

Table of Contents

High Court asked to broaden NT considerations	2
CLA plans action on CCC and shield laws	2
Meetings organized on CLA Senate initiatives	2
CLA gets ready for active '08	2
Key meetings held, and planned.....	3
100,000 to be sampled annually for DNA; is Australia next?.....	3
'Stunt policing' is on the nose, QCCL says	3
Do Not Call register aids people's privacy.....	4
Deaths trigger formal review of stun gun use	4
Mounties told to restrict stun gun use.....	5
Police accused of firing stun gun into head of innocent man.....	5
Perth man fined for importing stun gun	5
Call for judges to apply for appointment.....	6
Lodhi appeal denied	6
NSW gets new privacy head.....	6
Queensland moves to incorporate	6
Human rights enshrined in UN Declaration apply universally	6
UN hangs its hat on moratorium, then abolition	7
US executions reach 13-year low	7
PM threatens to curtail public freedoms.....	7
Tonga civil society call for referendum before reforms.....	8
Journalists mount campaign against criminal charges	8
Torture still a problem in Indonesia, says UN investigator.....	8
Nigeria carrying out secret executions, Amnesty says.....	9
'Dropsy' government loses 3m more data records.....	9
Largest DNA database is prone to errors	9
Female rape victim pardoned by king	10
Seven arrested for promoting freedoms and rights.....	10
Army wants tougher laws against insurgents	10
Detainee not allowed to know who is accusing him	11
290 people still held beyond the law	11
FBI's Hoover wanted to sweep up 12,000 'disloyalty suspects'.....	11
Bush seeks control over military lawyer appointments.....	12
Domestic violence cut by pioneer scheme	12
Indian men seek protection of their rights... against wives	12
Fingernail grows into weapon of despair	13
42-day detention plan 'constitutionally illiterate'	13
US appeals court rules Patriot Act provisions unconstitutional	13
Iran executes 5... plus 1 described as innocent by Chief Justice	14
Darkness descends on US Administration's respect for the law	14
Waterboarding gets green light at top levels of power.....	14
Police in UK stand up for their rights.....	15

World gets ‘social justice’ day	15
LAST WORD: After six years, the scorecard is terror-fying	15

High Court asked to broaden NT considerations

CLA member Ernst Willheim and Professor Kim Rubinstein of ANU will be applying to be heard as amici curiae – friends of the court – in the High Court challenge to the federal government’s NT emergency intervention legislation

The case is expected to run over about three days from early March.

They will submit that the court should have regard to a range of international law and human rights principles in deciding the case. The key issue is to get these arguments on the public record for future cases, regardless of the outcome of this particular case.

CLA plans action on CCC and shield laws

In WA, planning has begun for CLA-led research and analysis projects on Corruption and Crime Commission operations and potential journalist shield laws (see story below).

Meetings organized on CLA Senate initiatives

Meetings are being organized for early in 2008 to pursue CLA’s aims for Senate procedures reform and a CLA-initiated, Senate inquiry into Civil Liberties in Australia (see below).

 [to Contents](#)

LAST WORD: After 6 years, are we safer in 2008 from terrorists?

A study by two senior law academics in the USA has raised this question for America, and the world, and reported in graphic fashion. See the last item in this bulletin for a summary, and for the URL of the full article.

CLA gets ready for active ‘08

CLA members from WA, Goulburn in NSW, Victoria and the ACT were active through December 2007 in preparing for mainline projects in 2008.

Federally as well, meetings were organised for early in the new year to progress CLA’s two Senate initiatives: reform of procedures, and a *Senate Inquiry into Civil Liberties in Australia*.

In WA, CLA convenor Peter Dowding and co-organiser Dr Johan Lidberg held meetings to prepare for two main activities early in the year – reviewing how the state’s Corruption and Crime Commission is working in practice, and preparing robust guidelines to present to WA Attorney-General Jim McGinty for possible new journalist shield laws.

They are engaging with barristers and others from the legal profession, academics in the legal and journalism fields and working journalists as they build a group of people concerned about traditional rights and freedoms, and the ongoing rule of law, in the state.

In Goulburn, new Parliamentary Secretary for Social Inclusion and the Voluntary Sector, Senator Ursula Stephens, will be the group’s keynote speaker at a function on Thursday 7 February from 6pm at the Goulburn Club.

Also in Goulburn, the CLA cartoon exhibition – *Laughing With Knives* – will be on display at the Goulburn Library from 28 April to 9 May, organised by Fred Rainger.

In Victoria, member Keith McEwan has been active in raising concerns over the treatment of Aborigines under the new Rudd federal government. He has written to newspapers several times to stress the need for Aborigines to receive a ‘fair go’

The ACT saw negotiations begin with Sing Australia, the national boy encouraging rural choirs, to encourage more singing – and writing – of Australian freedom and rights songs. CLA members are encouraged to put pen to paper to create lyrics for liberty and riffs for rights.

Also in the sound sphere, training programs were completed for CLA to be able to put together 15- and 30-minute radio programs for airing on community, university and regional ABC radio. Making radio waves is one of the major new initiatives for CLA in 2008.

Key meetings held, and planned

Federally, CLA meetings are planned at Parliament House in late January and early February with Attorney-General Rob McClelland, Anna Burke MHR and Senator Natasha Stott Despoja.

Also at Parliament House, CLA will be meeting with current Secretary of the Parliamentary Services, Ms Hilary Penfold QC, before she leaves for her new position. We will be discussing the rights of Australians to protest outside federal parliament without being quizzed by police and recorded forever on the national police database.

(Ms Penfold takes up her appointment as one of the four ACT Supreme Court judges in February).

Key meetings in December included those with Ikebal Patel (CLA member and president of the Australian Federation of Islamic Councils, AFIC); CLA director Vic Adams and wife Lyn after his key role in securing the win by Labor's Mike Kelly in the federal seat of Eden-Monaro; and with Human Rights Commission people about disabilities rights during a community forum presentation.

Meetings were also held involving CLA media spokesperson Max Jeganathan, ANU law student member Karlie Brown (who is undertaking a CLA-ANU research internship on the use/abuse of DNA in Australian society), Clare Carnell on media and radio issues, director and webmaster Lance Williamson and treasurer Kevin Pople.

As well, CLA began helping to market the 40-year history of the NSW Council for Civil Liberties, entitled *The Liberation of Lady Chatterley* by Dorothy and Scott Campbell. If anyone would like a copy, please send \$24.95 plus \$5 p&p with name and address details to CLA, Box 7438 Fisher ACT 2611 Australia.

 [to Contents](#)

100,000 to be sampled annually for DNA; is Australia next?

The UK will annually take saliva tests and DNA samples from 100,000 randomly-selected people, including children as young as 10, in a new survey of lives, behaviour and beliefs.

The UK Household Longitudinal Study will replace the long-running British Household Panel Survey. It will be the most expensive and ambitious survey of its kind in the world, costing an initial \$34m and covering 40,000 households.

The survey plan comes as the UK civil rights group, Liberty, is currently in court fighting to prevent police from keeping DNA samples of suspects later cleared of wrongdoing.

The study will incorporate the existing survey, which has been running since 1991, but will also ask for a saliva sample so a medical laboratory can examine indicators of health, such as sugar and cholesterol levels, and for genetic tests that use DNA contained in saliva.

The sample will not be tested for diseases such as HIV but interviewers may ask those taking part for permission to store a small amount for future use as medical tests become more advanced.

<http://observer.guardian.co.uk/politics/story/0,,2233275,00.html>

'Stunt policing' is on the nose, QCCL says

Drug detection dogs – sniffer dogs – are a 'gross example of stunt policing', according to the Queensland Council for Civil Liberties in its November 2007 newsletter.

Prohibited drugs were located in only 26% of searches after an indication by a dog, a two-year study by the NSW Ombudsman found, the QCCL reported. The ombudsman found nearly 75% of dog indications were wrong.

The rate of finding drugs varied from dog to dog, ranging from 7% (of all indications) to 56%. By far the most commonly-detected drug over the review period was cannabis, located in about 84% of incidents, followed by ecstasy (8.5%) and meth/amphetamine (7.7%).

<http://esvc001299.wic015u.server-web.com/show.asp?id=431>

Do Not Call register aids people's privacy

By the end of 2007, more than 2 million Australian phone numbers had been registered under the Do Not Call provisions.

And about 100,000 of those each month are being protected from nuisance calls by marketers (it's known as being 'washed' – checked by the marketing industry – to see if the proposed target is on the register).

The USA has just passed a law to say that registration on their Do Not Call list is permanent. Americans now don't need to renew periodically. In Australia, we have to renew every three years.

Deaths trigger formal review of stun gun use

After a rush of deaths linked to stun guns, the supposedly 'less-lethal' weapons are coming under much greater scrutiny in Australia and overseas.

In Canada, the Royal Canadian Mounted Police have been told to restrict the use of stun guns after a Polish man shocked several times by the weapon at a Canadian airport died in horrific circumstances captured on video.

Another man died in Perth in August when stunned in the city's streets.

In NSW, the Ombudsman will hold a formal inquiry into the safety of about 50 Tasers used by three NSW Police specialist units, including the Public Order and Riot Squad.

However no other Australian jurisdiction has yet decided to further restrict the weapon's use. In the ACT, the territory Attorney-General Simon Corbell has given the Australian Federal Police the green light to continue using the weapons, last used to stun two racegoers in Canberra on Melbourne Cup day in November.

There is a growing global debate about the safety of the weapon, which delivers up to 50,000-volt electrical pulses over a programable time frame, usually five seconds. The gun fires metal 'darts' attached to trace wires, which carry the electrical charge to and into the body.

Amnesty International links stun guns to 150 deaths in custody between 2001 and 2007, but the manufacturer of the main product, the Taser, claims their product has not caused any of the deaths.

CLA's research shows stun guns are potentially fatal for people under severe relationship stress, or drunk, high on prescription or illegal drugs, or suffering from mental illness. It is against such people that most police stun gun use occurs.

In NSW, the Tactical Operations Unit has 16 Taser guns and the State Protection Support Unit 21, the *Sydney Morning Herald* reported, which have used 43 times during conflicts since 2001. The riot squad was given Tasers in August, for APEC, but has not yet used them in a confrontation.

In December, NSW police shocked a man when he lunged at them with a meat cleaver after a two-hour siege in suburban Guildford. After being stunned he fell, breaking his arm, police said.

In Queensland last month, police fired a Taser at a man after he would not stop urinating on a shop window. They said they tried other tactics, such as capsicum spray, to no effect.

Last month, a report by the UN Committee Against Torture found Tasers could provoke extreme pain, and that they constitute a form of torture which in some cases cause death.

If a stun gun's trigger is not released, it continues to send electrical impulses through the darts, effectively increasing the 'stunning' several times over for the one police 'incident'.

In November, as well as the Polish man's death in Canada, three other men in the US died within 10 days, the *SMH* reported.

 [to Contents](#)

Mounties told to restrict stun gun use

The public watchdog for Canada's national police force has recommended that the Royal Canadian Mounted Police (RCMP) restrict the use of stun guns.

The move follows a Polish immigrant, who could not understand or speak English, dying at Vancouver airport in October. A police officer shocked the man repeatedly with a stun gun only 60 seconds from the start of the incident.

The commission for public complaints against the RCMP made 10 recommendations to be implemented as soon as possible. The first is to immediately restrict the use of Tasers by classifying them as impact weapons. That means officers could only use Tasers when an individual is being combative or posing a risk of death or grievous bodily harm to the officer.

Currently the RCMP considers the weapon an intermediate device, much like pepper spray. But the commission considers such a classification allows officers to use the weapon when someone is less threatening or deemed only as resistant.

The report also recommends more police training and study but it does not support a call for a moratorium, saying stun guns are useful in certain situations.

Police accused of firing stun gun into head of innocent man

British police last year fired a 50,000-volt Taser stun gun into the head of a 45-year-old company director who later proved to be unarmed and innocent.

Daniel Sylvester, the owner of a security firm employing 65 staff to guard council offices, pubs and nightclubs, was driving home in October when he was stopped by armed police because of 'firearms related intelligence'.

According to Sylvester, he got out of his car and was surrounded by officers, at least two of whom were carrying automatic weapons. Without warning, one officer fired a Taser into the back of his head which made him drop to his knees, he said. A second shock caused him to fall on his face, breaking a front tooth. A further six shocks made him wet himself and left him lying in the road in pain while the officers and sniffer dogs searched the car and found nothing.

The Independent Police Complaints Commission has started an investigation.

The incident was part of Operation Neon, a crackdown on guns on London's streets using armed response units to stop and search cars. Sylvester he has been traumatized, and suffers short-term memory loss. He doubts the police would have stopped him had he not been black.

According to guidelines set by the Home Office and the Association of Chief Police Officers, Tasers should be deployed "where officers are facing violence or threats of violence of such severity that they would need to use force to protect the public, themselves and/or the subject(s) of their action".

Tasers were used 47 times in London last year to mid-December, with black people accounting for almost two-thirds of those stunned. The UK government extended the right to use Tasers for all firearms officers in England and Wales in mid-2007.

– from The Guardian, 18 Dec 07

<http://www.guardian.co.uk/crime/article/0,,2229041,00.html>

Perth man fined for importing stun gun

A West Australian man has been fined \$10,000 for importing a stun gun capable of delivering a massive 850,000 volts shock.

The man, from Applecross in Perth, pleaded guilty in Perth Magistrates Court late last year to importing a restricted item. Customs officers discovered the Cheetah stun gun when they opened a parcel from the USA.

Police-issue stun guns in Australia deliver a 50,000 volts shock, which can still be lethal. A man died in Perth in August after being stunned with a police-type weapon.

Call for judges to apply for appointment

The ACT Bar Association says it hopes the territory government's new appointment process for judges will be taken up in other jurisdictions throughout Australia.

The ACT Government called for applications from individuals and submissions from those with an interest in the legal profession before appointing two new Supreme Court judges. Traditionally governments decide judicial appointments behind closed doors.

ACT Director of Public Prosecutions Richard Refshauge and the federal parliament's Secretary for Parliamentary Services, Hilary Penfold QC, were announced as the new appointments to the ACT Supreme Court bench. Ms Penfold is the first female judge appointed in the court's 74-year history.

The ACT Bar Association's George Brzostowski says the scheme should be considered nationally after working so well in the ACT.

The new judges will take up their appointments in February.

Lodhi appeal denied

The NSW Court of Criminal Appeal last month upheld Faheem Khalid Lodhi's conviction for three terrorism offences and his sentence of 20 years imprisonment.

Federal Attorney-General Robert McClelland said he was pleased that the court had completed its consideration of this matter. "The upholding of Mr Lodhi's conviction and sentence demonstrates that those who are involved in preparing for terrorist acts can expect the full weight of the law to be brought to bear against them," Mr McClelland said.

NSW gets new privacy head

The new permanent Privacy Commissioner in NSW takes up his role this month.

District Court Judge Ken Taylor was appointed by NSW Attorney-General John Hatzistergos last month to a five-year term from January 2007.

 [to Contents](#)

Queensland moves to incorporate

Queensland Council for Civil Liberties is in the process of becoming an incorporated body...after four decades of service.

QCCL turned 40 last year, and celebrated with a dinner at the Irish Club in Brisbane in October. Now they are preparing for an extraordinary general meeting, under incorporation rules.

At the 2007 AGM Michael Cope was re-elected president, with the vice-presidents being Terry O'Gorman and Peter Applegarth. John Ransley is secretary and John Drew is treasurer. Executive council members are Louisa Pink, Shaun Gordon, Kate Volk, Andrew Sinclair, Julie Jensen and Pam Wilson, with membership secretary Betty Mason being an additional member.

The QCCL achievements in its 40 years, Mr Cope wrote in the QCCL's November newsletter, included improving women's rights, gay and Indigenous rights, boosting government accountability, helping to abolish the death penalty in Australia and the introduction of anti-discrimination legislation.

Human rights enshrined in UN Declaration apply universally

The freedoms upheld in the historic Universal Declaration of Human Rights must be enjoyed by everyone, UN Secretary-General Ban Ki-moon said on Human Rights Day in December.

The day also launched a year-long, UN campaign, with the theme *Dignity and Justice for All of Us* to raise awareness of the declaration, which turns 60 on 10 December 2008.

“The declaration remains as relevant today as it did on the day it was adopted,” Mr Ban said. “But the fundamental freedoms enshrined in it are still not a reality for everyone. Too often, Governments lack the political will to implement international norms they have willingly accepted.”

– from Civicus, 12 Dec 07, email: editor@civicus.org

UN hangs its hat on moratorium, then abolition

The UN is officially calling for an immediate moratorium on executions on the way to universal abolition of the death penalty.

Passed by the UN General Assembly last month, it is the first resolution calling for an immediate moratorium on executions to be adopted by the General Assembly.

The resolution was supported by 104 of the 192 Member States, including Australia, who co-sponsored it. There were 54 countries who voted against it, and 29 abstained.

The resolution was adopted despite concerted opposition from a number of countries still ordering executions, including the USA, Singapore and China.

CLA has been calling for two years for a worldwide moratorium to begin on 10/10/10 – the 10th of October in 2010. We call the campaign ‘10/10 for Life’.

US executions reach 13-year low

Executions in the USA have declined to a 13-year low, with the 42 recorded in 2007 being the fewest since 1994, when there were 31.

The Death Penalty Information Center, which compiled the report, said there were 98 executions in 1999, the highest number since capital punishment was reinstated in 1976.

On 17 December Governor Jon Corzine of New Jersey signed legislation abolishing the death penalty in the state, a development the report said exemplified a trend of states shifting away from the death penalty. It was the first time in 40 years that a state had formally decided to abolish the death penalty.

Meanwhile, 40 of 50 states had no executions in 2007, while 86 per cent of executions occurred in the South, the report said. Texas had by far the most executions, with 26.

<http://www.nytimes.com/2007/12/19/us/19executions.html>

- from an article by Dan Frosch, NY Times, 19 Dec 07

 [to Contents](#)

PM threatens to curtail public freedoms

Malaysia’s Prime Minister said last month he would sacrifice public freedoms for national stability, which amounts to a chilling warning that the country might again see the emergence of bitter sectarian divisions.

Race – with a Muslim majority ruling over groups including Indian Hindus, Chinese Buddhists and indigenous animists – is traditionally a touch paper to trouble in the tightly-controlled state.

PM Abdullah Ahmad Badawi was speaking the day after police arrested opposition members of parliament and lawyers protesting in the streets. The protestors claim the government is clamping down on freedom of expression by banning rallies calling for electoral reforms, more transparent government and racial equality

The group arrested on 11 December came from NGOs and political activists trying to submit a paper asking for free and fair parliamentary elections in Malaysia. They represented 70 civil society groups and political parties.

The protestors were arrested by the police, but subsequently released without charge: however, they were supposed to report back to police station before the end of the month.

Two days earlier, eight lawyers and activists were arrested while participating in a peaceful Human Rights Day march. Another lawyer was arrested the same day in front of the Malaysian Bar office.

A rally organized in late November by Hindu Rights Action Force, an NGO defending the rights of the Indian minority in Malaysia, saw about 136 people arrested.

Malaysia, as a member of the UN Human Rights Council, is committed to respect the highest standard of human rights protection.

<http://www.fidh.org/spip.php?article5001>

Tonga civil society call for referendum before reforms

The chairman of the Tonga Civil Society Forum says there needs to be widespread consultation and a possible referendum before political reforms are put in place.

The government is promising that, by 2010, most MPs will be elected by the people; some pro-democracy activists want such reform implemented by 2009.

Chairman Drew Havea says ordinary Tongans do not have much idea of what the proposed changes are. People need to be clear about the objectives of the reform and how it will work.

“So there needs to be a national consultation so that people understand; if there is a major issue of change that needs to happen, then I think we have to go to a referendum to make sure that that is the voice of the majority.”

– Radio New Zealand, 13 Dec 07

<http://www.rnzi.com/pages/news.php?op=read&id=37010>

Journalists mount campaign against criminal charges

The Alliance of Independent Journalists in Indonesia (AJI) is mounting a ‘Stop Criminalisation of the Press’ campaign after two incidents involving criminal charges against journalists resurfaced last month.

Risang Bima Wijaya, a journalist and former general manager of *Radar Yogya Daily*, was detained by Bangkalan Madura Resort police on 9 December at the Sleman prosecutor’s office before being taken to Yogyakarta, all without an arrest warrant.

Wijaya is calling for a retrial of a criminal defamation case brought against him in 2004 by the director of *Kedaulatan Rakyat Daily*, Sumadi M. Wonohito. The case relates to Wijaya’s reports of an alleged incident of sexual harassment by Wonohito.

Despite many appeals, the Yogyakarta High Court and the Supreme Court upheld the ruling, and Wijaya was sentenced to six months in jail. He has been working for *Jawa Pos* newspaper while his current appeal is processed.

Meanwhile, a criminal defamation case against Bersihar Lubis, a columnist for the *Koran Tempo* daily, has been in the courts since 19 September. Bersihar is being tried on allegations of insulting the Attorney-General’s office in an article published on 17 March 2007.

The article criticised the office for a ban on a high-school history textbook. Bersihar is being tried under articles 207 and 316, connected with article 310, of the Criminal Code, which is the legal mechanism used to come down hard on ‘crimes against authorities’.

– from a report by the International Federation of Journalists, 14 Dec 07

 [to Contents](#)

Torture still a problem in Indonesia, says UN investigator

Torture persists in Indonesia and must be criminalised, an independent UN expert just back from the country has reported.

The UN’s special rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, visited correctional institutions, pre-trial detention houses, police and military detention facilities as well as social rehabilitation centres in November 2007.

From Geneva, he said his unimpeded access to places of detention was compromised, including his ability to carry out private interviews with detainees.

However, he reached the broad conclusion that, "given the lack of legal and institutional safeguards and the prevailing structural impunity, persons deprived of their liberty are extremely vulnerable to torture and ill-treatment".

He stressed that torture must be criminalised – involving several years of imprisonment – without further delay "as a concrete demonstration of Indonesia's commitment to combat this problem".

– from *UNity*, UN Assn of Australia e-newsletter, 29 Nov 07

Nigeria carrying out secret executions, Amnesty says

Nigeria has secretly carried out at least seven state executions in recent years despite official denials, Amnesty International has claimed in a new report.

The executed men, all hanged, were generally tried without representation and not given any opportunity to appeal their convictions.

Amnesty accused Nigeria of misleading the world and called on the country to impose a moratorium on the death penalty.

Last month, Nigeria voted against a UN General Assembly Third Committee resolution to place a worldwide moratorium on the death penalty.

More: <http://jurist.law.pitt.edu/paperchase/2007/12/nigeria-carrying-out-secret-executions.php>

– British Broadcasting Corporation (BBC) and *JURIST* news, from Civicus, 21 Dec 07

'Dropsy' government loses 3m more data records

The British Government has lost another computer disc containing the records of more than 3 million driving test applicants, including names, home and email addresses and telephone numbers.

The disc was lost from a 'secure store' in Iowa in the US mid-west by private firm Pearson Driving Assessments in May 2007, but neither government nor police were told.

The loss came to light after a trawl through government data holdings following the loss of 25 million child benefit records by Revenue and Customs (R&C).

As the driver data news broke, it was revealed there was another breach of R&C security due to a burglary at a Coventry storage site, the eighth known security breach in 2007. The lost data covers every applicant for a driving theory test between September 2004 and April 2007.

The series of data security breaches that has seen the personal details of tens of millions of people lost is pushing Britain to a "tipping point" over how such records are handled, the information commissioner has warned.

Richard Thomas demanded "clearer accountability" and responsibility from organisations holding personal records following the loss of files by government departments and public bodies.

He was speaking as the National Health Service chief executive, David Nicholson, insisted that patients' medical records were not at risk after it emerged that nine health trusts had lost the records of 168,000 people.

– from reports by Patrick Wintour and Helen Mulholland, *The Guardian*, Dec 07

<http://politics.guardian.co.uk/publicservices/story/0,,2232094,00.html>

Largest DNA database is prone to errors

The largest DNA database in the world covering details on about 4.5 million people – including information on every person arrested, convicted (or not), and on 900,000 children – is error prone, critics say.

Incorrect dates, spelling mistakes and duplications have been found by a data testing team – errors which can lead to innocent people being accused of crimes and wrongly arrested. Information added to incorrect profiles has also obliged the police to erase affected records.

The UK's DNA Database Unit had also admitted in a report in May 2007 that between 1995 and 2005 it failed to load 26,200 records to the DNA database because of errors, which resulted in 183 undetected crimes. In August 2007 statistics released by the Home Office were showing around 550,000 files with wrongly recorded or miss-spelt names.

A spokesman from the National Policing Improvement Agency stated that most of these errors have been corrected but admitted errors are still possible. "Between January and November 2007, 1,450 demographic discrepancies have been discovered and rectified."

<http://www.edri.org/edriagram/number5.23/uk-dna-database-error>

 [to Contents](#)

Female rape victim pardoned by king

Saudi Arabia's King Abdullah last month pardoned a Saudi woman sentenced to 200 lashes after she was gang-raped.

The woman, known only as "Qatif girl" after the area where the crime occurred, was raped at knife point by seven men as a former boyfriend drove her home.

She had been sentenced in October 2006 to 90 lashes for being alone in a car with a man who was not a relative but had her punishment increased to 200 lashes and six months in jail after she spoke out about her case.

– from several media sources

Seven arrested for promoting freedoms and rights

Syrian security forces are reported to have arrested seven activists trying to boost freedoms and rights in the Middle East country.

In 2005, a wide coalition of political reform activists, publicly issued the 'Damascus Declaration for Democratic and National Change', which called for establishing a democratic system that respected citizens' rights, ensured freedom of speech and association, and ended discrimination based on religious or political beliefs.

A meeting on 1 December 2007, aimed at following up the 2005 declaration, gathered 163 people at a venue outside Damascus. The result was creation of the National Council of the Damascus Declaration, a collective movement gathering political activists, including the Muslim Brotherhood, as well as human rights defenders.

Seventeen council members were elected, but on 9 December state security began a wave of arrests of dozens of activists. Seven remain in detention.

– from FIDH email, 20 Dec 07; more info: <http://www.fidh.org/spip.php?article5045>

Army wants tougher laws against insurgents

The Philippine army is pushing for tougher laws to help crush nearly 40 years of communist rebellion, favoring legislation similar to the internal security acts enforced elsewhere in south-east Asia, the military chief said last month.

General Hermogenes Esperon said the Philippines had a weak legal system that allowed communists and other dissident groups to take advantage of the democratic space.

"We need a kind of law that would approximate the internal security acts of other countries who have availed of this tool in defeating insurgencies in their homeland," Esperon told reporters.

"I support a new anti-subversion law. It is the duty of the government to protect its citizens and if, indeed, they are only after political reforms, then, they can go to the negotiating table."

In 1992, the Philippines repealed an anti-subversion law used to fight Maoist-led rebels inspired by the communist victories in China and Indochina.

On Thursday, President Gloria Macapagal Arroyo said she was supporting moves in Congress to revive an anti-subversion law that, among other provisions, would punish mere membership of the

Communist Party of the Philippines. Arroyo was apparently trying all possible tools to defeat the 6,000-member communist New People's Army (NPA) rebels before she steps down in June 2010.

<http://www.nytimes.com/reuters/world/international-philippines-communists.html>

Detainee not allowed to know who is accusing him

Lawyers preparing the defence of 21-year-old Guantánamo detainee, Omar Ahmed Khadr, on war crimes charges have been ordered by a military judge not to tell their client, or anyone else, the identity of witnesses against him.

The case of Mr Khadr, the only Canadian detained, may be the first Guantánamo prosecution to go to full trial, possibly by May. He is charged with killing an American soldier, giving material support for terrorism and other offences, in Afghanistan when he was aged 15.

Khadr's lawyers say the judge's order, issued on 15 October 2007 without public disclosure, underscored the gap between military commission procedures and traditional American rules in which the accused has a right to a public trial and to confront the witnesses against him.

- from an article by William Glaberson, *NY Times*, 1 Dec 07

<http://www.nytimes.com/2007/12/01/us/nationalspecial3/01gitmo.htm>

290 people still held beyond the law

US authorities last month released Adel Hassan Hamad, another Sudanese prisoner and 13 Afghans from detention at Guantanamo Bay.

Hamad, 49, who was arrested in Pakistan in July 2002, had been cleared by a military review panel for transfer from Guantanamo more than two years ago. It is believed his release was delayed in part because of tension between the USA and Sudanese governments over the Darfur conflict.

There are now about 290 people still locked up in Gbay.

 [to Contents](#)

FBI's Hoover wanted to sweep up 12,000 'disloyalty suspects'

A newly-declassified US document shows that J. Edgar Hoover, who headed the FBI from 1924 to 1972, had a plan to suspend habeas corpus and imprison about 12,000 Americans whom he suspected of disloyalty.

Hoover sent his plan to the White House on 7 July 1950, 12 days after the Korean War began, the *Sydney Morning Herald* reported last month.

The plan envisioned mass arrests necessary to "protect the country against treason, espionage and sabotage". The FBI would "apprehend all individuals potentially dangerous" to national security, under "a master warrant attached to a list of names" provided by the bureau.

The names were part of an index that Hoover had been compiling for years. "The index now contains approximately 12,000 individuals, of which approximately 97 per cent are citizens of the United States," Hoover wrote. "In order to make effective these apprehensions, the proclamation suspends the Writ of Habeas Corpus," he said.

Habeas corpus, the right to seek relief from illegal detention, has been a fundamental principle of law for seven centuries. The Bush Administration's decision to hold suspects for years at Guantanamo Bay in Cuba has made habeas corpus a contentious issue for Congress and the Supreme Court today.

The US constitution says habeas corpus shall not be suspended "unless when in cases of rebellion or invasion, the public safety may require it". The plan proposed by Hoover stretched that clause to include "threatened invasion" or "attack upon US troops in legally occupied territory".

His plan called for "the permanent detention" of the roughly 12,000 suspects at military bases as well as in federal prisons, because the FBI had found that the arrests it proposed in New York and California would cause the prisons there to overflow.

The prisoners would eventually have had a right to a hearing under the Hoover plan. The hearing board would have been a panel made up of one judge and two citizens. However, his letter noted that the hearings would "not be bound by the rules of evidence".

– from a report by Tim Weiner in Washington

<http://www.smh.com.au/text/articles/2007/12/23/1198344884609.html>

Bush seeks control over military lawyer appointments

The Bush administration is pushing to take control of the promotions of military lawyers, the Boston Globe reported last month.

The move escalates a conflict over the independence of uniformed attorneys who have repeatedly raised objections to the White House's policies toward prisoners in the war on terrorism.

The administration has proposed a regulation requiring "coordination" with politically-appointed Pentagon lawyers before any member of the Judge Advocate General corps – the military's 4,000-member uniformed legal force – can be promoted.

Domestic violence cut by pioneer scheme

A pioneering scheme to tackle domestic violence, which affects 1.5 million women each year in the UK, has cut the incidence of assault and injury to women by two thirds, according to the first independent evaluation of its impact.

The £1m scheme uses special case workers to co-ordinate services aimed at keeping the victim safe in her own home and has been so successful that it is being rolled out across the country.

Every year more than 100 women die at the hands of their partners, and 150,000 suffer physical or sexual assault, psychiatric harm, or are driven to suicide. More than 600,000 report incidents of abuse to the police, but thousands more suffer in silence.

The new approach involves identifying women at highest risk, using a 20-point checklist of risk factors, and appointing independent domestic violence advocates (IDVAs) to support them. The advocates co-ordinate monthly meetings of local services to protect the victims and help them rebuild their lives.

Results from the first eight pilot areas to be evaluated showed that after six months, in at least 90 out of 140 cases (65 per cent), the violence had stopped. The monthly Multi Agency Risk Assessment Conferences (Maracs) dealt with 8,000 cases in 2007, which is set to nearly double to 15,000 this year. Research shows that 70 per cent of women who have been through the Marac process were still safe six months later.

The scheme is run by a charity, Co-ordinated Action on Domestic Abuse (CAADA), set up by Diana Barran, a former hedge fund manager, in 2004.

– from The Independent (UK), 3 Dec 07, supplied by Jim Staples

Indian men seek protection of their rights...against wives

Indian men are complaining that dowry protection laws for Indian wives discriminate against them, and that they have become victims.

A 1983 anti-dowry act protects brides who were previously being attacked, and in some cases killed, by husbands trying to extort money from their families. Now, men found guilty face up to three years in jail.

To 1 December 2007, Delhi police had registered 1,642 anti-dowry cases. However, the men's movement says the law is being misused by wives. Unscrupulous women, they say, see the law as a tool to extract as much money as possible from their partners.

One men's organisation is demanding a ministry for men, arguing that 82% of taxpayers are men but that no money has ever been allocated for male welfare.

Government data shows that 134,757 people have been arrested under the anti-dowry law but only 5,739 convicted.

Men's groups want the anti-dowry offence decriminalised and the threat of jail removed. The change, say police and women's groups, would mean fewer women coming forward. – from a Randeep Ramesh story in *The Guardian*, 13 Dec 07

Full story: <http://www.guardian.co.uk/india/story/0,,2226544,00.html>

 [to Contents](#)

Fingernail grows into weapon of despair

A Guantanamo Bay prisoner slashed his throat with a sharpened fingernail late last year, spilling a lot of blood but surviving.

Guards administered first-aid and took the prisoner to the prison clinic, said Navy Cmdr. Andrew Haynes, the deputy commander in charge of the guard force. He said the prisoner received several stitches and spent a week under psychiatric observation.

Many of the 300-odd men held at Guantanamo have been there for more than five years without charge. The military has said it plans to prosecute up to 80 of the prisoners.

<http://www.guardian.co.uk/worldlatest/story/0,-7127634,00.html>

42-day detention plan 'constitutionally illiterate'

Proposals in the UK to extend the limit for pre-charge detention of terror suspects to 42 days are 'constitutionally illiterate' as well as dangerous, critics have warned.

The former Attorney General, Lord Goldsmith, warned that the provision for examination by MPs of ongoing detention "isn't necessarily the right way to deal with individual cases, while they are going on". He said he would have resigned from office if parliament had approved a 42-day limit.

The home secretary would have to notify parliament within two days of granting the 42-day limit, with MPs approving the decision within 30 days. But critics argue the police are unlikely to know they want extra time until they draw near to the 28-day limit – meaning, if the home secretary approves, they could hold a suspect for 42 days before MPs had a chance to vote.

David Davis, the shadow home secretary, warned: "This extension can be authorised by the home secretary with or without parliamentary approval. Therefore it is a sham of a safeguard."

Shami Chakrabarti, director of Liberty UK, branded the promise of parliamentary oversight a fraud, adding: "This is not just a dangerous proposal, but constitutionally illiterate. It fails to understand the proper distinction between the legislature and the courts."

– from a Tania Branigan article, *The Guardian*, 8 Dec 8, 2007

<http://politics.guardian.co.uk/homeaffairs/story/0,,2224185,00.html>

US appeals court rules Patriot Act provisions unconstitutional

A federal appeals court ruled that some portions of the US Patriot Act that govern dealings with foreign terrorist organizations are unconstitutional because the language is too vague to be understood by an ordinary person.

The ruling by the 9th US Circuit Court of Appeals in San Francisco affirms a 2005 decision by a lower court judge. That judge, Audrey Collins, ruled on a petition seeking to clear the way for US groups and individuals to assist organizations in Turkey and Sri Lanka with training on applying for disaster relief or conducting peace negotiations.

Collins said language in the Patriot Act was vague on matters involving training, expert advice or assistance, personnel and service to foreign terrorist organizations. Without clear language, the plaintiffs argued, those who provide assistance to those organizations could be subject to US prison terms of up to 15 years.

– from FindLaw 12 Dec 07

http://news.findlaw.com/scripts/printer_friendly.pl?page=/ap/o/51/12-11-2007/7402000ac86918c2.html

Iran executes 5...plus 1 described as innocent by Chief Justice

Iran executed five people late last year, for alleged drug trafficking.

In the Kermanshah Central Prison, on the same day, the state executed a then-21-year-old Iranian Kurd, Makwan Moloudzadeh, for supposedly having, aged 13, committed anal rape with other young boys.

Makwan Moloudzadeh's trial took place on 7 June 2007 before the Seventh District Criminal Court of Kermanshah in Western Iran.

During the unfair trial, all witnesses retracted their pre-trial testimonies, claiming to have lied to the authorities. Also Mr. Moloudzadeh himself stated in court that his confession had been made under coercion. The case caused an international uproar.

At the national level, the Iranian Chief Justice, Ayatollah Seyed Mahmoud Hashemi Shahrudi, criticised the decision in his 10 November 2007 opinion, where he described the death sentence as being in violation of Islamic teachings, the religious decrees of high-ranking Shiite clerics, and the law of the land.

The Islamic Republic of Iran continues to apply the death penalty under conditions that blatantly violate international human rights standards. Since January 2007 more than 300 persons have been executed which implies an increasing trend. At least five of these were child offenders.

Today more than 75 children remain on death row.

– report from FIDH by email; more information: <http://www.fidh.org/spip.php?article4993>

 [to Contents](#)

Darkness descends on US Administration's respect for the law

A lawyer for Guantanamo Bay detainee Majid Khan – as a green card holder, a legitimate US resident – has sought an order demanding that the US Administration and the CIA do not destroy evidence of state-sanctioned torture used on his client.

Basically, the Centre for Constitutional Rights lawyer, J. Wells Dixon, is asking the federal court to stop its own government deliberately destroying evidence required by other US legal bodies.

Khan was one of the CIA's 'ghost' prisoners, forcefully disappeared and flown by moonlight around secret European prisons for three years.

On 5 March 2003, he was kidnapped off the streets of Karachi, Pakistan, into Europe's deniable darkness. On 6 September 2006, he emerged to public view in the grey light of Gbay. Since then, he remains detained, uncharged and untried.

Other Gbay detainees are reminding judges that they (the judges) formally ordered the CIA not to destroy potential evidence in rulings in mid-2005, four months before the CIA destroyed torture videotapes, according to the CIA's own admission. In July 2005, copies of the court orders were sent to the CIA in at least one series of cases.

Waterboarding gets green light at top levels of power

The White House last month was directly accused of authorising the waterboarding of al-Qaida suspects, putting President George Bush at the centre of a deepening controversy about the treatment of detainees.

The charge from John Kiriakou, a former CIA official involved in the capture of senior al-Qaida operatives, comes at a time when the Bush administration is trying to contain a row over the destruction of hundreds of hours of video footage of the interrogation of a high-level al-Qaida suspect, Abu Zubaydah.

– The Guardian, 11 Dec 07

<http://www.guardian.co.uk/usa/story/0,,2225738,00.html>

Police in UK stand up for their rights

The UK Police Federation chair, Jan Berry, said last month she expected her 124,000 members to be balloted on whether they wanted access to full industrial rights, which would include the right to strike.

It would be a historic decision – it has been illegal for police officers to strike for almost 100 years.

"I don't know how many police officers want to go on strike but I know they do want a mechanism they can trust," said Berry. "Every police officer has human rights, the same as everyone else. If they give up a human right, they have got to have something in return."

<http://politics.guardian.co.uk/homeaffairs/story/0,,2225710,00.html>

Over the same dispute, police have accused the government of attempting to ban 10,000 officers from marching through Westminster – the area of the UK Parliament – in a mass protest over their pay award in the force's biggest demonstration since 1919.

Relations between the UK Home Office and the police force have fallen to a new low, with the Police Federation of England and Wales, the body that represents all rank-and-file officers, claiming the government is 'interfering behind the scenes' over plans for the march to Parliament on 23 January.

Police claim their preferred route for their march is set to be banned under archaic 'sessional orders', laws drawn up in the early 19th century to combat large-scale radical protests that threatened a disturbance of the peace.

The latest skirmish between the thin blue line and the government follows months of bitter wrangling over pay. In early 2007 there was widespread outrage among police officers in England and Wales after they discovered that a 2.5 per cent pay rise was not going to be backdated, which meant their real pay rise was 1.9 per cent.

Rank-and-file officers will shortly be balloted on whether they should have the right to take industrial action, which is currently illegal.

<http://observer.guardian.co.uk/politics/story/0,,2233305,00.html>

World gets 'social justice' day

The UN has endorsed 20 February annually, from 2009, as the World Day of Social Justice. The UN General Assembly has urged its 192 member states to devote the day to promoting activities at the national level in support of the objectives and goals of the 1995 World Summit for Social Development, held in Copenhagen.

LAST WORD: After six years, the scorecard is terror-fying

There were about four times more terrorist attacks worldwide in 2006, than in 2001.

From May-July 2007, there were 10 times more insurgent attacks in Iraq, on average per day, than there were in July 2003.

Since 2001, the USA has tried 0 detainees at Guantanamo Bay (only David Hicks has been convicted, on a plea bargain securing his return to Australia, and he is now out of jail, though 'controlled').

About 400 people have been locked up for six years without getting a day in court.

In the first two years after 2001, US authorities preventatively detailed 5,191 foreign nationals within the USA. Of those 0 have been convicted of terrorist crimes.

– supplied by Robt Briggs

<http://www.latimes.com/media/acrobat/2007-11/33860990.pdf>

 [to Contents](#)

DIARY DATES

2008: 2008 is the 60th anniversary of the Universal Declaration of Human Rights

29-31 Jan 08, Brisbane: Ninth Annual Global Development Conference 'Security for Development: Confronting Threats to Survival and Safety'. Nearly 600 attendees discussing the role of physical security as a precondition of human development. <http://www.gdnet.org/middle.php?oid=1220>

8-10 Feb, Canberra: Sentencing 2008 conference, National Museum of Australia. Speakers include Chief Justice Jim Spigelman (NSW), Chief Judge Russel Johnson (NZ), Chief Magistrate Ian Gray (Vic), Justice Rod Howie (NSW), Justice Bruce DeBelle (SA), Professor Arie Freiberg (Vic), Professor Mick Dodson (ACT), Professor Kate Warner (Tas) and Mr Rex Wild QC (NT). Program and registration: <http://law.anu.edu.au/nissl/sentencing08.htm> Further info: <mailto:sentencing@law.anu.edu.au> or phone 02 6125 6655

16-17 April, Chicago, USA: The Global Anti-Corruption, Compliance and Ethics Conference, <http://www.ethicalcorp.com/globalethics/> **8-27 June, Canada:** 29th Annual International Human Rights Training Program, Ste-Anne-de-Bellevue, Québec, Canada. Contact the IHRTP Team at <mailto:ihrtp-pifdh@equitas.org>

2009:

20 Feb, 2009: worldwide: World Day of Social Justice

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

OTHER HAPPENINGS:

1 Feb, World: application deadline, 2008-2009 King Baudouin international prize

The King Baudouin Foundation invites nominations for the 2008-2009 King Baudouin International Development Prize, which rewards the work of people or organisations that have made a substantial contribution to the development of countries in the southern hemisphere. The 2008-2009 prize, worth 150,000 Euros, will be awarded in the spring of 2009 at the Royal Palace in Brussels. More information, <http://www.kbprize.org/>

15 Feb, World: application deadline, Transatlantic Post-Doctoral Fellowship

The Transatlantic Post-Doctoral Fellowship for International Relations and Security is open to candidates who have recently received their doctorate in social and political sciences or economics and whose research focuses on topics of international relations and security. Fellowships are granted for 24 months.

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 [to Contents](#)

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