



A PARTNER IN THE WAR ON TERROR OR THE WEAKEST LINK?

This introduction gives a brief outline of co-ordinated European Union action, with specific reports on some EU countries and neighbouring Russia.

In the weeks and months after September 11 European Union states quickly formed a joint approach on counter-terrorism actions with the United States. Many of these undermine traditional standards of civil liberties and raise concerns that have been set out in the first section of this report.

Cooperation was demonstrated most dramatically one day after the attacks on the World Trade Centre and the Pentagon when NATO activated its never-before-invoked Article 5, which declares an attack on one member to be an attack on all. European combat forces, aircraft and ships were committed a month later to support the US strike on Afghanistan.

Within three months, the European Union had a common legal definition of terrorism, a list of suspects closely in line with Washington's and more than 100 million dollars in frozen assets. They also adopted a common arrest warrant to prevent suspected terrorists from evading arrest by crossing the EU's largely unchecked internal borders.

Joint meetings in December 2001 and June 2002 between European and US officials set a course for unprecedented co-operation. Lists of terrorists groups were agreed. US targets left off Europe's terrorist list in December, including the PKK Kurdish rebels in Turkey, the Shining Path group in Peru and the Revolutionary Armed Forces of Colombia, were included

in an expanded list in June, which also added five Palestinian groups, including the Holy Land Foundation for Relief and Development, a US-based charity accused of channeling money to the terrorist group Hamas.

However, the EU differentiates between the political and military wings of Hamas. And the Iran-backed Hezbollah, which targets Israel from Lebanon, is considered a terrorist organisation by Washington but not by the EU.

The European Council, representing 15 nations, adopted proposals on October 9th 2002 for a package of measures to “improve the European Union’s response to terrorism.” These included cross-border co-operation between police forces and the establishment of a European-wide arrest warrant.

On May 30th 2002, the IFJ among others protested when the European Parliament agreed to amend the 1997 European Directive on the Protection of Telecommunications Data and Information to allow member states to pass laws giving the authorities regular access to people’s telephone and Internet communications. This, said the IFJ, “opens the door to the snooping society in which people’s private communications will become subject to official monitoring.”²²

Giving the police, customs, immigration and intelligence services access to people’s electronic communications goes far beyond existing rules whereby data can only be retained for a short period for “billing” purposes (i.e.: to help the customer confirm usage details) and then it must be erased. “This amendment to policy would have been unthinkable before September 11. Politicians are using public uncertainty and security concerns to undermine people’s rights and liberties,” said the IFJ.

The IFJ says that putting telephone calls, e-mails, faxes and Internet usage under official surveillance undermines data protection as well as the capacity of journalists to monitor the apparatus of state and to store information. “The citizen’s right to private space and for the press to investigate and scrutinise the authorities without intimidation are freedoms that distinguish democracies from authoritarian regimes,” said the IFJ.

However the waiving of Europe’s strict data protection laws has also been done to allow complete sharing of information between Europol and US investigative agencies as part of the process in which European leaders have worked together, and in coordination with the United States, to craft a military, judicial and financial crackdown on terrorism.

The process of co-operation increased sharply in 2004 when commentators and policymakers were quick to identify the Madrid train bombings on 11 March, which killed 190 people, as “Europe’s 9/11.” European Union leaders moved quickly to reinforce co-ordinated action against terrorism. Within three weeks of the attacks EU members agreed a range of security measures, including the naming of an anti-terrorism co-ordinator.

They also agreed

- To implement already agreed counter-terrorism measures, such as the pan-European arrest warrant, harmonising penalties for terrorist crimes and the freezing of assets held by outlawed groups
- To retain all telecommunications data, including mobile phone records, for an agreed minimum time to enable intelligence agencies to track calls
- To step up security at European Union ports.

But differences of approach and reluctance among governments to share more of their sensitive information remain difficult. There are significant differences over how to respond to the terror attacks blamed on Islamic militants, as well as how to treat Europe’s growing Muslim population. The new anti-terrorism plans are

designed to remedy the deficiencies in the nature and quality of intelligence and information sharing among the EU member states. But the proposals are laden with potential pitfalls.

Gijs de Vries, the new European Union anti-terrorism chief, in testimony to members of the US Congress in September 2004, acknowledged that the powers of his position only went so far. "The role of the Union is still relatively limited," he said. "Most of the instruments and competences in the fight against terrorism remain in the hands of the member states."

In tandem with the creation of the counter-terrorism official, the European Union plans to create a mechanism to facilitate co-operation and information sharing between the European police and intelligence communities as well as judicial authorities. The prioritised areas of information exchange include: identifying terrorists' "sleeping cells", recruitment methods, financial bases and external connections.

The primary purpose is to streamline existing databases into real-time instruments on terrorist organisations and assets. The most interesting component of this proposal is to foster partnerships with the public and banking sectors; attempting to overcome institutional banking secrecy in some states; and developing an efficient system to follow financial transactions.

Some financial sectors, such as credit card companies, will continue to be reluctant to divulge fraud as it could undermine business confidence.

Another controversial aspect is the proposed introduction of obligatory storing of all telephone and communication data within the EU for specific periods. This would be limited to "trafficking" rather than content. However, many states are still reluctant and extremely unwilling to relinquish confidentiality and privacy enshrined in data protection legislation.

The European Union has already frozen 1.65m euros (\$2m) in terrorist assets since the 11 September terrorist attacks. New proposals try to enhance monitoring of transactions in real-time. However, most of the measures assume terrorists only use banking facilities to move cash around.

Efforts to promote more efficient inter-agency co-ordination between national police and security agencies require a joint EU emergency preparedness doctrine, but with different levels of national preparedness and commitment it is a struggle to harmonise emergency planning and coordination.

Institutional shortcomings in translating counterterrorism policies and new initiatives into action as well as a reluctance among national security and intelligence groups to share information may be one reason for the growth of covert and unaccountable policy-making at international level, a fear highlighted in the first section of this report. The different approaches at national level, shaped by different traditions and experience, continue to hinder the ambitions of those who yearn for unified European engagement in the US-led war on terrorism. Hitches in intelligence sharing and the flow of information between security agencies on the European level often mirrors similar problems within each country.

Britain's approach, which is closest to the US strategy is set out elsewhere, but some of the differences in a selection of other European countries are highlighted below:

Dutch politician Gijs de Vries, who has been named the anti-terrorism czar of the EU, has in theory responsibility to pool all of Europe's anti-terrorist intelligence. But he has his problems. He already suffers from a lack of resources and there are pitfalls inherent in classified information sharing at the pan-European levels and beyond. Some EU states have a greater intelligence capacity (with non-EU, particularly American, sources) that they would be reluctant to compromise by sharing with other EU states.

FRANCE

MEDIA KEY TO SCRUTINY OF SECURITY MEASURES

Armed with some of the strictest anti-terrorism laws and policies in Europe, the French government has aggressively targeted Islamic radicals and other people deemed a potential terrorist threat. France's law enforcement strategy relies heavily on preemptive arrests, ethnic profiling and an efficient domestic intelligence-gathering network.

French anti-terrorism prosecutors and investigators are among the most powerful in Europe, backed by laws that allow them to interrogate suspects for days without interference from defense attorneys. In the



French system, judges don't serve as a check that can monitor potential abuses of the executive branch, they work closely with investigators and they are in charge of gathering the evidence.

The role of media in keeping a critical eye on the authorities remains pivotal to scrutiny of the civil liberties implications of French security policy.

GERMANY

FOCUS ON ISLAMIC FUNDAMENTALISTS

Although European investigators call for sharper tools and better intelligence-sharing in the war on terror, Germany's attempts to adhere to these calls have foundered on the political realities that some measures are too hard to sell to the public and national institutions.

Interior minister Otto Schily, would like to give the Federal Crime Office -- the Bundeskriminalamt or BKA -- more "preventive powers," including those which would allow German security forces to tap suspects' telephones. But the German government is reluctant to reform the security services and bring in powers to mount increasingly sensitive and intrusive investigations.

Schily also wants to give the Federal Bureau of Criminal Investigation more "preventative" anti-terror capabilities and set up central register of Islamic extremists that would combine the information gleaned by Germany's various law enforcement agencies into one databank. But this has stirred controversy. Political support has been lukewarm and rivalries between Germany's three



major law enforcement agencies and the complexity of the country's security structure have added to the problems.

Germany is seeking to follow Britain and France, countries that have taken relatively tough approaches in combating Islamic fundamentalism. Germany is now considering a similar crackdown on imams, with Bavarian Interior Minister Günter Beckstein proposing to refuse visas to extremist imams wanting to visit the country.

France's strict separation of church and state has enabled prosecutors to crack down much harder on Muslim imams. In 2004, the country deported several imams whose preachings French prosecutors deemed inflammatory.

GREECE

FEARS FOR JOURNALISTS' RIGHTS

The penal code was revised in July 2004 in accordance with the International Convention for constraining terrorism funding. The revised law (paragraph 1, Article 40 Law 3251/2004-A' 127/9.7.2004) stipulates a conviction to ten years imprisonment for anyone providing information or contributing in any other way, or providing money payments and capital as described in the International Convention to stop terrorist funding. No journalist has been prosecuted under this law, but journalists fear the reference to "information" may lead to journalists coming under scrutiny.

These concerns are not without substance, given the law on defamation by which a journalist can be convicted and fined up to 200.000 Euro. Despite pleas to the government to change it, a number of journalists have been prosecuted and convicted under the law.



However, Greek journalists have been victims of the harsh visa regulations put in place by the United States as part of its security strategy. In April 2005 the US Embassy in Athens refused Nikos Kiaos an entry visa to the US following an invitation by the Constantinos Karamanlis Foundation, a conservative think-tank. Nikos Kiaos is a former President of the IFJ-affiliated Journalists' Union of Athens Daily Newspapers and a well known journalist working for the daily newspaper *Eleftherotypia*.

He is also someone jailed by the military regime in Greece for his resistance activities during the colonels' dictatorship. US Embassy staff grilled him over his former activities and asked about his associates. He refused to answer and was refused a visa.

THE NETHERLANDS

SECURITY CONTROLS SPARK RESISTANCE

The Dutch parliament has debated long and hard how the country should tackle the threat of terrorism. The debate centred on a new batch of government proposals following the murder of filmmaker and columnist Theo van Gogh in November 2004. The man charged with that killing is a radical Muslim.

The call from a shocked society for measures to be taken was great immediately after the Van Gogh murder. Many people saw links between this attack and the earlier assassination of politician Pim Fortuyn and the Madrid bombings.

The government is adding hundreds of extra staff to the agencies involved in combating terrorism, and is allocating hundreds of millions of euros in additional funding for equipment as well as



proposing a whole series of preventative measures such as banning suspect individuals from frequenting strategic places such as Amsterdam's Schiphol airport, the port of Rotterdam or the Parliament in The Hague. But these measures have been met with fierce resistance from some civil liberties groups, as has a proposal to force 'suspect figures' (the words used by the minister of justice) to report regularly to the police or, otherwise, be placed in detention.

There is also opposition to another plan that would make it a criminal offence to condone or applaud certain acts of terrorism. Human rights organisations argue that this will infringe freedom of expression.

UNITED KINGDOM

EUROPE'S HUMAN RIGHTS ACT SUSPENDED TO KEEP SUSPECTS IN JAIL

Britain's anti-terrorism rules, among the toughest outside the United States, have required the suspension of the state's obligations under European Human Rights law and have also prompted unprecedented criticism from civil rights groups, lawyers and the courts. Only weeks before a general election in 2005 the government was forced to concede time limits on the laws to guarantee their temporary renewal by Parliament.

In fact, anti-terrorism measures have done little to ensure Britain is safe and secure from terrorist attack, but they do much to infringe the civil liberties of those living in the UK. And the impact that they have on terrorism is questionable.

The Government's prevention of terrorism laws, which predate the September 11 attacks, give the Home Secretary the power to issue 'control orders' to restrict the liberties of individuals. Without any need for a trial, control orders range from restrictions on communications to house arrest.

In order for them to have any legal base, the strengthening of these rules after September 11 have required derogation from Britain's responsibilities under Article 6 of the European Convention on Human Rights to provide a fair trial for suspected foreign terrorists. Britain is the only country in membership of the Council of Europe that has felt it necessary to take such drastic action.

At the same time, London has officially been on so-called emergency alert since September 11, giving the police extended powers to stop, search and detain people. While some argue that the tough measures currently in place are precisely what have spared the city the horrors of a terrorist attack, the prophecies of the police and the secret service have been proved wrong, which may explain why judges are now speaking out against the way in which terrorism is being fought at the expense of civil liberties.



7

The judges understand well that harsh anti-terror laws are no guarantee – as the UK's experience with the Northern Ireland conflict over the past 30 years has shown – that terrorism will stop. Infamous miscarriages of justice involving Irish suspects and use of the Prevention of Terrorism Acts in the 1970s and 1980s are a reminder of the dangers of rushed anti-terror laws which create a twin-track system delivering poor justice.

Worse still, they risk doing more harm than good. This was the case with Britain's old Prevention of Terrorism Act, used during the Northern Ireland conflict to detain large numbers of people, most of whom were not subsequently charged with a terrorism-related offence.

The resentment that this caused among the province's Catholic minority only served to sustain support for the nationalist terrorist group the IRA, not deter it. Similarly, long detentions without trial like those at Guantanamo and in the UK risk serving as recruiting-sergeants for the terror groups that the measures are aimed at curbing.

Britain's new anti-terrorism laws bring separate laws governing Britain and Northern Ireland under one roof. They set down a list of outlawed terrorist organisations, including al-Qaeda and several others such as the Kurdistan Workers' Party and the Tamil Tigers.

In the period from September 11 2001 to the end of 2004, there have been 701 arrests in the UK

under anti-terror laws, but fewer than 20 have been convicted. Only 119 of those arrested have faced charges under the legislation, with another 45 being charged for other offences.

A further 135 people were charged under other legislation – including terrorist offences covered in other criminal law, such as the use of explosives. Only 17 have been convicted of offences under the Act.

It has been reported that 230 of those initially held under the Act were accused of other offences, such as credit card fraud and immigration irregularities.

To some critics, the fact that so many have been arrested then released without charge is evidence of “fishing expeditions” by the police.

For some campaigners, the disparity between the number of people arrested and those who eventually face charges is worrying. Critics say the sweeping powers granted by the law, which lower the normal standards of reasonable suspicion, have been used to target Muslims in particular. Community groups describe this as “racial profiling”, for example considering somebody suspicious because of their style of dress.

Britain’s Law Society, representing the country’s lawyers, has condemned the indefinite internment of terror suspects as “totally unacceptable.” In 2004, the country’s highest court, the House of Lords, ruled the indefinite detention of suspects to be a fundamental violation of democratic norms and the European human rights convention.

Although not binding, the verdict could change the fate of a dozen foreign prisoners, the majority in Belmarsh prison, south-east London, held without charge or trial for three years. They are certified as “suspected international terrorists”. Law Lords are putting the onus on parliament to amend the law.

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

The United Kingdom’s hardline approach, which is in contrast to the rest of the European Union (see below) has yet to provide compelling evidence to justify the widespread denial of fundamental rights.

In early April 2005 an al-Qaeda suspect was jailed for plotting to spread the deadly poison ricin and other toxins on the UK’s streets amidst claims of a major success for the so-called “war on terror.” However, the conviction of Kamel Bourgass raised questions about the way in which criminal investigations are shamelessly exploited for political purposes by governments in the UK and United States, whether to justify the invasion of Iraq or the introduction of new legislation to restrict civil liberties.

A key unexplained issue was why the government laboratory, which analysed the material seized from a flat in London, at first said that a residue of ricin had been found when it had not. Indeed, no traces of biological or chemical weapons were detected as confirmed during the trial by scientists. This in turn raised the question of how much influence was played by Mohammed Meguerba a witness who, under interrogation in Algeria, had said that two pots of ricin had been manufactured in London. Despite the existence of recipes and probable ingredients, the two pots were never found.

There is speculation that Meguerba was tortured while in custody.

The government tried to use the prosecution to link a so-called “UK poison cell” to al-Qaeda via various documents, but the evidence never supported this. Thus despite a conviction for conspiracy to commit a public nuisance, the more damning charge of conspiracy to murder was not proved.

Moreover, the acquittal of four other defendants and the dropping of a planned trial against four more at the same time suggested that, despite all the publicity it generated, the trial and conviction was not a triumph for the government’s anti-terrorism policies.

GOVERNMENT USES WAR ON TERROR TO TIGHTEN GRIP ON MEDIA



Following the September 11 attacks the Russian Union of Journalists warned that a campaign against terrorism can be used as an excuse for inappropriate restrictions on civil liberties and human rights – particularly in Chechnya, where Russia’s long-running battle against separatists has led to terrorist outrages and widespread concern over abuse of civil liberties by Kremlin forces.

It was a prescient warning. Within weeks Russia had introduced measures to ban the publication, broadcast or Internet posting of any “propaganda or justification” of extremist activity and curbs on media distribution of any information that could undermine counter-terrorist operations, or disclosing information about people involved in them. Lawmakers say the restrictions deny terrorists a platform, others warn that it merely opens the door to pressure on journalists.

Almost four years on continuing terrorist violence and the increasingly authoritarian response of leaders in Russia, which claims to be the closest ally of the United States when it comes to fighting the war on terrorism, has made even the administration of George Bush wary of the Kremlin’s credibility as a partner.

In a visit to Europe in February 2005 Condeleezza Rice, the new Secretary of State, took up concerns of Western and Russian civil rights campaigners who accuse President Vladimir Putin of restricting democracy, with a particular reference to the Kremlin’s tightening grip on the media.

Since the September 11 attacks, Russia has tried to convince the international community that its operation in Chechnya is a contribution to the international campaign against terrorism. But as each month passes, the country becomes ever-more

dangerous territory for journalists, who face the threat of arrests, attacks, raids, and even murder.

Ongoing impunity for the murder of journalists – around 12 have died in contract-style killings in the past five years, but no-one has been brought to justice – as well as legal restrictions on the press, continued persecution of journalists reporting on the war in Chechnya, and informal censorship of regional television stations have strengthened what the Committee to Protect Journalists says is the Kremlin’s Soviet-style control over the independent media.

The problems facing media were demonstrated by the coverage of the school siege in Beslan in the southern republic of Ossetia in September 2004, in which 1,200 people were taken hostage by terrorists and which led to the death of more than 340, mostly children.

Security agents and government officials obstructed, detained, and misled journalists during the hostage crisis and national coverage of the siege by Russian media was hesitant, sharply contrasting with non-stop Western broadcasting from the scene. Journalists were further hampered by misinformation fed by the government about the number of people involved. According to *Novaya Gazeta*, hostage-takers had access to television reports inside the school and were infuriated by the way the government appeared to be playing down numbers and events in Beslan. Hostages afterwards told the paper that this led the terrorists to forbid the children water on the second day.²⁵

Anna Politkovskaya, a reporter from *Novaya Gazeta*, was allegedly poisoned on her way to Beslan on 1 September. She had to go to hospital to recover. Andrei Babitsky, a reporter for Radio Free Europe was prevented from covering the siege after a bizarre altercation at Moscow's Vnukovo airport when he was arrested. Two reporters from a Georgian television station were arrested and a third expelled from Beslan to Moscow on 8 September. Raf Shakirov was forced to resign as editor of *Izvestia* for his newspaper's coverage of the crisis and for criticism of the government's handling of the siege.

The entire event prompted the Russian Duma to consider legislation restricting how the media cover terrorist attacks. If the news laws are passed it means that TV and radio journalists will not be allowed to report on terrorist crises until they have been resolved.

This is one of a series of restrictive legal reforms being considered by Parliament which, if passed, will strengthen the ability of government officials to

interfere in editorial policies. A law being considered would require journalists to ask government permission to report on government anti-terror operations, essentially creating a policy of prior censorship.

The IFJ is also concerned by preparations of a new media law to replace the media legislation passed in 1991 which contains vaguely defined provisions requiring media outlets to re-register with the government, bans dissemination of "extremist" information, and tries to codify the ethical responsibilities of journalists.

The Putin government's information blockade on Chechnya by restricting journalists' access to the region continues to make it almost impossible for independent reporting from the region by local journalists. A major problem for journalists is the political control over the country's national television channels—the state-run Channel One and Russia TV, as well as Gazprom's NTV. Television coverage is largely uncritical of government.



Terrorism, gangsters and the often shadowy activities of state security agencies combine to create a vulnerable landscape for journalism. Throughout Latin America specific action against terrorists in a number of countries have reinforced the precarious conditions in which journalists find themselves. Some Latin American governments stigmatize opponents and pressure media to limit the scope of their work. To these pressures can be added the violence of an ongoing armed conflict, widespread corruption, and threats from security forces and public officials.

ARGENTINA:

COMMUNICATIONS STORAGE AND CONTROL THAT LEADS THE WORLD

Last year the Congress modified the law on telecommunications to the effect that the *contents* of communications – telephone, e-mail, internet – may be retained, a practice that is not explicitly envisaged by the law. Critics say the law is so vague as to make this interpretation plausible but nonetheless, both the law and the regulation that goes with it present constitutional problems.

Three new articles of the law oblige telecommunication service providers to create systems to record data concerning their users and customers and to ensure that they possess the necessary means to collect and store related data with details of the source and recipient. This can be accessed by the judiciary or a Public Ministry and service providers will have to store this data for a minimum of ten years. The definition of “telecommunication” included in the law means that its scope will not be limited to telephones, but will include faxes, e-mails, internet chat and even information relating to the websites that are consulted by internet users.

The obligation to store data unconstitutional, insofar as it interferes with the right to privacy. This right not only protects the content of communications, but also the recording of their existence. Any interference with this right must be assessed in a restrictive manner, but this is not possible when the law establishes an indiscriminate obligation to record information, for a lengthy period, with the general aim of contributing to an improvement in the fight against crime. No countries which have brought in laws on this issue have established such a lengthy storage period. A European Union law envisages a maximum storage period of two years.

The regulations are vague in relation to the kinds of data that must be recorded. It would be possible to interpret this norm as allowing the inclusion of information that the law does not require service providers to record, including the



content of communications. Thus, the decree is unconstitutional, independently of the objections that the law may give rise to.

Equally worrying is the fact that the body responsible for intercepting communications should be the Secretariat for State Intelligence (SIDE), which is also responsible for producing intelligence reports under current legislation.

COLOMBIA:

USING THE WAR ON TERROR TO CRACK DOWN ON REGIONAL DISSENT AND MEDIA

Washington's most expensive foreign military project before the September 11 attacks was the so-called Plan Colombia, in which two billion dollars – mainly for weapons and helicopters – was earmarked to combat a 40-year South American insurgency. Although Colombian rebels do not attack US on foreign soil, two rebel armies have been classified by the US as “foreign terrorist organisations.”

They are the country's two major insurgent groups, the FARC (Revolutionary Armed Forces of Colombia) and the ELN (National Liberation Army). The State Department also added the insurgents' paramilitary opponents - the AUC (United Self-Defence Forces of Colombia) - to the “terrorist” list; even as it continued to back a government narco-regime in Colombia that protects the paramilitaries in their massacres of civilians.

This classification has profound consequences for democracy, human rights, public health and justice in Colombia and has been compounded by the current Colombian government.

The Government of President Álvaro Uribe, which took power in August 2002, was elected on a hard-line ‘no negotiations’ policy with armed groups, which would be dealt with through direct military confrontation.

President Uribe uses the international war on terrorism to support this approach, and has built his policy on the discourse that there is no internal armed conflict in Colombia just threats from terrorism. Although this position is doubtful in international legal terms, it strongly underlines the intentions behind his policy: with terrorism there can be no negotiation, and this justifies the use of force.

In a nationally televised speech on September 8 2003, President Uribe attacked human rights defenders, saying, “Every time a security policy is carried out in Colombia to defeat terrorism, when terrorists start feeling



weak, they immediately send their spokesmen to talk about human rights.”

And in the last week of February 2005, during a seminar on ‘Victims of Terrorism’ held in Bogotá, Vice-President Francisco Santos accused the Colombian news media of “*creating an echo chamber for terrorist activities*”.

In the name of fighting terrorism and to implement the “democratic security” policy, the Government has adopted or promoted the adoption of several measures that have resulted in the deterioration of human rights.

The Government has undermined the independence and impartiality of the judiciary, in particular the Constitutional Court. Particularly alarming is the systematic practice of arbitrary detentions and searches by security forces. For example, in Arauca, where the presence of the armed forces is extremely strong, these detentions are often based on unverified information provided by members of a “network of informants” or by reintegrated individuals who receive legal and economic benefits for their collaboration.²⁴

On 30 August 2004, following a challenge by the Colombian Commission of Jurists and other NGOs, the Colombian Constitutional Court declared unconstitutional Legislative Act No. 2 2003, which granted judicial police powers to the military in cases of suspected terrorism. The Legislative Act granted the military the power to detain individuals, carry

out searches and intercept private communications without previous judicial order.

The Colombian government has stigmatized its opponents and pressured media to limit the scope of their work. To these pressures can be added the violence of an ongoing armed conflict, widespread corruption, and threats from security forces and public officials. As a result, Colombia today is a country suffering from an information deficit, where the information that does see the light of day is greatly distorted.

In Colombia, generally speaking, the mass media are very supportive of the government in their coverage. However freedom of expression is limited in many ways. Media base their information on official sources

(for example military and police representatives at local level) and sources are restricted because of the climate of intimidation and the campaign targeting those journalist undertaking investigations.

Often, illegal armed groups and in some cases government representatives directly threaten journalists attempting to undertake investigations. Freedom of expression is also curtailed by limiting freedom of movement – in some regions, journalists and social workers are forced to operate under the threatening vigilance of armed groups; in conflict or militarised regions, public security forces restrict freedom of movement.²⁵

PERU

JOURNALISTS FEAR AMBIGUOUS LAW

In Peru, the 924 Legal Decree, passed on 19 February 2003 defined a minimum prison term of six years for any act of terrorism. According to the IFJ affiliate, the Asociación Nacional de Periodistas (ANP), the 924 Legal Decree, which includes a paragraph from article 316 of the Penal Code, is ambiguous, due to the fact that it does not define clearly what is a terrorist offence.

Members of civil society on the one hand, and journalists in particular, could be arrested under such a legal clause, in cases where they express their opinions or give information regarding violations of human rights.

On 3 January 2003, the Constitutional Tribunal affirmed that legislation concerning anti-terrorism was unconstitutional, in accordance with the terms laid down under the decree laws 25475 and 25880, respectively, in force since 1992, considering it a generic, excessive and unnecessary level of “over-

criminalization” given that such an offence is already covered under article 316 of the Penal Code.



MIDDLE EAST AND NORTH AFRICA

45

The 22-country Arab League first agreed joint anti terrorist strategies in 1998, which commit Arab countries to deny refuge, training and financial or military support to groups that launch attacks on other Arab nations. The agreement exempts “resistance movements” because efforts to secure liberation and self-determination are not considered terrorism, unless, not surprisingly, it is a liberation effort directed at an Arab government. The agreement is aimed primarily at Islamic fundamentalists seeking to topple the governments in Egypt, Algeria and the Persian Gulf. In most Arab states media continue to exist in a twilight world of harsh regulation and governmental influence, despite the excitement and undoubted progress that has accompanied the growth of independent satellite television in the region.



ANTI-TERROR POLICIES SPARK NEW CO-OPERATION
WITH US AND EUROPE

In the wake of September 11th, the ideology of hard-line repression has become an integral part of the counterinsurgency policy in an ongoing conflict that has claimed at least 100,000 lives in the last 10 years.

Algeria is home to two prominent extreme Islamic terrorists groups, the Armed Islamic Group (GIA) and the GSPC (Salafist Groups for Preaching and Combat) which are both seeking an Islamic state in Algeria. Algeria first adopted anti-terrorist laws in 1992 and these were adapted for the penal code in 1995. These restrict access to information, freedom of movement and the rights of journalists to report on certain subjects.

Although the number of victims in the internal conflict has fallen dramatically in recent years, pressure on journalists continues. 2004 was a particularly hard year for the Algerian media with imprisonment, threats, censorship among the daily problems facing journalists, although this is part of continuing difficulties between independent journalism and the state rather than specifically as a result of security measures.

In January 2005, the Court in Sidi M'hamed (Algiers), under the law of national security, condemned the editors of the newspapers *El Khabar*



and *El Watan*, Ali Djjerri and Omar Belhouchet, and *El Watan*'s journalist Salima Tlemçani, to a six month suspended sentence. The newspaper, *Le Soir d'Algerie*, faces a threat of suspension for six months following a defamation trial.

Mohammed Benchicou, journalist and editor of *Le Matin*, was arrested on 14 June 2004 and sentenced to two years jail for an offence concerning an exchange of money which the IFJ and local journalists protest is little more than a trumped up charge against a highly-respected journalist highly critical of the regime of President Bouteflika.

His case has caused particular concern because he is suffering from acute cervical arthritis and carries the risk of having his face paralyzed. There have been repeated appeals for his immediate release from jail. However, so far these have been ignored, reflecting the determination of the Algerian authorities to strengthen its position over the independent press.

EGYPT

LONG-RUNNING “EMERGENCY” HAS A PERMANENT LOOK

Egypt has a long history of using anti-terrorism decrees and emergency rule to stifle dissent, as well as to punish opponents advocating or using violence. But repressive measures have intensified since the September 11 attacks.²⁶

Extraordinary conditions are not new, indeed they are the norm, because Egypt has been under emergency rule – Emergency Law No. 162 of 1958 – for most of the past 35 years, and continuously since the assassination of President Anwar Sadat in October 1981.

The government has routinely used its authority under the law to arrest individuals at will and detain them without trial for prolonged periods, refer civilians to military or exceptional state security courts, and prohibit strikes, demonstrations, and public meetings.

On 23 February 2003, the government introduced a bill in Parliament to extend the law for another three years. It was passed on the same day, justifying the move on the basis of the war on terrorism. The prime minister said most of this legislation was “permanent” and “adopted the principles to which we have adhered in the Egyptian Emergency Law.”

In the early 1990s, following a resurgence of political violence spearheaded by several armed Islamist groups, the government introduced “anti-terror” decrees, notably Law No. 97 of 1992, that gave security and intelligence forces still greater powers of arrest and detention. In its submission to the U.N. Security Council Counter-Terrorism Committee, the government highlighted Law No. 97’s extremely broad definition of terrorism, as *“any use of force or violence or any threat or intimidation to which the perpetrator resorts in order to carry out an individual or collective criminal plan aimed at disturbing the peace or jeopardizing the safety and security of society and which is of such a nature as to create harm or create fear in persons or imperil their lives, freedom or security; harm the environment; damage or take possession of communications; prevent or impede the public authorities in the performance of their work; or thwart the application of the*



Constitution or of laws or regulations.” The U.N. Human Rights Committee has questioned this broad and general definition of terrorism in national law.

Since September 11, 2001, Egypt has arrested hundreds of suspected government opponents, many for alleged membership of the Muslim Brotherhood, a banned but non-violent group, and possession of “suspicious” literature. Many of those arrested, including professors, medical doctors and other professionals, have been referred to military courts or to emergency and regular state security courts whose procedures do not meet international fair trial standards.

In January and February 2003, state security forces used emergency law provisions to detain without charge or trial persons involved in peaceful demonstrations opposing military intervention in Iraq and in support of the Palestinian uprising against Israeli military occupation.

Top Egyptian officials have frequently cited the 11 September 2001 attacks to justify Egypt’s repressive policies. “There is no doubt that the events of September 11 created a new concept of democracy that differs from the concept that Western states defended before these events, especially in regard to the freedom of the individual,” President Mubarak said in December 2001, adding that the US decision to authorize military tribunals “proves that we were right from the beginning in using all means, including military tribunals.”

On a number of occasions before and after September 2001, the US has encouraged and participated in the rendition of suspects to Egypt from third countries without regard for extradition or other legal procedures.

SAUDI ARABIA

VICTIM OF TERRORISM, BUT UNDER FIRE FOR ITS OWN RECORD

Saudi Arabia has been a victim of terrorism for more than 30 years, and it was in 1995 that Al-Qaeda first struck against the Kingdom. Since then Saudi authorities have worked closely with the US, particularly to trace and sequester funds for terrorists. In 1996, a joint Counter-Terrorism Committee with the United States was set up to share information on Al-Qaeda.

After September 11, Saudi Arabia has increased its counter-terrorism effort and has questioned more than 2,000 individuals, made more than 250 arrests and recently referred 90 Al-Qaeda suspects to the courts to stand trial.

However, the cycle of political violence in Saudi Arabia has intensified since May 2003 with increased lethal attacks by armed groups. The government pursuit of the so called “war on terror,” with disturbing disregard for the rule of law and international human rights standards, has also resulted in multiple human rights violations, says Amnesty International.²⁷



A number of bombings, including suicide bombings, as well as individually targeted killings of mainly western civilians, have been carried out by armed groups or individual gunmen. Government forces have been involved in house raids and street chases of suspected armed groups and individuals, often with fatal consequences.

Scores of civilians are reported to have been killed since May 2003, but the exact number and circumstances surrounding the killings are not known due to government policy and the practice of secrecy. Saudi Arabia has publicly supported and extended cooperation to various international efforts to combat terrorism and has signed a multilateral agreement under the auspices of the Arab League to fight terrorism. However, the lack of free expression in the country makes proper scrutiny of government action almost impossible.

TUNISIA

TUNISIA ON THE TERRORISM BANDWAGON

The Tunisian government has used September 11 to further restrict freedom of association, movement, and expression, and to trumpet its support for President George Bush's "global war on terror" according to the IFEX Tunisia monitoring group.²⁸

A new law criminalising freedom of expression was passed at the end of 2003 allegedly to support "the international efforts in matters of the fight against terrorism and money laundering." The Tunisian Human Rights League (LTDH) said after the promulgation of this law, "the year 2003 has been marked by the promulgation of laws of an unprecedented serious character in terms of their violation of the right to information."

"The "Anti-terrorism" Law of 10 December 2003 aimed at supporting "international efforts to combat terrorism and money laundering" has a very vague and broad definition of terrorism. Promulgated, ironically, on the anniversary of the Universal Declaration of Human Rights in 2003, this law prompted widespread concern amid local and international human rights groups that acts of freedom of expression criticising President Ben Ali's policies would be considered as "acts of terrorism."

Long before the promulgation of this law, the Tunisian government had its own definition of "acts of terrorism." Hundreds of Tunisian prisoners of conscience and political activists in exile, who have never advocated or used violence, are labelled 'terrorists' by the authorities and the state-run media.

Mohammed Abbou, a lawyer and member of the National Council for Liberties in Tunisia (Conseil National pour les Libertés en Tunisie), is facing prosecution over two articles published on the internet in which he criticised the Tunisian government. If convicted, he risks a sentence of up to 15 years' imprisonment.



Critics of the case say he is being tried solely for the peaceful exercise of his right to freedom of expression. He was detained on March 1 following an article in which he denounced torture in Tunisia following the interest generated by images of torture practised on Iraqi prisoners in Abou Grahib.

In the light of the country's continuing rigorous control over media, both written and audiovisual, efforts by journalists to scrutinise or express critical opinions remain extremely limited. The problem of free expression in Tunisian society will be the focus of discussion at the World Summit on Information Society planned for November 2005.

PATRIOT ACT, THE SURVEILLANCE SOCIETY
AND MEDIA FULL OF SELF-DOUBT

Just 45 days after the September 11 attacks, with virtually no debate, the United States Congress passed the USA Patriot Act. Many parts of this sweeping legislation take away checks on policing and law enforcement and threaten fundamental rights of citizens. For example, without a warrant and without probable cause, the FBI now has the power to access private medical records, library records, and student records – and can do so in secrecy without fear of being reported by media thanks to gag laws in the Act.

This law came into effect on the back of widespread public anxiety. In the days after September 11 people appeared all too willing to give up their essential liberties. A poll conducted by *ABC News* and the *Washington Post* on September 13 found that 92 percent of respondents said they would support “new laws that would make it easier for the FBI and other authorities to investigate people they suspect of involvement in terrorism.” Support dropped only slightly, to 71 percent, when people were asked whether they were prepared “to give up” some of Americans’ personal liberties and privacy.

Now there are plans by the Department of Justice to introduce a new Act – already dubbed Patriot II – that would further erode key freedoms and liberties of all Americans.

However, civil liberties campaigners and many on both the left and right of the political spectrum believe that before new laws are introduced there must be a review of the first Patriot Act. In April 2005 Senate hearings began on the impact of the Act.

The USA Patriot Act (officially the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act) is a large and complex law that received little



Congressional oversight and debate, and was signed into law by President Bush in October 2001.

The Act gives sweeping anti-privacy powers to domestic police and international intelligence agencies and eliminates checks and balances that previously gave courts the opportunity to ensure that those powers were not abused.

The law dramatically expands the ability of states and the Federal Government to conduct surveillance of citizens:

The measure eases the rules surrounding telephone tapping. The Government can monitor an individual’s use of the Internet, use roving intercepts to listen in on telephone calls made by individuals “proximate” to the primary person being tapped, access Internet Service Provider records, and monitor the private records of people involved in legitimate protests. The Act allows the FBI to install software on any Internet service provider, to monitor all e-mail messages and keep track of the web-surfing of people suspected of having contacts with a foreign power.

The Act is not limited to terrorism: The Act defines “domestic terrorism” so broadly that political organisations could be subjected to the seizure of property for engaging in civil disobedience, for example. Non-citizens can be imprisoned without charge, simply on the attorney-general’s injunction,

without a court decision that they are either dangerous or may flee.

Additionally, the Government can add samples to DNA databases for individuals convicted of “any crime of violence.” Government spying on suspected computer trespassers (not just terrorist suspects) requires no court order. Wiretaps are allowed for any suspected violation of the Computer Fraud and Abuse Act, offering possibilities for Government spying on any computer user.

Foreign and domestic intelligence agencies can more easily spy on Americans: Powers under the existing Foreign Intelligence Surveillance Act (FISA) have been broadened to allow for increased surveillance. FISA standards are lower than the constitutional standard applied by the courts in regular investigations. The Patriot Act partially repeals legislation enacted in the 1970s that prohibited pervasive surveillance of Americans.

The Patriot Act eliminates Government accountability: While the Patriot Act freely eliminates privacy rights for individual Americans, it makes life more difficult for journalists and media by creating more secrecy for Government activities, making it extremely difficult to scrutinise what the Government is doing.

The Patriot Act authorises the use of “sneak and peek” search warrants in connection with any federal crime, including misdemeanors: A “sneak and peek” warrant allows the police and security services to enter private homes without the occupant’s permission or knowledge and without informing the occupant that such a search was conducted.

As well as the invasion of individual privacy, the blank cheque given to the FBI by the Act threatens the confidentiality of journalists’ sources, an issue of growing concern within US journalism (See Below).

While certain key provisions of that law have been adjudicated as unconstitutional, and there are lingering concerns about the impact that the Patriot Act has on journalists who are attempting to provide the public with necessary and accurate information

related to government policies and practices related to counter-terrorism.²⁹

The IFJ affiliated American Federation of Radio and Television Artists (AFTRA) has condemned the increasing use of legal pressure to intimidate journalists and to limit journalists’ ability to gather information. In a resolution adopted on 20 November 2004, the Federation took up the case of Jim Taricani of Rhode Island’s WJAR-TV 10, who was sentenced to six months of home confinement on 9 December 2004 because he refused to disclose to the court the name of the person who gave him a videotape made in the course of an FBI undercover investigation. He was sentenced despite the fact that the source identified himself on 26 November.

AFTRA also took up the case of reporter Demorris Lee of the News Observer newspaper in Raleigh, North Carolina who was arrested on charges of harassment after he left two telephone messages on someone’s voice mail asking if she wanted to respond to allegations against her. The messages were not threatening, just asking for comment. Although neither case is linked directly to the war on terrorism, they represent an alarming trend, said AFTRA, whereby reporters are increasingly subject to threats of legal action or intimidation by police.

Moreover, the Administration has taken the view that information that is embarrassing to it must be kept secret for reasons of national security. As a result it has been extremely difficult for journalists to uncover information about how the Patriot Act

The Bush administration uses insidious tactics to attempt to discredit journalists who file stories that appear critical of the White House. In July 2003, ABC news reporter Jeffrey Kofman filed a story about the plummeting morale of the troops in Iraq on ABC’s World News Tonight in which he interviewed soldiers questioning the credibility of the US Army. One soldier interviewed angrily suggested that Secretary of Defence Donald Rumsfeld should resign. The day after, a Bush official contacted The Drudge Report (an internet website) in an attempt to discredit Kofman personally, telling Drudge that Kofman was not worthy of credibility in that he was gay and held Canadian citizenship.³⁰

has been used, and even information about whether particular sections have been used at all.

In the three years since the law's passage, a growing and bipartisan group of conservative and progressive critics have called on Congress to reexamine and reform certain troubling parts of the law. Of particular concern has been the use of the act's secret search and surveillance authority. This has prompted a new bill, the bipartisan Security and Freedom Enhancement (SAFE) Act of 2005, which was unveiled on April 5th 2005.

Congressional hearings on the Patriot Act, parts of which are set to expire by the end of the year unless Congress votes to renew them will be held during 2005. Critics of the law want changes to three of the law's most-controversial provisions:

- They want the wording clarified to establish that the intention is to fight terrorists -- not let police and security agencies engage in fishing expeditions or silence dissent.
- They want the sections allowing secret searches of homes, businesses and personal property and giving access to library, medical and firearm-ownership records modified to require that police present evidence to a federal judge supporting a link with suspected terrorism before warrants are served.
- They want the language of the section that allows surveillance of protests rewritten to require a definite connection with suspected terrorism because the provisions are too broad and vague which opens the process to abuse.

The clearest indications yet of Patriot Act abuse concerns the case of an Oregon lawyer Brandon Mayfield, a Muslim lawyer, who last year was falsely implicated by the FBI as a suspect in the Madrid train bombings of March 2004. The FBI carried out a secret search of the Mayfield's in which he was wrongly suspected, accused and detained as a perpetrator of the Madrid terrorist attacks.

The US attorney general admitted that the FBI used Patriot Act amendments to an intelligence law, which the made it easier to deploy in criminal cases, to secretly search Mayfield's home and campaigners

say the case reveals how unchecked powers in the law dramatically compound federal investigative errors leading to abuse of civil rights.

Despite the Bush Administration's efforts to cover up information about how controversial provisions of the Patriot Act are used, some disturbing information has become public. According to the ACLU the government used the Patriot Act to try to close an Internet Service Provider, to gag the provider and even to gag the ACLU from disclosing this abuse to the public when it became aware of it. It has been used to bar a prominent Muslim scholar, a Swiss national, from taking up a post at Notre Dame University and to charge, detain, and prosecute a Muslim student in Idaho because he posted links to objectionable materials on an Internet website, even though such links were available on the website of a major news outlet.

Because the Act is used to investigate and prosecute crimes that have nothing to do with terrorism offences it has enhanced the power of the FBI to spy on Americans for "intelligence" as opposed to criminal purposes, said the ALCU. Other "information sharing" provisions direct highly personal information about Americans into the hands of the CIA and the Department of Defence, without meaningful restrictions on how it is used or re-distributed.³¹

Civil libertarians are not the only ones raising concern. A federal commission on terrorism which reported in December 2003 concluded that aggressive antiterrorism policies, when combined with increasingly sophisticated surveillance technologies, could have a "chilling effect" on the right to privacy and other fundamental civil liberties. This report appeared only days before two federal courts rebuked the Bush administration for ignoring constitutional restraints in the name of fighting terrorism.³²

A federal appeals court panel in December 2004 ruled that crucial parts of an antiterrorism law were unconstitutional because the law, which the Bush administration heavily relies on risks ensnaring innocent humanitarians. Ruling on a case involving two groups that perform humanitarian and advocacy

work on behalf of Kurds in Turkey and Tamils in Sri Lanka, the Ninth Circuit court found that under the government's interpretation, a person who sends money to an orphanage in Sri Lanka run by a banned group or "a woman who buys cookies from a bake sale outside of her grocery store to support displaced Kurdish refugees" could face a lengthy prison sentence for supporting terrorists.

Despite growing criticism, the Bush Administration is gearing up for a struggle to renew the Patriot Act, at the same time the White House continues to battle with the courts over its detention of more than 500 terror suspects, many now held for three years with no legal advice and no indication of whether they will be charged.

In June 2004, the Supreme Court made rulings that were a severe blow to Mr Bush's detentions policy. First, the court ruled that prisoners at Guantanamo had the right to petition against their detention. Second, it decided that Yaser Hamdi, an American citizen captured in Afghanistan, could not be held indefinitely as an "enemy combatant" without any opportunity to face a court. He was subsequently sent back to Saudi Arabia, where he had been living.

The legal battles over basic rights aside, fears over press freedom and the constitutional protection of the First Amendment do not so much concern official censorship – that is, bans enacted by the government – as self-censorship, a phenomenon that is far more dangerous in an age of media conglomerates than it would have been in an earlier time.

In April 2004 the Sinclair Broadcast Group ordered its seven stations not to broadcast an edition of ABC's Nightline which was to air the names and photographs of the more than 500 U.S. troops killed in the Iraq war. This censorship provoked much criticism from journalists and politicians, including Republican Senator John McCain, a Vietnam veteran, who accused the company of a "gross disservice" to the public. In a statement, the Sinclair group said the Nightline programme "appears to be motivated by a political agenda designed to undermine the efforts of the United States in Iraq." But ABC News said the programme was a tribute to fallen soldiers.

Although media emerged from immediate aftermath of September 11 in relatively good shape – during the first days after the attacks, "an unprecedented 89%" of the public gave the media a positive rating, according to the Pew Research Centre – within weeks the situation changed dramatically.

In an atmosphere of widespread public anxiety Arab-Americans were harassed and attacked. Government officials warned media about playing into the hand of terrorists.

Music was censored. In Texas, the FBI shut down Arabic Web sites, prompting, according to Reuters, charges of conducting an "anti-Muslim witch hunt." In Baltimore, the Sun reported that anchors and even a weather forecaster at one TV station were required "to read messages conveying full support for the Bush administration's efforts against terrorism." When staffers objected, the message was changed to indicate that it came from "station management."

There were numerous cases of individual journalists and news staff victimised for expressing views that were at odds with the conventional wisdom of the political and military administration.

The Newspaper Guild-CWA established a web site to publicise attacks on the media.³³ It issued advice and guidance on dealing with the threat of anthrax following the targeting of media organisations and the death of a Florida-based journalist.

The harsh climate in the months and years since the US anti-terrorism laws have been in force has prompted a crisis of self-censorship as well as undue government influence over the United States media – most tellingly revealed in the failure of journalists to seriously question the Bush Administration over its basis for going to war in Iraq, which has led to an unusual bout of self-criticism within major media, including iconic titles such as the *New York Times* and the *Washington Post*.

The media suffer, too, from interference by a government that is more than willing to invest in propaganda and political spin. The Bush administration has spent \$254 million in its first four years on contracts with public relations firms,

more than double the amount spent by the Clinton administration.

In addition, more than 20 government agencies including the State Department and the Defence Department have been creating fake news broadcasts for propaganda purposes and these are being used by mainstream media.³⁴

Most of these tapes are very skillfully done, including “interviews” that seem genuine and “reporters” who look much like the real thing. But they are unpaid commercial announcements for the White House or some other part of the government.

Many television stations that have slashed editorial budgets and are unwilling to spend the money needed for real news gathering have been more than happy to use the government’s made to measure journalism. The Fox News affiliate in Memphis, for instance, used its own reporter to voice over a State Department video, using the text provided. An Illinois station was so eager to snap up a low-cost filler that it asked the Agriculture Department to have its so-called “reporter” refer to the station’s morning show in his closing lines. Television stations serving bigger markets, like San Diego (the ABC affiliate) and Louisville, Ky. (the Fox affiliate) have also been guilty of this practice.

Meanwhile, journalists who offend the government with their critical approach to the Iraq war or those who produce terrorism stories are under increased pressure.

In February 2005 US Court of Appeals for the District of Columbia Circuit upheld a jail sentence for journalists Matthew Cooper of *Time* magazine and Judith Miller of the *New York Times*, found to be in contempt of court for refusing to disclose their sources. The case is now going to the full appeals court.

The two journalists were charged with having refused to disclose their sources to a grand jury set up to investigate the leaks from the White House that led to the identity of a CIA agent, Valerie Plame, being revealed in the press. Bush administration officials are suspected of leaking

Plame’s name to punish her husband, former ambassador Joseph Wilson, for publicly contradicting claims made by President Bush to justify invading Iraq.

Two other journalists have been cited for questioning about their sources in this case: Tim Russert of *NBC* and Walter Pincus of the *Washington Post*. Robert Novak, who was the first to publish Plame’s name, on July 14, 2003, has always refused to say if he has been questioned about his sources.

Miller looked into the Plame case but ended up not writing any story about it. Cooper wrote in *Time* (July 17, 2003) that government officials had leaked Plame’s identity. He was given an initial jail sentence in early August 2004, which was lifted after his source waived their confidentiality agreement and thereby allowed him to be questioned by the grand jury. But on September 14, he was cited again for questioning with regard to his other sources in this case.

Conclusions

- 1.** Having considered the current state of policymaking at national and international level, it is impossible not to conclude that the war on terrorism amounts to a devastating challenge to the global culture of human rights and civil liberties established almost 60 years ago.
- 2.** While terrorist attacks in a number of countries have claimed many lives and while steps must be taken to ensure public safety, the response by governments to the threats posed by terrorism is out of all proportion.
- 3.** Some countries are using the perceived threat of terrorism to justify new laws to stifle political opposition and free expression.
- 4.** Of broader concern is the fact that global migration controls and new international security strategies divert attention and resources away from the root causes of global migration and insecurity – poverty and inequality.
- 5.** At the same time, increased police powers to monitor the communications of citizens and the collection and storage of personal data on an unprecedented and global scale are leading to the creation of a surveillance society in which the citizen is increasingly accountable to the authorities and the state.
- 6.** These powers undermine democratic standards, because they are introduced in covert processes which are secretive and outside the orbit of parliamentary accountability.
- 7.** The war on terrorism has legitimised the renewal of “emergency powers” and “civil contingencies” legislation, much of it untouched since World War II and the height of the nuclear threat during the Cold War.
- 8.** The legislation developed since September 11th 2001 hands new emergency powers to governments covering civil administration, communications, transport, electricity and other key aspects of material life. In the UK, the US, Australia and other western states, these updated powers mean that in times of emergency, the military and other organs of state will assist the government of the day and parliaments will be by-passed.
- 9.** This brief synopsis and the selected regional and country reports reveal that the war on terrorism is undermining more than half of the minimum standards in the 1948 UN Universal Declaration on Human Rights. It is hard to justify such an assault on fundamental rights.
- 10.** Though these rights were by no means absolute before September 11, the message that they can be sacrificed to fight terrorism is a new and dangerous one. This understanding is now widespread within the apparatus of state – particularly among the military, the police, immigration and intelligence agencies. And it is with unflinching conviction that governments increasingly insist civil liberties need to be sacrificed in the defence of national security and public safety. They believe they are doing the right thing.

11. Governments appear oblivious to the fact that the mechanisms they choose to fight terrorism – military action, increased power for police, risk profiling, immigration controls, propaganda and manipulation of media – also nurture anxiety and more fearfulness within society.

12. As a result, the war on terrorism has fomented a new intolerance in many societies over migration and asylum-seeking, buttressed by fears over religious, ethnic and cultural difference, that are exploited by unscrupulous and extremist politicians

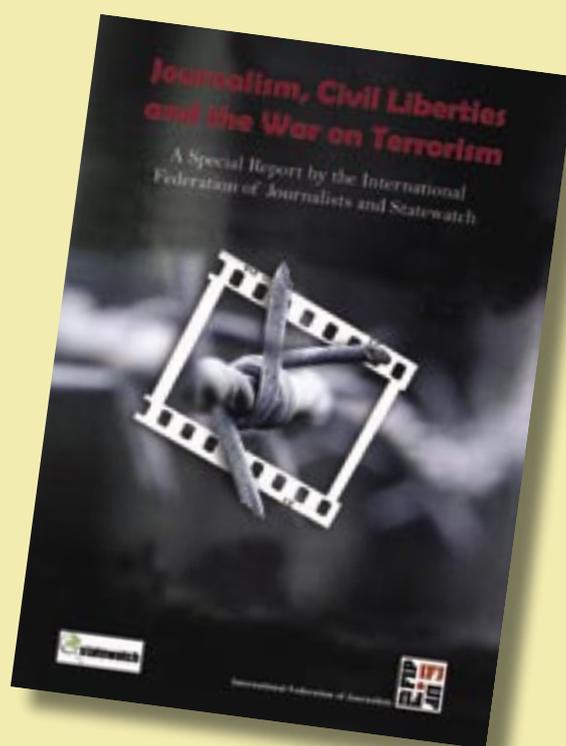
13. The updated information in this selection of country reports confirms that the effects of the war on terrorism are even more pronounced in the world of journalism.

14. Media need to be more active in the scrutiny of government and those dealing with security, particularly at a time when laws are consolidated and refined into a permanent legal framework and which, through unprecedented levels of international co-operation, can form the basis of a global mechanism for social control.

15. However, it is increasingly difficult for journalists to track changes in policy, to investigate the actions of states and to provide useful and timely information to citizens because of laws and policies that discourage legitimate journalistic inquiry into terrorism and its root causes.

16. Journalists and media face a range of problems – restrictions on freedom of movement, increasingly strident demands from authorities to reveal sources of information, and undue pressure from political leaders to toe the official line on security issues.

17. When media are constrained from investigating and exposing the impact of changes in national and global security policy and when they are the victims of political spin and propaganda it adds significantly to the weakening of civil liberties and democracy.



The first draft of this report was considered by journalists' representatives from 30 countries at a conference organised by the International Federation of Journalists in co-operation with its Spanish affiliate, ELA-STV, in Bilbao, Spain, on April 2-3rd 2005. Below is the final declaration adopted unanimously by that meeting:



Journalism, War and Civil Liberties: International Debate on the Threat to Democracy and Free Expression Posed by Terrorism and Intolerance

Bilbao, Spain, April 2-3, 2005

Journalism, Civil Liberties and the War on Terrorism



WE, THE PARTICIPANTS AT THE IFJ CONFERENCE JOURNALISM, WAR AND CIVIL LIBERTIES, HELD IN EUSKALDUNA, BILBAO, ON APRIL 2-3RD 2005,

Believing that respect for human rights and democracy are the benchmarks of civilised society,

Insisting that respect for free expression, independent journalism and the people's right to know are core rights that provide essential safeguards for the exercise of democracy,

Considering that all forms of indiscriminate violence and terrorism against civilians are unacceptable and threaten journalism and press freedom,

Rejecting the message that fundamental rights can be sacrificed to fight terrorism,

Noting that concerns over security and terrorism have led many democratic states to enact laws and regulations that undermine almost half of the minimum standards set out in the 1948 UN Universal Declaration on Human Rights,

Recognising that these laws when adopted in democratic states are used by authoritarian regimes to reinforce their oppressive systems,

Convinced that attacks on independent journalism add significantly to the weakening of civil liberties and attachment to democratic values across the world,

Concerned at the construction of a global registration and surveillance infrastructure in which people around the world and journalists in particular, are registered, their travel tracked globally, and their electronic communications and transactions monitored,

Further concerned at the growth of new forms of intolerance and community tensions, which are being exploited by ruthless and unscrupulous political and social forces,

DECLARE

- 1.** That governments must not sacrifice civil liberties in the defence of public safety,
- 2.** That laws, hastily prepared and enacted in the immediate aftermath of September 11, should be repealed wherever they are in violation of fundamental rights and freedoms,
- 3.** That forms of international co-operation on security issues must not lead to a global mechanism for surveillance, command and social control of society at large,
- 4.** That media need more than ever to be active in the scrutiny of the actions of government,
- 5.** That journalists and editors must maintain editorial independence and must guard against self-censorship,
- 6.** That independent organisation of journalists in unions and associations is an essential safeguard for press freedom, self-regulation and editorial independence,
- 7.** That all forms of violence against media and targeting of journalists and media staff are completely unacceptable,
- 8.** That all restrictions on journalists' freedom of movement, pressure on them to reveal sources of information, and manipulation of media by political leaders on security issues are unacceptable,
- 9.** That independent journalism's vital role in investigating and exposing the impact of changes in national and global security policy on society at large is crucial to the future of democratic society,
- 10.** That the IFJ should
 - a) launch its updated report on Journalism, Civil Liberties and the War on Terrorism for Press Freedom Day 2005,
 - b) develop a new global campaign among journalists' unions to raise awareness of security policies and their impact on the right to report,
 - c) reiterate IFJ policy on importance of pluralism, press freedom and open government at national and international level, and the need for tolerance in journalism, as adopted at the Bilbao international conference on the issue in 1997,
 - d) join with other trades unions, human rights campaigners and relevant civil society groups to build an effective coalition against further attacks on civil liberties and democratic rights,
 - e) promote debates at national and international level on the need for professional vigilance, ethical conduct and improvement of journalists' capacity to work without undue political pressure.

- 1 <http://www.ifj.org/pdfs/war.pdf>.
- 2 See also 'The "war on terror" as a "war on freedom and democracy"', a talk given by Ben Hayes to the ASEM V People's Forum, in Hanoi, 7 September 2004, <http://www.tni.org/asem-hanoi/hayesterrorism.htm>, and "The war on freedom and democracy": An essay on the effects of 'September 11' by Tony Bunyan, Statewatch editor: <http://www.statewatch.org/news/2002/sep/analy3.pdf>.
- 3 See <http://english.aljazeera.net/HomePage>.
- 4 For example the Council of Europe "Cybercrime" Convention, which is open for world-wide signature (see Privacy International: <http://www.privacyinternational.org/>) and the EU-US treaty on mutual legal assistance (see Statewatch: <http://www.statewatch.org/news/2003/jun/01useu.htm>).
- 5 See <http://www.indymedia.org/fbi/>.
- 6 See 'Putting Terrorism in Perspective', a talk given by Achin Vanaik to the ASEM V People's Forum, in Hanoi, Vietnam, 7 September 2004, <http://www.tni.org/asem-hanoi/achinterrorism.htm>. "The agents of terrorist acts/campaigns can be the individual, the group or larger collectivities like state apparatuses or agencies. The terrorism of states is different in many key respects from that of individuals or combat groups, i.e., those agents that are non-state actors. When talking of state terrorism this can be state sponsored or state directed. Historically, state terrorism came first and then later there emerged the terrorism of non-state actors. When carried out by the latter it is essentially 'propaganda by the deed', i.e., publicity is its lifeblood. These acts are meant to be publicly conducted, and responsibility for it is usually publicly acknowledged. It is carried out to send messages in two directions - against the enemy and its support bases, but also to the home population whose morale is thereby supposed to be raised. State terrorism is by contrast usually (though not always) uni-directional aimed at sending a message of futility in the struggle by the enemy opposed to the state in question. If the first is the terrorism of the weak, the second is the terrorism of the strong. States usually do everything they can to avoid their terrorist acts from becoming public knowledge since this would often be damaging politically to them. Finally, the scale of state terrorism is far greater than that of non-state terrorism".
- 7 <http://www.statewatch.org/news/index.html>
- 8 There are refreshing exceptions. See Gary Younge, The Guardian November 15, 2004.
- 9 The total number of stop-and-searches under the Terrorism Act increased again in 2003/4 and continued to disproportionately target the Muslim community, see Statewatch: <http://www.statewatch.org/news/2005/apr/uk-stop-and-search-2005.pdf>.
- 10 Report New York Times, March 16th 2005
- 11 See <http://www.un.org/Docs/sc/committees/1267/tablelist.htm>.
- 12 See <http://www.statewatch.org/news/2005/mar/terr-list1.pdf>.
- 13 See "The emergence of a global infrastructure for registration and surveillance", International Campaign Against Mass Surveillance, April 2005: <http://www.i-cams.org/>.
- 14 See <http://www.policylaundering.org/>.
- 15 Forum Asia is based in Bangkok, Thailand and for more information see www.forumasia.org.
- 16 See Devastating Blows: Religious Repression of Uighurs in Xinjiang, <http://iso.hrichina.org/>
- 17 See Sherrie Gossett, Associate Editor of Accuracy in Media writing for www.mediachannel.org, April 2005
- 18 Safeguards under the terrorism act included: the submission by a superintendent of an application detailing the facts to justify interception; the permission could be granted only by a specially appointed "competent authority", which in turn was required to submit this order to the Review Committee; an order of interception was strictly limited to sixty days; misuse carried with it a penalty of imprisonment for up to one year.
- 19 See Report Coups, Kings and Censorship, www.ifj.org March 2005
- 20 IFJ report issued April 6, 2005 www.ifj.org
- 21 Further information on the details are available through the International Commission of Jurists, www.icj.org
- 22 IFJ Press Release May 27th 2002
- 23 See Index On Censorship, 1/05
- 24 International Commission of Jurists - <http://www.icj.org/IMG/pdf/ICJBulletinFeb05.pdf>
- 25 Swedish NGO Foundation for Human Rights - <http://www.humanrights.se/svenska/Libertad%20de%20expression-%20informe%20final.pdf>
- 26 A detailed report is available from Human Rights Watch, 2003 http://hrw.org/un/chr59/counter-terrorism-bck4.htm#P202_39289
- 27 Amnesty International Report, December 7th 2004.
- 28 Report published February 2005, see www.lfex.org
- 29 For information on the unconstitutional rulings see <http://www.washingtonpost.com/wp-dyn/articles/A59626-2004Sep29.html> ,
- 30 See <http://www.washingtonpost.com/ac2/wp-dyn/A8158-2003Jul17?language=printer>
- 31 The full text of the legislation and proposals for reform are available at <http://www.aclu.org/>
- 32 New York Times, December 2003
- 33 www.newsguild.org/2edged.php.
- 34 New York Times, March 16, 2005

The IFJ is the world's largest organisation of journalists with members in more than 110 countries. Today the IFJ spans the world with a range of programmes and solidarity activities that help to strengthen journalists' trade unions.

Statewatch is a non-profit-making voluntary group founded in 1991. It is comprised of lawyers, academics, journalists, researchers and community activists. Its European network of contributors is drawn from 13 countries. Statewatch encourages the publication of investigative journalism and critical research in Europe the fields of the state, justice and home affairs, civil liberties, accountability and openness.



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