

McCain stands to gain from Guantanamo ruling

We may agree with Obama, but it's his rival who may benefit, **GEOFFREY GARRETT** writes

Last week's US Supreme Court decision giving Guantanamo detainees the right to appeal against their detention has brought the war on terrorism to centre stage in the race for the White House.

Human rights concerns about Abu Ghraib, Guantanamo Bay, torture and rendition have fuelled anti-American sentiment globally. But they have not yet captured the attention of Americans the way the Iraq war has.

The court's decision in the Boumediene case may change the political terrain in ways that might end up helping the decision's leading critic, Republican John McCain, even as the world shares Democrat Barack Obama's approval of the decision.

Obama said the decision "ensures that we can protect our nation and bring terrorists to justice, while also protecting our core values" and called the case "an important step toward re-establishing our credibility as a nation committed to the rule of law".

In stark contrast, McCain labelled the court's ruling "one of the worst decisions in the history of this

country". "Our first obligation is the safety and security of this nation – this decision will harm our ability to do that", McCain said.

Both presumptive nominees have also drawn straight lines from the case to their broader positions on the war on terrorism. McCain adviser Randy Scheunemann disparaged Obama's reaction to Boumediene as a "perfect manifestation of a September 10 mindset", saying Obama "does not understand the nature of the enemy as we face it". Obama shot back that "What they're trying to do is to use terrorism as a club to make the American people afraid."

These statements reflect the two candidates' broad election strategies regarding national security. McCain will paint Obama as a national security neophyte whose left-leaning Obama will imperil the country. Obama will dismiss McCain as nothing more than representing a third term of failed Bush policies. This fault line has been apparent

with respect to Iraq – McCain's stay-the-course versus Obama's responsible withdrawal – for months. Now it extends to the war on terrorism.

How the two positions will play with the electorate will largely depend on how powerful the September 11, 2001, overhang ends up being in November. Absent 9/11, George W. Bush would never have garnered the political support to invade Iraq in 2003, let alone to win re-election in 2004.

What about 2008? The US-Iraq fatigue has engulfed America since 2004, giving Obama a clear advantage over McCain on this issue. McCain is hoping he will fare better in the new battle over fighting the war on terrorism at home. There are two reasons to think that he might be right.

Americans no longer buy President George W. Bush's claim that "we need to fight them over there" in Afghanistan and Iraq "so they [Islamic extremists] won't attack us

at home". Doing whatever it takes to protect the homeland from another terrorist attack remains a much easier sell. These are extraordinary times, justifying exceptional actions, the President has repeatedly said, and his political opponents have been largely unwilling to attack this proposition head on. The Supreme Court, however, has been much less reticent. Boumediene is the third case in which the court has ruled 5-4 against key elements of Bush's war against terror, and it is the most far-reaching decision yet.

Author of the majority opinion Justice Anthony Kennedy ruled against the *raison d'être* of the Bush Administration by asserting that the war on terrorism does not rise to the level of activating the suspension clause of the US Constitution, allowing the Government to suspend individuals' rights "when in cases of rebellion or invasion the public safety may require it".

The immediate upshot of Kennedy's ruling is that US courts will now hear

up to 200 claims of false imprisonment by non-American detainees at Guantanamo Bay.

The decision was remarkable, both politically and legally. The court ruled against not only the practices of the Bush Administration, but also the Congress, where strong majorities passed the 2006 Military Commissions Act circumscribing the rights of Guantanamo detainees. The court also extended to non-Americans legal protections designed by the constitution, and reinforced by legal practice ever since, to cover American citizens.

The Boumediene ruling gives McCain the opportunity to join two Republican shibboleths – railing against leftist judicial activism and being strong on national security – while simultaneously lambasting the Supreme Court for its imperious ambition and decrying Obama as its cheerleader-in-chief.

McCain's one-two punch of judicial imperious overreach supported by wide-eyed Obama

naivete will certainly play well with the Republican base that is essential to his presidential aspirations. But it may also play better with independent voters than McCain's stay-the-course message on Iraq.

Americans revere the idea of the Supreme Court as the guardian of their beloved constitution, but they tend to react negatively to it when its decisions are out of step with mainstream public opinion. Sometimes America ultimately comes to embrace a path-breaking court decision.

But as the 50-year history of civil rights struggles after the 1954 Brown versus the Board of Education decision shows, this can be a slow process – and in the interim opposing the court can pay off politically.

Much of the world is joining Obama in his applauding the Supreme Court for its Boumediene decision. But the short-term political reality may be that it helps tip the national security scales back towards McCain in the run-up to November.

■ **Dr Garrett is the head of the US Studies Centre at the University of Sydney.**

African nations must act promptly

GREG MILLS

Failing decisive African action, not much can happen in Zimbabwe in the immediate future except for things getting worse.

Without a legitimate government in Harare, no recovery is possible. And legitimacy is unlikely to be enhanced by the creation of a government of national unity without the opposition Movement for Democratic Change: few could be fooled by a different facade on the bones of the same government, even one with apparently more acceptable ex-ZANU-PF figures such as Simba Makoni. This is less a third way than a dead-end.

For while one can suspend or rig an election, one cannot suspend or rig an economy. Economic reform and rehabilitation for the masses will not happen in the circumstances, in spite of the fact that some unscrupulous investors will continue to seek opportunity regardless. Inflation will most likely continue at its stratospheric levels, and nearly all Zimbabweans will continue to get poorer.

If opposition leader Morgan Tsvangirai had won Friday's presidential run-off, against all intimidation and rigging odds, some prospect of recovery was possible.

But he would have had to focus his limited time and direct donor resources to three key tasks: First, to stabilise the economy, probably by issuing a new currency, thereby bringing inflation under control. This would have also required carefully managed foreign inflows.

The second task would have been to re-establish the rule of law, using his leadership and mandate to reorient the army to external functions and police to the maintenance of law and order, not repression, and thereby reinstate the populace's confidence in state institutions. This would have been an initial step along the road to depoliticising the civil service.

And third – and most importantly – he would have had to reinstate the productive sectors of the economy, notably farming on which so much clearly depends in Zimbabwe. This would have demanded getting together with the farming and donor community to work out a land reform strategy that is orderly, fair and geared towards sustainability.

It would of course be difficult to turn back the clock to before President Robert Mugabe started his devastatingly costly land grab in 2000.

But it would be crucial to return skills and capital to the land. New farmers – not party hacks who have been given farms as political pay-offs – could be helped, perhaps through a national trust fund. Dispossessed farmers might be encouraged to return to share their skills through a combination of land restitution, financial compensation and partnership with the new farmers. And donors would have to be kept to their earlier promises in this sector, notably the British Government.

No doubt a president Tsvangirai would have a very difficult task ahead. But he would have one big advantage. He is not Mugabe. This scenario might still take place, but not anytime soon. In the interim, the even more difficult short-term scenario has now happened – the aborting of the election. This creates a crisis for the Southern African Development Community mediators, tainting their efforts and standing, and delaying the prospects of stability and recovery.

But they and those African democrats concerned about their continent's credibility possess a few other options.

First and foremost they will need to protect Zimbabwean opposition leaders. This may have to involve the deployment of more than hotel-bound election monitors tiring of room service.

They will need, second, to signal definitively and collectively that Mugabe's and ZANU-PF's actions are beyond unacceptable. Words are unlikely to be enough given Zimbabwe's widespread political autism: the country's suspension from the Southern African Development Community and the African Union would cost Africa little, but could pay much through the restoration of a semblance of African credibility.

And then they should find means to track the election process back on track. International and continental isolation of Zimbabwe is one way. A stipulation of international supervision of central bank inflows and outflows is another language that the party elite might respond to.

Outside powers should involve themselves in working with their African partners to this end. Failing decisive action, the potential for widespread violence in Zimbabwe has never been greater.

And its corrosive effects will not stay at home but be felt throughout the region. This will include burgeoning refugee flows, and a pernicious climate of fear and hopelessness.

■ **Dr Mills heads the Johannesburg-based Brenthurst Foundation**

Darwin's evolving status

Thoroughness, rather than originality, gave Charles Darwin his claim to the authorship of evolutionary theory, **OLIVIA JUDSON** writes

In a week or so, the trumpets will sound, heralding the start of 18 months of non-stop festivities in honour of Charles Darwin. July 1, 2008, is the 150th anniversary of the first announcement of his discovery of natural selection, the main driving force of evolution. Since 2009 is the 200th anniversary of Darwin's birth (February 12), as well as being the 150th anniversary of the publication of his masterpiece, *On the Origin of Species* (November 24), the extravaganza is set to continue until the end of next year. Get ready for Darwin hats, T-shirts, action figures, naturally selected fireworks and evolving chocolates. Oh, and lots of books and speeches.

But does he deserve all this? He wasn't, after all, the first person to suggest that evolution happens. For example, his grandfather, Erasmus Darwin, speculated about it towards the end of the 18th century; at the beginning of the 19th, the great French naturalist Jean-Baptiste Lamarck made a strong case for it. Lamarck, however, failed to be generally persuasive because he didn't have a plausible mechanism he could see that evolution takes place, but he didn't know how. That had to wait until the discovery of natural selection.

Natural selection is what we normally think of as Darwin's big idea. Yet he wasn't the first to discover that, either. At least two others a doctor called William Wells, and a writer called Patrick Matthew discovered it years before Darwin did.

Wells described it (admittedly briefly) in 1818, when Darwin was just nine; Matthew did so in 1831, the year that Darwin set off on board HMS Beagle for what became a five-year voyage around the world. It was a few months after returning from this voyage that Darwin first began to consider seriously the possibility of evolution, or the transmutation of species. At this time he knew nothing of Wells's and Matthew's accounts of natural selection; indeed, both accounts languished in obscurity until after the *Origin* was published.

(After the *Origin* appeared, Matthew wrote to a magazine to draw attention to his statements on the subject; he then proceeded to put Discoverer of the Principle of Natural Selection on the title pages of his books. This annoyed Darwin.)

By 1858 Darwin had spent more than 20 years studying plants and animals and thinking about evolution. He had filled notebook after notebook with his thoughts on how evolution works; he had, in 1844, written a short manuscript on the subject that was to be published in the event of his untimely death; and he had discussed evolution with a few close friends. But he had published nothing on the subject.



Then, in June of that year, Darwin received a package from a young man named Alfred Russel Wallace; in the package, Wallace enclosed a brief manuscript in which he outlined the principle of evolution by natural selection. What happened next is famous in the history of biology. On July 1, 1858, Wallace's manuscript, as well as a couple of short statements on natural selection by Darwin (a segment of the 1844 manuscript, and part of a letter he'd written in 1857), were read at a meeting of the Linnean Society in London. The meeting had been organised by some of Darwin's scientific friends to establish his priority in the discovery.

Of the material presented that night, the manuscript by Wallace is, in some respects, the more impressive: it is clearer and more

accessible. Yet it is Darwin who celebrate; it is Darwin who, like a god in a temple, sits in white marble and presides over the main hall at the Natural History Museum in London. Why?

The reason is the *Origin*. Without the publication of the *Origin* the following year, the meeting at the Linnean Society could well have passed unnoticed, the Darwin-Wallace statements going the same way as those by Matthew and Wells.

Indeed, the meeting had so little impact at the time that, at the end of the year, the president of the Linnean Society said, "The year which has passed has not, indeed, been marked by any of those striking discoveries which at once revolutionise, so to speak, the department of science on which they bear."

This is one of my all-time favorite quotations (and I am fond of using it) because it shows how, at the time, little significance was attached to the Linnean Society meeting. We see that meeting as important now because of what happened next: it galvanised Darwin into writing and publishing the *Origin*.

And the *Origin* changed everything. Before the *Origin*, the diversity of life could only be catalogued and described; afterwards, it could be explained and understood. Before the *Origin*, species were generally seen as fixed entities, the special creations of a deity; afterwards, they became connected together on a great family tree that stretches back, across billions of years, to the dawn of life. Perhaps most importantly, the *Origin*

changed our view of ourselves. It made us as much a part of nature as hummingbirds and bumblebees (or humble-bees, as Darwin called them); we, too, acquired a family tree with a host of remarkable and distinguished ancestors.

The reason the *Origin* was so powerful, compelling and persuasive, the reason Darwin succeeded while his predecessors failed, is that in it he does not just describe how evolution by natural selection works. He presents an enormous body of evidence culled from every field of biology then known. He discusses subjects as diverse as pigeon breeding in Ancient Egypt, the rudimentary eyes of cave fish, the nest-building instincts of honeybees, the evolving size of gooseberries (they've been getting

bigger), wingless beetles on the island of Madeira and algae in New Zealand.

One moment, he's considering fossil animals like brachiopods (which had hinged shells like clams, but with a different axis of symmetry); the next, he's discussing the accessibility of nectar in clover flowers to different species of bee. At the same time, he uses every form of evidence at his disposal: he observes, argues, compares, infers and describes the results of experiments he has read about, or in many cases, personally conducted. For example, one of Darwin's observations is that the inhabitants of islands resemble – but differ subtly from – those of the nearest continents. So: birds and bushes on islands off the coast of South America resemble South American birds and bushes; islands near Africa are populated by recognisably African forms.

He argues that the reason for this is that new islands become colonised by beings from the nearest continents, and that the new inhabitants then begin evolving independently. He then asks: can animals and plants from the continents get to new islands, especially those that are far out at sea? To investigate this, he conducts experiments to see how long seeds from different plants can remain immersed in saltwater and still begin to grow.

The *Origin* does not just expound natural selection. It contains a wealth of additional ideas and hypotheses, some of which Darwin went on to elaborate in other books. Among them: sexual selection. This is the idea – and it remained controversial until recently – that males in many species are burdened with showy ornaments like enormous tails because the females of their species have, by repeatedly picking the showiest males as their mates, caused them to evolve that way.

This is not to say that the *Origin* is flawless, or that Darwin was right in every respect. It isn't, and he wasn't. Nor is the book a definitive account of how evolution works. It wasn't even definitive in his lifetime: he published six editions, revising, sometimes heavily, from one to the next. (In the third edition, which appeared in 1861, he discusses his precursors, including Matthew and Wells.) Yet his knowledge of the natural world is so immense, and the scrutiny is so thorough and scrupulous, that the *Origin* presents a grand new vision of the world. A vision that, as far as possible given the knowledge available at the time, he worked out in every detail. A vision that changed the world forever. So let's party!

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Protecting children may prove costly, but it's essential

If we want to avoid neglect, we must make a commitment now, **LIBBY CREMEN** writes

The discovery of four children living unsupervised and in squalor in a Canberra suburb, along with a similar case in South Australia and the horrific deaths of 18-month-old twins in Queensland, has raised alarm bells in the community and forced many of us to ask the question, "How could this happen?"

The care and protection authorities in each of these jurisdictions have quite rightly been asked to explain their involvement in these cases and show what they have been doing to try to prevent these situations. The community has been asked to be more vigilant and to report any suspected maltreatment to the authorities.

In the ACT case, it appears the authorities have been aware of this family for many years. An application for a custody order in 2005 was unsuccessful and a supervision order was put in place, which required the care and protection authorities to monitor and supervise the family. According to care and protection

services, this supervision was carried out as recently as last week.

These responses, of course, leave us with more questions. Why wasn't the custody order granted? If the house was in such a state of squalor, how could care and protection officers decide that the children were fine? Without all the details, it is impossible to answer these questions. However, it is timely to consider some other questions about how we, both government and community alike, can provide better care for children and families who are vulnerable in our community.

Many families face multiple and complex problems. These issues include mental health, which is often linked with drug and alcohol abuse. These internal stresses are exacerbated by poverty, housing stress and isolation. In a recent survey by Family Support Services in the ACT, many

family support workers felt that these issues were becoming more common and more complex. Such complex issues are not going to be addressed by simple solutions.

The initial reaction by many of us is to remove the children from these situations. However, many years of research and personal testament have shown that removing children from their families should only ever occur as a last possible resort. Before we make that decision we need to know that we have exhausted all the other options.

We need to provide these families with high levels of support and assistance. This assistance can range from a maternal health nurse through to intensive family support. We need to recognise that many families will never be able to "stand on their own two feet". We may need to provide a whole range of support to some families for many years.

It is simplistic to say that the child protection services should have responded before such drastic action by the police, as this does not consider the intense pressure on those services to meet the demands for interventions for children under five.

The rate of reporting of children considered at risk of abuse and neglect Australia-wide has increased exponentially over the past few years and is now beyond the authorities' capacity to purposefully respond to all the cases that are reported.

No amount of additional funds to bolster the system will ever provide enough resources to eliminate the pressure within care and protection services.

There is a recognised need for change within the care and protection system and this change is slowly taking place in the ACT, through increased collaboration

between the care and protection departments, other government services and community-based services.

This approach is based on a similar model that was introduced in Victoria, with significant results in reducing the number of repeat reports to authorities.

This is not an inexpensive exercise. However, the comparative cost of going through the care and protection system and the cost of providing alternative care arrangements, if necessary, not to mention the human cost of leaving these children and their families without adequate care, makes the provision of comprehensive family support services look like a very cost-efficient approach.

There are many government and non-government agencies doing excellent work in Canberra.