



Statewatch

Terrorising the rule of law: the policy and practice of proscription

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London – *Statewatch*, with partner organisations the *Campaign Against Criminalising Communities (CAMPACC)* and the *Human Rights and Social Justice Institute (HRSJ, London Metropolitan University)* today publish extensive research on a new website to explain and monitor the policy of “proscription” - designating groups and individuals as “terrorists” in order to criminalise their activities or impose sanctions against them.

The website includes expert legal analysis on the development of the policy, the scope and effect of the current UK, US, UN and EU “terrorist” lists, the procedures used to agree them, and what listed groups and individuals can do to challenge their inclusion.

Key findings

- By 2000 the UK and US were already proscribing foreign “terrorist groups” - in the wake of 11 September 2001 this policy was adopted uncritically by the UN and EU (see “policy laundering”, below);
- Hundreds of groups and individuals around the world are now criminalised but no opportunity is provided for them to challenge the allegations against them or the legal basis for their proscription;
- The various lists are developed in almost total secrecy on the basis of “intelligence” alone; the UK parliament and US senate are briefly “consulted” but there is no democratic oversight whatsoever of the UN and EU lists;
- The UK and the United States have now banned 25 and 41 “international terrorist organisations” respectively; the US also has a list of over 350 groups that “support” terrorism and whose assets are to be frozen; the UN has asset-freezing list of 322 individuals and 115 groups “associated with al-Qaida or the Taliban”; and the EU has a “terrorist” list of 45 individuals and 47 groups and freezes the assets of those outside the EU.
- The “terrorist” lists make no allowance for groups and individuals engaged in acts of resistance to occupation or tyranny, with the result

that liberation struggles, “freedom fighters” *and their supporters* are being criminalised;

- Proscription is thus a way for oppressive governments to close down political activity by exiles and opponents in foreign countries;
- The EU “terrorist lists” and asset-freezing regime infringe human rights guaranteed by the European Convention and principles of EU law such as freedom of expression (article 10), freedom of association (art. 11), interference with the right to a good reputation pursuant to article 8, arbitrary and discriminatory treatment (art. 14), lack of due process, procedural unfairness, lack of proportionality, failure to comply with the requirements of legal certainty. *Amnesty International* has called for a review of the relevant legislation.
- Many affected groups and individuals have lodged complaints with the EU Courts (all are detailed on the website), but these are administrative Courts that are ill-equipped to deal with the complex issues raised by proscription (the EU court process must be exhausted before the European Court of Human Rights will accept jurisdiction).

Tony Bunyan, *Statewatch* Director, comments:

“The “terrorist” lists are a recipe for arbitrary, secretive and unjust decision-making. Recent debates over new anti-terror measures have shown that it is unacceptable to side-line Parliaments and exclude the courts.

But this is precisely how the lists are agreed - by the executive on the basis of “intelligence” alone. It is also clear that the UK and US enjoy extensive and unchecked power as far as the EU and UN lists are concerned.

We should be clear about the effects of proscription: it can be devastating not only for individuals, but entire communities.

The promise that anti-terrorism legislation would not be used against those resisting occupation and tyranny has proved meaningless, as we feared it would.

Like detention without trial, the failure to provide an opportunity for those proscribed as “terrorists” to challenge the allegations against them in court is an affront to justice, human rights and the rule of law.”

See: <http://www.statewatch.org/terrorlists/terrorlists.html>

- These links include the full report: “**Terrorising the rule of law: the politics and practise of proscription**”; the current UK, EU, UN and US lists; a comparative overview of the four lists; expert legal analysis of the proscription regimes; challenges to proscription by groups, individuals and their supporters

(including all the challenges at the EU courts); latest news and links to relevant sources of information.

This research was produced as part of the “Policy laundering project”, see: <http://www.policylaundering.org/>

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CAMPACC **CAMPAIGN AGAINST CRIMINALISING COMMUNITIES**

The Campaign Against Criminalising Communities (CAMPACC) was formed in March 2001 in response to the banning of 21 organisations under the powers of proscription contained in section 3 of the UK Terrorism Act 2000. The Campaign has brought together individuals and groups from communities which find themselves targeted by so-called ‘anti-terrorism’ legislation, lawyers, other human rights activists and increasingly members of the public who are concerned about the civil liberties implications of the so called ‘war on terror’. See: <http://www.cacc.org.uk/>



The Human Rights and Social Justice Research Institute started work in August 2003. The Institute facilitates international interdisciplinary research, policy analysis and consultancy so as to give substance to the link between human rights and social justice. HRSJ includes: UK and international social cohesion, full enjoyment of citizenship rights, and implementation of social, economic and cultural rights. It has a clear mandate, the protection of traditional civil and political rights are now seen as inseparable from the enjoyment of economic, social and cultural rights - solidarity rights - as well as environmental and other rights of global interdependence. See: <http://www.londonmet.ac.uk/hrsj>

On 21 May 2005 the HRSJ and CAMPACC co-sponsored the conference "Suspect Communities: The Real 'War on Terror' in Europe". See: <http://www.statewatch.org/news/2005/mar/conf-may-05.pdf>