

INTERNATIONAL P · E · N

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INTERNATIONAL PEN. WRITERS IN PRISON COMMITTEE

Anti-Terrorism, Writers and Freedom of Expression



INTERNATIONAL PEN

FÒRUM BARCELONA 2004



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The PEN Charter is based on resolutions passed at its International Congresses and may be summarized as follows:

PEN affirms that:

- 1. Literature, national though it be in origin, knows no frontiers, and should remain common currency between nations in spite of political or international upheavals.**
- 2. In all circumstances, and particularly in time of war, works of art, the patrimony of humanity at large, should be left untouched by national or political passion.**
- 3. Members of PEN should at all times use what influence they have in favour of good understanding and mutual respect between nations; they pledge themselves to do their utmost to dispel race, class and national hatreds, and to champion the ideal of one humanity living in peace in one world.**
- 4. PEN stands for the principle of unhampered transmission of thought within each nation and between all nations, and members pledge themselves to oppose any form of suppression of freedom of expression in the country and community to which they belong, as well as throughout the world wherever this is possible. PEN declares for a free press and opposes arbitrary censorship in time of peace. It believes that the necessary advance of the world towards a more highly organized political and economic order renders a free criticism of governments, administrations and institutions imperative. And since freedom implies voluntary restraint, members pledge themselves to oppose such evils of a free press as mendacious publication, deliberate falsehood and distortion of facts for political and personal ends.**

Membership of PEN is open to all qualified writers, editors and translators who subscribe to these aims, without regard to nationality, language, race, colour or religion.

INTERNACIONAL PEN

Writers in Prison Committee

**Anti-Terrorism, Writers and
Freedom of Expression**

November 2003

Anti-terrorism, writers, and freedom of expression

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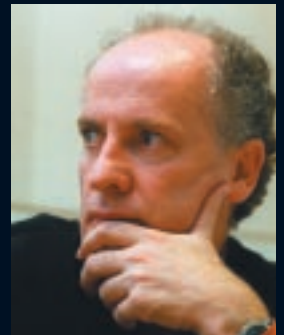
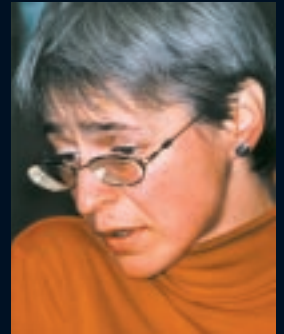
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1. **Professor Fikret Baskaya** was imprisoned under the Turkish anti-terror law for his writings on Kurdish issues.
2. **Russian journalist, Anna Politkovskaya**, has lived under constant threat and harassment for her reporting on Chechnya.
3. **Martxelo Otxamendi** was detained under the Spanish anti-terror law, with nine other colleagues from the *Euskaldunon Egunkaria* newspaper, the only one entirely written in Basque language, for alleged collaboration with ETA. The newspaper was closed down.
4. **Juan de Mata Jara Berrospl** is serving a 20-year prison sentence for alleged collaboration with Sendero Luminoso in Peru.
5. **Uighur professor, Tohti Tunyaz**, is serving an 11-year prison term for «inciting national disunity» in China.





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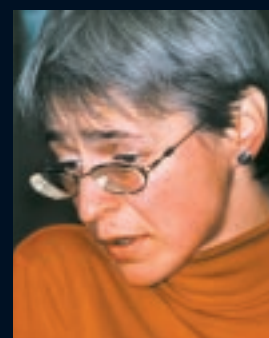
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Preface

JOAN SMITH

Those of us who work for International PEN, especially members of its Writers in Prison Committee, tend to take for granted the importance of freedom of expression. Defending writers – poets, novelists, academics, journalists, playwrights and, increasingly, people who use the internet to publish their work or publicise injustice – is what the organisation is famous for. PEN has campaigned for imprisoned and threatened authors for eight decades, a period that covers Nazi Germany in the 1930s, Soviet-era Russia, and present-day Central Asia and the Middle East. Sometimes we are able to identify optimistic trends, such as the impressive increase in the number of democracies in the world at the end of the twentieth century, and a growing respect for human rights as a result. Since 11 September 2001, however, we have observed an increasingly hostile climate towards freedom of expression in a number of countries where new laws have been passed, or old ones amended, in the name of fighting terrorism. This report documents that process, both in dictatorships where censorship is habitual and the legislation merely provides additional hazards for writers who were already constrained, and in democracies which had until recently a proud history – the US naturally comes to mind – of offering constitutional protection for freedom of expression. That democratic governments should so willingly line up with totalitarian states, even if they are motivated by a genuine anxiety about future atrocities, is deeply worrying. It is also a mistake, for reasons that have to do with the vital role played by freedom of expression in civil society.

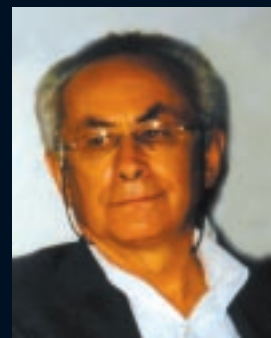
Readers who would like to know what is happening in specific countries, from Turkey to the UK, will find details in the body of the report, along with short accounts of writers who have been detained or threatened as a consequence of the ‘war on terror’. That phrase is a rhetorical device which makes many writers uncomfortable; it is strong on impact but short on detail, and there was always a danger that its targets would widen from specific organisations associated with terrorism to categories of people who irritate and embarrass governments, even though they have absolutely nothing to do with making bombs and abhor violence. The scope for a degree of cynical

opportunism on the part of authoritarian regimes was recognised by delegates to the PEN Congress in London in November 2001, only two months after the terrorist attacks on the US; the anxiety expressed then – that they would use those attacks as an excuse to clamp down on dissidents – has since proved to be well-founded. Other governments have acted out of fear, uncertain how to deal with the shadowy enemy provided by networks like Al-Qaeda, and have attempted to justify some really quite draconian measures on grounds of national security.

No sensible person would deny that terrorism is one of the most urgent threats facing the world today, although there are heated disagreements about the most effective means of countering it. However, we do also need to think about *what* we are defending: it is important to remember that terrorists do not just attack people and buildings, although they have done that to horrific effect over the last couple of years in the US, Saudi Arabia, Bali, Iraq, the Indian sub-continent and others. Their target is just as much ideas and values; we may not know a great deal about the young men who carried out the suicide bombings on the East Coast of the US in the autumn of 2001, but what we can say with confidence is that they were not enthusiastic supporters of human rights. Neither are the many armed groups currently plotting atrocities around the world, from the paramilitaries of Colombia to the Basque terrorist organisation, ETA, which has murdered many people, including journalists, in Spain. This means that when governments argue that human rights have to be curtailed, they are playing into the hands of terrorists, who loathe precisely the freedoms that are being eroded in the name of national security.

They also run the risk, in cracking down on legitimate dissent, of creating a wave of sympathy for hugely unpleasant oppositional ideologies; it is no accident that so many key members of Al-Qaeda come from Egypt and Saudi Arabia, two countries with dreadful human rights records and long histories of state censorship of books, periodicals and ideas.

We expect more principled behaviour from democracies but what many governments are doing, in the wake of 9/11, is treating human rights as an optional extra. They are not. On the contrary, they are what defines civil society, creating a consensual relationship between government and governed in which freedom of expression plays an essential part. When a country's leaders try to place unjustified limits on what its citizens can write and say, they inevitably damage that relationship, usually with disastrous consequences. The capacity to tolerate dissent and engage with opposing ideas, as long as they are non-violent, is the mark of a mature society. While the record shows that dissent cannot be wiped out by such methods, it can be driven underground – as happened with the *samizdat* literature of the old USSR – or re-directed into sinister channels. This is especially true in the post-9/11 world, when a range of violent ideologies is competing for the allegiance of the angry and the dispossessed, states people inevitably fall into when they are denied basic freedoms. As writers, we understand that freedom of expression is both an essential human right *and* a vital means of combating those ideologies. This report is a timely warning that some of the world's leaders are apparently prepared to run the risk of eroding or even destroying that right in order to save it.



Anti-Terrorism, Writers and Freedom of Expression

If all mankind minus one were of one opinion, and only one person were of the contrary opinion, mankind would be no more justified in silencing that one person, than he, if he had the power, would be justified in silencing mankind. – John Stuart Mill

1. INTRODUCTION

The importance of freedom of expression has been recognised by writers and thinkers for centuries. John Stuart Mill's statement, that mankind minus one must not silence the one, however unpopular that one's view, is a neat encapsulation of why diversity of opinion should be defended. Popular opinion is not always necessarily thoughtful, accurate, or justified: popular opinion often falls far short of the truth. In a society where alternative view points are allowed, indeed encouraged and respected, truth has a greater chance of emerging. Neither is dissent necessarily right, accurate or balanced: but where it is silenced – especially where the silencing is brutal – healthy societies where peace, security, prosperity and justice prevail are impossible.

PEN¹, founded in 1921, was one of the first international organisations to champion freedom of expression as a vital and fundamental human right when its charter of membership was forged. In the 1930s, in the context of the burning of books in Nazi Germany, PEN emerged as a body committed to campaigning actively for writers who came under attack for exercising this right. In 1960 its Writers in Prison Committee was established to research cases of writers who are imprisoned, banned, attacked or even murdered, for saying or writing what they wish. Today the Committee records hundreds of cases of writers and journalists in trouble at any one time. It has seen many regimes that embraced censorship as part of a campaign of repression and silence come and go. It has noted the deleterious effects of censorship on whole societies and watched numerous champions of free speech perish in their attempt to deliver their message.

In recent decades, the Writers in Prison Committee has recognised a worrying pattern in how governments often use

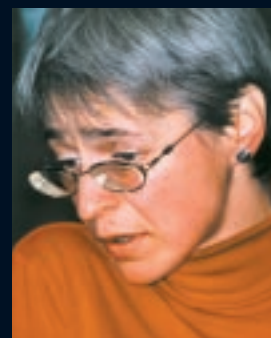
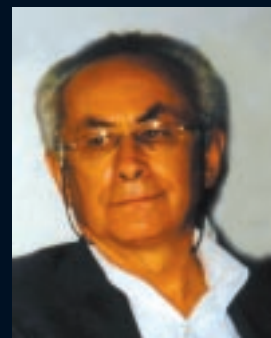
local anti-terrorism laws, and/or national security laws, as a mechanism for silencing dissent. However, the terrorist attacks in the United States of America on 11 September 2001, unleashed a new global climate that lawyers, international experts, writers and intellectuals everywhere are still grappling to understand. Many things emerged at once: greater fear among citizens, especially in the West, of terrorist attacks, especially at the hands of those deemed to be 'Islamic Fundamentalists'; a rush by various governments to grant their intelligence agencies and police new powers aimed at identifying and apprehending terrorists; two major invasions – of Afghanistan and Iraq – by a coalition of forces led by the United States; a continuing 'war on terrorism' in which the next stages are unclear. This Pandora's Box of actions and reactions has rendered calm reflection difficult and yet, arguably, organised analysis and deliberation of recent events is essential if the dangers of this particular chapter of history are to be safely negotiated.

The question of how freedom of expression has fared in this climate is, as PEN views it, pressing. Is freedom of expression another victim of the catastrophic events of 11 September 2001, or does it nevertheless survive and thrive? If and where freedom of expression has been eroded, what consequences does that erosion entail? If there is indeed more danger than ever to 'life, liberty and security of person' in the post-11 September 2001 (or, to use that by-now familiar

term, the post-'9/11') world, what, if anything, can writers do about it? Must freedom of expression as a right be held in abeyance in the name of tracking down and apprehending terrorists? Or should it be protected as a force for bringing about greater understanding between nations, as PEN first believed it could be in the early days of the organisation's formation?

This report is PEN's first step in trying to answer these timely questions. It is designed as a preliminary discussion document for PEN members and other human rights groups, journalists, writers, and government officials. It is also hoped that the report will lead to further reflection and campaigning action.

Anti-terrorism, writers and freedom of expression comprises a 35-country overview ('GLOBAL SURVEY'; see centre pages) of places where anti-terrorism measures, especially since 9/11, have had an impact on freedom of expression. The themes that emerge in this overview are debated more generally in the accompanying chapter, 'TERRORISM AND FREE EXPRESSION: THEMES AND ISSUES'. Then, in 'WRITERS REACT', the report summarises the results of a preliminary questionnaire sent out to various PEN Centres and analyses the kinds of comments on 9/11 expressed in published articles by writers active in PEN. Finally, in 'CONCLUSIONS', the main threads that emerge are presented along with suggested future directions for analysis and campaigns.



2. TERRORISM AND FREE EXPRESSION: THEMES AND ISSUES

2.1 'Terrorism' over two hundred years

'Thousands of those Hell-hounds called Terrorists are let loose on the people' – British Statesman Edmund Burke, writing of the French Revolution shortly before his death in 1797.

The word 'terrorism' is not new. Although the word first emerged in the context of the French Revolution at the end of the eighteenth century, there have been many incarnations of the word and its meanings since then. Its early uses (as with Burke, and later, in Russia, to describe the early revolutionaries of the 19th century) designated the activities of individuals who were seeking revolution within their nation-state, so that one class – the common people – could wrest control from a smaller ruling elite.

Towards the end of the twentieth century 'terrorism' and 'terrorists' have emerged as words describing manifold actions and individuals with manifold aspirations. Such 'terrorist' groups as the Maoist Shining Path movement in Peru remain committed to their own kind of 'class war'. The accusation of 'terrorism' has also been applied to those calling for an end to discrimination on grounds of skin colour, most famously, in South Africa, in the case of Nelson Mandela and his colleagues. Here, the appellation of 'terrorists' by the then-South African authorities has since been dropped, and they are today heralded instead as 'freedom fighters'. Terrorism and nationhood have also become increasingly entwined in the latter half of the twentieth century. Yasser Arafat remained a 'terrorist' while he was rendered stateless. When he became leader of the Palestinian Authority, an emerging state, the nomenclature 'terrorist' was generally dropped, but in the context of renewed hostilities between Israel and the Palestinians he has – so far at least as the State of Israel is concerned – become a 'terrorist' again.

But 'terrorism' and 'anti-terrorism' are perhaps terms most often reiterated in countries where a separatist movement is trying to split away from the main nation-state. With the 'Balkanisation' of many former nation-states in Eastern Europe, such localised independence movements appear to have gained momentum. Some employ violent means to bring about their secession; others are chiefly concerned with more autonomy, coupled with greater linguistic and cultural freedom, and seek their goals peacefully. Some movements contain

both elements. Xinjiang Province in China, the Kurdish-dominated south east of Turkey, and Chechnya in Russia are three examples of places where these movements exist, with both violent and non-violent dissent happening simultaneously. The word 'terrorist' is often used to describe them by the government whose regime is apparently under threat. Often the violent or non-violent nature of the dissent makes little difference to how the word is applied.

Terrorism in the name of religion has, until now, been arguably a less common form of the phenomenon. However, the events of 11 September 2001 were so shocking in and of themselves, and so quickly all-pervasive in popular imagination – partly through the often-repeated media images of the destruction of the World Trade Center – that this kind of terrorism is perhaps what most people nowadays, in these early years of the 21st century, think of first when the word is mentioned.

2.2 Terrorism and free expression before 9/11

The activities of dissenting religious, political or separatist groups, or groups with a more general mission to change the social order of the place where they live, have long been regarded suspiciously by governments. In 1998 PEN's anxiety about the extent to which freedom of expression was falling prey to national security and terrorist concerns was articulated in its formal intervention at that year's United Nations Human Rights Commission². PEN at that time cited anti-terrorism and anti-security measures being wrongfully applied to writers and journalists in the Republic of Korea, Peru and Turkey, stating:

'International PEN would like to bring to the attention of the Commission a widespread pattern of abuse of the right to freedom of expression in the name of national security and anti-terror concerns. Legislation allegedly aimed at protecting the sovereignty of a given state is all too often extended to stifle peaceful expression of views in general and members of the media in particular. Such harsh suppression of the right to free expression only, in the end, serves to exacerbate difficult situations, increase misunderstanding and ultimately, further destabilise the state, not protect it.'

At any one time in the 1980s and 1990s, there were hundreds of cases of prosecuted writers and journalists in South Korea, Peru and Turkey and in other countries around the globe. In Turkey, for example, Article 8 of the anti-terror law – which has only very recently been abolished – was used to punish publicly expressed opinions concerning Turkey's Kurdish

² Reported in the UN's press release HR/CN/841 of 2 April 1998

minority, especially those critical of the Turkish army's activities or concerning human rights abuses.

In Peru, anti-terror laws enforced by special trials with so-called 'faceless tribunals' were used not only against violent government opponents but many others. Peru has recently passed legislation reducing the sentences passed by these 'faceless tribunals' to a maximum of six years, but the new regulation still does not take sufficient account of the glaring failures of due process that occurred in the name of anti-terrorism.

In South Korea, concerns about the military threat of North Korea led to a stringent enforcement of the National Security Law. PEN noted long sentences handed down to writers – ranging from three-and-a-half years to life imprisonment – for alleged infringements of this law, which included any piece of writing that the government construed as being in opposition to itself. After a series of amnesties and changes to the law, such long-term detentions of writers in order to silence them mostly ceased.

An analysis of PEN's twice-yearly case lists throughout these decades reveals that, taking a global view, national security and anti-terror were amongst the most prominent reasons why writers and journalists found themselves in jail. There were many other reasons why acts of censorship occurred. These included:

- unwelcome exposures of corruption or other wrong-doing by government officials
- alleged libel
- religious offence
- espousal of alternative versions of officially-accepted history.

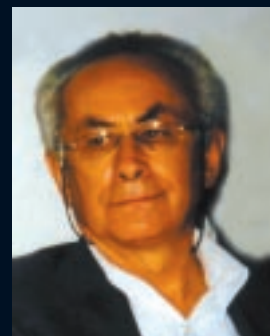
But the itemisation of the charges under which writers were often prosecuted contained all-too-familiar references to alleged anti-security, pro-terrorism activities, such as 'spreading rumours that disrupt public security', 'disturbing public order' or, more baldly, 'collaborating with a terrorist group' or 'advocating separatism'.

The process of sifting through the charges – finding out whether the individual concerned was really in deep cahoots with violent terrorists or merely in the peaceful arena of such opposition – was never an easy one. Often cases had to remain under PEN's investigation process because it was almost impossible to determine the truth of the matter. But there were always many cases where PEN's research satisfactorily established the writers' innocence of all violence or intended violence, thus proving that the laws under which they had been prosecuted were either wrong in themselves, or wrongly applied – or, indeed, often both.

2.3 Free Expression in the wake of 9/11

In the year since the 11 September attacks on the United States, the world has become a more uncertain and fearful place. The IFJ surveyed the media landscape in the immediate aftermath of the terrorist attacks and ... revealed a fast-developing crisis for journalism and civil liberties. – Aidan White, General Secretary, the International Federation of Journalists³

PEN, pre-9/11, had noted on a local, or regional basis, that new wars, new opposition movements and new separatist groups – as well as new terrorist organisations – emerged frequently. With these developments came new efforts to win the wars, halt the movements, or quash the terrorist plots. The governments involved in such efforts routinely declared a national crisis, or even a state of emergency, and in these circumstances new laws or even executive decrees, were passed. The laws were often passed rapidly; in the case of decrees there was usually scant opportunity to challenge them, as they were declared unilaterally, without any parliamentary process. The haste, together with the perceived threat, gave rise to situations in which such laws and decrees were vaguely-worded. The lack of precision was often quite deliberate, however. The broader the law, the more flexibly it could be applied.



³ 'Journalism and the War on Terrorism: Final Report on the Aftermath of 11 September and the Implications for Journalist and Civil Liberties', by Aidan White, International Federation of Journalists, September 2002., p.2.

In the post-9/11 world, this trend has, unsurprisingly, continued. For many governments, when it comes to accusing dissenters of being a threat to national security, it is business as usual. However, PEN members, other human rights groups, and the Writers in Prison Committee's own caseload urge the question of whether 9/11 has actually produced a real *vitiating* effect on the enjoyment of free expression.

It is more than two years since 9/11. It is still early days, but enough time has passed to make an accurate assessment of country-specific, regional and global trends. If PEN's records do suggest an increase in the number of instances in which anti-terrorism concerns are effectively attacking freedom of expression, then patterns of abuse will have had time to emerge, allowing us to analyse the underlying reasons for the deterioration.

The GLOBAL SURVEY (section 3; see centre pages) summarises concerns in the following 35 selected countries:

AFRICA: Central African Republic, Eritrea, Ethiopia, Kenya, Mauritania, Morocco, South Africa, Swaziland, Zimbabwe.

THE AMERICAS: Colombia, El Salvador, Panama, Peru, U.S.A., Venezuela.

AUSTRALIA/ASIA: Afghanistan, Australia, Bangladesh, China, India, Indonesia, Nepal, Pakistan.

EUROPE: France, Kazakhstan, Russia, Spain, Turkey, United Kingdom Uzbekistan.

THE MIDDLE EAST: Egypt, Iraq, Israel, Jordan, Kuwait.

The countries under discussion vary in the degree to which freedom of expression is being sacrificed in the name of anti-terrorism. In some cases (e.g. France) such a diminution of enjoyment in the right to freedom of expression is scarcely perceptible, in other cases (Eritrea, Uzbekistan, Zimbabwe, and post-war Iraq) freedom of expression is severely abridged.

The 35 countries selected are by no means the *only* places where freedom of expression is being sacrificed in the name of anti-terrorism. New anti-terror laws have been introduced elsewhere (such as in Canada and Finland). In other countries, governments have taken radical action to silence opponents in the guise of acting on behalf of national security (witness the 2003 arrest of Nobel Laureate Aung San Suu Kyi in Myanmar/Burma). The selection of the aforementioned

countries is intended merely to serve as an *example* of global developments. They are, in the main, countries where a 'toughening up' of anti-terrorism measures seems directly or indirectly related to the events of 9/11. In indirect cases of connection, the 'toughening up' appears to be occurring in a general context of heightened global security concerns.

By considering the local, regional, and global contexts, the GLOBAL SURVEY demonstrates that two things have happened simultaneously in the past two years since 9/11.

1. Freedom of Expression has in many countries been threatened as a result of a global wave of new anti-terrorism laws, agreements and decrees passed at both national, regional and international levels.

2. Partly as a result of 1., an 'anti-terror climate' has emerged which serves as a façade behind which governments can hide their stifling of legitimate dissent, whether using the new laws or not.

2.4 Laws and decrees on 'terrorism' at the international level

The comprehensive convention on international terrorism would be aimed at filling the gaps left by sectoral treaties, which deal exclusively with particular manifestations of terrorist activity. While preliminary agreement has been reached on the majority of the draft ...the issues of the convention's scope (article 18), the preamble, a definition of phrases (article 1) and a definition of terrorism (article 2) are still outstanding.'
– Press Release L/3030 from the UN General Assembly's Ad Hoc Committee on Terrorism - 29th meeting, 02/04/2003

International law on terrorism is extremely complex, and examining the ramifications for freedom of expression could be the subject of a far longer report. The present paper touches only very generally on the ongoing legal situation, insofar as it has direct relevance to examining how writers are actually faring around the globe.

The United Nation's General Assembly has for many years been negotiating a Comprehensive Convention on International Terrorism. Pressure to finalise the text of this Convention intensified after the 9/11 attacks; however, talks meant to achieve this were stymied and attempts to reach agreement on the Convention's scope and language continue.

However, the Security Council did move quickly to adopt Resolution 1373 as a measure to exhort member-states to collaborate in efforts to defeat terrorism across national frontiers. It urged them to take specific measures to combat terrorism (including passing fresh domestic legislation where needed) but also urged that such measures should accord with international and national law, including international standards of human rights. The need to balance the combating of terrorism while respecting the rule of law and individual freedom was re-articulated by the United Nations General Assembly resolution passed the following year (2002), during its 57th session (A/RES/57/219).

Today, debate on the Comprehensive Convention is still under discussion by the UN's Ad Hoc Committee on Terrorism as well as a Working Group of the General Assembly's Sixth Committee. The Convention reiterates many provisions already encoded in previously agreed international treaties. It provides for the extradition of alleged terrorists, for example, and mutual legal assistance between states in criminal proceedings against terrorists. But the reason why the Convention appears to have been bogged down is because for the first time it tries to provide a comprehensive *definition* of terrorism. As the 2002 'Report on Terrorism and Human Rights' by the Organisation of American States commented, the definition 'has not yet reached agreement among states', with some states arguing that the Convention 'should add to the existing conventions while others have asserted that it should be more of an umbrella convention.'

The failure to define terrorism boils down to disputes about the range of activities the word might justifiably be said to cover. Pressure to include all hostilities by rebel groups in domestic armed conflicts has been criticised as too broad a parameter, with groups such as Amnesty International and Human Rights Watch commenting, in their Joint Letter to the UN of 28 January 2002, that 'such use of force is not currently an international crime' and should remain as such, whatever the national laws in such a dispute.

The fact that, up until now, there has been no internationally-sanctioned definition of the word 'terrorist' is revealing in itself. The word, as stated earlier, has had many incarnations and has often been appropriated by governments as a 'branding' mechanism to tarnish the reputation of their opponents. For more than two-hundred years it has applied to individuals, rebels, revolutionaries, and dissenters of all kinds. There is no commonly accepted restriction on its usage, nor any *essential* criteria by which a 'terrorist' can be so defined, as there with other words. For instance, a 'refugee', according to the international definition, is a person who has a 'well-founded fear' of persecution in the country from which he or she is fleeing; the 'well-founded fear' is the essential criterion that defines who is and is not a refugee.

The word 'terrorist' seems thus far to have eluded equivalent agreement on its essential meaning .

2.5 Laws at the local level: definitional problems

The lack of an agreed international definition of terrorism has not prevented the emergence of many new local laws and regional protocols proscribing 'terrorism'. These laws vary immensely from place to place. However, those governments who have rushed through much of the new anti-terror legislation in the wake of 9/11 have been eager to define the word in ever-broader terms.

The lack of definition has important repercussions for the protection of freedom of expression. Many of the cases in the GLOBAL SURVEY are of writers and journalists whose actions have been incorporated into this vague and broad use of the word 'terrorist'.

The GLOBAL SURVEY charts three main trends:

- Many activities that are **non-violent** are **proscribed** as '**terrorist**', such as showing sympathy for, supporting the aims of, or financing alleged terrorists or even merely



‘threatening national security’ or ‘disrupting public order’.

- The words ‘terrorists’ and ‘separatists’ are often used interchangeably.
- The undefined nature of the word results in decisions as to who is and is not a terrorist being left to the **discretion of the Executive** and such decisions are often shrouded in secrecy and therefore hard to challenge.

2.6 Non-violent activity proscribed as ‘terrorist’

‘We agree with President Bush that anyone who in any way finances, harbours, or defends terrorists is himself a terrorist. We too will not make any difference between terrorists and their friends and supporters.’ – Zimbabwe government minister, quoted in The Herald, a local paper.

Activities such as ‘threatening the state’s internal and external security’ or ‘inciting violence and terrorism’ and ‘undermining territorial integrity’ or ‘disseminating information which could cause serious damage to society’ are commonly proscribed in local laws, some of them specifically aimed at terrorists (see Central African Republic, Eritrea, Panama). In Morocco it is an offence to ‘extol the actions that comprise terrorist crimes’. But ‘extolling’ seems to have been interpreted in many ways – from those undertaking historical evaluations of the intelligence services and their relationship to Islam, to the publishing of a statement by an unknown group claiming responsibility for certain bomb attacks. ‘Collaborating’ is a word commonly invoked: in Peru, a poet has spent ten years for ‘collaborating with a terrorist group’, when in fact his ‘collaboration’ merely took the form of possessing maps that showed where students and teachers at a local university had been killed and buried.

The above quote by the Zimbabwean minister reflects how the poor role model set by the U.S.A. in this regard has been seized upon by repressive regimes as an apologia for their own actions. The U.S.A.’s 1996 anti-terrorism act made it a crime to provide material support for groups allegedly ‘terrorist’ in their intention, even if this support went towards lawful, humanitarian activities of the group. Groups that threaten foreign relations and economic interests abroad were incorporated into the new umbrella definitions of ‘terrorism’, and by the Patriot Act of 2001, even actions by protestors on the street could be deemed as ‘terrorist’.

The Asia Times of 10 January 2002 neatly described the problem. It stated:

‘As the U.S.-led campaign against terrorism spreads, more and more governments in Asia and elsewhere are jumping on the bandwagon and cracking down on suspected terrorist groups. The trouble is that in the process the definition of terrorism is continually getting widened to include everything from ethnic separatism and religious extremism to plain old-fashioned determined political opposition.’

Perhaps the ultimate absurdity that such loose definitions of the word ‘terrorist’ can lead to is to be found in Nepal where a special ordinance was passed to prevent ‘Terrorist and Disruptive Activities’. It was so vaguely worded that, as legal expert Gordon Hughes (President of Law Asia) commented, ‘a lawyer who represents a terrorist can themselves be deemed a terrorist because they can be deemed to be aiding and abetting terrorist activity.’

2.7 Terrorists and Separatists: conflations

The international right to ‘self-determination’ of a people was heavily endorsed in the 20th century as former colonies declared their independence. However, this concept is, as a right, much diluted in the post-colonial world; international law is unclear on whether or not an ethnic minority within a nation-state has the right to secede. In practice, such calls of secession are common, and in places such as the Balkans and the former Soviet Union, larger states have been dismantled into smaller entities. Nevertheless, very often domestic law is stringent in outlawing activities aimed at bringing about such separations, and armed conflict is an all too common outcome.

China, Russia, Spain and Turkey are four countries where calls for more autonomy by local groups have been frowned upon, and where conflations between the notions of terrorism and separatism have been abundantly apparent in contexts of varying levels of violence on the ground.

A week after the 9/11 attacks, Chinese Foreign Ministry spokesman Zhu Bangzao told the press: ‘The United States has asked China to provide assistance against terrorism. China, by the same token, has reasons to ask the United States to give its support and understanding in the fight against terrorism and separatists’. This statement – as well as pointing to a trend of taking U.S. actions as a ‘role model’ – cited terrorists and separatists as enemies in one breath. Bangzao was referring to China’s problems in Xinjiang province – a region in the north west of the country. There a predominantly-Muslim population, known as ethnic Uighurs, where there are calls for full autonomy. But China’s ‘Strike Hard’ campaign is a ruthless

response to all forms of such advocacy, whether violent or not. New provisions, added to China's Criminal Law Code, punish 'terrorist crimes' while at the same time defending 'national security'. Amnesty International, for one, has examined the law and, regarding its definition of 'terrorism', determined that it 'could be interpreted as referring to peaceful opposition or religious groups'. A writer who has become victim of the Chinese approach to its Xinjiang 'problem' is Tohti Tunyaz, who is serving an 11-year prison term, in part for 'inciting national disunity'.

A similar trend is apparent in Russia in its attempt to quell rebel forces in Chechnya. Russian officials have time and again referred to the uprising in Chechnya as essentially a 'terrorist' phenomenon. Military operations are thus part of a campaign to fight terrorism – or to use the rhetoric introduced by the U.S. government post-9/11, part of the general 'war on terror'. Anna Politkovskaya, a renowned writer and journalist who has been forced into exile for expressing her views, is among those pointing out the severe human rights abuses that this approach to a secessionist movement has permitted. She documents these in her book, *A Dirty War: A Russian Reporter in Chechnya* (Harvill Press). A compilation of her dispatches – dating from 1999 and 2000 – from the war-torn region, the book reports that 'two thousand civilians have disappeared, with no redress from the courts. There is no accountability for the federal troops' excesses. Reports of torture in custody are routine.' Her testimony gives eloquent evidence of the ways in which a conflation of terrorism and separatism can lead to patterns of spiraling violence, in which freedom of expression is an early victim.

In Spain, the armed movement Euskadi Ta Askatasuna (ETA) has long been calling for an independent Basque state. After 9/11, the campaign to quell ETA was broadened to encapsulate accompanying pro-separatist materials. This has led to the closing down of *Euskaldunon Egunkaria*, a Basque-language newspaper promoting Basque culture and language, and the arrest and prosecution of

several of the newspaper's staff. The Spanish government claims the newspaper is financed and directed by ETA, as well as acting as its money-laundering operation, but there has been widespread international concern about the 'unconditional detentions' served on three journalists who remain in jail at time of writing while the case against the newspaper progresses.

In Turkey, the problem of conflation between 'terrorism' and 'separatism' emerged in relation to the Kurdish population's call for autonomy in the south-east. Article 8 of the anti-terror legislation – abolished in July 2003 – criminalised all 'pro-Kurdish' statements and mentions of the word 'Kurdistan' as 'separatist propaganda'. Many writers fell foul of this law merely for expressing sympathy for the Kurds in their struggle for greater cultural recognition; more again found that discussion of issues affecting Turkey's other ethnic minorities could land them in the courts. The anti-terror legislation still contains Article 7, which prohibits writings that incite 'terrorism', but the conflation between 'separatism' and 'terrorism' is less apparent.

2.8 'Who is a terrorist?': the executive decides

The absence of a satisfactory definition of a 'terrorist' has led to many local laws that allow government departments to be first and final arbiters of who is and who is not a terrorist. In many cases, the criteria by which the government department makes its assessment are permitted – or even mandated – to be kept secret. Thus neither the defendants nor their lawyers, let alone members of the press, can have access to the evidence that the prosecution has at its command, and those challenging the prosecution's claims are forced to work in the dark.

In South Africa, an anti-terrorism bill currently being drafted would hand over to the Minister of Safety and Security all discretion for 'black listing' organisations suspected of terrorist activity. Similarly, the new National Defence Bill in El Salvador was criticised by the local



journalists' association because the decision as to who is a threat to national defence was left at the discretion of the relevant government agencies. The U.S.A.'s 1996 act against terrorism allows the Secretary of State to determine if a given group should be designated as 'terrorist'. The Secretary of State was simultaneously accorded powers to classify the information he or she used in making these designations. In Britain, a similar law left it to the discretion of the Home Secretary to declare a detainee a suspected terrorist or national security risk, while evidence leading to such a charge was to remain a secret, and withheld even from the detainees themselves.

The dangers of such legislation are apparent. They allow for the arbitrary detention of individuals and render due process almost impossible. A process whereby secrecy surrounds evidence and trials will usually end in at least some perversion of justice. In Peru, an analogous situation emerged when 'faceless tribunals' were brought in to convict those arrested for alleged terrorism. The secrecy surrounding the prosecutions resulted in many writers and journalists being sentenced to long terms in prison for their legitimate professional activities, as the case of Juan de Mata Jara Berrospi, outlined in the GLOBAL SURVEY, demonstrates.

2.9 Laws at the local level: free expression abridgements

A report published by the Organisation of American States' (OAS) Inter-American Commission on Human Rights (*Report on Terrorism and Human Rights*, Washington D. C., 2002) made a special analysis of the balance between the need to protect national and international security and human rights. It stated that the 11 September 2001 attack 'harshly illustrated that terrorism remains a significant threat to the protection of human rights, democracy and regional and international peace and security.' It therefore argued that some erosion of rights might be necessary to curb the terrorist threat (p. 192):

'Terrorism is a serious problem affecting public order and in some cases, national security. Therefore, some subsequent limitations on freedom of expression or access to information related to fighting terrorism may be justified as measures that are necessary to protect the public order or national security.'

This quote is drawing upon a widely-accepted notion that in some cases rights 'compete'. Thus, the need to protect 'life, liberty and security of person' might at times be *undermined*

by a full protection of the right to freedom of expression, and where this is so, diminutions of the right to freedom of expression might be deemed necessary and permissible.

An investigation of whether or not this 'competition' *actually* exists or, if it does, the *extent* to which it exists is a longer task than this report can undertake. The question is rendered even more complex by considerations of how the right to 'life, liberty and security of person' is threatened in circumstances where freedom of expression is lacking.

However, the assumption that an erosion of freedom of expression is allowable in the quest to defeat terrorism has given rise to many laws that negatively impact on freedom of expression.

In many countries, increased surveillance, by wire-tapping or enforced scrutiny of public records, has been criticised by anti-censorship advocates as measures that lead to less public confidence in self-expression. In the U.S.A., the demand under Section 215 of the Patriot Act of 2001, to the effect that librarians must supply FBI investigators any requested records of lenders' loans, has been seen as having a possible 'chilling effect' on those wanting to research sensitive subjects, such as Islamic fundamentalism.

A thread that runs through much of the new anti-terrorism legislation is the erosion of the journalistic right to keep sources of information confidential. In Ethiopia, new legislation would remove the right not to disclose sources in situations where a threat existed to the defence forces or national security. The Media Foundation of West Africa noted that the phrases used to describe such situations were 'too general and nebulous to be a legitimate basis for restricting that privilege or right'. In South Africa, a bill on anti-terrorism similarly compels journalists to answer questions and surrender material to the police when the latter are investigating an alleged act of terrorism. In Swaziland a more sweeping law – the 'Secrecy Act' – forces media professionals to reveal their sources as and when required by the authorities. In El Salvador, a new national defence act states: 'In matters pertaining to national defence, government officials, public or municipal authorities, members of the court and private individuals will be required to provide the information required by the governmental department in question.' The list of people so required presumably includes journalists and writers as 'private individuals'.

Critics of such anti-freedom of expression measures found that the new restrictions had, as far as was known, failed thus

far to result in the apprehension of genuine terrorists. Yet their adverse effect on those for whom freedom of expression is the bread and butter of their profession – writers and journalists among others – was incalculable. On the other hand, no writers or journalists were, to PEN's knowledge, prosecuted for failing to disclose their sources (the extent to which they were asked to reveal them, however, is unclear).

2. 10 The 'anti-terror climate'

The GLOBAL SURVEY makes many references to countries which seemed to be operating in a new, post 9/11 global and regional 'anti-terror climate' which allowed them to argue that their suppression of any opposition was justified.

Thus the local situations in places such as Eritrea, Mauritania, Zimbabwe, Colombia, Venezuela, India, Nepal and Uzbekistan might seem at first sight to have little to do with the events of 9/11. However, an examination of new laws and statements by public officials indicates that the general 'get tough on terrorism' environment was being warmly endorsed in such places by governments who saw the general global alarm as a useful pretext for silencing dissent.

Statements (as in the cases of China and Zimbabwe) often referred to the U.S.A.'s own new attitude to terrorism. It seemed that a country that has long championed democratic freedom and enjoyment of human rights, which is perceived as the most powerful in the world, and which routinely castigates countries for human rights abuses, was almost ironically been hailed as the 'new kid on the block' in terms of its own derogations of international human rights agreements. The world had a new role model: not one that enjoys the benefits of democracy but one that undermines democracy in the name national security.

Another element that emerged in the post-9/11 world was the perception that terrorism was no longer a matter of domestic proportions. The international agreements stressed the need for

nations to work together, across national frontiers, to eliminate terrorism. This requirement sprang chiefly from the perception that terrorists themselves were now working internationally. Al-Qaeda seemed to be a network of individuals able to cross borders and bring their violent activities to a range of countries. The idea that terrorism is international has led (for example, in China, Russia and Uzbekistan) to governments claiming that an independence movement is linked to Al-Qaeda, and that it should therefore be crushed as 'terrorist'. The plea of international links was seen by human rights professionals as over-stretched in such cases: rather, the governments were once again jumping on the new anti-terrorist 'bandwagon'.

The 'War on Terror', two invasions, the search for Weapons of Mass Destruction in Iraq, and related debates filled newspapers and television screens around the world. Many governments, while international attention was trained on these events, seemed to have got on with the business of censoring and oppressing large proportions of their civilian population, with fewer international challenges to their actions. A deterioration in the overall situation for writers was apparent to PEN's Writers in Prison Committee in such countries as Myanmar (Burma) and Vietnam. It is not possible to prove that the deterioration was due to 9/11, but it is hard to avoid the speculation.

Human Rights Watch summed up the workings of this 'anti-terror climate' in the very title of one of its reports. *Opportunism in the face of Tragedy: Repression in the name of anti-terrorism*⁴ suggested that 'opportunism' was driving many governments to repress many of their opponents in the name of anti-terrorism.

2.11 Conclusions to themes and issues raised by the GLOBAL SURVEY

The GLOBAL SURVEY raised problems for freedom of expression in 35 countries. An inescapable conclusion of this analysis is that being a writer or journalist is more dangerous post-9/11 than it was pre-9/11.



4 'Opportunism in the face of Tragedy: Repression in the name of anti-terrorism', Human Rights Watch, New York, 2002 (available at: <http://www.hrw.org/un/chr59/counter-terrorism-bck.pdf>)

The scope for attacking freedom of expression and resorting to censorship has increased, mainly because of the overwhelming number of new domestic laws and decrees that either **directly abridge freedom of expression** in the name of national and international security or which **define terrorism so loosely** that writers and journalists can fall under the definition merely through what they say. In fact, it is these latter definitional problems that lie behind a large proportion of instances of long-term detention of authors and journalists in PEN's current case list.

In terms of fresh cases of arrests and prosecutions, many of the new laws have not yet been put to full use (although in some places, like Morocco, governments were quick to apply them). However, the trend of using anti-terror and national security concerns that PEN had identified long before 9/11 continued and intensified often using relatively old laws applied more vigorously. Thus, an '**anti-terror climate**' has been created by the events of 9/11 and subsequent responses to those events. This climate is both created and perpetuated by a trend of cracking down on local dissent.

3. GLOBAL SURVEY

Africa

Regional Overview

The African Charter on Human and Peoples' Rights was undermined by the African Union's Convention Against Terrorism; the later spawned much criticism from human rights groups and activists for its over-broad definitions of 'terrorism'. Simon Kimani, a South African writer, in a report for the Johannesburg-based Freedom of Expression Institute, lamented the rush to pass special legislation in countries across the region. In the South African context, he pointed out, there were already twenty-two pieces of legislation that covered the nature of the crimes under discussion. He noted that in Mozambique attempts to pass anti-terrorism legislation had floundered 'due to strong opposition from human rights organisations and the Muslim community' but that 'so far no one has accused the Mozambican government of failing to abide by its international commitments'. Mozambique was, however, not typical: many countries seemed to take the new anti-terrorism climate to heart. New anti-terrorism laws were prepared or passed in several countries (Morocco and South Africa being notable examples), and in other nations (such as Ethiopia, Kenya and Zimbabwe) the general 'get tough' atmosphere was apparently construed by the governments as a useful pretext for introducing new press laws that stifled opposition.

Central African Republic

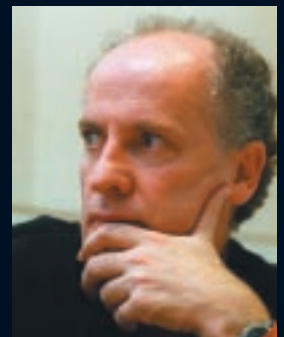
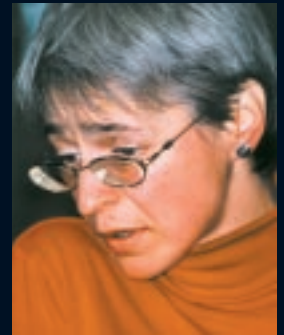
Since an attempted coup on 25 October 2002, journalists in the Central African Republic had, according to Reporters Sans Frontières 'been working under a great deal of pressure, which has in turn led to increasing self-censorship in both the public and private press'. A case in point was the February 2003 arrest of Mathurin Momen, publication director of the daily *Le Confident*. He was accused of 'threatening the state's internal and external security' and 'inciting hatred' in his articles. He spent more than three weeks in jail before being released after rebels took control of the country in the successful coup of 15 March 2003.

Eritrea

Reporters Sans Frontières, in its 2002 annual report, claimed that Eritrea had become 'the worst country in Africa as far as press freedom is concerned'. On 23 September 2001, the government ordered the suspension of privately-owned news publications. The director of state television argued that 'the private media had time to fix their erring ways. They were putting the unity of the country in danger.' Soon after this announcement, a group of ten journalists was arrested and appears to be still detained, although the government claims the journalists have been sent to do national service. The 1996 Press Law imposed restrictions on the subject matter of published pieces, including material that 'incites violence and terrorism' or that 'undermines territorial integrity, sovereignty and independence of the nation'. The government claims that the war with Ethiopia has put Eritrea in a state of national crisis, but in actual fact a cease-fire declared in December 2000 remains in force. The arrests and wholesale silencing of independent commentary thus appears to be an opportunistic response to the 'anti-terror' climate. Human Rights Watch, in its report *Opportunism in the Face of Tragedy: Repression in the name of Anti-Terrorism*⁵ reported how Eritrea's Ambassador to the United States, in comments to a *Washington Post* columnist published in November 2002, claimed that detention without charge of journalists echoed the practices of democracies. By way of supporting his argument, the ambassador cited the post-9/11 round-up of foreign nationals, without charge or trial, in the U.S.A..

Ethiopia

A draft press proclamation was tabled by the government in 2003. The Media Foundation for West Africa found that the proposed proclamation fell far short of international standards for free expression, especially those articulated in the African Charter for Human and Peoples' Rights. It stated, in fact, that the Proclamation constituted a serious set back to the cause of free expression in Ethiopia. The Foundation noted an 'intrusive role and control of government, through the Ministry of Information,



the licensing regime for the print media, and the harsh criminal sanctions’ and concluded that the proposed legislation did little to promote a ‘healthy and vibrant democracy’ in the country and it urged that the Proclamation be radically overhauled. In particular, the Foundation noted that the right to disclose sources was absent in cases where a threat existed to the defence force or national security, but that phrases used to describe such situations were ‘too general and nebulous to be a legitimate basis for restricting that privilege or right.’ The Proclamation – in a context where the WiPC records many cases of arrested and charged writers, publishers and journalists in Ethiopia at any one time – seems to be intended to rein in still further the exercise of free expression at a time when many neighbouring countries are doing precisely the same.

Kenya

Like many other countries in the region, Kenya passed a new bill aimed at enforcing more government control over newspapers. The 2002 media law introduced tougher publication requirements including penalties for not registering media outlets, heavier libel penalties, and the licensing of TV and radio stations. The timing of the law was seen to be related to the run-up to elections in 2003, in which President Arap Moi was to step down after 24 years in power. A vigorous opposition to the ruling party has emerged, and the Media Law was criticised by human rights commentators as an attempt to muzzle all criticism of the government. The International Federation of Journalists denounced the new regulation because, it claimed, it ‘jeopardizes the survival of hundreds of publications and puts at stake the very existence of press diversity in Kenya.’ The Ugandan Union of Journalists general secretary Stephen Ouma commented: ‘It has become a culture for African governments and their parliaments to pass laws which are not only oppressive to the media, but also curtail press freedom.’

Mauritania

The 1991 press law punishes newspapers that broach certain taboo subjects, including those that ‘undermine Islamic values or the reputation of the state, are against public interest or disturb law and order’. However, this law had seldom been used against journalists, who had gone largely unmolested, until 2002. That year, Mohammed Fall Ould Oumere, editor of the weekly independent newspaper *La Tribune*, was briefly detained at the State Security Services for alleged connections to the resistance movement ‘Conscience et Résistance’. The accusation was based on *La Tribune*’s decision to publish an article about a meeting of the movement’s organisers. In addition to the actions against

Fall Ould Oumere, seven publications were banned. The turn-around in attitudes towards the press indicated increased nervousness towards reportage of opposition to the government, and a new-found determination to clamp down on unfettered discussion of such opposition. In another interesting development, copies of the weekly paper *Raya* were seized in December 2002. The seizure was believed to have been provoked by *Raya*’s outspoken coverage of a secret visit undertaken by the Israeli ambassador to a Palestinian official who had obtained political asylum in Mauritania.

Morocco

Morocco was one of many states passing a new anti-terrorism law and it was quick to implement it against members of the press. Mustapha Alaoui, managing editor of the weekly newspaper *Al Ousboue*, was arrested on 5 June 2003, apparently because the newspaper printed a letter from an unknown group claiming responsibility for three of five bombings that had recently taken place in Casablanca. The prosecutor’s office said the letter’s publication was a ‘flagrant violation of criminal law provisions, especially those in the law on the struggle against terrorism.’ Three other journalists were arrested that same month for ‘extolling the actions that comprise terrorist crimes’. The accusation against them apparently sprang from an article examining the relationship between the intelligence services and the history of the Islamist movement in Morocco. The three, although arrested under the new anti-terrorism law, are now reportedly being prosecuted under a separate press law.

South Africa

The Freedom of Expression Institute in Johannesburg issued a statement in July 2003 calling South Africa’s new anti-terrorism bill ‘a monster in the making’. Its report by Simon Kimani suggested that the state had ‘seized the opportunity presented by the attacks in the United States on 11 September 2001 to make a second attempt at the re-introduction of such legislation in the country’, that the bill was ‘fundamentally flawed’ and that ‘the logic behind its motivation’ was ‘unclear’. The bill defined terrorism vaguely as ‘an unlawful act... that is likely to intimidate the public or a segment of the public’. Kimani pointed out that, like the U.S.A.’s 2001 Patriot Act, the South African bill hands over to the executive – in this case the Minister of Safety and Security – discretion to ‘black list’ organisations suspected of terrorist activity. The bill also compels journalists to answer questions and surrender material to the police for their investigations into alleged acts of terrorism, so that the journalistic right not to disclose sources will be significantly diluted.

Swaziland

In July 2003, the Swaziland parliament approved a bill – the ‘Secrecy Act’ – which would force journalists and other members of the media to reveal their news sources as and when required by the authorities. Failure to do so, if the Act becomes law, will result in a jail term of up to five years. The law is now under further discussion by the country’s cabinet. The Media Institute of Southern Africa condemned the bill, with the National Director Comfort Mabuza lamenting that it indicated ‘that the Swazi government is not prepared to respect press freedom or freedom of expression.’ The bill apparently was composed after many reports circulated in Swaziland and internationally about the misuse of public funds in the hands of government officials. Its timing and the attempt to dilute the confidentiality of a journalist’s sources coincided with similar pieces of anti-terrorism legislation in the region and beyond.

Zimbabwe

In November 2001, a government spokesman, quoted in the government-owned newspaper *The Herald*, accused six journalists who worked for foreign media of being ‘terrorists’ because their stories on the country’s political violence were distortions ‘of fact’ and in effect assisted ‘terrorists who stand accused in our courts of law of abduction, torture and murder’. He added: ‘As for the correspondents, we would like them to know that we agree with the U.S. President Bush that anyone who in any way finances, harbours, or defends terrorists is himself a terrorist. We too will not make any difference between terrorists and their friends and their supporters.’ The six journalists in question worked for British and South African newspapers. One of the six, Andrew Meldrum, Zimbabwe correspondent for *The Guardian* (UK), dismissed the charge as ‘outrageous’. Meldrum was subsequently illegally expelled from the country by the Zimbabwean authorities.

The Movement for Democratic Change (MDC) opposition party was similarly denounced by President Mugabe as a ‘terror organisation’. Minister of Information, Jonathan Moyo, declared that the United States and Great Britain

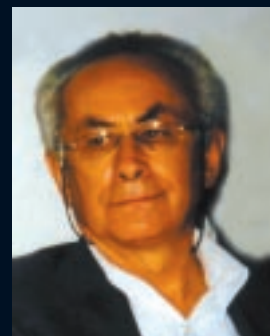
had reacted to the 11 September 2001 attacks by limiting press freedoms in the name of national security, and that ‘if the most celebrated democracies in the world won’t allow their national interests to be tampered with, we will not allow it too.’

The government also passed two new laws aimed at further controlling the actions of Zimbabwean citizens, both of which had a direct and negative impact on press freedom. The Access to Information and Protection of Privacy Act (AIPPA) and the Public Order and Security Act (POSA), both of 2002, stifled opposition to President Mugabe and his party. The two criminalised criticism of the President, rendered illegal any false statements that undermined public confidence in defence or law enforcement agencies, and effectively ended the ability of independent human rights groups and journalists to function freely in the country. Numerous writers for the media have found themselves arrested, charged, questioned, or forced to leave the country under the two new Acts.

The Americas

Regional Overview

On 3 June 2002, the Organisation of American States General Assembly adopted and opened for signature the Inter-American Convention Against Terrorism in which member states affirmed the ‘need to adopt effective steps in the inter-American system to prevent, punish and eliminate terrorism through the broadest cooperation.’ A report published by the OAS’s Inter-American Commission on Human Rights later that year⁶ made a special analysis of the balance between the need to protect national and international security and human rights. It stated that the 11 September 2001 attack ‘harshly illustrated that terrorism remains a significant threat to the protection of human rights, democracy and regional and international peace and security.’ It therefore argued that some erosion of rights might be necessary to curb the terrorist threat: ‘Terrorism is a serious problem affecting public order and in some cases, national security. Therefore, some subsequent limitations



on freedom of expression or access to information related to fighting terrorism may be justified as measures that are necessary to protect the public order or national security.’ (p.192) However, it urged that strict standards, taking into account the need to protect freedom of expression, be applied in all cases of such erosions.

Across the region, the new OAS agreement was echoed by fresh legislation allegedly intended to combat the perceived increase in the terrorist threat. Countries which stepped up either their legislation or their activities against alleged terrorists included Colombia, El Salvador, U.S.A. and Panama. In some cases, such as Colombia, there was little or no evidence that the events of 11 September had adversely affected national security, but the general ‘anti-terrorist’ climate possibly provided an impetus to clamping down more forcefully on local insurgency movements. Such clamp-downs adversely affected journalists and writers in their work. In the U.S.A., the government became an apologist for censorship in the name of national security as sweeping new measures to combat terrorism were passed in the so-called ‘Patriot Act’. These measures seriously undermined the U.S.A.’s legal protection of freedom of expression, enshrined in the First Amendment to the Constitution, but they also provoked a widespread campaign of dissent and the new laws are being challenged by pro-First Amendment groups in the courts.

Colombia

More than 60,000 people have lost their lives since 1985 in a cycle of violence between successive governments and armed opposition groups. Talks in February 2002 between both sides broke down. In May of that year, President Álvaro Uribe Vélez was elected and three months later his government declared a state of emergency. This granted the armed forces broad powers to deal with public order issues, and led to renewed human rights violations. It also allowed foreign nationals working for NGOs to be expelled summarily. Amnesty International, in its report *2002 in Focus*, said the new measures ‘helped reinforce the secrecy shrouding human rights violations’ and noted that the Uribe administration had stigmatised human rights defenders as ‘guerrilla collaborators’. In this way, writers, journalists and other commentators on events in Colombia found themselves operating in a repressive climate. Foreign media workers faced arbitrary deportation while nationals faced death threats, extra-judicial killings and kidnappings. Some of the violence and threats of violence clearly originated from the major opposition insurgency movement, the Revolutionary Armed Forces of Colombia (FARC). However, in other cases, it seemed the Colombian army itself had taken the law into its own hands. Anyela

Muñoz, director of the weekly *El Vocero*, was held at gunpoint by two unidentified men who told her that if the week’s edition of the paper was published, somebody would be killed. That same week, a rightwing paramilitary group, the United Self-Defence Forces of Colombia, told the newspaper: ‘Stop playing with the pain of the community or we will be sadly obliged to execute someone so that you understand the pain of the people’. This statement, which was published in another newspaper, caused an outcry and was eventually retracted, but was symptomatic of the way in which journalists in Colombia are censored if they attempt even to comment on the conflict. The WiPC reported on several cases of such threats since President Uribe came to power, and the overall picture was one of serious erosions of freedom of expression in the name of anti-terrorism.

El Salvador

On 15 August 2002, a ‘National Defence Bill’ was approved by the Legislative Assembly in El Salvador, bringing into law a range of measures ostensibly designed to protect national security. There was criticism from international groups such as Reporters Sans Frontières that this new legislation would have serious implications for freedom of expression. Article 25 of the bill forced writers and journalists to reveal their sources, stating, ‘In matters pertaining to national defence, government officials, public or municipal authorities, members of the court and private individuals will be required to provide the information required by the governmental department in question.’ The local journalists’ association, APES, noted a lack of clear definition of ‘national defence’ and criticised the new law in that its interpretation and application would be left very much to the discretion of the government agencies. Although the WiPC has yet to record any instances of writers and journalists being affected by this new legislation, its passage has immediate implications for news-gatherers, who can now offer their sources of information scant guarantee of confidentiality because of this eroded legal protection.

Panama

The WiPC case list notes: ‘Of the 200 or so journalists working in Panama, around half are facing charges in connection with articles they have written or published’. This is largely because of Law 38 (signed by the president in July 2000, before the events of 9/11) which made it an offence to disseminate information that ‘could cause serious damage to society or the State or to the person concerned, as is the case with negotiations for international treaties or conventions, national security, health, political ideas, marital status, sexual inclination, criminal or police record, bank accounts, and other such

information that has this character according to a legal norm'. The law imposed a range of administrative sanctions for its infringement, and in a practical sense limited journalists' and writers' access to legal and financial documents of all kinds. The Committee to Protect Journalists has stated, 'Law 38 clearly damages the ability of Panamanian journalists to inform the public about matters of vital public interest.' Its passage undid some positive moves by the Panamanian president, Mireya Moscoso, to strengthen human rights protection, and in the wake of the 'anti-terror' climate engendered by events of September 2001, optimism that this 'catch-all' law would be swiftly removed was not great.

Peru

The case of the journalist and poet Juan de Mata Jara Berrospi demonstrated how accusations of terrorism can be unjustly broadened to punish those who have merely tried to investigate human rights abuses. De Mata Jara was arrested in 1993, accused of 'collaborating' with a terrorist group (in this case the Shining Path) and sentenced to 20 years' imprisonment by a 'faceless tribunal'. He was convicted, apparently solely because maps were found in his possession showing where nine students and professors at La Cantuta University had been killed and buried. In 2003, a new law reduced the sentences of all those convicted by the 'faceless tribunals' to a maximum of six years. De Mata Jara Berrospi's release should now be a matter of course as he has already served the reduced sentence. However, his imprisonment for ten years on over-broad anti-terror legislation and through a flawed judicial process demonstrate forcefully the dangers of allowing national security interests paramount importance over the enjoyment of human rights and civil liberties.

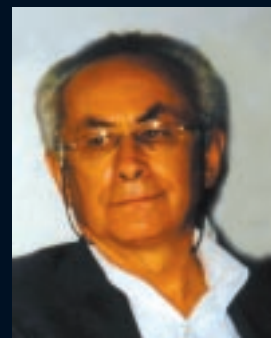
U.S.A.

Immediately following the 11 September attacks, a sea-change in American attitudes towards national security occurred, although simultaneously an active and influential lobby emerged that stressed how important it was not to jettison fundamental civil liberties in the name of anti-terrorism.

The National Coalition Against Censorship created an index of incidents of censorship directly arising from the attacks. These ranged from the removal of a painting entitled 'Terrorist' from the Baltimore Museum of Art in September 2001 'out of consideration for visitors' sensibilities', to the Boston Symphony Orchestra's decision to cancel the staging in November and December 2001 of an opera by John Adams called *The Death of Klinghoffer*. The opera is about the Palestinian hi-jacking of an American cruise ship in 1985. The Orchestra explained that they had cancelled the performances on account of the events of 11 September and because the opera was in parts allegedly sympathetic to the hijackers. In New York, in October 2001, the daily tabloid *Newsday* removed a comic strip entitled *The Boondocks* from the newspaper pages because it criticised the U.S. support of Osama Bin Laden during the Soviet/Afghanistan war. The strip was later reinstated.

There were also reports of news journalists being fired for unpopular views. For instance, Tom Gutting, city editor for the *Texas City Sun*, was fired in September 2001 for comparing President Bush to a 'scared child taking refuge in his mother's bed after having a nightmare' because of Bush's failure to return to Washington D.C. immediately after hearing about the attacks. Censorship also crept into schools: there were reports of teachers being suspended for exploring different reactions to the terrorist attack. A substitute teacher in the Pittsburgh Public Schools system was suspended for writing 'Osama Bin Laden did us a favor. He vulcanized us, awakened and strengthened our resolve'. The teacher was later re-instated.

Such local instances of censorship were common in the immediate aftermath of the attacks and stemmed from both private entities and local authorities. Nationally, the same haste to diminish the country's enjoyment of civil liberties in the name of anti-terror was also apparent. The Bush Administration rushed through the Patriot Act, designed to give the U.S. authorities legal weapons to fight the 'war on terror', within three months of the attacks. The Act allows the



FBI to seize records from libraries and bookstores, and uses a broad definition of 'terrorism' to include actions by protestors. It widens the scope for the use of wire-tapping on telephone calls and e-mails, and made it legally permissible for the internment without charge or trial of some twelve hundred foreign nationals, most of whom were Arabs and Asians of Muslim backgrounds.

The Patriot Act of 2001, however, was not wholly new. It built on anti-terrorism laws passed by Congress after the Oklahoma bombing in 1996, which also gave the FBI increased powers for its investigations. The 1996 act had already made it a crime to provide material support for groups allegedly 'terrorist' in their intention, even if this support went towards any lawful, humanitarian activities of the group. The 1996 act was also responsible for allowing the Secretary of State to determine if a given group should be designated as 'terrorist'. Groups that threaten foreign relations and economic interests abroad were incorporated into the definition, and legal challenges to the 'terrorist' labeling were rendered almost impossible, as the Secretary of State was given powers to classify the information he or she used in making an assessment.

The Patriot Act significantly strengthened the 1996 law. Its Section 215 authorised the FBI to go into any public library and ask for the records on the library users. Such requests cannot be challenged, and must by law be complied with. Furthermore, librarians are also required to keep all such requests from the FBI confidential. David Cole and James X. Dempsey's report on these developments (*Terrorism and the Constitution: Sacrificing Civil Liberties in the Name of National Security*, The New Press, 2003) ⁷ argued that this provision would have a chilling effect on the movement of information and ideas and on those wishing to undertake serious research on a host of matters, ranging from foreign policy, the Middle East, to Islam and beyond. The authors urged Americans not to 'overreact in a time of war' or 'sacrifice the bedrock foundations of our constitutional democracy'.

A proposal to beef up the Patriot Act came from the Department of Justice which prepared further draft legislation under the title of the Domestic Security Enhancement Act. This would authorise clandestine arrests of people in immigration cases, and allow the stripping of American citizenship if an individual was deemed to support (even peacefully) a 'terrorist' group (as defined by the Secretary of State). It broadened the grounds for summarily deporting non-nationals.

There was also criticism of self-censorship by the U.S. media in its coverage of the invasion of Iraq. PEN American Center

noted that 'images of the violence and destruction of war' were muted while 'accounts of the nature and extent of US successes on the battlefield' were inflated. At the same time, private entities and individuals in the United States attempted to undermine foreign media coverage that was critical of the U.S. role in the war. A notable example was a decision by the New York Stock Exchange to revoke the press credentials of two *Al-Jazeera* reporters.

Venezuela

Human Rights Watch decried a 15 July 2003 decision by the Venezuelan Supreme Court to uphold prior censorship in the case of material which contains 'war propaganda' or which is 'discriminatory or promotes religious intolerance'. The court also ruled the country's 'insult laws' ('leyes de desacato'), which protect public authorities and institutions from insulting criticism, were constitutional. Under the current Venezuelan Criminal Code, those guilty of 'insulting' certain government officials face imprisonment. The Venezuelan Supreme Court stated in its ruling that it did not have to adhere to the Inter-American Commission on Human Rights standard for free expression, which specifically prohibits prior censorship (but it is noteworthy that the Commission does state that propaganda for war or propagating national, racial or religious hatred, should be 'punishable'). Local writers in Venezuela perceived the pro-censorship ruling as unconnected to events of 11 September 2001. However, international commentators found that the ruling set the clock back on the promotion of free expression in Venezuela. Arguably, in the context of the overall climate in the region, the ruling formed part a general trend whereby free expression is sacrificed in the name of security interests.

Australia/Asia

Regional Overview

Across Asia, a diverse picture emerges of responses to the 11 September 2001 attacks. In Afghanistan, the 'war on terror' unleashed by the Coalition's invasion and toppling of the Taliban regime is continuing. This inevitably leads to a dangerous situation for all civilians, including writers and journalists, although writers in particular saw the removal of the Taliban as a promising step towards a more democratic future. For other governments – such as that in Myanmar – it was 'business as usual' in terms of dealing with opponents. If a connection between the local human rights situation and 9/11 is to be found, it is a speculative one: i.e., that arguably, while international attention was diverted, the government felt itself freer to clamp down ever harder on dissent. In other

⁷ *Terrorism and the Constitution: Sacrificing Civil Liberties in the Name of National Security*, The New Press, 2003).

countries, the 'get tough on terrorists' stance in the West was directly invoked as an apologia for crack-downs on local independence movements. In China, the mainly Muslim population of Xinjiang Province was particularly targeted. The religious beliefs of the inhabitants there provided the Chinese authorities with a basis for accusing (without producing concrete evidence) the local independence movement of connections with the Al-Qaeda network.

In other places, local governments were hard put to juggle the new security issues raised by 9/11 - and subsequent heavy U.S. pressure to get tough on terrorists and Islamic fundamentalists generally - with the sensibilities of their local Muslim populations. *The Far Eastern Economic Review*, for example, reporting on Indonesia on 4 July 2002, cited how analysts have noted 'a thin line' that the government has had to draw 'between demonstrating a commitment to tackling international terrorism and not appearing to be anti-Muslim.' In other countries, the new anti-terror climate led to new legislation or stronger application of old legislation. Even where the reason for invoking special powers was unrelated - as in Nepal's state of emergency - the rhetoric and the timing suggested a general move to jump on the 'anti-terrorist' bandwagon. As *The Asia Times* put it (10 January 2002), 'As the U.S.-led campaign against terrorism spreads, more and more governments in Asia and elsewhere are jumping on the bandwagon and cracking down on suspected terrorist groups. The trouble is that in the process the definition of terrorism is continually getting widened to include everything from ethnic separatism and religious extremism to plain old fashioned determined political opposition.'

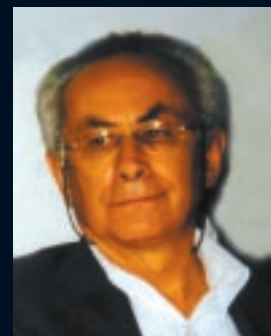
Afghanistan

Afghanistan remained on the front line of the U.S.A.'s 'war on terror'. In the context of poor overall security, the country was named by the Committee to Protect Journalists as 'the fourth most dangerous' place to be a reporter. Human Rights Watch stated that, 'Army, police and intelligence forces are delivering death threats and arresting Afghan journalists, effectively

silencing them.' In Kabul, Sayed Mir Hussain Mehdavi, chief editor of the daily *Aftab*, received threats after publishing three columns in March and April 2003. In one he had criticised the use of the word 'Islamic' in the official title of the government (the Islamic Transitional Government of Afghanistan), saying the legal foundation of the country was not religious, and in another he said secularism 'is not fighting with religion or escaping from religion' but bringing 'a balance between the religions' and that 'whether we like it or not, secularism is the only way of saving our society'.

Another journalist, Hayatullah Khan, a Pakistani correspondent working for the Pakistani daily *Nation*, found himself arrested by the U.S. occupying forces. He was held from 2-7 July 2002 on suspicion of contacting terrorist organisations, and claimed that he was ill-treated during his detention. Hayatullah Khan told Reporters Sans Frontières that he had traveled to the Afghanistan/Pakistan border to report on the Al-Qaeda and Taliban activities there. When he went to a U.S. military camp to interview U.S. army officers, he was arrested while showing his identity and press cards, and locked in a 'dirty two-square metre cell'. He was handcuffed and blindfolded, he said, and interrogated by both U.S. and British officers, who suggested that he had been passing information on to terrorist organisations. The accusations were based on names and phone numbers of religious leaders they found in his address book, which they confiscated. Khan insisted the contacts were merely those he needed to do his job as a journalist in the region. After representations by his colleagues in the media in Pakistan, urging that he was a *bona fide* journalist, he was released. However, Reporters Sans Frontières, in a protest letter to U.S. Defense Secretary Donald Rumsfeld, commented: 'As U.S. forces continue to make blunders in Afghanistan as regards civilians, the arrest of Pakistani journalist Hayatullah Khan is another error in their dealings with journalists.'

On a more positive note, writers in Afghanistan began to gather together to discuss their common aims. Many of them told a visiting PEN delegation



from Norway that there was a chance for a fresh start. A young woman poet noted that a certain amount of self-censorship was inevitable in the current situation, and the overwhelming goal of most writers in Afghanistan, as for most Afghan citizens was 'to survive physically'.

Australia

Two days after 11 September 2001, the Defence Minister, Peter Reith, said the attacks in the U.S.A justified his government's efforts to prevent asylum seekers from entering Australia. The tough stance on immigrants was exemplified by the holding of Ivory Coast journalist Cheikh Koné between 2001 and 2003. Although the WiPC's investigations into his case confirmed Koné's explanation of why he had fled the country, his claim for refugee status was initially turned down and he was detained for more than two years while he lodged an appeal. In addition, the Australian government passed anti-terror legislation in response to the 11 September events, and also to the October 2002 bombing in Bali, in which many Australian citizens died. Critics found the new legislation to be vague in its definitions of terrorism.

Bangladesh

The Special Powers Act has long been used to detain arbitrarily critics of the government and others. After the election victory of a coalition government led by the Bangladesh Nationalist Party, Prime Minister Begum Khaled Zia promised to repeal the Act, as had already been done in the case of the Public Safety Act. However, perhaps because of spiraling tensions between Hindu and Muslim segments of the population, and the government's fear of being dislodged from power, no such repeal was forthcoming. The Special Powers Act, and other laws, were frequently invoked against writers and journalists who were merely trying to express their opinions.

A case in point was that of Shahriar Kabir. A well known writer, journalist and film-maker, Kabir is a critic of the resurgence of fundamentalism in Bangladesh. He was arrested on 22 November 2001 at Zia International Airport in Dhaka and charged with sedition. He was released on bail a few weeks later, but the case against him is still being pursued. Kabir claimed, in a September 2002 interview with an Indian paper, that a fundamentalist party that shares power in the coalition – the Jamat-I-Islami – has accused him of working for the Israeli intelligence service and that their dislike of him stems from his exposure of recent 'atrocities perpetrated against the minority Hindu community in Bangladesh'. He sees the objective of entities such as Jamat as the destruction of 'all secular, democratic, human values' and the conversion of Bangladesh into another 'Talibanised Afghanistan'; but he

also commented that his release from jail was a 'victory of the civil society in Bangladesh'.

China

A week after the 11 September 2001 attacks, Chinese Foreign Ministry Spokesman Zhu Bangzao said: 'The United States has asked China to provide assistance against terrorism. China, by the same token, has reasons to ask the United States to give its support and understanding in the fight against terrorism and separatists.' Three weeks later, another Foreign Ministry spokesman, Sun Yuxi, claimed that the Ministry had conclusive evidence that 'East Turkistan independent elements' are colluding 'with international terrorist forces'. He was referring to Xinjiang, a predominantly Muslim region, where there is a movement of ethnic Uighurs who advocate full autonomy for the region. Human Rights Watch noted in a press release of 18 October 2001 that the Ministry failed to produce this 'evidence'. The link between the Al-Qaeda network and the independence movement seemed to be rhetorical rather than actual.

In fact, the Ministry's statements appeared to amount to apologies for China's 'Strike Hard' campaign, aimed at quashing all those advocating independence. In December 2001, a Chinese Communist Party conference urged the 'Strike Hard' campaign to be directed even more forcefully against terrorists and separatists. At the same time, new anti-terrorism provisions were added to the Criminal Law code, with the stated purpose of punishing 'terrorist crimes' and ensuring 'national security and the safety of people's lives and property', and of upholding the 'social order'. The new provisions increased the punishments for those who 'organise or lead a terrorist organisation'. However, the term 'terrorist organisation' is not defined in the law, and Amnesty International commented that the term 'could be interpreted as referring to peaceful opposition or religious groups' ⁸.

Human rights groups have documented arbitrary arrests and even executions as a result of the 'Strike Hard' campaign and the concomitant tougher legislation. Amnesty International, on page one of the same report, notes: 'Several thousand [people] are reported to have been detained for investigation in the crackdown and at least scores charged or sentenced under the Criminal Law. At the same time the government has further restricted the religious rights of the Muslim population..., banning some religious practices during the holy month of Ramadan, closing mosques, increasing official controls over the Islamic clergy in the region, and detaining or arresting religious leaders deemed to be "unpatriotic" or subversive. The government also launched a campaign to "clean up" cultural and media circles and some government departments

⁸ Anti-terrorism Legislation and Repression in the Xinjiang Uighur Autonomous Region, Amnesty International, July 2003.

to rid them of “undesirable elements”.’ Human Rights Watch, in its March 2003 paper *In the Name of Counter-Terrorism: Human Rights Abuses Worldwide* concluded, ‘China has sought to blur the distinctions between terrorism and calls for independence by the ethnic Uighur community’ in the Xinjiang region.

One writer who has been victimised as a result of his commentary on the Ethnic Uighur situation is Tohti Tunyaz. An Honorary Member of several PEN centres, Tohti Tunyaz had been resident in Japan until his arrest in China while on a research trip as a PhD student. He is serving an 11-year prison term for allegedly ‘inciting national disunity’ and ‘illegally acquiring state secrets’. The charges appear to be based on Tunyaz’s research work, which the Chinese authorities claim advocates independence for the Xinjiang region. PEN is calling for his immediate release from prison.

India

A new Prevention of Terrorism Act (POTA) was passed by India in March 2002, despite much local resistance to it. India’s Home Minister, Mr. L. K. Advani, told a specially-convened joint session of Parliament – in a statement that echoed much of the global rhetoric of the time – that ‘state-sponsored cross-border terrorism is a kind of war and not just a law and order problem... this is the first factor for the government to think of [when considering the passage of] an extraordinary law like POTA’. Amnesty International said it gave the police ‘wide powers of arrest and provided for up to six month’s detention without charge or trial for political suspects’. It was used to detain political opponents in several states across India. The Act once again set a broad definition of terrorism: the word was said to embrace ‘acts of violence’ or ‘disruption of essential services’ carried out with ‘intent to threaten the unity and integrity of India or to strike terror in any part of the people’.

The first journalist to fall foul of POTA was R.R. Gopal, editor of the Tamil-language magazine *Nakkheeran*. He was charged with ‘conspiring to promote the secession of the Tamil Nadu state’ and ‘possession of a firearm’,

but local and international human rights watchdogs fear his arrest was in reality due to his reportage of the activities of Veerappan, a notorious bandit whom the authorities have failed to apprehend.

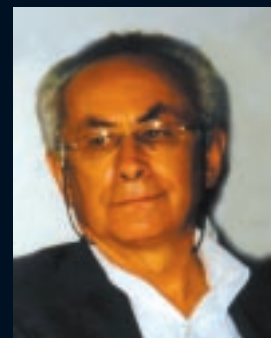
Indonesia

After the 12 October 2002 bomb attack in Bali, President Megawati, bowing to pressure from the U.S.A., issued two executive decrees addressing the need to prevent terrorism, and the Indonesian parliament prepared anti-terrorism legislation for its consideration. Human Rights Watch, in its March 2003 report, *In the Name of Counter-Terrorism: Human Rights Abuses Worldwide*, found that both the two decrees and the anti-terror bill curbed ‘fundamental rights, invoking definitions of terrorism that could be used to target political opponents’ and observed that local lawyers had argued that ‘existing Indonesian criminal laws are sufficient to address the country’s security needs’.

Nepal

Political tensions at the national level spiraled in 2002 following a rise in violent attacks by Maoist guerrillas, and in response to this, King Gyanendra Bir Bikram Shah Dev took executive power in October 2002 and postponed parliamentary elections indefinitely. A state of emergency had been declared the previous November, and a special ordinance on preventing ‘Terrorist and Disruptive Activities’ (perhaps named after similarly titled legislation that had lapsed in India) was promulgated at the same time. This was passed as an Act by Parliament the following April.

One critic of the legislation noted that it was so broadly worded that a lawyer defending an alleged terrorist could also be deemed a terrorist. President of Law Asia, Dr Gordon Hughes, commented on an Australian radio show: ‘Under one interpretation of the anti-terror legislation, a lawyer who represents a terrorist can themselves be deemed a terrorist because they can be deemed to be aiding and abetting terrorist activity. So if the government/law enforcement authorities choose to adopt that interpretation,



they can threaten to charge a lawyer who's doing nothing more than discharging their professional obligation to represent a client in court.'

Journalists were adversely affected by this repressive climate. The WiPC recorded kidnappings, death threats, attacks, and detentions of journalists. In many cases, Maoist rebel groups were responsible for the assaults on freedom of expression, but in others the authorities, using their special powers, detained those suspected of adherence to the Maoist cause or of more general opposition to the government. The WiPC case lists over recent years show that the number of detentions of writers and journalists shot up exponentially after the new legislation was brought in, although most of the detentions were brief. In 2001, there were 11 recorded detentions, and all of them after the emergency legislation was first introduced. In 2002, the figure rose to 22.

Pakistan

A special Anti-Terrorism Court, Mirpurkhas, operates in Pakistan in cases of prosecution under the 1997 Anti-Terrorism Act. Cases that come before this court are often held in camera: members of the press are not allowed inside.

Such was the case in the 2002 trial of four men accused of involvement in the kidnapping and murder of *Wall Street Journalist* reporter Daniel Pearl. Pearl was seized in January 2002 while investigating a story that linked Pakistani militants to Richard Reid, the alleged 'shoebomber' who was arrested in December 2001 with explosives in his shoes while on a flight from Paris to Miami. The case was heard by the special court, convened in a room at Karachi's Central Jail.

Although journalists' organisations, such as the Committee to Protect Journalists, commended the Pakistani government's aggressive pursuit of Pearl's killers, the legislation under which the alleged perpetrators were accused was also used improperly against local journalists. Zahoor Ansari and Ayub Khoso, editor-in-chief and columnist respectively for *Alakh*, a Sindhi daily, were handed down 17-year sentences in the Anti-Terrorism Court for an alleged blasphemy. The charge sprung from a complaint against the two men filed by a local cleric, and the defendants were tried in absentia. The High Court later overturned the sentence, ruling that the police had wrongly booked the case before the Anti-Terrorism Court and that the article in question was an academic discussion rather than blasphemy. However, the case gave rise to concern that in the new 'anti-terror' climate, anti-terrorism laws are being more commonly invoked by the authorities as an excuse to clamp down on legitimate free speech.

Europe

Regional Overview

The Organisation for Security and Cooperation in Europe (OSCE) adopted Decision No. 1 on Combating Terrorism in December 2001. This Decision noted that 'no circumstance or cause can justify acts of terrorism' but 'various social, economic, political and other factors... engender conditions in which terrorist organisations are able to recruit and win support.' The OSCE member nations went on to advocate a holistic approach to fighting and preventing terrorism, taking into account the context in which terrorists emerge. It stressed the importance of building 'democratic institutions' and the promotion and enhancement of 'tolerance, coexistence and harmonious relations between ethnic, religious, linguistic and other groups'. This holistic approach was echoed by the Shanghai Cooperation Organisation (SCO), consisting of China, Russia, Kazakhstan, Tajikistan and Uzbekistan, which signed a similar declaration. The SCO states pledged collaboration with each other not only in the 'global fight against terrorism' but in the elimination of the 'social basis that breeds terrorism, including the elimination of poverty, unemployment, ignorance and racial, ethnic and religious discrimination'.

Despite these agreements, some European countries displayed rapid, even 'knee-jerk' responses to the terrorist threat that directly impinged on civil liberties. Two of the U.S.A.'s closest allies in the declared 'war on terrorism', the U.K. and Spain, were among the quickest to resort to special measures to 'clamp down' on activities branded terrorist. Other European countries (such as Germany and France), while signing up to various regional agreements on the need to fight terrorism, were more reluctant to make wide-ranging changes to already existing local laws. In Central Asia, the former Soviet republics displayed a range of reactions to the 9/11 attacks, but arguably the greatest deterioration in human rights occurred in Uzbekistan, where the government cracked down severely on what it regarded as an 'extremist' Islamist movement.

Britain

Shami Chakrabarti, the director of Liberty, stated in a report on counter-terrorism in the UK that 'it cannot be right that the only way to fight dictators abroad is by dismantling democratic freedoms at home'. She was referring to two pieces of legislation that were passed in the name of fighting terrorism: the Criminal Justice and Public Order Act of 1994, and the Terrorism Act of 2000. Both acts have been severely criticised by legal experts as posing a threat to civil liberties. On 11 December 2001, as a response to the 9/11 attacks, the Anti-Terrorism, Crime and

Security Act went into force. This beefed up already existing legislation: it provided for the indefinite detention without charge or trial of non-nationals suspected of terrorist activity – but it was left to the discretion of the Home Secretary to declare a detainee a suspected terrorist or national security risk, and evidence for such detentions was to remain secret, even from the detainees themselves, and thus difficult to challenge.

The new, tough legislation, especially the provision for detention without charge or trial, was reminiscent of a previous anti-terror measure known as ‘internment’, which was promulgated during the height of the conflict in Northern Ireland. At that time, the government of Margaret Thatcher also passed wide-ranging media restrictions on the coverage of ‘terrorist organisations’ – restrictions that were extended to include a ban on live coverage of speeches made by officials of certain *legal* organisations, such as the political party Sinn Fein. The Blair government stopped short of re-introducing such a measure again, but analysts of the Anti-Terrorism, Crime and Security Act found it to have unacceptably broad scope for curbing free speech, and its provision for detention without trial was a particular concern.

Under the new legislation, Human Rights Watch ⁹ estimated that some three hundred people had been arrested, and forty charged, mostly with immigration-related offences. Defence lawyers, it said, had argued that the police ‘have targeted particular racial, ethnic or religious communities in random sweeps, with little hard evidence of terrorist activity.’

The new laws constituted a derogation of the European Convention on Human Rights and Fundamental Freedoms. The UK, when challenged by Europe’s Human Rights Committee, defended its legislative measures by saying that Article 103 of the U.N. Charter, in which parties were obliged to sign up to Counter Terrorism measures under Resolution 1373, over-rode its obligations to other international agreements, such as those surveyed by the European Human Rights Committee.

Free expression advocates were particularly dismayed by Article 44 of the Anti-Terrorism, Crime and Security Act of December 2001, as it granted police broader powers to interfere with peaceful protests. Liberty filed a High Court action against the government in September 2003, after police barred individuals from a protest at an arms fair in London’s Docklands, citing the new legislation. Liberty spokesperson Barry Hugill told *The Guardian* (10 September 2003) that the government had promised that the new law would only be used where there was ‘good reason’ to believe there was ‘genuinely a terrorist threat’, but that its use against peaceful protestors at the arms fair had been ‘blatantly illegal’ and an infringement of the demonstrators’ ‘basic right to freedom of speech’. The hearing of the case is pending.

France

Two authors openly hostile to Islam were challenged in court comments seen as racist. . However, the French judges in each case ruled that neither author should be banned or face penalties. Writer Michel Houellebecq was accused of provoking religious and racial hatred by calling Islam ‘the most stupid of religions’. Meanwhile, the book *Rage and Pride*, by Italian journalist Oriana Fallaci, argued that 9/11 showed the true face of Islam, and was brought to court by the Movement Against Racism and Friendship Between Peoples. The head of the Mosque of Lyon, Kamel Kabtane (as quoted in *The Guardian* of 22 October 2002) lamented that ‘Islam can now be insulted freely’.

In 2002, Daniel Mermet, a radio journalist twice came before the courts with various associations accusing him of inciting anti-Semitism and racial hatred.

In the first case, the claim concerned the opinions on a radio program dealing with the Israeli-Palestinian conflict and Mermet was largely sustained by a petition with the title «Are we entitled to criticise Sharon?». The second referred to a controversial interview with a former Auschwitz doctor, where he said he had felt compassion for the Jews. Mermet was released in both cases.



Kazakhstan

The WiPC recorded no cases of specific relevance to anti-terrorism, but the local rhetoric matched the international mood. At a 19 November 2002 meeting of the Central Asian Cooperation Organisation, President Nursultan Nazarbayev urged colleagues in the region to fight 'religious extremism, radicalism, and fanaticism'. He was among six presidents to sign the new Shanghai Cooperation Organisation regional consensus on Anti-Terrorism, calling the fight against terrorism a 'top priority'.

Russia

Human Rights Watch, in a letter to the Shanghai Cooperation Organisation, criticized the government in Russia for undertaking military operations in Chechnya in 1999 as a campaign to fight terrorism' and that after the 9/11 attacks, it 'was quick to point to the links between certain field commanders in Chechnya and Al-Qaeda'. The premise that the problem in Chechnya was one of 'terrorism' indeed led to violations of international humanitarian law: scores of civilians were subjected to arbitrary arrest, torture, and extra-judicial execution. Anna Politkovskaya, a journalist who commented on the injustices of the Russian forces in Chechnya, was forced to flee Russia in October 2001 after receiving threats.

Meanwhile, in November 2002, the upper house of the Russian Parliament (the Federation Council) approved vague and broad restrictions on media reporting of terrorist activity but, days later, President Putin decided to veto the restrictions after meeting with members the press. He sent the bill back to the lower and upper houses of Parliament for redrafting. The law was hastily prepared after the hostage-taking of civilians in a Moscow theatre by Chechen partisans. As well as a ban on the dissemination of information about techniques for making weapons and explosives, the parliamentarians were attempting to proscribe the passing on of any information which might in any way impede the conduct of an anti-terrorist operation. Protestors said the law amounted to unjustifiable censorship. However, Mikhail Fedotov, the secretary of the Russian Union of Journalists, defended the law. He said, 'Lives are more important than the right to information. If you understand that your words could worsen the hostages' situation, then you should shut up.' However, the editor of the newspaper *Versiya*, Rustam Arifdzhanov, while agreeing that press sensitivity to public safety was needed in a crisis situation, said that military operations should still be held up for criticism and analysis after the crisis was over. He told the *Moscow Times*, 'Special forces exist not for the sake of special forces, but for the sake of society.'

Spain

Spain came under fire in Human Rights Watch's 2003 report *In the Name of Counter-Terrorism: Human Rights Abused Worldwide*. It stated: 'The climate created by the international campaign against terrorism provided the Spanish authorities with a further pretext to crack down on Basque separatists and supporters of the pro-independence movement. Spanish authorities were also quick to issue public statements equating stricter controls on immigration with the war against terrorism, contributing to a climate of fear and suspicion towards migrants, asylum seekers, and refugees.'

The anti-terror legislation in Spain, like that of the U.K. and the U.S.A., permits the use of detention without trial. In force since the 1980s, the anti-terror law allows for an individual to be detained for 72 hours without access to a lawyer. Again, the secrecy of the proceedings prohibits the defence from seeing the prosecutor's evidence, so challenges to such detentions are severely hampered. It also adds to concerns that detainees are in danger of ill-treatment while out of sight of independent observers. The law also allows for the automatic closure of newspapers on the mere accusation of "collaboration with ETA". Two Basque newspapers have been forced to close – *Egin* in the early 1990s, and *Euskaldunon Egunkaria* in 2003 (see below). In both cases the evidence of alleged links with ETA were flimsy.

The Basque separatists' armed movement, ETA – which has caused hundreds of deaths since the 1960s in its quest for an independent state – was not the only target of such anti-terrorism measures. The heightened atmosphere of the clamp-down on terror led to a broadening of the campaign to eradicate all separatism. There were international protests, including from PEN, when the only remaining newspaper written entirely in the Basque language, *Euskaldunon Egunkaria*, was closed down in February 2003. Ten people who had worked for the newspaper were arrested and held incommunicado. Seven were later freed on bail while the case against the paper continues, but three journalists remain in prison. The WiPC of International PEN has raised serious judicial concerns over the handling of the case. The Spanish government contends that the paper was financed and directed by ETA, and used by ETA for money-laundering purposes; the concrete evidence for these charges has not been produced, however, and the 'unconditional detention' order under which the three journalists are held is viewed by PEN as problematic, since it does not conform with internationally- and regionally-agreed human rights standards. The International Federation of Journalists called the closure of *Euskaldunon Egunkaria* a major setback for press freedom. Aidan White, the Federation's

General Secretary, said the paper 'is seen by many as more independent than other journals which are sympathetic to the Basque rebels'. He added, 'There are concerns that this is an all-out assault on the Basque language.'

Turkey

Turkey has for several years had special anti-terrorism legislation that has been used to silence discussion on such matters as the Kurdish population in the country's south-east. Article 8 of the Anti-Terror Law was a stumbling block for many writers wishing to explore issues affecting Turkey's ethnic minorities. In particular, support for the Kurds, or the mere use of the term 'Kurdistan' used to result in imprisonment for 'separatist propaganda'.

In July 2003, Article 8 was finally removed from the statute books under the '6th Harmonisation Process', a series of legislative and constitutional changes to bring Turkish law in line with European Union conditions for entry. As a result, a number of writers who were on trial under this article have had their prosecutions quashed, and others already convicted have been granted a review. However, writings seen as propaganda that incites terrorism remains an offence under Article 7 of the anti-terror law, and it remains to be seen whether legitimate comment on issues surrounding terrorism could still be penalised.

Another human rights concern was the Turkish government's repression of peaceful anti-war protestors. When the government supported the military invasion of Iraq, thousands took to the streets in protest, and many found themselves arbitrarily arrested.

Uzbekistan

Since 1997, the authorities have branded independent Muslims – those who practice the faith outside government controls – as 'extremists', but after the 11 September 2001 attacks the campaign to quash this section of the community intensified. The government argued that links existed between various Islamic groups in Uzbekistan and the Al-Qaeda network. Arrests, reports of torture, long prison sentences, and cases of deaths in detention marked a

'counter-terrorism' crackdown that violated international human rights standards. Many Muslims were penalised for participating in private prayer groups, following imams out of favour with the state, and distributing unauthorised materials connected to their beliefs. There were two examples of journalists arrested on such dubious grounds recorded by the WiPC. One was Khayrullah Ernazarov, detained on 28 April 2003 by national security service agents at his home in Tashkent. He was accused of disseminating audio cassettes of sermons by the Islamic preacher Abduvallikori, whom the authorities regard as an 'extremist'. The other was Gayrat Mehliboev, a 23-year-old journalism graduate arrested in July 2002 during a demonstration in Tashkent. The authorities accused him of supporting the banned Hizb ut-Tahar Islamist Group and sentenced him to a seven-year jail term. The charge was apparently based on an article Mehliboev had written discussing the ideology of the group.

Human Rights Watch observed that the U.S. government refrained from making much criticism of this poor record, because of Uzbekistan's strategically important position in the 'war on terrorism': a neighbour of Afghanistan, Uzbekistan granted the U.S.A. permission to site airbases in the country while carrying out the invasion of Afghanistan.

The Middle East

Regional Overview

Complex responses to the global situation were apparent in the Middle East. Some governments – such as those of Egypt and Kuwait – demonstrated their concern to protect their relationship with the U.S.A. by taking actions to suppress the free speech of citizens opposed to the U.S.A.'s actions. In the state of Israel, a rapidly deteriorating relationship with the Palestinian Authority was reflected in its quashing of Palestinian media outlets, which it claimed openly supported and even incited Palestinian attacks on Israeli targets. Meanwhile, the removal of Saddam Hussein from power in Iraq brought scant consolation to local journalists and writers.



As well as the post-conflict chaos and continuing violence, they had to come to terms with a destroyed communications infrastructure, as well as a sweeping statement by the Coalition Provisional Authority that irresponsible news coverage would lead to outlets being or shut down.

Egypt

The country is still operating under emergency laws, in force continuously since 1981, when President Sadat was assassinated. These laws allow for incommunicado detention and the suspension of due process. In 2003, their mandate was due for renewal. The government pressed the urgent need to 'combat terrorism' as the specific reason for why they had to be renewed yet again.

As military action in Iraq got under way, the emergency laws were used extensively against anti-war demonstrators, who gathered in their tens of thousands in Tahrir Square in Cairo. The protesters met with violent opposition from the police, who were attempting to prevent them from reaching the American and British embassies. There were beatings and arrests in their hundreds. Among those arrested were several journalists, at least two members of Egyptian PEN, and the young poet Tamim Barghouti, who was detained and summarily deported. The WiPC issued a Rapid Action criticising the harsh treatment of those who were merely finding a peaceful way to express their opposition to war.

The laws have also long been used against members of illegal Islamic groups. A case in point is that of Abd al-Mun'im Gamal al-Din, a freelance journalist. He has been in jail since 1993. His detention orders have been repeatedly renewed, and even when he was acquitted of supporting terrorism in 1999 (in a

notorious trial of 106 people, known as the 'Returnees from Albania' case), a new detention order was served on him. Because his journalism was critical of the Egyptian government, there are strong concerns that his continuing detention is due to his exercise of the right to free expression.

Iraq

The Coalition Provisional Authority, on declaring a cessation to the war on Iraq, very soon acted to control the Iraqi press. As a report in *The Independent* (UK) by journalist Robert Fisk pointed out (11 June 2003), a censorship decree is in effect : 'newspapers that publish "wild stories", material deemed provocative or capable of inciting ethnic violence, will be threatened or shut down'. While pointing out that journalistic standards in the post-war situation were poor, and that many inaccurate stories were being printed, Fisk urged that Iraqis needed 'journalistic help rather than censorship' and 'courses in reporting – by real journalists from real democracies'. The attempts to control the press by censoring it are, Fisk said, reminiscent of Saddam Hussein, and 'must seem all too familiar to the people of Baghdad'.

Israel

Soon after the 11 September attacks, Prime Minister Ariel Sharon called Palestinian Authority Chairman Yasser Arafat 'our Bin Laden'.

His comment was emblematic of a general approach to the Palestinian question. As violence escalated, Israeli authorities attacked the Palestinian Broadcasting Corporation's Ramallah headquarters on 19 January 2002. The following month, the offices housing the Voice of Palestine radio station and Palestinian Television in the Gaza city of Al-Shijaieh were

entered by members of the Israeli Defence Forces who confiscated equipment and detonated explosives. The building collapsed. When International PEN protested against these actions to silence the local press, the government argued that the attacks were in retaliation for alleged incitement to violence by Palestinian media outlets. In a reply to International PEN's letter of concern, Michael Rosen of the Public Affairs Office of the Israeli embassy in the U.K., stated that the media outlets 'broadcast false reports of Israeli "atrocities", praise Palestinian violence and call for the "struggle" (i.e. the violence) to continue'. In an attempt to prove his point, he particularly referred to an 'MDPH' scale. The scale, he explained, 'stands for Muhammad al-Dura Per Hour. This is the scale of how high the Palestinian Authority-Controlled media incites the flames of hatred. The more they broadcast footage of 11-year-old Mohammad al-Dura being tragically killed in the first days of this 16-month conflict, the more attacks there are against Israeli civilians.'

Jordan

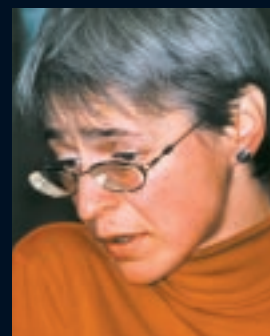
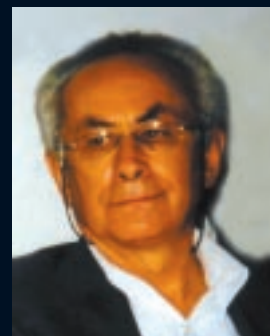
In October 2001, Prime Minister Ali Abul Raghed said that in order 'to cover all the needs we are confronting now' emendations to the penal code and press law were required. The amendments were made by decree, and allowed the government to shut down any publications considered to disseminate 'false or libelous information that can undermine national unity

or the country's reputation.' Human Rights Watch reported that the amendments 'provided the basis for the 13 January 2002 arrest of Fahd al-Rimawi, editor of *Al-Majd* weekly, for articles criticising Abul Ragheb's government.' Al-Rimawi was later released on bail. The WiPC recorded other similar cases of editors and journalists being arrested on account of material they had published.

In a separate case, the Palestinian poet Musa Hawamdeh was sentenced to three months in jail in Immam, Jordan for a poem which allegedly offended Islamic sensibilities by its reference to the Qur'anic story of the prophet Joseph. He was accused of blasphemy and apostasy. The poet is free pending an appeal.

Kuwait

Mohammed Al-Melaifi, the head of the Department of Research in the Ministry of Islamic Affairs, and also a journalist with the daily newspaper *Al-Watan*, found himself summoned by the police. His problems arose from an interview he gave to the *Al-Jazeera*-satellite channel, in which he demanded that the Kuwaiti government pay more attention to the Kuwaiti prisoners held by the U.S.A. in Guantánamo Bay. Although it seems a formal case against him has not been prepared, he reports that a promotion he was due to receive at his newspaper was barred after pressure from the Interior Ministry was brought to bear on the newspaper.



4. WRITERS REACT

4.1 PEN's initial response to the events of 9/11

PEN's Assembly of Delegates met in London in November 2001, and at that time passed the following resolution, stating its initial position on the events of 9/11:

The Assembly of Delegates of International PEN, meeting in London on 27-30 November 2001:

Recognises the urgent threat to freedom represented by the terrorist attacks of 11 September. It also recognises that the aims of terrorism are incompatible with democratic values, including freedom of expression;

Asserts its conviction that the emergency measures adopted by governments to combat 'terrorism' should not further endanger those values and the essential human rights that derive from them;

Expresses its concern that legislation and executive orders currently being planned or already passed by the governments of the United Kingdom, the United States of America, Canada, Denmark, Japan and other countries may place unacceptable restrictions on those rights;

Voices its concern that such measures may curtail existing rights of writers and journalists, as protected by Article 19 of the Universal Declaration on Human Rights and other international human rights instruments;

Urges that the atrocities of 11 September should not be exploited by governments to assume extraordinary and unjustifiable powers to curtail free expression.

The resolution all too accurately anticipated the 'opportunism' of governments in using anti-terror concerns as a pretext to stifle dissent, and noted the trend of passing legislation and decrees that would negatively impact on freedom of expression. An interesting distinction was made in paragraphs one and two ('recognises' and 'asserts') between terrorist attacks and 'terrorism', in quote marks. Out of quotes, in paragraph one, the word terrorist was being used to apply to what in concrete terms actually happened on 9/11. In the second paragraph 'terrorism' is more a notional entity, being used almost as a metaphor, to refer to actions that have not yet happened but are nevertheless in need of combating. The use of quote marks was a tacit indication of PEN's worry that as well as actual violent acts of terrorism there is 'so-called' terrorism, a shadier

word, containing within it an over-broad umbrella of meaning, and in the name of which human rights can be diluted.

4.2 PEN's questionnaire

PEN members in 16 countries – America, Australia, Canada, Catalonia (Spain), Denmark, England/Scotland, Finland, France, Hungary, Italy, New Zealand, Pakistan, Sierra Leone, Switzerland, Turkey and Venezuela – participated in a questionnaire on the extent to which the anti-terror campaign affected freedom of expression, especially with regard to writers, in their own communities. The following is a summary, country by country, of the replies.¹⁰

America

The American PEN Centre is deeply disturbed by provisions of anti-terrorism legislation enacted in the United States since 9/1. The current US Administration and the US Department of Justice have refused even to turn over to the United States Congress information on how many times, and under what circumstances, it has sought library and bookstore records under the Act, effectively denying Congress the power to oversee the effects of legislation it has enacted and preventing United States citizens from evaluating the use and effectiveness of legislation that directly impacts the right to privacy and their freedom to read.

A number of provisions of the Patriot Act and related anti-terrorism legislation serve to circumvent or undermine US Constitutional protections and international standards of due process, including the indefinite detention without trial or legal protection of so-called enemy combatants from Afghanistan and Iraq by the US military in Guantánamo Bay, Cuba; allegations of the use of psychological pressure and "soft torture" at Guantánamo Bay and disturbing reports of the transfer of detainees to third countries known to employ torture routinely as an interrogation technique; the planned use of military tribunals to prosecute terrorism suspects; and the detention without trial or legal representation of more than one thousand non-US citizens in the United States following the 11 September 2001 terrorist attacks.

The USA Patriot Act enacted since 9/11 make expanded and ill-defined use of the term terrorism and related concepts including "terrorist organization" and "support for terrorism" – and create a new crime of "domestic terrorism" which could be interpreted and enforced in ways that criminalise non-violent dissent, speech, and political activities aimed at changing government policy.

¹⁰ For a list of the questions asked, please see the APPENDIX.

The Centre is also disturbed by efforts by US forces during and since the Iraq war to exert control over news and information in and emanating from Iraq, efforts which range from direct US administration censorship of the *Iraqi Media Network* and attempts to require licences for the operation of media outlets in post-war Iraq, to a concerted campaign including intense diplomatic pressure on countries in the region to alter the substance of news coverage by independent media outlets in the region, most notably *Al-Jazeera* – efforts which, taken as a whole, threaten to limit the ability of Iraqi citizens to monitor events in their country and access a diverse range of viewpoints on critical developments in their country.

Finally, the Centre has deep concerns that a government bound by a Constitution whose protection of freedom of the press and freedom of speech has long served as a model for the development of strong, effective, independent media throughout the world, has taken actions that have served to encourage a narrowing of critical press coverage in the United States before, during, and since the Iraq War. Some examples of this include widespread self-censorship by US media of images of the violence and destruction of war and inflated accounts of the nature and extent of U.S. successes on the battlefield, as well as actions by private entities and individuals in the United States to restrict or punish insufficiently favourable foreign media,

Australia

Respondents displayed concern regarding new anti-terrorism legislation, passed in June 2003. The Criminal Code created a new class of offences relating to ‘terrorist acts’ and provided for detention without charge for up to seven days for anyone able to provide information about terrorist offences. Anyone detained in this way could be imprisoned for up to five years if they refused to answer questions or provided false information. The relevant government minister will determine where such detention warrants are justifiable. The new legislation also required journalists to produce documents and information on their sources if required to

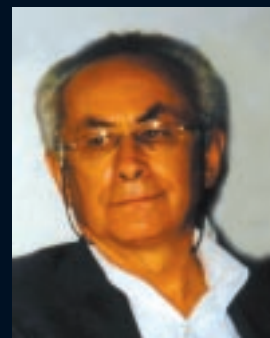
do so. Failure to disclose sources could result in imprisonment of up to five years.

Other respondents expressed broader concerns. One found it problematic that journalists and writers were routinely refused access to refugee detention centres, that the issue of asylum seekers was unfairly covered by the media (i.e. the media was anti-asylum seeker in the post 9/11 climate and failed to report on the activities and viewpoints of ‘refugee advocates groups’). She also mentioned that access to the area surrounding Parliament House in Canberra had been restricted after anti-war protests. Many newspapers followed the government line in their coverage and as the respondent put it, ‘I would say this is not writing freely. Some journalists in radio interviews say their writing was cut/edited regarding these topics’.

On the issue of self-censorship, there was a perception that this was a problem to some extent. People were careful in what they said immediately post-9/11 regarding the American response, as they did not want to offend the American people, but rather wanted them to have ‘time to recover’. Dissenting opinion was not censored by the government but ‘simply ignored, sometimes ridiculed, often lied about, but primarily ignored’. Another respondent said that while there was no ‘conclusive evidence that writers cannot write freely about such issues’, on the other hand ‘we are in danger of not hearing the full story on certain matters... Unbiased information is not always readily accessible.’ This respondent said she had ‘evidence that some writers do self-censor’ but could not (for reasons not given) cite examples.

Canada

The respondents noted the deleterious effects of Bill C-36, which came into force on 24 December 2001, and aimed to define terrorism and enact it as a punishable offence within Canada’s Criminal Code. The legislation, they said, ‘covers areas from immigration to charitable giving, and from privacy to trial fairness’. Section 83.18 (3) (b) stipulates that ‘the offence of participating in the activity of a terrorist group includes: providing or offering to provide a skill or an



expertise for the benefit of, at the direction of, or in association with, a terrorist group.’ Under these broad provisions, as one respondent put it, ‘journalists or scholars who have reported on the views of suspected terrorists might be seen as associated with or somehow benefiting a terrorist organisation, and be liable to prosecution.’ The new law also provides ‘greater limits on access to information’ and increases the ‘surveillance powers of the state and encroaches on the private communications of individuals’.

There was concern that ‘press and publishing house ownership can be used to influence freedom of expression’. For example, PEN Canada had protested CanWest Global Communications decision ‘to impose a standard editorial in newspapers across the country’. Some journalists had resigned after their columns about the chain-editorial controversies were ‘killed’. However, another respondent observed that despite the new laws and these media developments, writers remained in practice free to write what they wanted, and he had no solid evidence – at least among writers (as opposed to journalists) – of self-censorship.

Catalonia

The respondent noted that censorship has risen since 9/11 with the Spanish government redoubling the offensive against Basque nationalism in general and, specifically, against what it has come to call the “the ETA environment”, a concept that takes in cultural organisations, linguistic normalisation and newspaper publishers. The respondent states that the reasoning that the government uses is that all Basque nationalism is the same as ETA and therefore it has to be fought with all the legal weapons it has at its disposal. The argument of the Spanish government is that ETA and international terrorism rooted in Islam are one and the same thing and that they have to fight it in the same way – giving no quarter – using the law and the security forces. The respondent believes that this argument denies the political character of the Basque conflict, limiting it to a public order problem and the Spanish government rejects any form of negotiation or dialogue to resolve it. He adds that the Spanish government does not limit its actions to being purely against ETA violence, something which would be logical, but, unable to end the violence, it has extended its offensive against all Basque political nationalism, first making illegal a political party like Batasuna – from the independent left and considered the political arm of ETA – and then also against the PNV – a Christian Democrat party with a long democratic tradition – and the Basque government, elected democratically through the ballot box by Basque citizens.

Writers are not restricted when writing on issues surrounding, 9/11, including from a critical viewpoint of the government or

against the American intervention in Iraq. But the respondent notes that they can face problems when criticising the monarchy or in relation to the Basque conflict as certain opinions, favourable to the secession of the Basque Country, are deemed a “defence of terrorism”. There are other mechanisms used to silence debate. He gives the example of the Spanish Radio-Television service (RTVE) where there is a prohibition on interviewing Basque leaders or reporting on their activities. He believes that the version of the Basque conflict given in these media is the Spanish one, never the Basque one. The respondent refers to there being a climate of ‘majority opinion’ outside Basque country in which to reflect on the Basque conflict, to analyse its causes and expound upon them recognising the political character of the conflict, in many cases is seen as a “defence of terrorism” or as weakness in the face of violence.

The press and the publishing houses, especially those with an HQ in Madrid, appear to the respondent to ignore or reject any opinion that is not contrary to the Basque nationalistic aspirations, even if via democratic means. He believes that this is also due to a climate hostile to the Basque Country generated by the government, headed by José Maria Aznar, which has used the Basque conflict to excite Spanish nationalism to almost xenophobic extremes.

The respondent sees evidence that there is self-censorship in Spain but it is difficult to produce concrete cases. If a dissident voice does arise, it is usually criminalised by the majority opinion which tries to take away any authority it might have by presenting it as being on the side of terrorism.

Denmark

The respondent reported that new anti-terror legislation had been adopted in 2002. This rendered illegal ‘economic and political support of organisations’ considered to be terrorist, but ‘the definition of what a terrorist organisation is seems to be rather loose and in many cases it will be for parliament to decide whether an organisation is to be included on the list or not’. The respondent noted that such an approach meant that armed struggle of any kind, whatever the reason, might possibly be prohibited: so that groups such as the IRA in Northern Ireland and the ANC in South Africa would be indistinguishable.

The respondent also stated her belief that self-censorship had been a problem since 9/11. ‘Public opinion on foreigners, Islam and asylum seekers has hardened in Denmark since 11 September, although the tendency was much the same before,’ she wrote. ‘I guess writers can still address these areas, but they are very sensitive indeed... Scepticism or criticism of the

American-led anti-terror campaign is viewed as politically suspect.'

England/Scotland

Replies from English and Scottish PEN noted the problems raised by the new anti-terror legislation (reported more fully in the GLOBAL SURVEY). Comparisons were made with similar measures during the height of the conflict in Northern Ireland. There was concern that the U.K.'s human rights obligations had been 'ditched'. Arbitrary detention, and increased surveillance of e-mails and phone calls, were particularly cited as problematic. 'In theory,' one respondent said, 'writers can write freely whatever they like but whether certain views will get published is another thing... Those who have spoken out against the war in Iraq have not always had an easy time of it... Some papers, like *The Guardian*, have tried to record what Iraqis living here and in Iraq have felt, but they are the exception.' Self-censorship, the respondent thought, creeps in when it comes, for example, to criticising the policies of the Israeli government, which is seen as being 'anti-Semitic'. There is a reluctance to 'aggravate terror by being over critical of our government'.

Finland

The respondent had a more positive picture to report: 'there does not really exist an anti-terror climate in Finland' she wrote. There was no special anti-terrorism legislation such as the U.S.A.'s Patriot Act, but an amendment to the criminal law proscribed not just the act of terrorism, but the planning of it, and those 'enhancing the activities' of such a group could face penalties as well.

People felt able to write freely about Islam, terrorism and 9/11. She did not feel the (relatively small) Muslim community in Finland had been 'stigmatised'. Most Finns were not narrowly-mindedly 'focusing on Islamic fundamentalism' but were wanting 'to broaden their views and get objective, reliable information about the Islamic world'. However, it was possible that there may be some 'who feel uncomfortable about some of these issues and therefore refrain from writing about them'. As far as serious

fiction is concerned 'it is perhaps too early to know if Finnish writers want to deal with these issues'.

France

The respondent reported a general sense that freedom of expression 'remained free'. There were no new developments of any significance, since 9/11, that directly diminished writers' ability to say what they want.

Hungary

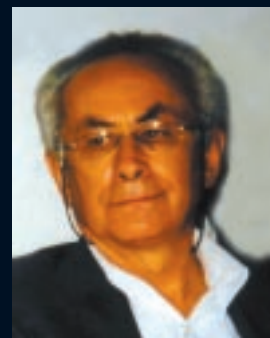
The respondent felt an 'anti-terror climate' did not prevail in Hungary. However, he thought that fifty years of 'foreign occupation' (under the Nazis and the Soviet Union) had engrained a 'habit' of self-censorship, especially among writers. It was impossible, however, to tell if this habit had been exacerbated or not by 9/11. There were no new anti-terror laws, but there was concern at how hard the police had clamped down on anti-war protestors. There was also mention of a non-writer – a Syrian doctor – who had been 'arbitrarily and summarily' expelled from the country, allegedly for sending the small sum of \$50 for humanitarian relief to a Middle Eastern bank account.

Italy

Although anti-terrorism legislation exists, the respondent saw that this legislation did not have any particular implications for freedom of expression, although it did require Arabs visiting Italy to have visas and strict airport controls. He reported that Italian writers on the whole felt free to write what they liked in the wake of 9/11.

New Zealand

Censorship, the respondent reported, had not really increased since 9/11. A new Terrorism Act had been passed in October 2002, with a second 'Counter-Terrorism' bill also in the planning stages. This latter bill outlawed anyone 'intending to cause significant disruption to commercial interests' and that such damage or disruption could not be 'communicated'. The respondent commented that 'this latter clause is so loosely worded that it effectively enforces silence in regard to any disruption or damage, either to people or property, whether or not an



individual is involved in planning it, describing it, or in having a discussion about it after the fact.' New Zealand PEN, worried about the implications this clause has on freedom of expression, expressed its concern to the Defence, Foreign Affairs, and Trade Select Committee.

Pakistan

Whatever the WiPC's concerns in the country regarding journalists, the respondent felt that freedom of expression went unmolested in Pakistan, at least as far as writers were concerned. Anti-terrorism legislation was introduced in Pakistan in the 1980s and remains on the books. However, no writers, to the respondent's knowledge, have been prosecuted under this law. Although sectarian and ethnic strife exists in Pakistan, literary writers write freely about it. Publishers do not have rigid policies regarding what they will and will not publish, so writers are 'free to express their views'.

Sierra Leone

Self-censorship, the correspondent wrote, is 'a way of survival'. 'Most of our writers,' he explained, 'especially editors of newspapers and producers of radio programmes, restrict debates on issues that are not complimentary to the USA or Britain, fearing that they may not benefit from opportunities like scholarships or advertisements etc, offered by these countries. Most of the time, the newspapers prefer to play it safe by being silent or by culling reports from the CNN and the BBC.' When a Muslim scholar accused born-again church leaders of having links with evil spirits, he was arrested and detained for several weeks on orders of the government, and the tape on which he made the accusation was banned, for 'fuelling religious disharmony'.

Switzerland

Many replies were forthcoming from individual PEN members. Most agreed that censorship was not a problem, and that self-censorship was not rampant, but concern was expressed over new articles that had been passed into the Penal Code. One of

these, outlawing the financing of terrorism, had a negative implication for the right of journalists not to disclose their sources, and permitted surveillance of postal communications and telecommunications.

Some felt great freedom to write what they wanted, others saw some restraints, operating almost invisibly. There was a 'grey area' on how commercial factors affected freedom of expression, and one respondent felt that 'certain debates are silenced or at least dampened by mutual consent of an almost moralistic kind'. Some papers would not publish articles considered 'anti-American', while others would not publish articles 'pro-invasion of Iraq'.

One respondent noted that some years back, Swiss police had kept files on those who traveled to communist countries or who had taken part in demonstrations. This had caused a public outcry when it was discovered. She added, 'I hope that terrorism won't give as good an excuse as the Cold War to resume the Big Brother syndrome.'

Turkey

There was no new legislation, the respondents said, as the existing anti-terror legislation was comprehensive enough by far. Turkey's desire to join the EU had led to legal improvements (such as the dropping of Article 8 of the Anti-Terror law) but concern remained that the vagueness of the law as it still stood ensured that the 'courts and judges' could make 'the most conservative interpretation so that nothing will really change'.

There was quite a degree of freedom to discuss some issues (the war in Iraq and 9/11 itself, for example). But other subjects remained dangerous: the Kurds, the condition of the prisons, and certain Islamic issues. The chief way in which 9/11 had had an impact on matters in Turkey affecting freedom of expression came across in the following statement by the respondent: 'Censorship... was encouraged by the Bush Administration. The Turkish state was very happy to have the opportunity to say,

“See? All the world was blaming us for the steps we had to take to stop terror, with the excuse of respecting human rights. Now all the world accepts that we were right.”

One writer reported that a publisher had asked him to omit some chapters from his book about peace protests regarding war in the Gulf. The publisher had said ‘he knew American readers well and they would close the walls of their brains if they read those chapters, which conflict with American prejudices.’

Venezuela

The respondent felt that censorship had increased in the country. Although this could not be laid at the door of 9/11 directly, one ‘could say there is an overall [anti-]terrorism climate’ that had grave implications for free expression. Legislation to control further the content of the press was in preparation, and many subjects were extremely sensitive: links between government agents and violence, and discussion of anonymous attacks on journalists, were among matters to be broached with caution. As a result, there was much self-censorship among writers and journalists.

Summary

The above responses represent only a tiny fraction of opinion within PEN but the themes that are most commonly expressed reiterate some of the concerns raised in this report’s discussion of its GLOBAL SURVEY. Namely:

- New anti-terrorism laws consistently contain over-broad or vague definitions of terrorists

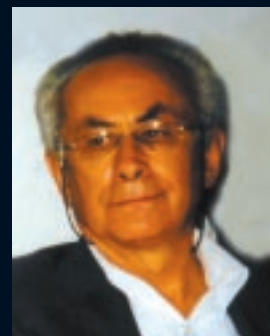
- New laws often permit greater surveillance by government agencies of communications between individuals via the post, phone, and e-mail;
- New laws often diminish the journalistic right not to disclose sources;
- In many places, an anti-terror climate exists that promotes self-censorship, although the subjects that are dangerous to broach or taboo vary from place to place.

But the replies also contain some good news:

- In some countries – notably Finland and France – there has been no new legislation and many fewer negative implications for free expression overall;
- Even where negative laws exist – such as in the U.K., Switzerland and Turkey – a lot of writers still feel free to say what they think about 9/11 and related issues, and their views are published.

Many respondents cited owners of media outlets and broader commercial interests as occasional barriers to free expression. Newspapers often took a pro- or anti-war stand, it seemed, and articles that did not agree with the newspaper stance stood little chance of being published. However, there was usually enough diversity amongst the newspapers for such articles to find a home elsewhere.

Usually, writers were less in the firing line than journalists, at least at this early stage of the post-9/11 world. However, as the Finnish respondent commented, it remained to be seen how eager writers of fiction would be to tackle the issues of the day.



5. CONCLUSIONS

'They that give up essential liberty to obtain a little temporary safety deserve neither liberty nor safety.'
– Benjamin Franklin, writing in 1759.

5.1 Writers Speak Out

Many PEN members with international reputations have expressed their dismay publicly at the political response to 9/11. They see an alarming situation where civil liberties and human rights will be sacrificed in the name of 'anti-terrorism'.

Two days after the attack, Michael Ignatieff, writing in *The Financial Times* (UK) warned: 'Vulnerability often tempts strong nations to take self-destructive measures.' He noted that 'when democracies declare war, liberties at home frequently suffer.'

He quoted Benjamin Franklin's words (see above) and said they should 'have us remember that a civilised society ought to afford due process and basic human fairness, especially the presumption of innocence, to all peoples, citizens and non-citizens, sojourners and inhabitants, visitors and strangers'. He worried that 'this idea may be one of the most endangered by the carnage of the past days' but it would be a grave mistake to 'consider liberty divisible; that is, to defend the liberty of citizens by extinguishing the liberties of all others, especially foreign strangers within our gates. If we succumb to this temptation, we shall give terror precisely the victory over liberty that it is seeking.'

Ignatieff also warned that such measures were often counter-productive. When the U.K. 'experimented with detention without trial in the early phases of its response to the Troubles in Northern Ireland' it discovered 'that internment, far from stamping out terror, won adherents to its cause'.

This theme was reiterated by the Russian author Anna Politkovskaya. In her book about Russian atrocities in Chechnya, she concluded:

*'The overall picture of the Chechen ghetto is not just grim, it is incomprehensible... What does Putin want in Chechnya?... What, in view of the fact that not one of the goals of the anti-terrorist operation has been realised? The terrorist leaders are still at large. And the resistance easily replenishes its ranks with new recruits seeking revenge for the suffering and deaths of family members.'*¹¹

The journalist Gary Younge, a New York correspondent and columnist for *The Guardian* (UK), in an opinion piece called 'McCarthy's Ghost' (27 March 2003), lamented President Bush's insistence that 'those who are not with us are against us' as this entailed that anyone 'opposed to Bush's way of dealing with the terrorist threat becomes the enemy, at home or abroad'. Indeed, 'terrorism is the new communism,' he suggested, in the way it polarises debate into two mutually-exclusive sides.

Susan Sontag concurred with Younge's disparagement of such simplistic thinking. On the first anniversary of 9/11, her article 'Real Battles and Empty Metaphors', published in *The New York Times* (11 September 2002) decried the sense that had emerged in America that 'reflection... might impair our "moral clarity"'. Bush's insistence that one was either with us or against us, and that we must be 'simple, clear, united' led, she said, to an inevitable situation where 'the call to reflectiveness was equated with dissent, dissent with lack of patriotism'.

However, her main concern was the use of the term 'war on terrorism'. The word 'war' could not here be taken to refer to a literal war, she said, with a beginning and end; rather the word was being used in a metaphorical sense, because 'this anti-terror war can never end'. She added: 'That is one sign that it is not a war, but rather a mandate for expanding the use of American power.' She declared Bush's announcement of a war on terrorism as a 'pseudo-declaration of pseudo-war'. While of course the perpetrators of the 9/11 attacks should be apprehended as mass-murderers, she concluded:

11 'A Dirty War: A Russian Reporter in Chechnya' by Anna Politkovskaya, Harvill Press.

‘There are better ways to check America’s enemies, less destructive of constitutional rights and of international agreements that serve the public interest of all, than continuing to invoke the dangerous, lobotomizing notion of endless war.’

5.2 Directions for future consideration

International PEN shares some of these authors’ concerns regarding the diminution to fundamental rights that has occurred in the name of anti-terrorism. This report indicates a preoccupation among governments around the world with ‘terror’ and ‘terrorism’ that has led to measures being taken to proscribe a wide range of activities, some of them certainly violent, others not.

International PEN may have a constructive role to play in a global sense in this challenging and confusing climate:

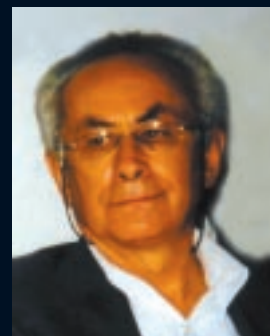
- PEN could campaign more vigorously on behalf of writers and journalists who are wrongfully accused of ‘terrorism’ under over-broad laws, where definitions are vague.
- Campaigns of this kind might include an analysis of the definitional problems contained in the laws that have led to various miscarriages of justice and might ‘cross-compare’ countries in different regions to underscore the point that regimes of many political persuasions indulge in the same lack of definitional clarity.
- In conjunction with PEN’s Writers for Peace Committee, there might be scope to investigate further the words ‘terrorism’ and ‘terrorist’. Since even the United Nations is finding a satisfactory definition impossible to come

by, there may be some light that *writers* in particular can shed on these problematic words, since words have always been crucial components of their professional lives.

Related to this final point comes a final question which it may be possible to consider further within PEN: given the lack of definitional clarity engendered by the words ‘terrorism’ and ‘terrorist’, and the problems their use has caused in many countries, as demonstrated by this report, it might even be time to question the very validity of the words in so far as they are used in legally-binding documents.

One might argue that the word ‘terrorist’ implies that mass-murderers such as those who destroyed the World Trade Center have succeeded in their mission to ‘bring terror’; and that therefore its use immediately plays into their hands and accords them a certain victory. By calling them ‘murderers’ and ‘criminals’ a certain restraint operates; the description of their crime becomes narrower; the possibility that the whole world might *not* be cowed by their actions is allowed to exist.

Fear, like other human emotions, is catching. Promoting language that inherently contains a confession of being ‘terrorised’ brings about, perhaps, just more terror. Governments are often only too happy to use this phenomenon, and glibly reiterate the words ‘terrorism’ at every opportunity, because at the crudest level, and at their worst, they believe they can best exert their power, and remain in power, through the promulgation of fear. If this is the case, a review of how the words ‘terrorist’ and ‘terrorism’ operate in our many languages might be extremely timely and useful.



Questionnaire to PEN Centres

The questions asked of International PEN Centres were:

1. Has censorship in your country increased or decreased since the terrorist attacks of September 11, 2001, or other related events?
2. Do you have special anti-terror legislation in your country? If so, please describe briefly the major points of this legislation. Do you know when the legislation was first introduced? Does a portion of it affect the right to freedom of expression?
3. Have additional laws been passed in the name of national security since September 11, 2001? Do these affect freedom of expression?
4. In your assessment, can writers in your community write freely about issues such as September 11, the American response to September 11, terrorism, the Muslim community, Islam, asylum seekers, the recent war in Iraq, armed groups operating in your country and censorship problems themselves?
5. If the answer to question 4 is 'no', what are the areas that writers cannot address freely? Is the fact that writers can't always write freely on these subjects due to legislative measures, or are there other mechanisms which effectively silence debate? If so, what are they?
6. Would you say there was an 'anti-terror climate' that sometimes inhibits writers' ability to express themselves freely? If so, can you describe its impact?
7. Does press or publishing house ownership ever influence the ability to write freely?
8. Do writers self-censor in some areas because of such a climate (if it exists)? Can you cite any examples?

Farewell liberties?

IGNACIO RAMONET

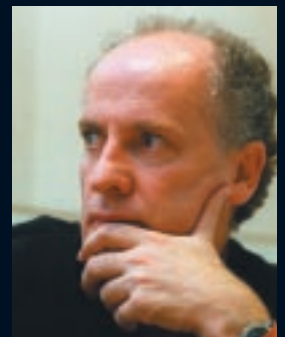
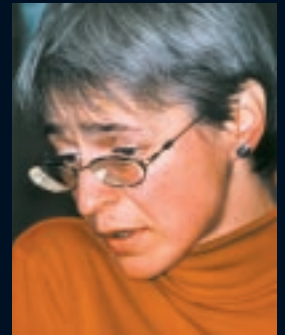
It is accepted that the terrible attacks of 11th September 2001 opened a new period in contemporary history: so let us ask ourselves what cycle of history has been closed by these tragic events, and what are the consequences for freedoms in general and for freedom of expression in particular.

The period that ended on 11th September 2001 had begun on 9th November 1989 with the fall of the Berlin Wall and had continued with the disappearance of the Soviet Union on 25th December 1991. Unfailingly celebrated, the main characteristics of this period, which also saw the blossoming of liberal globalisation, were: the exaltation of democracy as a system of government, the celebration of the rule of law and the glorification of human rights. In both domestic and foreign policy, this modern Trinity was constantly invoked as a kind of categorical imperative. Not without its ambiguities (is it really possible to reconcile liberal globalisation and planetary democracy?), this Trinity was universally supported around the world as the bastion of law against the forces of barbarism.

11th September 2001 marked a clear break with this. In the name of the “just war” against terrorism, all transgressions suddenly seemed permissible. With no hesitation at all, in order to conduct the unending “war against terrorism” Washington formed alliances with previously unacceptable leaders, for instance General Pervez Mousharraf of Pakistan, who came to power in a coup, and the Islamic dictator Karimov in Uzbekistan. The cries of Pakistani democrats and of Uzbek defenders of freedom failed to overcome the walls of their jails...

Unobserved, values that yesterday were considered to be “essential” and “fundamental” have vanished from the political scene, while numerous democratic states have fallen, from a legal viewpoint, into regression.

The first proof of this has been the hurricane of freedom-destroying measures adopted by the United States. From 12th September 2001, a justice of exception was established. The Justice Minister, Mr. John Ashcroft, put forward an



antiterrorist law which was immediately adopted by Congress, the so-called Patriot Act, which allows the authorities to arrest suspects, to hold them almost indefinitely, to keep them in isolation cells, or to deport them; in other cases, it permits the authorities to scrutinise the lives of suspects, to monitor their post, their telephone conversations and internet communications, and to search their homes without court authorisation... The inspectors can also access personal information on citizens without a search warrant. For instance, the Federal Bureau of Investigation (FBI) asked libraries to give them the lists of books and internet sites consulted by their subscribers to trace the "intellectual profile" of each reader.

Following the attacks of 11th September, no fewer than 1200 foreigners in the United States were secretly arrested under the Patriot Act and kept in jail without trial, and, in a number of cases, without their even coming before a judge, or having the chance of being assisted by a lawyer. The government moreover declared its intention to interrogate some 5000 men between the ages 16 and 45, in the USA on tourist visas, who were suspect simply because they were from the Middle East.

Although the ordinary courts in America are perfectly competent, President George W. Bush decided on 13th November 2001 to create military courts with special procedures to judge foreigners accused of terrorism. These secret courts can be held on warships or in military bases; the trials will be heard before commissions made up of military officers, who will pass sentence; a unanimous decision will not be required to pass the death sentence; there will be no appeal against sentence; the conversations of the accused and his lawyer may be bugged; judicial proceedings will be kept secret, and their details will not be made public for decades.

Some senior officers in the FBI went so far as to propose that certain people should be extradited to friendly countries governed by dictators so that suspects could be interrogated there using methods that can only be classified as "torture". The possible use of torture has also been openly mentioned in major magazines. On CNN, the republican commentator Tucker Carlson was quite explicit: "Torture is not right. But terrorism is worse. Thus, in certain circumstance, torture is a lesser evil."

Repealing a decision of 1974 that prohibited the Central Intelligence Agency (CIA) from assassinating foreign leaders, Mr. Bush gave the CIA carte blanche to do whatever was necessary to physically eliminate the leaders of Al-Qaida and their accomplices. Ignoring the recommendations of the Geneva Convention, in late 2001 the war in Afghanistan was

conducted in the same spirit: members of Al-Qaida were eliminated even when they had surrendered. Rejecting any idea of a negotiated solution and surrender, the American Defence Secretary, Mr. Donald Rumsfeld, was inflexible, and clearly called for the Arab prisoners fighting with the Taliban to be similarly "knocked down". More than four hundred such people were massacred during the uprising at the Qala-e-Jhangi fort, and an undoubtedly higher number in the taking of Tora Bora. Similar methods were used in the Iraq war in March and April 2003.

So that there could be no follow-up against American soldiers as a result of their operations abroad, Washington is hostile to the creation of the International Criminal Court (ICC), and the Senate approved the ASMPA (American Service Members Protection Act), which allows the United States to take extreme measures, including the military invasion of a country, to recover any American citizen liable to be brought before the ICC.

However, the most paranoid of all the illegal espionage projects was the one drawn up by retired Admiral John Poindexter, an officer who had been found guilty of involvement in the Iran-Contra affair in the 1980s. The espionage project, since abandoned, proposed the collection of an average of 40 pages of information on each of the 6 billion inhabitants of the planet, to create a global database. By incorporating all available personal data (card payments, media subscriptions, bank movements, telephone calls, website consultations, emails, police files, insurance dossiers, medical social security information, etc.), the Pentagon intended to establish the complete traceability of each individual on planet Earth. The authorities thus hoped to prevent crimes before they were committed.

In favour of the current "world war against terrorism", numerous countries in Europe, Asia, Africa and Latin America have also reinforced their repressive legislation and have felt encouraged to restrict freedoms. The defenders of civil rights and freedom of expression are right to be concerned about these developments. The general movement of our societies towards greater respect for the individual and the most sacred freedoms (such as the freedom of thought, expression and printing) has been brutally stopped. And everything indicates that we are moving more and more towards police states...

BIOGRAPHICAL INFORMATION

International PEN (Poets, Playwrights, Editors, Essayists and Novelists) is a worldwide association of writers with 134 centres in 96 countries. Membership of the organisation is open to qualified writers who adhere to its charter, which advocates the need to protect freedom of expression and fight censorship. In 1960, its Writers in Prison Committee was founded to protect writers and journalists who were imprisoned, tortured, attacked and otherwise threatened in the course of carrying out their work.

Siobhan Dowd led International PEN's freedom of expression campaigns both as Freedom-to-Write Programme Director for PEN American Center (1990-1997) and, before that, as Researcher, then Director, of the Writers in Prison Committee (1985-1990). She holds a Master's Degree with Distinction in the Social Sciences, focussing on racism and national boundaries. Her non-fiction and fiction for young people has been published in many journals, newspapers, and anthologies.

Joan Smith has chaired the Writers in Prison Committee of English PEN since 2000, and sits on the Freedom of Expression Panel of the British Foreign Office. She is the author of five novels and several works of non-fiction, including *Misogynies* and *Moralities*. Her columns have appeared in The Times, the Guardian and the Independent on Sunday. She lives in London and is adjunct associate professor in the School of Communications and Multimedia, Edith Cowan University, Western Australia.

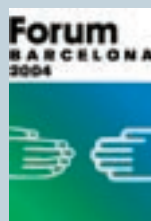
Ignacio Ramonet is the director of *Le Monde Diplomatique*.

Sara Whyatt is Programme Director of the Writers in Prison Committee at International PEN's London headquarters, started work as a human rights campaigner at Amnesty International's International Secretariat in 1984, moving on to work for PEN in 1990.

Terrorism is to be condemned whether it includes state terrorism, individual terrorism or terrorism that justifies itself as part of a struggle for liberation. Movements using terrorist methods annul the missions to which they are dedicated and lose all claims to legitimacy.

50th Congress of International Pen. Lugano, Switzerland, May 1987

INTERNATIONAL PEN. WRITERS IN PRISON COMMITTEE
Anti-Terrorism, Writers and Freedom of Expression



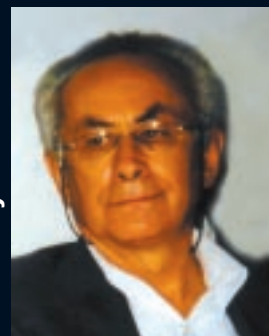
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