Italy, Madagascar, the Netherlands, Nicaragua, the Philippines, Qatar, Slovenia and South Africa. They join 33 other countries on the HRC.

Gbay detainees are cleared...but stay locked up

Some 82 detainees at Guantanamo Bay are eligible for release, but face months or years more in prison while the US government attempts to secure destinations for their transfers.

In some cases, the countries where the prisoners are citizens or residents have refused to accept them. In others, they could face torture if returned home. Such transfers are illegal under US law.

As well, the US government has refused to grant asylum to detainees who cannot be returned home, and European allies and other nations have followed suit.

US officials said they intend to prosecute 60 to 80 of Guantanamo's roughly 385 detainees and to release the rest. Meanwhile the Justice Department has sought to restrict communications between detainees and their lawyers. Lawyers for the detainees warned if the efforts succeed, they could see a surge in despair and suicides.

Another suicide was reported at Gbay in the last week of May.

Read more: <http://action.humanrightsfirst.org/ct/h7w9zX61WjIw/>

Forensic stuff-up lets 85 go free for up to 11 years

A report into the UK Government's Forensic Science Service released last month revealed a backlog of DNA profiles had left almost 200 crimes unsolved from 1996 to 2004.

More than 26,000 DNA profiles were left off the national database, which had led to nearly 200 crimes involving 85 suspects going undetected for up to 11 years; offenders included one pedophile, three robbers, nine burglars, 19 drug dealers and 62 thieves.

The blunder was discovered in July 2005 and reported to senior officials. But ministers were not told until January 2007.

Somalia vows to let UN probe alleged rights violations

UN humanitarian affairs chief, John Holmes, said last month that Somalia's transitional government would allow the UN to investigate allegations of war crimes, illegal detentions and other rights abuses in the Horn of Africa country.

Killing people loses favour with US juries

The last part of a US death penalty trial, where the jury decides whether the defendant will live or die, is a sort of referendum on capital punishment.

A significant majority of Americans support the death penalty in the abstract, as an idea. But checking a box in a public opinion survey is not the same as voting to send a particular person to death. In the polls that count, the ones that follow testimony and tears, jurors are increasingly rejecting the death penalty.

In the mid-1990s, US juries sentenced about 315 people to death every year. In 2006, the number of death sentences barely broke 100. Those numbers say something profound about public attitudes toward capital punishment - not in the abstract but in the concrete circumstances of particular cases.

– from International Herald Tribune, 23 May 07

<http://www.ihf.com/articles/2007/05/22/africa/death.php>

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DIARY DATES:

1-3 June, Adelaide: The Institute of Arbitrators and Mediators Australia national conference in Adelaide in June. Email [nmailto:national@iama.org.au](mailto:national@iama.org.au) or visit <http://www.iama.org.au/>

5 June, Canberra and other world cities: March of the Millions for Israeli-Palestinian peace, coordinated by IPCRI (Israel-Palestine Centre for Research and Information). Events in key capital cities such as Jerusalem, Tel Aviv, Gaza, Washington, Paris, Berlin, London, Moscow, Rome, Amman, Cairo, Tokyo...and Canberra. Full details: <http://www.june5thinitiative.org/> Canberra-specific details: <http://bram.van-oosterhout.org/wiki/bin/view/Home/InternationalPeaceEvent2007> Judy Bamberger.

5 June, Canberra: Health Rights/Responsibilities workshop, free, 9–noon, ACT HR Commission.

12 June, Canberra: Treaties Committee's inquiry into the Australia Indonesia Security Treaty, also known as the Lombok Treaty, due to report to Parliament. Committee website: <http://www.aph.gov.au/house/committee/jsct/index.htm>

14-15 June, Canberra: 2007 National Administrative Law Forum, Australian Institute of Sport, see <http://law.anu.edu.au/aial/ForthcomingEvents/FEIndex.html>

17-23 June, Australia: Refugee Week will coincide with World Refugee Day, June 20. The national theme for Refugee Week is 'The Voices of Young Refugees.' Details of events for publicity to info@refugeecouncil.org.au

June 20, World: World Refugee Day

25-26 June, Melbourne: Fifth National Conference on Human Rights and Mental Health, 383 Albert Street, East Melbourne. Details: Gemma Hogan on **0411 485 442** or gemma.hogan@save.org.au

26 June, World: International Day in Support of Victims of Torture

28-30 June, Canberra: 'Restoring the Rule of Law in International Affairs', conference of A&NZ Society of International Law, National Museum of Australia, host Centre for International and Public Law, ANU. Details: Kavitha Robinson <mailto:cipl@law.anu.edu.au>

29 June, Canberra: Human Rights Community Forum, organized by the ACT Human Rights Office.

1 July, World: Application deadline for the Rotary World Peace Fellowship and Conflict Studies Program for January 2008 session: pursuing a master's degree in international studies, sustainable development, peace, and conflict resolution at one of the six Rotary university partners: U California, Berkeley; Duke U; U. North Carolina; International Christian U; U Queensland ; U Salvador. For more information: http://www.rotary.org/foundation/educational/amb_scho/centers/scholars/index.html

2 July 2007, London UK: International Practice Diploma Program, continuing legal education for lawyers wishing to practice internationally. More information, see www.ibanet.org/education/ipdp_home.cfm

2-3 July, Canberra: Workshop, *Connecting the Public with the International: Law's Potential* (with particular reference to the Oil-for-Food questions), National Europe Centre, ANU. <http://law.anu.edu.au/cipl/events.asp>

3-5 August, Cairns: International Conference on Child Labour and Child Exploitation, Details: ceo@childjustice.org

26-30 August, 2007, Melbourne: Australasian Council of Women and Policing's Fifth Australasian Women and Policing conference, Carlton Crest Hotel, Melbourne. More info: acwap@ozemail.com.au

8-9 September, Sydney: APEC Economic Leaders meeting.

9-13 Sept, Kenya: 2007 Commonwealth Law Conference, Nairobi.

<http://www.commonwealthlaw2007.com/>

25 September, Melbourne: 2007 Protecting Human Rights Conference, to discuss developments in the protection of Human rights by Australian charters and human rights acts. More information, **+61 (02) 9385 2259**; 0414 241 593.

9-10 November, Canberra: 12th Annual Public Law Weekend: *Death of the Rule of Law?* Visions Theatre, National Museum, Canberra. <http://law.anu.edu.au/cipl/events.asp>

10 December, World: Human Rights Day www.ohchr.org

2010:

10/10/10, World: Target date for the start of the **CLA**-promoted moratorium on the death penalty – **10/10 for Life**.

LAST WORD: Justice is blind to web's wonders

A British judge 40 years ago is said to have enquired in court: "Who are the Beatles?"

Now Mr Justice Peter Openshaw has given ignorance a new and updated twist by confessing last month during a trial at Woolwich Crown Court in England: "I don't really understand what a website is."

The next day, he "paid close attention", according to The Times of London, as a professor gave him an explanation, with the aid of a system of pretty pictures and facts known as PowerPoint.

The first slide displayed by Professor Tony Sams, a computer expert, showed a yellow cloud labelled "internet" connected by blue lines to two computers.

Professor Sams told the judge: "The internet is a complex communication system. What you need to do is log into the system either through a telephone cable or perhaps through a television cable."

The professor then explained the terms "dial-up" and "broadband", adding: "It is how fast you can communicate."

– from The Guardian (UK), 18 May 07

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