

In this issue

President's Column	1
This Summer's Interns	2
What Kelly Taught Me	3
Death Penalty Debate In Vietnam	3
An Intern Reflects	5
Impressions of Angola	5
The Predicament of the Warden of Parchman Prison	7

President's Column

AGM

As always, the AGM provided a moment for reflection and renewal. It was great to see so many familiar hard-working faces and a few new faces as well. I was particularly happy to see the faces of the recent interns who are now, as I write, coming to the end of their tour of duty in the South.

I want to thank Lucy Rees who retired from the Committee. I also want to note Lucy's contribution to the volunteer program over the last 12 months.

I welcome Mimi Marcus to the Executive. Mimi has been elected (unopposed!) as Treasurer.

At the AGM, the following people were re-elected to the following positions:

President:	Nick Harrington
Vice-President:	Ash Halphen
Secretary:	Rachel Walsh
Committee	Pia Di Mattina
Committee:	Tash Stojanovich

The highlight of the AGM was our founding member, and now best described as international guest, Richard Bourke. Richard gave both a powerful and incisive presentation on the human horror of death by lethal injection. His presentation completely demolished the argument that there is anything humane or civilised when the state forcibly straps one of its citizens to the gurney and injects chemical

substances to terminate a life. If there was one image that Richard's presentation evoked for me it was the image of a silent scream: a human being strapped to a cruciform bench and rendered inert by a drug while experiencing horrendous unobserved pain as his or her internal organs implode. Is that not cruel and unusual?

Thanks to all who attended and a big thank-you to Richard for flying out from New Orleans for all of approximately 6 nights.

Howard on Van

Since I last wrote, Van Nguyen's appeal in Singapore has been concluded. Van failed to overturn his death sentence and now must make an application for executive clemency.

We acknowledge the quiet and persistent work of the Department of Foreign Affairs and Trade in the Van case in Singapore. We hope some good will come of this.

It is interesting also to observe the recent public intervention in this case of our Prime Minister, John Howard. We hope that Mr Howard's public intervention and meetings with Singapore's Prime Minister Lee Hsien Loong will be of benefit to Van in his clemency application.

We should be under no illusions – Van is in a desperate situation on Singapore's death row.

(Continued on page 2)



At the AGM, from left, Pia Di Mattina, Rachel Walsh, Richard Bourke, Tash Stojanovich, Mimi Marcus and Nick Harrington

President's Column (cont'd)

Lorilei – A meditation on loss' goes to London

I am off to London on 12 February to quickly rehearse and then oversee the opening of the theatrical production, *Lorilei*. You will recall that *RepriveAustralia* funded the development and staging of this production in 2003

in Melbourne. Working with Theatre Tarquin and Reprive UK, we have been able to organise a London season of the production. The production will raise awareness in the UK and, we hope, raise funds for Reprive UK. Best of luck to Anna Galvin who will travel from Canada to reprise her magnificent performance at La

Mama in 2003.

The production opens on 15 February 2005 at the Old Red Lion in Islington and runs until 5 March 2005. Tell your English friends to attend and support Reprive UK.

Nick Harrington
President

This Summer's Interns

This Summer, RepriveAustralia sent 5 interns to do volunteer internships in capital defence offices in the southern USA. A sixth is set to head over in February 2005.



Lucy Spencer, a Law student from Monash University, has been working at the Louisiana Capital Assistance Center (LCAC) in New Orleans. She has completed a Bachelor of Arts in International Studies at RMIT and recently did a semester exchange at the Univeristi Sains Malaysia in Penang, Malaysia.



Mark Gibson, a member of the Victorian Bar since 1986, practices in criminal law, primarily as a prosecutor, but also occasionally for the defence. He has also worked in the Northern

Territory for the Northern Australian Aboriginal Legal Aid Service, ("NAALAS"). Mark taught advocacy to the A.F.L Players' Advocates for a number of years, and umpires Australian Rules Football on weekends during the footy season (both for able bodied players on Saturdays and for mentally and/or physically disabled players every third Sunday). He has been placed at the LCAC.



Angie Wong, 21, an Arts/Law student at Monash University who is also taking a Diploma in Languages, has been working at the Capital Post Conviction Project of Louisiana, in New Orleans. In 2004 she was the Education Academic Affairs Officer on the Monash Student Union. Angie reports that her major idiosyncrasy is that she won't wear anything except pyjamas once she gets home, and since being in New Orleans, has fostered a freakish dependence on Diet Mountain Dew (an addiction apparently shared by Lucy Spencer) ...



Claire Gallagher is a Fifth year Arts/Law student at Monash University, having completed her Arts degree with a major in Sociology. She has been delaying the inevitable end of the student lifestyle by travelling – the UK, Europe, Eastern Europe, and the US in between study bouts. When she does graduate, Claire is aiming to do public interest/welfare/legal aid work but has not ruled out a career combining sociology and law or doing further study in related fields. She has been working at the LCAC in New Orleans.



Nicholas Chandler has finished the third year of his combined Law/Arts degree at the University of Melbourne, majoring in Ancient Greek. He is also studying a Diploma of Modern Languages (in Spanish) at Latrobe University. His other interests include surfing, rock climbing, music and linguistics. He has been placed with the Texas Defender Service in Houston.

What Kelly Taught Me

After six weeks as an intern at the Louisiana Capital Assistance Center (LCAC) I felt more passionate than ever that those on death row must be spared from injustice. One short conversation taught me it is not only the inmates whose lives and spirits are killed by such a system.

"I'm Kelly, I'm here to see my Dad, we visit him every two weeks."
"How long has your dad been here?"
"8 years."
"How old are you?"
"I'm 10."

I was suddenly being dragged by the hand from the visitors waiting area at Parchman Prison, Mississippi to the booth where Kelly's older sister was embracing her share of the family's 60 minutes visiting time. I looked on in disbelief as Kelly ripped the phone from her sister's hand and introduced me to her adored father whom she has no recollection of ever embracing or speaking to without the separation of a security window.

It was three days before Christmas and British intern James and I had battled the Mississippi roads for six hours to visit five inmates at Unit 32, Death Row before the 'Festive' season. Unfortunately, through the combination of it being family-visiting day, so close to Christmas and Parchman prison

staff being entirely incompetent, it was five hours before we saw our first inmate. While my normal reaction to such a wait would be frustration, it was these five hours that were the turning point of my internship. I now know it is far easier to lament injustice from an office than to talk to a ten year old child who I know may one day be told her father of whom she is so proud has been killed by the country to whose flag she pledges allegiance.

For five hours James and I spoke with the mothers, brothers and grandparents of some Parchman prisoners. The mental strain on these people was simply beyond my comprehension. I spoke with a mother who had not embraced her son and only family member for 17 years, with a mother whose son's lawyer would not discuss his case with her after she complained to the ethics committee of his inefficiency. I spoke with children living with their grandparents who had never seen their fathers without handcuffs and with fathers of prisoners who told me in disbelief "We just don't know what we did wrong".

For six weeks I thought I was watching the staff at the LCAC work themselves to the bone to save the prisoners who the state is so eager to kill. It is only after my five hours in the waiting room that I realize they are also fighting for the

family members and friends whose lives will also be crushed by an inmate's death. An execution does not simply kill a prisoner and put the victim's family at so called rest, it creates a cycle of hate and retaliation as children like Kelly grow to understand why she no longer makes the trip to visit her dad every two weeks.

Some may raise arguments such as 'they'd rather be dead than spend their entire life behind bars' or that 'these people lost their right to live when they took someone else's life', yet what happens to those who love and cherish the very people the state feels must be eradicated? What happens to those people who feel responsible for their children's acts of crime, and those who are called names and are ostracized in the playground because their dad was executed?

I have come to realise that while a person may be behind bars, they can still play a major role in someone else's life and spirit. The death penalty has countless repercussions. It was my experiences at Parchman that taught me never to lose sight of this.

Lucy Spencer

Lucy has just spent the summer as a volunteer intern at the Louisiana Capital Assistance Center in New Orleans.

Death Penalty Debate In Vietnam

A tentative debate on the death penalty has opened up in Vietnam, despite its widespread use of the practice, with that country playing host to a recent European Union forum on capital punishment.

Vietnam's Deputy Foreign Minister

Le Van Bang, told representatives attending the forum in Hanoi in November, that the death penalty is necessary in Vietnam to ensure a peaceful life for the citizens and common interest of the community.

However Bang also acknowledged that Vietnam appreciated the opportunity to enhance dialogue and cooperation with the EU on human right issues on the basis of equality and mutual respect for the common goal of promoting

(Continued on page 4)

Death Penalty Debate In Vietnam (cont'd)

(Continued from page 3)

and protecting human rights. He said the death penalty is applicable to special criminal cases with the aim of preventing and punishing certain crimes, but not for those criminals who are juveniles, pregnant women or women nurturing young children. Participants discussed a legal framework concerning the death penalty, implementation of human rights, their experiences in the field and alternatives to capital punishment. Ambassadors and representatives from EU members and representatives of Vietnam's relevant ministries and agencies attended the seminar.

An un-named European diplomat subsequently told AFP "There are lots of positive noises about the debate and we want to encourage that".

In a country where most of the progress in humans rights results from constant international pressure, the move has been welcomed in diplomatic circles. "This is actually a very good human rights story about Vietnam, and there are not so many of them," the diplomat said.

While no official figures are available, last year Vietnamese courts handed down around 100 death sentences, and 63 people were executed by firing squad, according to figures compiled from state media and court officials by AFP.

In January 2004, Vietnam introduced a new offence of reporting information on the death penalty, which is classified as a state secret. With this move widely

criticised, however, authorities are yet to punish anyone for reporting an execution.

In November, an Australian man of Vietnamese origin was sentenced to death by firing squad for drug trafficking, a decision which was reported by the Nguoi Lao Dong newspaper in Vietnam. Tran Van Thanh, 39, was given the death sentence by the Ho Chi Minh City's People's Court.

Vietnam has some of the toughest drug laws in the world. Anyone found in possession of 300 grams or more of heroin, or 10 kilograms or more of opium, could receive a death sentence.

Foreigners sentenced to death are, however, rarely executed.

In April 2000, a Canadian woman of Vietnamese origin, Nguyen Thi Hiep, became the first Westerner since 1975 to be executed for drug trafficking and her case prompted a distinct cooling of diplomatic relations between the two countries.

International concern over the use of the death penalty is compounded by what is perceived as widespread unfairness in Vietnam's heavily politicised legal system.

Defendants are seldom able to choose their lawyers, who in turn have little access to their clients. "Routinely unfair trials in Vietnam mean that the death penalty is imposed under conditions which may lead to irreversible miscarriages of justice," human rights group Amnesty International noted in a 2003 report.

However signs of change are

emerging, with plans reported early last year to remove a number of charges from the list that attract capital punishment, including so-called economic crimes such as bribery and corruption, for which a number of people are executed every year.

Justice Minister Uong Chu Luu told local press in Vietnam last November that he supported the reform plan and would put the changes before the government, in what he described as an effort "to catch up with the trend of democracy and humanity."

"We will cooperate with relevant anti-crime organisations and agencies, looking for public opinions and learning from the experience of other countries before submitting the proposal," he was quoted by the Tuoi Tre daily as saying.

Since five years ago reducing the number of crimes punishable by death from 44 to 29, the prospect of reform of the death penalty process had been confined to discussing the methods of executions only.

However, following the recent forum, international diplomats have welcomed Hanoi's apparent willingness to begin to discuss the prospect of abolition of the sanction itself.

Even if Vietnamese officials refuse to directly suggest a timetable for changes to the criminal code and the reality of a ban still seems a long way off, human rights activists are encouraged that the debate has entered the public domain.

Pia Di Mattina

An Intern Reflects...

When the U.S. Supreme Court in Furman v Georgia, 408 U.S. 238 (1972) said that the death penalty "is unique in its irrevocability", it no doubt had in mind what is often said; that by executing someone, we rule out irrevocably any possibility, however remote, of subsequent repentance, conversion, or reconciliation; we exclude finally the possibility of moral development and of the growth of conscience. We also rule out, contemptuously in my view, the chance of salvation in the event of error or mistake.

These sentiments were very much at the fore of my mind each time I visited Angola State Prison and spoke with inmates. Invariably they had spent many years on death row and, rather than being some monster-like creature whom the uninitiated might think such an inhabitant to be, instead I saw through the blackened mesh screens people who had reflected a great deal on their deeds and misdeeds. People who were in the process of transforming and were

well on the way to rehabilitation.

Take "Leroy" for example, who had become a Christian and had learnt Hebrew so as to be able to read the Old Testament. He was now learning Greek so as to be able to read the New Testament.

And "Jeremy", who although still a young man had matured sufficiently to be at pains to impress upon me how much he felt he had let down his parents who had nurtured and provided for him when growing up and who were in no way to blame for his misfortunes: that his predicament was entirely his own doing for which he had taken responsibility.

And "Frederick", who just wanted to forewarn then remind his younger brother of the perils that lay ahead if he chose a life similar to his own.

People do change, and I wondered each time I returned to my precious freedom whether their impending executions really

achieved anything that the deprivation of their freedom could not.

My internship was also spent preparing for a remand hearing, following the trial of a client who was convicted and sentenced to death based almost entirely on the say so of an alleged accomplice to whom the State had given total immunity. The shortcomings of such an outcome became abundantly clear to me when reading the transcript, which revealed that the immunized witness, who was present at the time of the crime, had as much motive and opportunity not to mention the means, to effect the crime as did our client and yet is free by virtue of the immunity. The "uniqueness of irrevocability" is no more stark than in such a scenario.

Mark Gibson

Mark is spending the summer working at the Louisiana Capital Assistance Center in New Orleans.

Impressions of Angola

Visiting time was over. As I left Louisiana State Penitentiary the sun was setting. Surrounding the prison was a glorious, illuminating glow; pinks, reds and oranges basked light and color across the woodlands and fields within, and surrounding, Angola, Louisiana's most infamous prison.

The beauty of this picturesque landscape only seemed to add to the heaviness I carried with me each time I left Angola's gates and drove down the road that so easily returned me to my freedom. It was

the stark contrast of what made up this scene, such beauty and ugliness existing alongside each other, that also mirrored the contrast and conflict of my own emotions.

Each time I made the three-hour drive to Angola during my months at the Louisiana Capital Assistance Center as an intern, I experienced what one could only describe as a roller coaster of emotions. The first drive, I was filled with nervous sickness; I was scared and tentative - this was so unlike

anything I had ever experienced in my life. How would I cope? Over the coming weeks and months however, these feelings dissipated, quickly replaced, mostly, with an odd mix of dread and happiness.

I dreaded having to witness the debilitating torture of these human beings who are at the mercy of a legal system where all odds are stacked against them. Most of the time this is not because it was a particularly heinous crime they committed (or in some cases

Impressions of Angola (cont'd)

didn't commit), but rather because they are black or because they are poor. A lot of the time, they are both.

I was inspired to apply for this internship because I found death penalty statistics to be incredibly shocking. It is hard not to be troubled by a system that is so flawed, not only in its discriminatory application, but also in its dangerous inaccuracy. Although I had been deeply disturbed by statistics exposing racism, execution of the mentally retarded and of the innocent, I was by no means prepared, merely by my awareness of these facts existing, to face the reality of those statistics.

I am incapable of adequately verbalising how one feels sitting across from another human being knowing they will either spend the rest of their lives incarcerated - or murdered - under the sick banner of justice. But however you describe it, I know I dreaded that feeling. It reminded me that the idea of rehabilitation is a foreign concept for many convicted in the South. It also reminded me that whilst many are fiercely religious, forgiveness is unmentionable.

Happiness, however, was an emotion I never really expected to encounter when visiting with those at Angola; I never thought that I could have fun in a square metre room, staring through a mesh window (making it virtually impossible to see the other person and giving you a headache after five minutes), but I did.

These men, despite the appallingly

inhumane conditions they are subjected to, still made me laugh, think, ponder and question life. They radiated such strength and spirit; amazingly, they still saw good in the world at a time when I had began to doubt. It was some of these men at Angola who made me laugh the most during my time at LCAC. In contributing to such serious, important work, surprisingly it was these visits that returned me to a kind of normality – chatting about the trivial things in life – weather, T.V., sports, movies, books. Without knowing it, these men have changed my life forever simply by talking about the latest John Grisham novel, what the last episode of *The OC* was about, or who their favorite basketball team is.

Although many of the conversations I had with prisoners were light hearted and upbeat, they by no means left me feeling that way. The small glimpse I had of what life at Angola must be like was not something easily digested. I once sat across from a mentally retarded man, serving life without parole, who described his new cellblock as 'great' because they allowed him fresh air three times a week and let him buy stamps and cookies. I suppose after being held in 'The Dungeon' (twenty-three hour extended lockdown) for nearly three months, anything else would seem 'great'.

I came to realise how important the little things, such as the luxury of buying stamps so as to be able to write to your family, are to those incarcerated for the rest of their lives or facing execution. Which brings me back to this feeling of

dread and happiness. I dreaded having to leave after such a brief visit. I dreaded looking at the clock as visiting time dwindled away because visits, even by a stranger from Australia, are a link to the outside world. The end of visiting time meant a return to their cells, their prisons within a prison. But I am filled with happiness that that day, at least, they got to see and speak and sit somewhere different. There are certainly no absolutes when it comes to the emotions one will feel during an internship. Dread and happiness were obviously not the only emotions I ever felt. I would be lying if I said I didn't think about the crimes these people committed, the horrors that had to exist for them to be where they are now (guilt/innocence arguments aside). Nor were all the conversations I had during those visits 'fun'. Some ranged from just plain hard, to a little uncomfortable, to incredibly disturbing. Looking back, I don't pretend that I was able to reconcile all the emotions I felt. Perhaps others could and do.

Dread and happiness, though such an odd little couple, were how I meaningfully reconciled both the unbelievable tragedy of what I witnessed at Angola along with the immense human spirit I encountered. So, there they shall always sit – dread and happiness – as a reminder of my visits to Angola.

Claire Gallagher

A Reprive intern, Claire has been working at the Louisiana Capital Assistance Center in New Orleans over the summer.

The Predicament of the Warden of Parchman Prison

Reprive members who attended the 2002 AGM would remember watching the compelling BBC documentary, "14 Days in May". This film told the story of the last 2 weeks in the life of Edward Earl Johnson on Parchman Prison's death row, and included interviews with the then warden, Don Cabana. Despite being a veteran of the corrections industry, Cabana showed himself to be a man of relative compassion and insight.

Donald Cabana last year returned to preside over the state's most dangerous inmates at Parchman Prison, where he had previously been warden between 1983 and 1991. On his return, Cabana announced he had three immediate goals: no escapes, no riots and no killings.

This would be quite an achievement in the Mississippi state penitentiary, more commonly known as Parchman Farm, which holds 5,000 men, including 69 on death row.

The scandal of abuses at Iraq's infamous Abu Ghraib prison has recently triggered debate in the US about conditions in their own prisons. Parchman has not fared well under that scrutiny, with the Fifth Circuit US Court of Appeal upholding a ruling last July that the conditions on Parchman's death row constituted cruel and unusual punishment and violated the US constitution.

Among other allegations of maltreatment, inmates have claimed they are forced to endure soaring temperatures in insect-infested, poorly lit cells, with toilets that are chronically blocked.

While Mr Cabana is sympathetic about the conditions, he says he

takes a realistic approach. "These places are not highly regarded by their occupants. We have been aggressively putting new screens on cell windows to make them relatively insect-free but the inmates should quit punching holes in the screens."

However, his return to the post last May stirred much local interest, largely because it is well known that the returning warden at one of the most infamous prisons in the Deep South *opposes* the death penalty.



*Don Cabana:
the Warden returns
to Parchman Prison*

The position, which led him to leave Parchman in 1991, is explained by Cabana in his book *Death at Midnight The Confession of an Executioner*, in which he tells of his friendship with Connie Ray Evans, a 26-year-old black man sentenced to death for killing a shopkeeper.

Despite the personal friendship that had developed between them, in 1987, Mr Cabana found himself forced to preside over the young man's execution.

Mr Cabana recalls how Evans turned to him sobbing at the last moment, asking him what he should do. Mr Cabana just motioned for him to breathe

deeply.

Following his harrowing experience, he vowed never to supervise another execution.

Cabana then spent more than 10 years spreading the anti-death penalty message while teaching penology at the University of Southern Mississippi. In that time, he spoke to the Minnesota House of Representatives, on US day-time television, and conducted world-wide lecture tours.

Now, fourteen years later, Mr Cabana is pragmatic about his return to his old office.

"I was surprised to be re-appointed and went through a long self-examination process before I accepted the job," he is reported to have said. "I struggle every day with the death penalty."

"But my wife explained my return best. She said that I made the decision to come back the day I left. I love this business—the challenges, the headaches and the responsibilities. There is satisfaction knowing that not just anybody can do this job. Executions are a small part of what prison officials do."

And his approach has altered somewhat in his intervening years. "You don't make friends with inmates. These are different kinds of inmates," he said.

His says his opposition to the death penalty does not stem from sympathy for the inmates. "Prison should not be a pleasant experience," he is reported to have said. But he does not believe that execution is a deterrent. While conditions on Parchman's death row may be awful, they are far from

(Continued on page 8)



RepriveAustralia-A0040981A

GPO Box 4296
Melbourne Victoria 3001
contact@reprive.org.au

PLEASE VISIT OUR
WEBSITE AT
WWW.REPRIVE.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 Predicament of the Warden of Parchman Prison (cont'd)

(Continued from page 7)

ideal for the around 5,000 other prisoners either.

The prison's nickname, *Parchman Farm*, is understandable, with minimum and medium security inmates in classic striped uniforms working Parchman's land to feed themselves and produce food for the prison kitchens. Work is done under the watchful eye of armed guards on horseback.

"We work them eight hours a day and work them hard. But if the work serves as a constant reminder of why they shouldn't come back, then we are doing them a service," said Mr Cabana.

Cabana has noted, however, that the culture at Parchman has changed enormously over the past 15 years. "It's a tougher

place, the inmates are younger, more violent, and they are here for longer sentences," he said. "This represents a challenge in managing the prison effectively.

Unit 30, which was originally built for 500 men but now holds around 700, is typical of Parchman's conditions. Hundreds of inmates within the unit are crammed into Holding Area B, essentially one big cell. The guards watch from the other side of a glass wall. There is no air conditioning in the room, which has showers, toilets and sinks in the middle, with no concession to privacy. And yet these men are serving sentences from two years to life.

"Somebody should be able to come here and do their time without worrying about being in physical danger and in this prison, that's a big agenda," said Mr

Cabana, who also acknowledges that abuse of inmates by guards is rampant in US prisons.

Despite his years of campaigning, Mr Cabana has reluctantly acknowledged that the death penalty is not likely to be abolished soon. He puts this partly down to September 11, which he says "changed the fabric of America", and created a climate of distrust and fear.

He also knows that he is likely to have to face the grim reality of the death penalty before the year's out. "I'll walk a man down his last mile to the execution chamber just like the last time and I'll do it with compassion and professionalism."

Pia Di Mattina