

- email newsletter of Civil Liberties Australia (ACT Assn. No. A04043)
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– from 10 Downing Street (UK PM's) website 26 January 2005, Straits Times, Reuters and Washington Post reports

UK Govt to introduce tag 'shackles' and curfews on suspects under 'control orders'

Detention without trial would be replaced with a system of 'control orders', the UK Home Secretary Charles Clarke announced last week.

Suspects would be subjected to curfews, tagging and even be required 'to remain at their premises', he said.

This would apply equally to foreign suspects and British citizens suspected of 'international or domestic' terrorism, he told the House of Commons.

Mr Clarke added:

"Such orders would be preventative - designed to disrupt those seeking to carry out attacks, whether here or elsewhere, or who are planning, or otherwise supporting such activities."

They will operate alongside a system of 'deportation with assurances' - because human rights laws bar the removal of anyone from the UK who may face death or torture.

The plans have outraged civil liberty groups in the UK.

Here, comments have been equally critical: "The new laws will mean the UK Government is becoming repressive and secretive, like the Soviet Union was under Stalinism," the CLA's Bill Rowlings said.

"The proposals are unconscionable for a nation which has prided itself on being a bastion of personal freedom and of human rights.

"Britain is becoming a 'foreign country', a country foreign to justice, civil liberty and the traditional rule of law.

"Terrorists no longer need to target Britain. They have 'won'," he said.

Mr Rowlings said the proposed new laws would:

– 'lock people up' on suspicion, without any requirement for proof;

– use electronic 'shackles' – tags – in a throwback to colonial days; and

– curtail the liberty of people for merely 'supporting' certain activities, in an area where defining what 'support' meant was notoriously difficult.

Unlike previous UK measures, which were based on immigration law and applied only to foreigners, the new measures could be used against British nationals, according to reports.

"It's still total loss of liberty, and total loss of liberty without due process is exactly what the Law Lords ruled is wrong," lawyer Natalie Garcia was reported as saying.

"It used to be foreigners. It can be absolutely anyone now. You can be one day, a normal citizen minding your own business, next day banged up in your home."

Britain declared a state of emergency in 2001 and said the threat from Al-Qaeda justified suspending the right to a fair trial as guaranteed by the European Convention on Human Rights.

But the Law Lords, the country's highest court, ruled in November that jailing foreigners without trial was illegal and ordered Parliament to change the law.

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- from several reports, Dec 2004

Court frees cleric teaching Muslims how to beat wives, without marks

MADRID – A Spanish court last month set free a Muslim imam convicted for teaching men how to beat their wives without leaving any marks.

The imam of the Fuengirola mosque, Mohamed Kamal Mustafa, saw his sentence of 15 months in jail dismissed – provided he undertake to study the Universal Declaration of Human Rights and Spain's Constitution.

The court, in Barcelona, freed the man because leaving him in jail would not help him assimilate into Spanish society, according to a court statement.

Imam Kamal's book, *Women In Islam*, was published in 2001. In it, he advised men on how to beat their wives without leaving any marks.

"The blows should be concentrated on the hands and feet using a rod that is thin and light so that it does not leave scars or bruises on the body," he wrote.

In court, the imam said he opposed violence towards women, and was merely interpreting the Koran.

Spain's Deputy Prime Minister, Maria Teresa Fernandez de la Vega, called the court's decision "a total outrage".

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– from a report by Neil A. Lewis in the NY Times, 1 January 2005

US Justice Department toughens formal rules on torture

WASHINGTON – The Justice Department has broadened its definition of torture, over-ruling a memorandum of August 2002 that defined torture extremely narrowly and said President Bush could ignore domestic and international prohibitions against torture in the name of national security.

The new memorandum largely dismisses the August 2002 definition, especially the part that asserted that mistreatment rose to the level of torture only if it produced severe pain equivalent to that associated with organ failure or death.

"Torture is abhorrent both to American law and values and to international norms," said the new memorandum written by Daniel Levin, the acting assistant attorney general in charge of the Office of Legal Counsel, which had produced the earlier definition.

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– from SMH, 1-2 Jan 2005, reported by Diana Simmons

More prisoners now lose more than just their physical freedom

Today's SMH weekend edition, in an article about Federal and NSW State changes from January 1, said:

(From 1 January 2005) "Prisoners serving full-time sentences of three years or more are ineligible to enrol and vote in federal elections (previously five years)."

"I believe that this is a further deprivation of their civil liberties," Diana said.

"Justice Nagle, in the preface to the Royal Commission into NSW prisons and the Bathurst Gaol Riot of 1974, said that the only thing prisoners should be deprived of is their freedom.

"In other words they should not be unduly harassed while in gaol.

"Is depriving the right to vote a loss of freedom?"

"In gaol prisoners may not be privy to information about the candidates but they have access to the media like everyone else; they can read a paper in the library or, if their family is rich enough, have their own TV."

What do you think?

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– from the Washington Post, 3 Jan 2005

US plans indefinite jailing of terror suspects

US Administration officials are preparing long-range plans for indefinitely imprisoning suspected terrorists whom they do not want to set free or turn over to courts in the US or other countries, according to the Washington Post.

The paper reported that the Pentagon and the Central Intelligence Agency (CIA) have asked the White House to decide on a more permanent approach for potentially lifetime detentions, including for hundreds of people now in military and CIA custody whom the government does not have enough evidence to charge in courts.

"We've been operating in the moment because that's what has been required," said a senior administration official involved in the discussions.

"Now we can take a breath. We have the ability and need to look at long-term solutions."

One proposal under review is the transfer of large numbers of Afghan, Saudi and Yemeni detainees from the military's Guantanamo Bay detention centre in Cuba to new US-built prisons in their home countries.

The prisons would be operated by those countries but the US State Department would monitor them, said the administration official.

As part of a solution, the Defence Department, which holds 500 prisoners at Guantanamo Bay, plans to ask Congress for US\$25 million (\$Oz40m) to build a 200-bed prison to hold detainees who are unlikely to ever go through a military tribunal for lack of evidence, according to defence officials.

The administration considers prisoners held by the CIA to be its toughest detention problem.

Little is known about the CIA's captives, conditions under which they are kept, or the procedures used to decide how long they are held or when they may be freed.

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- from HR First email alert, 5 Jan 2005

Activist held in Iran on possibly spurious charges

Nasser Zarafshan, a distinguished human rights (HR) lawyer and activist being held in Tehran's Evin Prison, has been serving a five-year prison sentence since August 2002 for "disseminating state secrets and the possession of firearms and alcohol".

Human Rights First believes that the charges against Zarafshan were fabricated by authorities to punish him for his human rights advocacy.

Zarafshan publicly called attention to the complicity of state agents in the murder of a number of prominent activists and intellectuals in 1998, the so called 'serial killings'.

He was convicted in a closed hearing by a military court in an unfair trial, according to HR First.

Zarafshan's health has deteriorated while in detention. He was granted a 48 hour medical leave in November 2004, but was returned to detention.

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- ACLU email alert, 6 Jan 2005
Montana universities must offer health insurance to gay employees

Montana's (USA) public universities must provide their lesbian and gay employees with insurance coverage for their domestic partners, the state's Supreme Court ruled on 31 December 2004.

The court, in a four-to-three decision, ruled that the University policy of excluding lesbian and gay employees from equal employment benefits violated the state constitution's equal protection guarantees.

"This is an incredible victory for the lesbian and gay employees of the University of Montana System who need to protect their families just like their straight colleagues do," said Scott Crichton, Executive Director of the ACLU of Montana. "The court has said that same-sex couples who form committed relationships can no longer be denied the same protections and benefits that it affords different-sex couples."

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- email, Amnesty Australia, 13 Jan 04
Amnesty observer to visit Oz to rally Government support for Hicks

David Hicks is due to appear before a US military commission on 15 March that violates international law and denies him a fair trial.

(Amnesty) observer at the military commissions in Guantanamo, Jumana Musa, is expected to visit Australia in mid-February to encourage the Australian Government to ensure that Hicks receives a fair trial.

- Russell Thirgood, Amnesty Australia

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- email, International Federation for Human Rights (FIDR), 18 Jan 2005

Concern expressed for Chinese family planning campaigner

There is serious concern over alleged ill-treatment and an increase in the custodial sentence of Ms. Mao Hengfeng, a long-term campaigner against China's coercive family planning policies.

According to the information received from Human Rights in China (HRIC), Ms. Mao Hengfeng was sentenced to 18 months of Re-education Through Labour (RTL) by the Shanghai Public Security Bureau in April 2004, for protesting and petitioning against family planning policies; she has been detained at an RTL Camp in Shanghai since then.

Ms Mao has been campaigning against such policies for about 15 years, since she was dismissed from her job because of an out-of-plan pregnancy.

Ms Mao Hengfeng is allegedly being subjected to abusive treatment in the RTL camp, including being suspended in mid-air with bound hands and feet, and subjected to severe beatings.

In November, it was reported that police have bound her wrists and ankles with leather straps, and then pulled her limbs while demanding that she acknowledge wrongdoing.

Allegedly, her sentence has arbitrarily been increased by three months.

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– from FIDH email, 18 Jan 2005

FIDH denounces rights abuses in fight against terrorism

After a fact-finding mission on the death penalty in Egypt, the International Federation for Human Rights (FIDH) has joined the protests of several Egyptian human rights organizations against the behaviour of Egyptian security forces in the Sinai.

After the attacks against civilians including Israeli tourists in Taba on 7 October 2004, where 38 persons were killed and 135 wounded, massive arrests have been conducted in the surrounding towns of El Arish and El Sheikh-Zwaid.

Reports indicate more than 5,000 men and women have been arrested

(Egyptian authorities say 800 people were arrested).

Many of them have been subjected to systematic torture; it is reported that several have died and that others are hospitalised.

Many people have been detained under administrative detention for an indeterminate duration in the absence of any judicial procedure. Administrative detention is provided for under the emergency law which has been in force since October 1981.

This situation is another example of human rights abuses being committed in various regions of the world under the pretext of counter-terrorism, which the FIDH is constantly denouncing.

The fight against terrorism is legitimate and indispensable, however, it must respect fundamental rights, FIDH says.

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– from HR First email, 20 Jan 2005

Syrians keep up pressure on HR campaigner

The Syrian authorities continue to restrict the activities of human rights lawyer and veteran campaigner, Aktham Naisse.

On 16 January 2005, his trial before a Supreme State Security Court in Damascus was postponed without warning.

Meanwhile, he remains banned from traveling outside of Syria and his movements and communications are closely monitored by the authorities.

Naisse has spent years in prison for his defence of human rights. He now faces charges of "opposing the objectives of the revolution" and "disseminating false information".

The charges appear designed to penalise Naisse for his peaceful activities promoting democracy and human rights in Syria and an end to a state of emergency in force since 1963.

Naisse is president of the Committee for the Defense of Democratic Liberties and Human Rights in Syria (CDF). He was presented with the 2005 Martin Ennals

Award for Human Rights Defenders earlier in January.

Anyone wanting to help his case should call on Syrian President Bashar al-Assad to end the harassment of Naisse and other human rights defenders in Syria.

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– from NY Times, 20 Jan 2005

US federal judge rules Guantánamo detainees have no habeas rights

Reported by NEIL A. LEWIS

WASHINGTON – A federal district judge ruled this week that the foreigners imprisoned at the naval base at Guantánamo Bay, Cuba, had no legal way to challenge their detentions in a US federal court.

Richard J. Leon of the Federal District Court for the District of Columbia said the seven prisoners who brought a claim in his court could not be granted what they had asked for, writs of habeas corpus that would have required the federal courts to consider whether they were lawfully detained.

Judge Leon said the courts could not do this even though the Supreme Court ruled last June that the prisoners had the right to invoke the habeas corpus law in asking federal judges for relief.

He made a distinction between the right to file for a habeas corpus petition before a judge and the right to obtain one.

This decision would be a major victory for the government and an equivalent setback to the detainees but for a quirk in the way the Guantánamo detainee cases have been distributed in the federal courts.

While Judge Leon ruled in the case of seven detainees, a separate, nearly identical lawsuit involving a different set of 54 detainees is being considered by another federal judge in the same courthouse.

In that case, Judge Joyce Hens Green is facing the same issues as did Judge Leon.

She may well rule the same way, but when the cases were argued in December on consecutive days, Judge

Green appeared more amenable to the detainees' arguments than did Judge Leon, according to Neil Lewis.

"If Judge Green rules in favor of the defendants, it would create a conflict that would not effectively provide an answer and would leave conflicting rulings for appeals courts to weigh," he wrote in the NY Times.

The legal fate of the detainees at Guantánamo, now thought to number 545, has been a confused one.

In June, the US Supreme Court rejected the Bush administration's claim that, because the Guantánamo base is in Cuba, the inmates had no access to United States courts.

The justices also ruled that Guantánamo detainees could file petitions asking a judge to issue a writ that would start an inquiry into the reasons for their detention.

But the Justice Department has argued that the Supreme Court ruling was not nearly so broad. In essence, Judge Leon agreed.

"No viable legal theory exists by which it could issue a writ of habeas corpus under these circumstances," he wrote.

Courts, he ruled, could not evaluate the lawfulness of the actions of a president who detained "nonresident aliens, outside of the United States, during a time of armed conflict."

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– from Straits Times, Singapore, 23 January 2005

North Korea's new legal code enshrines private property

North Korea has introduced laws protecting private property, a move that indicates the country's desire to change as it grapples with growing economic and social turmoil resulting from market reforms, Joo Sang Min writes.

However, stiffer punishments for what are called 'anti-state crimes' have also been enacted, marking out the challenges that the government will not allow to its power.

Civil liberties now also enjoy higher respect, according to the reporter.

For example, the much-feared security forces must now obtain a warrant before arresting a suspect and cannot question the person overnight or detain him for over 10 days without a formal indictment.

Some experts say this is an attempt by Pyongyang to improve its human rights record, which has drawn much international criticism.

However, there is also the increase in penalties for 'anti-state crimes', which include staging a coup, a riot, holding a strike, or any kind of attempt to overthrow the regime.

Now, those caught inciting others to engage in an armed riot will face life imprisonment or death, whereas in the past they would get sent to jail for a number of years or face death.

Also, possessors of 'anti-state' materials or those who have shared sensitive information with foreigners may be jailed for up to five years.

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– *By William Safire, NY Times 23 January 2005*

Safire says privacy is big casualty of past 30 years

The noted right-wing columnist, William Safire, once a speech writer for President Nixon, claims privacy has been one of the biggest casualties during his career as a columnist over the past three decades.

(Re Privacy) “Civil libertarians were fighting the good fight against computer stalkers; insurance, medical and banking intruders; and government snoops who wanted to merge FBI files with credit-card tracking,” Safire wrote.

“But after (September) 9/11 and the terrorist threat, plain fear overrode concerns about freedom from surveillance by ubiquitous cameras, digital recorders and computer cookies.

“Because politicians don't want to appear 'soft on security,' personal privacy is on the ropes,” Safire wrote.

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– from ACLU email, 25 Jan 2005

ACLU urges campaign to derail Bush nomination as US Attorney General

“America is a land of laws and we cannot let the actions at Abu Ghraib and Guantanamo Bay cripple our credibility and moral standing at home and abroad,” Matt Howes, the ACLU's National Internet Organizer, told members of the group's action network.

He was urging network members to mount a last-minute email campaign to prevent the confirmation of Alberto Gonzales as US Attorney General.

“Let Congress know that you consider the use of torture to be a grave injustice that needs to be stopped,” he told members of the American Civil Liberties Union.

“Urge your senators to oppose voting on the nomination of Alberto Gonzales until the Bush Administration agrees to full disclosure of torture-related documents and Gonzales commits to appoint an outside special counsel to investigate the use of torture and relevant policies,” Howes said.

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– Human Rights First email 26 Jan 2005

Sudanese HR activist detained; feats for his safety

Sudanese government security forces detained human rights activist Dr Mudawi Ibrahim Adam at his home on 24 January 2005, along with his friend and fellow activist, Salah Mohammed Abdalrahman.

They were taken to the security headquarters in Umm Ruwaba city and interrogated, after which they were transferred to security offices in Al-Obeid. No reason has been given for their detention.

Dr Mudawi is chairperson of the Sudan Social Development Organization (SUDO), which is actively monitoring human rights violations in Darfur and is involved in the promotion of human rights and sustainable development.

Given previous attacks on human rights defenders working in the region, it

appears likely that Dr Mudawi and Mr Salah have been detained for their human rights work.

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– Agence France Presse, reported in the Straits Times, Singapore, 27 Jan 2005

Ethnicity costs Japan-born Korean her civil rights

Japan's Supreme Court said yesterday that it is constitutional for a second-generation South Korean born in Japan to be denied a promotion for a public job because of her ethnic origin.

The ruling put an end to the decade-long legal battle of Ms Chong Hyang Gyun, a 54-year-old public-sector nurse who demanded that the Tokyo city government pay her 2 million yen (about \$25,000) for not allowing her to take an examination to get promoted to a managerial post.

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– from ACLU email, 28 Jan 2005

ACLU leads efforts to stop US Government silencing whistleblowers

The American Civil Liberties Union (ACLU) believes that government employees who risk their careers to expose deception and misconduct are true American patriots.

To support them, the ACLU has reached and out to national security whistleblowers across the country.

On Wednesday, together with the ACLU, an unprecedented group of national security whistleblowers and family members of 9/11 victims gathered to demand that the government stop silencing employees who expose national security blunders.

The group called on the US Congress to investigate the government's actions against them.

"The government is taking extreme steps to shield itself from political embarrassment while gambling with our safety," said Ann Beeson, associate legal director of ACLU.

"The government has fired whistleblowers, retroactively classified public information and used special

privileges not to protect us but to cover up mistakes."

The ACLU is urging the DC Court of Appeals to reinstate the case of Sibel Edmonds, a former FBI translator who was fired in retaliation for repeatedly reporting serious security breaches and misconduct in the agency's translation program.

Fourteen 9/11 family member advocacy groups and public interest organisations filed a friend-of-the-court brief in January in support of Edmonds.

Many of them joined her on Wednesday at a news conference in Washington, along with US national security whistleblowers Michael German, Coleen Rowley, Manny Johnson, Robert Woo, Ray McGovern, Mel Goodman and Bogdan Dzakovic, among others.

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– from ACLU email, 28 Jan 2005

US federal judge orders Georgia school district to remove evolution disclaimers

A US federal judge recently ruled that placing disclaimer stickers warning that evolution is "a theory, not a fact" in public school science textbooks is an unconstitutional government intrusion on religious liberty.

The ruling comes in response to a lawsuit against the Cobb County School District brought by the American Civil Liberties Union of Georgia on behalf of five local parents.

The parents argued that the disclaimer stickers would send the message to their children that they should reject the scientific theory of evolution in favor of religious viewpoints on origin.

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CLA Annual Report and financial statement:

It is expected these will be emailed to members by mid-March, before the AGM on Saturday 2 April.

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CLA MEMBERS:

Notice of Annual General Meeting:

The 1st AGM of CLA (ACT) Inc – and barbecue – will be held on Saturday 2 April from 5pm.

Formalities are expected to last less than 20 minutes.

Venue is the home of President Dr Kris Klugman and Secretary Bill Rowlings, 51 Ardlethan Street, FISHER ACT 2611.

The AGM will include a FREE* barbecue for members, relatives and their guests. Please RSVP to Kris or Bill on 02 6288 6137 or email: klugman@netspeed.com.au

NOTE: Nominations are called for the committee for 2005 and 2006 (committee members are elected for two years). The committee ballot, by email, will be conducted in time for the AGM.

Current committee members expected to stand again include Kris Klugman, Bill Rowlings, Liz Shaw and Jim Staples.

Ideally, a further 4 people at least would nominate, creating a board of at least 8, the number determined as appropriate for the 2005-7 period. (The board has the power to co-opt if there are no nominations, either co-opting existing members or attracting and co-opting suitable new members).

Nominations must be in writing under the constitution (email is OK) and be received by the secretary (Bill Rowlings) by Friday 4 March.

Several **special resolutions** will be put to the AGM as ‘housekeeping’ matters to tidy up CLA processes. All the following are moved by President Kris Klugman, seconded by Secretary Bill Rowlings:

14.2 Change to:

The board shall meet as often as the President determines. At least three days notice must be given of an upcoming meeting, other than in exceptional circumstances.

(This wording removes the obligation to meet “physically” once a year at least: in practice, it has been found that day-to-day board management can be carried out by email and phone. The change would not preclude the board meeting

“physically” as often as the President, or the board, liked. There would be a resulting minor change to the wording of 14.4).

20.5 Change to:

The Board must give one month’s notice to members of the date of the ballot for election of office bearers every two years (currently, two month’s notice is required).

20.6 Change to:

For the election of the board every two years, nominations (and any supporting statements) must be received by the secretary two weeks before the date of the ballot.

(currently the time period is one month)

21.3 Change to:

A quorum for an annual general and a special general meeting shall be 20% of the total membership, rounded upward if a fraction is involved (currently, the figure is 40%, but achieving that is made difficult by overseas and interstate memberships).

**Free: that is, paid for by CLA funds*

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