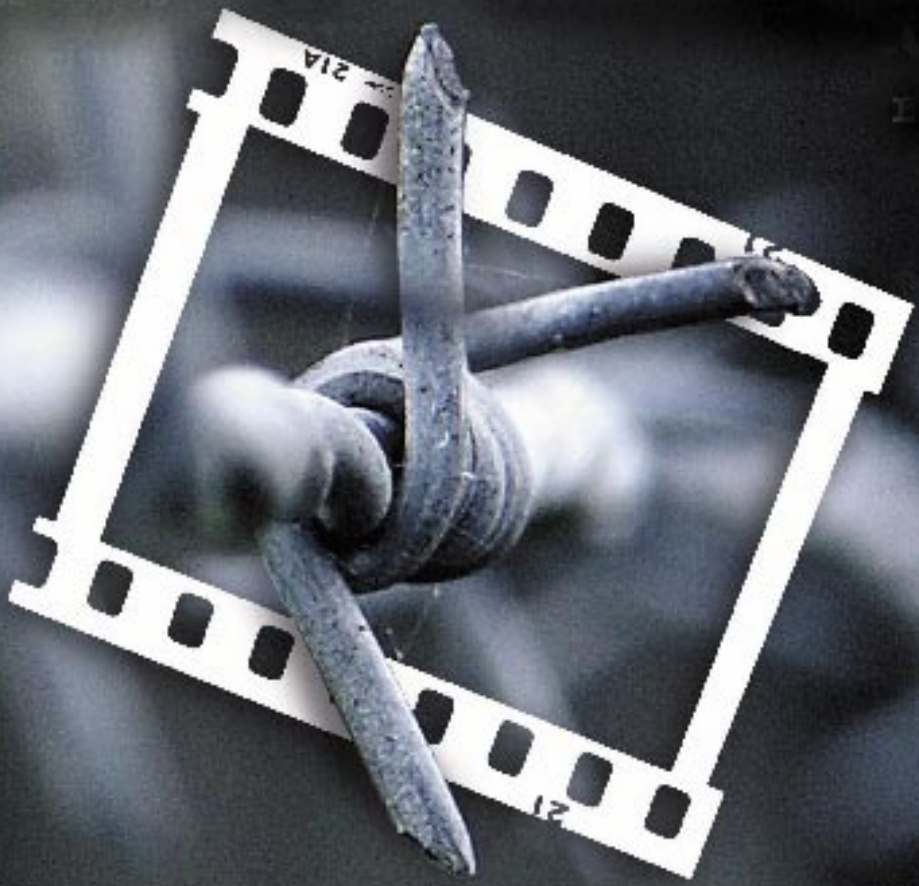
Journalism, Civil Liberties and the War on Terrorism

A Special Report by
the International Federation of Journalists
and Statewatch



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International Federation of Journalists

IFJ FIJ

Journalism, Civil Liberties and the War on Terrorism

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Introduction

Benjamin Franklin: "Those who sacrifice liberty for security deserve neither liberty nor security."

Five years into the 21st Century a dark and sinister cloud hangs over journalism around the world. More editors, reporters and media staff are killed, targeted, kidnapped and subject to violence than ever before. Independent media are under intolerable pressure.

This pressure comes directly from ruthless terrorists, with no respect for civilisation and human rights, who have targeted and murdered journalists in all continents. In Iraq alone, more than 50 media staff have been killed by political extremists and criminals, in pursuit of a grotesque agenda of hatred.

In society at large a deep anxiety and fearfulness has arisen following indiscriminate acts of terrorist violence against civilians on a massive scale in the United States, Indonesia, Spain, Russia, Morocco, Turkey and other countries of the Middle East. These attacks are challenging to democrats everywhere because they are carried out by shadowy groups with whom it is impossible to make a moral compact.

How do democratic countries respond to this threat? Are new laws now in effect proportionate to the threats posed by terrorists? What is the impact on our systems of accountability of new forms of international co-operation with decisions taken behind closed doors? And what are the challenges for journalism when policies restrict freedom of movement, increase surveillance of individuals and their communications, and undermine the cardinal principles of democracy -- free expression, open government and the people's right to know?

In the days following the September 11th 2001 attacks on the United States, the IFJ carried out a survey of its member organisations on the response of governments to these acts of terror. That report revealed a fast-developing crisis for journalism and civil liberties.1

This second report, prepared by the IFJ, with the assistance of the civil liberties campaign group Statewatch, *makes an analysis of international co-operation as well as a review of the situation in some selected countries. It concludes that new national laws and unaccountable policymaking at global level have cut deep into the fabric of civil rights protection.*[2]

These questions were discussed in detail at the conference Journalism, War and Terrorism *in Bilbao, Spain on April 2-3rd 2005. The conclusions of that meeting are attached to this report.*

While governments have very different views on the question of pre-emptive military action, particularly against so-called "rogue states" (Afghanistan, Iraq and potentially others), they share very similar policy ideas from a national security perspective. Worryingly, in their pursuit of common strategies, some governments seem all too willing to sacrifice national traditions of scrutiny, open government and natural justice in the name of security.

This report identifies a number of global themes all of which impact upon human rights and the work of journalists. Taken together they reveal that fighting a war with no set piece military confrontation, no hard-and-fast objective, no clearly defined boundaries, and no obvious point of conclusion, inevitably leads to restrictions on civil liberties and principles that constitute the moral backbone of democratic society.

The findings are troubling and should ring alarm bells within media. It asks critical questions about international governance, about the mission of journalism in combating secrecy, about threats of self-censorship and, perhaps most importantly, about the role of media in alerting civil society to the erosion of basic rights.

But it is a crisis that cannot be solved by journalists alone. The report issues a timely rallying call to a wider coalition, of trade unions, media professionals, civil society groups and human rights campaigners among them. Democratic rights that have been secured after decades of struggle and sacrifice should never be lightly set aside.

Ben Hayes and Aidan White

Summary: Global Security And Threats to Civil Liberties

1. The Media Battleground

The war on terrorism is fought in a pervasive atmosphere of paranoia in which the spirit of press freedom and pluralism is fragile and vulnerable. This is "war" of a very different kind, fought in the shadows as well as the battlefield, and, inevitably, it is a conflict in which press freedom and pluralism have suffered.

It has also led to casualties among journalists and media staff. With 129 killed, 2004 was the worst year on record for journalists and media staff. The war in Iraq is a continuing tragedy in which journalists and media staff are prominent among the victims. Up until March 2005 some 73 media staff had perished since the invasion began two years earlier.

Although the dangers to media staff are increasing, journalists strive to feed the appetite of a world as hungry for news as ever. People want answers to questions to help them understand the context and complexities of this confrontation and the threat of terrorism. They are relying on journalists. But war is rarely good news for journalism not least because information is itself a weapon of choice for governments who do everything in their power to influence media coverage to suit their political and strategic interests.

Over the past three years there have been ferocious exchanges between government and media in the struggle to manipulate public opinion, sometimes with deadly consequences. The unique experience of media in the United States, the development of alternative voices in the Arab world, particularly the satellite channel *Al-Jazeera*, and the confrontation between the government of the United Kingdom and the BBC provide sobering case histories of the impact of the war on terrorism on journalism.

Al-Jazeera, founded in 1996 in Qatar, burst on to the scene when it broadcast a video of Osama bin Laden declaring holy war against the United States. The video was replayed on every American and most European networks, confirming that the Western monopoly on global news production had met its first serious challenge from a Middle Eastern source.

The channel has been praised and vilified in equal measure. It has had its offices in Kabul and Baghdad destroyed by the US army. A reporter has been killed. Like *Al-Arabyia*, whose Baghdad offices were bombed by terrorists in 2004 killing five employees, and which also lost two staff members at the hands of US soldiers, it has paid a heavy price for its editorial independence.

The mistrust of *Al-Jazeera* is deeply felt in political circles. Disliked by many traditional Arab governments, it has sparked particular resentment in the White House where officials have accused it of aiding terrorists and whose influence was certainly at work in the decision in 2004 by the interim Iraqi authorities to ban the station from Baghdad.

However, *Al-Jazeera*, which insists it maintains BBC-like traditions of broadcasting, is emblematic of a new generation of Arab satellite channels including *Abu Dhabi TV* and *Al-Arabiya* in Dubai, that report from a distinctly Arab perspective. They are reshaping the landscape of Middle East journalism. They interview political leaders from every point of view – whether US, Israeli or Arab. They give a platform to opposition leaders and run interviews with people never heard on Arab television before:

dissidents, intellectuals, opinion formers from all sections of society.

Above all, they give voice to public opinion, providing evidence of real progress in the region and challenging the almost racist assumption that democracy is not for the Arabs and the Arabs are not for democracy.

This has been an uncomfortable development for many Arab governments and for some politicians in the West, notably within the administration of US President George Bush who have riled against the questioning, critical tone of broadcasters who have failed to adopt the vocabulary, perspective and objectives of the war on terrorism as part of their news agenda. The US has responded by opening new fronts in the information battle between the West and the Arab world.

Whether or not the war in Iraq was, as many now argue, a grotesque fabrication in response to the tragedy of 9/11, it is undeniable that on both sides of the Atlantic a ferocious campaign was waged in the run up to the invasion to shield policymakers and the public from the truth about the situation.

In February 2004 the US launched an Arabic-language satellite TV channel *al-Hurra*, meaning "The Free One" broadcasting directly to the Arab world. From its headquarters in Washington, a mixed team of some 200 Arab and US journalists say they are trying to harness US marketing skills attuned to Arab sensibilities.

They claim to be editorially independent. But the explicit intention is to provide an alternative to broadcasters such as *Al-Jazeera* or *Al-Arabiya* and the station struggles for credibility when it luxuriates in funding from US Congress worth $62m for its first year. It is by far the largest single international media development project ever funded.

Not surprisingly, *al-Hurra* provokes distrust and scepticism from Arab critics. It is, they protest, little more than satellite television diplomacy and the US would be better advised to spend its development dollars on policies as they affect the Arab world.

The criticism, attacks and harassment of Arab media and of *Al-Jazeera* in particular has been widespread and persistent including even a "denial of service attack" from the US which prevented public access to *Al-Jazeera*'s newly launched English language website for several weeks.[3]

Even more dangerous than the fixation with a single network has been the uncomfortable consequence of the war on terrorism on the relations between communities of different culture and religion. (See Below – *Anti-Islam: Racism and Intolerance on the March*)

Western media struggle to maintain even basic levels of professionalism in a charged atmosphere of fear, violence and intolerant political rhetoric. In the United States, constitutionally the home of the world's freest media, journalism has suffered, particularly as a result of self-imposed censorship.

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The monstrous failure of the United States media to challenge the spin and dishonesty of the White House information machine and, particularly, the two lines of deceit that were fed into the public consciousness – that Saddam Hussein had weapons of mass destruction and that his regime was linked to Al-Qaeda and Osama Bin Laden – has provoked an unprecedented bout of hand-wringing and self-doubt among journalists in the US.

In the weeks and months prior to the war, the media in the United States were remarkably acquiescent. Statements and suggestions from the Bush administration about the need to confront Saddam – the policy of "regime change" – were hardly questioned.

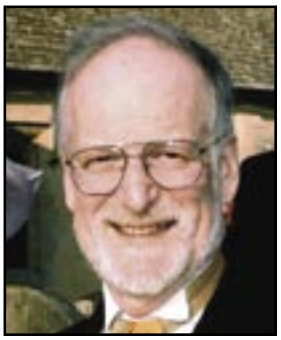
In some respects this was hardly surprising, for the US media were still cowed by the harsh crackdown on dissenting voices which had followed the attack on New York and Washington. Administration officials in Washington were sharply critical of attempts to explain the origins of the attack except in terms of Islamic "fundamentalism."

Commentators who suggested that American policies in the Middle East, for example, may have contributed to this drift towards extremism and terror were isolated. Some were sacked. Any argument that even hinted at rational justification or excuse for what the government identified as an incomprehensible, inexcusable act of mindless terror was swiftly stifled.

As a result, people were starved of reliable background information. The true picture of the Middle East was obscured by the political and strategic objectives of the establishment. People did not get any answers because media did not ask the right questions. The population at large, anxious and fearful followed the lead of their President and his key advisors who planted seeds of intolerance, which have taken root and may not be dislodged for some time.

Even today, in spite of Michael Moore's *Fahrenheit 9/11*, Seymour Hersh's brilliantly executed expose of torture by US soldiers at Abu Grahib Prison in Baghdad, and vivid daily reporting revealing that the plight of Iraqis has worsened considerably since the invasion, many Americans cling stubbornly to the view that Saddam was somehow linked to 9/11, that his government was developing new and horrifying nuclear and chemical weapons, and that the invasion was justified in the name of peace and democracy.

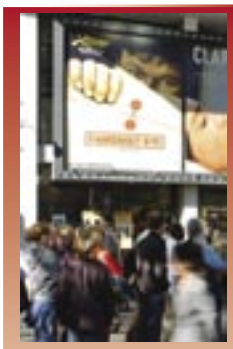
Today US reporters are subject to intense scrutiny. There have been a number of high profile court cases (see US section) to force journalists to reveal sources of information, one of them over a dirty-tricks campaign by White House officials who sought to discredit a critic of the war in Iraq. One other journalist, the first for many years, is serving a jail term under house arrest for refusing to disclose a source.



David Kelly. Photo: Belga

However, it is in Britain where the simmering antagonism between journalism and government over the war on terrorism came out into the open in the conflict between the government of Tony Blair and the BBC over the right to report the origins of the war in Iraq.

In the United Kingdom, media were more alert to the consequences of the war and the arguments about it. They were not burdened by the mood of tragedy and loss that constrained US journalism. As in many other countries, the British media divided into for and against camps with a lively public debate about the issues. These are always difficult stories to cover, but the ferocity of exchanges between government and the BBC over its coverage of Iraq policy and evidence that would justify going to war culminated in a gladiatorial struggle with Downing Street that was unprecedented in the station's history.



Parisians line up at a movie theater that is showing Michael Moore's "Fahrenheit 9/11," on the Champs Elysees in Paris, Wednesday, June 7, 2004. France's passion for cinema and the collective antipathy for President Bush made Wednesday's opening of "Farenheit 9/11" a headline event that quickly proved a boon at the box office. Photo:AP

This battle, which led to the suicide of David Kelly, a personable source for journalists covering the intelligence story, was a vivid drama in which a government's natural wish to spin information in favour of its own strategic interests came up against journalism which resented political pressure and bullying.

The row erupted over an early morning radio broadcast (prime time listening for politicians, as it happens) and an allegation that government had deliberately manipulated intelligence information to support its contentions about the existence of weapons of mass destruction in Iraq in order to justify going to war.

The BBC and government fought over an allegation that government officials had interfered with - "sexed up"- intelligence information to justify going to war. This eventually led the government to reveal Kelly as the BBC source. After his death the government appointed an inquiry under Lord Hutton, who concluded that the BBC had been in error. The Director General of the BBC and the Chairman of the Board were forced out of office.

Interestingly, a later report by another public figure, Lord Butler, into the origins of the decision to go to war, suggested that what the BBC had claimed in the first place was not without foundation.

Today the people closest to this affair at the BBC, including Richard Sambrook, head of news at the time, and now chief of BBC World News, have little doubt that the original report about government "sexing up" intelligence information over the existence of weapons of mass destruction in Iraq was nearer the mark than they thought at the time.

The failure to find any such weapons damaged not only the image of intelligence services, for whom hard facts are the raw material for detached judgement, but illustrated how a government driven by political imperatives and intent upon careful and strategic management of information, will do anything, including hounding journalists and their sources, and will ruthlessly manipulate people's access to information to suit strategic interests.

But it is not just the goliaths of global broadcasting that have been victims of the war on terrorism. Away from the war in Iraq, the seizure of *Indymedia's* London-based servers by the FBI in October 2004, taking down the independent media network's websites in 21 countries, was itself an outrageous act of disruption and saw the use openly for the first time of laws and rules adopted as part of the global the war on terrorism and paints an alarming picture of how the growing web of international mutual legal assistance agreements may be used in future.[4]

The IFJ, which called for an investigation into the role of police in Britain in co-operation with other agencies that led to the closure of the *Indymedia* web sites, said the action was an intolerable and intrusive international police operation against a network specialising in independent journalism. "The way this has been done smacks more of intimidation of legitimate journalistic inquiry than crime-busting," said the IFJ.

Indymedia sites provide challenging and independent reporting of political and social justice issues are open forums. Any member of the public can publish their comments.

The seizure of their severs followed visits by the FBI to *Indymedia* personnel in the US inquiring about the publication on the French site *Indymedia* Nantes of photographs of Swiss undercover police photographing anti- globalisation protestors. The Italian police were also interested in *Indymedia* because of its coverage of the prosecutions of police officers over their conduct during demonstrations at the G8 meeting in Genoa in 2001.

What appears to have happened is that following a request for assistance from the Swiss and Italian authorities, the Federal Bureau of Investigation in the US served Rackspace, the parent company of *Indymedia's* UK–based service provider, with a subpoena to turn over the London-based servers. In asserting its jurisdiction in the UK, the FBI trampled on the protections Indymedia should have received under UK law.

Though the seized servers were subsequently returned (without formal explanation), Indymedia has no opportunity for legal redress.[5] Procedural guarantees in international law have failed to keep

pace with global law enforcement cooperation and now pose a serious challenge to established human rights protections.

2. Disciplining Dissent and Free Expression

In the United States, it has not been just the media which have suffered, even if some of their wounds have been self-inflicted. George Bush's famous claim that "either you are with us or with the terrorists" has polarised society, provided the basis for a wide-ranging legal assault on civil liberties through the Patriot Act and the Homeland Security Act, and instituted a clampdown on free speech in the media and academia while limiting the rights of citizens at large.

Increasing concentration in media ownership and increasing government and corporate influence over academic research mean that the same curbs are evident in Europe and the world over. In countries that have never known freedom of expression, the war on terrorism has added to existing twilight conditions. It has become a further check on the progress towards democratic reform.

NGOs, charities and other civil society groups also face attempts to control or curb their activities. The thesis promoted by the US and its partners is that terrorist groups use laundered money for their activities and that charitable and non-profit organisations are potential conduits for these groups.

The US "National Money Laundering Strategy" of 2003 thus proposes increased surveillance of domestic charities by various law enforcement and security agencies as well as the monitoring of charities based in other countries, especially in "conflict zones".

One of the objectives of the strategy is "establishing and promoting international standards… ensuring that countries throughout the world consistently implement these international standards." (*"Policy laundering"*, see below).

The war on terrorism has also further politicised the relationship between grant-making foundations and NGOs in the US and beyond. In 2002, US "Anti-Terrorism Financing Guidelines" on "Voluntary Best Practices for U.S. Based Charities", recommended that organisations certify that they will not deal with any group on US terrorist watch-lists.

In April 2004, the American Civil Liberties Union rejected a grant of $1.15 million from the Ford and Rockefeller foundations, refusing to sign disclaimers including the commitment not to "engage in, promote or support other organizations or individuals who engage in or promote terrorist activity". The ACLU felt the ambiguous language of the grant letter was open to an interpretation that could restrict free speech and advocacy.

NGOs critical of US foreign policies are also under pressure from the administration. "*NGOwatch*", launched in early 2004 by the American Enterprise Institute for Public Policy (AEI) and the Federalist Society for Law and Public Policy Studies (two of the most influential and well-funded think tanks serving the Bush government), exists to "expose the funding, operations and agendas of international NGOs and particularly their alleged efforts to constrain US freedom of action in international affairs and influence the behaviour of corporations abroad". Its launch was celebrated at an AEI conference on "*NGOs: The Growing Power of an Unelected Few*".

In the war on terrorism political activists and protest groups everywhere face new restrictions on their association and movement. In London, the entire city has officially been on so-called emergency alert since September 11, giving the police extended powers to stop, search and detain people.

The "emergency" in the UK has also meant infamous derogation from its obligations under Article 5 of the European Convention on Human Rights to provide a fair trial for suspected foreign terrorists (the only Council of Europe state that has felt it necessary to do so).

But it is not just the right to a fair trial, though this is the only formal derogation. During the widespread demonstrations and direct actions against the Iraq War, UK anti-terrorism legislation was used extensively in public order situations

and to detain activists. There has also been a quite deliberate attempt by some in positions of authority to associate protestors with terrorism, citing new threats from so-called anarchist-terrorism, eco-terrorism and cyber-terrorism. "State terrorism", however, the scale of which "is far greater than that of non-state terrorism", is ignored, denied or covered-up.[6]

Civil liberties groups in 2002 were among those most concerned when European Union policymakers sought to impose an EU-wide definition of "terrorism" would have covered people taking part in recent violent protest demonstrations over globalisation.[7]

"The actions by the European Union are a deliberate attempt to broaden the concept of terrorism to cover protests such as those in Gothenburg and Genoa," said Tony Bunyan, the Editor of Statewatch, at the time. "Draconian measures to control political dissent only serve to undermine the very freedoms and democracies legislators say they are protecting."

"The actions by the European Union are a deliberate attempt to broaden the concept of terrorism to cover protests such as those in Gothenburg and Genoa," Tony Bunyan

The basket of rights embraced by freedom of expression – freedom of association, freedom of movement, freedom of assembly – have all been tested by the changing policy landscape in dealing with terrorism.

During 2004, a number of global press freedom groups, including the IFJ, protested to the United States authorities over pressure on journalists citing unprecedented restrictions being imposed on journalists wishing to travel to the United States for their work. New visa rules imposed by the authorities require journalists to have a special visa and to undergo interviews at local embassies with US officials before being allowed to travel, imposing greater restrictions than those which apply to business travellers. Journalists were banned from using the visa-waiver programme which applies to most European countries.

Outrage over this development, which led to the detention and deportation of 15 foreign journalists who tried to enter the United States with normal visas during 2004, prompted the American Society of Journalists and Authors (ASJA) to protest that the new visa policy was a violation of press freedom rights and the First Amendment.

3. Anti-Islam: Racism and Intolerance on the March

The impact of negative media coverage of Arab and Muslim communities has contributed to much of the fear and uncertainty within the general population that has been generated by the war on terrorism.

In the West media stereotypes of the Arab world seem to be greater and more dangerous than they have been for decades. Media fail to distinguish between fundamentalism and mainstream Islam and appear to regard engagement with religious communities as compromising progressive values rather than an opportunity for dialogue in order to win people over.

The emphasis on terrorism and fanaticism in the Arab world has been made worse by the war on terrorism. It is an obsession, fed by sensationalist and superficial reporting of conflict in the Middle East and nurtured by unscrupulous and racist politicians. It contributes to an increasingly fearful climate within previously stable metropolitan communities in Europe and the United States.

Today in countries with a history of tolerance like Norway, Denmark, Belgium, and the Netherlands, a toxic cocktail of prejudice and ignorance about Arab culture is leading to a resurgence of extremist politics not seen for 50 years.

The murder of Dutch film-maker Theo van Gogh by a lone Muslim extremist, for instance, unleashed a spiral of Islamophobia. The Dutch government considered closing mosques that spread "non-Dutch values." Primary schools for Arab children have been fire-bombed. Attacks on Muslim and Arab communities increased.

Yet in Europe the number of people voting for openly xenophobic parties in most countries exceeds the number of Muslims let alone those who inhabit tiny cells of Islamic extremism. In truth, Europe poses a far greater threat to Muslims than Muslims do to Europe, but these realities hardly figure in media coverage.[8]

Countries with minority Muslim populations devote increasing police resources and effort to monitoring and surveillance of Arab and Islamic communities. Stop-and-search of Asian people in the UK, for instance, increased by 285% in 2002/3, fuelling resentment in already alienated communities.[9]

Under the banner of "radicalism and recruitment", Muslim communities' places of education and worship across Europe are being targeted for increased surveillance. Racial profiling, a practice theoretically prohibited by international law, has also made a come back. There have been renewed arguments about wearing "the veil" at school and about use of religious symbols, all of which have added to the tension.

The climate of suspicion and control, together with scaremongering, if not racist reporting and claims about a "clash of civilisations" is contributing to support and electoral success for anti-immigration and far-right political parties.

Yet no one who visits the Middle East can believe that communication is now controlled by governments or that society relies on traditional voices or the Mosque. Radical changes in every aspect of the forces that shape public opinion, such as the yearning for social justice, free expression and fundamental rights, are an ongoing reality in much of the Middle East and North Africa, despite the presence of outdated laws and, in some quarters, a still unreconstructed and corrupt political class.

Change is in the air and the evidence is in the invigorated newsrooms of Arab media. But these social realities are largely ignored in Western media.

Arab states are singular and complex. They are vastly different, both in economic and cultural traditions. Many do operate in a political and social climate where secular political options attract a limited following, but the reasons are rarely fully explained.

In the routine stereotype of Western media, Islamic extremists on the margins of society are confused with the whole Arab world; Arabs are typecast as supporters of terrorism and in the background is a growing media fixation on a millennial clash between Islam and Christianity.

But burning resentments in the Arab world, much of them focused for decades on the injustice of the conflict in Palestine, are too complex to be reduced to such simple terms.

Even limited research by reporters of political rebellions against Western domination in the region would reveal they have been mainly secular. Arab nationalism, though often associated with Islam, is sometimes at odds with it. Pan-Arabism, some of whose founders were Christians, offered an alternative, more secular, form of cohesion even if it was not necessarily more democratic.

Its failure and Western interventions, often imperialist in nature, leading to the toppling of freely-elected governments and the support of dictators, have not helped the cause of democratic change, but may instead have contributed to a revival of Islamist movements.

Although Western media tend to suppose that the lack of separation between church and state is the basis for Islamist revolutions, they ignore the fact that in the non-Arab Muslim world, in places like Indonesia and Malaysia, religious ideologues have failed to make much headway.

Indeed, more pragmatic Muslims in many countries are keen to separate politics from religion. They form a significant body of opinion in the ongoing debate in the Muslim world on Islam and democracy and Islam and modernity. This inner conflict or "fitna" rarely surfaces in Western media coverage.

Despite all of this, the rhetoric now building in both the West and the Arab World is of a final showdown between great religions. Socially

democratic governments are moving further to the right, abandoning the ideals of multiculturalism, diversity and pluralism in favour of a kind of "monoculturalism" (typified by the "integration tests" for immigrants introduced by the UK and Netherlands).

Some believe that there is a sub-text of racial superiority at the heart of the war on terrorism, with notions of a super-nation on a mission to liberate the world. For Sivanandan, this notion of a superior civilisation, based "on the myth that 'our way of life, our freedom, our democracy' is the *sine qua non* of all civilisation", marks out the racism of the twenty-first century.

Whether such fears are justified is not yet clear, but the role of journalists and media seeking to navigate through these treacherous developments with some sense of professionalism is made more difficult when intolerance and racism is on the march.

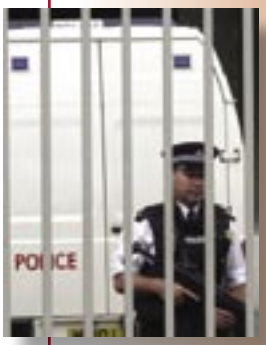
4. Detention Without Trial, Proscription Without Process

The shocking photographic evidence of prisoner abuse, assault and sexual humiliation first revealed at Abu Grahib prison in Baghdad, involving US soldiers, and later in cases involving UK troops, prompted a fair degree of disgust and revulsion around the world. At the same time there was growing unease at the increasing evidence of systematic abuse and torture at the US special detention camp in Guantanamo, Cuba.

Further questions are being raised about what goes on behind closed doors at the 16 or so other detention facilities in Iraq, and the 25 in Afghanistan. The US military has reportedly taken more than 50,000 people into custody during its military operations in Afghanistan and Iraq and legitimate questions are being asked about systematic methods of detention and control that may involve abused and torture.

The US government says isolated cases at Guantanamo Bay and Abu Grahib are exceptions

All over the world stringent measures are being taken against the threat that is believed to be growing.



An armed British police officer looks through the gates of the high security Belmarsh magistrates court, London, as a van carrying terror suspects waits to enter the innner complex, Wednesday, Aug. 18, 2004. British police charged eight terrorist suspects with conspiring to commit murder and use radioactive materials, toxic gases, chemicals or explosives to cause "fear or injury" in a case involving an alleged top al-Qaida operative at the center of a U.S. terror alert. Photo: AP

Members of a bomb squad suit up in Hillside, N.J. during an anti-terror drill Monday, April 4, 2005. The largest anti-terror drill ever undertaken in the United States started Monday morning, with police officers in Union County investigating a fake car accident and health officials on the lookout for a fake biological attack. Photo: AP

Spain's Prince Felipe and Princess Letizia, center, pose for a photograph with members of the Club of Madrid before the opening of the International Summit on Democracy, Terrorism and Security Tuesday, March 8 2005, in Marid, Spain. The Club of Madrid, an independent organization constituted by former heads of state and government, organized the summit to coincide with the first anniversary of the Madrid terrorist attacks of March 11 2004. Above the group is a photograph of a demonstration against terrorism where someone holds a sign reading "Peace". Photo: AP

A police officer with a simulated victim during an anti-terrorism drill in the Arena soccer stadium in Amsterdam, Wednesday, April 6, 2005. A series of fake explosions rocked the stadium, bringing a pop concert to a halt and giving Dutch emergency service workers a chance to participate in the largest anti-terrorism drill ever staged in the Netherlands. Code-named "Bonfire," the euro 1 million (US$1.3 million) operation involved hundreds of simulated victims and 2,000 workers from the emergency services, police, army and government. Photo: AP

on an otherwise unblemished legal landscape, but this type of "justice," based on guilt by association, secret evidence obtained through torture, and the punishment of those believed to be "dangerous," is fast becoming the norm in dealing with people identified as linked to groups potentially associated with terrorism.

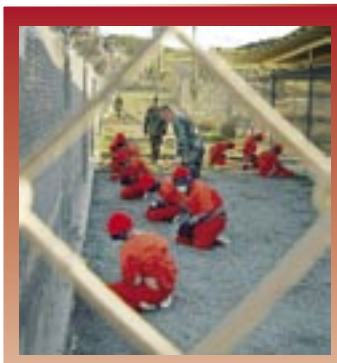
Constant pressure from journalists and others about the fate of people in US custody eventually provided revealing evidence of 26 cases of unlawful killings of detainees, despite official reports from the Government of only a handful of problem incidents.[10]

In the UK up to 16 people have been detained without charge or trial since September 11. Canada and Russia also intern people they believe may be connected to terrorism. Half of the world's most developed countries, at least the members of the G8 family are, therefore, actively engaged in activities and practices that diminish accepted standards of due process and justice.

Moreover, contemporary debate about torture in many countries is focusing not on how to uphold the absolute ban under international law on all torture and degrading treatment, but on what might be acceptable within these boundaries (what critics have labelled "torture light"). This is one of many attempts to make unacceptable practises *permissible* in the name of counter-terrorism.

It must be said that there is evidence that constitutional courts are staging a modest fight back. Both in the United States and Great Britain, the Supreme Court and the House of Lords have both condemned detention without trial. Nevertheless, people remain locked in cages and windowless cells in both countries. Rather than release or charge detainees, the governments of both countries are working to legitimise their further detention.

In this undated still photo provided by The Washington Post on Friday May 21, 2004, a naked Iraqi detainee appears to be cuffed at the ankles and covered with an unknown substance under the guard of a baton-weilding U.S. soldier at the Abu Ghraib prison on the outskirts of Baghdad. The Washington Post has obtained what it says are hundreds of photographs and short digital videos - as of yet unreleased - depicting U.S. soldiers physically and emotionally abusing detainees last fallin the Abu Ghraib prison. Photo: AP



Taliban and al-Qaida detainees sit in a holding area at Camp X-Ray at Guantanamo Bay, Cuba, during in-processing to the temporary detention facility in this Jan. 11, 2002 file photo. Controversy over prisoner abuse at U.S.-run prisons in Iraq and Afghanistan has left the Guantanamo Bay, Cuba, detention facility for terrorist suspects largely untouched. but that may soon change. A senior Navy admiral who briefly visited Guantanamo Bay in early May has recommended a more in depth look at howprisoners were treated there. Photo: AP

Through the G8 and other international groupings, they lobby for the introduction of "pre-terrorist" offences in jurisdictions across the world, allowing people to be locked-up by state-run courts on the basis of secret intelligence from the intelligence services.

The problem is that there is no verification or quality testing of this "intelligence." It is hard not to conclude that there is a global gulag developing across Guantanamo, Baghram airbase, Abu Grahib, Diego Garcia and the like, which is beyond public scrutiny and which is being nourished through self-serving cooperation between some of the world's least trusted and most ruthless intelligence agencies.

When the world's democracies behave like this, it is little surprise that those for whom human rights abuse is routine take the opportunity to reinforce their own tyrannical reign at home. According to Human Rights Watch, for instance, China is using the war on terrorism to leverage international support for its crackdown on ethnic Uighurs in north-western Xinjiang. (See Country Report, China).

And in Turkmenistan, a poverty-stricken and damaged former Soviet state, but a staunch ally in the war on terrorism, around 7,000 Muslim men are reportedly detained without charge.

The problem is that by setting the example of Guantanamo and other places of arbitrary arrest, detention and exile which deny prisoners the right

to recognition and equality before the law and an effective legal remedy, the world opens the door to even more widespread abuse on a scale that cannot yet be properly counted.

Far from western governments working together to condemn abuse of human rights and to restore democratic values there appears to be an extraordinary willingness of democratic states to acquiesce in new violations.

Take, for instance, the practice of official kidnapping of individuals. The CIA has admitted to carrying out close to 100 "extraordinary renditions" since the launching the war on terrorism. Rendition is the process of kidnapping suspects in third countries and handing them over for torture in countries like Syria, Egypt, Jordan, Morocco and Uzbekistan where security services conduct brutal interrogations on behalf of the US.

Countries such as Sweden, Canada and Ireland are among many that have cooperated with the United States in this unlawful practice. A number of individuals rendered to third countries for torture have ended-up in Guantanamo Bay.

The cooperation of countries assumed to be neutral or sceptical about the US-led war on terrorism is perhaps surprising, but not difficult to understand. Primarily, all security services work increasingly together, identifying a common enemy on the mafia rationale that my enemy's enemy is my friend, and using regimes outside the orbit of democratic accountability to achieve their objectives.

And a degree of legitimacy is claimed through UN Security Council Resolution 1373, adopted just nine days after 11 September 2001, which requires states to "afford one another the greatest measure of assistance" in combating terrorism.

In terms of compliance by member states, this is one of the most "successful" UN Resolutions ever, but the culture of unquestioning international law enforcement cooperation it has ushered in has undermined human rights.

The UN's proscribed list of individuals and organisations connected to terrorism, developed by a Committee set-up to impose sanctions against the Taliban, now contains well over 400 names.[11] The European Union has another dedicated list of almost 50.12

It is against the law to give any support to those listed, but there is no mechanism of appeal for groups included on the list. There has been no democratic consideration of how these lists have been adopted. There has been no debate. Few question whether all those proscribed are simply "terrorists" rather than, in certain instances, part of a popular liberation struggle, or legitimate resistance to occupation or state repression. These very concepts are casualties of war on terrorism propaganda.

And for journalists, the process contains dangers and pitfalls. Reporting, by its very nature, requires getting close to groups involved in political struggles in order to obtain and verify information, but dealing with any group that has been proscribed leads journalists into potential trouble with the authorities.

It is a situation made worse by the increasing surveillance of journalists and the work they do. But surveillance of journalists is only one part of the new wave of watch and control that now drives much of public policy in the way that states treat their citizens.

5. Fingerprints for All: Going Global With Surveillance and Control

In the name of combating terrorism, for instance, hundreds of millions people will be fingerprinted in the coming decade. Photo: Belga.

Whether we like it or not, authorities around the world are engaged in a process of monitoring and tracking our movements. It is not just journalists whose activities are increasingly under scrutiny. The compilation of massive databanks of personal information, the surveillance of internet and personal communications, and the profiling of

people based on their race, religion and political affiliations pose challenges to long-held traditions of personal freedom.

In the name of combating terrorism, for instance, hundreds of millions people will be fingerprinted in the coming decade. The unilateral decision of the United States government to require biometric data (fingerprints, facial scans etc.) from all entrants to its territory is being replicated across the world. The International Civil Aviation Authority (ICAO), a UN body, has agreed global standards for the use of biometric technologies.

The European Union has agreed that all passports, residence permits and visas must include biometric data. By the end of 2007, citizens of all 25 EU member states will have to visit enrolment centres and have and their fingerprints and a digitised scan of their faces taken in order to obtain or renew their passports. This and other personal information will be held in an EU-wide database to which a host of police and law enforcement agencies will have access.

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Using sophisticated new technologies, and according to international standards, governments everywhere are taking the opportunity to develop national identity systems, or to introduce them where none exist. These provide population registers, including registers of foreigners that provide new opportunities for social control. Already teams of police and immigration officers are equipped with handheld fingerprint scanners to check for immigrants subject to expulsion orders.

Once a national database is established, it will not be long before this technology filters into normal policing. This raises serious questions about what kinds of information the national database will contain, what other information will it be linked to and, perhaps most important, who will have access to it and on what terms.

The introduction of biometrics across the world provides the foundation for a global identification system. It is unlikely to prevent terrorism (after all, those so far identified as being implicated in terrorists acts in the US and Spain all had travel documents and appropriate identity documents), but it is certain to restrict free movement both internationally and internally as national borders and internal controls are strengthened around the world.

More US demands, this time for extensive details on all air passengers (PNR, passenger name record data) to enable both terrorist-screening and "risk profiling", are promoting a second global law enforcement infrastructure – this time for the surveillance of all air travel. Again, the ICAO, is the proposed standard bearer.

These plans are well advanced and US authorities already have direct access to the reservation databases of all European airlines flying into the US. This is despite the fact that the European Parliament has voted to reject the relevant EU-US treaty on no less than three occasions. The European Parliament is seeking the annulment of the Treaty at the European Court of Justice.

The long term aim of PNR schemes is the profiling of all travellers (lifetime profiles in the case of the US). The logic appears to be that it is necessary to compile records on innocent people to confirm their innocence. Thus, the presumption of innocence, the foundation of the common law legal system, becomes a casualty in the war on terrorism.

Nationality, ethnicity and religion are core elements in the "profiling" process. As a result, innocent travellers are already subject to arbitrary stops, interrogation, and even travel restrictions. One fear is that the exchange of this data will lead in future to the *de facto* mutual recognition of arbitrary decisions (to refuse a visa, to refuse admission at a border, to place someone on a watch-list or include them on a database, etc.), thus depriving people of their rights and providing no opportunity for legal redress.

The surveillance of all telecommunications is a third global law enforcement initiative. It is based on "data retention" and "lawful access" proposals which will force all service providers to keep records of all their subscribers' traffic data for several years.

A number of countries are trying to introduce data retention, including details of all telephone calls, for instance. On the back of the 2001 Council of Europe Cybercrime Convention, which is open for worldwide signature, others have introduced specific proposals in the name of counter-terrorism, while a number of governments are pressuring their telecoms industries to comply under informal "memoranda of understanding".

The stockpiling of information about people's lives, their telephone and e-mail communications and the potential for arbitrary restriction of their freedom of movement amounts to an unprecedented hoarding of power over the fundamental rights of citizens by national authorities. Europe's much admired data protection rules have proved unable to prevent this assault.

The dangers for journalists are self-evident. It is part of their job to gather and store information, to move freely and to work without the heavy hand of officials on their shoulder. How, one must ask, will any form of investigative journalism be possible when a reporter is subject to special monitoring by the security services and the police?

When this power is shared and can be applied on a global scale it provides a resource for levels of command and control of society as yet unheard of beyond the pages of *1984* written by George Orwell and Aldous Huxley's *Brave New World.* [13]

7. Secret Decision-Making and 'Policy Laundering'

Given these developments we can anticipate one way or another that in the future entire populations will be subject to unprecedented levels of surveillance. Are we "sleep-walking into a surveillance society" as the UK Data Protection Commissioner has recently suggested? Possibly, but critics of these policies are readily dismissed as conspiracy theorists, the absence of an Orwellian "Big Brother" is apparently sufficient to persuade many that there can be no conspiracy.

Nevertheless, the United States and its partners do face strong and growing objections about the implications for civil liberties of global surveillance policies like data retention, PNR and biometrics. The response of policy makers is to work through the complex web of international political organisations to promote new forms of policy sharing – what civil liberties groups call "policy laundering".

Policy laundering is the use of foreign and international forums as an indirect means of adopting policies that might not win direct approval through the domestic political process. If "money laundering" describes the cycling of illegitimate funds through legal structures in order to enter them into legitimate circulation, policy laundering similarly involves recycling policies that lack political legitimacy through outside institutions in order to get them into circulation and to circumvent the normal democratic process.[14]

Decisions on many of these security issues are being taken in secretive and informal international surroundings under the auspices of the United Nations, G8, European Union and other international agencies such as ICAO. By the time the decisions are addressed at the national level it is often too late for debate and the policies are embraced as "internationally-agreed" initiatives which inhibit the capacity for national opt-out.

There may be some degree of room for manoeuvre on the method of implementation, but the decisions themselves are usually binding and cannot be amended. Parliaments and civil society groups that object are sidelined and presented with a *fait-accompli.*

Of particular concern to journalists is the secrecy surrounding the work of many of these intergovernmental bodies. Often it is extremely difficult to monitor who is deciding what, where and when. It is here where anxiety over the growing power of an "unelected few" is growing.

In an increasingly globalised world, policy laundering has been the means by which the United States and other nations are constructing an international framework to prosecute a global war on terrorism. The suitability of this framework for use against organised crime in normal policing is evident – international co-operation in breaking Internet paedophile rings and drug running are good examples – but there are dangers posed by the possible development of new forms of social control.

The development of a "Fortress Europe" model of border controls is evolving into one of global migration control. Western states seek increasingly to prevent migration from third countries and return migrants and refugees to them.

Before September 11, the migration control agenda was increasingly contaminating development policies to achieve these goals. Now, formal "migration management" clauses are included in aid, trade and development agreements. Security clauses will feature in the next generation agreements, putting the interests of western states further ahead of those of countries in the developing world.

Global migration controls, international security policies, war and occupation have diverted attention and resources away from the root causes of global migration and insecurity: poverty and inequality. The equation is simple: increased powers, a compliant private security industry, and data collection and surveillance on an unprecedented scale grant extensive new powers to the state.

These powers undermine democratic standards. In a democratic society, the state is accountable to the citizen (if often only tenuously). In a surveillance society the relationship is inverted: the citizen is accountable to the state and the state only thinly accountable to the citizen.

AFRICA

The Regional Director of the IFJ Office in Senegal writes: As in the rest of the world the war against terror has become a priority for African governments. Attacks against American and Jewish targets began before September 11. In 1998 American embassies in Nairobi, Kenya and Dar Es Salaam, Tanzania suffered terrorist attacks by Al-Qaeda groups. In 2002 in Mombasa and Nairobi, attacks and threats against hotels and air planes confirmed the presence of a terrorist front in Africa. As well as Islamic extremism with roots in the Middle East, actions such as massacres committed in northern Uganda by the Lord Resistance Army reflected a new form of continental terrorism. In most of the countries of Africa where there are internal political conflicts or where criminal activity is at a high level, there is a tendency to implement draconian measures that compromise civil liberties in the name of security and anti-terrorism. The negative consequences of these changes in legislation on the media is seen in self-censorship, lack of freedom of movement and a failure to protect journalistic sources, and ultimately has a detrimental and chilling effect on journalists trying simply to carry out their professional duties.

Kenya

Victory for Civil Rights Protestors

A victory of sort for civil liberties campaigners and journalists was achieved when the *Suppression of Terrorism Bill*, originally introduced before the National Assembly in 2003 was formally withdrawn in February 2004 following widespread criticism. Human rights groups said the original law restricted freedom of assembly, expression and association, provided for indefinite detention and would have led to impunity for security forces engaged in anti-terrorist activities and the confiscation of property without redress. The Bill was also criticised for criminalising the offer off any services, including legal services, to suspected terrorists. The definition of the crime of "terrorism" and "terrorist" acts and actions in the bill is vague and imprecise. With the pressure of civil society and human rights organisations, but worryingly the Kenyan Government has announced that it will revise and republish a controversial anti-terror law.

South Africa

New Bill, Old Problems for Media

After a controversial drafting process, the South African parliament has approved the country's draft anti-terrorism law, *The Protection of Constitutional Democracy Against Terrorist and Related Activities Bill*. Once signed by the President the bill will be promulgated into law. Journalists and the wider media community and human rights organisations have been vigorously active against the bill.

The Protection of Constitutional Democracy against Terrorism and Related Activities Act - commonly known as the anti-terrorism law – that is due to come into effect on 20 May 2005 obliges under criminal sanction the reporting of a suspected terrorist. It will require journalists not only to reveal their sources in case of investigation on any criminal activity considered as terrorist action but also to create a chilling effect and self-censorship on the part of journalists willing to investigate any criminal or terrorists act.

UGANDA

JOURNALISTS' SOURCES UNDER PRESSURE

The Anti-Terrorism Act in Uganda came into force on 7 June 2002. This law seeks to curtail domestic terrorism that has plagued the country over the last 18 years. The Act is aimed at suppressing acts of terrorism and generally to provide for the punishment of persons who plan, instigate, support, finance or execute acts of terrorism. The Act also provides for the investigation of terrorist activities and the surveillance of persons suspected to be planning or involved in terrorism.

Section 7 of the Act defines terrorism as any act which involves serious violence against a person or serious, damage to property, endangers a person's life, creates a serious risk to the health or safety of the public. Any such act must furthermore be "designed to influence the Government or to intimidate the public or a section of the public", and to further the advancement of a "political, religious, social or economic aim" indiscriminately without due regard to the safety of others or property. It then gives a list of acts which constitute terrorism.

Significantly for journalists, the law make it a duty imposed on anyone who has suspicion or actual knowledge that another person is involved in terrorist activities, to disclose such information. The fear with this provision is the lack of protection of sources.

Asia

Forum-Asia, a regional partner of Statewatch focusing on the protection of human rights in Asia, writes: There are deep concerns over some Asian states who use the war on terror as a pretext to introduce laws and regulations that stifle opposition and free expression, that are directed at common law and order problems and that have the effect of increasing violations of human rights.[15]

Counter-terrorism in Asia increasingly includes vague definitions of terrorism, acts of terrorism and public and national security. New procedures for the detention of suspects and the use of military tribunals are encroaching on civil rights. New or revised laws in Bangladesh, China, India, Nepal, Pakistan, Malaysia, Indonesia, Philippines and Korea are of particular concern. Some of these countries are debating even stricter measures, including detention based on secret evidence, restriction of habeas corpus, limits on access to a lawyer and indefinite detention without trial.

There is also increasing discrimination towards communities on the grounds of caste, creed, colour, ethnicity, religion, political and social status through the use of counter-terrorism measures. There is widespread suppression of political opposition which compromises the ability of media, civil society groups, minority communities and concerned individuals to voice and express dissent against people in power. This has included restrictions on their right to freedom of expression, assembly, association and movement.

There is increased surveillance that undermines the human rights activities of NGOs, civil society groups and social movements. Opponents of counter-terrorism measures have been threatened. While there is a lack of transparency, freedom of information and accountability over the activities of state authorities the civil rights of citizens are curtailed in the name of national security. Increased surveillance is also invading the right to privacy of citizens as is the creation of massive databases of personal information.

Additionally, financial monitoring measures to combat "money laundering" are being used by governments to undermine and isolate critical NGOs as anti-establishment or to connect them with opposition movements. Many governments have adopted measures covered by United Nations Security Council Resolution 1373 on the prevention and suppression of the financing and preparation of any acts of terrorism and then used these measures to crack down on dissent. This clampdown extends to democratic opposition to free trade and privatisation, partly due to the inclusion of counter-terrorism obligations in trade and foreign investment agreements.

New restrictive immigration regimes in Asia are affecting the rights of migrant workers and asylum seekers who are fleeing repression. Recent developments in Malaysia are particularly alarming, as is cooperation at regional and sub-regional levels on migration and security matters, which is leading to the increased collection and exchange of information on migrants and refugees.

AUSTRALIA

MEDIA AND JOURNALISTS HIT BY SECURITY LAWS, OFFICIAL HARASSMENT, VIOLENT ATTACKS

The 11 September 2001 terrorist attacks in the United States, the war in Iraq and the war on terror have had a dramatic impact on Australian society. The attacks on New York and Washington in 2001 claimed ten Australian lives. They occurred against a pre-existing background of racial tension within Australia generated by the debate over asylum seekers, particularly asylum seekers from Iraq and Afghanistan.

Concerns about terrorism were exacerbated by the attacks in Bali on 12 October 2002 and more recently, the bombing outside the Australian embassy in Jakarta on 9 September 2004. In the Bali attack, 88 Australians died, along with numerous others, primarily Indonesians.

The conservative Government of John Howard has used this heightened fear of terrorism and concern over asylum seekers to introduce a raft of anti-terrorism laws in Australia, some of which effectively limit free speech and civil liberties. In this climate, journalists face new pressure to reveal the identity of their sources. They also face increased restrictions relating to national security. The Media, Entertainment and Arts Alliance (Alliance) says new legislation leaves journalists vulnerable to prosecution. At the same time media staff in situations of risk of injury and/or death, have noticeably increased over the past three and a half years.

It has not been all bad news. Journalists and press freedom groups campaigned successfully against plans to prosecute journalists for revealing - or even receiving – leaked information, under the Government's proposed Criminal Code Amendment [Espionage and Related Offences] Bill 2001. The bill was withdrawn after heated protests.

But the concern of journalists has focused on counter-terrorism legislation that effectively muzzles the media's scrutiny of Australia's security apparatus.

Amendments made in 2003 to the Australian Security and Intelligence Organisation Act 1979 (ASIO) allow for five-year jail terms for terrorist suspects who disclose information to media, and similar penalties for any journalist who reports it.

"These changes are the worst attempts by the Government to exploit the risk of terrorism to justify undemocratic media restrictions," said Alliance Federal Secretary, Christopher Warren. "This is a fundamental and unacceptable erosion of press freedom in Australia." The Alliance has made a submission to the Parliamentary Joint Inquiry which is reviewing the amendments and is due to complete its work by 22 January 2006.

The Alliance's submission, focusing on ASIO laws says jail terms for journalists reporting ASIO affairs should be abolished and calls for the ASIO to be more transparent. They argue that the amendments to the ASIO laws, hurriedly passed in eight days in November 2003, and introduced in response to the September 11 and Bali terrorist attacks, set out draconian measures against journalists.

There are two offences for those who disclose 'operational information' that relates to the enforcement of an ASIO warrant. The first prohibits disclosure of any information about an ASIO warrant for 28 days after its issue. The Act allows for suspects (or potentially helpful non-suspects) to be detained for up to 7 days. There is no limit on the number of warrants that can be issued, so this interrogation - and the ban on the disclosure thereof - can continue indefinitely.

The second offence restricts the disclosure of 'operational information' for ongoing investigations for a period of two years. Even accidental or reckless disclosure is an offence under the strict liability clause.

Journalists who breach these rules risk going to jail.

Other counter-terrorism legislation has also eroded press freedom. The government can proscribe selected organisations without requiring a United Nations mandate. Even more concerning for investigative journalists is the prohibition of association with a terrorist organisation as laid down in the Anti-Terrorism Bill (no. 2) 2004.

One of the most intrusive amendments may be the Telecommunications Amendment (stored communications) Bill 2004, which permits government security agencies to tap into email, SMS and voicemail messages. This Bill may expose a journalist's confidential communications, thereby revealing his/her sources.

At the same time, the Federal Government has proved it is prepared to exercise its powers to silence whistleblowers. Federal police arrived at the Canberra *National Indigenous Times* on 11 November 2004 with a warrant to seize two leaked cabinet documents in relation to a story about a government welfare plan. Sources confirmed the Prime Minister's office ordered the swoop. The Alliance condemned the incident, as a thinly veiled gag warning to government whistleblowers.

Government intervention continued to plague the national public broadcaster, the ABC, which, in August 2004, consulted politicians before it sold footage featuring them onto film-makers documenting the refugee crisis. The films were deemed 'political statements'. The Government has also made no secret that it believed that the national broadcaster is 'anti-American', with the Communications Minister making repeated formal complaints against certain journalists.

But the most dire threat to Australian journalists since September 11 is the threat to their personal safety. Sound recordist Jeremy Little was working for US TV network, NBC when he was mortally wounded on 1 July 2003 in Iraq when the military vehicle in which he was traveling was hit by a rocket attack in Falluja. Paul Moran, working with ABC TV in Northern Kurdistan, was killed in March 2003 in a car bomb explosion. His colleague, Eric Campbell, was wounded in the attack as the pair waited to talk to refugees near the village of Khormal.

Fortunately, SBS journalist John Martinkus, survived to tell the tale of his kidnapping by Sunni militants in Baghdad on 17 October 2004. The freelance reporter was eventually released after he assured his captors he had no links with the US-led coalition.

Back in Australia, the home of Brisbane journalist, Hedley Thomas, was shot at on 23 October 2002 and an SBS camera crew were attacked outside a Western Sydney Mosque on 16 August 2002.

An undercover federal agent seriously undermined the safety and integrity of all journalists when, on 30 December 2003, he posed as a freelance journalist in order to arrest a terror suspect. The agent offered to buy the man's "final message" outlining his intentions in his plot to destroy an ASIO building.

Meanwhile, Australian journalists trying to enter the United States have been harassed, detained and treated like criminals before being sent back to Australia. Foreign journalists must now obtain a special 'journalist' visa to be permitted to work in the country. The US visa application form also uses highly discriminatory language that places journalists in the same category as drug traffickers, terrorists and even Nazis. This presents a totally unjustified impediment to the free flow of information out of the US.

In April 2005 an International project to stop "Policy Laundering" was launched by Statewatch, which monitors civil liberties in the European Union, with its partners – the American Civil Liberties Union (ACLU) and the human rights group Privacy International. The Project will monitor and counter the increasing policymaking influence on civil liberties issues through international organizati ns such as G8. The project was launched at the annual Computers, Freedom and Privacy conference in Seattle, Washington, USA. In more and more areas we see security and law enforcement agencies pushing measures through international fora which undermine and endanger civil liberties and privacy which are then introduced through the national political process," said Tony Bunyan Director of Statewatch. "This is the strategy we call policy laundering. The security and law enforcement agencies have "gone global" and so must the protection of civil liberties."

Bangladesh

Opposition Groups Targeted

Recent bomb blasts in the country have been aimed at opposition parties, prominent political leaders, academics, intellectuals and civil society groups. The government has responded by taking steps to ban extremist groups like Jagrata Muslim Janata, Bangladesh (JMJB), and Jama'atul Mujahideen Bangladesh (JMB) which it blames for the attacks and killings.

However, political opposition parties, religious groups and in some cases student activists, human rights activists and organisations are also targeted under the Prejudicial Special Powers Act 1974 SPA. This allows preventive detention for "prejudicial activities", which is defined as any act which is likely to prejudice the sovereignty, security, public safety, law and order, defence and maintenance of friendly relations with other states. It also outlaws the creation of feelings of enmity or hatred between different communities, classes and sections of people, which can be used against media and journalists.

Human rights groups are also concerned about the creation of the Rapid Action Battalion (RAB) through the Armed Police Battalions (Amendment) Act, 2003. The RAB has been entrusted with exclusive duties like intelligence in respect of crime and criminal activities and investigation of any offence on the direction of the government. In practise, the RAB operates outside the law and has been accused of extra-judicial killings.

China

Using the War on Terror to Crack Down on Regional Dissent and Media

At the end of December 2001, China amended the provisions of its Criminal Law with the stated purpose of making more explicit the measures it already contained to punish "terrorist" crimes. The provisions enlarged the scope of application of the death penalty and can be used to further suppress freedom of expression and association.

In particular, Beijing is using the US-led war on terror to leverage international support for its crackdown on ethnic Uighurs, most of whom are Muslims, who oppose Chinese rule in the oil-rich Xinjiang Uighur Autonomous Region, in the west of China.

The government has claimed that they are linked with international "terrorism" and has called for international support in its crackdown on domestic "terrorism". Tens of thousands of Uighurs are reported to have been detained over the last three years as suspected "separatists, terrorists or religious extremists".

China has closed printing houses for producing unauthorised religious literature; instituted mandatory "patriotic re-education" campaigns for religious leaders; stepped up surveillance of Muslim weddings, funerals, circumcisions, and house

moving rituals; arrested clerics; raided religious classes; banned traditional gatherings; and destroyed mosques. The government also launched a campaign to "clean up" cultural and media circles and some government departments to rid them of "undesirable elements".

The full detail of the Chinese campaign of repression against China's Muslim Uighurs is revealed in a report issued by the group Human Rights in China in April 2005. [16]

It unveils the complex architecture of law, regulation, and policy in Xinjiang that denies Uighurs religious freedom, and by extension freedom of association, assembly, and freedom of expression. At its most extreme, peaceful activists practicing religion in ways the Party and government deem unacceptable are arrested, tortured, and at times executed.

Any item to be published [including news and articles] related to research and the appraisal of Islamic religion must uphold the Marxist view of religion, and use the yardstick of the Party's and the government's religious policies and regulations.

The report details how two specific regulations establish a draconian ban on journalists and others engaged in unauthorised disclosure of information regarding almost any national minority or religious matter or policy, even if unrelated to national security.

Meanwhile, China's intolerance of dissent provoked a group of scholars, writers, lawyers and artists in November 2003 to protest over an escalating campaign to arrest those who voice dissent on the internet. Following a crackdown during which Chinese authorities detained or put on trial at least nine Internet writers in a five-week period the 42 Beijing professors and scholars lambasted the campaign, describing several of those arrested as "social critics" and saying their writings "all fall into the category of freedom of speech guaranteed by the constitution."

In April 2005 it was estimated that there are some 40 writers and Internet dissidents in Chinese jails.

The Chinese campaign against free expression has been bolstered by support from western media and communication resources. Well documented are the actions in the 1990s by Rupert Murdoch's News Corporation to censor its satellite channels and its book publishing operations to gain access to Chinese markets, but less well known is how western technology expertise has helped Beijing crack down on Internet dissidents.

In January 2001 three technology companies, Network Associates Technology, Symantec, and Trend Micro gained entry into the Chinese market by donating 300 live computer viruses to the Public Service Bureau -- China's state police. Later that year a human rights activist accused Nortel of aiding and advancing China's repressive policies by enhancing digital surveillance technologies in use and by transferring technology developed for the FBI to the Chinese Ministry of State and in February 2002 a former Yahoo! China executive confirmed the company routinely censors its site functions including chat rooms. Later Chinese engineers stepped forward to claim that in the late 1990s, technology giant Cisco provided Chinese authorities with a "special firewall box" to block web sites.[17]

Emblematic of the Chinese campaign against free expression are recent actions against New Tang Dynasty Television, working from outside of China, which has been beaming its programming into China, providing uncensored programming in Mandarin.

Since 2002 NTDTV has increased its reach to 200 million viewers in North America, Australia, Europe and Asia. China responded with a campaign of harassment, intimidation and diplomatic pressure against the channel which, in early 2005, led the Paris-based satellite service Eutelsat to cancel the contract which allows NTDTV to broadcast to Asia and China. The IFJ was one of a number of groups to protest over this censorship. Eutelsat claims it was not under any pressure from Chinese authorities even though the station has a copy of a letter from Chinese authorities demanding a halt to the station's programming.

India

Out With the Old and In With the New, But Liberties Are Still At Risk

The decision in September 2004 of India's newly elected Congress-led United Progressive Alliance government to repeal the draconian Prevention of Terrorism Act was widely welcomed by journalists and others as a step towards increased civil liberties. More than 1,600 individuals have been detained under the act and many have been denied bail and been kept in jail for more than two years.

Many of the victims were jailed for demanding equality, social justice or raising concerns about the political situation, particularly those in minority communities, dalits, adivasis (tribals) and opposition groups in the states of Jharkhand, Gujarat, Uttar Pradesh and Tamil Nadu.

But the decision to repeal the Act was a case of two steps forward and two steps back with the subsequent promulgation of amendments to the Unlawful Activities (Prevention) Act, 1967, which although designed to incorporate the essential provisions of anti-terrorism law, raised new problems. The amended law was accepted by parliament in December 2004.

Despite improvements, the new regulations include some provisions of the old prevention of Terrorism Act that were repeatedly misused. This may continue under the amended law. Moreover, additional provisions have been included, which, rather than eliminating the deficiencies of the old terrorism act, will only serve to further erode civil liberties.

First, the good news……..

- The amended Unlawful Activities (Prevention) Act has done away with the provision allowing detention without charge for up to 180 days; all arrested persons now have to be processed within 24 hours. Suspects are now also entitled to apply for bail, in accordance with the Code of Criminal Procedure. (This was only permissible under the old Terrorism Act after a year.).
- Security laws are being misused by the state and state authorities, especially in conflict regions of Jammu and Kashmir, Manipur, and Assam.
- Forced confessions are no longer admissible as evidence. Under the former Terrorism Act confessions made under interrogation were admissible as evidence in court. This, in effect, condoned the use of torture, which was well documented under the previous law. Although the new government is reluctant to abolish torture in India by ratifying the UN Convention Against Torture, the repeal of the admissibility of confession, in line with the Indian Evidence Act, is welcome.
- The law now firmly puts the burden of proof on the prosecution, although the new rules do not fully restore the presumption of innocence.
- The law has reinforced the independence of the judiciary by disposing of Special Courts set up under the Prevention of Terrorism Act.
- Finally, the law helpfully clarifies the wording of certain provisions. This includes establishing a requirement to prove "*intent* to further the activity of a terrorist organisation" in the arrangement or addressing of meetings, or "*intent* to aid any terrorist" in the possession of unauthorised firearms.

And, now, the less good news….

- Centrally, the vague definition of "terrorist acts" remains. This was the primary cause of misapplication of the Prevention of Terrorism Act. There is no reason to suspect that the application of the new law will be any different.

- The scheduled listing of a terrorist organisation as one that may be "involved in terrorism" remains devoid of any statutory procedure or requirements.
- Under Section 3(2) of the Unlawful Activities (Prevention) Act, 1967, which refers to the banning of "unlawful" as opposed to "terrorist" organizations, specification of the grounds for notification must be given, but, unaccountably, there is not the same transparency under Section 26 of the amended law, which cites limitations on the basis of national security. This is necessary to avoid potential violations of the right to free association.
- The preservation of official immunity for those involved in "any operations directed towards combating terrorism" invite abuse. It will be practically impossible to prove that a police officer has acted without good faith in abusing the provisions of the law. This adds to concerns that security laws are being misused by the state and state authorities, especially in conflict regions of Jammu and Kashmir, Manipur, and Assam. Police and prison officers are continuing to commit extrajudicial killings of criminals and suspected criminals.
- The law still upholds the death penalty despite the growing consensus under international human rights law that "all measures of abolition of the death penalty should be considered as progress in the enjoyment of the right to life".
- The law also permits unlimited interceptions of communications. Though the police were previously authorised to tap phones under the Indian Telegraph Act 1885, under the old Prevention of Terrorism Act, the police had to abide by specific safeguards to justify their encroachment on the privacy of the individual.[18] The new law does away with these safeguards, so that any interceptions collected, without any authorisation, will be admissible as evidence. Such unregulated power has created the possibility for future misuse and may become a cause of serious violations of the right to privacy.

The potential impact on journalists is worth noting. The work of journalists in scrutinising the authorities will be made more difficult in this area. While the amended Unlawful Activities (Prevention) Act does remedy many of the deficiencies that resulted in the misuse of the previous anti-terrorism law many of the difficult provisions of the old law remain in place and the extension of power in the interception of communications opens up a new possibility of surveillance of journalists and their work.

Indonesia

Using the War on Terror to Crack Down on Regional Dissent and Media

Indonesia's anti-terrorism decree was issued by the government on 18 October 2002 as an emergency decree in response to the Bali bombings six days earlier. An anti-terrorism Bill had been with parliament for some months held up by human rights concerns. At the same time President Megawati issued a second decree allowing the retrospective application of the first decree. Both decrees were approved by the Indonesian parliament in March 2003 with minimal changes

The anti-terrorism legislation is a government regulation in lieu of a law. Since the House of Representatives is still debating the anti-terrorism bill, President Megawati has the authority to issue government regulations in lieu of laws during a state of emergency based on article 22 of the 1945 Constitution. The law grants excessive new powers to the discredited security forces.

Under the law:

- A suspect can be detained for up to six months while an investigation takes place.
- A suspect can be detained on the basis of preliminary evidence for up to seven days.
- The sentence for a defendant is divided into three categories: a jail sentence of four to 20 years; life imprisonment; or the death penalty.

Indonesia and Australia plan greater cooperation on counter-terrorism measures and India and Indonesia have formed a joint working group on counter-terrorism, which was agreed in July 2004.

There are concerns that the legislation might be used to justify the reassertion of political control and institutionalised violence of the kind that characterised the military under President Suharto's New Order (1965 - 1998).

In particular, there are fears that people charged with crimes relating to terrorism will not receive benefit of an independent and fair judicial process. The fact that suspects can be detained for up to seven days on the basis of preliminary evidence and then for a further six months for questioning and prosecution without charge or trial is of even greater concern when the decision on whether there is adequate evidence for an investigation to proceed is made by a district court in closed session.

Malaysia

Ambiguous and Vague Penal Code

The government of Malaysia has recently amended its Penal Code and introduced new terrorism and terrorism-related offences. A "terrorist" is defined as any person who commits, or attempts to commit any terrorist act, or participates in or facilitates the commission of any terrorist act. The definition is so broad that it elevates simple offences to crimes of terrorism based solely on the intent of committing such offences – to intimidate the public or to influence the Government or any international organization from doing or refraining from doing any act. The yardstick to gauge that intent – where the act or threat is intended or may reasonably be regarded as being intended – is ambiguous and vague.

Broad definitions couched in generous terms have led to a clampdown on legitimate political dissent. It is easy to see how vigorous public protests and demonstrations, non-violent and peaceful civil disobedience, trade union strikes, political activists and organisations, which use direct action such as election campaigning to further their agendas are vulnerable to prosecution under the new law. The continuing detention without trial of suspected terror suspects under a blanket Internal Security Act detention order issued by the Home Minister on "national security grounds" shows the inability of the Government to prosecute them for any offences.

In Malaysia and Singapore, the increased merger and utilization of national identity cards with personal information to be integrated with other travel documents and passports are being electronically stored by the governments, without the citizens right to information about how and who is using such information and what measures are being taken to protect the personal and private information of the citizens.

Nepal

Anti-Terror Laws Tightened Then King Turns His Fire on Media

The situation in Nepal, which has been the scene of bitter confrontation between the government and the Communist Party of Nepal (CPN-Maoists), worsened after September 11 and boiled over into a national crisis in the first weeks of 2005 when the king carried out a coup, sacked the government and turned against democratic institutions, particularly the media.

The Terrorist and Disruptive Activities (Control and Punishment) Act, 2002 was introduced by the government in response to the September 11 events and when this Law expired in October 2004, the government introduced even more draconian law in the shape of the Terrorist and Disruptive Activities (Control and Punishment) Ordinance, 2004.

Clause 9 of this law states: *"If a security official feels the need to prevent a person from carrying out any terrorist and disruptive activity, such a person can be kept under house arrest for a maximum period of one year, six months at his [Security Official's] discretion and another six months after obtaining permission from the home ministry, in any place after fulfilling common humanitarian conditions".*

The legislation gives unbridled power to the military and is a green light for gross human rights violations including arbitrary detentions, torture, disappearances, and extra judicial and summary executions.

Most of the victims of the abuses committed by the state security forces working under the Joint Command of the Royal Nepal Army -- as well as those committed by the Maoists -- are ordinary people innocent of any crimes. The security forces have also targeted journalists, lawyers, human rights defenders, victims and witnesses of their atrocities.

More than 1,200 cases of enforced disappearances have been documented in the last five years by local human rights groups. According to the United Nations Working Group on Enforced and Involuntary Disappearances, in 2003 and 2004 Nepal recorded the highest number of new cases of "disappearances" in the world.

The use of this law has been particularly severe after the royal coup on 1 February 2005 and firmly in the sights of the King's allies have been journalists and independent media, prompting an IFJ mission to the country.

The mission reported that censorship and attacks on journalists were getting worse as the Nepal coup moved into its fifth week.[19] The report cited evidence that the regime has put in place new regulations prohibiting the media from disseminating any information or publishing news related to security matters without obtaining prior information from the security forces.

The new regulations coincided with reports of increased violent attacks on the media by security forces. Journalists have been held and interrogated or beaten for their reporting. In once instance, a Nepal TV reporter was beaten for photographing bodies of soldiers killed in a Maoist attack.

The report said that journalists, including the leaders of the IFJ affiliate in the country, the Federation of Nepalese Journalists, had been particularly targeted in the coup led by King Gyanendra:

- 11 journalists have been detained for more than 48 hours since the coup, with three still being held and about a hundred in hiding or exile
- Censorship of the media has reached unacceptable levels, with newspapers prevented

from reporting the political events surrounding the coup

- The Nepalese people have been denied access to information by the banning of news on FM radio
- About half of all publications have ceased publication, particularly outside the Katmandu valley
- Hundreds of journalists have already lost their jobs, with many more at risk

The situation remains unclear as this report is published, but there is much evidence that the coup, inspired by panic over the internal confrontation with Maoist rebels, has confirmed the punitive application of anti-terrorism laws which have been in force for three years.

Pakistan

Foreigners at Bay and Laws to Regulate Media

The rights of minority communities are being curtailed because of the growing insurgency in South Waziristan and Gilgit. Struggles for autonomy are being defined as "acts of terrorism" and democratic movements curtailed. Even where militants are arrested and their cells disrupted, convicting them is proving extremely difficult.

The Pakistani government's moves to counter terrorism committed by foreigners coming into the country has led to increased information collection, raising questions about its use by state agencies. A special cell in the ministry of interior to deal with the security of foreigners working or residing in Pakistan and law enforcement and intelligence agencies have been directed to share information with the cell. The government has also directed regional authorities to collect data on foreigners.

There are plans before the National Assembly that threaten freedom of the media. A proposed amendment to the Pemra Ordinance will give discretionary powers to the authority to vary licence conditions for media organisations and suspend or revoke licences. Proposals will also allow the authorities to prohibit any broadcaster from engaging in any practice or act which amounts to "abuse of media power."

Philippines

IFJ Condemns 'Culture of Violence' As New Law Runs Into Opposition

The Philippines is a country where terrorism has claimed more than 100 lives in recent years and where the Government plays a leading role in anti-terrorism campaigning in the Asia-Pacific region, but many civil liberties groups and journalists fear that new anti-terror laws under preparation may be used to put pressure on political opposition and independent media.

In a report issued in April 2005, the IFJ concluded that a culture of violence, encouraged by government inaction, is the main reason for the murders of over 66 journalists there since 1986. With three journalists killed in the first months of 2005, the crisis is continuing, said the authors of *A Dangerous Profession: Press freedom under fire in the Philippines.*[20]

Earlier, in March 2005, the Austrian-based UN Office on Drugs and Crime (UNODC) gave its support to an anti-terrorist bill being prepared by the Philippine government. There are 10 anti-terrorism bills pending in Congress.

The Philippines is current chair of the UN Security Resolution 1566 Committee, which deals with terrorist groups outside of al-Qaeda and the Taliban. It is also the head of the Asia Pacific Economic Cooperation's counter-terrorism task force.

In February 2005, over 100 people were wounded and up to 12 killed in bomb attacks in Manila's financial centre and two southern cities. More than 100 were killed in the firebombing of an inter-island ferry in 2004. Both incidents were claimed by the al-Qaeda-linked Abu Sayyaf, a small but brutal group of militants operating out of the southern Philippines.

The major anti-terrorism bill before Congress is meeting resistance from civil rights group who fear that it could be used against the political opposition. While terrorist suspects in other Southeast Asian countries can be detained indefinitely, Philippine authorities must release suspects within 36 hours if no charges are filed.[21]

Suspects are then typically charged with lesser crimes, such as murder, attempted murder or illegal possession of explosives, which is punishable by 17 years in jail. The proposed bill proposes to make the possession of firearms a capital offence while the possession of military uniforms and other military equipment would also be considered evidence of suspected terrorist involvement.

The government is also considering a military proposal that the media be banned from granting interviews with terrorist groups, which has further raised concerns about how media can report freely. Journalists in the country have been targeted by criminal gangs and there are fears that new restrictions in the law will add to the pressures.

Finally, journalists and others are rightly concerned that proposed anti terrorism measures would give the government free hand to secretly tap any phone, cable or other means of transmitting any kind of written or oral messages including conversations, discussions, news, data and to secretly record them.