

- email newsletter of Civil Liberties Australia
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- from the Straits Times, Singapore,
reporting AP, 13 December 2004

**Regime releases two
pro-democracy leaders**

Two prominent pro-democracy leaders were among hundreds of prisoners released from a Myanmar prison on 12 Dec as part of a broad amnesty granted by the country's ruling junta, the prisoners and family members said according to Associated Press.

Mr Htwe Myint, 76, chairman of the now-defunct Democracy Party, and Mr Thu Wai, 73, one of the party's senior members, were driven from prison. Both had been imprisoned since 1995.

They were released a day after the Yangon government announced that 5,070 prisoners would be freed. This is the third such amnesty in recent weeks.

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**US ignored security and privacy
warnings on passports – ACLU**

The Bush Administration ignored warnings by privacy and security experts and foreign governments when pushing new, remotely-readable, biometric passports, according to State Department documents obtained by the American Civil Liberties Union (ACLU).

Passports issued to Americans in coming years will contain Radio Frequency Identification (RFID) chips that will broadcast all the personal information on a passport to anyone with an RFID reader within range.

"What the documents show is that the US government was repeatedly told that these passports would pose significant threats to our privacy and safety," said Barry Steinhardt, Director of the ACLU's Technology and Liberty Program.

The US passports, which are currently being bid out for contracts and will

contain a face-recognition biometric as well as the RFID chips, are being designed in accordance with a standard developed by the International Civil Aviation Organization (ICAO).

It was during the process of developing that standard that the US spurned security protections for these passports despite the warnings of security experts and the objections of other governments, according to the ACLU.

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– 3 December 2004

**Carr may bring in stun guns
after police shoot man**

Premier muddle-headed, says CLA

NSW Premier Bob Carr has said police could have 'stun guns' if they want them.

Carr was commenting after the setting up of an internal inquiry into a fatal shooting by police at suburban Greenacre in Sydney early in December.

The two police officers involved said they repeatedly told the man to drop a knife. They tried to subdue him with capsicum spray, but fired when he advanced on them, they said.

"I'd take the advice of police on any other equipment they need to render them safer," Mr Carr is reported to have said. "When you've got emergencies like this you want your police to be safe.

"I'm open to any suggestion that comes from police about making them safer."

The emphasis seems entirely misplaced, and Premier Carr's thinking very muddle-headed, according to the CEO of Civil Liberties Australia, Bill Rowlings.

"It is a member of the public who is dead, not a police officer," he said.

"On face value, Mr Carr would seem to have it all wrong - it would seem police need fewer weapons, not more," he said.

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– from HR First website, 8 Dec 2004

**HR First wants investigation of
activist's mysterious poisoning death**

Arsenic poisoning killed one of Indonesia's foremost human rights

defenders, Munir, three months ago according to forensic results from Europe.

Munir died after becoming violently ill on a plane to Amsterdam.

On 11 November, the Dutch Forensic Institute released autopsy findings revealing the presence of a lethal dose of arsenic in Mr Munir's body.

The autopsy results confirmed fears that his death on a Garuda Airlines flight from Jakarta in Indonesia to Amsterdam in the Netherlands, via Singapore, was in fact an assassination.

It has been reported that he started feeling sick before the transit in Singapore and died on 7 September, shortly before landing in the Netherlands.

* Munir's wife, Suciwati, was finally given a copy of the autopsy report by the police department's head of criminal investigation on 6 December 2004.

* President Yudhoyono met with Munir's wife and colleagues and pledged to support an independent investigation.

The human rights community in Indonesia submitted a proposal to the government including membership and mandate of an independent team.

However, in early December a spokesman for the president indicated that no independent team was needed because the police investigation was progressing.

However, Indonesia's poor track record of justice for human rights defenders underlines the need for an independent inquiry, according to European HR groups.

Munir's family has continued to receive death threats. On 20 November Suciwati received a headless animal carcass in the mail with the warning: "Be careful!!!! Do not connect the TNI [the Indonesian military] to the death of Munir. Do you want to end up like this?"

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– from Liberty UK website, 9 Dec 2004

UK Law Lords rule that Roma exclusion policy discriminatory

The Law Lords have ruled that the British Government acted unlawfully in its attempts to prevent Romany Czechs from entering the UK.

Commentating on the ruling, Shami Chakrabarti, director of Liberty, said: "This ruling exposes the racism at the heart of the Government's asylum policy. The message was absolutely clear: 'Roma not welcome in UK'."

The issue arose after the Czech Republic, in 2001, agreed that the UK could station immigration officers at Prague Airport to screen all passengers travelling to the UK.

The aim was to detect people who wanted to claim asylum in the UK and prevent their travelling.

The overwhelming number of passengers who were refused permission to enter the UK under this operation were Roma, regardless of whether or not an individual Romany Czech actually intended to claim asylum in the UK.

Statistics showed that Roma were 400 times more likely to be refused entry to the UK than non-Roma.

The House of Lords decided that the practice was "inherently and systematically discriminatory" against Roma.

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– from a BIHR media release, 23 Nov 2004

BIHR welcomes new Commission for Equality and HR

The British Institute of Human Rights (BIHR) has warmly welcomed a proposed bill announced today which paves the way for the establishment of a new Commission for Equality and Human Rights (CEHR) in 2007.

BIHR said it welcomed the initiative even though "...a number of initiatives introduced in the Queen's Speech raise implications for how human rights can be protected in the context of sweeping new police powers, the extended use of anti social behaviour measures to include the

naming and shaming of children, and new 'anti terrorism' measures."

The Human Rights Act 1998 had been heralded by the UK government as a tool that would help change the relationship between the state and the individual and create a culture of human rights.

Research from BIHR and other organisations has clearly shown the Human Rights Act had not had the impact that was expected in improving public services.

Director of BIHR, Sarah Cooke, said "The new CEHR will be able to promote equality and human rights as central to the improvement of public services, particularly for vulnerable and marginalised people, the very people who should benefit most from the establishment of a human rights culture.

"It should also be able to take steps if the practice of public authorities is found wanting."

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- from news reports

China tops the topping table

China executed at least 726 people last year, according to Amnesty International, but another agency claimed the figure was closer to 5000.

Iraq executed 154 people before Saddam Hussein's government fell.

Vietnam accounted for 69, the USA for 65 and Saudi Arabia 52.

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- from NY Times, 12 December 2005

Muslim couple, fired without reason or review, opt to sue

(from a story filed by JAMES DAO)

Aliakbar and Shahla Afshari were suddenly fired on 5 May this year at the National Institute for Occupational Safety and Health, a US federal agency that studies workplace hazards.

Out of the blue, without warning, they were told they had failed secret background checks and were being fired. No explanations were offered and no appeals allowed. They were escorted to the door and told not to return.

The Shiite Muslim Afsharis went to the USA from Iran 18 years ago to study, then stayed to build careers and raise three children.

They have been told they were fired for national security reasons that remain secret.

According to a report in the *New York Times*, when their lawyer requested the documents used to justify the action, he was told none existed. When he asked for copies of the agency's policies relating to the background checks, he received a generic personnel handbook.

Without any official explanations of why they failed their background checks, they came up with their own theory: their attendance, more than five years ago, at two conventions of a Persian student association that has come under FBI scrutiny, once with a man who was later investigated by the bureau.

Unable to clear their names or find new employment in their field, the Afsharis have now resorted to that most American of recourses: they sued the institute and its parent agencies, the Centers for Disease Control and Prevention and the Department of Health and Human Services, demanding back pay and reinstatement or the chance to appeal.

"How can we expect the people of the Middle East to emulate our democratic ideals abroad when we fail to apply those ideals to people like the Afsharis here?" asked Allan N. Karlin, a lawyer in Morgantown who, along with chapters of the American Civil Liberties Union in West Virginia and Washington, is representing the couple.

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- from a NY Times report, 14 December 2004, by Joseph Khan

China detains 3 three intellectuals critical of government

Beijing - The Chinese government has ordered police to detain three intellectuals critical of the government.

The three were arrested this week in what seems to be a government campaign to silence dissent.

Joseph Khan reports in the NY Times that literal figures Yu Jie and Liu Xiaobo and political theorist Zhang Zuhua were arrested at their homes.

A warrant for Mr Yu's arrest said he was suspected of "participating in activities harmful to the state," according to his wife, Liu Min.

"The detentions were the latest in a string of arrests and official harassment of journalists, writers and scholars who have spoken out against government policies or written articles or essays that officials have deemed damaging," Khan wrote.

"Analysts say the political environment has become more repressive since President Hu Jintao replaced Jiang Zemin as China's military chief in September, leaving Mr Hu in full command of China's government, ruling party and army."

Freedom to discuss sensitive topics in the state-run media had ended, and authorities appeared intent on punishing people who violated unwritten rules about the limits on free speech.

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– 14 December 2004, précis of a New York Times EDITORIAL

A Watchdog Muted

The US Commission on Civil Rights cannot legislate or regulate. What it can do is hold hearings and make a terrible racket if the government is not enforcing the laws of the land forbidding discrimination in voting, employment and housing.

The panel is a watchdog, exactly as President Dwight Eisenhower intended when he persuaded Congress to establish it in 1957. Mostly it has been run on a part-time basis by academics like, ... most recently, Mary Frances Berry, the Geraldine R. Segal Professor of American Social Thought at the University of Pennsylvania.

Watchdogs occasionally bite, of course. While some presidents have tolerated this, others have not - including President Bush, who has now appointed Gerald Reynolds, a conservative African-

American lawyer, to succeed Ms. Berry as commissioner.

An equal-opportunity critic, Ms Berry has harangued presidents of both parties for nearly 25 years.

What finally did her in, apparently, was a 166-page report criticizing Mr. Bush's leadership on civil rights that appeared in draft form on the commission's web site before the election.

It was ultimately rejected by the commission's conservative majority, but Ms Berry sent it to the White House anyway with a plea to Mr. Bush to "embrace the core freedoms and values enshrined in our civil rights laws".

Mr Bush is unlikely to get such lectures from Mr Reynolds, an energy company lawyer who briefly ran the Office of Civil Rights at the Education Department.

Mr Reynolds has described affirmative action as a "big lie," is generally opposed to preferential treatment for members of minorities and has said the civil rights groups overstate the problem of discrimination.

This approach may make for warmer relations with the White House, but it hardly seems likely to keep the commission on the leading edge of the struggle for civil rights.

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– 17 Dec 2004, from NY Times report by Lizette Alvarez and Neil A. Lewis

Law Lords rule detentions violate rights: bad laws bigger threat than terrorism, says judge

Britain's highest court has ruled the government could not indefinitely detain foreigners suspected of terrorism without charging or trying them, saying the practice violated European human rights conventions.

A special panel of nine Law Lords of the House of Lords, England's equivalent to the Australian High Court or the US Supreme Court, ruled in mid-December 8 to 1 for nine foreign Muslim men, one of whom has been in detention for three years.

The Law Lords said the unlimited detention policy was draconian, discriminated against foreigners and was unjustifiable, even in the face of possible terrorist attacks.

They also said the detentions violated the European Convention on Human Rights, which applies to all European Union nations, in a ruling that removes one of the government's most significant anti-terrorism tactics.

The ruling paralleled a June decision by the US Supreme Court that those regarded as enemy combatants at Guantánamo Bay, Cuba, must be given the ability to challenge their detention before a judge or other neutral 'decision maker'. That ruling stated, "A state of war is not a blank check for the president."

Using perhaps the sharpest language of the nine British justices' separate opinions, Lord Hoffmann said the case was one of the most important decided by the House of Lords in recent years.

"It calls into question the very existence of an ancient liberty of which this country has until now been very proud: freedom from arbitrary arrest and detention," he wrote, and went on to say that the detentions posed a greater threat to the nation than terrorism.

"The real threat to the life of the nation, in the sense of a people living in accordance with its traditional laws and political values, comes not from terrorism but from laws such as these," Lord Hoffmann wrote.

"That is the true measure of what terrorism may achieve. It is for Parliament to decide whether to give the terrorists such a victory."

The government of Prime Minister Tony Blair passed the Anti-Terrorism, Crime and Security Act in 2001, shortly after the 11 September attacks on the US. To enact the measure, the British government had to invoke an article of the European Convention on Human Rights allowing countries to opt out of certain human rights obligations.

The law, intended to expire in 2006, allows the British Home Office to indefinitely detain, without charges, foreigners it suspects of terrorist-related activities who cannot be deported because they would face persecution in their home countries.

But the detainees may choose to return to their home countries voluntarily, and they are allowed to go to any other country that will accept them.

The detainees are not told why they are in prison and have no access to the evidence the government holds against them, primarily because the government believes it to be too important to reveal.

They also are not allowed to hire lawyers. Instead, the government has appointed lawyers with security clearance for them and permitted the lawyers to see the evidence and argue on the detainees' behalf. The lawyers, however, have been barred from discussing any of the information with their clients.

Human rights groups said the law, which infuriated Muslims, made a mockery of British civil rights.

Human rights groups applauded the decision.

"What defines a democratic country is the rule of law, and a cornerstone of the rule of law is a right to trial by jury and the right to defend yourself with legal representation," said Barry Hugill, a spokesman for Liberty, a group that worked for the men's release.

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– from The Straits Times, 19 Dec 2004

Anwar urges Malaysian Govt not to 'sweep away people's rights'

KUALA LUMPUR – Malaysia's Anwar Ibrahim has urged supporters to renew their campaign for democratic reforms.

The former deputy prime minister called on the opposition People's Justice Party, led by his wife, to "step up the fight for democracy and human rights for citizens of Malaysia".

"To the government, don't ... sweep away the people's rights," he told 3,000

supporters at the party's annual congress.

Anwar was released from prison in September after serving six years on sodomy and corruption charges, which he says were part of a government conspiracy to silence him. He was arrested in 1998 after leading street protests against former Prime Minister Mahathir Mohamad.

Anwar was sentenced to prison terms totaling 15 years before a successful appeal against the sodomy charge set him free. He had already served the corruption sentence.

Prime Minister Abdullah Ahmad Badawi succeeded Dr Mahathir in October last year. The new PM has been urged by human rights groups to abolish a security law that allows detention without trial, ensure media freedom and loosen restrictions on anti-government rallies.

Anwar's criminal conviction bars him from public office until 2008, but he has vowed to work with his wife's opposition group and other activists to push for wider democratic rights and to fight corruption.

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– from email alert, Human Rights First, 23 Dec 2004

Priest harassed over his human rights stand

On 7 December 7, Father Joakin Mayorga, the director of Justice and Peace of the Magangue Diocese, was arrested in Colombia.

Father Mayorga has become the victim of official harassment apparently in reprisal for his human rights advocacy. He has been arrested twice by the national police and had a lawsuit filed against him by members of the Colombian army for defamation of character.

Father Mayorga publicly denounced three murders and the forced disappearance of a 13-year-old boy.

The crimes were reported to have taken place while the three men and boy were in the custody of the Narino Battalion of

the National Army at the correctional facility "El Coco" in Tiquisio.

Father Mayorga was initially informed that the 7 December arrest was a result of the judicial investigation into his public denunciation of the murders and disappearance. Later that day, when released from custody, he was informed that the arrest was due to mistaken identity.

His first arrest in August 2004 was under similar circumstances. Human rights defenders carry out their work at great personal risk in Colombia, according to Human Rights First.

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– Straits Times, 23 December 2004

US asks Jakarta to address human rights crimes

WASHINGTON - Secretary of State Colin Powell reached out to Indonesia on yesterday to accelerate the pace of dealing with human rights violations committed during 1999 violence in East Timor that killed 1,500 people.

After meeting with Foreign Ministers Hassan Wirajuda of Indonesia and Jose Ramos-Horta of East Timor, a senior US official registered dissatisfaction with how Indonesia was proceeding.

Prosecutions have not led to results even though undertaken in the best spirit, the official said on condition he could not be identified.

UN Secretary-General Kofi Annan on Tuesday announced the creation of a Commission on Truth and Friendship and met privately with the two ministers in New York.

'This is an initiative that we believe is highly positive and will shed truth on the events of the past,' Mr Ramos-Horta said.

The announcement came a month after the UN Security Council expressed concern with Indonesia's failure to punish those responsible for the violence that followed East Timor's vote for independence.

Immediately after the results were announced, the Indonesian military and

its proxy militias unleashed a wave of violence that displaced 300,000 people.

After an Australian-led force helped end the fighting, the UN administered the territory for more than two years before handing it to the Timorese on 20 May 2002.

Mr Powell and the two foreign ministers made no statement after their meeting on Wednesday.

The State Department spokesman Richard Boucher said the aim was 'to follow up and make sure that we find the truth and reach closure on the crimes against humanity that occurred in 1999'.

A court in Indonesia has charged 18 people, most of them police and military, with human rights crimes. A dozen were acquitted, four had their sentences overturned on appeal and the two others have appeals pending.

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- from ACLU email, 23 Dec 2004

ACLU torture FOIs reveal new facts on torture authorisation

A document released by the American Civil Liberties Union (ACLU) suggests that President Bush issued an Executive Order authorizing the use of inhumane interrogation methods against detainees in Iraq.

Other recently released documents include a December 2003 FBI email that characterizes methods used by the Defense Department as "torture" and a June 2004 "Urgent Report" to the Director of the FBI that raises concerns that abuse of detainees is being covered up.

"These documents raise grave questions about where the blame for widespread detainee abuse ultimately rests," said ACLU Executive Director Anthony D. Romero.

"Day after day, new stories of torture are coming to light, and we need to know how these abuses were allowed to happen -- top government officials can no longer hide from public scrutiny by pointing the finger at a few low-ranking soldiers."

The release of these documents follows a federal court order that directed the Defense Department and other government agencies to comply with a year-old request under the Freedom of Information Act filed by the ACLU, the Center for Constitutional Rights, Physicians for Human Rights, Veterans for Common Sense and Veterans for Peace.

The New York CLU is co-counsel in the case.

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- from ACLU email, 23 Dec 2004

ACLU launches national effort to expose illegal FBI spying

Citing evidence that the FBI and local police are illegally spying on political, environmental and faith-based groups, the American Civil Liberties Union (ACLU) and its affiliates today filed multiple Freedom of Information (FOI) Act requests around the country to uncover who is being investigated and why.

"The FBI is wasting its time and our tax dollars spying on groups that criticize the government, like the Quakers in Colorado or Catholic Peace Ministries in Iowa," said ACLU Associate Legal Director Ann Beeson.

"Do Americans really want to return to the days when peaceful critics become the subject of government investigations?"

To read the ACLU's press release on illegal spying by the FBI, see the media release at:
<http://www.aclu.org/SafeandFree/SafeandFree.cfm?orgid=n&ID=171111&c=206&MX=1801&H=0>

Important legislation will soon be introduced to combat this unnecessary expansion of government powers, the ACLU says.

This legislation would put critical protections back in place and ensure that the FBI would only be able to investigate you if they have reason to

believe that you are involved in criminal or terrorist activity, says the ACLU.

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- based on ACLU email, 23 Dec 2004

**And on the seventh day,
God created Elle**

ACLU files suit against school district over teaching of 'Intelligent Design'

The American Civil Liberties Union (ACLU) and Americans United for Separation of Church and State filed a lawsuit on 14 December in Federal District Court in Harrisburg, Pennsylvania (Pa), against the school board of Dover, Pa.

The suit claimed the board violated the religious rights of several parents and students by requiring the teaching of an alternative theory to evolution in public schools.

Dover is the first school district in the US to require high school biology teachers to introduce students to the alternate theory, known as intelligent design, which says the development of the universe and earth was guided at each step by an "intelligent agent".

"Teaching students about religion's role in world history and culture is proper, but disguising a particular religious belief as science is not," said ACLU of Pennsylvania Legal Director Witold Walczak.

"Intelligent design is a Trojan horse for bringing religious creationism back into public school science classes."

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- from NY Times, 25 December 2004, reported by ASSOCIATED PRESS

Judge limits protections allowed to US federal whistleblowers

Some federal US doctors and medical researchers do not enjoy the same protections to blow the whistle on wrongdoing as other government employees, according to a judge.

Judge Raphael Ben-Ami of the US Merit Systems Protection Board has held that Dr Jonathan Fishbein, a specialist for the National Institutes of Health, could not

invoke the Whistleblower Protection Act to prevent being fired.

Dr Fishbein was hired by the institutes in 2003 to help improve AIDS research practices.

He told the protection board that he was being fired because he had raised concerns about sloppy practices that might endanger patient safety. The institutes said that he was being fired for poor performance and that he had failed to complete his two-year probationary period successfully.

The whistleblower law was enacted more than a decade ago to strengthen federal workers' protections when they make accusations of government wrongdoing. It gives them outlets like the board to seek legal protection.

But Judge Ben-Ami ruled that Dr Fishbein was not covered by the law, because he was a so-called Title 42 employee and enjoyed "no appeal rights" during his probationary period.

Title 42 allows the government to pay research and medical experts as special consultants, giving them salaries higher than the civil servant maximums.

Dr Fishbein was among several employees of the national institutes who had raised concerns about a study in Africa involving the AIDS drug nevirapine.

Documents showed that the way the research was conducted violated federal patient safety rules and suffered from record-keeping and patient monitoring problems. But the study's general conclusion that the drug could be used safely in single doses to protect babies from HIV was approved.

Dr Fishbein's lawyers are now appealing Judge Ben-Ami's decision to the full board.

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