

Of Interest

- New Jersey prosecutor Thomas F. Kelaher recently called for an end to the death penalty in that state; he says the system is ineffective and fails to meet the needs of victims' families. Kelaher, who has been a prosecutor for 23 years, said that life without parole would be a more appropriate sentencing option for those convicted of first-degree murder.
- Following new evidence that Texas may have killed an innocent man when it executed Ruben Cantu in 1993, recent editorials by the Austin American-Statesman and the Dallas Morning News have criticized Texas' death penalty and called on the state to take a closer look at its "flawed" capital punishment system.

Texas executes more people each year than any other state in the US, having put to death 355 people since 1976. There are currently 414 people on death row in that state, including 10 women.

In this issue

President's Column	1
This Summer's Interns in the US	3
What Manner of Men and Women Are We?	4
Defence For Children International	5
The Season of Peace and Goodwill	6

President's Column

Singapore: The abominable noise of dissent will not ease

"We looked at the lashed, hooded man on the drop, and listened to his cries – each cry another second of life; the same thought was in all our minds: oh, kill him quickly, get it over, stop that abominable noise"
George Orwell, 'A Hanging' (1931)

I sit to write this column in the shadow of the brutal death of Nguyen Tuong Van.

It is unspeakable that we have had to contemplate and then endure the mandatory imposition of a death penalty upon any person for the possession or trafficking of heroin. That it is a close neighbour, friend, ally and pivotal player in our region is even more galling. Galling? Yes, because it seems that our Government has been politically powerless to prevent a senseless and brutal murder of an Australian citizen, of a person.

In as much as words can be deployed as weapons, they can also be deployed as beacons of hope and light. I have had the fortune to read, recently, the words written by Van from his prison cell. He was an eloquent and articulate young man who displayed an incredible maturity and insight. He had an individual voice, as do we all. His voice is lost. And for what gain?

Who benefits from the loss of this voice, the death of this young man? The Singaporean community? Hardly. Van did not, by design, visit that country. He was arrested in transit. The Australian community? 400 grams of heroin was prevented from entering our community nearly 3 years ago. But the arrest achieved that, not the punishment. Do the Asian based drug bosses quiver with a fear of the Singaporeans? Do they fear for the well being of future drug mules? Hardly. It

is just a loss of 400 grams of heroin to these people. They are not deterred.

The execution achieved nothing. It was a hollow symbol, a penal relic that resonated with failure:

- a failure by the Singaporean Government to frame a sanction so as to deter drug trafficking;
- a failure by the Singaporean Government to acknowledge and respect international law and universal human rights; and
- a failure by the Australian Government to muscle up to its neighbour, and effect an appropriate political deal on a defined point of difference.

Aside from Van's loss of life, the real travesty in the Van case was the intellectual dishonesty of the Singaporean Government. Joseph Koh, the High Commissioner in Australia, hides crossed fingers behind his back when he asserts the mandatory death sentence for heroin trafficking has achieved success for the Government of Singapore. His crafted words are wrapped in doublespeak such as 'respect' and 'understanding', and enveloped in casuistry.

The effect of his government's actions is brutal. Koh knows that the death penalty only succeeds on the most symbolic of levels: we will kill you as an example to others. And we will do so very publicly. It is the worst kind of bravado criminal justice policy: blunt, unsophisticated, inhumane and ugly.

Just as Orwell wrote of the nervous giggling of the invited guests in his short piece, "A Hanging", it is hard not to think of the

(Continued on page 2)

President's Column (cont'd)

(Continued from page 1)

Singaporean political leadership sniggering with hubris at their southern neighbours who decry this act of 'inhumanity'. So few kilometres between our lands; so many miles between the cultures.

I acknowledge the extraordinary work of Van's Australian legal team, Lex Lasry QC and Julian McMahon.

Few Australians support the re-introduction of the death penalty

Finally, a Morgan Poll conducted on 30 November 2005 found 47 per cent of Australians believed Van should go to the gallows. But 46 per cent said the death penalty should not be carried out and 7 per cent were undecided. Perhaps more importantly in the broader, and long term sense, only 27% of those polled supported the re-introduction of the death penalty in Australia (down from a 2003 Newspoll survey which reported that 56% of Australians supported the re-introduction of the death penalty in Australia for terrorists). A ray of light in an otherwise bleak set of figures.

New Orleans fundraiser

After the destruction wrought by Hurricane Katrina in the southern states of the USA in September 2005, *RepriveAustralia* organised an event to raise funds for the Justice Center in New Orleans, Louisiana.

The Justice Center is a non-profit legal office providing legal and humanitarian support services to indigent defendants on death row in Louisiana and neighbouring states. Reprive has sent many Australian volunteers to work in this office over the years.

Organised with less than 7 days notice, the evening was supported by PILCH, the Criminal Bar Association and the Victorian Bar. On 13 September 2005, over 150 people from the wider community attended the Essoign Club. Close to \$7000 was

raised in donations for the Justice Center. Reprive co-founder, Richard Bourke, now living in New Orleans and working as an attorney at the Justice Center, spoke with eloquence and power on the causes of the humanitarian disaster in New Orleans. He was introduced by Chief Judge Rozenes. Justice Maxwell, President of the Court of Appeal, spoke in reply. I record my personal thanks to both judges, to Nick Kalogeropoulos at the Essoign Club, and to the Victorian Bar for its contribution. Thank you to all members who attended and gave generously. A copy of Richard's speech will be published in the Victorian Bar News and uploaded on to our website.

2005 AGM: Professor Alastair Nicholson speaks

We held our AGM on Wednesday 12 October 2005. The following people were elected to the office bearing positions:

President:	Nick Harrington
Vice President:	Rachel Walsh
Secretary:	Natasha Stojanovich
Treasurer:	Mimi Marcus
Committee:	Pia Di Mattina, Lucy Rees

We acknowledge the contribution made by Ash Halphen as retiring vice-president and executive member.

We were extremely fortunate to have as our special guest speaker, the Hon. Professor Alastair Nicholson AO RFD QC, former Chief Justice of the Family Court. Professor Nicholson addressed a crowd of more than 80 people at the Essoign Club after the AGM. He spoke to the topic: '*Contemplating Justice: the law as a tool of justice and human rights*'. It was a powerful and provocative address, and I commend the full text of it to you – see www.reprive.org.au

We were also honoured to have Justice Kevin Bell of the Supreme Court of Victoria speak in response to Justice Nicholson. A copy of Justice Bell's reply speech is also available on

our website.

Both judges put particular emphasis in their speeches on a call for a Bill of Rights in this country. It is an issue to which Reprive finds itself returning again and again. You will hear more from us on this issue in the coming months.



Professor Alastair Nicholson and Justice Kevin Bell at the AGM

Interns

Our intern program is as healthy as it has ever been. Presently, there are 9 interns in the southern USA. They are:

- Ben Kiely (Houston - Gulf Region Advocacy Center (GRACE))
- Paul Lamb (Houston - GRACE)
- Raj Bhattacharya (Houston - GRACE)
- Anna Renou (New Orleans – A Fighting Chance)
- Andreanna Reale (New Orleans – Louisiana Capital Assistance Center (LCAC))
- Despina Politidas (New Orleans - LCAC)
- William Ho (New Orleans – Capital Appeals Project)
- Nicola Taylor (Center for Death Penalty Litigation in Durham, North Carolina)
- Geoff Smith (New Orleans - LCAC)

You will read more about each of these interns in this edition of the newsletter. Congratulations to each of them. I would like to point out that all of these interns were given the opportunity to 'jump ship' owing to the recent hurricanes in the Southern USA. None budged! I commend their sacrifice, commitment and spirit of adventure. I know each one of them will make a significant contribution.

President's Column (cont'd)

(Continued from page 2)

Finally, be under no illusions, it is a sad end to 2005. The execution of Van in Singapore and the USA having recently executed the 1000th person since the death penalty was re-introduced in 1976 is nothing to celebrate. Perhaps we will one day look back upon these events and say that opinion shifted and the world

began to change.



President Nick Harrington and Justice Bell at the AGM

I wish everyone a happy festive season and an enjoyable holiday period. Thank you one and all for your continuing support of Reprive and its work.

Nicholas Harrington
President

This Summer's Interns In the US

And the intern program keeps on growing In November, nine volunteer interns headed off for the US. They are assisting with death penalty work in seriously under-funded capital defence offices in the deep south, including some that have suffered from the recent hurricanes.

Rajat Bhattacharya has completed a computer-science degree, and is currently a 5th year law student at Monash University. Raj worked for three months at the Law Institute of Victoria and has done a clerkship at the Public Interest Law Clearing House (PILCH) as well as having been a volunteer in that office. Having founded a branch of Amnesty International at his secondary school, Haileybury College, Raj has also been the President of the Monash Uni branch of Amnesty International.

Nicola Taylor is a student at Melbourne University in the 3rd year of her Law degree, and the 4th year of her Law Science degree. With a major in behavioural neuroscience, Nicola has worked at Melbourne Private Hospital in Parkville as an Admissions Clerk and Ward Clerk since 2004.

Despina Polatidis is a fifth year Arts/Law student at Monash University with significant previous

volunteer experience. She has run weekly English classes for Afghan Refugees in Dandenong, volunteered once a fortnight running activities for dementia patients at Lovell House Nursing Home, and is also a volunteer lifesaver at Gunnamatta Surf beach.



Some of this Summer's interns at the recent Reprive AGM:
Back row L - R: Despina Polatadis, Andreanna Reale, Geoff Smith, Ben Kiely
Front row L - R: Anna Renou, Nicola Taylor

Paul Lamb is studying Arts/Law and a Diploma in Modern Languages at Melbourne University. He has worked as a law clerk for the Melbourne University in-house legal team, and has been a volunteer at the Flemington and Kensington Community Legal Centre for four years.

Ben Kiely has just completed the fourth year of an Arts/Law degree at Melbourne University, and lives at Newman College. He has also done volunteer work for PILCH and has worked as a research and electorate officer for a state MP.

Andreanna Reale is studying Arts/Law at Monash and is heavily involved with the fair trade campaign at that university. Her varied work history includes some time with World Vision, picking fruit, teaching the flute, and work experience in a nursing home and as a law clerk. She is also the secretary of the Monash Uni branch of Amnesty.

Geoff Smith is doing Arts/Law at La Trobe University, with a major in Politics. Among his numerous strings, in addition to volunteering at the West Heidelberg Community Legal Centre, Geoff has also produced theatre and teaches the violin.

Anna Renou is in her second year of Arts/Law at Monash University, and is a volunteer at the Fitzroy Legal Service. She is also a member of Amnesty.

William Ho is from Melbourne University, where he has just finished the penultimate year of his Law degree, having already completed his

This Summer's Interns In the US (cont'd)

(Continued from page 3)

Commerce degree. A fluent Mandarin speaker, William has done volunteer work at the Fitzroy Legal Service for the past three years.

Andreana, Despina and Geoff have been placed at the recovering Louisiana Capital Assistance Center in New Orleans. Some of the preliminary work for this group has involved simply locating clients who had been

evacuated from the city's prison to other facilities in the wake of Hurricane Katrina.

Anna and William have also gone to New Orleans; Anna to "A Fighting Chance", and William to the Capital Appeals Project.

Rajat, Paul, and Ben are working at the Gulf Region Advocacy Center (GRACE) in Houston, Texas. Nicola is assisting at the Center for

Death Penalty Litigation in Durham, North Carolina.

We thank them all for their commitment, energy and courage.

And we all look forward to hearing about their experiences in coming editions of this newsletter.

Pia Di Mattina

For more information on the intern program, go to www.reprive.org.au

What Manner of Men and Women Are We?

Barry Jones confessed in 2002 that he felt a terrible sense of personal responsibility for Ronald Ryan's death. The Secretary of the Victorian Anti-Hanging Council at the time of Ryan's execution in 1967, Jones could only recently bring himself to speak publicly about the experience, revealing how personally traumatised he was by that brutal hanging.

As a member of the Victorian Parliament in 1975, Jones gave a passionate second reading speech to the House on the *Crimes (Capital Offences) Bill*, which would ultimately abolish the death penalty in Victoria. Observing that it gave MPs an opportunity to declare just what manner of men and women we were, he said then that in casting his vote for abolition, he was essentially taking a stand against darkness and pessimism, and voting for man's capacity for moral regeneration. Now, that's leadership.

The execution of Ngyuen Tuong Van in Singapore posed another such opportunity for our leaders – and they botched it.

If John Howard, Alexander Downer and Philip Ruddock had taken a more consistent, principled stand against the death penalty when it loomed as an issue in our region over recent years, Singapore's President S. R.

Nathan and Prime Minister Lee Hsien Loong may have been forced to pay more serious heed to their appeals for clemency.

Who remembers the firm stance Downer took in 2002, when a sentence of death by stoning for a young mother was upheld by a Sharia Court of Appeal in Nigeria?

"The Australian Government is universally and consistently opposed to the use of capital punishment in any circumstances. The death penalty is an inhumane form of punishment which violates the most fundamental human right: the right to life. If this sentence were to be carried out, it would be received with outrage in Australia and in the wider international community."

But this resolute and absolute position has withered since then.

Following bomb attacks in Indonesia where Australian lives were lost, there was no similar condemnation by our leaders of the death penalty imposed on the 'smiling' Bali Bomber, Amrozi bin Nurhasyim. Indeed, Howard had foreshadowed that if he were to get the death penalty "There won't be any protest from Australia". No qualms either for the sentence passed on Iwan Darmawan, recently found guilty of the bombing of the Australian

Embassy in Jakarta. And of course, Howard is on record as having positively supported the death penalty for Saddam Hussein, if he is ultimately convicted of war crimes in Iraq.

It seems the policy position now is that capital punishment is actually acceptable if it's the law of the foreign land and the victim is not an Australian.

With our government professing that some people are more worthy of saving from state execution than others, how can we claim to be leaders in our region, moral or otherwise? We are rightly open to scorn for lacking a consistent position. Do we believe that a human right as fundamental as the right to life should be protected from state execution regardless of colour, creed or geography, or don't we?

We don't know what was said behind closed doors when Howard argued Van's case. But I'd be willing to bet that our moral inconsistency was high on the Singaporeans' list of discussion points.

Our Prime Minister should have maintained a consistent, unwavering opposition to the death penalty in all its forms whenever the opportunity arose. He should have provided strong moral leadership on this issue. If he

What Manner of Men and Women Are We? (cont'd)

(Continued from page 4)

had, the Singaporean authorities may have listened to him with more respect, solicitude and responsiveness when he belatedly came calling in the last days of Van's life. Van is a victim of politics as much as he is a victim of that barbaric

noose.

The Australian Government must unequivocally voice its opposition to the death penalty, in all its guises and in all places for all people. This must occur before the next case, perhaps that of the Bali 9, shines a deathly glow on Australia's untenable current

position.

Pia Di Mattina

Melbourne lawyer Pia Di Mattina is on the Executive of Reprieve, and attended the vigil service at St Ignatius Church in Richmond for Van on the morning of his execution, and his subsequent funeral, as a representative of Reprieve.

Defence for Children International

The Australian Section of Defence for Children International is a nationwide body independent of and unfunded by any government. Like Reprieve, DCI is an incorporated association reliant on individual and organisational memberships, subscriptions and donations.

The United Nations Convention on the Rights of the Child (CRC) focuses on people under 18 years of age. It sets out the principles, standards and expectations that guide DCI's actions and campaigns: children's rights to protection, provision, promotion and participation.

DCI-Australia's activities are undertaken by volunteers from within its ranks who come from all walks of life. We have no core grants and no paid staff. Even so, over the past year, among other things we:

- co-authored and obtained philanthropic funding to present the wide-ranging 2005 Australian Non-Government (Alternative) Report on Domestic Implementation of the CRC to the Geneva-based expert monitoring body, the United Nations Committee on the Rights of the Child;
- supported other DCI sections and the International Secretariat programs such as the 'No Kids Behind Bars'

movement; the establishment of Socio-Legal Defence Centres in Albania, Bolivia, Colombia, Ghana, Macedonia, Sri Lanka and Uganda; and the development of a Latin American regional alliance to promote alternatives to detention in Argentina, Bolivia, Chile, Colombia, Costa Rica and Uruguay;

- researched and lobbied in conjunction with other community agencies for amendments to the Commonwealth Anti-Terrorism Bill (No.2) 2005 to incorporate the guarantees contained in ratified treaties such as the International Covenant on Civil and Political Rights and the CRC, and their associated standards and minimum rules;
- continued to pursue the establishment of independent commissions for children and young people in Australia which are focussed upon and give effect to CRC principles;
- sought to influence the shape, reach and meaning of a proposed Victorian Bill of Rights and a Victorian Charter of Rights for Children in Care;
- persisted in publicly highlighting the plight and

rights of asylum-seeker children and their families;

- attracted donations that enabled us to fund two action strategy projects in the community which directly seek to protect, promote and advance the rights of children and young people who encounter any of the child protection, criminal justice or juvenile justice systems;
- conducted free classroom seminars on topics such as children's rights under family law and in health matters; and
- advocated for sentencing options and associated resources which better reflect the needs and service provision rights of young offenders up to the age of 25 years, particularly those with a background of abuse and neglect.

Making rights meaningful is hard. Joining our efforts is easy.

Danny Sandor

Go to: <<http://www.dci.au.org/html/join.html>> for a membership form. To discuss how your particular skills, contacts and support can help, contact Danny Sandor ph – 0409 311 510; email dannysandor@yahoo.com.



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PLEASE VISIT OUR
WEBSITE AT
WWW.REPRIEVE.ORG.AU

RepriveAustralia was founded in Melbourne in April 2001 by a group of Melbourne lawyers with the intention of assisting in the provision of effective legal representation and humanitarian assistance to impoverished people facing the death penalty at the hands of the state.

It is a sister organisation of *Reprive (UK)*, a UK based international human rights charity which was launched in December 1999 by Clive Stafford Smith OBE. *Reprive (US)* was also established in 2001 to assist in the placement of volunteer interns supplied by *RepriveAustralia* and *Reprive (UK)*.

RepriveAustralia's primary objective is to provide effective legal representation to impoverished people facing the death penalty at the hands of the state, by assisting a body of volunteers from Australia to travel overseas to work on death penalty cases and issues.

The Season of Peace and Goodwill

In recent months, many Australians found themselves extremely moved by the plight and ultimate execution of Melbourne man, Ngyuen Tuong Van, at Singapore's Changi Prison. There would of course be a range of reasons why we took particular notice of this execution.

But it is terribly sobering to realise that, while the Singapore government does not release official figures, it reportedly conducts an execution every two weeks, on average. In effect, every second Friday morning at dawn, someone is hanged at Changi.

At this rate, given its population of just over four million, Singapore conducts the most executions per capita of any country in the world. According to Amnesty International, more than 420 people have been executed there since 1991, mostly for drug trafficking offences.

And yet, in the lead up to the season of supposed peace and goodwill, the US has managed to seriously out-trump the city-state.

Since late October, the following 18 people have been executed in the US:

- Luis Ramirez (Texas)
- William Williams Jr. (Ohio)
- Marlin Gray (Missouri)
- Melvin White (Texas)
- Arthur Wise (South Carolina)
- Brian Steckel (Delaware)
- Charles Thacker (Texas)

- Steven McHone (North Carolina)
- Robert Rowell (Texas)
- Shannon Thomas (Texas)
- Elias Syriani (North Carolina)
- Eric Nance (Arkansas)
- John Hicks (Ohio)
- Kenneth Boyd (North Carolina)
- Shawn Humphries (South Carolina)
- Wesley E. Baker (Maryland)
- Stanley "Tookie" Williams (California)
- John Nixon (Mississippi)

That's around three executions every week.

Arthur Wise was a volunteer. This means he'd given up his avenues of appeal and requested the earliest possible execution date.

Charles Thacker, a client of ex-pat Victorian lawyer Richard Bourke (well known to many Reprive members), sought to challenge the lethal injection procedures as part of his appeals process, to no avail. He is reported to have gasped a number of times when the lethal drugs finally started to take effect, after the execution attendants had taken some time to find a vein in his arm. The co-founder of the Crips gang, Stanley "Tookie" Williams, spent more than 20 years on California's death row, in that time becoming an anti-gang campaigner and attracting nominations for the Nobel Peace Prize

and Nobel Prize for Literature.

Williams had maintained his innocence since his arrest and conviction for the murder of four people in 1979. In prison, he denounced gang violence and wrote children's books with an anti-gang message, donating the proceeds to anti-gang community groups. Witnesses said it took nearly 20 minutes for prison staff to insert the intravenous lines in Williams' arm to administer the lethal chemicals.

The execution of Williams prompted prominent anti-death penalty campaigner, Sister Helen Prejean, to draw pointed comparisons between the death penalty and gang justice. She is reported to have said "Gang justice is, if you kill a member of our gang, we kill you -- and don't tell me anything about how you changed your life or what you're going to do. You kill, and we kill you. And that's what the United States of America is doing with this."

John Nixon was 77 when he was executed; the oldest person to be put to death in the US since the death penalty was re-introduced in 1977. He continued to proclaim his innocence as he was being strapped to the gurney in the death chamber.

Every one of these 18 had a story.

Pia Di Mattina