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### CLA member stands for Parliament

CLA member, [Bruce Haigh](#), is standing at the 24 November election as an independent in the seat of Parkes, NSW.

A Mudgee grape and olive grower, he's also a political commentator and author. His career includes national service in the Royal Australian Armoured Corps and, in WA,



being a jackeroo in the Kimberley, private secretary to a Minister and a journalist on *The West Australian*.

With Foreign Affairs, he had experience involving South Africa, Saudi Arabia, Indonesia and Pakistan, culminating in being Deputy High Commissioner to Sri Lanka in 1994. Between 1995 and 2009, he was a member of the Refugee Review Tribunal.

Bruce is a Member of the International Refugee Law Judges Association and a past President of the Australian Olives Association.

He stood as an Independent candidate for the federal seat of Gwydir, from which the current Parkes seat is drawn, in 2001 and 2004. Former Nationals Leader and Deputy Prime Minister John Anderson is the retiring Member for the area, which is likely to be won by the National Party. [Visit his website.](#)

## Attorneys-General to lock horns

Attorney-General Philip Ruddock and Shadow Attorney-General Senator Joe Ludwig will debate how the policies of the major parties affect the Australian legal system and profession early this month as a lead-up to the election.

Dr Andrew Lynch of UNSW will chair a wormless panel comprising representatives of the media, legal profession and academia. The debate runs 9-10am on Tuesday 6 November at NSW Parliament House. Entry is free but seating is limited. Book through Belinda McDonald on 02 9385 2257 or <mailto:gtcentre@unsw.edu.au>

## LAST WORD: Toy story is a buzz

Airport security staff fear toy remote control devices will be used to trigger explosives. It's a clear case of Toys R Suss. *See story at end of this bulletin.*

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## Charter of Rights recommended for Tasmania

The Tasmanian Law Reform Institute has recommended the island state adopts a Charter of Human Rights.

The TLRI announcement last month said the charter should:

- Include social and cultural rights;
- Bind public authorities only;
- Include a right to action in the Supreme Court, or to refer to the Charter in other legal proceedings; and
- Be enacted by ordinary legislation, rather than be entrenched and virtually unchangeable.

The consultation process included release of an issues paper in September 2006, and the Human Rights Consultation Committee undertook 66 community consultations, briefing session and presentations. There were 407 submissions, with 94% supporting the enacting of a charter of human rights.

Media release summarising the Institute's recommendations:

[http://www.law.utas.edu.au/reform/Human\\_rightsfinalversion\\_media.pdf](http://www.law.utas.edu.au/reform/Human_rightsfinalversion_media.pdf)

**ACT HRA may be strengthened:** The ACT Government is considering amendments to the ACT Human Rights Act, which became law on 1 July 2004, to include a direct duty on public authorities to comply with human rights.

**In Victoria**, the provisions which impose duties on public authorities will come into effect on 1 January 2008.

## **FOI disputes create major strife in WA**

The virtual sacking of the State's acting Freedom of Information Commissioner, Ms Darryl Wookey, and upcoming changes to FOI legislation are creating strife in WA. FOI expert, Dr Johan Lidberg of Murdoch University, said the changes will create greater difficulties for applicants and increase refusals for information requests. It will take longer, and be more costly, to appeal FOI knock-backs.

Dr Lidberg said the WA Attorney-General, Mr McGinty, was stripping the WA FOI Commissioner of powers and redirecting them to the State Administrative Tribunal. On appeal against the release of secret documents, the tribunal becomes the final decision maker, instead of the FOI chief. People might be intimidated by the Tribunal's 'cumbersome' court-like process and be less likely to seek reviews of refused requests, he says.

Meanwhile, Commissioner Wookey – who has been acting in the job for four years – has been told Mr McGinty will appoint a public servant from the Department of the Premier and Cabinet to the position from 1 Nov 07.

Writing in her annual report, tabled in the WA Parliament last month, she said: "No reason was given for the change other than the Attorney-General wants someone else to 'transition' the organisation (to operate under the new legislation). It is an unsurprising end to a term in which I have had an increasing sense of the undermining of the role of the office as an independent accountability agency."

At the same time, the Liberal Opposition are criticising other aspects of FOI: "It is inconceivable that Jim McGinty is seeking to change the FOI laws to allow ministers to reveal private information of anyone they feel like, yet he is hiding information about the appointment of the State's Director General of Health," the Opposition Leader, Mr Omodei, said last month.

CLA believes that any FOI changes implemented in WA in the near-term should be considered interim. They should be reviewed immediately if/when new rules and procedures are implemented federally. There is great good sense in having complementary legislation in such an important area of public transparency.

## **Queensland police start drug-testing drivers**

Queensland police are starting to drug-test motorists in a crackdown on drivers using illicit substances.

Premier Anna Bligh said she was putting drug-drivers on notice that roadside drug tests would soon be carried out alongside random alcohol breath tests. She said officers would take swabs of saliva from motorists and test for drugs such as speed, ecstasy and cannabis at mobile testing stations. The tests would take three to five minutes each, and could irritate motorists, Evan Schwarten reported in the *Brisbane Times*.

Motorists in Queensland caught driving under the influence of drugs faced a \$1,000 fine, three months imprisonment and licence suspension. About 20,000 motorists will be drug tested in the next 12 months, while there will be about three million alcohol breath tests .

Ms Bligh would not rule out extending roadside testing to prescription drugs in the future following research which showed a quarter of Queenslanders had driven after taking medication which can hinder vision and reaction times.

– AAP

<http://www.brisbanetimes.com.au/articles/2007/10/28/1193548129347.html>

## WA brings in drug tests for motorists

WA last month introduced random drug tests for drivers at drug detection buses.

The roadside saliva tests can detect drugs like cannabis, speed and ecstasy, but reportedly do not detect prescription drugs or over-the-counter medication.

Fines are similar to those for driving over the 0.05 per cent blood alcohol limit: \$200 fine and three demerit points for a first offence. People driving impaired by drugs face similar penalties to those for driving while drunk – from a \$800 fine and six months licence disqualification for a first offence to a \$5,000 fine, 18 months imprisonment and permanent disqualification for a third or subsequent offences.

“Research shows 28 per cent of drivers and riders involved in a fatal crash had a drug other than alcohol in their bodies at the time of the crash,” WA Police Minister John Kobelke said, according to Luke Eliot writing in the *West Australian*.

<http://www.thewest.com.au/default.aspx?MenuID=77&ContentID=44061>

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## NSW to introduce more ‘police state’ laws

A proposed NSW Surveillance Devices Bill will allow police to plant secret bugging and tracking devices for five days without getting a judge’s approval.

With a judicial warrant, they can get 90 days (currently 21), and for many different types of spying equipment, not just one type as now.

The NSW move – other states plan similar laws – follows a new Federal Bill introduced in September to allow ASIO, Australian Federal Police and state police to track people via mobile phones, and to monitor people’s internet browsing. Phone companies and internet providers would have to stream telecommunications data to them in close to real time, for up to 90 days in ASIO investigations or 45 days in police inquiries.

“No judicial warrant would be required, and the powers could be used not just against suspected terrorists, but in any criminal investigation involving an offence carrying a three-year jail term,” the *SMH* commented in an editorial late last month.

“The NSW Police Integrity Commission (has) warned that the state’s counter-terrorism command could slip into the sleaziness, including ‘dirt files’, that were the hallmark of the disgraced former Special Branch. You do not have to be paranoid, a trainee terrorist or a villain to be alarmed,” the newspaper commented.

PIC head John Pritchard recommended police impose “some form of monitoring that directly focuses on minimising the potential for inappropriate targeting and retention of inappropriate information that may be perceived as ‘dirt files’.”

In 2006-07 PIC opened 55 investigations, including 17 serious ones, and concluded 25. Three police officers have been dismissed, and three others were being considered for removal under the NSW Police Act. PIC has referred two others to the police force for consideration of removal. – from an *SMH* report, provided by Diana Simmons

<http://www.smh.com.au/articles/2007/10/25/1192941243070.html>

## Vic police and feds in conflict over terror approach?

A new report argues that Victoria Police is committed to community-based policing to counter the threat of terrorism, but fears the Federal Government’s approach is undermining its efforts and fuelling a drift towards extremism.

The report, by Monash University terrorism experts and Victoria Police, effectively calls into question the Federal Government’s entire counter-terrorism strategy, warning that “hard-power” tactics risk fuelling alienation, particularly in Muslim communities.

The report says there is ample evidence that laws granting police and security agencies broad powers to investigate and prevent terrorism are unlikely to be effective.

"If such powers are used in ways that are repressive or discriminatory, or in ways that are *perceived* to be repressive or discriminatory, they risk creating an environment conducive to the spread of terrorist sympathies."

<http://www.theage.com.au/news/in-depth/good-cop-bad-cop/2007/10/14/1192300594588.html>

Details and copy of report: John Watts, [john.watts@adm.monash.edu.au](mailto:john.watts@adm.monash.edu.au)

## **Whistleblowing worth its weight in gold**

Visy cardboard company's owner Dick Pratt is facing a \$36m fine because his competitor AMCOR blew the whistle on secret price deals.

As a result, individual cardboard and packaged goods-buying firms who suffered under the price cartel are expected to sue both Visy and AMCOR, for a potential total refund from the price plotters to their victims of a reported \$700m.

Government Ministers and senior public servants should be able to draw a lesson from this case: if you encourage whistleblowing, there can be major community benefits.

CLA believes it is a lesson that should be learned particularly by the Public Service Commissioner, Lynelle Briggs, and the Secretary of the Department of Prime Minister and Cabinet, Dr Peter Shergold, who are adamantly opposed to whistleblowing.

Australia should have a law, like in the US, where a whistleblower proved to have acted in the public interest can be rewarded, rather than punished, CLA believes.

## **Democrats call for consensus on Bill of Rights**

The Australian Democrats are calling for a new consensus in Australia on a Bill of Rights, following High Court Judge Michael Kirby's Bob Hawke Prime Ministerial Centre lecture last month. You can read the speech at: <http://www.cla.asn.au/>

The Democrats' Attorney-General's spokesperson, Senator Natasha Stott Despoja, said Justice Kirby's impassioned and articulate plea for a new consensus reflected a mounting public desire for change.

The Democrats *Parliamentary Charter of Rights and Freedoms Bill* was first introduced to the Senate in 2001, and was re-introduced in 2005 by Senator Stott Despoja. The Bill will be re-introduced to the Senate in 2008.

– from Democrats media release

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## **Bali 9 executions likely to go ahead**

The executions of the Bali 9 for drug smuggling appeared likely to go ahead as Indonesia's Constitutional Court rejected a plea late last month that they should be spared because the right to life was a basic provision of Indonesia's constitution.

Only avenues now open are a judicial review, which basically requires the finding of new evidence, or a presidential pardon.

## **Prison population continues to climb**

The WA Department of Corrective Services' annual report tabled in State Parliament last month showed the adult prisoner population reached 3847 on 30 June, and would climb to 4100 by February 2008.

In just five years, the average number of prisoners has soared by 27 per cent, Ben Spencer reported in the *West Australian*.

The June 2007 figure was already nearly 14 per cent higher than the design capacity, which was 3261 in prisons and another 122 in work camps. The prison population grew 5.5 per cent in 2006-07; maximum security prisoners soared by nearly 20 per cent.

<http://www.thewest.com.au/default.aspx?MenuID=77&ContentID=43859>

Also last month, ACT Supreme Court Justice Ken Crispin commented in his retirement speech that the prison population of Australia had increased from 62 per 100,000 members of population in 1975 to 163 per 100,000 in 2005.

“Crime is driven substantially by drug dependency and mental illness. Neither of these problems are amenable to correction by simplistic slogans and we as a society have often failed to address them adequately, or even sensibly,” Justice Crispin said.

He said that a report in NSW in 2003 revealed that 78% of male prisoners and 90% of female prisoners suffered from a serious psychiatric disorder within the previous 12 months and 5% have attempted suicide.

### **‘Agent’ Smith becomes UN’s head terrorist chaser**

Mike Smith has been appointed executive director of the UN Counter-Terrorism Executive Directorate, beginning this month.

He moves to the post from being Australia’s Ambassador for Counter-Terrorism, after a diplomatic career representing Australia as permanent representative to the UN in Geneva and ambassador to the conference on disarmament. Earlier he was ambassador to Egypt and Algeria and, at one time, chief of staff and political adviser to Foreign Affairs Minister, Mr Alexander Downer.

### **Australian Military Court opens**

The Australian Defence Force now has a court able to hear serious cases in Iraq or Afghanistan or anywhere else Australian troops are serving.

On 3 October in Canberra, the first chief judge of the new Australian Military Court, Brigadier Ian Westwood, and the first two permanent judges, Colonel Peter Morrison and Lieutenant Colonel Jennifer Woodward, were sworn in. This is the latest step in the long-running process of reform of the Australian Defence Force’s military justice system, sparked by a series of high profile cases and a scathing senate committee report.

### **Report on CLA’s main media activities for October**

#### Radio interviews:

ABC Radio Regional Tasmania, Drivetime (071001): Bill Rowlings on police wanting to charge expenses to the ‘Angel of the Forest’ for protesting, and Jim Collier’s banning from Parliament.

2XX community radio Canberra: Bill Rowlings and Kris Klugman were interviewed by CLA member Bill Tully on the cartoon exhibition. CEO Rowlings undertook a Community Radio training course as a prelude to producing CLA’s own Civil Liberties Show. We’re looking for a name for it (polite suggestions by email most welcome) and ideas for topics to be covered.

ABC Radio, Grandstand (national, 071014): Max Jeganathan on issue of drug testing and why only sportspeople are being tested: why not administrators and politicians?

TV: Max Jeganathan on ABC Television News in relation to pedophile registers.

Print: Director Lance Williamson and CEO Bill Rowlings met with and briefed the new Canberra Times Police Reporter, Noel Towell. Discussions and backgrounding phone calls occurred with other State and national publications.

### **Other key activities involving CLA for October:**

The month started and ended with deaths in Canberra of two people significant to civil liberties. Many CLA members attended the funeral of ACT Chief Justice Terry Connolly, one of the main people behind the long-term push for human rights legislation in the ACT, and on Monday 29 Oct there was a memorial gathering at the ANU for renowned historian Dr Bob Gollan (CLA member and 50-year-plus supporter of human rights).

The CLA cartoon exhibition *Laughing with Knives* opened on Monday 8 for 2 weeks and was appreciated by those who visited it. We are indebted to CLA member, Speaker Wayne Berry, for hosting it. We plan to travel the exhibition: if you have ideas for venues in regional areas, please contact us.

Sarah Bassiouoni's team completed a survey of civil liberties and human rights, as well as the constitutional and legal background, of four of the 12 target Pacific countries.

To conclude the month, about 44 members and family enjoyed a BBQ on Sunday 28 at the President's home. There was lively conversation, convivial laughter and delicious food, mostly contributed by guests, as members got to know each other and appreciate the quality of knowledge and experience contained in the CLA membership.

### **Apologies to the Greens (and Democrats)**

In the October *CLArion*, we called Senator Kerry Nettle a Democrat. She is of course a Green. We'd like to apologise...for getting it wrong, but also because she is such a hard worker for civil liberties that she's one of the last people we should mis-moniker. Thanks to Dierk von Behrens for being the first to point out the error.

Incidentally, as well as Kerry Nettle, CLA also supports the following candidates standing in the coming election, not for their party allegiance but because they have gone out of their way to help the cause of civil liberties over the past two years:

Marise Payne, Lib, NSW; Andrew Bartlett, Democrat, Qld; Lyn Allison, Democrat, Vic; Andrew Georgiou, Lib, Vic; Steven Ciobo, Lib, Qld; Malcolm Turnbull, Lib, NSW; Kate Lundy, ALP, ACT; Robert McClelland, ALP, NSW; Arch Bevis, ALP, Qld.

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### **NT alcohol ID trial to start soon**

The Northern Territory Alcohol Policy Minister expects a trial of a new computer identification system will soon be running in takeaway liquor outlets in the north-east Arnhem Land community of Nhulunbuy.

The system will see identification electronically scanned with the computer able to tell the salesperson if there are any restrictions on the customer.

Dr Chris Burns told Parliament last month the system would be more effective than Commonwealth laws requiring liquor outlets to manually record a person's details if they buy more than \$100 of alcohol. Dr Burns said he is also hoping to expand the system to Katherine and Alice Springs.

<http://www.abc.net.au/news/stories/2007/10/19/2063642.htm>

### **Microsoft launches medical records site**

Microsoft Corp launched a website early last month for managing personal health and medical information, but CLA has concerns over privacy aspects.

For consumers, the HealthVault site is part-filing cabinet, part-library and part-fax machine for an individual's or a family's medical records and notes, the *SMH* reported on

5 Oct 07. The free site can store medical histories, immunization and other records from doctors' offices and hospital visits, including data from devices like heart monitors.

Users can enable access to different slices of their health data via e-mailed invitations to doctors, family members and other people as the need arises.

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

## **Guantanamo prosecutor claims political interference**

Former US Guantanamo Bay chief military prosecutor Colonel Morris (Mo) Davis said in an interview with the *Wall Street Journal* published late last month that Australian politics interfered with Guantanamo prosecutions.

Davis also said that recently-approved rules governing prosecutions result in the chief prosecutor reporting via the Legal Advisor to the Convening Authority to the Pentagon general counsel, a presidential appointee. Davis said he filed an internal complaint about this structure, but the complaint was rejected. Shortly thereafter, he resigned in protest.

Davis was the lead prosecutor in the military commission case against Australian Guantanamo detainee David Hicks, who made a plea bargain in March. Davis claims the plea bargain was politically motivated to avoid domestic political embarrassment for Prime Minister John Howard. Foreign Minister Alexander Downer denied the allegation. A commentator in the article noted that Hicks was effectively silenced until after the 24 November Australian election.

## **Brown promises to raise bar on civil liberties**

British Prime Minister Gordon Brown last month moved to polish his credentials as a thinking liberal when he announced an ambitious series of 'liberty test' reviews designed to strengthen individual freedoms against arbitrary powers of the state.

He promised to 'raise the bar' of liberty on press freedom, and privacy from official intrusion at home and in data banks.

Justice Secretary Jack Straw expanded on Mr Brown's commitment to a British 'bill of rights and responsibilities' to enhance the Human Rights Act rather than replace it, as the Opposition Conservatives propose.

Mr Brown promised a public debate on what liberty means to British identity in the 21st century - and how best to 'apply our enduring ideals to new challenges'.

Speaking at the University of Westminster, he declared: "I want to explore how together we can write a new chapter in our country's story of liberty. And do so in a world where – as in each generation – traditional questions about the freedoms and responsibilities of the individual re-emerge; but also where new issues of terrorism and security, the internet and modern technology are opening new frontiers in our lives and our liberties."

<http://politics.guardian.co.uk/constitution/story/0,,2199665,00.html>

## **Legal or not, abortion rates are similar, report finds**

A comprehensive global study of abortion concludes that rates are similar in countries where it is legal and where it is not, suggesting that outlawing the procedure does little to deter women seeking it.

Researchers found that abortion was safe in countries where it was legal, but dangerous in countries where it was outlawed and performed clandestinely. Globally, abortion accounts for 13 per cent of women's deaths during pregnancy and childbirth, and there are 31 abortions for every 100 live births, the study said.

The results of the study, a collaboration between scientists from the World Health Organization in Geneva and the Guttmacher Institute in New York, a reproductive rights group, was due to be published in mid-October in the journal *Lancet*, Elizabeth Rosenthal reported in the *New York Times*.

<http://www.nytimes.com/2007/10/12/world/12abortion.html?th&emc=th>

### **Criminalising abortion results in 82 Nicaraguan deaths**

Late last year, Nicaragua made abortion a criminal act, even where the pregnancy threatens the mother's life. Since then, at least 82 women have died from illegal abortions, and now some Nicaraguan women and other supporters are demanding the law be changed.

– London Guardian, 8 Oct 07

<http://www.guardian.co.uk/international/story/0,,2186039,00.html>

### **Two Garuda executives charged over Munir murder**

The former president and vice-president of Indonesia's international airline, Garuda, have gone on trial for facilitating the 2004 murder of a leading human rights activist, Munir Thalib, allegedly at the behest of the State Intelligence Agency, BIN.

The *Sydney Morning Herald* reported on 10 Oct 07 that prosecutors had begun their case against the two men, claiming they were guilty of premeditated murder, charges that carry the death penalty.

The Central Jakarta District Court was told one of the men, Setiawan, knowingly assisted a Garuda pilot and intelligence agent, Polycarpus, to poison Mr Munir on a flight to Amsterdam.

<http://www.smh.com.au/articles/2007/10/09/1191695910401.html>

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### **Amnesty lists execution horrors**

The use of lethal injections in the US has led to at least nine bungled executions, including one in which the prisoner took 69 minutes to die and another in which the condemned man complained five times: "It don't work," a report by Amnesty International last month said.

The report contains a catalogue of botched executions dating from 2000, when lethal injection was adopted by 37 of the 38 US states with the death penalty.

In an execution in Ohio in May last year it took technicians 22 minutes to find a suitable vein in which to inject the lethal combination of three drugs. When the condemned man, Joseph Clark, raised his head to complain that the process was not working, the technicians closed the curtains around his trolley and spent an additional 30 minutes looking for a suitable vein. An autopsy discovered 19 puncture marks on Clark's corpse.

– Suzanne Goldenberg, reporting in The Guardian from Washington USA

### **Rumsfeld flees France fearing arrest, reports say**

Former US Defense Secretary Donald Rumsfeld fled France late in October fearing arrest over charges of ordering and authorizing torture of detainees at American-run Abu Ghraib prison in Iraq and Guantanamo Bay, reports from Paris claimed.

US embassy officials are reported to have whisked Rumsfeld away from a Paris breakfast meeting organised by *Foreign Policy* magazine after human rights groups filed

a criminal complaint against the man who spearheaded President George W. Bush's 'war on terror' for six years. Activists greeted Rumsfeld at the breakfast shouting 'murderer' and 'war criminal'.

Under international law, authorities in France are obliged to open an investigation when a complaint is made while the alleged torturer is on French soil.

– from World News, 27 Oct 07 <http://wor.ldne.ws/top>

## **Secret advice approves waterboarding**

A secret legal opinion issued by the US Department of Justice in 2005 explicitly authorized the Central Intelligence Agency to 'torture' suspects, according to the Human Rights Watch, quoting the *New York Times*.

The advising said it was okay to use abusive interrogation methods, including simulated drowning ('waterboarding'), head-slapping and frigid temperatures on detained terrorism suspects.

A second legal opinion, issued just before the US passed the McCain amendment barring cruel, inhuman or degrading treatment of detainees, reportedly declared that none of the interrogation methods used by the CIA violated that standard.

In 2006 Country Reports on Human Rights Practices, the US State Department condemned countries like Iran, North Korea, Tunisia and Libya for torturing and abusing prisoners through techniques such as sleep deprivation, prolonged solitary confinement with sensory deprivation, long confinement in contorted positions, being forced to kneel or sit immobilized for long periods, hanging detainees by the arms and legs, submersion of the head in water, and threats of dog attacks. The criticized techniques are similar to those known to have been used by the CIA.

## **CIA probes its own inspector-general**

CIA Director Michael V. Hayden has mounted a highly unusual probe into the conduct of CIA Inspector-General John L. Helgerson and his office, the agency's chief watchdog.

Helgerson has issued a series of scathing reports criticising top CIA officials.

Officials said the probe is aimed in particular at evaluating whether his office was fair and impartial in its scrutiny of the agency's terrorist detention and interrogation programs. But they said the probe also spans other subjects and has expanded since it was launched several months ago. – from *Los Angeles Times*, via Neal Wilkinson

## **Technology may bring end to risky police pursuits**

OnStar, the G.P.S.-based navigation system offered by General Motors, will start a 'stolen vehicle slowdown' service next spring to help avoid dangerous high-speed chases. If an equipped vehicle is stolen, police can ask OnStar to send a wireless message to the onboard computer, cutting the engine's power.

The driver, said Chet Huber, OnStar's president, will have time to pull off the road safely. After that, the thief is on his own. – from a *NY Times* article, 27 Oct 07

<http://www.nytimes.com/2007/10/27/technology/27tracking.html?th&emc=th>

– from an Editorial, New York Times, 9 October 2007

## **Journalists get shield law in US**

By a 15-to-2 vote, the US Senate's Judiciary Committee has approved legislation to grant reporters limited protection against being forced to reveal confidential sources in federal court.

The measure, the Free Flow of Information Act, offers reporters and their confidential sources some protection. Speaker Nancy Pelosi aims to have the House take up the shield bill by the end of the year.

"(The shield law) is an antidote to undue government secrecy and misplaced prosecutorial zeal in targeting reporters," the *NY Times* says. "The fact is that whistleblowers and other insiders with valuable information to impart tend to clam up when faced with the spectacle of reporters getting subpoenaed by the government – or even jailed – in legal battles over demands to disclose their sources.

"It is a balancing of interests that seeks to avoid harm to news gathering but allows disclosure of sources when found to be truly necessary to protect the country."

<http://www.nytimes.com/2007/10/09/opinion/09tue3.html?th&emc=th>

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## **854 million suffer, despite having right on their side**

The right to food is a human right, UN Secretary General Ban Ki-moon said in a World Food Day message.

Enshrined in the 1948 Universal Declaration of Human Rights, the right to food had been strengthened through legislative measures at the international and national levels.

Yet 854 million people in the world suffered from chronic hunger, a figure increasing since the beginning of the new millennium. In a world of plenty, this situation was unacceptable, he said. – UNity, UN Assn of Aust. newsletter, 18 Oct 07

## **Canadians rally to end 'secret' trials**

Demonstrators in a dozen Canadian cities last month demanded an end to 'secret' trials and a controversial security certificate process.

Activists accused the Canadian government of crafting a 'two-tiered' justice system after the Conservatives vowed to respond to a Supreme Court decision on security certificates through new legislation that would also add new measures to the Anti-Terrorism Act.

Demonstrators called on Public Safety Minister Stockwell Day and Immigration Minister Diane Finley to immediately withdraw all security certificates that have been issued and to release detainees currently in jail or under house arrest.

In February, the Canadian Supreme Court overturned the current system of security certificates used by the government to detain and deport non-citizens on public safety grounds, saying it violates the Canadian Charter of Rights.

The country's highest court also suspended the full legal effect of the ruling for one year, giving legislators time to rewrite the law and comply with constitutional principles that guarantee fundamental justice and prohibit arbitrary detention.

<http://canadianpress.google.com/article/ALeqM5gVqJwTjNzLIKJ-2gnkYJJe5bNKrQ>

## **Police demand doctors report gun victims**

UK police chiefs want doctors to break medical confidentiality and report patients they treat who have suffered knife or gun shot wounds, the Guardian has reported.

The proposals have caused concern among doctors and civil rights activists, who argue that confidentiality is the cornerstone of the doctor-patient relationship.

Attention has refocused on the issue of gun crime because at least 50 teenagers have been murdered in Britain this year: 11 shot dead, the rest mostly stabbed.

The Association of Chief Police Officers (ACPO) will tell the government that law enforcement alone cannot tackle the problem and that other agencies must help by changing the way they work. They also want social workers and schools to tell them of children who are, or they suspect may get, involved in gang or gun crime, and take steps to divert youngsters away from trouble.

Senior police officers will argue that doctors should inform the police about patients with knife or gun wounds, even without the victim's consent.

## **Attorney-General's prosecution role may be curtailed**

Britain's Attorney General is likely to lose the right to play a part in prosecution decisions but keep the job of government legal adviser in a shake-up of the role to restore public confidence, according to the Guardian.

The change will form part of Gordon Brown's new constitutional settlement, which will also include a bigger role for MPs in deciding whether to wage war.

The consultation on the role of the attorney was launched in July and will not conclude until the end of November, but Whitehall sources told the Guardian that the likely outcome is that, for the great bulk of criminal offences, decisions by the director of public prosecutions would be final.

That would mean the attorney would play no role in 'political' cases, such as the cash-for-honours investigation. But for a limited number of prosecutions involving the public interest, such as the BAE Systems bribery case, the A-G could retain a function.

Critics claim the attorney's current responsibilities – as legal adviser to government, independent guardian of the public interest, and minister responsible for prosecutions – are fraught with conflicts of interest. Some say a member of the government cannot be trusted to give independent and impartial advice and the job of adviser should be handed over to an outsider or an official.

Under the proposed shakeup the attorney would lose power to direct the DPP to prosecute or not, except possibly for a small number of cases involving national security or the threat of severe damage to international relations. There is also a small category of cases for which the attorney general's formal consent is required before a prosecution can go ahead. This requirement is likely to be dropped, with the possible exception of Official Secrets Act prosecutions.

Last July the constitutional affairs select committee concluded that the current role of the attorney was "not sustainable" and must be reformed. Lord Goldsmith stepped down when Tony Blair left office. His successor, Lady Scotland, has ruled herself out of any part in prosecution decisions, except where statute requires her consent, pending a decision on reform.

The changes are expected to be incorporated in a constitutional reform bill published for pre-legislative scrutiny in the new year. They could usefully inform new debate on similar possible changes in Australia, CLA believes.

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## US Supreme Court refuses torture appeal

The US Supreme Court last month refused to hear an appeal by a German citizen of Lebanese descent, Khaled el-Masri, who claims he was abducted by US secret agents and tortured while imprisoned in Afghanistan.

The court, without comment, let stand an appeals court ruling that the state secrets privilege protected the government's actions from court review, Linda Greenhouse reported in the *New York Times*. The privilege is a judicially-created doctrine that the Bush administration has invoked to win dismissal of lawsuits touching on issues of national security.

Mr el-Masri claims he was detained while on vacation in Macedonia in late 2003, transported by the USA to Afghanistan and held there for five months in a secret prison before being taken to Albania and set free, having been mistaken for a terrorism suspect with a similar name.

<http://www.nytimes.com/2007/10/10/washington/10scotus.html?th&emc=th>

## Japan to fingerprint, photograph foreigners

Japan will fingerprint and photograph foreigners entering the country from this month in an anti-terrorism policy angering foreign residents and human rights activists.

Anyone considered to be a terrorist – or refusing to cooperate – will be denied entry and deported. The checks are similar to the 'US Visit' system introduced in the USA after the attacks on 11 September 2001. But Japan, unlike the USA, will require resident foreigners as well as visitors to be fingerprinted and photographed every time they re-enter the country.

"It certainly doesn't make people who've been here for 30 or 40 years feel like they're even human beings basically," said businessman Terrie Lloyd, who has dual Australian and New Zealand citizenship and has been based in Japan for 24 years.

There are more than two million foreigners registered as resident in Japan, of whom 40 per cent are classed as permanent residents.

Britain is set to require non-European foreign nationals to register biometric details when applying for visas from 2008.

– from *Reuters*, via Roger Clarke, 26 Oct 07

<http://www.washingtonpost.com/wpdyn/content/article/2007/10/26/AR2007102600100.html>

## DIARY DATES

**3-10 November 2007, Sao Paulo, Brazil:** VII International Human Rights Colloquium, annual peer-learning event for young activists from Africa, Asia and Latin America to make connections with and between UN organizations. Info: [http://www.conectas.org/coloquio/home\\_en.html](http://www.conectas.org/coloquio/home_en.html)

**8 Nov, Sydney:** Award dinner, Great Hall, University of Sydney. 7pm. Sydney Peace Prize 2007 will be awarded to Swedish diplomat and disarmament campaigner, Dr Hans Blix, by the former Australian Prime Minister, Mr Paul Keating.

**9 November, Canberra:** Geoffrey Sawer Lecture, *Australian Exceptionalism*, Professor Michael Taggart, University of Auckland

**9 November, Sydney:** David Marr speaks on *In this day and age we can't be too careful, can we?* at inaugural Ken Buckley/John Marsden dinner of NSWCCCL. Details Berenice Buckley on 02 9818 1553 or email: <mailto:berryb@iint.net.au>

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

**27 Nov – 15 Dec, Melbourne:** Human Rights Arts & Film Festival, RMIT Capitol Theatre, 133 Swanston St. Films 27 Nov-2 Dec, art exhibition to 15 Dec. Details: <http://www.hraff.org.au/>

**28 November, Melbourne:** Public forum: evening, for conference below...

**29-30 November, Melbourne:** 24th international conference, Law and Society Association of A & NZ: Proposals by 21 Sept. Centre for Media and Communications Law and Institute for International Law and the Humanities, U. Melb. Law School. Details: <mailto:law-cmcl@unimelb.edu.au>

**6 Dec, Sydney:** Human Rights and Arts Film Festival, Sydney, launch at Chauvel Cinema, details: <http://www.hraff.org.au/>

**9-10 Dec, Perth:** Human Rights and Arts Film Festival, Perth, with films at Film and Television Institute. Details: <http://www.hraff.org.au/>

**10 December, World:** Human Rights Day [www.ohchr.org](http://www.ohchr.org)

**10 Dec, Sydney:** HREOC Human Rights Medal and Awards ceremony, Sheraton on the Park. Details: [http://www.humanrights.gov.au/about/hr\\_awards](http://www.humanrights.gov.au/about/hr_awards)

**10 December, Canberra:** ACT Human Rights forum.

**10 –12 Dec, Adelaide:** ACRAWSA 2007 Conference: Transforming Bodies, Nations & Knowledge. Issues of racial power and privilege in local and global contexts. Further info: <http://www.conference2007.acrawsa.org.au/>

**2010: 10/10/10, World:** Target date for the start of the **CLA**-promoted moratorium on the death penalty – **10/10 for Life**.

**UN to review 16 countries:** The United Nations Human Rights Council (HRC) will hold its first session of the Universal Periodic Review from 7-18 April 2008. The HRC will review sixteen states, in this order: Bahrain, Ecuador, Tunisia, Morocco, Indonesia, Finland, United Kingdom, India, Brazil, Philippines, Algeria, Poland, Netherlands, South Africa, Czech Republic and Argentina.

### **Minister threatens to sack foreign judges**

Timor Leste's new government has attacked the judiciary, with Minister of Justice Lucia Lobato threatening to terminate the contracts of United Nations-appointed foreign judges. In an interview with Timor Leste television TVTL on 3 October, Minister Lobato said her government would evaluate the performance of foreign judges and terminate the contracts of those who were not performing well.

– Judicial System Monitoring Programme (JSMP)

**Nine more leave Gbay:** The USA recently released eight detainees long held at Guantanamo Bay, then three days later a ninth. The freed detainees were transferred to their native countries: six to Afghanistan and one each to Libya, Yemen and Mauritania.

Only 4 of the 330 detainees at Guantánamo have been charged under the Military Commissions Act passed by the US Congress last year. One case – that of Australian David Hicks – ended in a plea bargain. No trial has begun.

**Abu Ghraib jailer freed:** Former Staff Sgt. Ivan 'Chip' Frederic has been paroled from a US military prison after serving three of eight years for torturing Abu Ghraib prisoners. Frederic was convicted of dereliction of duty, maltreatment of detainees, and assault, after admitting he personally abused detainees by threatening electrocution, forcing detainees to perform indecent acts, and stomping on piled prisoners. If David Hicks was required to serve only three-eighths of his Australian jail time, he would be out by now. He has already done five years in Guantanamo.

**Africa launches Freedom of Information Centre:** A network of Freedom of Information advocates in Africa has launched a regional centre in Lagos, Nigeria, to galvanise the campaign for the adoption of access to information laws on the continent. Known as the 'Africa Freedom of Information Centre' (AFIC), it will provide technical assistance to civil

society organisations in the region involved in various stages of Freedom of Information work, including the drafting of access to information bills, advocacy for their passage into law, implementation, litigation and monitoring activities.

– from e-Civicus For more info: <http://allafrica.com/stories/200710010800.html>

**PEN chooses five countries as examples:** The writers' group, PEN, will hold its annual Day of the Imprisoned Writer on 15 November. The five cases selected to represent the global spread of the problems as well as to illustrate the types of attacks on writers this year are Burma, Cuba, Gambia, Iran and Uzbekistan. Between November 2006 and today, PEN has reported on 42 murders of writers, artists and performers in Afghanistan, Bangladesh, Brazil, China, Colombia, Iraq, Mexico, Nigeria, Pakistan, Palestine, Philippines, Russia, Turkey and Venezuela.

**US to review death penalty:** The United States Supreme Court has agreed to consider whether a form of lethal injection constituted cruel and unusual punishment barred under the Eighth Amendment. <http://www.nytimes.com/2007/10/03/us/03texas.html?hp>

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FOR STUDENTS:

### **International seminar: The Future of Participatory Democracy**

Application Deadline: 15 November 2007

The International Society for Third-Sector Research (ISTR) and the Rockefeller Archive Center (RAC) have announced their first International Research Fellowship. This fellowship will be awarded to a scholar from outside the U.S. and Canada for research using the RAC and attendance at the 8th International Conference of the ISTR. The fellowship award is US \$5,000 intended to cover the cost of travel to and attendance at the ISTR conference in Barcelona, Spain (9-12 July 2008), and to the RAC in Sleepy Hollow, New York, for research at the Archives. For more information, <http://www.istr.org/conferences/barcelona/ISTR.RAC.fellowship.htm>

### ***LAST WORD: Toys R Suss***

US airport security staff officers are stepping up scrutiny of passengers – including children – carrying remote-control toys on planes.

There is concern in the USA and internationally that common remote-control toys could be used to detonate a bomb as part of a terror plot, the New York Times reported on 2 Oct 07.

Authorities decided against banning the devices in carry-on bags, but people carrying remote-control toys, including children, could be subject to pat-down searches and hand baggage checks.

<http://www.nytimes.com/2007/10/02/us/nationalspecial3/02tsa.html?n=Top>

### ***LAST WORD 2: 'Call girl' court in the act***

A Queensland man was lucky not to find himself facing contempt charges when his highly embarrassing mobile phone ring tone peeled out for about 15 seconds in a packed courtroom.

Decorum in the Ipswich Magistrate's call-over court was shattered as the sound of a woman experiencing heightened sexual pleasure rang out, over and over.

The public gallery and lawyers struggled to choke back laughter as acting magistrate Roger Stark ignored the ring tone and attended to the case before him.

While Mr Stark took no action, he could have ruled the man in contempt of court, or charged him with causing a public nuisance (up to six month's jail).

– from a report by Tony Keim, Courier Mail, 30 Oct 07

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