LONDON metropolitan university

Suspect Communities:
The Real "War on Terror" in Europe

International Conference held at London Metropolitan University

Proceedings of the Conference

21 May 2005

HRSJ Human Rights & Social Justice Research Institute

ISET INSTITUTE FOR THE STUDY OF EUROPEAN TRANSFORMATIONS

The Muslim Parliament

CAMPACC Campaign Against Criminalising Communities

Haldane Society of Socialist Lawyers

EJDM Europäische Vereinigung von Juristinnen und Juristen für Demokratie und Menschenrechte in der Welt e.V.

EALDH European Association of Lawyers for Democracy and World Human Rights

AEJDH Asociacion Europea de los Juristas por la Democracia y los Derechos Humanos en el Mundo

AEJDH Association Européenne des Juristes pour la Démocratie et les Droits de l'Homme dans le Monde

AEGDU Associazione Europea delle Giuriste e dei Giuristi per la Democrazia e i Diritti dell'Uomo nel Mondo

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INTRODUCTION

This international conference was sponsored by the following organisations:

- The Human Rights & Social Justice (HRSJ) Research Institute at LondonMet
- The Institute for the Study of European Transformations (ISET) at LondonMet
- The Muslim Parliament
- The Campaign against Criminalising Communities (CAMPACC)
- The European Association of Lawyers for Democracy & World Human Rights
- The Haldane Society of Socialist Lawyers

The conference had two main aims:

1) To strengthen links between practising lawyers, academics and community activists, in order more effectively to resist the various intended and unintended consequences of anti-terror legislation on communities throughout Europe
2) To provide the materials for a publication of lasting value to assist this process

It was decided that there should be a number of workshops. Each workshop should be lead by a Convenor who would prepare a background paper (1 to 2 pages) prior to the conference. This was publicised and circulated to those who had registered, and enabled delegates to decide on their workshop choices.

The workshops had a maximum of four speakers in addition to the convenor giving short (10 min) introductions/backgrounds/contexts to the workshop themes.

Each workshop had a Rapporteur, nominated by the Convenor, to report back to the final plenary with 3 Action Points, which will reflect the activities to take place as a result of the workshops.

The conference brought together more than 100 practising lawyers, academics, and community activists to consider issues such as: asylum and migration, detention, policing, and terrorism lists. The fact that all three groups were represented gave the event exceptional energy and focus.

The experiences in the UK of the Irish community in the 1970s to 1990s, and of the Muslim communities today, were brought into fruitful comparison. International speakers included leading democratic lawyers from France, Germany,

Italy, the Basque Country in Spain, Switzerland, and the USA. All the participants welcomed the conference as being exceptionally timely.

It also enabled researchers at London Metropolitan University to audit, in a preliminary way, the main concerns of communities that currently view themselves as being subject to suspicion.

This publication contains the keynote speeches, and the high quality background papers prepared for each workshop. It also contains the action points from each of the workshops.

ACTION POINTS

1. **Bans**
- Oppose the broadened definition of terrorism, bans on organisations, crimes of association, etc.
- Support defiance of such laws.
- Bring legal challenges against bans (e.g. as already done on the PKK, PMOI, etc.)
- Ask governments to clarify the basis of the bans.

2. **Intelligence agencies**
- Support the people being targeted by intelligence agencies.
- Hold the agencies accountable.

3. **Policing**
- Challenge the international image of the British police as 'good practice', e.g. as a model for training police elsewhere.
- Try to find allies within the police, e.g. associations of black or Muslim police.

4. **Detention**
- Globalise protest against detention powers.
- Oppose detention-Lite, e.g. control orders (specific to the UK?)

5. **Migration**
- Support detainees.
- Establish our own media to promote our message.
- Challenge/change discourses of migration
- Break the consensus on 'the asylum problem'.

6. **Global politics**
- Analyse the war on terror as new global links among oppressive agendas that use the 'terrorist' label to demonise entire communities.
- Put a positive light on community activities and international links that help to resist oppression, especially those that are targeted by 'anti-terror' measures.
- Circulate a petition against the blacklist (banned list).

Method: For all those efforts, bring together lawyers, human rights groups, targeted communities, artists, satirists, and other famous people -- beyond the usual dissenters.

POSTSCRIPT

Without needing to endorse any particular activity, the conference report could usefully inform participants of Europe-wide links around the European Social Forum, so that groups or individuals could decide whether to get involved. In particular, these two networks hold meetings as part of the bi-monthly European Preparatory Assemblies of the ESF:

Network for a Democratic and Social Europe: contact Franco Russo, email fs.russo@tiscali.it

Network against the Policies of Security and against Repression: contact Achim Rollhaeuser, email: ro-achim@otenet.gr

USEFUL WEBSITES

Liberty:	www.liberty-human-rights.org.uk
Statewatch:	www.statewatch.org/news
Human Rights Watch:	www.hrw.org
Human Rights First:	www.humanrightsfirst.org
Amnesty International:	www.amnesty.org
UN High Commission for Human Rights:	www.unhchr.ch
CAMPACC	www.campacc.org.uk
Pat Finucane Centre:	www.serve.com/pfc
Committee on the Administration of Justice:	www.caj.org.uk
British Irish Rights Watch:	www.birw.org.uk
Advice on Individual Rights in Europe	www.airecentre.org
Physicians for Human Rights	www.phrusa.org

PLENARY SESSION

Paddy Hillyard

Introduction

Thanks for the invitation. It is a pleasure to be here. I have been asked to talk about the lessons from Ireland. Before turning to Ireland, I wish to begin by making one very general point.

As a sociologist/criminologist I have long been interested in the notion of crime - a deceptively short word but one which has served powerful interests throughout the centuries. Thousands of moral panics have been constructed in order to introduce new laws and further expand the criminal justice system to protect and uphold a deeply unequal society.

Crime, as the social historian Gatrell has pointed out, became in the eighteenth century as it is today the 'repository of fears', particularly about social change and social disorder. He went on to argue that: 'The history of crime…is largely the history of how better-off people disciplined their inferiors'. And he added 'historians might profitably remind themselves that the history of crime is a grim subject, not because it is about crime, but because it is about power'[1]. In short, crime represents a powerful political tool for the reproduction of social order[2].

These observations are crucial to an understanding of what is happening in Britain post 9/11. 'Terrorism', I would argue, has now joined 'crime' as the repository of fears, about social change and disorder. Many of the fears are exploited along racist lines.

Further, I would argue that the Anti-Terrorism and Security Act 2001 and the Prevention of Terrorism Act 2005 did not arise as a direct response to specific instances of political violence but from a range of social, political and bureaucratic factors.

As with the notion of crime, it is important to deconstruct the notion of terrorism. There are numerous threats to our lives from the cradle to the grave from many

[1] Gatrell, V.A.C. 1990. "Crime, Authority and the Policeman-State." Pp. 243-310 in *The Cambridge Social History of Britain, 1750-1950*, edited by F.M.L. Thompson. Cambridge: Cambridge University Press.
[2] Jefferson, T, and W Holloway. 1997. "The Risk society in the Age of anxiety: situating fear of crime." *British Journal of Sociology* 48: 252-266.

different quarters. The likelihood of being killed or injured from an act of political violence has always been extremely small in this country and the ordinary criminal justice system is more than able to deal with this threat. The stark reality of life is that we are all much more likely to die or be injured in a road accident, doing DIY or from pollution.

There is, of course, a gender dimension to the threat of harm. If you are a woman, one of the principal threats to your well-being is from domestic violence. In the UK two women per week are killed by a male partner or former partner and the British Crime Survey estimates that three-quarters of a million women have been raped on at least one occasion since the age of 16. An incident of domestic violence is reported to the police every minute. Yet where is the Anti-Domestic Violence Act or the Prevention of Domestic Violence Act?

One could equally provide a similar set of statistics describing the harm caused through racism. The essential point, however, is that there many other types of incidents which cause extensive harm but which receive little government attention.

Ireland

Let me now turn to the conflict in Ireland, the present round of which began in late 1960s and continued for the next thirty years until a peace agreement was signed in 1998.

I wish to make four general sociological points about the use of the so-called 'Prevention of Terrorism' legislation in relation to the Irish conflict.

1. It led to widespread alienation of the very communities from whom the authorities wished to draw support to deal with the threat.

2. It transformed and I would suggest corrupted the ordinary criminal justice system.

3. It placed the security services above the law on the grounds of national security.

4. Far from preventing terrorism, it sustained and extended it.

Alienation of communities

Numerous elements of anti-terrorism practices alienated sections of the population both in Northern Ireland and in Britain. The single most disastrous measure was the introduction of internment in 1971[3]. Symbolically, it suggested to the nationalist population that their demands for a more fair and just society in Northern Ireland could no longer be carried forward through dialogue and persuasion. The rule of law had been abandoned. Practically, it led to hundreds of young men in working class nationalist communities joining the IRA and creating one of the most efficient insurgency forces in the world.

Internment was accompanied by the 'torture' of a selected number of internees. It involved the use of five techniques. Each internee was spread-eagled some distance from a wall and made to place their hands against the wall to hold their weight. A hood was placed over their heads and a high-pitched whine was played. If they fell down they were beaten and placed again in the same position. They were deprived of food and sleep. A little later Amnesty set up an independent Commission and reported on a number of further cases into the ill-treatment of prisoners and internees[4]. The revelations further alienated nationalist communities.

When the images began to emerge from Abu Ghraib prison showing prisoners hooded, humiliated and tortured, few people in Northern Ireland were surprised and expressed deep cynicism when the authorities claimed that the practices were not systemic but were due to the unauthorised behaviour of a few individuals. The lesson from Northern Ireland is that these methods of interrogation were common practice within the British army and had been for many centuries and approved at the highest level.

Early in the conflict, the powers of stop and search, arrest and detention were extended throughout the United Kingdom. Again there is ample evidence of the counterproductive nature of these developments[5]. Thousands of innocent people experienced humiliating situations on the streets, at ports and airports and in detention facilities. Very few were subsequently charged as a result of the arbitrary

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[3] See McGuffin, J. (1973) *Internment* (Tralee, Co Kerry: Anvil Press).

[4] International, A. (1975) *Report of an Inquiry into Allegations of Ill-Treatment in Northern Ireland* (London: Amnesty International).

[5] See for example: Boyle, K., Hadden, T. and Hillyard, P. (1975) Law and State: the case of Northern Ireland (London: Martin Robertson) and Hadden, T., Boyle, K. and Hillyard, P. (1990) Ten Years on in Northern Ireland (Cobden Trust: London).

use of the powers and those that were charged were not charged with terrorist offences, but with ordinary criminal offences.

Once again the gender dimension is important. As I described in the book "Suspect Community" little or no consideration was given to women. For example, a pregnant woman was detained for an hour in what appeared to be a broom cupboard at Bristol Airport. Some women with children were left for hours on the quayside before being allowed to leave. One woman experienced the horror of not knowing what had happened to her child when she was arrested, detained for four days and eventually released without charge.

The powers created 'suspect communities' within Northern Ireland and, as importantly, a 'suspect community' in Britain[6]. Anyone who was Irish, or had a connection with Ireland or Irish people, became a suspect. Sometimes it was simply an accent, looks or passport that gave rise to suspicion in the minds of the public or the police.

The problem with arbitrary and draconian police powers is that they alienate the very communities from which the police require good intelligence. People are not going to report incidents or crucial information to the police when either their last contact has been at best unpleasant and at worst humiliating and abusive when they have heard how a neighbour or relative has been treated. Good intelligence is essential to prevent acts of political violence, yet the authorities still appear to lack an understanding of the crucial role of good police community relations in this endeavour.

Suspect communities have already been targeted in Britain since 9/11. Take the use of stop and search powers. Since 2000/2001 there has been a 16% increase in England and Wales in the total number of people stopped and searched. However, the stop and search rate for white people has increased by less than 4% compared with 66% for Black people and 75% for Asians. An even larger percentage increase has been experienced by those who are classified by the police as 'Other' (90%) and 'Not known' (126%). One possible explanation for the huge increases in these last two categories is that the police are increasingly targeting Arabs and other Muslims, such as Turkish people, who are not easily categorised as 'White', 'Black' or 'Asian'.

[6] Hillyard, P. (1993) *Suspect Community: People's Experience of the Prevention of Terrorism Acts in Britain* (London: Pluto Press).

In evidence to the Home Affairs Committee on Terrorism and Community Relations, Hazel Blear, while making the extraordinary statement admitting that some of the counter-terrorist powers will be disproportionately experienced by people in the Muslim community, she then presented figures on the increase over the year for stop and search for the terrorist power only. These conveniently showed that Muslims were not adversely affected in this short time period. However, this statement, when all stops and searches are considered over the period since 9/11, is simply untrue.

Suspect communities in Ireland were consolidated through the use of the highly symbolic 'exclusion orders'. Under the PTA, the Secretary of State could issue an exclusion order prohibiting people believed to be involved in violence connected with Northern Ireland affairs from residing in or entering Great Britain. It was a highly subjective and vague executive power. It included words like 'appears' expedient' and 'satisfied'. Hundreds of people over the period were excluded from Britain and forced into exile in Northern Ireland. A smaller number were exiled to live in the Irish Republic. They were eventually abandoned in the mid 1990s.

The new control orders introduced under the new Prevention Terrorism Act 2005 earlier this year are, of course, an expanded version of the exclusion orders used in Northern Ireland.

One further strand in dealing with suspect communities are measures directed at specific organisations under the PTA. Various organisations were banned and new criminal offences were introduced, such as being a member of a proscribed organisation or collecting money for the organisation. In addition, a broadcasting ban was introduced to prevent members of illegal organisations speaking on radio or TV. These policies did little or nothing to destroy the organisations. On the contrary, they were pushed into greater secrecy and the broadcasting ban prevented open and political discussion of their aims and objectives further retarding a political rather than a military solution to the problem.

Transforms and corrupts the criminal justice system

The criminal justice system was radically transformed in order, it was argued, to deal more effectively with those suspected of political violence[7]. Juries were abolished and the rules of evidence were substantially changed. At the same time, a range of different strategies were used in different periods in the conflict to

[7] Commission, D. (1972) *Report of the Commission to Consider Legal Procedures to Deal with Terrorist Activities in Northern Ireland* (London: HMSO).

obtain evidence, ranging from the use of brutal interrogation techniques[8] to the widespread use of supergrasses[9] and informers. In effect, there were two criminal justice systems operating in Northern Ireland: one for those suspected of terrorist activities and another for those suspected of 'ordinary decent crime'.

The development of a separate criminal justice system to deal with political violence then began to corrupt the ordinary criminal justice process in two significant ways. First, powers and procedures, for example, relating to the length of detention under anti-terrorist legislation, were subsequently incorporated into the ordinary criminal law. Secondly, anti-terrorism legislation was constantly used to deal with ordinary criminal behaviour.

Accountability

Another major lesson to be learned from the Irish experiences is that all organisations involved in dealing with political violence, from the secret services to the units handling public order on the streets, must be independently and democratically accountable. The last thirty years in Northern Ireland is strewn with examples of organisations and agencies acting beyond the law or else mobilising the law for their own political ends[10]. These range from the brutal methods of interrogation, through the 'Bloody Sunday' débâcle to the widespread collusion between the security services and paramilitary killers as in the case of the murder of Pat Finucane.

Conclusion

The principal conclusion from the Irish conflict is that many of the actions taken under emergency legislation were at best ineffective and at worst served to increase the levels of violence and alienation, and prolonged the conflict before a political settlement rather than a military defeat could be obtained.

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[8] For brutal police methods see: Taylor, P. (1980) *Beating the Terrorists? Interrogation in Omagh, Gough and Castlereagh* (Harmondsworth: Penguin).

[9] Greer, S. (1995) *Supergrasses: A Study in Anti-Terrorist Law Enforcement in Northern Ireland* (London: Clarendon Press).

[10] See fore example, Ní Aoláin, F. (2000) *The Politics of Force: Conflict Management and State Violence in Northern Ireland* (Belfast: Blackstaff Press).

Julen Arzuaga

Antiterrorist measures in the Basque Country

The acts of massive destruction that took place three years ago in the United States and last year in Madrid, and the media impact they had have generated a particular state of opinion in the international community. Perhaps these acts accelerated for security measures to be implemented in opposition to the enjoyment of human rights and freedoms. But these measures were designed long ago. Many governments have passed new legislation and designed measures to face the new situation, creating a “law for the enemy rather than for the citizen”. Anti-terrorist rhetoric has been exploited by states in their own interest. They have been free to define the concept of terrorism around and at the service of their particular needs. That is why, as there is no commonly accepted definition of terrorism, each government decided to establish one in its own domestic or geo-strategic interests recently, or in the past: the figure of “the separatist-red” in Franco’s Spain, of “the subversive” in Videla’s Argentina, the “communists” or, nowadays, the “Islamic fundamentalist” in the USA, the “narco-guerrilla” in Colombia, or more generally the current “terrorist” in most other states, are all examples of this rhetoric.

As restated by the United Nations Commission on Human Rights in resolution 2001/37 "all measures to counter terrorism must be in strict conformity with international law, including international human rights standards". This is not just rhetoric. International society has noted the serious crimes committed by states in this regard, and this is just an important reminder, if not a warning from the most important body for the protection and promotion of human rights all over the world.

Meanwhile, many governments (the United States of America, the United Kingdom, Turkey, Israel, Colombia…and of course, Spain) have used the international consensus on the priority of combating terrorism to justify and even legitimise their fight against any form of political opposition or dissidence. Even more, they are pushing other states through the Antiterrorist Commission of the Security Council and other regional organizations, to adopt these special measures, create special antiterrorist legislation and implement it. It is again a matter of security versus freedom. We can now appreciate the direct and severe impact that these new so-called terrorism measures have had on the protection of human rights and the enjoyment of public freedoms.

This controversial phenomenon has been dealt with as well in the European Union. In December 2001 the Heads of State and Governments of the EU met in Laeken to adopt the Framework Decision to combat terrorism, creating new imperative measures to be adopted by all member States, even if they had no specific problem of their own with this matter: measures on extradition, asylum, treatment of "suspected terrorists"… They couldn't find a common definition of terrorism but they defined it taking into account the causes, intentionality. It means that the assessment of what is or is not terrorism comes from the analysis of general effects of supposed terrorist actions. The consequences of this definition are quite clear: any dissidence or opposition activity can be considered an act of terrorism in the European Union. Thus, they have created the so-called "lists of terrorist" where are included persons and organizations.

Thus, a permanent and undeclared state of emergency has been implemented. It allows physical and political elimination of enemies and entire sections of society that may have become opponents and cannot be subsumed into the political system. When the state of emergency becomes the rule and turns into a permanent social relation, a way to organise, control and produce society, war becomes a governing technique, part of the normal workings of power. Who are the main characters in this war? They are abstract, and an exceptional portrayal of the "enemy" is made, from the very moment when that "enemy" is defined as invisible, uncontrollable, non-concrete and non-locatable, unknown… With this repression mechanism they can present as a terrorist any youth acting from a position of political dissidence or opposition. They can arrest and torture the chief editor of a newspaper under the generic charge of being a dangerous terrorist. Here I am referring to real and specific cases that have taken place in my country not so long ago.

In the design of this framework, the Spanish state has played a crucial role, because of its particular interests, regarding the Basque question. Now the Spanish government can present the whole Basque opposition as being a terrorist organisation and implement anti-terrorist measures in two directions:

First, exceptional measures for the detention and treatment of Basque citizens arrested under the general accusation of "being terrorists": the antiterrorist legislation.

Second, including under this category increasingly larger sections of society, which are in no way linked to terrorist activities: the extension of the crime of terrorism.

Regarding the first example, the Spanish government have implemented counter terrorism mechanisms in flagrant opposition to human rights, using incommunicado detention which condones the use of torture and the denial of a fair trial in the Special Antiterrorist Court (Audiencia Nacional), where statements taken under torture are sufficient to find the suspect guilty. The last report (E/CN.4/2004/56/Add.2) submitted by the Special Rapporteur on Torture, Theo van Boven, to the Commission on Human Rights, compiled after his visit to Spain from October 5 to October 10 in 2003 is entitled "the legal and circumstantial factors relevant to allegations of torture or ill treatment, in particular in concerning those people detained in connection with antiterrorist measures". Mr van Boven recognises that "torture is not systematic in Spain, but the system as it is practised allows torture and ill treatment to take place, especially in cases where people are placed in incommunicado detention in relation to terrorist activities". The report emphasises that "the legal and moral bases for the prohibition of torture and other cruel, inhuman or degrading treatments or punishments, are absolute and imperative. They must not be subordinated under any circumstances to others interests, be they political or practical, including the legitimate need to prevent acts of terrorism". He expresses concern at "the high level of silence which surrounds this issue and the refusal of the authorities to investigate allegations of torture". In the section containing recommendations, the Special Rapporteur refers to the responsibility of the authorities themselves to create a climate of opinion that opposes torture. To this end, they should "officially and publicly reaffirm and state that torture and cruel, inhumane or degrading treatment are prohibited under all circumstances". He includes in his recommendations the elimination of the five-day periods of incommunicado detention, as it "creates conditions which facilitate the penetration of torture, and which in itself may constitute a form of cruel, inhumane degrading treatment or even torture". It is also recommended that the detainee have "access to a lawyer, and the right to consult the lawyer in private, the right to be examined by a doctor of the detainee's choice, understanding that this examination may take place in the presence of a forensic doctor designated by the State, and the right of family members to be informed of the detainee's arrest and of the place where the detainee is held". He also observes that complaints and accusations of torture and ill treatment must be investigated quickly and effectively" and that "effective and speedy legal provisions must be implemented to assure that the victims of torture or ill treatment obtain adequate compensation and reparations, including rehabilitation, compensation, satisfaction and guarantees that the events will not be repeated. But the Rapporteur adds to the usual recommendations with a number of new provisions, which have not previously been raised by international protection agencies. For example he specifically states that as well as interrogation sessions being recorded, they should "begin with the

identification of those present": He adds "the practice of wearing hoods and blindfolds must be explicitly prohibited". Concerning the execution of the investigation is completed, along with any other legal or disciplinary proceedings". He adds another new recommendation: "that the assignation of Basque prisoners must take into account the maintenance of social relations between the prisoners and their families, in the best interest of the family and the social rehabilitation of the prisoner". In order to explain the impact of this policy, suffice it to say that out of the current 717 Basque political prisoners, only 11 are in jails in the Basque Country whilst the rest are dispersed throughout 52 Spanish jails and 32 French jails, thus making it impossible to relate to each other as a collective and making the relationship with their home and loved ones extremely difficult.

The Spanish Government attempted to discredit van Boven´s work claiming that it "lacked evidence, rigour, justification and methodology", and also claimed that it was "biased" and that he had been hoodwinked by "terrorists". All this was said in a tone that was completely inappropriate when dealing with an international protection agency. The Spanish authorities levelled serious charges against the Basque Observatory for Human Rights, the organisation I represent before you here today. The Rapporteur himself describes this situation: "denial and silence endanger the values inherent in human dignity and security. Human Rights organisations and defenders of human rights deserve, in Spain as anywhere else, respect and protection".

Moving onto the second category, this situation of persecution against our activities does not only affect us, neither is it limited to words. In the Basque context, the Spanish state has accused political and social organisations that until now were working publicly, legally and freely as being terrorists. In doing so, they have violated the rights of association, freedom of speech and opinion. This has also affected the civil rights of hundreds of political activists who have been arrested, sometimes very violently, just for carrying out social, political or cultural activities that have made the Spanish State uncomfortable.

These new repressive dynamics have developed over the last 8 years, through the intervention of the Special Antiterrorist Court, the Spanish Audiencia Nacional. The judges in this court have decided that Basque social organisations, political groups and parties and even media, belong to ETA, and are therefore illegal. They have taken special pre-trial measures and, as a caution, suspended the activities of these organisations. More than 250 people are involved in this process, including myself, due to activities with the political prisoners support organisation Gestoras Pro Amnistía. As well as the arrests in application of the antiterrorist law, several

of these people stated they were subjected to ill treatment and torture while in custody. They have also suffered preventive incarceration -remand in custody awaiting trial- for up to the maximum limit of four years. Therefore they have been given no chance to defend themselves –even under the difficult circumstances of such a heavily politicised trial. The people charged under the same case as myself will shortly have spent the maximum four years in jail awaiting trial which the law allows. Over recent months, the first of these trials has taken place. It was the trial against the youth organisations Jarrai, Haika and Segi, which have been put onto the European list of terrorist organisations, although they continue to carry out their social and political defence of youth rights in the part of the Basque Country under French administration. We attended this trial as observers and were able to note the large quantity of irregularities that took place, the total lack of incriminating evidence, the use of members of the security forces as expert witnesses –therefore infallible- in the area of antiterrorist security, the use of a generic accusation –they are accused of being members of ETA just because they belong to the said youth organisations- etc. Several international jurists also took part as observers. Their preliminary reports -while waiting for the court decision- can be found on this web page www.ehwatch.org

These methods were not designed in the wake of the September 11 attacks in New York. They were designed before that. Perhaps the global anti-terrorist war has accelerated the new measures, but it's not a new recipe against Basque people. The experience in the last number of decades has been a serious record of violations of public freedoms and lack of guaranties. The resolution of this situation is the challenge we must face. I believe it is particularly interesting to hear about the Basque issue and to draw conclusions from the way that the Spanish state is acting against broad sections of society that share an alternative vision of things. I would like to raise the alarm because I believe the undeclared state of emergency we live under in the Basque Country is an experiment of repression in the middle of western Europe, the results of which may well be applied in other parts of Europe or the world. This is the witness account of one of the most criminalised human communities in the Western European geographic sphere.

TERRORISM LISTS

Mark Muller

The focus of the Workshop

This important Workshop looks at the nature and purpose of "terror lists" and how they affect the status of fundamental freedoms within both national and international law in the wake of the so called "war against terror." In so doing, it aims to explore the operation of the British Terrorism Act 2000 and EU Terror Regulations, which provide for the proscription of groups and individuals allegedly concerned in terrorism. To this end each of the listed speakers has first hand experience of the operation of such legislation.

The importance of the terror lists

As regards the importance of this Workshop, no one should be in the slightest doubt as to the legal, political and cultural significance of the "terror lists" for both the host and exiled communities of Europe and beyond. How we describe others, and ourselves both socially and politically, has a significant impact on how we treat each other, not only socially and politically, but also legally. We know from Senator McCarthy's list in the 1950's onwards just how dramatic and draconian the consequences can be once a person or a group becomes designated on a proscribed list. This is no more so than in the case of terrorism.

In the UK, once a group is designated "terrorist" a regime of individual offences comes into operation that stifles that group's ability to organise, meet and communicate. In the EU, proscription leads to the freezing of assets and constitutes a powerful nod to other member states to proscribe the relevant group or person domestically. In each case the purpose of the list clear – to ostracise, censor, criminalise, and effectively silence all those groups who unfortunately find themselves on the list.

The challenge of terrorist lists

The word "unfortunate" is used advisedly for many observers have come to believe that whether a group is on or off the list has more to do with geo politics and diplomatic relations between States than with genuine threats to national security and the strict application of law in relation to terrorism.

Legal concerns about the Terrorism Act 2000

That there are serious concerns about the legality of the Terrorism Act can be in no doubt. Shortly after the commencement of the Terrorism Act 2000, both the PKK and the PMOI and their allied organisations, sought to challenge the lawfulness of the Act and Order banning 21 organisations in one foul swoop. They argued that the discretionary power of proscription vested in the Home Secretary is neither proportionate, nor subject to objective and identifiable criteria, or attended by procedural safeguards including the right to make representations before the Order for proscription was made.

More importantly, both groups submitted that the definition of terrorism is legally uncertain, over broad and contrary to international law since it makes no allowances for those foreign movements fighting undemocratic or oppressive regimes or engaged in lawful armed conflict in the exercise of the internationally recognised right of the self determination of peoples. Mr. Justice Richards held on both counts that these arguments were arguable. Similar challenges have since been launched by both these groups against the EU terror legislation.

The Workshop seeks to explore these legal challenges through its speakers who been involved in these actions from the outset.

General political concerns about the terror lists

Yet the Workshop also seeks to look beyond these specific legal challenges and ask why the UK Government felt it politically necessary to (1) give itself such an over broad political discretion with no commitment to democracy or recognition of internationally recognised legal norms; and (2) group together terrorist, separatist, resistance, and liberation groups on a "take or leave" it list, without proper consideration of the individual merits in respect of each group.

Some observers believe that the Terrorism Act 2000 forms part of a wider and deeply politicised process preceding 9/11 in which States have resolved between themselves to reinforce the supremacy of state sovereignty at the expense of international law, by co-operating to stop each other's territory from being used by foreign resistance movements irrespective of whether such movements are legitimately defending themselves against attack by an oppressive or racist regime. Classic examples include the PMOI, which according to official papers was only proscribed by the Clinton Administration and later by the EU as a "good will

gesture" towards Iran, and the KONGRA GEL which found itself proscribed by the EU despite having observed a 6 year cease-fire during which no acts of violence occurred.

A dangerous lacuna

Why does all this matter? It matters because, more often than not, the source of violence around the world occurs where there is no democratic outlet for dissent or credible protection for persecuted peoples and minorities.

There is a dangerous political and human rights lacuna in the international system which has consistently failed to address the position of stateless nations, peoples, and persecuted minorities, and those involved in the collective fight for democratic reform against authoritarian regimes. Instead, Members States within the United Nations have preferred to reinforce the virtual inviolability of the system of state sovereignty, save in the exceptional circumstances where the Security Council authorises use of force under Chapter Seven. This lacuna has led to numerous internal conflicts which could have been avoided had certain avenues of international political and legal redress been available. For many observers, recent terror legislation, such as the Terrorism Act 2000, simply entrenches this process through its failure to distinguish between terrorism and true resistance movements.

The underlying problem

Underlying all of this is the continued failure of the international community to reach an agreed consensus about what constitutes terrorism. Since 1963 there have been numerous international conventions dealing with aspects of "terrorism" yet none contain an internationally agreed definition. Even the most recent 1999 UN International Convention for the Suppression of Terrorist Bombings[11] and UN Security Council Resolutions 1368[12] and 1373[13] fail to define "terrorism." Indeed, such failure has moved Rosalyn Higgins, Judge at the International Court of Justice, to comment that "terrorism is a term without any legal significance. It is merely a convenient way of alluding to activities, which States or individuals widely disapprove of."

The consequence is that since 2001 the UN has effectively outsourced the definition of terrorism to Member States. Thus, after the UK and the USA passed their recent terror legislation, Australia, Belarus, China, Egypt, India, Israel,

[11] Adopted 9 December 1999
[12] Adopted 12 September 2001
[13] Adopted 28 September 2001

Jordan, Kyrgyzstan, Macedonia, Malaysia, Russia, Syria, Uzbekistan and Zimbabwe all followed suit. Unsurprisingly, these states define terrorism in a way that best suit their interests. Many fail to protect the principles of self-determination and democracy, as both constitute a threat to the power and authority of the nation state. As Helena Kennedy QC, the former Chair of the British Council, perceptibly notes:

"Until there is an internationally recognised and sufficiently restrictive definition, it will be hard to have confidence that struggles for self-determination and other political activities will not be wrapped up in accusations of "terrorism."

Kennedy is surely right when she warns of the danger of "the passing of anti-terrorist legislation against the backdrop of principle." The United Nations Human Rights Committee has expressed concern about the legislative measures taken by some countries and urged states to ensure that measures undertaken pursuant to resolution 1373 comply with the International Covenant on Civil and Political Rights. More recently, the Council of Europe issued *Guidelines of the Committee of Ministers on Human Rights and the Fight Against Terrorism*[14] stating that it is "absolutely necessary, to fight terrorism while respecting human rights, the rule of law and, where applicable, international law."

That is why this Workshop is important. It provides civil society with a unique opportunity to register its profound concerns about the present United Nations, European, and Members States' anti-terror strategy. In short, this Workshop is your chance to scrutinise present and future terror legislation and to help ensure that terror lists are not used as mere instruments of foreign policy without regard for the principles of national and international law.

[14] Appendix 3 to the Decisions of the Committee of Ministers, adopted at their 80th meeting on 11 July 2002 CM/Del/Dec(2002) 804 of 15 July 2002, http://wcm.coe.int/ViewDoc.jsp?id=296009&lang

Wolfgang Kaleck

On the concept of terrorism and on terrorist lists

1. Terrorism is a political concept, which pretends to be legal. Although there exist 12 conventions on UN level concerning acts, which are considered as terrorism (like hijacking, attacks on the safety of civil aviation or navigation, attacks against protected persons, taking hostages) there is no clear and worldwide accepted definition of terrorism so far. In the UN Report "A more secure world: Our shared responsibility" from 2004 the UN proposal definition is outlined:

That definition of terrorism should include the following elements:

(a) Recognition, in the preamble, that State use of force against civilians is regulated by the Geneva Conventions and other instruments, and, if of sufficient scale, constitutes a war crime by the persons concerned or a crime against humanity;
(b) Restatement that acts under the 12 preceding anti –terrorism conventions are terrorism, and a declaration that they are a crime under international law; and restatement that terrorism in time of armed conflict is prohibited by the Geneva Conventions and Protocols;
(c) Reference to the definitions contained in the 1999 International Convention for the Suppression of the Financing of Terrorism and Security Council resolution 1566 (2004);
(d) Description of terrorism as "any action, in addition to actions already specified by the existing conventions on aspects of terrorism, the Geneva Conventions and Security Council resolution 1566 (2004), that is intended to cause death or serious bodily harm to civilians or non-combatants, when the purpose of such an act, by its nature or context, is to intimidate a population, or to compel a Government or an international organization to do or to abstain from doing any act".

But the authors of the report acknowledge that "the search for an agreed definition usually stumbles on two issues": "the argument that any definition should include States' use of armed forces against Civilians" and "the second objection is that peoples under foreign occupation have a right to resistance and a definition of terrorism should not override this right". But they insist that " the central point is that there is nothing in the fact of occupation that justifies the targeting and killing of civilians".

Despite the unsolved problems of a legal definition, the United Nations, the European Union, the United States and the UK and others are periodically publishing their own terrorist lists.

2. UN and EU Terrorist Lists

Since the UN Security Council resolution 1267/1999 of 15.10.1999, lists of Taliban and Al Quaida members and organisations have been compiled in order to freeze their accounts and subject them to further commercial restrictions. UN Security Council resolution 1390/2002 made these restrictions even tighter. Since then, a new list of individuals and organisations has been compiled by Committee 1267 of the UN Security Council set up specifically for this purpose. These people and organisations either belong to or are associated with the Taliban and Al Quaida. One can see the list on the internet. The last update is from 18.10.2004 (http://www.un.org/Docs/sc/committees/1267/1267ListEng.htm). The last paragraph names those persons and organisations that the committee has recently removed from the list.

These steps taken by the UN Security Council to combat the funding of terrorism are known as "smart sanctions". In comparison to classic sanctions which are directed at States, that are sanctions against individuals or groups of individuals. With respect to the Taliban and Al Quaida these steps where originally justified through the fact that the Taliban was in office in Afghanistan and that it was therefore a question of State or quasi-State actors and those organisations connected with them. The sanctions, however, directly affect the basic rights of those directly concerned and also the commercial activities of their partners. The German Interior Ministry expert at the Finance Ministry, Dr Silke Albin (in: ZRP 2004, page 71 -) assesses the phenomenon as follows:

"The Security Council is thus doing in the fight against international terrorism what cannot be done in a free democracy: interfering with individual rights without simultaneously providing adequate legal support."

In order to meet their responsibilities to combat the funding of terrorism based on UN resolutions, the EU Member States have coordinated their actions under the umbrella of a common security and foreign policy (GASP) by taking up points of common ground, according to Art. 15 EUV, which are also directly implemented in European Law in Art. 301 EGV and possibly Art. 60 and 308 EG.

The EU has therefore, at least formally, made a connection to UN Security Council resolution 1373/2001. This was a direct reaction to the 11.09.2001 attacks and

made compulsory the obligation to freeze all forms of assets belonging to both individual suspects and suspected groups. Above and beyond this the funding and support of terrorist organisations was made a punishable offence. In order to oversee the implementation of this obligation a UN Security Council Committee was indeed set up (Counter-Terrorism Committee). The original intention of this UN-SR-resolution was not however for the Committee to produce independent lists. (It remains to be seen what the working group set up on the basis of the UN Security Council Resolution 1566 of the 8.10.2004, which is supposed to deal with terrorist organisations above and beyond the original target group, will propose.) At the EU level, however, independent lists have been produced regarding probable Al Quaida and Taliban members which go beyond those of the UN Security Council Committee 1267. In so doing the EU has made worse the initial teething problems of smart sanctions.

3. The inclusion of individuals and organisations on the EU list is said to serve merely to implement the measures to counteract the funding of terrorism and focuses on freezing monies, financial assets and economic resources, as well as prohibiting the provision of economic services to the persons and organisation. There is no known official documentation whether and to what extent action has been taken based on the EU decree against the organisation or individuals or commercial partners. But the lists have other important effects on listed persons and organisations:

- with regard to alien, asylum and naturalization law cases in the last years a whole host of decisions has been made in which the inclusion of on the EU List of persons and organisations has been referred to directly at EU level
- in domestic criminal procedure prosecutors and courts refer to the inclusion of persons and organisations on the lists
- freedom of speech and assembly are severely effected because national authorities forbid speeches by persons who are supposed to belong to listed organisations and manifestations are prohibited e.g. a People's Mojahedin of Iran – who are on the list - manifestation in February 2005 was first prohibited in Paris and then forbidden for the same reasons in Berlin.

The listing of persons and individuals effects therefore a number of basic human rights, such as the right of peaceful assembly and to freedom of association, right to a legal remedy, right to property and the right to defence without giving the affected the right to take an effective legal action against a measure based on the listing or against the listing itself.

4. The EU Listings and the measures associated with them are therefore political decision-making devoid of any form of legal character or fairness. The entire context of the measures thus not only spectacularly contradicts the character of EMKR human rights as a right to self-defence but also from a philosophical legal point of view removes their legal character. The listing process, the UN Resolutions at the base of it along with EU decrees and the sanctions, which go hand in hand with them, may at least in philosophical legal terms not achieve any validity. The main factor in the philosophical legal assessment of the listing measures is their absolute arbitrary character, which is able to seriously compromise the rights to freedom of both the individual and organisations sparing no thought at all for the simple concept of a fair trial.

It is precisely the arbitrary character of "Law" in dictatorships. There politics are to have unlimited access to intervene so as not to have to erect a legal fence against politics. In systems of this nature the legal principle that Law should limit power and politics does not apply. This principle, however, differentiates between Law and Non-Law. Should the EU, with the Terror Lists, not correct the path to Non-Law but continue and extend it to other areas of application, there would then be a fateful development to a Law which exists only in name. In reality this is indeed emerging as a form of political enemy Law.

Following the end of the East-West confrontation and the fall of the iron curtain, this would be a route back to the legal understanding of the fallen old political systems, which were thought dead. To clearly refer to this consequence does not in any way mean simply painting things in black and white. Much more it requires the EU to look at itself in political terms, not least through the EU Constitution, approved but not yet in force; a form of self-identification striving towards integration, multiculturalism and overcoming impenetrable borders. If this development is to be found in an undemocratic instrument of Non-Law, then the price will be a serious erosion of citizens` civil rights and rights to freedom.

The wealth of thinking of the French Enlightenment will belong to the past and only the economic security of a "unified" Europe will be at the fore and a concept of security, which is only interested in efficiency, will prevail. In this context it is the Economy and Efficiency and not political freedom or civil rights, which appear to have the upper hand already.

Hikmet Tabak

While I was a student the Kurdish question was begging to be solved, and it was inevitable that I would become involved in politics. After Turkey's military coup in 1981 I was imprisoned at the age of 18 and released at the age of 29. I was one of the youngest people to be imprisoned but I was not alone; over half a million people were in Turkish jails at that time and I was lucky to stay alive.

In 1993 I was granted refugee status in the UK. In March 1995, together with colleagues, we started the first Kurdish satellite television station in history. The station could circumvent the censorship imposed by the governments of Turkey, Iraq, Iran and Syria on the Kurdish people by broadcasting from the UK and Belgium. It reached 70 countries and was adored by the Kurds, who pledged everything they could to support and keep the television going. I became the stations' director.

The fact that we used satellite technology to broadcast the Kurdish language to the Kurds outraged the Turkish state, as even the language had been prohibited in Turkey for generations. I was made a public enemy for my involvement with the station and was featured on the front pages of Turkish media. They alleged the station was involved with terrorism but anyone who knows the true history of the station and the Kurds knows that is not the case at all.

Even though we were operating lawfully as a European company within the ITC guidelines, the Turkish government exerted diplomatic and political pressure in every way they could to ensure that other countries would not allow us to broadcast. Some of those countries colluded with that intimidation and harassment. The station's journalists were harassed and intimidated in every possible way; the stations' satellite broadcasts would be jammed. We applied to so many institutions for support- EBU, ITU, DTI, WTO- but none of these institutions defended our rights as a company or broadcasters, in spite of their obligations. Turkey was member of each of those.

It is not surprising that Turkey is anti-democratic and would use every power it could to stop the television. It is more surprising that European institutions allowed themselves to be manipulated in this way. On a journey to Switzerland in 2001 I was arrested and subsequently discovered that the Turkish government had persuaded Interpol to add my name to their red bulletin list. This has jeopardised my safety anywhere outside the UK; as other states could decide to send me to

Turkey, where I would face a life sentence as revenge for my involvement with the Kurdish television station.

I have now taken the first case concerning such actions by Interpol to the European Court of Human Rights in Strasbourg. In the meantime, after eleven years of torture in Turkish jails and being granted asylum in the UK, I cannot believe that I still am not free, due to the collusion of other governments with the Turkish state, and due to Interpol.

Masoud Zabeti

Proscription under the Terrorism Act 2000
Focus on the case of the People's Mojahedin Organisation of Iran ("the PMOI")

It has long been a principle of English law that the Courts have a duty to act as a 'check', to ensure that the executive does not unjustifiably interfere with the civil liberties of citizens. Lord Atkin stated in the case of Liverside -v- Anderson [1942] AC 206, 244:

"In this country, amid the clash of arms, the laws are not silent. They may be changed, but they speak the same language in war as in peace. It has always been one of the pillars of freedom, one of the principles of liberty for which on recent authority we are now fighting, that the judges are no respecters of persons and stand between the subject and any attempted encroachments on his liberty by the executive, alert to see that any coercive action is justified in law." Liversidge -v- Anderson [1942] AC 206, 244, per Lord Atkin.

I intend to discuss the Terrorism Act 2000, the unsatisfactory manner in which organisations found themselves to be proscribed and the costly, time consuming and almost vertical, rather than uphill, task of attempting to get themselves de-proscribed. It is not my intention to undermine effective and lawful measures against the scourge of terrorism, but any measures that are necessary to deal with terrorism should be attended by adequate legal safeguards. Further, in my view the fight against terrorism must be directed against real terrorists and their sponsors, not legitimate resistance movements. Unfortunately, it would appear that many countries are now using terrorist lists as a tool of foreign policy and as part of trade negotiations. In recent years there has been much talk of 'regime change'. Well known terrorist lists are in some cases being used to ensure 'regime no change'. In other words, for foreign policy reasons and in the desperate lust for short-term trade gains, certain Western countries have conspired with oppressive regimes to proscribe and place restrictions on the activities of their opposition movements, thereby prolonging the oppressive rule of such regimes.

The case of Iran is a particularly interesting example. The theocratic rulers of Iran have for many years been recognised as "the most active state sponsor of terrorism." They have been responsible for sponsoring and carrying out over 450 terrorist atrocities around the world, from large-scale bombings to the assassination of their dissidents. In fact, the Iranian regime's leaders are wanted in countries

such as Switzerland, Germany, Italy and Argentina for ordering such atrocities. Prime Minister Blair told the Liaison Committee of Parliament on 8 February 2005 that the Iranian regime "certainly does sponsor terrorism. There's no doubt about that at all." In addition, the Iranian regime has an appalling and ever worsening human rights record, which recently included the hanging of a 16-year-old girl in public for 'acts incompatible with chastity' and the lashing to death of a 14-year-old boy for eating in public during the holy month of Ramadan. In a strongly worded resolution in December 2004, the UN General Assembly condemned the Iranian regime once again for systematic and widespread abuse of human rights. Another issue of concern to the international community is the Iranian regime's aggressive pursuit of nuclear weapons. Therefore, I do not believe that there can be any doubt about the vile nature of this rogue regime.

In contrast, the main opposition to the Iranian regime, the PMOI, aims to establish a secular democracy in Iran, in which there exists a separation of church and state and a respect for human rights. During the two debates in Parliament on the Order containing the Secretary of State's proposed list of terrorist organisations, many MPs and Peers protested at the inclusion of the PMOI. By way of example, during the House of Lords' debate, Lord Archer of Sandwell QC proposed an amendment to remove the PMOI from the list. He went on to state:

"I do not believe that a free society, where people can live together in peace, can best be brought about by violence. But I understand why the movement [PMOI] came to believe that there was no other way. If I believed that it used indiscriminate violence or risked the lives of civilians, I would have no time for it and I would not be addressing your Lordships today. I believe that it confined its targets specifically to military bases and to senior officials of the regime who have themselves committed crimes against humanity."

The PMOI ceased all military activities in June 2001 and its members based on the Iraqi side of the Iran-Iraq border voluntarily disarmed in May 2003. Prior to June 2001, the PMOI's military activities were confined to its own country and carried out against an indisputably repressive regime's military and security apparatus in accordance with the Geneva Conventions. In any event, the Preamble to the Universal Declaration of Human Rights recognises the recourse to armed opposition, as a last resort, as an inalienable right of any mass movement that reflects the will of the nation. Further, in the Order before Parliament containing the list of terrorist organisations, the Secretary of State accepted that the PMOI has not "attacked UK or Western interests" and therefore it poses no threat to the UK, as its activities are confined to Iran.

Another interesting development in the past year was that on 2 July 2004, the Coalition recognised the status of members of the PMOI based along the Iraqi side of the Iran-Iraq border as "protected persons" under the Fourth Geneva Convention. Following the recent war in Iraq, the Iranian regime had sought to forcibly have them returned to Iran. On 27 July 2005, the New York Times wrote: "A 16-month review by the United States has found no basis to charge members of the MeK [PMOI] in Iraq with violations of American law." It also quoted senior American officials as saying "extensive interviews by officials of the State Department and the Federal Bureau of Investigation had not come up with any basis to bring charges against any members of the group."

Further, the central role played by the PMOI in the struggle for democracy in Iran has been recognised by many in both Houses of Parliament. In March 2001, 337 MPs (a Commons majority) and 100 peers signed a statement declaring the PMOI a legitimate resistance movement and asserting that, "a regime which allows no peaceful dissent and persecutes its opponents makes it inevitable that people will exercise their rights under the UN Declaration of Human Rights to oppose the mullahs' tyranny." In this respect, the PMOI point to the fact that in the past 25 years over 120,000 of their members and sympathisers have been executed by the Iranian regime, including the slaughter of 30,000 PMOI political prisoners in a few months period at the end of 1988. This massacre was carried out on the orders of Ayatollah Khomeini whose fatwa stated: "It is decreed that those who are in prisons throughout the country and remain steadfast in their support for the [PMOI] are waging war on God and must be executed." Addressing the committee that was to implement the massacre, he wrote: "I hope that with your revolutionary rage and vengeance toward the enemies of Islam, you would achieve the satisfaction of Almighty God. Those who make the decisions must not hesitate, nor show any doubt or pay attention to details."

This all raises the question – why does the PMOI find itself on lists of terrorist organisations?

The PMOI was included in terror lists as part of a wrong policy to reach out to the Iranian regime and not out of concern over terrorism. This happened first in the U.S. and European governments followed suit several years later. The U.S. State Department's allegation of terrorism against the PMOI has its roots in the Irangate fiasco in the mid-80s, when in exchange for the release of American hostages held in Lebanon by the Iranian regime's proxies, the State Department issued a statement calling the PMOI a "terrorist" organisation. In 1987, a Congressional

inquiry into the fiasco revealed that the Iranian regime had told U.S. officials that one of its main conditions for releasing American hostages in Lebanon was for the U.S. to brand the PMOI as terrorist (Tower Commission report p. 359).

When in October 1997, the U.S. State Department included the PMOI in its terrorist list, the Los Angeles Times wrote on 9 October 1997: “One senior Clinton administration official said inclusion of the People's Mojahedeen was intended as a goodwill gesture to Tehran and its newly elected moderate president, Mohammad Khatami.” On 13 October 1997, Reuters reported: “A U.S. decision branding Iran's main rebel group "terrorists" is being seen in Tehran as the first positive sign of American goodwill towards the new government of moderate President Mohammad Khatami. Diplomats, analysts and Iranian newspapers said on Monday the U.S. move was important because it satisfied one of Tehran's basic demands.” A number of years later (26 September 2002), Newsweek reported Martin Indyk, the US Assistant Secretary of State for Near Eastern Affairs at the time of the PMOI designation, as stating: “[There] was White House interest in opening up a dialogue with the Iranian government. At the time, President Khatami had recently been elected and was seen as a moderate. Top administration officials saw cracking down on the [PMOI], which the Iranians had made clear they saw as a menace, as one way to do so.” This is an astonishing admission and highlights how terror lists can be used as tools of foreign policy.

In relation to the EU, it is interesting to note that after the proscription of the PMOI by the EU in May 2002, the Iranian Foreign Minister declared on a number of occasions that the Iranian regime had formally asked the EU to include the PMOI in its list of terrorist organisations. The Spanish ambassador said in an interview with the Iranian daily Entekhab on 28 October 2002, "There were three issues that Iran wanted to address with the EU. When Spain was the President, the two sides were able to resolve these differences. One of the major issues was including the People's Mojahedin Organization to the list of terrorist groups by EU." Even more shocking, on 21 October 2004, AFP news agency reported that as part of the incentives/concessions given to the Iranian regime in order to convince it to put an end to its uranium enrichment activities, the EU-3 stated, “If Iran complies, we would continue to regard the MEK (Iranian resistance group) [PMOI] as a terrorist organisation.”

As Lord Slynn of Hadley stated in the European Parliament on 15 December 2005, either the PMOI is a terrorist organisation or it is not. It cannot be a terrorist organisation if the Iranian regime complies with its nuclear obligations and not a terrorist organisation if it does not. This shows how the EU has used the unjustified

terror tag against the Iranian Resistance as a bargaining chip during its negotiations with the Iranian regime. In the same meeting in the European Parliament, Mrs Maryam Rajavi, the President-elect of the Iranian Resistance stated:

"Let there be no doubt: European policies such as critical dialogue, constructive engagement and human rights dialogue will not change anything as far as the [Iranian] regime is concerned. Appeasement is not the way to contain or change the regime. Nor is it the path to avoid another war. Appeasement only emboldens the mullahs. The answer to fundamentalism is democracy. As I said at the outset, we do not have to choose between appeasement and war. The equation of "either a military invasion or appeasement" is an exercise in political deception. A third option is within reach. The Iranian people and their organised resistance have the capacity and ability to bring about change.

The biggest obstacle to democratic change in Iran is the policy pursued by Western governments. The West is compromising with Tehran at the expense of the Iranian people and Resistance. The most important, illegitimate and damaging action was accepting the mullahs' demand to put the terrorist tag on the Iranian Resistance. This label has no real basis or legal credibility. It has been used by the United States and Europe to engage in deals with the mullahs."

Mrs Rajavi's views about the terror tag against the PMOI having no legal basis has been endorsed by a dozen legal opinions written by distinguished experts in international and European laws, including the Rt. Hon. Lord Slynn of Hadley (former judge of the European Court of Justice), Prof. Eric David, President of the International Law Centre of Brussels University, Prof. Jean-Yves de Cara, President of the International Law Institute of the University of Paris-V; Prof. Bill Bowring and Prof. Douwe Korff of the Human Rights and Social Justice Research Institute of London Metropolitan University, Prof. Henri Labayle, Professor of Community Law at Pau University, Prof. Bruno Nascimbene, Professor of International Law at the University of Milan; Dr. Joerg Arnold from Humboldt University in Berlin, Wolfgang Kaleck, President of the Republican Lawyers Association in Germany, Kenneth Lewis, President of Lawyers Without Borders in Sweden (with Prof. Owe Bring, Professor of International Law at the University of Stockholm), and Dr. Reinhard Marx, one of Germany's top experts in asylum law.

Regrettably, the unjustified terror tag against the Iranian Resistance has been used to place all sorts of restrictions on the peaceful activities of its members and sympathisers even in the heart of Europe. By way of example, the French government recently withdrew its authority at the last moment for a rally that was

to be attended by 50,000 Iranians in Paris to protest against human rights abuses in Iran. However, worst still in June 2003 the French authorities carried out brutal raids against the homes of Iranian refugees and sympathisers of the Iranian Resistance in Paris. Approximately 150 people were arrested and detained for a number of days. Two years on, no evidence of terrorism has been found and not a single person has been charged with any offence. Yet massive restrictions remain on the movements and activities of those who were arrested. It is no surprise that whilst carrying out such favours for the Iranian regime, France has gone from 27th to 2nd in Iran's league table of largest trading partners.

Bearing in mind the enormous damage that a terrorist label can do to an organisation, its members and sympathisers, it is quite clear that too much discretion is given to governments in deciding which organisations they proscribe and which they do not. What is worse is that there are no adequate legal safeguards to ensure the proper use of such discretion and avoid the use of such lists as a foreign policy tool or as part of trade negotiations.

INTELLIGENCE AGENCIES

Tony Bunyan

I will look at the changing role of internal security agencies and external intelligence agencies post 11 September 2001 and 11 Madrid 2004, and at the emerging European state.

The "war on terrorism", based on the "politics of fear" has replaced the Cold War as the legitimating ideology for globalisation. The "war on terrorism" has become permanent.

Among the examples I will use are:

1. The changing relationship between the law enforcement agencies and the security and intelligence agencies and the increasing use of the latter's techniques by the former.
2. The surveillance of migrant communities, refugees and asylum-seekers.
3. The new Internal Security Committee proposed under Article 261 of the EU Constitution.
4. The EU's Security Research Agenda

and

SITCEN's emerging role

An indication of the growing executive power of the Council is the role of the Joint Situation Centre (known as SitCen). Last year Mr William Shapcott, Director of SITCEN, gave evidence to the House of Lords Select Committee on the European Union's examination of EU counter-terrorism preparation (14 November 2004). He said that SITCEN "had existed as a sort of empty shell" until 11 September 2001 but that soon after the sharing of intelligence and assessments on external relations started. Later, in 2004, it was decided to extend the scope of SITCEN to cover internal security too especially through national security services (Solana announced as much in July 2004, see *Statewatch* vol. 14 no 5).

What is revealing in Mr Shapcott's answers to the committee is the status of SITCEN – it is not as we might have implied previously part of the emerging military structure:

“the Situation Centre has always been in the [General] Secretariat. We have been quite careful, even from the beginning, not to formally have it in the Second Pillar. We have played with Solana’s double hatting. He is the Secretary General; we are attached to his cabinet, so we are squarely in the Secretariat General.. [and] Solana has contacts with Justice Ministers that he never used to have. I now go to a host of JHA Committee meetings which I would never have dreamt of a long time ago.”

Mr Shapcott also told the committee that SITCEN was looking forward to the new Constitution coming into force, as this would give it direct access to the 128 EU missions based around the world. At the moment they are “Commission delegations” but “the Commission does not like us [SITCEN] to task them”. Under the Constitution the “External Action Service” will come into being and “we can task them, we can steer their activities”. Under the Constitution Mr Solana, currently the Council’s “High Representative” common foreign and defence policy, will become the EU Foreign Minister.

The Council is clearly bidding to take over the Commission’s current external relations role, though many in the European Parliament are not happy with this idea.

Bethany Barratt and Christian Erickson

Prudence or Panic? Preparedness Exercises, Counter terror Mobilization, Media Coverage and Public Opinion – Dark Winter, TOPOFF 1, 2, 3 and Atlantic Blue

Preparedness exercises are not only ostensibly designed to test for weaknesses in the internal security and public health apparatus, but are also explicitly designed forms of information warfare and perception management/manipulation. They are often based on questionable assumptions which may serve to exaggerate potential threats and to justify continued or intensified "homeland security" or "resilience" mobilization. As such they are intended to 1) reassure the population of the state's ability to respond to weapons of mass destruction (WMD) incidents, 2) communicate a message of deterrence to potential "enemies," be they domestic or transnational terrorist networks, criminal organizations, or states, and 3) create an environment conducive to the support of extensions of emergency and police powers. We locate the current counter terror and homeland security mobilization in a broader historical context by comparing current preparedness exercises and guidelines to civil defence exercises during the Second World War and Cold War.

We examine chemical, biological, nuclear, radiological, and explosive (CBNRE) preparedness exercises in the United States, and lay the foundation for extending this research to the United Kingdom and Canada. Our case studies are Dark Winter and TOPOFF (Top Officials) 1, 2, and 3 as well as Atlantic Blue, the UK joint exercise to TOPOFF 3. First, we examine these exercises in historical context. Second, we explore the extent to which response and recovery institutions of the US and UK learn from these exercises. Third, we attempt to determine the effect, if any, of media coverage on the conduct of these exercises. The case studies are selected to allow us to determine the answers to the following questions:

- Are the exercises necessary tests of the capacity of the internal security apparatus and public health system (the "first responders") to cope with imagined scenarios?
- Are these scenarios likely to occur?
- To what extent are the exercises staged events largely aimed at perception management?

The answers to these questions are highly significant, because if exercise designers have perception management as their primary goal, the exercises may be largely

ineffective at testing the capacity of the government to respond to such threats, as well as reflecting a certain amount of disingenuity on the part of exercise designers. And if these exercises are designed to exaggerate potential threats and manipulate public opinion in order to support continued mobilization of the internal security apparatus of states, they may also normalize the militarization of response and recovery operations, through the assumptions underlying the exercises.

Many of the same issues raised by recent preparedness exercises were previously raised in the Cold War era of civil defence. Often, Cold War preparedness exercises were double-edged nature: while they reveal problems in civil defence or homeland security mobilization that institutional innovation, adaptation, and resource distribution can address, they also reveal these same problems to the citizenry and to potential enemies. These problematics are therefore not unique, and historical antecedents provide a wealth of valuable knowledge about both the potential and limits of such exercises.

In the 1990s, the growing threat posed by CBNRE incidents became one of the dominant internal security concerns of the US federal state and local entities tasked with counterterrorism and emergency response and consequence management missions. These concerns resulted in a dramatic increase in the amount of resources devoted to the entities that were tasked with WMD incident response. As a result of the lessons learned from previous exercises and simulations, a number of new initiatives have created exercises and simulations designed to reflect this new security environment. We believe that the main messages that the designers of these exercises hope to convey are: 1) that there is a growing threat of such incidents; 2) that additional resources need to be devoted to responding to these types of incidents; and 3) that both elite and public opinion need to be shaped in an attempt to ward off, if possible, the anticipated disorders and panic that would ensue from a catastrophic attack involving CBNRE weapons.

We also examine of the role of homeland security preparation and public perceptions thereof in the 2004 US election.

TOPOFF 3 and Atlantic Blue:

The most recent of our case studies is TOPOFF 3, which was a joint exercise with the UK and Canada. The UK and Canadian elements were respectively known as “Atlantic Blue” and “Triple Play”. TOPOFF 3/Atlantic Blue and Triple Play took place on April 4th-8th, 2005. The US component of TOPOFF 3 was a full-scale

exercise involving a simulated attack on a series of locations across the US. The UK and Canadian versions of the exercises were "command post" exercises (CPXs) that simulated reaction of senior level decision makers at the strategic level, and did not involve simulated casualty and response management exercises. Notably, the discussion about the UK exercise was, of these, the one that most explicitly cited civil liberties concerns. This may have been due, in part, to higher salience due to both the Civil Contingencies Act of 2004 and the creation and operation of the Government Decontamination and Recovery Service, also in 2004. Something else that suggests that public opinion can play a major role is the fact that the Civil Contingencies Secretariat delayed the publication of a revised package of regulations and statutory guidance related to the Act until July 2005, because of the election. In fact, Atlantic Blue itself was scaled back from a full-scale to a CPX exercise because of Labour fears. Leadership was concerned that images of troops and response personnel in "moon suits" might have been too disconcerting immediately prior to May 5.

Debates about the militarization of internal security, especially in regards to response and recovery exercises, have been much more muted in the US than in the UK. In the US, the growing involvement of the United States military (principally the Army and Army National Guard) in response and recovery, as well as the establishment of the NORTHCOM, has been essentially normalized by the assumptions built into TOPOFF 2 and 3. Despite the fact that TOPOFF 3, Atlantic Blue, and Triple play were designed to "to practice the joint response of the UK, US and Canadian Governments to media handling and public information following a linked terrorist incident occurring in all three countries," the media relations and public perception impact of both Atlantic Blue and Triple Play were minimal. This was largely because Command Post Exercises were not open to the press, nor were they likely to generate sensational media images, such as those of the Osiris II exercises at the Bank Underground station in September 2003.

Permanent Crisis and Preparedness: Consequences of Sustained Internal Security Apparatus Mobilization.

Not only will the TOPOFF series of exercises continue, but there is slated to be increasing international coordination of these exercises. This fact, coupled with the potential permanence of the "war on terror", raises a number of important questions about the effect of long-term mobilization on a democratic polity. Reviewing the results of these exercises, and debates about preparedness that were part of the US 2004 election campaign and tangentially related to the 2005 General Election, domestic political dynamics appear to play as much a role in determining

the future course of preparedness and homeland security mobilization as do the real and imagined hostile actions of external enemies. The complexity of responding to CBNRE incidents is creating a pervasive and ubiquitous internal security infrastructure that is shaping political dynamics at all levels of governance.

One of the many questions posed by preparedness exercises, and perhaps the most important question of all, is how to negotiate between prudence and panic. How can a government conduct exercises that truly test the CBNRE response and recovery infrastructure without unintentionally creating feelings of anxiety and even paralysis in both elite and mass opinion in the face of exercises based on worst case assumptions and aggressive "red teaming"? Additionally, what are the consequences for a democratic polity if there exist incentives to manipulate public opinion through a constant succession of ever larger and more complex and realistic preparedness exercises?

Assuming that there is an end point to the "war on terror," will the increasingly institutionalized interests in charge of a pervasive security apparatus allow for resources to be redirected if they are no longer needed? Or will these interests have an incentive to play create rationale for continued mobilization? We raise these questions with the realities of the current security environment fully in mind. The danger of another mass casualty CBNRE incident is real. We are also cognizant of the fact that many of these preparedness exercises have an "all hazards" applicability (such as responding to SARS, avian flu, or disease outbreaks following other major disasters), and that there are a number of potential natural and technological disasters that also must be prepared for. Preparedness is indeed prudent, but it remains to be seen if the current mobilization is appropriate for the array of current and future threats.

More importantly, it remains to be seen if elite and public opinion about the new security environment will produce political leaders who will resist the temptation to use the politics of preparedness, which should be considered a critical and professionalized government service, for short term political gain.

Jonathan Bloch

The Accountability of the Security Services

I will be discussing a non subject – the accountability of the intelligence services. By accountable – we mean the ability to be brought to account, to be answerable for their actions, to be subject to scrutiny and ultimately to have their actions adjudicated upon in a court of law. Over the past decade there have been many structures put in place to ostensibly monitor the intelligence services as well as to give the public the means to seek redress if they feel that they have been unfairly treated.

My argument is that all these efforts have been a con. That in fact the intelligence agencies remain as lawless as previous despite having been placed on a statutory footing. As regards political accountability the parliamentary Intelligence and Security Committee stuffed with loyalist placement and women has focused on efficiency rather than the interaction of the security services with civil liberties. On the procedural side the various commissioners appointed under new legislation to review various operational aspects have never found anything substantially deficient. While the Investigatory Powers Tribunal established to examine complaints against the various security arms has amazingly yet to find in favour of any complainants. Meanwhile the number of wiretaps, covert agents and general surveillance increases.

In addition where ostensibly rights to obtain information have been given to the public such as the Data Protection Act and the Freedom of Information Act the intelligence agencies have been specifically excluded from their ambit. Furthermore there are wide exemptions available to withhold information on the dubious grounds of “National Security.” In order for organizations to be made accountable there has to be information made available so that one can judge their activities. This is not the case in the United Kingdom.

I have had personal experience of the denial of information and the lack of accountability of the intelligence services. In the early 1980s I co-authored a book “British Intelligence and Covert Action.” which named approximately 100 MI6 operatives. At the time I held refugee status and a battle ensued with the British Government who did not wish to grant me indefinite leave to remain, ultimately they wished me to leave the country. It was a long and bitter fight but in 1992 I was granted indefinite leave to remain.

After an amended Data Protection Act came in force allowing access to manual files I applied to the Home Office in 2001 to see my immigration papers. After a year of prevarication, a document was made available to me, which comprised extracts from various memos and letters. The documents had obviously been heavily censored to remove all references to intelligence agencies, informants etc but there was one intriguing reference which went as follows" Extract from note by official dated 7 January 1987 The latter (immigration control decision) was intended by Ministers to produce a real effect: to harass Bloch so that he could never be certain that his stay here was totally guaranteed." I recollected many other acts of harassment and decided to seek further clarification and information.

I requested a review of the decision to withhold the vast amount of data which obviously had not been released. The review came back negative saying that they had released all the documentation that I was entitled to, no reasons were given and no exemptions were cited. After that I approached the Information Commissioner for an assessment under the Act as to whether the Home Office had breached the Act. Initially this assessment was declined but after it had been pointed out to the Information Commissioner the importance of an independent check as to whether the information which had not been disclosed actually fell within the exemptions of the Act the Commissioner served an Information Notice on the Home Secretary requiring him either to provide the Commissioner with copies of the information which had been withheld or alternatively to allow the Commissioner to inspect the information. At this point Mr Blunkett the then Home Secretary slapped a Section 28 certificate on the Information Commissioner denying them access to my files on the grounds of national security. The Information Commissioner has subsequently appealed the decision to the Information Tribunal and we await the decision in July 2005.

In my talk I will be covering all the various forms of accountability that have been introduced, their shortcomings and will chart some demands that should be made at a political level.

POLICING

James Welch

Recent years have seen a radical increase in police powers, often granted in the name of fighting terrorism. These include:

Section 60 of the Criminal Justice and Public Order Act 1994 allows a senior police officer to authorise stops and searches within a given area where he/she has reasonable belief that incidents involving serious violence may take place. The authorisation can only last up to 24 hours. Once this authorisation is given the police can stop and search anyone, whether or not they have any grounds for suspecting that individual.

Section 60AA of the Criminal Justice and Public Order 1994 also allows the police to use this authorisation to require people to remove any item which they reasonably believe is being worn wholly or mainly for the purpose of concealing their identity, and to seize that item. This power was introduced by the Anti-terrorism Crime and Security Act 2001. That Act also created a new section 64A of the Police and Criminal Evidence Act 1984 (PACE), which permits the police to require someone to remove any item worn over their head or face before being photographed by the police and to remove it themselves if the person does not comply. These powers could be used to force people to remove items worn for religious reasons, for example the hijab.

Section 44 of the Terrorism Act 2000 allows the police to authorise stop and searches in a specified location if the police think it 'expedient for the prevention of acts of terrorism'. This authorisation can last up to 28 days but can be renewed on a rolling basis. As with section 60 the decision to search does not have to be based on suspicion of the particular individual. In September 2003 the Metropolitan Police used these powers to search people demonstrating against an arms fair. It then came to light that an authorisation under section 44 had been in place for the whole of Greater London since the Terrorism Act came into force. The guidance to police officers under PACE (Code A) gives the following guidance on the use of the power under this section: "Officers must take particular care not to discriminate against members of minority ethnic groups in the exercise of these powers. There may be circumstances, however, where it is appropriate for officers to take account of a person's ethnic origin in selecting persons to be

stopped in response to a specific terrorist threat (for example, some international terrorist groups are associated with particular ethnic identities)."

Section 41 of the Terrorism Act 2000 allows the police to arrest someone they reasonably suspect to be a terrorist. In addition, section 43 of the Terrorism Act 2000 gives any police constable the power to stop and search a person whom he/she reasonably suspects to be a terrorist.

Section 30 of the Anti-Social Behaviour Act 2003 allows the police to designate areas for up to 6 months. Once an authorisation is given the police can require a group of two or more people to disperse if they have reasonable grounds to believe that harassment, intimidation, alarm or distress are likely to result. They also have the power to take anyone they believe to be under the age of 16 home.

Section 57 of the Anti Social Behaviour Act 2003 reduced the number of people that constitute a public assembly from 20 to 2. This means that the police can now use their powers under section 14 of the Public Order Act 1986 to impose conditions on a static demonstrations where consist of only 2 people.

Section 110 of the Serious Organised Crime and Police Act 2005, which is yet to come into force, makes all offences arrestable. At present the police only have an automatic power of arrest for more serious offences and cannot generally arrest for less serious offences.

Although the Government has disavowed any intention to make it compulsory to carry an identity card or to produce it on demand to a police officer, it is hard to imagine how the scheme can operate effectively without such a requirement.

The use of these new powers, particularly those contained in anti-terrorism legislation, have been considered in a recent Home Affairs Select Committee report (HC 165-I), which concluded that community relations in Britain have deteriorated as a result and calls for greater recognition of the problems of Islamophobia. Official figures show that stop and searches on 'Asians' (they are not broken down by religion within this category) have increased from 744 in 2001/02 to 3668 in 2003/2004, an increase of 393%. The report calls for independent scrutiny, involving the Muslim community, of police intelligence, and its use as a basis for stops and searches.

Harmit Athwal

Arrests and convictions under anti-terror laws

Our research has found that hundreds of Muslims have been arrested under terrorism powers and then released without charge. Most convictions secured in an open court under the 2000 and 2001 Terrorism Acts have been of non-Muslims.

Arrests

There is a huge gap between the number of arrests and the number of convictions under anti-terrorist laws (only seventeen convictions have so far been secured) is already well known. In numerous cases, there has been great media fanfare as the police have heralded the arrest of a so-called terrorist cell, only for the case to be quietly dropped days, weeks or months later. In numerous cases, people have been charged with all manner of terrorist offences, only for these charges to be dropped just before coming to court or thrown out by a judge soon after reaching court.

Often, there are what appear to be deliberate leaks from the police and/or intelligence services to the press at the time of the arrests. Not only may this prejudice any potential trial, it also serves to damage the reputations of innocent individuals. The subsequent admission that those arrested had done nothing illegal, hardly registers at all in the media.

Convictions

The low conviction rate of those arrested points to the excessive and discriminatory use of arrest powers against Muslim communities. This is further supported by the discrepancy between the religious background of those arrested and those convicted. While almost all of those arrested are Muslims, the majority of those so far convicted appear to be non-Muslims. The IRR has documented convictions under anti-terrorist laws since 11 September 2001.

Since arrests under anti-terrorist laws attract widespread media coverage while convictions of non-Muslims in court have not been widely reported, most people are left with the impression that the criminal justice system is successfully prosecuting Muslim terrorists in Britain. The reality is that large numbers of innocent Muslims are being arrested, questioned and released while the majority of those actually convicted in an open criminal trial are non-Muslim.

Guy Herbert

"The Police want ID cards" – misconceptions about the policing value of the proposed national identity management scheme.

1. Support for the scheme is widespread among the police, but far from universal. Sir Ian Blair or "David Copperfield" who's right?

2. Why do those police who want the scheme support it?

Purported usefulness in "identifying" suspects; chasing bail jumpers; investigative use of a national fingerprint database; easy access to criminal records; mass surveillance; convenience.

3. The fallacies.
   Too close to the job -- Disproportionate impressions. Misunderstanding identification vs. verification. Criminals don't play by the rules. Technological problems (I). Biometrics aren't magic (I). Investigatory and evidential fallacies: confirmation bias.

4. The new problems.
   ID card offences, enforcement and fraud. The scale of public problems. An antagoniser. Technological problems (II). Register mistakes. Biometrics aren't magic (II). Data overload. More bureaucracy.

5. Police are people too.
   Job and non-Job. Effect on police lives. The end of "The Circuit".

6. Conclusion.
   A nationalised ID system would certainly change police work and likely accelerate change in the relationship between police and public. The more elaborate and pervasive it is, the more it will do so.

Adnan Siddiqui

Accountability – Who Polices the Polices?

Almost 2 years have elapsed since Babar Ahmad, a 30 year old South London man, was arrested and assaulted by anti-terror police and found to have over 50 injuries on him with 2 potentially life threatening ones. Despite using all the appropriate channels and after an IPCC investigation only one officer involved in the assault was recently commended for his "bravery and professionalism" in his actions, the rest were cleared. On the backdrop of the recent apologies made to the Guildford 4 and Birmingham 6 who were brutalised in police custody as well as the experience of the Black community who have experienced over 1000 deaths in police custody since 1969,we have yet to see a police officer charged and dismissed. Without true accountability and transparency the police are able to abuse their powers and instead of protecting and serving the community are actually terrorising segments of it.

How can we redress this situation? This is vital since the Metropolitan Police are admired by numerous police forces globally who send their officers to learn "good practice". The concern is that other police forces will continue to use brutal practices but will learn how to project an illusion of accountability to legitimise their actions.

Secondly senior police officers are increasingly becoming politicised and making statements beyond the remit of their jobs without any repercussions and serving the needs of those driving the war on terror. Recent statements have included those of Ian Blair who publicly stated he wanted legal reform to prosecute people for "pre-crime"(see article attached) and ID cards, John Stevens' comments to the leading Sunday tabloid saying there were 200 trained al Qaeda terrorists on our streets and the comments of a senior police officer in Manchester who said the best way to control Muslim youth on the festivities of Eid was to install a machine-gun on the motorway to prevent their entry. All these statements should have resulted in investigation and some action. However this culture of impunity has permeated through the whole police force and if not addressed will have severe ramifications for us all.

It is in the interest of all people, but particularly the civil libertarians, to hold the police/security services to account since there are currently no effective measures in place and of more importance they cannot operate without the trust and consent

of the people they purport to serve. This workshop will discuss these and other related issues.

DETENTION

Richard Harvey

Detention without trial is more than a violation of the fundamental human rights of the detainee; it is a coercive governmental weapon of mass social control which inevitably and invariably results in torture, inhuman and degrading treatment.

Detention without trial violates Article 5 of the European Convention of Human Rights;[15] Article 9 of the Universal Declaration of Human Rights;[16] and Article 9 of the International Covenant on Civil and Political Rights.[17] Before it can be used, a government must file a declaration with the Secretary-General of the Council of Europe that there exists a war or public emergency threatening the life of the nation and that this emergency "strictly requires" detention.[18]

Detention without trial was employed by the UK government for a substantial portion of the 20th Century as a response to the struggle of the people of Ireland to

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15 (1) Everyone has the right to liberty and security of the person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:

(a) the lawful detention of a person after conviction by a competent court;
(b) the lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;
(c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;
…
(f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.

(2) Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.
(3) Everyone arrested or detained in accordance with the provisions of paragraph (1)(c) of this Article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.
(4) Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.
(5) Everyone who has been the victim of arrest or detention in contravention of the provisions of this Article shall have an enforceable right to compensation."

16 "No one shall be subjected to arbitrary arrest, detention or exile."

17 "1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.
2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.
3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgment.
4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.
5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation."

18 "In time of war or other public emergency threatening the life of the nation any High Contracting Party may take measures derogating from its obligations under this Convention to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law."

self-determination. Most notoriously, it was used on a massive scale from 1971 to 1975.

The US and British governments are guilty of grossly illegal treatment of prisoners during and following their wars on Afghanistan and Iraq. Certain other countries have also been criticised recently for their human rights violations in respect of incommunicado detention, including Spain;[19] Egypt;[20] and Pakistan.[21] However, no European country apart from the UK has sought to introduce detention without trial.

Although our Conference today is concerned with the 'War on Terror' in Europe, when we look at the detention without trial and torture, we must also consider the impact of "outsourcing torture," as one commentator has described the secret US programme of "extraordinary rendition" to countries such as Egypt and Uzbekistan.[22] The purpose of such rendition is to enable countries that prohibit torture by their domestic law to have other countries torture suspects on their behalf.

Detention cannot be divorced from torture. Every country that has used detention without trial has employed torture, inhuman and degrading treatment against its detainees, whether in apartheid South Africa's John Vorster Square; Long Kesh in Northern Ireland; Abu Ghraib in Iraq; or Guantánamo Bay in US-occupied Cuba.

Such abuses are not the result of aberrant behaviour by rogue elements in the army and police; they flow directly from government policy and systematic training in torture techniques. As Lord Justice Sedley said in a recent book review:

"Perhaps the strongest evidence that the abuse of prisoners in US hands has been systemic, not aberrant, is the simplest: it is the fact that those involved felt it was quite safe to be photographed repeatedly while committing it. Personnel who fear disciplinary reprisal, or even disapproval, do not usually make a visual record of their conduct."

Sedley LJ adds that, by labelling people "unlawful" combatants, governments seek to justify breaking the law themselves. "The word 'unlawful' in this context has

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19 Reports of the UN Special Rapporteur on the Question of Torture: http://www.statewatch.org/news/2004/nov/un-torture-doc1.pdf; http://www.statewatch.org/news/2004/nov/un-torture-doc2.pdf

20 http://web.amnesty.org/library/print/ENGMDE120402002, See also http://hrw.org/reports/2005/egypt0505/

21 http://www1.umn.edu/humanrts/commission/thematic53/97TORPAK.htm

22 Jane Mayer, Outsourcing Torture, http://www.newyorker.com/printables/fact/050214fa_fact6; See also: Isabel Hilton, The 800lb gorilla in American Foreign Policy, http://www.guardian.co.uk/print/0,3858,4980261-103390,00.html, Human Rights Watch, Egypt, Suspects Sent Back Face Torture, http://hrw.org/reports/2005/egypt0505/

no meaning except to signify that such people will be denied the protection of the law."[23]

Detention without trial does just that, it makes people outlaws. It enables the state to create conditions in which they can be subjected to torture, inhuman and degrading treatment. This is not only a systematic and intentional violation of individual rights, it is aimed at, and is successful in, terrorising a much wider audience. As Naomi Klein pointed out last week in her excellent article, *The True Purpose of Torture:*[24]

"The people being intimidated need to know enough to be afraid but not so much that they demand justice … The strategic leaking of information, combined with official denials, induces a state of mind that Argentineans describe as 'knowing/not knowing,' a vestige of their 'dirty war.'

"This is torture's true purpose: to terrorise – not only the people in Guantánamo's cages and Syria's isolation cells but also, and more importantly, the broader community that hears about these abuses. Torture is a machine designed to break the will to resist – the individual prisoner's will and the collective will."

And lest anyone doubt that the circumstances of indefinite detention without trial result in torture, inhuman and degrading treatment, let us remember that a significant number of the foreign national detainees interned in Belmarsh and Woodhill prisons suffered and continue to suffer acute psychological distress attributable directly to the Kafkaesque circumstances of their detention.

In the House of Lords SIAC decision, Lord Hoffman said of that detention:

"In my opinion, such a power in any form is not compatible with our constitution. 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. That is the true measure of what terrorism may achieve. It is for Parliament to decide whether to give the terrorists such a victory."[25]

For the time being, detention without trial has been beaten back. But the thugs in suits who favour such outrages against our liberties are still busy. The Home

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[23] Stephen Sedley, LJ: The Brutal Truth – the outrages of Abu Ghraib are no accident, Guardian March 5, 2005

[24] Naomi Klein, The True Purpose of Torture, Guardian May 14, 2005

[25] A and others v Secretary of State for the Home Department [2004] UKHL 56, at para. 97

Office is not giving up on grabbing for the power to implement more "control orders" with their grotesque echo of *apartheid's* "banning orders." They are already imposing the most oppressive conditions on the former detainees and are seeking ways to send them back to countries notorious for torturing prisoners.

Now the Home Office has once again set its sights on jury trial. In Northern Ireland in the early 1970s, when detention without trial became a political embarrassment, the government gutted the right to fair trial by simply abolishing jury trial for all cases of "terrorism." In the wake of the so-called Ricin Conspiracy trial (where the jury found that there had been no ricin and no conspiracy) and the Jubilee Line Fraud trial (where the case collapsed not because of defence manoeuvres or jury problems but because the case was mismanaged by the judge and the prosecution) the Home Office response has been to open up a new offensive against juries.

If it is true that Muslims in Britain today are the "New Irish" it is equally true that the techniques used 30 years ago to criminalise an entire community have changed little. If you can jail people more easily by implementing non-jury trials for "terrorist" offences then there's no need to intern them; by sleight of legal hand they have been turned from detained suspects into convicted criminals.

Within the next weeks, a leaf will be taken out of apartheid's book and we will all be forced to submit to 21st century "pass laws," which will give the police blanket powers to intimidate and oppress whole communities. If people violate those ID laws, we may be sure they will be imprisoned, neatly avoiding the use of internment.

When the apartheid regime first imposed banning orders over half a century ago, the late Dr. Yusuf Dadoo wrote: "Today, the whip of dictatorship is cracked down on the heads of the leaders of the Non-European people, tomorrow it will be the turn of the leaders of the trade union movement, and then all and sundry who do not see eye to eye with the policy of the Government will find themselves the victims of the law of the jungle."

Imprisonment without fair trial is merely detention by another name. Jailing people for violating unjust laws is merely detention by another name. If the House of Lords upholds a 2004 Court of Appeal permitting British courts to admit "evidence" obtained abroad as a result of a foreign governments' use of torture, this is no different from allowing police in Britain to use torture.

I do not want to end on a wholly pessimistic note. I believe we are strong enough to withstand these assaults on our liberty. But we will only be successful if we are active and vigilant; if we are united and strong. There is no excuse for any of us not knowing and challenging what is being done in our name, particularly when we have so many excellent websites providing the information we need for the struggle ahead.

For my part, on behalf of the Haldane Society of Socialist Lawyers, I am grateful for any feedback and suggestions to: richardharvey@juno.com

Julen Arzuaga

Antiterrorist rhetoric and detention in the Basque Country

The last years we have observed that security measures have been implemented in opposition to the enjoyment of the human rights and freedoms. Many governments have passed new legislation and designed measures to face the new situation, creating a “law for the enemy rather than for the citizen”. Anti-terrorist rhetoric has been exploited by states in their own interest. They have been free to define the concept of terrorism around and in the service of their particular needs. That is why, as there is no commonly accepted definition of terrorism, each government has decided to establish one in its own domestic or geo-strategic interests.

Many governments -United States of America, United Kingdom, Turkey, Israel, Colombia…and of course, Spain- have used the international consensus on the priority of combating terrorism to justify and even legitimate their fight against any form of political opposition or dissidence. It is again a matter of security versus freedom. We have detected the existence of two main practices that have become more and more usual when we refer to counter-terrorism by states:

First, are those special measures taken for the treatment of suspects accused under the generic charge of "being related to terrorist organizations". The widespread use of special legislation to deal with such detainees includes the denial of the presumption of innocence, arbitrary deprivation of liberty, violation of the fundamental principle of fair trial, incommunicado detention and refusal of the right to contact a lawyer… This situation can even result in such deep violations of human rights as torture, extra judicial killings and other mechanisms of what we call in the Basque Country the “dirty war”.

Second, we perceive a clear use of anti-terrorism laws as a pretext to attack peaceful opposition groups or dissident ideas. Several movements and organizations, whose work is public and legal, have been illegalized and included in national or international lists without fair judicial process that could allow these organizations to appeal such inclusions and defend themselves. In this regard, this legal insecurity has produced, besides the detention of militants that were acting in a complete public and transparent way, the flagrant violations of public freedom of opinion and expression, as well as the right of association.

In the design of this framework, the Spanish state has had a crucial role, because of its particular interests, regarding the Basque question. Now, the Spanish government can present the whole Basque opposition as terrorist and implement anti-terrorist measures in the two directions that we explained previously. It’s important to raise the voice of alarm in an attempt to prevent this situation being translated into other political contexts, wherever they are.

ASYLUM AND MIGRATION

Liz Fekete

° immigration and asylum law
° militarised borders
° anti-foreigner racism
° citizenship rights
° detention and 'warehousing' of refugees

Migrants, refugees and asylum seekers - many of whom have been the victims of terror – are now prime 'suspect communities' in the War on Terror.

Immigration policy is increasingly being subjected to the 'patriot' test. Citizenship laws have been 'securitised'. New immigrants have a duty to 'integrate' and cultural policy is based on assimilation.

Alongside the War on Terror is a War on Refugees. Just as the War on Terror has undermined the 1949 Geneva Convention on the Treatment of Prisoners of War – the War on Refugees has undermined the 1951 Geneva Convention relating to the Status of Refugees. Today, more asylum seekers than ever are being detained on arrival to Europe and deportation policies are pursued in violation of international law.

The War on Terror has resulted in a major attack on migrants', refugees' and asylum seekers' rights of association and freedom of expression. The EU-wide movement towards proscription of foreign organisations is an attack on the freedom of speech of those without citizenship rights. Refugees who may be linked to, or may merely sympathise with the goals of, proscribed organisations – for ethnic self-determination for instance – now find that their legitimate attempts to achieve democracy (from abroad) in their own countries are being stifled.

Security for the West is also security *from* refugees. Today, asylum seekers and migrants are demonised not just as 'economic migrants' and 'welfare scroungers' but as an 'invading army' who threaten our national security. All this justifies the passing of harsh anti-asylum legislation throughout the industrialised world that undermines the Universal Declaration of Human Rights and Article 31 of the Geneva Convention on Refugees which stipulates that it is not a crime to cross international boarders without valid documents if the purpose of doing so is to seek

asylum. From Australia, to the US and the EU, the militarisation of borders is linked to enhanced security against terror.

The EU is also attempting to use the military gains of the War on Terror to support a second line of attack on the Geneva Convention. It wants to create a new model of refugee protection based not on individual rights but on a system of ‘warehousing’ asylum seekers in large camps in their regions of origin until a conflict has been resolved - to the satisfaction of the western powers. Refugee camps in regions of origin could also be used to keep those asylum seekers that Europe has rejected and sent back.

Brighton Chireka

Isolation of the communities and the indirect support of the regimes abroad from which asylum seekers are fleeing from.

Asylum seekers seem have no rights and it will be worse when some of the laws are passed. At the moment the asylum seekers are being detained indefinitely without any hearing of their cases. Torture victims who need psychological support are finding themselves rotting in detention without anyone visiting them. "Visits by the group Asylum Welcome helped me to pull through my 2 years in detention", said one Zimbabwean asylum seeker.

Isabelle Saint-Saens

Migrants have been criminalized for a long time, before the fall of the Wall in 89 and 9/11. Identified, put aside by language (clandestine, illegal) as well as policies, deprived of their rights, segregated by neoracism, they are considered and often condemned as traffickers and smugglers. Those who are detained in camps have committed no other offence than crossing a border without papers.

European and national policies, by addressing the issue of "illegal migration", constitute migration as a problem while at the same time giving the institutional answers (repression, filtering, utilitarianism). While the international tools for the protection of human rights, seldom respected by the States, are becoming themselves an endangered species in need of protection.

Frances Webber

As a lawyer specialising in immigration and asylum in the UK, I am concerned at the effects which the 'war on terror' has on those seeking asylum here, those who entered as economic migrants but who have been caught up in anti-terrorist operations, and on British citizens and those seeking British citizenship, who come from Muslim backgrounds or from other 'suspect communities'.

The proscription of a large number of liberation groups in various countries and their designation as 'terrorist' has had a significant adverse effect on asylum seekers whose claims rested on their own authorities' response to their support for these organisations. The statutory enactment of a ten-year sentence in the UK for the peaceful profession of support for an outlawed organisation effectively precluded asylum claims based on punishment for peaceful profession of support for outlawed organisations at home. It also made claimants fearful of even mentioning any connections with such organisations, for fear of prosecution in the UK.

Arrest under the Terrorism Act 2000 in the UK makes it unsafe to go home for many whose original asylum claim has been rejected, because of the links between the security forces of the UK and those of repressive regimes round the world. But the Home Office routinely ignores such fears, sometimes seeking and obtaining 'assurances' from the authorities of the home country that the proposed deportee will not be jailed or tortured, assurances which are of no value whatever once the deportee is back in the home country.

Although the internment provisions of the Anti-terrorism, Crime and Security Act 2001 have now lapsed following the House of Lords' condemnation of them as discriminatory and unlawful, men detained for over three years have been mentally destroyed, and their torment continues under the new control order provisions. The Home Office is seeking to put tags on an ever increasing number of people, even those acquitted of any support for terrorism by the courts, and who are patently innocent. The internments had a profound intimidatory effect on migrant and asylum seeker communities, despite the small number of those interned, and had a profound effect too on the rule of law in the UK. The Court of Appeal authorised the use of evidence obtained by torture, in a ruling which violates international law.

The nationality provisions which came into force in 2003 signal the last goodbye to multi-culturalism and make not only the grant of British citizenship but also its retention conditional on ‘good behaviour’ as defined by the authorities.

The cumulative effect of these provisions has helped to create the most hostile climate ever for immigrants and asylum seekers.

GLOBAL POLITICS

Les Levidow

National Security = Our Insecurity

What is national security? Like many other governments, the UK invokes this imperative to justify restrictions on civil liberties, even attacks on human rights, such as the use of 'evidence' gained from torture. Among our progressive forces opposing such attacks, there has been some confusion about how to respond. It would be easy to say that national security depends on human rights, so that there is no conflict between the two. But such a response ignores the normal meaning of national security, while potentially entrapping us in sterile debates.

Instead we should confront its normal meaning head-on. National security has always been an ideological term conflating the needs of the state and the people. It is always linked with imperialist foreign policy; such a linkage is not new, though some forms may be new. We should learn from history by analysing the institutional contexts, strategies and framings of the term. We can draw on critiques by Noam Chomsky and Mark Curtis *(Web of Deceit).*

'National security' is an ideological agenda and language for exaggerating threats – indeed, for portraying Western aggression and domination as self-defence. Within this official discourse, especially of the USA, 'the nation is not an active agent, but rather responds to threats posed to its security, or to order and stability, by awesome and evil powers', argues Chomsky. In the name of self-defence, this concept has justified increases in military expenditure, even state terror abroad -- and often at home, in order to deter solidarity with national liberation movements and progressive forces in general.

Under the US leadership of the Cold War, especially the National Security Council, any resistance to friendly foreign regimes was linked with a 'Communist threat'. In the 1950s absent evidence of nuclear weapons was construed as concealment of powerful new weaponry, which had yet to be found. Weaknesses of Korea and USSR were portrayed as threats, to justify systematic efforts at imposing US policy agendas, especially resource-extraction from the global South. With the national security concept, Western states have conveniently conflated military threats, struggles for national sovereignty, and economic issues such as trade policy or debt repayment.

The UK government has not always joined in such rhetorical fantasies about military threats but does carry out similar policies, often creating crises when convenient. The 1998 Strategic Defence Review explicitly analysed 'war as an instrument to support political objectives'. According to a 1998 Parliamentary report, 'the sources of instability that affect our fundamental interests are often driven more by how we, our allies and partners, choose to react to particular crises, rather than the crises themselves'. According to Stephen Dorril's history of MI6, the modern intelligence service's prime purpose appears to be to generate fears.

Following that recent legacy, the War on Terror establishes a delusional system of threat-creation through psychological warfare, as means to frighten and discipline populations. By analogy to the Communist threat, any resistance to Western domination today is readily linked with 'terrorist threats', especially the fantasy of a global network called Al-Qaeda. As the US government openly proclaims, 'Free markets and free trade are key priorities in our national security strategy.' Foreign governments are held accountable for their efforts to counter 'terrorism', e.g. to cooperate with Western 'security' services. The UK trains allies in counter-terrorism, especially in Muslim countries.

Thus the War on Terror is designed to create insecurity for progressive movements and especially migrant communities, thus enhancing the security of oppressive regimes. In all these ways, the 'security state', its securocrats and mass-media collaborators threaten our own security. To defend civil liberties and human rights, we must discredit the entire concept of national security for what it is.

Daniele Conversi

The 'war on terror' and its long-term legacies: Suspect communities, xeno-racism and global ethnic conflict.

Several states throughout the world have seized upon the ‘war on terror’ as an opportunity to clamp-down on ethnic, religious, and political dissent. Most often, this has contributed to a formidable expansion in both state powers and internal instability. Naomi Klein argues that the ‘war on terror’ has provided a 'franchise', a template which can be used and mimicked by all governments, including US' traditional 'enemies' and potential rivals. In strategic terms, the 'war on terror' should be seen as a throwback to the Cold War years (Cox 2005), during which human rights were globally frozen in the name of the Communist threat.

The greatest damage has probably been exerted upon inter-ethnic and centre-periphery relations within states. The import of US-style patriotism has led to an ubiquitous abuse of anti-terror legislation, which in turn has nourished the explosion of reactive ethnic conflict. The process involves the rise and routinization of ‘xeno-racism’ at the state level (Fekete, Sivanandan) against both immigrant and indigenous minorities. Not only this trend has reinvigorated existing conflicts, but has also, more ominously, instigated previously passive ethnic groups.

The same pattern has been replicated in a variety of settings throughout the world, from Chechnya to Uzbekistan, from Indonesia to China. In Spain, the very fate of Aznar’s government has been sealed by his clumsy attempt to import the US ‘war on terror’ under an ‘either /or’ dogmatic approach attempting to criminalize the entire Basque movement. In spite of the decline in ETA’s attacks, the gap between the central government and Spain’s nationalities has reached its post-transitional zenith under Aznar’s second legislation (2000-2004). In India and Sri Lanka, xeno-racist governments have collapsed over similar attempts to use the ‘war on terror’. In less democratic milieux, such as Russia (Chechnya), Pakistan (Waziristan, Baluchistan) and Indonesia (Aceh), governments have gained a free hand to enact repressive measures leading to the death, torture and displacement of tens of thousands of people. Finally, totalitarian regimes, such as Uzbekistan (a US’ satellite) and China, have used the ‘war on terror’ to perpetuate their grip over society as a whole, yet this has not prevented conflict from exploding in border or minority areas.

The literature on ethnic conflict and nationalism studies recognizes that ethnonationalism tends most often to remain latent, instead of manifesting itself visibly, let alone violently. Since ethnic strife in some inaccessible regions has taken a more dramatic toll, it may simply represent the tip of an iceberg, overshadowing a much wider galaxy of incipient and potentially enduring conflicts.

Some of these conflicts pre-existed the 'war on terror', but nearly all of them increased in intensity since early 2002. In other cases, hitherto stable areas have become engulfed in ethnic strife (Ingushetia, Southern Thailand and central China), whereas elsewhere latent conflicts have erupted into the open with violent mass protests (Fargana valley, Kirghizistan and Uzbekistan) and even guerrilla warfare (Darfur and parts of the Sudan).

Most nationalism literature agrees also that ethnic conflict emerges as a response to state intrusion and that political illegitimacy accounts for the very rise of nationalism. The 'war on terror' has been normally carried out by various states, which, acting within an extra-sovereign context (the US imperial framework), have failed to achieve the necessary legitimacy quorum.

This paper will provide a sketchy overview of the long-terms effects of the 'war on terror' across the planet. It shows that, since 2001 and within a very short time span (2001-2004), global ethnic conflicts have escalated in intensity. The conclusions are rather pessimistic: if the 'war on terror' continues to produce new conflicts and reinforce older ones in a classic spiral of action-reaction-counteraction while jeopardizing state legitimacy, vast areas of the world may come either under authoritarian rule or simply escape government control - most plausibly both. Europe may not necessarily be exempt from this trend.

George Fletcher

The Reichstag Fire and 9/11

The Reichstag fire changed German politics forever by providing public opinion support for Hitler's assumption of emergency powers shortly thereafter; 9/11 has permanently changed the American political scene as well, leading to the hasty adoption of the Patriot Act and the progressive decline, in the last four years, of privacy protections on the Internet and in our bank accounts - not to mention our airport luggage. Fear of a repeat attack continues to dominate American foreign and domestic policy and undoubtedly influenced the electorate to increase the margin of victory for a "war president" between the 2000 and 2004 elections. The Reichstag fire enabled Hitler to define the enemy as the international Communist movement; he lashed out against the Bolshevik conspiracy as though it were a single consistent force for evil. Many Americans have begun to think of Al-Qaeda and "international terrorism" in the same way. These similarities are sufficient to take the analogy between the events seriously.

Imran Hussain

The Save Chechnya Campaign is a UK based advocacy organisation (Patron Lord Rea) that is focused on highlighting the ongoing genocide in Chechnya and calling for an end to the conflict.

The war in Chechnya has been ongoing with a brief intermission since 1994. From a pre-war population of approximately 1 million, around a quarter of the population is estimated to have been killed and another quarter displaced either internally or elsewhere as refugees.

Chechnya is the archetypal struggle of a tiny nation striving for independence against an overwhelming occupier. The initial Russian conquest of this region took the better part of a century amidst the bitterly fought wars of the 18th and 19th Century. Over the intervening years the Chechens have repeatedly experienced mass exodus, exile and war as a consequence of their continued desire for freedom from Russian colonialism.

Since 9/11 Russia has effectively utilised the lexicon of the 'War on Terror' to recast the Chechen struggle as one of terrorism. With the full complicity Putin's friends in the West, the very notion of Chechen self-determination has been criminalised with any act of resistance against a massively armed and brutal occupying army branded as terrorism. The Kafkaesque rules of this theatre of the 'War on Terror' only allow for the stateless Chechen to be branded as the terrorist. On the other hand the near total destruction of Chechnya, institutionalised torture and frequent extrajudicial executions by Russian forces – all of which are well documented - is now met with indifferent silence in the West.

However while Chechens continue to bear the full brutal force of the Russian meat grinder, the spill over from the conflict has been more widespread and insidious than is generally acknowledged or even recognised. European institutions and civil society itself is being undermined by the corrosive effects of a genocidal war on European soil.

Russia has used the pretext of the Chechen war to roll back democracy and free speech. Immediately after the Nord Ost siege, the Kremlin rapidly enacted laws which severely restrict the freedom of the Press through state censorship. 2 years later in the wake of the Beslan tragedy, Putin enacted legislation which centralised all regional power to Kremlin through direct appointment of regional Governors rather than by elections as had hitherto been the case.

Here in the UK, danger from terrorists associated with Chechnya has been cited as a supporting rationale for railroading through draconian anti-Terrorism and extradition legislation. The laws were then used to detain several foreigners at Belmarsh for the alleged crime of supporting Chechen rebels. Today Babar Ahmad is awaiting extradition to the US for allegedly running a website that supported Chechen rebels.

At a European level, traditional ideals of human rights have coarsened as the institutions and leaders have become more accustomed to justifying Russia's stance on the war. Former critics of the war such as Chirac and Schroeder now fully endorse Putin's stance whilst the EU no longer even raises the subject of Chechnya at bilateral meetings.

Given that the European establishment has largely absolved itself from responsibility for Chechnya, the great challenge now falls directly on the common citizen - how to respond to the moral and humanistic imperative to bring the Chechen catastrophe to an end.

Anders Lustgarten

The Mobius: Why the War on Terror Produces Terrorism

The War on Terror is the anaphylactic shock of the Western body politic. The great danger of anaphylactic shock is that the threat comes not from the original sting but the body's massive over-reaction to it. In a frightening, ever-tightening loop, the body reacts and reacts again to its own reaction, responding to its own excesses and worsening them. The reaction continues even after the sting has long worn off; it takes a powerful dose of an external agent to break the body out of its reactive loop.

This anaphylactic loop, this reaction to its own over-reaction, is one of the signal features of the War on Terror. It crops up in the accumulation of evidence on alleged terror plots, which is then used to justify further 'anti-terror' action. The so-called 'ricin plot' is a prime example; the original detentions in Britain were cited in making further detentions in France and Spain, the latter of which were cited by Colin Powell in his speech to the UN that played a large part in facilitating the invasion of Iraq. All the ricin charges have been disproved; we know what has happened to Iraq.

This loop is not merely a product of the War on Terror, though; it is also a key component of it. Post Cold War politics has seen a strong and growing confluence of interests between constituent members of the global elite. The de facto dominance of free-market capitalism has cleared the way for the evolution of a global capital network of international funding institutions, corporations, governments, NGOs and think tanks, no longer reined in by other ideologies nor pressured by organised labour.

What the War on Terror has done is to vastly extend and augment this convergence, creating shared interests between existing powerholders and new groups, blending what appear to be separate or even opposed entities into a seamless relationship.

This relationship we are calling the Mobius, after the mathematical phenomenon. A Mobius strip looks like an ordinary two-sided loop of material. Because of a tricky twist, however, if you follow the surface of the Mobius strip around, what look like two sides actually blend continuously into one. Two entities that common sense suggests are literally on opposite sides turn out to be component parts of an integrated and seamless whole. What we think of as two different things are merely

aspects of the same phenomenon. It is the perfect metaphor for several aspects of the War on Terror.

The most obvious example of the Mobius-like interweaving of presumed opposites is the relationship between the neo-conservatives of George W. Bush and the Islamists epitomised by Osama bin Laden. Both are fundamentalists, Bush of the market and bin Laden of the *shariat*; both believe in the moral necessity and global reach of their program; and most of all both need the other's darkness to add lustre to what they regard as the holy light of their own mission. Their mutual loathing is not in question, and there is no need to suggest that they are conspiring together, but Bush and bin Laden are nonetheless enmeshed in a relationship of mutual dependence.

The Mobius relationship we focus on here, however, is one is less well known: that between Western governments, particularly the United States, and regimes of dubious legitimacy in the Global South. The War on Terror has been hugely beneficial to both Western governments and repressive Southern elites, who have made use of its changed political priorities to repress domestic dissent and extend their economic and strategic as well as political power. And this is where the true terror is found: in creating a new nexus of converged interests and empowering a number of deeply unpleasant entities across the globe, the War on Terror generates strong incentives for the perpetuation of the very violence and terror it claims to fight.

It is not new for the United States, under the guise of fighting terrorism, to sponsor it; we need only think of the death squads that ravaged Nicaragua and El Salvador in the 1980s. However, in sponsoring the War on Terror, the United States has already indirectly provoked terror attacks, attacks all the more terrifying because they are carried out by states in the Global South on their own citizens, who have then blamed them on Islamists. Participation in the War on Terror brings dubious and undemocratic regimes not only hundreds of millions of dollars, but also provides political carte blanche to do away with domestic dissent and constraints on power. It thus behoves states unlucky enough not to have any Islamic terrorists to find some.

Thus:

- In Uzbekistan, the Karimov regime bombed its own cities in 1999 and 2004 in order to repress domestic dissent, demonstrate its centrality in the War on Terror, gain hundreds of millions of dollars in US funding and distract

attention from its loathsome human rights record. The recent killings in Andijan are continuations of the same policy.

- In the Philippines, the Arroyo government carried out a series of bombings on airports, power plants and mosques, killing dozens of people, in order to give credibility to its claims to be the "second front" in the War on Terror and turn on the taps of US funding. The policy only came to light when a group of 300 of the soldiers tasked to carry out the bombings briefly mutinied and took over a shopping mall in downtown Manila.
- The Macedonian government killed a group of Pakistani migrants in 2001 and displayed their corpses to the press as an ‘al-Qaeda hit squad’, to show solidarity with the US War on Terror and gain financial and political rewards.

These states were not only “manufacturing dissent”, to adopt Noam Chomsky’s famous dictum, but were also manufacturing terrorism itself. If there is a single conclusion here, it is this: the War on Terror produces, not reduces, terrorism.

Ghayasuddin Siddiqui

US Power Threatens Apocalypse

The US, with its invincible military power fuelled by a giant economy, is determined to impose a world order where it alone acts as judge, jury and executioner. It seeks to control the world's resources and markets to control the future of mankind by preventing any potential long-term challenge to its power.

With the collapse in 1989 of the Soviet Union, although weak yet the only obstacle to the US's desire to dominate the world, this obstacle was removed. Now the 'evil empire' was no more a new enemy had to be identified. This is where Samuel Huntington's *Clash of Civilizations* fits in, with Islam as the new enemy. As a bogy, it enjoys the overwhelming advantage of being able to arouse sufficient hatred in people because of history. Identification of Islam as the new enemy was significant for other reasons. While Muslim peoples are ignorant and poor they are rich in sources of energy such as gas and oil, whose control was deemed essential if the US were to achieve its objectives of 'full-spectrum dominance'.

Since no self-respecting people will accept theirs' or others' exploitation knowingly or willingly the civil liberties of people had to be curtailed. Protest against injustice and exploitation and solidarity work had to be made unlawful. Anti-terror laws in the US and the UK (followed by others throughout the world) should be seen as part of a process to undermine democracy.

Well-publicised arrests, detention and torture (even when information was extracted under duress in foreign countries known to practise torture and human rights abuses) are becoming normative on purpose to instil fear in the hearts of people lest they be next if they don't take care. Such measures dehumanise the victims and in other circumstances (like Abu Ghuraib) are intended to break the will to resist injustice and occupation. In Britain, by making the anti-terror laws more draconian the government keeps the fiction of the 'enemy within' alive. This 'threat of terror' in turn provides a fig-leaf for the war on Iraq.

While the invasion of Afghanistan was *inter alia* to pave the way for the oil pipeline from Central Asia to the Arabian Sea, the occupation of Iraq was a trial run intended to signal to others that the US has the right to attack any country it claims to be a potential challenge to it on whatever grounds. Iraq was never a threat to the US; it was a totally defenceless target. Besides controlling the

country’s oil resources its occupation was intended to change the map of the Middle East to meet the long-term goals of the US.

The US and the UK are making the world a lawless place where international laws are flouted and the UN is marginalized. The sole sector where power is increasing is the corporate sector. It is free to manipulate the world to its advantage more than ever before because it has taken over the US administration.