

EUROPEAN RACE BULLETIN

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Secrecy, detention, torture: the parallel world of Europe's anti-terror regimen

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Introduction

In the eighteen months since the *European Race Bulletin* carried out its last audit of the anti-terrorist laws, national governments, building on the blocks provided by the EU Common and Framework Decisions on Countering Terrorism and the European Union's list of proscribed organisations, have introduced a whole host of anti-terrorist laws, legal changes and other administrative procedures. A separate and more punitive criminal justice system, beyond the ordinary rule of law, has now been firmly established. The primary purpose of the summaries documented in this report was to provide a snapshot of the parallel structures that have emerged from emergency laws. But the academic credibility given to counter-terrorism laws by a growing number of 'terrorism' and 'integration' experts has emerged as a secondary and complementary focus of the research.

What, we ask, are the fundamental underpinnings of this parallel criminal justice system? And how do they impact on European Muslims, foreign nationals and on asylum seekers and refugees? Despite different traditions within European criminal justice and immigration systems, several common features emerge.

First, vague EU definitions of terrorism have led to the introduction by national governments of equally vague new crimes, which dramatically lower the standard of evidence needed to charge and convict terror suspects, and are often based on 'guilt by association'. Thus, amongst the novel new crimes introduced are: 'justification or glorification of terrorist acts', 'association with international terrorism', 'threatening to commit a terrorist crime', 'membership of a criminal organisation with terrorist intent', 'possession of books or items useful to a terrorism' or, indeed (in the case of Spain) the catch-all of 'any other crime' committed with the aim of 'subverting constitutional order or altering public peace'. In the UK, civil rights lawyers have warned that more and more young Muslims are being brought to the courts on the basis of the vaguest of charges while, in France and Spain, NGOs have deplored the fact that the wives and relatives of primary suspects are also detained, interrogated and remanded in pre-trial detention on the basis of minimal proof.

Yet, in legislating for new crimes, governments are not always having it their own way. Not only has trenchant criticism come from the UN Special Rapporteur for the protection and promotion of human rights while countering terrorism, but national courts, particularly in the UK, Netherlands and Norway, have set stricter rules for the standard of evidence needed in terrorism cases, established that words and threats cannot in themselves be construed as proof of terrorist intent in the criminal courts, and argued that there must be a direct connection between the object possessed (in the case of books or internet material) and the act of terrorism. But the same standards of evidence do not apply when administrative tribunals assess the risk to national security posed by an individual and whether deportation is justified. Where these tribunals are concerned, anything goes – words, threats or association.

On the other hand, there are barely any legal interventions to stop the spread of the second salient feature of the parallel criminal justice system – namely the special detention regime for terrorist suspects. Under this regime, those detained on suspicion of terrorism (but not yet convicted and in some cases not even charged) can be held in custody in high security prisons for years on end, in complete violation of the International Covenant on Civil and Political Rights (ICCPR) which holds that a person suspected of crime must be brought to trial within a 'reasonable time'. And the use of administration detention (i.e. under immigration law) avoids these obligations altogether. In the UK, this is achieved through the administrative detention of foreign nationals pending their deportation (there is no time limit to this form of detention): on the European mainland, mainly via pre-trial detention (the time limits for pre-trial detention are two years in the Netherlands, four years in Spain, and four years and eight months in France).

In addition, the special detention regime also involves other ways of depriving an individual or his or her liberty, through house arrest (France, Spain), control orders (UK) or a 'disturbance of an individual' administrative order (Netherlands). And in this way, we witness a massive extension of what constitutes a prison – no longer four walls, but your home, the streets you walk. It must seem at times, to those under suspicion that prison is everywhere. Many of those caught up in this special detention regime develop symptoms of severe mental illness and are driven into madness and attempted suicide. Within high security prisons, suspected terrorists in pre-trial or administrative detention can expect to experience much of the

following: denial of recreation and exercise, sleep deprivation and intrusive night-time cell checks, subjection to long periods of cold or extreme light, frequent strip searches, blindfolding, abuse of detainees' religion, threats related to their national origin, beatings and other methods of coercion to incriminate fellow detainees. And even if eventually released from detention, or found not guilty at trial, once labelled a terror suspect means you are always a terror suspect. Witness the cases of Mustapha Labsi (page 21) and Farid Hilali (page 24), freed in one country only to be rearrested (on the basis of the same secret evidence) and incarcerated in another, with imprisonment with no formal charge stretching on for years on end.

The third feature of this parallel world is the threat of extradition or deportation to countries which practise torture and/or the death penalty (most notably Algeria, Egypt, Jordan, Turkey, Tunisia, Morocco, Libya, Pakistan, Russia and the US) in complete violation of the UN Convention Against Torture. Removal usually takes place through the use of immigration laws which conveniently bypass the more stringent procedural safeguards built into the criminal justice system. In the following pages, a total of 33 cases involve individuals who have either been removed to a country that practises torture (10 cases) or are currently under threat of removal (23 cases). (In one case, a young man died following his removal from Sweden to Libya. Reports indicate that the young political dissident was tortured for nine days by the Libyan security services before his family was contacted and told to collect the corpse.)

The UK has even gone so far as attempting to undermine the whole philosophy of the UN Convention Against Torture by arguing (unsuccessfully) before the European Court of Human Rights that the right of a person to be protected from torture or ill-treatment should be balanced against the risk the suspect posed to the deporting state. In practice, though, it is France and Italy which have gone furthest in undermining the Convention, through the handing over of terror suspects to Algeria and Tunisia, despite their long history of torture. It is unbelievable that at the same time as several European countries conduct inquiries into complicity with the US system of extraordinary rendition and torture, they establish a new system for administrative rendition which will increase the risk of torture still further. And it is not only foreign nationals or asylum seekers who are at risk of deportation to torture, but, in a number of cases, French Muslim citizens of Algerian origin have actually been stripped of their French nationality and deported. (See page 13). Now many Muslims of dual Spanish-Moroccan nationality living in the North African enclaves of Ceuta and Melilla (where Mohamed el Bay is currently under threat of extradition to Morocco) watch nervously as a close partnership develops between the Spanish and Moroccan intelligence agencies. If the extradition of Mohamed el Bay goes ahead, could other Spanish Muslims not have their nationality revoked?

The final feature of this parallel criminal justice system is secrecy. Special courts are set up for foreign nationals under threat of deportation on national security grounds, with the use of secret evidence justified on the basis that the evidence against the appellant is too sensitive for disclosure to him or her. The interests of the appellant are represented by a state-appointed 'special advocate' who, after being given access to classified evidence, is barred from contact with the appellant or his lawyers. Disturbingly, the UK's much discredited Special Immigration Appeals Commission (SIAC) could be the model for other countries, such as Denmark and Norway, to follow. (Germany already has a special panel within the Federal Administrative Court in Karlsruhe which acts as the sole court of appeal in national security expulsion cases.)

This is what makes the parallel world that emerges from a separate criminal justice system so Kafkaesque. Terror suspects can be left to rot in prison for years without knowing what the evidence is against them. Not only that, but this secret evidence is linked to Europe's growing acceptance of evidence extracted under torture. Too often it emerges that those held within the special detention regime are there because another 'terror suspect', tortured under interrogation in countries such as Pakistan, Algeria, United Arab Emirates, as well as at Guantánamo Bay, has incriminated them. Although the European Court of Human Rights has recently condemned the reliance on secret evidence, we do not anticipate that its use will diminish.

At the very heart of this parallel criminal justice system, lies a political culture in which torture, and its evidential by-products, are seen as a necessary evil in the 'war on terror'. To accept that our intelligence services 'outsource' torture as part of an official interrogation policy, to accept that our governments can mount prosecutions on the basis of secret evidence extracted under torture, is to eat away at justice and to degrade public morality.

Liz Fekete, Editor

Islamophobia, academic research and scare scenarios

There is increasing controversy about a growing number of purportedly sociological studies that set out to either measure the propensity of Muslim minorities to 'integrate', or measure tendencies within Muslim communities towards 'violent radicalisation'. Critics in a number of European countries are asking just how trustworthy research can be if it is funded by or closely linked to government, military educational establishments or private think-tanks. Three pieces of research, published in 2007 and 2008 in Germany, Austria and Sweden, can be said to have increased Islamophobia as a result of the ammunition they provided to an uncritical media to create scare scenarios about the threat posed to Europe by its Muslim minorities.

Who backed the research?

The three academic studies vary in terms of scale and funder. The largest of all the projects was carried out in Germany by Katrin Brettfeld and Peter Wetzels,¹ two criminologists at the law faculty of the University of Hamburg, who were commissioned in 2003 by the German Federal Ministry of the Interior, as part of a series of studies on 'internal security', to carry out the first academic study on the religious and political attitudes of Muslims living in the country, and their levels of 'socio-linguistic integration'.² The resulting 509-page study, *Muslims in Germany: integration, barriers to integration, religion and attitudes toward democracy, the rule of law, and politically/religiously motivated violence*, was published in 2007. Similarly, Dr Magnus Ranstorp and Josefine Dos Santos from the Center for Asymmetric Threat Studies (CATS) at the Swedish National Defence College (an educational establishment that caters *inter alia* for the military) were commissioned by the Swedish Government Offices to examine the effects of preventive measures taken in Sweden against violent extremism and radicalisation. As a result, a much smaller report (thirty pages) entitled *Threats to Democracy and Values – the current situation in Malmö* was published in January 2009.³ The third study, *Islamic religious instruction between integration and a parallel society* by Mouhanad Khorchide, a professor of sociology of religion at the Islamic Religion and Pedagogical Institute at Vienna University (published in early 2009 by Vs Verlag) was actually a PhD thesis, and, as such, was not commissioned by any government agency.

How was the evidence compiled?

All three reports were similar in that the evidence to justify claims of a lack of integration or tendency towards violent extremism was based on questionnaires or surveys. At the heart of the Brettfeld and Wetzels 509-page report (it was published in 2007 with a foreword by the Minister of the Interior Wolfgang Schäuble) was an attitude survey of 1,725 Muslims living in Hamburg, Berlin, Cologne and Augsburg. Those surveyed were asked about their attitudes to integration, democracy and the rule of law and politically/religiously motivated violence, as well as questioned about their own religious orientation. (A small sample of non-Muslim school students was also surveyed for comparison.) Depending on the answers, Brettfeld and Wetzels then placed the respondents in one of a number of categories (assigned by the academics, not chosen by the interviewees) in order to identify 'risk groups' and the 'attitudinal terrain' from which tendencies towards radicalisation might emerge.

The Austrian and Swedish studies were conducted on a much smaller scale, and a very small sample of people were selected for interview. The Ranstorp/Dos Santos research was aimed at examining the effects of preventive measures taken in Sweden against violent extremism and radicalism. The focus of the research was the southern Swedish city of Malmö (very much in the news at the time the report was released due to serious clashes between police and young Muslim youth in December 2008). Ranstorp/Dos Santos carried out consultations with key stakeholders (the Ministry of Integration and Gender Equality, the Swedish Security Services and Malmö municipality) and selected thirty people working in Malmö for 'interview studies' (ie in-depth questionnaires, with further follow-up questioning). Those selected for interview included police and security services officers, teachers, social workers, academics and representatives of organisations working with at-risk youth. According to subsequent media reports, not one representative of the Muslim community

was interviewed. It seems very strange that a study, that from the outset sought to examine government counter-terrorist policies to prevent violent radicalisation, excluded precisely the community who might have had most to say on the subject, and may have had the most critical perspectives.

The PhD thesis of Mouhanad Khorchide into Islamic religious instruction in Austria did at least have the merit of selecting 210 Islamic teachers, the subject of the study, for interview. Nevertheless, the lack of information provided to the teachers about the purpose of the research was later to prove problematic. Khorchide was a participant at a one-day conference of Islamic teachers from three different areas of Austria organised by the Austrian Islamic Denomination. Muslim teachers attending the conference were handed a questionnaire, and asked to fill it in.

Was the research objective?

Attitude surveys and questionnaires are often presented by government and the media as useful and impartial forms of empirical information gathering. But in reality such work can easily be skewed to fit a predetermined agenda and can ride roughshod over the sensibilities of the respondents. Good research would ensure that all those taking part would be clearly informed about the purpose of the research and their role in it. Survey questions would of course not be constructed to meet an existing agenda but be as open as possible, unambiguous in wording, not suggestive of a required answer nor based around false dichotomies. And academics would make absolutely sure of having a rigorous methodology in place with which to interpret respondents' answers.

In the case of all three academic studies under review here, such criteria were not met.

In Germany, Sarah Dornhof, a PhD student at Viadrina University, Frankfurt/Oder has systematically taken apart the methodology adopted by Brettfeld and Wetzels in their survey of the religious and political attitudes of Muslims. Dornhof pays particular attention to the way these two criminologists, with no background in comparative religious studies or the sociology of religion, attempted to measure 'religious orientation'. 'From the outset, the research project was embedded within a specific perspective and a political discourse that defines the lack of integration of Muslims to German norms and values as a national security problem', observes Dornhof. 'The presuppositions of the researchers framed who was asked questions, what questions they were asked, how the respondents were defined and how their answers were interpreted', she adds. The researchers, furthermore, used loaded questions to construct their own reality of 'problematic attitudes' and the relationship between them, 'constituting such attitudes as a "threat" ... with the purported existence of such a threat then used to justify interventions directed at Muslims in Germany.'⁴

Social research or social control?

Dornhof concludes that the Brettfeld/Wetzels report should be understood in the context of the state's need to 'provide academic support for the targeting of a religious minority for this particular form of control'. Have counter-terrorism experts Ranstorp and Dos Santos, too, provided academic cover for the Swedish government's attempts to adopt a policy that targets Muslim youth as constituting 'threat'?

In fact, the work of Ranstorp within the contested field of 'terrorism studies' had already been critiqued by other European academics. Criminologists and political scientists, in particular, are not only concerned about the lack of intellectual rigour within terrorism studies (which has gained much authority since the events of September 11) but the fact that terrorism study experts are regularly called to appear as expert witnesses in the media and act as advisers to official bodies.⁵ CATS, the organisation Ranstorp heads is linked to the military educational establishment not just through the Swedish National Defence College, but through its relationship with organisations like the RAND Corporation (the single most important think tank for the US military and possibly the largest private research centre in the world with an estimated budget of \$160 million), the University of St Andrews Centre for Studies in Terrorism and Political Violence (under attack in the UK for links to government and the armed forces) and the UK Defence Academy in Shrivenham, Oxfordshire, which is an educational institution for the military.⁶

In criticising CATS, criminologists are not dismissing out of hand the academic credentials of those associated with military educational establishments. They merely advocate caution and draw attention to the tendency within the media to select 'experts' from such institutions while passing them off as objective, conventional social scientists. For if you are linked to a military educational establishment and/or if you are

close to your government, then isn't it possible, they ask, that you will formulate a body of opinion about Muslims that reinforces the agendas of the military establishment and the government?⁷

Unfortunately, the way in which Ranstorp and Dos Santos went about reconstructing the views of the thirty people they interviewed for the report has made it extremely difficult for other academics to evaluate their research, as Sarah Dornhof could on the Brettfeld/Wetzels report. Shortly after the research was published, three prominent Swedish academics, Leif Stenberg, Anders Ackfeldt and Dan-Erik Anderson from the Centre for Middle East Studies and Human Rights Studies at Lund University made a request to see the project's source material.⁸ They were told that the source material was so sensitive that the researchers had destroyed it in order to protect the privacy of those who had participated. This ruled out the possibility for the outside academics, who were deeply suspicious of the findings, to see whether the interviews had been edited to fit a preconceived framework, whether those professionals interviewed appeared to have been pre-selected because of existing links to CATS and known support for the security services and police or whether the attitudes of those interviewed did genuinely mirror societal Islamophobia and scare scenarios engendered by the 'war on terror'.

Those surveyed by Mouhanad Khorchide for his PhD study 'Islamic religious instruction between integration and a parallel society' would not have known that his PhD thesis would subsequently be released to the media. Khorchide, it seems, did not select his respondents in advance or enter into any meaningful dialogue with them about the nature of his research. Rather, he attended a one-day conference of Islamic teachers from three different areas of Austria organised by the Austrian Islamic Denomination - the representative body for Islamic school teachers that the government commissions to provide Islamic religious instruction in state schools. The purpose of the questionnaire, given out at the end of the day, was not immediately apparent to the religious teachers who hurriedly filled it in. Imagine their surprise when opening up the newspaper, or turning on their car radio one morning, the teachers discovered that Austrian society's much-cherished democracy was under grave threat from Islamic religious teachers just like themselves (actually themselves!). Khorchide's PhD 'survey' was reproduced in the weekly magazine *Falter* which reported that over 20 per cent of Islamic religious teachers held anti-democratic beliefs and the attitudes of one in five of them could be classified as 'fanatical'. (And the older the teacher, the more likely he was to be a fanatic, according to Khorchide.) In the subsequent public debate in Austria, few asked whether the survey's questions had steered the answers. It was a question that a British diplomat Henry Hogger, in Vienna to discuss recent Gallup polls on Muslim attitudes, felt the media should have asked. Hogger pointed out that the formulation of one statement in the survey was misleading as it already suggested that Islam was not compatible with democracy, something that many Muslims might disagree with.⁹

Islamophobia, the media and scare scenarios

Each study has given rise to very noisy media debate about Muslims. In a sense, the problem with the reports has not been so much research methods (which might have been seriously discussed) as the way the findings have been blown up by the media which swallowed the research wholesale, without criticism and without seeking counter-balancing voices. Thus, despite any avowed intentions of the authors, each report, in varying ways, has undermined attempts to promote integration and religious tolerance or greater security from terrorist attack.

Many academics working in the field of counter-terrorism or integration policy are acutely aware of the racist temperature of the society in which they work. When carrying out research into Muslims in a climate of hostility and scapegoating, such academics realise a responsibility not to replicate stereotypes which could allow irresponsible projections of research findings. For in an era of 24-hour news television, when stories are hurriedly (and some might say irresponsibly) put together, the media looks for an easy peg on which to hang stories about Muslims. Sabine Schiffer, a lecturer in media education and communication studies at Friedrich-Alexander University, Erlangen-Nürnberg, who carried out an independent assessment of the way the German media framed and illustrated stories about Muslims, revealed how the juxtaposition of certain images in news reports can contribute to 'scare scenarios'.¹⁰ And in the UK, where privately funded research bodies have a growing influence on the media debate, academics Marie Breen Smyth and Jeroen Gunning from the Centre for the Study of Radicalisation and Contemporary Political Violence at the University

of Wales, Aberystwyth, have warned that the media is spreading misconceptions and stereotypes through the selective use of research which far from being objective is often run by private think-tanks with a political agenda, and that reports replicate stereotypes that threaten community cohesion.¹¹

Germany: a rubber stamp for government policy

Of the three reports, certainly the most influential, and probably the most damaging, is the Brettfeld/Wetzels report. On the basis of preconceived ideas, it has painted a picture of Muslim communities locked within a fundamentalist and unchanging Islam that is antithetical to the democratic, secular and open society that is, we are told, Germany. By projecting this message into the media, Brettfeld/Wetzels have served the deeply conservative agenda of the Christian Democratic centre-Right establishment that resists change and seeks to preserve Germany as a monocultural, monofaith society.

Thus, in evaluating the Brettfeld/Wetzels report it is necessary to situate it in the current German political orthodoxies vis à vis the integration of its minority communities and faiths. Within this, it is important to understand that Germany is neither a fully secular society (as the church has a privileged and official role within the public sphere and other religions can only gain similar rights once they have been officially recognised by the state and granted a special status), nor a genuinely pluralistic one (recognising cultural diversity does not feature in past or present government policy). In 2006, mindful that its Muslim population comprised the second largest in Europe, the German government launched the Islam Forum. Its started aim was to address domestic relations between the majority population and Islam in Germany, to define an equal status for Islam with other religions, leading to a new social contract, and eventually the formation of a new representative body for German Muslims. But what came out of the Islam Forum was a series of top-down state edicts to Muslim religious representatives about what they must do (particularly in terms of signing up to state anti-terrorist laws and programmes to combat extremism) which is hardly conducive to genuine dialogue. In effect, the government, via the Islam Forum, has offered religious Muslims the carrot of official recognition but only if they sign up wholeheartedly to an official agenda of 'supporting and demanding integration, by fighting Islamism'.¹² Now, the Brettfeld/Wetzels report, which was presented for discussion at the 'security and Islamism' study group of the Islam Forum, is being used by the government as ammunition to undermine Muslim religious leaders further.

Austrian Islamic teachers face instant dismissal

While Khorchide's thesis can lay far less claim to scientific rigour, it, too, is being used to support an authoritarian government stance towards Muslims. Once Mouhanad Khorchide's narrative found its way into the media, where its line was reproduced uncontested, it became a massive story, promoting precisely the 'scare scenarios' Sabine Schiffer had warned against. Despite a similar history of partial-secularism to that of Germany, the facts on the ground in Austria relating to an official recognition of Islam are somewhat different. Due to the Austrian empire's annexation of Bosnia and Herzegovina in 1878 and the incorporation, therefore, of a Muslim minority, Islam was granted the status of an officially recognised religious community, with the right to give religious instruction in schools. But the professional education of these teachers, some of whom were recruited from abroad, has been sorely neglected and in recent months there was growing recognition of the need to improve their training opportunities and professional development. But thanks to the media representations of Khorchide's research, this faltering dialogue has broken down. And, just as in Germany, what has emerged in place of dialogue is a series of top-down state edicts about how 'fundamentalist' Islamic teachers should behave, or face immediate sanction. While the highly influential extreme-Right electoral parties have stated that 'Religious education teachers who take pride in their radical position must be immediately deported',¹³ the government has settled on the next best thing - the sack. The education ministry has announced a new action plan to improve the quality of religious education (ie Islamic religious education only, no other religious teachers have been targeted). It states that the Muslim community must revoke teaching licences of those 'who have proved to disassociate themselves from democratic values or human rights'. And Herman Helm, the president of the Lower Austrian school council, has proposed official contracts that oblige all Islamic instructors to respect the values of democracy, or be dismissed on the spot.¹⁴ So as to reinforce that message, the federal government took the extraordinary step of intervening in a Viennese school dispute and sacking an Islamic religious teacher who has now been

banned from the teaching profession without being afforded the right to a fair hearing. The teacher was accused of distributing anti-Semitic leaflets which attacked Jews (the specific allegation is unclear, some reports say the leaflets advocated a boycott of Jewish goods, others a boycott of Israeli goods; some reports say they were distributed by the teacher, others by his pupils). The Muslim Teachers' Association has supported the teacher's right to a fair hearing against the accusations made against him. But the education ministry say that they were justified in ordering the school city council to sack the teacher as to 'delay would be dangerous'.¹⁵

Sweden – events demonstrate report's bias

In Sweden, the context for the release of the Ranstorp/Dos Santos research was already one bound by fears and insecurities about young Muslims in Malmö. Here, there had been repeated clashes between police and youths in December 2008 during which explosives and stones were thrown at the police after the authorities moved in to evict young people who, for three weeks, had occupied a basement used as a mosque in Malmö's Rosengård district. The disturbances were painted in black and white, with young people portrayed as the villains - extremist, violent and unassimilable. Ranstorp and Dos Santos reinforce these stereotypes in their report in which they conclude, on the basis of thirty anonymous interviews, that 'the majority of Rosengård's inhabitants believe that the Malmö suburb has undergone a radicalisation over the past five years' and that "ultra-radical" Islamists attached to basement mosques "preach isolation" and act as thought controllers while also maintaining a strong culture of threats, in which women in particular are subjected to physical and psychological harassment.' Furthermore, the report recommends that as religious and cultural associations are 'not what they make themselves out to be', there should be a rigorous examination of all these organisations which should be asked to describe their activities in detail and declare their sources of financial support. The report's findings came as manna to a centre-Right government not overkeen to examine the wider economic and social issues that effect disadvantaged second- and third-generation 'immigrant' youth and might influence their encounters with police. According to Integration and Equality Minister Nyamko Sabuni, the Ranstorp/Dos Santos research proves that the situation in Rosengård was 'completely unacceptable' and the government would initiate coordinated measures, involving schools, social services and the police, to tackle radicalisation. Once again, warned Leif Stenberg, Anders Ackfeldt and Dan-Erik Andersson, the 'Rosengård district in Malmö' has 'been the centrepiece of clichéd and poorly grounded assertions'.

Thankfully, however, reality has now broken through to demolish the one-dimensional stereotypical portrait of 'immigrant' life in Malmö as represented by Ranstorp/Dos Santos and the Centre for Asymmetric Threat Studies. This time, sections of the media should be thanked for highlighting a previously little-discussed issue, namely police racism. In February 2009, Sweden's national police commissioner, Bengt Svensson, was forced to make a public statement promising to investigate allegations of racism within the police. A video of the disturbances in Rosengård, Malmö, that preceded the release of the Ranstorp/Dos Santos research by just one month, has now seen the light of day. It shows several police officers shouting racist and abusive language at young people. One word used was *blattejävlar*, that roughly translates as 'damned coloured people' or 'damn immigrants'.¹⁶ Another investigation by the *Dagens Nyheter* has exposed high levels of racism within the Swedish National Police Academy. (One police recruit, named only as Ahmed, told the newspaper that he had never experienced racism of the like that he endured while at the police academy.)¹⁷ And during a training exercise conducted in Malmö, some police recruits, acting in a role-playing exercise the part of criminals and suspects, adopted racist names. When other police recruits complained, no action was taken.¹⁸

What all three pieces of research demonstrate is the danger posed by an uncritical acceptance of certain purportedly academic studies, which, far from being impartial or scientific, are based on preconception and/or can be embedded within government or security services' programmes, whether in the field of counter-terrorism or the field of integration.

References

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- 2** The critique here is taken from Sarah Dornhof, 'Germany: constructing a sociology of Islamist radicalisation' in *Race & Class*, Volume 50, no. 4, April-June 2009.
- 3** Available for download on the website of the Swedish National Defence College <<http://www.fhs.se/en/>>.
- 4** Sarah Dornhof, 'Germany: constructing a sociology of Islamist radicalisation', op.cit
- 5** See, in particular, Jonny Burnett and Dave Whyte, 'Embedded Expertise and the New Terrorism' in *Journal for Crime, Conflict and the Media* (2005); Richard Jackson, 'Religion, Politics and Terrorism: A Critical Analysis of Narratives of "Islamic Terrorism"', Centre for International Politics, University of Manchester, Working Paper Series No. 21, October 2006.
- 6** These links are acknowledged on the Swedish National Defence College website.
- 7** See Jonny Burnett and Dave Whyte, 'Embedded Expertise and the New Terrorism', op.cit
- 8** *The Local* 28.30 January 2009. The newspaper *Arbetaren* (<<http://www.arbetaren.se/>>) was one of the few media outlets to voice criticism of the research.
- 9** Reuters 5 February 2009.
- 10** Sabine Schiffer, 'Muslims, Islam and the media: taking the initiative against scare scenarios' <http://www.qantara.de/webcom/show_article.php/_c-478/_nr-308/i.html> For a discussion of the role of the media, the market and the academy in promoting scare scenarios about Muslims, see Liz Fekete *Integration, Islamophobia and civil rights in Europe* (IRR, 2008).
- 11** Marie Smyth and Jeroen Gunning, 'The abuse of research', *Guardian* (13 February 2007).
- 12** Resolution C34 of the 18th Political Convention of the Christian Democratic Union (CDU) in Germany, is headed 'For German public benefit: supporting and demanding integration, fighting Islamism'.
- 13** The words are those of Monica Muelwerth, education spokesperson of the Freedom Party. Gerald Grosz, an MP for the Alliance for the Future of Austria, has warned that radical Islamists should not be allowed to 'slowly poison' society. Both comments reported by the German Press Agency 28 January 2009.
- 14** As quoted in *Austrian Times* 16 April 2009.
- 15** As quoted in *Austrian Times* 30 March 2009.
- 16** *The Local* 5 February 2009.
- 17** *The Local* 21 February 2009.
- 18** As reported by BBC News 8 February 2009.

Country reports

The summaries below cover the period from September 2007 to March 2009.

AUSTRIA

Anti-terrorist laws and prosecutions

Conviction of lesser offences in test case for anti-terrorism laws

The prosecution of Mohammed M, aged 22 and Mona S, his 21-year-old wife, described in the press as second-generation migrants from a Middle Eastern background, was depicted as a test case for Austria against the perils of 'home-grown Islamist terrorism'. In the event, the husband and wife were convicted of only one of the many terrorist-related offences they were originally charged with. A second trial began in February 2009.

A list of charges

When the first trial commenced in March 2008, the couple were charged with membership of various international terrorist organisations, including al-Qaida; a plot to launch bomb attacks during the European football championships; plans to attack various European politicians and, finally, the production of an Islamist threat video distributed on the internet. After the couple were found guilty only of making online threats against Germany and Austria (to which they were sentenced to 4 years and 22 months respectively), a second trial was ordered on the grounds that the initial court case had failed to establish whether they acted alone or were indeed members of an international terrorist organisation.

Female defendant banned from wearing burka

When Mona S, who was accused of assisting her husband by providing translating services, came to court dressed in the burka the judge ordered her to take it off on the grounds that her refusal to do so constituted an 'individual interpretation' of her religion and could be regarded as contempt of court, as it was promoting Islamist thinking. When she refused, she was excluded from the hearing for four days.

Pre-trial abuse alleged

Lawyers for Mohamed M claim that while under arrest he was beaten, suffered sleep deprivation and was not allowed to participate in Friday prayers. (*Expatica News* 3.3.08, *Earth Times* 3.3.08, *Wall Street Journal* 12.2.09, US State Dept Human Rights Report 2008: Austria, March 2009 <<http://www.state.gov/g/drl/rls/hrpt/2008/eur/119067.htm>>)

BELGIUM

Anti-terrorist laws and prosecutions

Supreme Court quashes convictions against Turkish left activists

In April 2007, the Supreme Court ordered a retrial after quashing convictions against seven activists convicted in February 2006 of belonging to or supporting a terrorist organisation, namely the Revolutionary People's Liberation Party Front (DHKP-C) a Communist organisation that is banned in Turkey. Lawyers for the seven accused (Bahar Kimyongür, Kaya Saz, Musa Asoglu, Sükriye Akar, Fehriye Erdal, Zerrin Sari and Dursun Karatas) had successfully challenged the impartiality of the judge in the earlier proceedings, which began in 1999 and ended in sentences of between four and seven years. The retrial, which began in November 2007 in the Antwerp appeal court, ended in February 2008 with the acquittal of four of the defendants, Kimyongür, Akar, Karatas and Sari, and suspended sentences and fines for the others. The judges rejected the prosecutor's claim that the DHKP-C was a criminal and terrorist organisation, and the convictions were for possession of false documents and arms.

Extradition of Belgian national averted

Bahar Kimyongür is a Belgian national yet, according to confidential documents leaked in January 2008, the Belgian authorities had hatched a plot to extradite him to Turkey, apparently with the full consent of the then Socialist Minister of Justice, Laurette Onkelinx. The leaked documents of the Committee of Surveillance of the Intelligence Service suggested that leading officials of the former federal government held a secret meeting in April 2006 and organised, in the words of one of those present, a 'Machiavellian' plan to bring about his extradition, in breach of the ban on extradition of their own nationals. [Some countries, for example the UK, have no ban on extraditing their own citizens, but Belgium's 1874 Extradition Act prohibits it]. They then passed on details of his travel to the Dutch authorities, hoping that they would arrest him and expel him to Turkey, but a Dutch court ruled Kimyongür's arrest unlawful and sent him back to Belgium. (AI Annual Report, 2008, *Migration News Sheet*, February 2008, <<http://www.ipai-isolation.info/dhkp-c-trial-ended/>>)

Detention

Special detention regime for terror suspects criticised

Lawyers for the defendants in the DHKP-C trial (see above) have filed complaints suggesting that the special detention regime that some of the defendants were subjected to, which included frequent strip searches, blind-

folding and intrusive night-time cell checks, may have been in breach of international human rights standards. (AI Annual Report, 2008)

CZECH REPUBLIC

Extradition and national security expulsions

Czech Helsinki Committee concerned about extradition policy

The Czech Helsinki Committee has expressed alarm at the tendency within government to consider the extradition of terror suspects to authoritarian regimes that practice torture. (Statement of Czech Helsinki Committee 11.9.07)

Czech authorities extradite Swedish Muslim to US

After spending some two years in detention in the Czech Republic without charge, a Swedish Muslim citizen was extradited to the US in September 2007 to face charges of plotting to set up a terrorist camp in Oregon.

The case of Oussama Kassir

Oussama Kassir was born in the Lebanon and moved to Sweden in 1984, gaining citizenship five years later. In Sweden, he had convictions for assaulting a police officer, possession of drugs and illegal weapons. Initially, the US authorities asked their Swedish counterparts to extradite Kassir. But Swedish prosecutor Tomas Lindstrand, having examined the US claims, refused the extradition request. However when in December 2005 Oussama Kassir decided to travel from Sweden to Lebanon, he was arrested under an Interpol warrant while in transit at Prague airport. He was held in detention in the Czech Republic while the extradition request proceeded through the courts and while the authorities awaited evidence from the US to support the extradition. Finally, in April 2007 the courts ruled in favour of the extradition, apparently on the basis of witness statements that Oussama Kassir's lawyers claimed were not only obtained by force but had already been examined in Sweden where extradition was ruled out. Kassir was extradited on 25 September 2007. He faces life imprisonment if convicted in the US. (*The Local* 25.4, 25.9.07, US Department of Justice press release, 25.9.07)

DENMARK

Anti-terrorist laws and prosecutions

Special courts for terror suspects to be introduced

The minister for refugees, immigration and integration has approved a parliamentary committee proposal to introduce a special court system for foreign terrorist suspects under which a specially appointed state attor-

ney would represent foreign suspects, while foreign suspects will be denied access to all the evidence in the case. The proposal, which follows the UK model of special advocates, goes counter to a recent judgment of the European Court of Human Rights that terror suspects must know the case against them. (UNHCR Baltic and Nordic Headlines 12-16.3.09, A and others v United Kingdom, Appn 3455/05, 19.2.09, <<http://www.ejiltalk.org/european-court-decides-a-and-others-v-united-kingdom/>>)

Extradition and national security expulsions

Administrative expulsion of Tunisians denied fair trial thwarted

Government attempts to deport two men, suspected of plotting the murder of a Danish cartoonist, to Tunisia, aroused strong criticism, as did its perceived willingness to gain a diplomatic assurance from Tunisia that the two men would not be tortured. The Tunisians were placed in administrative detention without trial pending attempts to deport them. But as the 'deportations with assurances' route of punishment was abandoned, the Danish People's Party (DPP) successfully pressed for new legislation aimed at controlling the men's movements, and other foreigners deemed a threat to public safety.

Details of the case

In February 2008, the Danish police intelligence agency PET arrested three Muslim men, a Moroccan with Danish citizenship and two Tunisian nationals, on suspicion of plotting to assassinate the cartoonist Kurt Westergaard, who had drawn the prophet Mohammed caricature that led to violent protests worldwide and sparked the so-called 'cartoons crisis'. While the Danish-Moroccan man was released without charge the following day, the two Tunisians (whose names have been withheld by a court order but who apparently were legally resident in Denmark for the last seven years) were issued with administrative expulsion orders on the grounds that they posed a threat to national security, on the basis of secret evidence which was never tried and tested in an open court. Under a 2002 anti-terrorist law the state has the power to deport 'aliens' using administrative procedures that bypass the courts if they are deemed a threat to national security. 'In Denmark it is now possible to be stamped "enemy of the state" and then be deported without due process', commented Henrik Stagetom, of the Danish Barristers' Organisation.

In August 2008, one of the detained Tunisians left Denmark voluntarily. In October 2008, the other detainee was released from prison and granted permission to stay in Denmark but with limited rights - no right to work, access to social security benefits, or housing. The man, who is married to a Danish citizen and has two Danish children, said that he was 'not a terrorist but rather a moderate Muslim'. He now has to report to the police regularly and, while he can leave Denmark, if he does so he cannot return to the country. In November 2008, the Supreme Court ruled that one of the Tunisians had been wrongly imprisoned for eight and a half months.

Concern over diplomatic assurances

Comments made by Lene Espersen, minister of justice, to the Danish news agency Ritzau on 10 May 2008 that seemed to suggest that the minister was willing to contemplate assurances against torture, prompted an intervention from Amnesty International (AI) and Human Rights Watch (HRW). They wrote to the justice minister urging him not to sign a diplomatic assurance with Tunisia in order to effect the men's return. Manfred Nowak, the UN Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, also called on Denmark to refrain from such an approach.

New restrictions under 'Tunisian law'

The DPP sought to take the issue further, calling for further changes to the law as a result of the failure to deport the two Tunisians. Thus, in December 2008, a new law, dubbed the 'Tunisian law' - immediately condemned as discriminatory by UNHCR - was rushed through parliament. The law compels all foreigners deemed a danger to society to report daily to the police and reside in the Sandholm asylum centre, thereby transforming Sandholm into a proposed 'substitute prison'. By January 2009, at least twenty foreigners in Denmark were said to be affected by the law. But to the DPP's horror, it emerged that none of them had been subjected to the new procedures as a result of the Act. After more pressure, the Danish Immigration Service and the National Police were forced to clarify the law and how the procedures were being used against the twenty men.

The law has been strongly criticised as discriminatory by the National Association of Appointed Lawyers as well as by the UNHCR. (Ellen Brun and Jacques Hersh, 'The Danish Disease', *Monthly Review*, June 2008, *Politiken* 29.1, 25.2.09, UNHCR Baltic & Nordic Headlines 20-21.11.08, Human Rights Watch & Amnesty International, Letter to Lene Espersen, Minister for Justice, 18 6.08, Agence France Presse 14.2.08)

EU

Counter-terrorism policy

New EU measures to combat terrorism

The civil libertarian organisation Statewatch, believes that if a new EU package of anti-terrorist measures is implemented over the next years, as promised, then Europe will be transformed into the most monitored space on the planet. The package includes measures to criminalise the use of the internet to incite or recruit for acts of terrorism, and to compel airlines to supply information, to be stored for 13 years, on all air passengers flying into or out of the EU. Franco Frattini, the European Commissioner for justice and security, denied that detailed information on religion, ethnicity or sexual orientation would be collected and stored. (*Guardian* 7.11.07)

Security draft recommends EU centralisation and more co-ordination with US

Details have been leaked of a draft document prepared by the Future Group of Interior and Justice Ministers

from six European states (Germany, France, Sweden, Portugal, Slovenia and the Czech Republic) which calls for the creation of a 'Euro-Atlantic area of co-operation'. Under this, the EU would share vast amounts of intelligence and information on EU citizens with the US. The American Civil Liberties Union, in a letter to MEPs, warned against such measures, stressing that the US is 'a country that, in privacy terms, is all but lawless ... US privacy laws are weak. They offer little protection to citizens and virtually none to non-citizens.'

Terrorism, organised crime, migration – key threats

The Future Group also believes that the challenges posed by terrorism, organised crime and legal and illegal immigration are such that greater co-ordination is needed across the EU through joint video-surveillance and unmanned drone aircraft. It recommends that networks of anti-terrorism centres be established, with greater powers for the Joint Situation Centre (Sitcen), the intelligence-co-ordinating body in Brussels. In order to defeat radicalisation and terrorist recruitment, a new EU internet-based propaganda campaign would be launched, with the EU charged with harnessing the talents of 'different actors' in fighting terrorism. It also wants the formation of an expeditionary corps of armed gendarmerie for paramilitary intervention overseas.

The Future Group was set up in 2007 by Germany in order to draft a blueprint for security and justice policy over the next five years. (*Guardian* 7.8.08)

FRANCE

Anti-terrorist laws and prosecutions

Renewed criticism of vaguely-defined association with wrongdoers offence

In July 2008, in a major report *Preempting justice: counterterrorism laws and procedures in France*, HRW launched a sustained critique of the vaguely-defined offence of 'criminal association in relation to a terrorist undertaking' (*association de malfaiteurs*). This vital component of France's pre-emptive criminal justice approach to counter-terrorism, allows for the arrest of large numbers of people on the basis of minimal evidence, as well as pre-trial detention for extended periods, with prosecutions based on guilt by association. Investigations into alleged international terrorism networks in France can often last for years, during which time large numbers of people, including the wives and partners of primary suspects, are detained, interrogated and remanded in pre-trial detention on the basis of minimal proof. The breadth of the *association de malfaiteurs* offence can lead to convictions based on a low standard of proof and weak evidence such as the fact that suspects know each other, are in regular contact, or share particular religious and political views. (Human Rights Watch, *Preempting justice: counterterrorism laws and procedures in France* <<http://www.hrw.org/en/reports/2008/07/01/preempting-justice>>)

Extradition and national security expulsions

Expulsions procedures ignore human rights concerns

France has come under increasing criticism from the United Nations Human Rights Council and the UN Committee Against Torture for national security expulsions to countries that practice torture, particularly Algeria. HRW has also drawn attention to the lack of human rights guarantees inherent in current procedures. Although an individual facing deportation can apply to a judge for a stay on human rights grounds, even appeals based on fear of torture or ill-treatment do not automatically suspend the deportation until and unless the special judge orders the stay. Much of the evidence accumulated by HRW was presented in its June 2007 report *In the name of prevention: insufficient safeguards in national security removals*. In its submission to the UN Human Rights Council in May 2008, HRW drew attention to the way in which immigration laws were being used to effect deportations and bypass the more stringent procedural safeguards built into the criminal justice system. (HRW press release 25.4.08, HRW submission to the Human Rights Council 5.5.08. For more background information see IRR *European Race Bulletin*, no. 61)

More expulsions to Algeria

The French government continues to expel national security suspects to Algeria, despite the well-documented practices, including torture and cruel and degrading treatment of the Algerian military intelligence service (the Department for Information and Security, DRS) which specialises in interrogating people thought to possess information about terrorist activities.

The case of Rabah Kadri

On 15 April 2008, Rabah Kadri was expelled to Algeria, where there were fears for his safety following his immediate arrest by the DRS and incommunicado detention for twelve days. But on 27 April he was released without charge.

Stripped of French citizenship prior to deportation

Nabil Bounour, convicted alongside Kamel Daoudi of terrorist offences in relation to an alleged plot to blow up the US embassy in Paris, was deported to Algeria after serving a six-year prison sentence in France. Two other co-defendants at this trial, Rachid Benmessahel and Abdelkrim Lefkir, were deported to Algeria in 2007, having been stripped of their French nationality. Another defendant, Djamel Beghal, who claimed his confession was extracted under torture in the United Arab Emirates, has also been stripped of his nationality and faces removal on completion of a ten-year prison sentence in France.

The case of Kamel Daoudi

In April 2008, the European Court of Human Rights ordered France to suspend the national security deportation of 34-year-old Kamel Daoudi to Algeria until it could review the case and issue a final decision on whether he could face torture or ill-treatment there,

which would prevent his removal.

Daoudi, who had lived in France since he was 5-years-old, was stripped of his citizenship on his arrest in 2001, paving the way for deportation. In 2005, Daoudi was convicted of the broad offence of 'criminal association in relation to a terrorist undertaking' in a trial that drew international attention. Whereas the prosecution alleged that Daoudi and his co-defendants had plotted an attack on the US embassy in Paris, the only evidence presented of a plot was the confession of a suspect held in the United Arab Emirates that the appeal court excluded because of concerns about the conditions under which it was obtained. (HRW, France: European Court orders suspension of deportation, 25.4.08, AI Urgent Alert: Rabah Kadri AI Index: MDE 28/004/2008)

French imam will not be stripped of nationality and expelled

A French imam, Ilyes Hacène, who was threatened with removal to Algeria, has won his battle against deportation. In February 2006, the Council of State said that his French nationality could be withdrawn due to 'unworthiness'. In February 2008, the appeal court confirmed the ruling against the 38-year-old imam of the Créteil mosque. Accused of 'preaching which is considered to be radical' and 'behaviour capable of undermining national security', Hacène was issued with a ministerial decree of expulsion. But in a surprising move, in March 2008, the Commission of Expulsion for Val-du-Marne (Comex, an advisory group comprising three judges) issued a different opinion, stating that Hacène should not be expelled as he 'has not damaged either the interests or security of France'. Then, in September 2008, the minister of interior announced that he would follow the advice of Comex and offer the imam 'a second chance'.

The extraordinary case of Ilyes Hacène

Hacène has lived in France since 1999, and was expected to become the imam of the Grand Mosque of Créteil when it was finally opened in 2008. He was naturalised in 2006 and has three children, all of whom have French nationality.

The original accusation against Hacène was vague – he was accused of making radical speeches. According to a December 2007 article in *Le Monde*, which was apparently based on intelligence services' reports, the imam was accused of having preached, since the beginning of the decade, using an 'ideology inciting discrimination, hatred and violence against the Western world and Jews'. The intelligence services stated that Hacène called on Muslims to pray 'for the mujahideens of Palestine, Iraq, Chechnya and Afghanistan'. He was also accused of sending 'young French Muslims to Salafist universities in Damascus' which, according to the intelligence services, made his deportation an 'urgent necessity for State security'. Further police reports, cited in *Le Parisien* in June 2008 and on the internet, alleged that Hacène was committed to a 'Salafi ideology', and had delivered 'anti-Western sermons on several occasions since the beginning of the year 2000'. One police report stated that the imam 'made excoriating remarks against Israel and the United States ... within the former mosque of Créteil'.

Muslim community supports imam

Hacène was supported by a wide section of the Muslim community. The Union des Organisations Islamiques de France (UOIF) supported him, as did Dalil Boubakeur, head of the French Muslim Council and the rector of the Paris mosque, who described him as an 'open, moderate young man' who has received a traditional education in Algeria and Syria. Karim Benaïssa, president of the Union of Muslim Associations in Créteil, said the accusations against Hacène were 'groundless'. He believes that the imam is the victim of a 'frame-up'. A source close to the Muslim Association states that the 'imam had no kind of Salafist commitment' but could be the victim of a 'marital dispute'.

Police disappointed with Comex ruling

The police had expressed their disappointment with the Comex ruling, telling the newspaper *20 Minutes* that they were determined to see the imam 'far from here'. 'We are keeping a close eye on his speeches. We will not slacken our attention', said the state services of Val de Marne.

Background: Sarkozy and deportations

During a speech given at the Paris mosque on 1 October 2006, President Nicolas Sarkozy said that he was committed to 'deporting those who scorn Islam' by promoting violence, suggesting that it was necessarily foreigners who professed radical Islamism. But specialists stressed that radical Islamists, and Salafists in particular, are often French, either of foreign origin or converts. (*Le Monde* 2.12.07, *Altermedia.info* 4.12.07, *Le Parisien* 14.6.08, <http://www.grioo.com/ar_l_imam_de_creteil_ne_sera_pas_expulse_de_france,14979.html>)

Detention

Criticism of pre-trial and garde à vue detention

The UN Human Rights Council, as well as Human Rights Watch, are concerned that the long periods terrorist suspects can be held in pre-trial detention (up to four years and eight months) on the basis of minimal evidence could put France in breach of the International Covenant on Civil and Political Rights (ICCPR) that holds that a person must be brought to trial within a 'reasonable time'. Another focus of concern is the lack of appropriate safeguards in police custody, including access to an effective defence at a critical stage, in so-called *garde à vue* detention under which terrorism suspects are initially arrested. Under *garde à vue*, terror suspects can be held in police custody for up to 72 hours without access to a lawyer and then a further six days before being brought before a judge. Police may interrogate detainees at will during *garde à vue*, in the absence of their lawyer, at any time of the day or night, which could lead to oppressive questioning.

Case studies

HRW cites the case of one terrorism suspect who was interrogated for a total of 43 hours during his four-day *garde à vue*. In another case, Rachida Alam, the 34-year-old diabetic wife of another suspect, was interrogated for a total of 25 hours during her three-day *garde à vue* in May 2004 without once seeing a lawyer. During this period, Alam was taken to the detention facility's hospital on three separate occasions.

Suspects interviewed by HRW said that sleep deprivation, disorientation, constant repetitive questioning and psychological pressure are common in police custody. Credible allegations of physical abuse were also made. In one case, Emmanuel Nieto, arrested in October 2005 on the basis of statements made by a man detained in Algeria, claimed he was subjected to physical abuse at the hands of the police during his four days in custody, including being punched and forced to kneel for long periods of time.

Treatment of the 'Chechen Network'

HRW draws attention to the investigation of the so-called 'Chechen Network' between 2002 and 2005, during which sixteen couples were arrested. Fourteen of the women held in *garde à vue* detention were subsequently released without charge. Of the two women prosecuted, one was convicted, while the other was acquitted after spending one year in pre-trial detention with her infant daughter. Eight of the men in these couples were convicted at trial, one was acquitted, and charges against the remaining seven were not pursued. (*Muslim News* 22.9.08, HRW, 'France: Guilty-by-Association Prosecutions Violate Rights' 2.7.08, HRW Submission to the Human Rights Council 5.5.08)

Could the preventive detention regime be extended to all 'violent' offenders?

In January 2008, HRW described a proposed new law that could create a special preventive detention regime based on 'socio-medico legal detention centres' for individuals sentenced to 15 years or more in prison for violent crime, as a fundamental violation of the rule of law. Under the proposed law, prisoners who have served their sentences could be further detained merely on speculation that they might commit some further crime. A three-judge special commission would have the authority to impose an additional one-year jail term if the offender is deemed to be dangerous and likely to re-offend by a multi-disciplinary panel of experts. Jean-Marie Fardeau, Paris director of HRW said, 'Whatever the French government says, internment in these centres amounts to a double punishment for the same crime ... It could mean ... that a 14-year sentence becomes a life sentence.' (HRW press release 28.1.08)

GERMANY

Anti-terrorist laws and prosecutions

New law gives police far-ranging powers to 'cyber patrol'

Despite the opposition of the German Constitutional Court citing the right to privacy, on 19 December 2008, a reform to the law regulating the Federal Crime Police Authority (Bundeskriminalamt, BKA) was passed giving the police new preventive powers to carry out remote searches of computer hard drives ('cyber patrols') on the basis of a generalised suspicion that an individual is engaged in international terrorism. While legislators, clergymen and defence lawyers are fully protected from

such searches, journalists, other lawyers and doctors are not.

Journalists voice concerns

According to the German Federation of Journalists (DJV), raids on press offices and journalists' homes are becoming increasingly commonplace, and are justified on the grounds of suspicion of intent to reveal state secrets. Journalists also fear they will fall foul of a new government proposal to press terrorist charges against people who 'make contact or are in regular contact with terrorist organisations' if this contact takes place with the intent of receiving instructions on how to carry out terrorist attacks.

Class action leads to legal challenge

In March 2009, the Administrative Court in Wiesbaden ruled that data retention violates the fundamental right to privacy. The full decision was published by the Working Group on Data Retention which has initiated a class action of over 34,000 citizens against what they argue constitutes the total logging of the entire population's communications and movements. (*Statewatch*, Vol 18, no. 4, October-December 2008, *Statewatch News Online* 4.3.09, citing press release by Working Group on Data Retention, *Deutsche Welle* 19.12.08)

Torture

Investigations into German collusion with extraordinary rendition and torture

There is growing pressure on the German authorities to define precisely their attitude to torture as it emerges that German nationals and residents have been tortured and suffered ill-treatment at Guantánamo Bay and as part of the US extraordinary rendition programme.

Parliamentary investigation launched

A parliamentary committee set up in 2007 to investigate Germany's role in human rights violations committed as a result of counter-terrorism policy has, in the case of Muhammad Zammar, examined evidence that the Federal Criminal Police Office handed information over to the US authorities prior to his illegal transfer to Syria in December 2001. There, he was reportedly subjected to torture and ill-treatment until his release at the end of 2007. German intelligence and law enforcement officials also, it is alleged, visited Zammar in detention in Syria and then withheld information about his whereabouts.

Former Guantánamo Bay prisoner speaks out

Following new evidence, the state prosecutor has also reopened an investigation into allegations that former Guantánamo Bay prisoner, Murat Kurnaz, a German-born Turkish citizen, was tortured and ill-treated by German Special Forces Command officers while in US custody in Afghanistan in 2002.

No prosecution of CIA operatives

In June 2008, the European Centre for Constitutional Rights filed a lawsuit against the German government for its decision not to request the extradition of 13 US citizens including ten CIA agents who have been

accused of involvement in the kidnapping of Khaled el-Masri, a German citizen of Lebanese descent. El-Masri was apprehended in Macedonia and flown to Afghanistan, where he was imprisoned for five months and tortured. (HRW 2009 World Report, AI Annual Report 2008)

Extradition and national security expulsions

AI concerned about Germany's 'deportation with assurances' policy

According to AI's 2008 Annual Report, the German government is seeking diplomatic assurances from Algeria, Turkey and Tunisia to enable terrorist suspects to be returned to these countries. A judicial review is now pending over the fate of two Tunisian nationals who have been issued with deportation orders. (AI Annual Report 2008)

Germany seeks diplomatic assurances in Turkish extradition cases

In its attempt to extradite a number of terrorist suspects to Turkey, the German government has failed to satisfy the courts that such removals would be safe as long as the government could obtain diplomatic assurances from Turkey that those concerned would not be tortured or suffer cruel or degrading treatment.

The case of Hasan Atmaca

In October 2007, the European Court of Human Rights asked the German government to suspend the extradition of Hasan Atmaca to Turkey where he is wanted on charges related to alleged involvement with the Kurdistan Workers Party, and in May 2007 the Frankfurt Higher Regional Court approved his extradition after hearing of diplomatic assurances provided by the Turkish authorities. But another court declared him a refugee who could not be returned to Turkey.

The case of Kemal Kutan

A court in Karlsruhe has turned down an extradition request for Kemal Kutan, a Turkish Kurdish-left political activist accused by the Turkish authorities of terrorist offences and 'high treason'. Supporters of Kutan, who are backing his claim for political asylum, believe that the Turkish authorities will now make a second extradition request.

Kemal Kutan, who is from a Kurdish and Alevi background and was at one point editor of the left newspaper *Halkin Demokrasisi*, says that ever since he was 14 he has been targeted by the Turkish authorities and that he spent five years as a political prisoner in Turkey, during which time he was tortured. In 2007, facing threats against himself and his family, he fled to Germany, where he was arrested and held in detention in southern Germany, due to a warrant issued by the Turkish state for his extradition. An Istanbul human rights association, the IHD believes that the real motive for the extradition request 'is Kemal Kutan's persistent engagement in political activities'. (See <http://www.humanrights.de/doc_en/countries/turkey/kemal_kutan.html>)

Proscription

Prosecution for membership of PKK

In April 2008, Muzaffer Ayata, a Turkish citizen, was sentenced to three and a half years imprisonment for membership of a terrorist organisation. He was accused of leading a German branch of the Kurdistan Workers' Party (PKK), banned in Germany since 1993. (AP Agency 11.4.08)

Racial and religious profiling

Profiling of foreign students and academics for 'beliefs test'

In July 2008, the *Frankfurter Rundschau* reported that the interior ministry of North Rhine-Westphalia had subjected all foreign students and academics from Muslim countries (as well as North Korea), who needed a visa or an extension of their residence permit, to 'security related questioning' about their beliefs. Those who refused to answer the questions in a way the Aliens Office deemed appropriate have had to return to their country of origin.

Moroccan student brings test case

As the University of Münster became the first academic institution openly to oppose the test, Mourad Qortas, a Moroccan studying in Münster, announced that he would bring a test case to challenge the legality of the procedure. Qortas told the *Frankfurter Rundschau* that he was asked whether he was a member of al-Qaida, whether he was trained in manufacturing explosives or in martial arts, whether he knew people who maintained contacts with organisations classified as terrorist and whether he would be willing to work with the German security services. It was only when Qortas went to renew his residence permit that he was told that he would have to sit the security questionnaire. 'These questions give rise to a terrible inferiority mentality', he said. Everyone who is subjected to the test will 'afterwards reflect intensively on whether his neighbour hasn't at some time said something odd'.

Universities and students rally against discriminatory test

Marianne Ravenstein, vice-chancellor of the University of Münster, said the questioning was not only discriminatory but that 'students and academics go to this decisive test completely unsuspecting' and 'deprived of any legal advice'. Regina Weber, a member of the executive of the Voluntary Association of Student Bodies, believes the questionnaire is a 'racist test of fundamental beliefs', and is possibly unconstitutional. (*Frankfurter Rundschau* 24.5, 3.7.08)

Bavarian interior minister wants profiling of German converts to Islam

Following the arrests of two German Muslim in September 2007 in connection with a plot to bomb US military installations and other targets in Germany, the then Bavarian interior minister Günther Beckstein called for the security services to keep a record of those who convert to Islam and ascertain whether the conversion involves a 'liberal and humane form of Islam or an

Islamist one'. Kai Hirschmann of Germany's Institute for Terrorism Research and Security Policy also claims that converts to Islam pose a danger that is higher than those who are born into the religion and are therefore more 'easily radicalised'.

In response, interior minister Wolfgang Schäuble said that while he was concerned about the radicalisation of converts, he did not want to place Muslims under general suspicion. (*Deutsche Welle* 11.9.07)

GREECE

Extradition and national security expulsions

Attempt to extradite Javed Aslam continues

In July 2007, the Supreme Court, in a final judgement in a case that has raised serious concerns, ruled that Javed Aslam, the president of a Pakistani unity organisation in Athens could not be lawfully extradited to Pakistan. It seems that the Greek government had attempted to press ahead with the extradition, despite the fact that no extradition agreement existed between itself and Pakistan, and it emerged that documents had passed unofficially between the Pakistani Embassy in Athens and the Supreme Court. Javed Aslam has made repeated claims that the Greek authorities are trying to silence him in order to prevent him defending the rights of six Pakistani nationals in Greece who were allegedly abducted by agents of the Greek intelligence services in the aftermath of the London bombings of 7 July 2005. (AI Annual Report 2008, *Kathimerini* 12.5.08. See also IRR *European Race Bulletin* no. 61)

ITALY

Anti-terrorist laws and prosecutions

'Due process denied' in case of Tunisian Three

The organisation Help the Prisoners, which supports Muslim prisoners in the UK and worldwide, has expressed concern that three Tunisian men (Habib Iganoua, Ali Chehidi and Mohammed Khemari, known as the 'Tunisian Three') who were extradited to Italy under a European Arrest Warrant in 2008 accused of involvement in terrorism, including recruitment and document forgery, have been stripped of the necessary safeguards they are entitled to under European law and without which they cannot be guaranteed a fair trial. As the trial was due to begin on 3 April 2009, Help the Prisoners make the following allegations:

- The case against the men is based on the evidence of a man originally tortured in France and now under threat of deportation to Tunisia (see below), which cannot therefore constitute reliable evidence;
- The interpreter for the men was forcibly removed from the case. His replacement, provided by the Italian court, is not independent but an employee of the Tunisian

Embassy. As all three men are Tunisian and as Habib Iganoua has been tried and convicted in his absence by a Tunisian military court, they can place no trust in this man, and fear for the safety of their families in Tunisia;

■ Habib Iganoua was kept in solitary confinement on arrival at Milan prison; he was denied recreation and exercise and sometimes left with no heating, with the temperature dropping to -3 celsius. After he went on hunger strike, the conditions of his detention improved. (Help the Prisoners <<http://www.helpthepersons.org.uk/>>)

Torture

Prosecution in extraordinary rendition and torture case halted

The Constitutional Court has dealt a major blow to Italian prosecutors' attempts to conclude the trials of thirty-five people, including (in absentia) twenty-five CIA agents for the abduction of the Egyptian imam, Abu Omar.

The case is significant in that it represents the most comprehensive effort anywhere in the world to apply domestic law to an alleged case of extraordinary rendition, in which a terrorist suspect is seized by US officials in a foreign country. In December 2008, for the second time, the trial of thirty-five people, including the former director of the Italian military intelligence (SISMI), and 26 CIA officers, charged with the kidnapping of the Egyptian imam Abu Omar, was suspended. The first suspension came following a conflict over the submission of documents that could reveal 'state secrets'. The second suspension follows the refusal of two military intelligence defendants to answer questions in court, arguing that to do so would reveal 'state secrets'. The issues in the case were then referred to the Constitutional Court which held that prosecutors, in building up their case against the 35 defendants, had violated state secrecy. In particular, the judges upheld objections to the use of material gathered in a raid in 2006 on an unofficial outpost of the intelligence service in Rome. (*Guardian* 12.3.09)

Extradition and national security expulsions

Controversy over national security expulsions to Tunisia

Italy has expelled two men to Tunisia, in defiance of a landmark ruling in February 2008 by the European Court of Human Rights (the case of Saadi v Italy), which reaffirmed the absolute and unconditional ban on deporting people to countries where they are at risk of torture or ill-treatment. And in March 2009, the European Court of Human Rights intervened again. Ruling on eight cases involving Tunisians under threat of expulsion from Italy, the ECHR held that their expulsion would constitute a violation of Article 3 of the European Convention.

The case of Nassim Saadi

The case of Nassim Saadi was vitally important to other European governments in their pursuit of counter-terrorism measures based on 'deportations with assurances'.

Indeed, the UK government, making a third party intervention in the case, argued (unsuccessfully) that the right of a person to be protected from torture or ill-treatment should be balanced against the risk the suspect posed to the deporting state. But deportations to Tunisia from Italy have had domestic repercussions too, with attention being drawn to the so-called 'Pisanu Decree' of July 2005 that allows for expedited expulsion procedures in terrorism cases, effectively denying suspects the right to remain in Italy while appealing against expulsion.

European Court of Human Rights upholds absolute ban on torture

In February 2008, the European Court of Human Rights (ECHR) ruled unanimously that Italy's order to deport Nassim Saadi to his home country of Tunisia violated the prohibition on torture. Nassim Saadi, a Tunisian national residing lawfully in Italy, was convicted in Tunisia, in his absence, in May 2005 of terrorism-related offences and sentenced to twenty years imprisonment. At around about the same time, an Italian court cleared Nassim Saadi of the charge of association with international terrorism, while convicting him of criminal charges of conspiracy and forgery. Despite this, interior minister Giuliano Amato ordered his fast-track deportation in August 2006 under the 'Pisanu Decree'. Saadi then appealed to the European Court of Human Rights, which in October 2006 requested that Italy suspend his deportation until it issued its final judgement, which came in February 2008.

The issue of diplomatic assurances

Before the European Court, the Italian government argued that Tunisian government assurances to treat Saadi humanely reduced the risk of ill-treatment, prompting criticism from HRW about its failure to understand that a diplomatic assurance against torture does not provide an effective safeguard for persons at risk of such abuse upon return. In its final verdict, the European court considered whether a state's duty not to deport where there is a risk of torture or ill-treatment can be mitigated by promises of humane treatment from the state to which the individual is to be deported. The court held that such assurances do not automatically offset an existing risk, leaving open whether assurances might 'in their practical application' provide a sufficient guarantee against the risk of ill-treatment.

According to HRW, Tunisia has a long history of torture and ill-treatment and has breached assurances in the past. It cites the Tunisian authorities' breach of its pledge to the US authorities that it would not mistreat two former Guantánamo Bay detainees, which led the UN Committee Against Torture to find France in breach of the Convention Against Torture.

After the Saadi ruling, the European Court of Human Rights informed the Italian government that it would decide a handful of similar cases pending before the court, including that of Ben Khemais, in a matter consistent with the Saadi judgment, and recommended that Italy seek friendly settlements in a number of other cases which involved Tunisians.

The case of Essid Sami Ben Khemais

Ben Khemais had apparently been convicted in Tunisia

several times in absentia on terrorism charges. In February 2002, Ben Khemais was convicted in Italy of membership of a terrorist organisation and sentenced to six and a half years in prison. He was then indicted on new terrorism charges in 2005, and remanded in pre-trial detention in June 2007. On the eve of his scheduled release, 31 May 2008, interior minister Roberto Maroni ordered Ben Khemais's expulsion, despite the European Courts request to suspend the expulsion until it had time to examine his case. At this point, it was likely that the government would have been forced to release Ben Khemais, who was scheduled to appear in a criminal court on terrorism charges, because he had already been held for the maximum period of pre-trial detention permitted by Italian law for the charges against him.

The Italian government justified the expulsion on 3 June 2008 on the ground that it had obtained a diplomatic assurance from the Tunisian government that Ben Khemais would not be tortured and would receive a fair trial. In February 2009, the European Court of Human Rights ruled that Italy, by expelling Ben Khemais, had violated both Article 3 of the European Convention (*non-refoulement*) and Article 34, which guarantees the individual right of petition against expulsion.

Ben Khemais is now in prison in Tunisia, serving a 10-year jail sentence imposed on him in absentia in January 2002. Although, according to his Tunisian lawyer, he was not maltreated, neither the lawyer acting on his behalf at the European Court or the Italian Ambassador in Tunis have been allowed to visit him in prison.

The case of Mourad Trabelsi

On 13 December 2008, Mourad Trabelsi was forcibly returned to Tunisia after serving a six and a half year sentence on charges related to international terrorism. His wife and three Italian-born children remain in Italy. In 2005, Trabelsi was convicted in his absence of similar offences by the Tunis military court and sentenced to twenty years in prison. As in the case of Ben Khemais, the European Court of Human Rights had asked that the expulsion be suspended while they examined his case. While an asylum claim made by Trabelsi was refused by the Territorial Commission for the Recognition of Refugees, the Commission had asked that Trabelsi be issued a residence permit on humanitarian grounds as well as in recognition of his family ties in Italy.

ECHR rules against further Tunisian expulsions

In March 2009, the European Court of Human Rights ruled that the threatened expulsion of a further eight Tunisians would constitute a violation of their human rights. The eight applicants, all residing in Italy, are Mohamed Abdelhedi, Ben Salah, Maher Ben Abdelaziz Bouyahia, Kamel Darraji, Kamel Ben Boundi Hamraoui, Mohamed Ben Salah Soltana and two other applicants known as CBZ and O. (HRW press releases, 26.9.07, 27.2.08, HRW, Letter to Italian government regarding Nassim Saadi's deportation and the use of diplomatic assurances 25.9.07, Letter to the Italian government regarding the expulsion of Sami Ben Khemais Essid, 8.6.08, Statewatch News Online 12.12.08, *Migration News Sheet* March, April 2009)

Controversial expulsion of Turin imam for speech crimes

On 9 January 2008, 44-year-old Mohammed Kohaila was expelled from Italy on public order and security grounds. He had the right of appeal, but only from outside Italy.

What was the evidence for expulsion?

In early 2007, Kohaila allegedly made anti-western statements while delivering a sermon at a Turin mosque. The statements in question were secretly filmed by a TV channel using hidden cameras and broadcast on Italian state-run RAI television on 29 March 2007. The filmmakers also claimed to have found documents praising jihad at the mosque. This was followed by investigations by the judiciary and the ministry of the interior.

However, there is speculation that the real reason for the imam's expulsion was his supposed association with another imam, Bouriki Bouchta, also a Moroccan national. Bouchta was expelled in September 2005 after being accused of expressing public admiration for Osama bin Laden and al Qaida in his Friday sermons. The ministry of the interior alleged that there was evidence that Kohaila still had ties with Bouchta.

TV documentary evidence criticised

The methods used by a popular TV journalist to expose the alleged extremism and fundamentalism of the Turin imam were criticised by the Turin public prosecutor.

On 29 March, popular TV journalist Michele Santoro, in the programme *AnnoZero* (Year Zero), accused Kohaila of preaching fundamentalist sermons and inciting extremism in a mosque in the neighbourhood of Porta Palazzo. The TV documentary used hidden cameras to record the sermon. Turin public prosecutors, however, found that Santoro had provided a voice-over which was totally misleading. Despite Santoro's claim, the sermon contained 'no appeal for holy war, no apology for terrorism, and no incitement to lawbreaking.

The minister of the interior, however, did not agree with the prosecutor's view. He ordered a re-translation of the sermon and subsequently concluded that it had an 'extreme anti-western slant'. The interior ministry alleged that the imam told those present at the sermon not to integrate with Christians and Jews as they were 'infidels'.

Expulsion justified by 'new' evidence

In January 2008, the imam was served with an expulsion order and immediately expelled, on the basis of new and apparently conclusive evidence collected by the Turin police. What that evidence actually consisted of has not been revealed, although it is believed that the *AnnoZero* programme, despite its proven unreliability, was part of the evidence against Mohammed Kohaila.

Muslim community respond

The website Islam-online said it was 'amazed' by the details of the case and concerned about the 'consequences for the lives of Mohamed Kuahila and his family'. Hamza Piccardo, leader of the Union of Islamic Communities in Italy (UCOII) said that 'Kohaila and the association in which he is an imam have been the subject of a provocation'. (*il manifesto* 10.1.08, *Migration News Sheet* February 2008, *Andkronis International* 15.8.07)

Detention

UN experts express concerns over arbitrary detention

The UN Working Group on Arbitrary Detention, having completed a two-week official visit to Italy in November 2008, called on Italy to uphold human rights in its response to terrorism. In the post- September 11 climate, the Italian state had made recourse to extraordinary measures, some of which raised concern, the Working Group concluded. (UN press release, 17.11.08)

NETHERLANDS

Anti-terrorist laws and prosecutions

Human Rights Commissioner criticises counter-terrorism laws

New counter-terrorism measures introduced since 2004 have dramatically lowered the standard of evidence needed to arrest terror suspects. The measures, furthermore, allow officials to hold suspects for up to two weeks without charge; give prosecutors greater powers to approve various surveillance methods for terror suspects without any reasonable suspicion of criminal activity; and grant the police increased powers of stop and search. The Council of Europe's Commissioner for Human Rights, Thomas Hammarberg, has expressed concern about various criminal and administrative measures adopted in the Netherlands and, in particular, the new offences introduced by the Crimes of Terrorism Act 2004 and the Investigation and Prosecution of Terrorist Offences Act 2007. There is also concern that a bill currently going through parliament will introduce to the Netherlands UK-style control orders.

Broad definitions under Crimes of Terrorism Act 2004

The Crimes of Terrorism Act 2004 introduced various new offences of conspiracy to commit a terrorist offence, membership of a terrorist organisation and threatening to commit a terrorist crime. The Act allowed for greater penalties for those convicted of criminal offences, if a 'terrorist aim' could be proved. Hammarberg is concerned that 'broad definitions' of terrorism under the laws may lead to unjustifiable restrictions on the exercise of human rights and freedoms.

Lower detention safeguards under Investigation and Prosecution of Terrorist Offences Act 2007

The Investigation and Prosecution of Terrorist Offences Act 2007 broadened the scope for investigating and prosecuting terrorist crimes and allowed the authorities to take action on the basis of 'indications' that a terrorist crime was being prepared, rather than, as previously, 'a reasonable suspicion of a crime'. The 2007 Act also broadened the scope for detention upon 'mere suspicion of a terrorist crime' (criminal offences require 'substantial evidence' against a suspect) and extended the maximum period of pre-trial detention, for those charged with terrorism offences, from ninety days to two years.

The new 'disturbance of an individual' administrative measure

Hammarberg also detected a trend in the Netherlands to avoid the judicial oversight of the courts through using administrative law and sanctions to circumvent the fundamental safeguards offered by criminal law. He cited the administrative measure 'disturbance of an individual', which comes under the scope of public order laws ('maintaining public order') and is aimed at preventing terrorism by disturbing a person in his or her daily life. As such, the measure does not require judicial authorisation, with judicial supervision only provided in case of appeal. This administrative measure is exercised by the police and can consist of house calls, inviting the person to the police station, approaching acquaintances or visiting public spaces where the person is present. In one case, an Amsterdam court quashed a 'disturbance of an individual' measure which had been issued against a subject who was singled out because she had changed from Christian to Islamic beliefs, engaged in an Islamic marriage, refused to shake the hand of a man and had, it was alleged, contacts with a person connected to a terrorist group.

Bill on Administrative Measures for National Security

The Bill on Administrative Measures for National Security proposes further administrative measures to prevent terrorism-related activities. These would be taken by the minister of the interior and the minister of justice, and by municipalities and administrative bodies which could impose the measures on the 'basis of facts and circumstances that would not in themselves be grounds for criminal prosecutions'. If passed, terrorist suspects could be issued with exclusion orders (not to visit certain people or certain parts of the country) as well as the obligation to report periodically to the police. (Council of Europe, Report by the Commissioner for Human Rights Thomas Hammarberg on his visit to the Netherlands 21-25 September 2008, CommDH (2009) 2)

Hofstad group ruling challenges new crime under anti-terrorist law

In a landmark ruling in January 2008, which tested a new offence under the anti-terrorist law, the Court of Appeal cleared seven men of being members of a terrorist organisation, although other convictions against the men, arising from a plan to attack Dutch politicians, remain.

Background

The anti-terrorist laws have created the new offence of 'membership of a criminal organisation with terrorist intent' (Article 140a). The Court of Appeal, however, found that the Hofstad group – actually not the name of a real organisation but a nickname created by the Dutch intelligence services – could not be considered a terrorist organisation because the group operated more as a network for young Muslims with militant beliefs; they had no lasting and structured co-operation and members did not share a common ideology. The Court suggested that criminal law had only a limited utility when it came to considering matters to do with freedom of religion or free speech and that courts need to make a 'firm distinction between thinking and saying something on the

one hand, and acting on beliefs on the other.

The so-called Hofstad group achieved notoriety in the Netherlands as Mohammed Bouyeri, convicted for the murder of Theo van Gogh in 2004, was deemed to be a member. Bouyeri, who is serving a life sentence for the murder, was one of the seven men cleared of the charge of belonging to a terrorist group. The convictions against many but not all seven men for a variety of other terrorism-related offences, including a plot to kill several parliamentarians, remain. (*Migration News Sheet* February 2008, HRW World Report, 2009)

Detention

Length and solitary confinement in pre-trial detention criticised

In 2008, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, following a fact-finding mission in 2007, expressed concern about the placement of terrorism suspects (both those convicted and on remand) in special high-security 'terrorist departments' at Vught and De Schie prison. Placements in such special sections for terrorist prisoners seemed to be more or less automatic whereas, in the Committee's view, it should be subject to a comprehensive individual risk assessment reviewed at regular intervals. Particular concern was expressed that the tiny number of female prisoners were being kept in conditions that were equivalent to *de facto* isolation. (AI Annual Report, 2008, HRW World Report, 2009, *Jurist* 24.5.06, 23.1.09, Council of Europe, Report to the authorities of the Kingdom of the Netherlands on the visits carried out by the European Committee for the Prevention of Torture, June 2007)

Extradition and national security expulsions

Expulsion to Algeria challenged at European Court

The debate on the 'deportation with assurances' policy at the European Court of Human Rights (see Italy above) has focused on a previously little-discussed Dutch case also currently waiting to be heard at the Court. The case of Ramzy v Netherlands has become a test case for other countries such as the UK, Portugal, Lithuania and Slovakia, who have made third-party interventions, as have several human rights organisations.

Background to the case of Ramzy v Netherlands

Mohammed Ramzy, aged 27, was arrested in the Netherlands in 2002 on suspicion of involvement in an Islamist terrorist network linked to the Algerian Salafist Group for Preaching and Combat which, it was alleged, was not only seeking to radicalise young Muslims but was engaged in the forgery of identity papers and drugs trafficking to finance its activities. Much of the case against Ramzy was based on secret evidence and, as intelligence officers refused to give evidence in court, citing their statutory obligation to observe secrecy, the prosecution collapsed. On 5 June 2003, amidst considerable media attention, Ramzy was acquitted of all charges by a Rotterdam regional court, which ordered

his release from pre-trial detention. Whereupon he was immediately arrested by the immigration police and placed in detention for expulsion. Ramzy's claim for asylum was rejected in 2005, paving the way for his deportation on national security grounds. Meanwhile, his detention pending deportation was challenged as unlawful, paving the way for his release in September 2005.

Test-case at European Court

In 2005, the European Court instructed the Dutch government to refrain from expelling Ramzy until the case came before its jurisdiction. Lawyers for Ramzy argue that the Algerian authorities would now be aware of the criminal trial against him in the Netherlands and that he runs a real risk of being subjected to torture and/or other inhuman and degrading treatment if he falls into the hands of the Algerian security services. (Background information on this case taken from press release issued by the Registrar, European Court of Human Rights in the case of Ramzy v the Netherlands, application no 254 24/05, October 2005, *Guardian* 3.10.05)

NORWAY

Anti-terrorist laws and prosecutions

Landmark ruling establishes strict evidence requirements in first anti-terrorism case

Norway's first anti-terrorism trial has ended in acquittal of all three defendants on terrorism charges, but a conviction for one of the defendants on criminal charges. The case was important in that it set strict standards for evidence needed in terrorism cases, establishing that words and threats could not in themselves be construed as proof of terrorism.

Shootings at synagogue spark terrorism case

In September 2005, three men were arrested on suspicion of shooting at an Oslo synagogue in September 2006 and planning attacks on the US and Israeli embassies. From the start, John Christian Elden, the lawyer for the principal defendant, Arfan Qadeer Bhatti, a Norwegian of Pakistani origin, maintained that there was no evidence to connect him to any group that could be called terrorist and that 'there is a long way between fleeting thoughts and (carrying out attacks) in practice'. In court, prosecutors presented intercept evidence during which Bhatti, in cellphone conversations, made various threats against the US and Israeli embassies. But judge Kim Heger ruled that Bhatti's threats could not be construed as amounting to terrorism and that there was no hard evidence of premeditated, intentional acts. The shootings at the synagogue constituted 'an act of serious vandalism, not terrorism'.

Reactions

The US and Israeli embassies expressed disappointment at the verdicts. A spokesperson for the synagogue, Anne Sender, said that the initial reaction was that the shooting was an act of terrorism but even so they were 'satisfied that Bhatti has been taken off the streets'. The

courts sentenced Bhatti to one of Norway's most punitive forms of custody known as *forvaring*, because of other convictions for violence. (*Aftenposten* English web desk 4, 30.6.08)

Extradition and national security expulsions

Risk of execution rules out expulsion of Mullah Krekar

In April 2008, the minister for labour and social inclusion, Bjarne Hanseen, announced that the government had concluded that it would not be possible to expel the controversial Iraqi Kurd Fateh Najmeddian Faraj (also known as Mullah Krekar) without exposing him to the risk of the death penalty. In December 2006, UN Security Council Resolution 1267 listed Mullah Krekar as a terrorist and leader of Ansar al-Islam. Soon after his refugee status was revoked in November 2007, the Supreme Court upheld an expulsion order against him. Attempts by Norway to secure an agreement with the Iraqi government that would have allowed for his expulsion failed. His wife and four children have Norwegian citizenship. (*Migration News Sheet* May 2008)

Security services and refugees

Progress Party exploits suspicions of asylum seekers

The Progress Party is attempting to manipulate fears that Iran is recruiting former members of the People's Mujahedin to act as spies in Europe to call for a quota on the number of asylum seekers received in Norway in order to better control the refugee community. Responding to a September 2008 letter from the vice-president of the European Parliament warning the justice minister of the spying concerns, police said that they knew of cases where Iranians had been encouraged to apply for asylum in Europe for the purpose of espionage. (*Verdens Gang* 13-14.9.08 as cited in UNHCR Baltic & Nordic Headlines)

SLOVAKIA

Extradition and national security expulsions

Algerian avoids extradition but is returned to detention

Mustapha Labsi, an Algerian who originally lived in London and then fled to Slovakia where Algeria sought his extradition on terrorist-related charges cannot be removed to Algeria, the Supreme Court ruled on 7 August 2008. But immediately after the decision – which followed an earlier ruling in the European Court of Human Rights and overruled an earlier decision by the Slovak courts – Mustafa Labsi was re-arrested and taken to the Medvedov detention centre, where a legal challenge against his continued incarceration was unsuccessful.

Background

Mustapha Labsi was originally arrested in London in February 2001 by the British authorities who alleged that he was linked to a suspected terrorist organisation in Germany. He was held in Belmarsh prison for three months, before the charges of belonging to a German terrorist cell were dropped. However, rather than being released, Labsi was rearrested under a French extradition order. Labsi, it seems, had come under suspicion because he had once shared a flat in Canada with Ahmed Ressay, who was convicted in 2005 of a plot to blow up Los Angeles International Airport. On the basis of this French extradition order, Labsi was once again detained in Belmarsh, this time for approximately three years, before being expelled to France in March 2006. Here, despite the media profile he had now received as a dangerous international terrorist, Labsi was charged and eventually convicted, only on criminal charges of forging documents, and sentenced to five years imprisonment.

On release, Labsi travelled to Slovakia to find his son, who was in the care of his grandmother following his wife's mental collapse during her husband's incarceration. Acting on intelligence provided by the Algerian authorities, which had accused Labsi of links to al Qaeda, the Slovakian police arrested Labsi on 4 May 2007. AI notes that Labsi has been tried in his absence in Algeria and sentenced to life imprisonment on charges relating to terrorism. An asylum claim made by Labsi was rejected in September 2007.

What next?

According to additional information provided by Cageprisoners, lawyers have been unsuccessful in their attempts to appeal against Mustapha Labsi's continued detention as well as the negative decision on his asylum claim. In November 2008, a regional Court ruled that, even though he could not be deported to Algeria, his continued detention was lawful, as a valid decision has been made to deport him and he had also been issued with a territorial ban until 2016. In February 2009, Labsi was transferred to a more relaxed detention centre at Pobytovy tabor Opatovská Nová Ves. Theoretically, he should be allowed to leave the centre during the day, but it seems that not only is this right being refused, but also his movements around the camp are constantly monitored by police. (AI Public Statement EUR 72-011/2007, Islamic Human Rights Commission Alert, 28.8.08. Additional information provided by Cageprisoners <<http://www.cageprisoners.com/prisoners.php?id=1344>>)

SPAIN

Anti-terrorist laws and prosecutions

Vaguely-defined crimes of association criticised by UN Special Rapporteur

Following a fact-finding visit to Spain in May 2008, Martin Scheinin, the UN Special Rapporteur on the protection and promotion of human rights while countering terrorism, criticised Spain for its 'overly-broad terrorism offences', in particular a number of vaguely-defined

offences of associating with terrorism as defined by Articles 572-579 of the Spanish penal code. For instance, Scheinin criticises the lack of legal precision in Article 574 of the code, that allows for the punishment of 'any other crime' committed with the aim of 'subverting constitutional order or altering public peace' and Article 477 which is concerned with 'urban terrorism'. While Article 57, on the 'glorification and justification of terrorism' is so vaguely defined that it could restrict freedom of expression, Article 57, which defines the 'crime of collaboration' with terrorist organisations, is not precise and has been used against media enterprises which the State claims are linked to ETA, the Basque terrorist organisation. Further criticisms were made of incommunicado detention (see below).

Spanish government delegate dismisses report

Javier Garrigues, the Spanish government delegate, attempted to discredit the conclusions of the report, arguing that the UN Special Rapporteur's findings were based on personal opinions and unproven facts and that he had not really understood the 'reality of the fight against terrorism'. The Spanish government also made it clear that, whatever the UN criticisms, it will continue to hold suspects in incommunicado detention. (HRW World Report 2009, <<http://www.annanoticias.com/>>)

Supreme Court quashes convictions in terrorism case

On 7 November 2008, the Supreme Court quashed the convictions of 15 men, all Muslims, mostly of Moroccan or Algerian origin, who were convicted, together with five other people, of Islamic terrorist activity in connection with a plot to attack Madrid's anti-terrorism court. All 20 men were acquitted of the substantive charge – involvement in a bomb plot – on the grounds that evidence of a 'conspiracy to commit a deadly terrorist attack' was non-existent. (*Migration News Sheet* November 2008)

Extradition and national security expulsions

Concerns mount over Moroccan expulsion plan

Concerns are mounting that Spain is negotiating a special agreement with Morocco which would allow it to expel several men held under suspicion of terrorism though never convicted, including Farid Hilali, who was the first person to be extradited under the European Arrest Warrant in 2003. Internationally, more and more newspapers focus on the 'Moroccan terror connection', something that is related to the Madrid 2004 bombings that killed 191 people and obviously concerns Spanish newspapers and society too. Spanish secret services, too, seem to be developing closer and closer relations with their Moroccan counterparts.

The case of Farid Hilali

Farid Hilali, a Moroccan national, was initially arrested in the UK on an immigration matter and then interned in Belmarsh prison, where he was treated as a high-risk category prisoner. (See also page 32 for further information on the treatment of Hilali by the UK authorities.) After spending 44 months in detention in the UK,

Hilali was extradited from UK to Spain in February 2008. Facing terrorist-related charges, he was initially held incommunicado in prison and denied access to his legal papers in order to prepare his defence. But in February 2009, after spending thirteen months in Spanish custody, Farid Hilali was released from prison pending further investigation of his case, but on very strict bail conditions, including the condition that he reports daily to the police and remains on Spanish territory. Unbelievably, on the day of his release and at the prison gates, Farid Hilali was rearrested by the police and taken to a police station where he was informed that he was staying illegally in Spain and issued with a deportation order. After a desperate Hilali tried to reason with them, police eventually released him, though the deportation order is still hanging over him.

Friends of Hilali who are in communication with him are deeply concerned about his health. Although he has been released on bail, he is constantly stopped by the police who ask to see his passport and ID documents, neither of which he has. The constant harassment and fears that the Spanish authority are set to deport him to Morocco are all combining to grind him down, friends say. In email correspondence with supporters, Hilali states that the core accusation against him rests on intercepted phone communications which the Spanish courts have deemed inadmissible, and the intercept evidence contains nothing to indicate that any crime has been committed. Farid Hilali believes that there is no evidence against him whatsoever, and fears that the whole purpose of his treatment in both the UK and Spain is to bring about his 'administrative rendition' to Morocco.

Spanish-Moroccan cooperation intensifies

The Spanish anti-terrorist judge Baltazar Garzon has said that Spain and Morocco must set aside their differences as 'Morocco is the worst terrorist threat for Europe'. Since 2006, the Spanish intelligence (CNI) has worked with the Moroccan intelligence services (DGED) to create a special unit to exchange information. In November 2007, Moroccan intelligence services were amongst those who attended a meeting of intelligence services from across the Maghreb and southern Europe held on the Spanish island of Mallorca. At the meeting, Yassin Mansour, the head of the DGED is said to have accused the Spaniards of 'playing with fire' in Ceuta and to a lesser extent in Melilla. The Moroccan government is deeply critical of what it perceives as Spanish attempts to free Ceuta's Muslims and mosques from Moroccan influence, particularly the control of the Moroccan ministry of religious affairs, and from the Malikite branch of Islam that they practice. The Moroccans argue that this has resulted in Muslims in Ceuta turning to alternative forms of Islam, such as the Tablighi Jamaat which he warned lies in the 'antechamber of jihadism'. (*Middle East Times* 8.12.08, *El País* 11.12.07. Additional information provided by Cageprisoners and Help the Prisoners)

Melilla closes ranks to prevent extradition to Morocco

The President of the Popular Party in Melilla, the Islamic Commission and the Coalition for Melilla have made common cause to oppose the extradition of two residents of

the city to Morocco, where they are accused of membership of a terrorist organisation linked to terrorist attacks in Casablanca.

The case of Mohamed el Bay and Ali Aarraas

International arrest warrants were issued for Mohamed el Bay, a 54-year-old with Spanish nationality, and Ali Aarraas, a 45-year-old man who was born in Melilla but has Belgian nationality, leading to their arrest in April 2008. In May 2008, the Council of Ministers approved their extradition.

Should Morocco have jurisdiction over Spanish nationals?

Lawyers for Aarraas claim that he is not being provided the same safeguards from extradition as other EU citizens. The Spanish-Moroccan extradition treaty of 1997 excludes the handover of Spanish nationals, leading the lawyers of Mohamed el Bay also to contest his extradition. But the Spanish National Court has dismissed el Bay's argument, stating that as he has dual Moroccan-Spanish nationality (Moroccan law is such that one cannot renounce one's citizenship) he can therefore be extradited, despite his Spanish nationality. It would seem, however, that in order to do so the Spanish authorities would have to strip el Bay of his Spanish citizenship, something which they have not yet done.

The fears of Melilla's Muslims

Abderramán Benyahia, spokesperson for the Islamic Commission, says that 'if they had been called García or Pérez, neither the National Court nor the Government' would consider the men's extradition. The head of the Intercultura Association added that as a significant proportion of the Melilla population are from a Moroccan background, fears are growing about 'their position in relation to Morocco', which does not recognise their Spanish status. There is anger at the Spanish Socialist government for failing to understand Melilla Muslims' fear of the long-arm of the Moroccan state. Irene Flores, a columnist on *El Faro*, warned that 'once again a Socialist government is unable to see how some of its decisions are undermining social cohesion in Melilla.' The threat of extradition raises 'fears ... amongst a community of Spanish nationals that, because of their North African origins, they can have their nationality removed and be converted, in effect, and for all practical purposes into Moroccan citizens'. (*El País* 6.4.09)

Diplomatic assurances sought in Russian expulsion case

HRW as well as human rights organisations in Ingushetia have called on the Spanish government to desist in its attempts to extradite Murat Ajmedovich Gasayev, an ethnic Chechen, to Russia on the basis of a diplomatic assurance that he will not be tortured or subjected to cruel or degrading treatment. 'The Spanish authorities appear to want to get rid of Gasayev at any cost', said Julia Hall, senior counter-terrorism counsel at HRW. 'But the empty promises offered by Moscow will not protect him from abuse - only halting the extradition can do that.'

The case of Murat Ajmedovich Gasayev

The Russian authorities are seeking the extradition of

Murat Gasayev, who claims he was tortured by Ingushetia's federal security services in August 2004 on the grounds of his alleged connection with an attack by an armed group on government buildings in the Republic of Ingushetia in June 2004 before being released without charge. The Russian extradition request is based on evidence by another detainee, who Ingushetia-based human rights organisations believe was tortured with electric shocks to extract a confession which he subsequently retracted, saying it was forced. The widespread torture and ill-treatment and continuing enforced disappearances in the Northern Caucasus in the context of counter-terrorism operations of the Russian security apparatus is well-documented.

In 2007, the Russian authorities sent assurances to the Spanish authorities that Murat Gasayev would not be tortured or subjected to the death penalty if extradited and that the UN Committee Against Torture would be permitted to visit Gasayev in detention on his return. On the basis of this the Audiencia Nacional (Supreme Court) approved the Russian extradition request. In a letter to the Spanish government, HRW pointed out that the Committee Against Torture had received no communication from the Russians about the post-return monitoring arrangements, which fall outside its remit anyway, and that Russia had breached similar diplomatic assurances in the past. As an alternative, the Spanish government arranged to have diplomatic staff from its mission in Moscow conduct post-return monitoring visits, an arrangement approved by the courts.

European Court refuses to hear case

In December 2008, the European Court of Human Rights declined Gasayev's request to issue an injunction against his removal from Spain. Several Chechen NGOs, including the Committee for the Affairs of Forced Migrants, have called on Spain to grant asylum to Gasayev. (HRW letter to the Spanish government regarding the extradition of Murat Ajmedovich Gasayev 7.5.08, HRW press release 16.12.08)

Turkish-Kurdish politician arrested following extradition request

On 24 March 2009, the Spanish authorities, acting on an extradition request from Turkey, arrested Remzi Kartal, a former MP in the Turkish parliament who was granted refugee status in Belgium in 1994, and Eyüp Doru, who, like Kartal, is of Kurdish origin and active on Kurdish issues. Both men, who are accused of involvement with the PKK, were later released but still face possible extradition to Turkey. This is not the first time Remzi Kartal has been arrested while travelling around Europe and threatened with extradition to Turkey. He was arrested by the German authorities in January 2005 during a visit to Nuremberg for a Kurdish cultural festival. He was subsequently released. (Communication from Campaign Against Criminalising Communities 6.4.09. Background information at [New Statesman <http://www.newstatesman.com/200502070008>](http://www.newstatesman.com/200502070008))

Detention

Incommunicado pre-trial detention, torture and ill-treatment highlighted

Following a fact-finding visit to Spain in May 2008, Martin Scheinin, the UN Special Rapporteur on the protection and promotion of human rights while countering terrorism, called for the 'complete eradication' of incommunicado detention in Spain on the grounds that it may facilitate the commission of acts of torture and ill-treatment. The practice whereby a terrorist suspect can be held in pre-trial detention for up to four years was also criticised. According to the AI Annual Report on Spain, reports of torture and other ill-treatment by law enforcement officers are widespread.

The UN Special Rapporteur's findings came at a time when many of the convictions of terrorist suspects arising from the 2004 Madrid bombings, as well as an alleged plot to blow up Madrid's anti-terrorism court (see above) were successfully challenged in the courts.

No investigation into 2006 torture claims

The Spanish Law of Criminal Procedure allows a judge to authorise incommunicado detention of alleged members of an armed band or terrorist organisation for five days in police custody and then a further eight days before being presented before a court. After the Madrid bombings, 120 people were arrested - a large number of whom were later released without charge - and held in incommunicado detention during which time it is alleged they were subjected to continuous interrogation in the absence of lawyers, threats related to their national origin, deprivation of sleep and in some cases the use of physical force. Most allegations of ill-treatment were completely ignored by the courts and investigating judge. In fact, the only case that was officially investigated was filed by a Spanish citizen. The UN special rapporteur also notes that more than one half of those arrested for the Madrid bombings were held in pre-trial detention, whereas only 29 of the original 120 suspects were ever charged with a terrorist offence.

The case of Mohammed Fahsi

AI called on the Spanish government to investigate allegations that Mohammed Fahsi, a Moroccan-born British resident detained without charge in Spain on suspicion of terrorism since January 2006, was tortured when he was first arrested on vague charges connected to recruiting for the Iraq insurgency. He and others claim they suffered 'cold, sleep deprivation, extreme light, beating, threats, forcing them to denounce their religion, trying to coerce them to lie and incriminate fellow detainees'. (See IRR *European Race Bulletin* no. 61). Lawyers in the UK say that Fahsi, who is married to a British citizen and has three children born in the UK, seems to be stranded in legal limbo, the Spanish equivalent of Guantánamo Bay. Despite the fact that preliminary charges filed against Fahsi and six other Moroccan defendants do not constitute a formal indictment, the authorities continue to detain the suspects while evidence is gathered. The Spanish government has kept the evidence secret and prevented the state-appointed lawyers from mounting a defence.

Spain will not stop incommunicado detention

In an interview with Martin Scheinin posted by the writer and commentator Xan Harriague on the website *Anna noticies*, Martin Scheinin expressed his regret over the Spanish reactions to the report, in particular its refusal to desist the practice of incommunicado detention. Denying suspects held in detention the right to appoint a lawyer of their own choice, isolates Spanish legal procedures from those of most other European countries, argues Scheinin. 'The majority of countries allow for a choosing of a trusted lawyer from the very beginning of the detention, which is one of the most useful measures to avoid police mishandling. That is why Spain's attitude is much more dangerous than the majority of European countries.' He concluded that 'Spain has institutions that have no place in a democracy'. (*Guardian* 17.12.08, Statewatch News Online 3.4.08, Cageprisoners <<http://www.cageprisoners.com/prisoners.php?id=2154>>, Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism on his mission to Spain (7-14 May 2008) and interview with Martin Scheinin by Xan Harriague at <<http://www.annanoticies.com/>>. Some additional information provided by Cageprisoners)

Religious profiling

Are Muslim soldiers in Ceuta falling foul of religious profiling?

An article in *El País* asks the question, are the army expelling Muslim soldiers on the basis of secret evidence, unofficial loyalty tests and without proving any case against them? It cites the case of 'Fouad' who had served eight years in the army, and was based in Ceuta. He had an exemplary record but his application to remain a serving soldier was refused on the grounds that his superiors had completely lost faith in him because of his negative attitude and lack of loyalty. A report submitted by his army unit, the Third Armoured Mountain Calvery Regiment in Ceuta, also recommended against any long-term extension to his appointment 'in view of undisclosed reports'.

Fouad took his case to the High Court of Andalucia, which declared the army decision unlawful and arbitrary, paving the way for Fouad to return to his regiment in Ceuta. In an explanation of the decision, the Court stated that the 'retrospective punishment imposed on the soldier (for having left Ceuta for Morocco several times) and the resulting loss of trust are in reality a smoke-screen intended to hide the real reasons for declaring him unsuitable, which are hidden away in undisclosed reports'. (One report written in 2003 which came to light during the case cited Fouad as 'always coming down very strongly on the side of Muslims' when issues like Israel, the 9/11 attacks or the Iraq war were discussed.)

Other cases subject to legal challenge and cited by *El País* include:

- Abselam, a legionnaire who was refused leave to remain in the army in which he has served for ten years due to undisclosed reports.
- An unnamed soldier who was accused of having links with certain people of a radical Islamist persuasion on

the basis of undisclosed reports. Following a legal case, he was readmitted to the army.

Muslim soldiers subjected to special surveillance

The army has become one of the only career options for many young Muslims, who make up the most neglected and disadvantaged group in Ceuta and Melilla, where unemployment levels are high. 30 per cent of the 8,000 soldiers serving in Ceuta and Melilla are Muslim. In the last two years, there were reports of at least a dozen similar cases, as the Army Intelligence Service and the National Intelligence Centre place under surveillance those who display sympathy for or show signs of radical opinions or have relationships with 'Islamists'. In 2006, the first expulsions of Muslim soldiers from the army for alleged links with jihadist ideology were recorded. But monitoring of Muslim soldiers goes back to 2001, intensifying after the Madrid attacks in 2004. According to several intelligence agents who spoke unofficially to *El País*, 'any contact between a soldier and other young people linked to Islamic fundamentalism, or exposure to radical views inside or outside barracks, leads to unfavourable undisclosed reports'. (*El País* 2.11.08)

SWEDEN

Anti-terrorist laws and prosecutions

Somalis arrested for 'financing terrorism'

In February 2008, Swedish and Norwegian security forces conducted co-ordinated raids leading to the arrests in Stockholm of three men accused of financing terrorism. Somali organisations in Norway criticised the raids, arguing that sending money back home to relatives or those fighting the Ethiopian occupation should not constitute a terrorist offence. Tobias Fälth, the lawyer for one of the detained men, said that: 'The questions he received were very general, directed more at what kind of a person he was and how he occupied his time. He wasn't asked to answer questions related in any way to the financing of terrorism'. (*The Local* 29.2.08)

Extradition and national security expulsions

UNCAT finds Sweden culpable in CIA rendition to Egypt

The UN Committee Against Torture found the Swedish government responsible for the multiple human rights violations suffered by Mohammed Alzery and Ahmed Agiza, two Egyptian asylum seekers seized on the streets of Stockholm following a request from the CIA and summarily expelled to Egypt (even though their asylum applications were still pending). The Swedish government had been given diplomatic assurances from the Egyptian government that the men would not be tortured. UNCAT instructed Sweden to pay the men compensation of 300,000 Euros each. Mohammed Alzery, who did not receive a fair trial in Egypt, is still in prison. (UNHCR Baltic and Nordic Headlines 20-22 September 2008)

Torture may have caused Libyan deportee's death

There was a temporary moratorium on deportations to Libya after Libyan human rights organisations, lawyers and Arabic newspapers reported the death in detention of a 25-year-old deportee from Sweden in 2008. The Swedish immigration authorities accepted that the failed asylum seeker was a member of the National Front for the Salvation of Libya, outlawed by the government, and yet he was returned to a country known to practice torture. The young man's family are said to have been contacted by the Libyan authorities and told to collect his corpse. The Swedish authorities have attempted to portray the death as a tragic accident and have had little to say on reports that the young man was tortured for nine days by the Libyan security services before he was reported dead. (*Migration News Sheet* August 2008, *The Local* 27.6.08)

Sweden overlooks torture threat in deporting Moroccan terror suspect

A 29-year-old Moroccan terror suspect, held in detention in Sweden for two years prior to deportation to Morocco where he is now in prison, although he has not been charged with any criminal or terrorist-related offence. A TV4 documentary, entitled *Kalla Fakta* (Cold Facts) exposed the circumstances of the man's removal, which was conducted in the full knowledge that he risked torture on his return. The Moroccan man was classified as a security risk, handed over to the Swedish security police who then handed him over to the Moroccan security police. He is now in prison, where the TV programme-makers allege he has been exposed to violence and abuse. A spokesperson for the Migration Board, Tobias Billström, said that the Board would not investigate the claims any further, stating that 'the man has had such low credibility so far' so 'why should we start believing him now?' (*NRK* 5.3.08, *Svenska Dagbladet* 23.11.08)

Turkey seeks extradition of left-wing opponent

The Turkish government issued an extradition request for a Swedish resident of Turkish origin who had in the 1990s been a member of a left-wing opposition movement in Turkey and was imprisoned, aged 17, for arson and robbery with political motivation. The case is now being considered by the Swedish prosecutor general, who must decide whether a Swedish residence permit based on the need for protection is enough to protect the man from extradition. (*Dagens Nyheter* 9.3.09, as cited by UNHCR Baltic and Nordic Headlines)

Proscription

European Court sets precedent in declaring asset freezing of Somali banking system unlawful

In September 2008, the European Court of Justice, in a landmark ruling, annulled Council regulations freezing the assets of the Al Barakaat banking network, based in the Stockholm suburb of Spånga and part of the 'Hawala' banking system used by the Somali diaspora to transfer funds internationally. The judgement affirmed the principle that the freezing of funds of suspected 'terrorists' or financial supporters of terrorism could only be justifi-

fied if affected parties are able to challenge the validity of the freezing order and the reasons for it. It also overturned the decision made in 2005 by the Court of First Instance to refuse to hear the case on the grounds that it did not have jurisdiction to do so and that UN law prevailed over EU law. Thus, the European Court has set an important precedent, affirming the jurisdiction of the EU courts to examine the implementation of UN Security Council resolutions and ensure their full compliance with human rights laws.

The case against Al Barakaat

In October 2001, the Sanctions Committee of the UN Security Council, acting on information received from the US government, named the Al Barakaat Enterprise as an entity linked to terrorism, and also listed the names of three Somali residents in Sweden (these men became known as the 'Somali three'). No concrete evidence was presented against the men, nor were they given the opportunity to defend themselves in court, leading the European Court of Justice to conclude that 'the rights of the defence, in particular the right to be heard, and the right to effective judicial review of those rights' had not been respected. (*The Local* 3.9.08, Statewatch News Online, 'EU implementation of the UN Security Council's "terrorist list" breaches fundamental rights', 3.9.08. Background information on the case can be found in *IRR European Race Bulletin*, no. 47, March 2004)

Security Services and refugees

Foreign intelligence services illegally spying on refugees

The director general of both the Swedish security service and the Swedish Migration Board announced a joint project to counter illegal intelligence operations carried out by foreign intelligence agencies and directed at refugees and political dissidents living in Sweden. The Migration Board alleged that their staff were subjected to blackmail attempts by those who spy on refugees. (*Svenska Dagbladet* 3.7.08, *Sveriges TV* 3.8.08 as cited in UNHCR Baltic and Nordic Headlines)

SWITZERLAND

Extradition and national security expulsions

Swiss-Turkish talks on extradition of Kurds

In February 2009, Swiss and Turkish government representatives held high-level talks as part of Swiss attempts to secure diplomatic assurances in order to extradite several Kurdish terror suspects currently held in Switzerland. Turkish justice minister Mehmet Ali Sahin told reporters that the extradition of 'ten criminals' was discussed, as were the difficulties posed by conflicting decisions given by different bodies in Switzerland. (*World Bulletin* 26.2.09)

UNITED KINGDOM

Anti-terrorist laws and prosecutions

Fifth new counter-terror law since 2000 gains parliamentary approval

The fifth piece of anti-terrorism legislation since 2000 was passed by parliament in November 2008. As the Counter-Terrorism Act proceeded through parliament, there was huge opposition to one of its central measures, the proposed extension of pre-charge detention from 28 to 42 days. But while this deeply unpopular aspect of the legislation was eventually abandoned, an equally controversial provision for no-jury secret inquests on national security grounds has been re-introduced via the Coroners and Justice Bill. A coalition of civil libertarians have also drawn attention to other aspects of the legislation, including:

- provision for judges to give longer sentences for ordinary offences if they have a 'terrorism connection', with terrorism vaguely defined;
- creation of new offence of seeking or communicating information about the armed forces, intelligence services or police officers which could be useful to terrorism, which could be used against the peace movement. The British Press Photographers Association and the National Union of Journalists have both condemned the measure, stressing that taking photographs of police officers is increasingly being deemed a criminal offence;
- proposal for new forms of punishment to be imposed after conviction, without further due process and even on the basis of secret evidence withheld from defendants. This includes confiscation of property, bans on foreign travel, requirements to report to the police whenever staying away from home;
- introduction of a special court procedure for asset freezing, involving the creation of a special procedure which 'violates the most basic principles of fair trial', according to the Campaign Against Criminalising Communities (CAMPACC);
- post-charge questioning of terror suspects. This increases the risk that persons in custody for minor offences may be intimidated into making false confessions;
- creation of a new offence for volunteer workers, for example in a youth project or charity, who could be prosecuted for not telling police about suspected 'terrorist activities'.

Controversial provision for no-jury secret inquests

The Coroners and Justice Bill contains clauses on no-jury secret inquests that were dropped from the Counter-Terrorism Act after opposition from the House of Lords. If passed, it would allow the Secretary of State to certify an investigation into death at the hands of state officials, on grounds of national security or diplomatic relations, as well as 'on general public interest grounds'. The legislation would also exclude parties, including family members of the deceased, from hearing secret evidence. A system similar to the special advocate system used in control orders would be introduced for the testing of secret evidence, whereby a supposed-

ly 'independent counsel' (appointed by the coroner) would represent the interests of the deceased and next of kin.

Under such legislation, the challenges made by the family of Jean Charles de Menezes (see IRR *European Race Bulletin* no. 61) at the inquest into his death at the hands of armed police in July 2005 would not have been possible. Critics also believe that the no-jury secret inquest system would adversely affect those families campaigning to find the truth about deaths in police or prison custody. The organisation INQUEST draws attention to the ongoing case of Azelle Rodney, who died after being shot six times by armed police in north London in April 2005. The reluctance of the government to disclose sensitive material has caused massive delays to the inquest, which has still not taken place.

Following opposition, the justice minister Jack Straw tabled amendments to the bill, supposedly to alleviate civil liberties concerns. But Isabella Sankey of Liberty described the so-called concessions as 'cosmetic'. (IRR *News Service* 26.2.09, CAMPACC submission to the House of Lords 22.9.09, *Guardian* 12, 20.2, 18.3.09)

Growing criticism of new crimes created under successive terrorism acts

Since the creation of new terrorist offences such as glorification of terrorism, which lowered the threshold of what constitutes a terrorist offence, people are being prosecuted for possessing and downloading material, for browsing websites, for possessing radical DVDs and writing lyrics. But a landmark ruling in February 2008 on a key section of the Terrorism Act 2000, which makes it an offence to have books or items useful to a terrorist, has paved the way for the release of several young Muslims originally jailed for offences under the section.

Downloading material no longer a terrorist offence

Four Bradford students and a fifth man successfully appealed against a July 2006 conviction for offences under section 57 of the Terrorism Act 2000, which makes it an offence to have books or items useful for a terrorist. All the young men were accused of downloading material in preparation for training in Pakistan before fighting in Afghanistan. Striking down the conviction, the appeal court concluded that reading Islamist material was not illegal unless there was 'direct' proof it was to be used to inspire violent extremism. Lord Phillips said section 57 'must be interpreted in a way that requires a direct connection between the object possessed and the act of terrorism'. The judge should have directed the jury 'that they had to be satisfied that each appellant intended to use the relevant articles to incite his fellow planners to fight in Afghanistan'. The ruling now means that it is permissible to download such material so long as there is no intention to use it.

This was the first time the appeal court quashed guilty verdicts by a jury since the 'war on terror' began in 2001. The court said the prosecution's case was so weak that it should not even have gone before a jury. Imran Khan, solicitor for one of the men, said 'Young people should not be frightened of exploring their world'.

The case of Samina Malik, the 'lyrical terrorist'

In June 2008, Samina Malik, the 24-year-old so-called

'lyrical terrorist' who became the first woman in Britain found guilty of a terrorism offence post-2001, won her appeal against conviction under section 58 of the Terrorism Act 2000 (possessing information 'likely to be useful to a person committing or preparing an act of terrorism'). Malik, who worked at an airside branch of WH Smith at London's Heathrow airport, came under suspicion after she entered into internet conversations with Sohail Qureshi, a man she had never met but whom, unknown to her, the intelligence services suspected of plotting to commit terrorist acts abroad. Police raided Malik's home, seizing terrorist manuals that she had downloaded from the internet and poems she had written about 'Jihad' – one entitled 'How to Behead' and another 'The Living Martyrs'. In the absence of any actual proof that Malik had committed or was preparing a terrorist offence, it was these poems as well as a shop receipt on the back on which she had written 'The desire within me increases every day to go for martyrdom', that were presented as evidence of her state of mind at her original trial. But there was, as the Court of Appeal later acknowledged in declaring her original conviction unsafe, no actual evidence that Malik was involved in terrorism, with the prosecution conceding that twenty-one of the documents it had provided as evidence at her original trial were no longer admissible. At her original trial, a tearful Malik told the court that she was not a terrorist, but had called herself the 'lyrical terrorist' because she thought it was 'cool'. (BBC News Online 1.8.08, *Telegraph* 17.6.08, *Guardian* 14.2, 18.6.08)

Arrest of Nottingham student and university administrator condemned as threat to academic freedom

National attention was drawn to issues of academic freedom after a 22-year-old Muslim Masters student at Nottingham University and a university staff administrator were arrested on terrorism charges before eventually being released.

Background

Rizwaan Sabir, 22, a masters student in politics at Nottingham University researching terrorist tactics, was arrested on 14 May 2008 following a search of his family home where his computer and mobile phone were seized. His crime, it soon emerged, was to have downloaded an edited version of the al-Qaida handbook from a US government website in preparation for a PhD on radical Islamic groups. He then sent the 1,500 page document to Hicham Yezza, a university staff administrator, as Yezza had access to a printer and Sabir could not afford the printing fees. Rizwaan Sabir was detained for six days under the Terrorism Act and accused of downloading materials for illegal use before being released without charge. His arrest came after a university staff member had discovered the document on the university administrator's computer, and university authorities had contacted the police. On his release on 20 May, Sabir said that following six days of detention 'they read me a statement confirming it was an illegal document which shouldn't be used for research purposes. To this day no one has ever clarified that point'.

Hicham Yezza, an Algerian who has lived in the UK for 13 years, was also arrested and released without

charge six days later. He was then immediately re-arrested on unrelated immigration charges and taken to an immigration removal centre pending deportation. However, a vociferous campaign and a threat of judicial review secured his release, although he was subsequently charged with giving false information at an immigration interview in 2007 and sentenced to nine-months imprisonment in March 2009. (An appeal against conviction has been launched).

According to Sabir's lawyer, Tayab Ali 'The two members of the university were treated as though they were part of an al-Qaida cell'. 'They were detained for 48 hours, and a warrant for further detention was granted on the basis that the police had mobile phones and evidence taken from computers to justify this.' Bettina Rentz, a lecturer in international security and Sabir's personal tutor, said: 'He's a serious student, who works very hard and wants a career in academia. This is a great concern for our academic freedom but also for the climate on campus. This case is very worrying. The student downloaded publicly accessible information and provoked this very harsh reaction. Nobody tried to speak to him or to his tutors before police were sent in. The whole push from the government is on policy relevance of research, and in this case the student's research could not be more policy relevant.'

Alf Nilsen, of Nottingham's school of politics, said 'Hicham was a very prominent member of student political society. That says something about the potential implications of being politically active on campus in a time when a culture of fear merges with draconian terror legislation.'

University authorities criticised

Police also carried out an investigation of Sabir's family and friends. This included a highly visible police presence at Nottingham university. A campaign was immediately formed to stop the deportation of Hicham Yezza and to protect academic freedom. Students and staff repeatedly expressed concern about the behaviour of the university, its uncritical support for the police investigation on campus and its inappropriate use of statements suggesting that those who were campaigning in support of Rizwaan Sabir and Hicham Yezza were unsettling 'the harmony of the campus'. Students launched a petition calling on the university to acknowledge the 'disproportionate nature of [its] response to the possession of legitimate research materials'. A spokesman for the university said that the material downloaded for Rizwaan Sabir was 'not legitimate research material', but later amended that view, saying: 'If you're an academic or a registered student then you have very good cause to access whatever material your scholarship requires. But there is an exception that you will act sensibly within current UK law and wouldn't send it on to any Tom, Dick or Harry.'

Hicham Yezza told the *Education Guardian* that: 'This is not the way I should have been treated ... in a country I love, would protect and where I've done everything I can to engage with and be a good citizen.' He expressed sympathy for the university, adding that 'I would have appreciated had I been given five minutes simply to answer the questions relevant to the document. Once the procedure was launched it was quickly out of the university's hands.'

Students and staff mobilise

Nottingham university staff and students were also concerned about racism and Islamophobia during the 'intimidatory' police investigation on campus. People from a minority ethnic background were targeted for questioning and during the investigation the police attempted to gather information about the student peace magazine *Ceasefire*, and student activism and peaceful campaigning generally. This led to a climate of fear with many students seeing the operation as sending out a message that the police would, in future, be more likely to arrest those engaged in peaceful political activities.

The University and College Union (UCU) annual conference debated a motion on assaults on academic freedom by the Department for Innovation, Universities and Skills. Gavin Reid, a member of the UCU national executive committee from Leeds University, said people were scared to do research and speak out. 'Self-censorship is coming' he said. 'People are more suspicious of colleagues and students.' Catherine Pope, a Southampton university academic, said she had sought legal advice twice on articles submitted to a journal she edits in order to 'protect the journal' and its associates. 'What worries me is this self-censorship and gradual erosion of our academic freedom, and before we know it we will be self-censoring and will not be able to change it.' The higher education minister Bill Rammell denied that the government was asking staff or students to act as spies; it simply wanted them to 'challenge the very small minority who promote violent extremism'. (*Guardian* 24.5.08, press release Nottingham university students and staff 21.5.08, *Times Higher Education* 22.5.08, *Education Guardian* 31.5.08, *IRR News Service* 19.3.09)

Man under threat of extradition awarded damages for police brutality

Babar Ahmad, a British Muslim IT specialist currently under threat of extradition to the US, was awarded £60,000 damages in the High Court arising from his treatment in a pre-dawn arrest at his London home in December 2003 by five members of the Territorial Support Group at Paddington Green police station. Ahmad was released uncharged after the arrest and detention, during which he experienced a 'prolonged and violent series of gratuitous assaults and was forced into the Muslim prayer position by police officers who shouted 'Where is your God now? ... Pray to him.' The Metropolitan police agreed the cash payment, but refused to apologise. Previously, the Independent Police Complaints Commission had concluded that there was insufficient evidence to bring disciplinary proceedings and the prosecution service had refused to prosecute any police officers involved.

Extradition case goes to European Court

Ahmad, who was arrested again in August 2004 on an extradition warrant from the US, is currently held in Long Lartin prison while challenging his extradition at the European Court of Human Rights. Ahmad's lawyers say that no evidence has been produced to support the US government claims that he had helped raise money to fund terrorism. (*Guardian* 12.3.09, Victoria Brittain, 'Stunning victory for Babar Ahmad', *Guardian Comment is Free* 18.3.09)

Concern that terrorism charges are politically motivated

Baluch politician freed

In February 2009, a court cleared two men, including Hyrbayir Marri, a key supporter of the Baluchistan Liberation Army and the subject of an extradition order by the Pakistani government, of possessing terrorist articles, collecting terrorist information and preparing terrorist acts. Supporters of the two men had previously accused the Pakistani and British authorities of entering into a secret deal whereby the Baluchistani men would be returned to Pakistan in exchange for the extradition of a British national held at one time in a top security prison in Pakistan. Crown Prosecution Service (CPS) officials were known to have visited Pakistan in order to help the authorities prepare extradition papers for up to eight Baluchi nationalists living in the UK.

On 21 March, it emerged that Hyrbayir Marri was playing an important role in efforts to secure the release of an American employee of the UNHCR, recently kidnapped in Pakistan. The Baluchistan Liberation United Front (BLUF) had claimed responsibility for the abduction. (*Guardian* 11.12.07, 11, 21.3.09)

Gaza solidarity activists targeted

On 13 February, nine solidarity activists with the Viva Palestina aid convoy taking aid, toys and medical supplies to Gaza, were detained under anti-terrorist powers by Lancashire police. Police stopped three vehicles and arrested six men from Blackburn and three from Burnley under the Terrorism Act, forcing the 100-strong vehicle convoy to leave without them. Although all those detained were released without charge by 17 February, passports and mobile phones were confiscated, with police justifying their targeting of the convoy on the grounds of the large amounts of cash on board. According to Chris Chilvers, a convoy organiser, the men arrested were questioned about the funding of the convoy as sums of cash had been found. But 'There was cash around because none of the main banks would allow us to open an account', he said.

Police also cordoned off two houses of British Asians during the search and an imam and his wife were subjected to strip searches in their own home. (Press release CAMPACC 26.2.09, *Guardian* 21.2.09)

Spanish civil rights lawyer questioned

On 6 December 2007, Gustavo Garcia, a Spanish civil rights lawyer and his co-traveller, a Kurd with Spanish nationality who lives in the UK, were held under the Terrorism Act 2000 and questioned separately on their arrival in London from Brussels, where they had attended the fourth international conference about the EU, Turkey and the Kurds. Documents from the conference relating to the Kurdish issue were photocopied, including the conference programme, list of participants and final resolutions. (Statewatch News Online 3.12.07)

Other examples of inappropriate use of terror laws

The police have apologised to the parents of a disabled child who were briefly detained under anti-terrorism laws. The family were travelling to Calais through the Channel Tunnel in order to buy special boots for the child when they were stopped by a plainclothes officer

who failed to identify himself as a police officer and asked the couple to produce their passports. An altercation followed, in which the parents accused the officer of acting insensitively to the child, who is of mixed race and suffers from autism and cerebral palsy. They were detained after an angry police officer asked the family if they were accusing her of being a racist. The police offered a formal apology, saying the officer had been 'insensitive, lacking in tact and overall professionalism'. (*Independent* 23.7.08)

In September 2008, a Muslim police officer who was 'maliciously' reported to the Metropolitan police's specialist counter-terrorism command by colleagues after the July 7 bombings was awarded £14,000 compensation at an industrial tribunal. Colleagues of Mohammed Hussain claimed he was an Islamic extremist. An industrial tribunal ruled that Hussain experienced discrimination on account of his religion and that the Metropolitan police's conduct had been 'oppressive and high handed'. It also found that Hussain's conduct with reference to a number of other claims he made to the tribunal, 'was not entirely free from blame'. (*Telegraph* 2.9.08)

Wrongly accused Algerian pilot presses ahead with compensation claim

In February 2008, the Court of Appeal overruled the High Court and ordered the Home Office to look again at a compensation claim made by Lotfi Raissi, the Algerian detained for four and a half months after being wrongly accused of training pilots involved in the September 11 terrorist attacks. Previously, Raissi had been refused compensation from a Home Office scheme on the grounds that he had been held in extradition proceedings that were not 'in the domestic criminal process' and therefore did not fall within the compensation scheme. The High Court was highly critical of his treatment by police and CPS.

The Ministry of Justice, which has now taken over responsibility for compensation for miscarriages of justice from the Home Office, is considering whether to appeal to the House of Lords. (*Guardian* 15.2.09)

Torture

Mounting allegations that British intelligence 'outsources' torture

The British government is coming under intense pressure to set up an independent inquiry into the role of British security and intelligence agents in the US practice of rendition, as well as clarify its opposition to torture. Such an inquiry would also need to establish precisely Britain's relationship with Pakistani intelligence services as evidence mounts that, as part of an official interrogation policy, British intelligence 'outsourced' the torture of British citizens to Pakistani security agencies following the July 2005 suicide attacks in London. The United Nations Special Rapporteur on torture is said to be in 'regular contact' with the British government to raise concerns about the role of British intelligence services in the interrogation of terrorism suspects who had previously been tortured. A UN report issued in March 2009 condemned Britain for breaching basic human rights and 'trying to conceal illegal acts'

during counter-terrorism operations.

Another source of pressure on the government came in a series of High Court judgments between August 2008 and February 2009 which suggested that the British government connived with the US to suppress evidence of the torture of Binyam Mohamed, an Ethiopian-born British resident, who was (until his release in February 2009) the last remaining British resident held at Guantánamo Bay. As a parliamentary committee heard evidence that British intelligence services colluded with torture, HRW called on the British government to close legal loopholes that appear to give MI5 officers immunity from prosecution. Under immense pressure, the Attorney General, who had been tasked with investigating the claims, announced that she had called in the Metropolitan police to investigate whether any 'possible criminal wrongdoing' had occurred during Mohamed's questioning abroad.

Background to Pakistan/British collusion allegations

Following the July 2005 London bombings, the Pakistani authorities arrested more than 600 people, some of whom were British nationals or had dual British Pakistani nationality. HRW started its own investigation, as did the *Guardian* newspaper in London. By July 2008, the *Guardian* newspaper had compiled case studies on some of those arrested and allegedly tortured by the Pakistani Inter-Services Intelligence agency (ISI) before being questioned by MI5. As more cases were unearthed, this information was updated in articles in the newspaper over the course of February 2009. Subsequently, in March 2009, HRW issued a report detailing 10 case studies of British nationals allegedly tortured in Pakistan and subsequently questioned by UK intelligence officers. Then, in April 2009, the organisation Cageprisoners issued a full dossier on the Pakistani cases, as well as other cases across the Middle East.

Of the British nationals arrested in Pakistan, some were prosecuted or deported to the UK, while one vanished mysteriously and was later said to have been killed in a US missile attack. One man was placed under a control order and absconded; others were released without charge.

Parliamentary investigation commences

In the light of allegations, in February 2009, the parliamentary Joint Committee for Human Rights (JCHR), as part of its ongoing inquiry into British compliance with the UN Convention Against Torture, heard evidence that British security services colluded in the torture of a number of British nationals who were arrested in Pakistan at the request of the British authorities between 2003 and 2007. The home secretary and foreign secretary refused to give evidence, despite being called upon to do so they also failed to give direct answers to eight questions the committee submitted to them. Jonathan Evans, the director-general of MI5, was also called upon to give evidence.

List of torture cases in Pakistan

The cases reported by the *Guardian*, HRW or Cageprisoners include the following:

■ Rangzieb Ahmed, a British citizen from Manchester, who was later convicted of terrorism offences in the UK.

Ahmed alleges that following his arrest in Pakistan in August 2006 he was beaten, whipped, deprived of sleep and had three fingernails extracted by ISI agents with a pair of pliers over a three-day period at the Rawalpindi secret interrogation centre, before being hooded and bound and taken to a place where he was questioned by two MI5 officers. Ahmed was convicted in December 2008 of being a member of al-Qaida and of directing a terrorist organisation. Part of the judge's ruling has been kept secret. The judge did not believe that Ahmed's fingernails were taken out before the meeting with MI5. Ahmed's lawyers have appealed his conviction, on the grounds that the jury were not informed of the allegations about the removal of his fingernails or that MI5 and officers from the Greater Manchester police passed questions to the ISI to be put to Ahmed during his interrogation.

■ Salahuddin Amin, a university graduate from Luton, Bedfordshire, was later jailed for life in 2007 on terrorism charges. In April 2004, Salahuddin Amin was detained by the Pakistan ISI after he voluntarily surrendered himself when his uncle informed him that the UK police were looking for him in connection with a plot to blow up a shopping centre in Kent. He was sent to Britain ten months later. Amin claimed that he was interviewed by two MI5 officers several times during his ten-month detention in Pakistan during which he suffered sleep deprivation, was whipped, beaten with sticks, suspended from his wrists and threatened with an electric drill. Amin made his allegations in court and MI5 was permitted to give its response to the allegations *in camera*, with the media and the public excluded.

■ A man accused of being an al-Qaida terrorist from the West Midlands claimed he was tortured after being detained in Pakistan during a British-led counter-terrorism investigation. For several months the ISI kept him in a pitch-black cell not much bigger than a coffin. He was brought out to be beaten, whipped and subjected to electric shocks. On one occasion he was kept hooded and interrogated by people speaking English, with British and American accents.

■ As part of his training, a British medical student (who is too frightened of British and Pakistani intelligence services to reveal his identity) had agreed to spend the summer working at a hospital in Karachi, a city where he has a number of relatives. He was abducted at gunpoint in August 2005 and held for two months at the offices of Pakistan's intelligence bureau opposite the British deputy high commission in Karachi. The medical student (now working as a doctor) says he was whipped, beaten, deprived of sleep, threatened with execution and witnessed other inmates being tortured. He was questioned about the suicide attacks in London in July 2005, before being released without charge to his father who says that he received a personal apology from the director of the intelligence bureau. Towards the end of his detention, he says he was questioned by two British intelligence officers. It seems that the young man was detained because he had twice been seen in the company of a group of men who were under surveillance. The man has never been arrested or charged with a single crime. A formal complaint has been made by the man's

MP to the Investigatory Powers Tribunal (IPT).

■ Tariq Mahmood, a British-Pakistani dual national and taxi driver from Sparkhill, Birmingham, claims he was abducted in Rawalpindi in October 2003 and released without charge about five months later. Mahmood's family say he was tortured and that MI5 officers and American intelligence officers had a hand in his mistreatment. They have declined to make any detailed allegation, however, apparently fearing for the safety of relatives in Pakistan.

■ Tahir Shah, a 41-year-old author from London, was held for sixteen days in 2005. He says he was interrogated about the July 2005 London bombings in what he described as 'a fully-equipped torture chamber', with mangles, whips and electrical equipment. He does not allege British officials were involved, but believes it is unlikely they would not have been informed. He was then placed on a scheduled flight to London, where his passport was returned by an unnamed official who he believes to have been from MI5.

■ Zeeshan Siddiqui, a 25-year-old British national from London, was detained in Pakistan in May 2005 where he says he was interviewed by British intelligence agents during a period in which he was repeatedly beaten, injected with drugs, force fed, chained to a bed for eleven days in a row and threatened with further torture as well as sexual abuse. He was eventually charged with being in possession of a forged national identity card and deported to the UK.

■ Another case documented by the *Guardian* involved not a British national but an illiterate Pakistani taxi driver, too frightened to give his own name, who says he was tortured by the ISI. He said he was detained because on a number of occasions he had taken Salahuddin Amin as a passenger (see above).

Human Rights Watch criticise laws

HRW has called for a public inquiry, stating that the US and the UK are clearly relying on the Pakistani intelligence services to carry out their counter-terrorism operations. HRW says that Pakistani government and security officials have confirmed in private that the US and UK authorities had asked their Pakistani counterparts to get information out of the detainees for the British government in the full knowledge torture was used during their investigations. HRW is concerned that the Criminal Justice Act 1988, which incorporated the UN Convention against torture into UK laws, and made it a criminal offence for British officials to collude or even to acquiesce in torture, offers a defence of 'lawful authority'. A subsequent piece of legislation, the Intelligence Services Act, offers British intelligence officers immunity from prosecution in the UK 'for any act done outside the British islands', as long as the foreign secretary or a senior Foreign Office official gives permission. Andrew Dismore, chair of the all-party parliamentary committee, describes these two legal provisions as a 'James-Bond-style get-out clause'.

Further torture claims surrounding Guantánamo detainee

Binyam Mohamed, who was resident in Britain from 1984 to 2002 after arriving from Ethiopia as a teenage

asylum seeker, was initially accused by the US authorities of conspiracy to make a 'dirty bomb'. In 2008, all charges against him in the US were dropped after evidence emerged in the US and British courts which corroborated his claims that his confessions had all been made under torture. An August 2008 High Court judgement held that much of the case against Mohamed was based on confessions made in Bagram, Afghanistan and in Guantánamo Bay. Even more damaging for the government, the High Court established that the British security services facilitated the interrogation of Mohamed in Pakistan, where he was seen by British agents in detention. Indeed, the British security service provided interrogation questions and information about Mohamed in the full knowledge of the reported conditions of his detention and treatment. Following this judgement, the High Court recommended that the Intelligence and Security Committee (ISC) re-examine the case in line with extended powers that the committee has been granted by the prime minister.

There were further revelations in February 2009, and foreign secretary David Miliband was forced to make a statement after two British judges released a damning ruling in which they claimed that the US, with British connivance, were keeping 'powerful evidence' secret. After Mohamed's lawyers went to the High Court in an attempt to secure the release of 42 undisclosed documents, the judges stated that they could not release details of Mr Mohamed's alleged mistreatment and Britain's role in it, even though it was in the interests of justice, because the foreign secretary had given evidence to the effect that the US had threatened to stop sharing intelligence with the UK if the information supplied by US officials was released. It later emerged that the letter was written at the UK authorities' request. Mohamed's lawyers, as well as the representatives of the US and UK media, were to appear before the High Court in April 2009 in an attempt to have the judgement reopened and to demand Miliband clarify his position.

The Democratic chair of the US House of Representatives human rights sub-committee accused Miliband of engineering a cover-up and demanded that the Obama administration declassify the report. There is a growing belief that documentary evidence exists pointing to Downing Street's awareness of allegations of the serious mistreatment of Mohamed between 2002, when he was first seized in Pakistan, and 2004, when he was abducted and flown to Guantánamo Bay. At least one MI5 officer is currently waiting to hear whether he will face a criminal investigation over alleged complicity in the torture of Mohamed. The *Guardian* believes that new evidence will emerge from 42 undisclosed US documents seen by the High Court and now sent to MPs and peers on the ISC.

Torture victim returns to UK

Binyam Mohamed, was released from Guantánamo Bay in February 2009 after seven years in custody, more than four of them in the US camp in Cuba, and granted 'temporary admission' to the UK. Prior to his departure, the US government attempted to impose a 'gagging order' on him. On arrival in Britain, his lawyers issued a statement, in which he said that his very 'worst moment came when I realised in Morocco that the people who were torturing me were receiving questions and materi-

als from British intelligence'. On 26 March, as media interest in his case intensified and the Attorney General called in the Metropolitan police to investigate his torture claims, Binyam Mohamed issued a further statement stating that he was so determined that senior figures within the government are held to account for involvement in his treatment that he may give evidence on behalf of the MI5 officer at the centre of the case, to ensure he is not scapegoated.

Role of government watchdog criticised

The Pakistan torture allegations, as well as the allegations made in the case of Binyam Mohamed, threw the spotlight on the work of the Intelligence and Security Committee (ISC). This controversial government body, which has consistently refused to investigate allegations of collusion with torture, is supposed to scrutinise the workings of Britain's three security and intelligence agencies. The ISC was established 15 years ago and sits in secret. Its annual report is vetted by the prime minister, in consultation with security and intelligence advisers.

Torture claims spread to Egypt

On 16 March, the *Guardian* reported allegations, supported by medical evidence, that Azhar Khan, a 26-year-old British man from Slough, Berkshire who had in the past associated with a convicted terrorist, was beaten and subjected to electric shock treatment during a week of illegal detention in Egypt in July 2008, where he was being interrogated on the basis of information that he believes could only have come from the UK. It is also believed that MI5 was aware that another man in detention in Egypt at the same time as Khan was being tortured. Khan is said to be deeply traumatised by his experience and has been receiving a range of medical and professional care, including treatment for internal bleeding that persists eight months after his release.

Concerns that torture claims could spread to Afghanistan

On 28 March, the *Daily Telegraph*, citing security sources, said that MI5 and MI6 have reviewed their files and fear that 15 similar cases, concerning the torture of detainees in Afghanistan, could also lead to police investigations.

PM orders code on questioning abroad

On 18 March, amidst growing pressure, the prime minister announced that he had asked the ISC to draw up and publish new guidelines for the security and intelligence agencies involved in interrogating detainees abroad. Compliance with the new guidelines would be monitored by intelligence services commissioner Sir Peter Gibson, a former appeal court judge, who would report annually. The move was widely seen as a tacit admission that existing guidelines were not sufficient, as well as attempts to resist the growing momentum for an independent inquiry.

Cageprisoners documents twenty-eight cases

In April 2009, Cageprisoners issued a report entitled *Fabricating Terrorism II* - a document of 28 case studies, mostly detailing the experiences of British citizens and residents in Pakistan, Jordan, the United Arab Emirates,

Syria and Egypt. The report claims that senior members of the British government have supplied misinformation regarding involvement in rendition and torture and that the British government has abrogated its responsibilities towards British citizens and especially British residents it had earlier granted asylum, affording them no or minimal protection or representation against the illegal actions of foreign governments. (*Guardian* 15, 16.7, 25.8, 2, 5,7, 11, 17 23, 24, 27, 28. 2, 3, 7, 9, 12, 16, 19, 27, 28.3.09 *Observer* 22.2.09, Times Online 5.2.09, Cageprisoners, *Fabricating Terrorism: British Complicity in Renditions and Torture*, April 2009)

UK complicity with torture predated September 11

Cageprisoners, in its report *Fabricating Terrorism II* (an update on a previous report issued in 2006) states that the British intelligence services were complicit in the rendition and torture of individuals as early as two years prior to 11 September 2001.

The case of Farid Hilali

Central to Cageprisoners' claim is the case of Farid Hilali, a British resident who, since his extradition to Spain, has been living in Madrid in fear of further prosecution as well as removal to Morocco, where he had previously been tortured (see page 22). Cageprisoners' report alleges that on the 'direct orders' of the British intelligence services, Farid Hilali was detained in 1999 in the United Arab Emirates (UAE), from where he was sent to Morocco. He was tortured in both Morocco and the UAE, he believes with the full knowledge of the British intelligence services. (Cageprisoners, *Fabricating Terrorism II*, *ibid*).

Extradition and national security expulsions

Law Lords ruling paves way for expulsions to Algeria and Jordan

In February 2009, the Law Lords ruled that the government could proceed in its attempts to deport a Jordanian and two Algerian nationals. At the centre of this case and others (nine Algerians and three Jordanians deemed to threaten national security), is the British government's 'deportation with assurances' policy.

The UK government plans to return the Jordanian, Omar Othman (also known as Abu Qatada) under an existing Memorandum of Understanding (MoU) with Jordan. In the case of the Algerians (known only as RB and U), the government has no MoU with Algeria, but has an exchange of letters and individual assurances. In all cases, the government has conceded that, but for these assurances, the men would be at risk of torture.

The Law Lords decision was criticised by Julia Hall, senior counterterrorism counsel at HRW. 'Given how the Law Lords have stood up for human rights in several earlier counter-terrorism cases, it is extremely disappointing that they have now agreed to the discredited practice of deporting suspects based on unreliable government promises.' Immediately after the Law Lords' ruling, home secretary Jacqui Smith signed a deportation order for Qatada, whose lawyers immediately launched an appeal at the European Court of Human Rights.

From Court of Appeal to the Law Lords

The Law Lords is the final court of appeal in the UK. Its judgment came after an earlier ruling in April 2008 by the Court of Appeal that overturned a decision by the Special Immigration Appeals Commission (SIAC) and ruled against Abu Qatada's deportation, but not that of the two Algerians. The Law Lords refused to undertake a full review of SIAC's earlier ruling, and instead just ruled that SIAC did not act 'irrationally' in finding that Algeria and Jordan's assurances could be trusted.

The Court of Appeal had already upheld the SIAC decision to deport the two Algerian nationals. On the other hand, it did rule against the deportation of two members of the Libyan Islamic Fighting Group (LIFG). But in that case the government decided not to appeal, and abandoned its plans to deport a further ten men to Libya. The case of the Libyans was halted on the grounds that the men would be at risk of torture and there was no possibility of a fair trial if sent back to Libya. It also concluded that the Gadafy Development Foundation, which is supposed to be the independent organisation monitoring breaches of the MoU, would not be effective. The head of the organisation is one of Colonel Gadafy's sons.

Abu Qatada and the Jordan MoU

While the Court of Appeal ruled that there was a real risk that Abu Qatada would not face a fair trial in Jordan, due to the likely admission of torture evidence, it avoided a full assessment of the reliability of the specific UK-Jordan MoU in question. According to Abu Qatada's lawyer Gareth Peirce, the so-called independent organisation entrusted with monitoring prisons in Jordan as well as the UK-Jordan MoU is actually bankrolled by the UK government. In 2005, two thousand inmates were beaten the day after the first ever visit of an NGO, to whose representatives they made claims of torture. But to this date, the official Jordan monitoring organisation has never visited a prison.

In October 2008, HRW submitted a third party intervention to the High Court against deportations on national security grounds to Algeria and Jordan. Its intervention relies on research made public in several documents, including *Double Jeopardy: CIA Renditions to Jordan*, *Suspicious Sweeps: the General Intelligence Department and Jordan's rule of law problem* and *Not the Way Forward: the UK's Dangerous Reliance on Diplomatic Assurances*.

Home Secretary overrules the courts

There was further controversy in February 2009 when the Home Secretary was accused of displaying contempt for the authority of the judiciary after five men were arrested immediately after SIAC had ruled against the secretary of state's attempt to revoke the men's bail prior to a second hearing scheduled for a week later. Ignoring SIAC's stipulation that no action should be taken in the meantime, the home secretary ordered the arrest of two of the men on their way home from the hearing, while the other three men were seized from their homes and taken to Belmarsh maximum security prison. SIAC held an emergency hearing the next day, and ordered the release of four of the men, on the same bail conditions as before, prompting an angry outburst from the home secretary. (*Guardian* 10.4, 13.11.08,

Tribune 23.5.08, Victoria Brittain, Comment is Free, *Guardian* 21, 27.12.08, *IRR News Service* 5.3.09, Human Rights Watch press release 28 2 09.)

Background to the October 2008 House of Lords appeals of Omar Othman (also known as Abu Qatada) and RB and U v Secretary of State for the Home Department can be found in a report by HRW, which also made a third party intervention in the case.

Details emerge of Algerians returned under amnesty

The Court of Appeal judgement (see above) was based on a 2006 SIAC decision which held that it would be safe to return terrorist suspects to Algeria as Algeria's 'body politic' appeared to be moving to 'a state of lesser danger' for perceived dissidents and that a limited amnesty was on offer, so that the detainees would not be put on trial. In the light of this, several Algerians then in prison in the UK or under severe restrictions decided to return. In a letter to a British newspaper they wrote 'We are choosing the alternative of a quick death in Algeria to a slow death here.'

Amnesty pledge ignored

Lawyer Gareth Peirce provided details of what happened to Benaissa Taleb and Reda Dendani once returned to Algeria. The two men were previously assured that if they signed up for the amnesty they would not be held by the infamous DRS secret police. But on return, the existence of the amnesty they had applied for was denied and both men were interrogated for twelve days during which time they were threatened and, they claim, subjected to serious ill-treatment. They were then charged, tried and some months later convicted, on the basis of the 'confessions' forced from them during this time. Dendani was sentenced to eight years imprisonment and Taleb to three. No British official has ever attempted to visit either man in prison; no official attended their trials; visa applications by the men's two UK lawyers were ignored. Dendani sent a letter to the president of SIAC describing his experience of torture; it was not replied to.

British government complicit in torture, alleges lawyer Peirce states that Taleb's interrogation by the DRS was based on information provided by the UK government, as all the information against him was based on secret evidence passed on by the British to their Algerian counterparts, as well as details of his asylum claim. Indeed, at Taleb's trial, the details of his asylum claim were described as a 'betrayal' of his country of origin. (Gareth Peirce, 'Was it like this for the Irish?', *London Review of Books* 10.4.08)

Detention and control orders

European Court orders compensation for detention victims

In February 2009, the European Court of Human Rights, upholding a Law Lords ruling in 2004, held that nine people were illegally detained without trial in Belmarsh maximum security prison for periods of up to three years and three months. Rejecting a claim that this detention amounted to inhuman and degrading treatment – on the

grounds that the British government had acted in good faith - the Court granted compensation to the men of up to £3,400 each. The fact that the men, including Abu Qatada, were to receive compensation led to a tabloid frenzy. But civil rights groups pointed out that Abu Qatada's compensation amounted to little more than £2 a day for his unlawful detention.

In *A and others v UK* (3455/05) 19.2.09, the European Court held that detention based on general assertions, such as membership of an Islamist group linked to al-Qaida, was unlawful if the appealants were not told enough to challenge the allegations. (*Guardian* 2.2.09)

Control orders, secret evidence and human rights

As the Law Lords deliberated on the claim, by 15 men living under control orders, that their right to a fair trial under the Human Rights Act has been denied because of the state's unwillingness to disclose the secret evidence which lies behind the control orders, journalist Victoria Brittain drew attention to the extreme impact of control orders or deportation bail on the families of men subjected to them.

The case of Cerie Bullivant

Cerie Bullivant, a young Muslim convert from Essex, was placed under a control order in 2006 and charged with a criminal offence when he absconded in May 2007. He was acquitted in December 2008 by a jury who held that he had a reasonable excuse to breach the order – the first ever acquittal for breaching a control order. Subsequently, the High Court quashed the control order, ruling that there were no reasonable grounds for suspecting that Bullivant was involved in international terrorism.

Background

Cerie Bullivant was placed under a control order on the basis of secret evidence relating to a claim that he intended to go to Iraq to fight in the insurgency. Bullivant states that in reality he intended to go to Syria and learn Arabic in order to work with underprivileged children. The burden of the control order meant that he developed a severe reactive depression, as diagnosed by three doctors (one was Home Office-appointed). When he was accused of breaching the conditions of his control order (after staying with his mother while she was ill), he absconded, but later turned himself in and was detained in a maximum security prison. At his trial for the breach, the jury found that, given the stresses he was under, absconding was reasonable. The government responded by immediately placing him under a more restrictive control order, involving a curfew, the wearing of an electronic tag and a ban on speaking to certain named individuals.

Nature of intelligence exposed

The High Court quashed the order in January 2008. An intelligence agent gave evidence from behind a screen. He admitted that the tip-off which had led to labelling Bullivant a risk to national security had come from a friend of Cerie's mother who, after drinking heavily, had phoned Scotland Yard. The police failed even to contact the caller to ask for further explanation. (This summary is based on a speech made by Cerie Bullivant on 'Living under a control order', reproduced on the *IRR News*

Service 26.6.08. See also Gareth Peirce, Victoria Brittain, 'A life under curfew', *Comment is Free, Guardian Online* 22.1.09 and Victoria Brittain, 'Besieged in Britain', *Race & Class*, January-March 2009).

Abu Qatada: from detention to control order to detention

In May 2008, Abu Qatada was granted bail by SIAC under conditions that he would be constantly monitored by police via an electronic tag and restricted to effective house arrest on a 22-hour curfew. This led to a tabloid frenzy and intensive media demonisation of a man best known as a 'preacher of hate' and Osama bin Laden's 'right-hand man in Europe'. After the *Sun* newspaper claimed in a front-page story that Qatada was about to flee Britain for Lebanon, he was accused of breaching his bail conditions and once again sent back to prison. The basis on which SIAC came to the decision that Abu Qatada had breached his bail conditions is unknown – the decision was based on secret evidence which is not even revealed to his lawyers. (*Independent* 18.6.08)

Proscription

More organisations proscribed under Terrorism Act 2000

By July 2008, when the military wing of Hezbollah was added to the list of organisations proscribed under the Terrorism Act 2000 (its external security organisation had already been banned), 45 organisations had been proscribed in the UK. While the ban does not apply to Hezbollah's political, social or humanitarian activities, it is now a criminal offence for anyone in the UK to be a member of the party's military structure, raise funds or encourage support for it.

PMOI removed from the list

In June 2008, the People's Mojahedin of Iran (PMOI), named by the government as a terrorist group in 2001, was taken off the list of proscribed organisations, six months after a special tribunal found that ministers had acted perversely in proscribing the PMOI. (*BBC News Online* 24.6.08)

Treasury system of financial systems oppressive and draconian

In October 2008, the Court of Appeal, while expressing concern at measures which 'criminalise a wide range of everyday acts', upheld the Treasury system of financial sanctions for anyone designated on either the UN or the UK government's list which entails the suspension or freezing of funds of suspected terrorists. The Court overturned an April 2008 High Court judgement in which Justice Collins, hearing the cases of five British nationals whose assets had been frozen, ordered that the measures be struck down as unlawful, as they had not been authorised or sanctioned by parliament. The powers (contained in the Terrorism (United Nations Measures) Order 2006 and the al-Qaida and Taliban (United Nations Measures) Order 2006) were introduced directly by the government through Orders in Council that allow the government to enact laws based on resolutions of the UN Security Council, without such laws being scruti-

nised by parliament. The orders introduce criminal offences for breaching these sanctions with a maximum penalty of seven years' imprisonment. An offence is committed not only if the designated person fails to comply with the restrictions, but also if other people who have been notified of their designation give them funds or economic resources.

The cases of A, K, M, Q and G v HM Treasury

Details of the cases of two of the five men who brought the original High Court challenge were provided by the *Guardian*. The men cannot be named, but are identified merely by the initials K and A. Both east London-based men were informed by the Treasury that they were suspected al-Qaida facilitators, involved in funding terrorists in the tribal areas of Pakistan. The men deny the allegations, but despite being described by the Court of Appeal as 'of good character and well respected in their community', they have no way of challenging the measures against them. Both men, who receive welfare benefits, are forced to provide receipts for every penny they spend. K pointed out that 'No one in the household can work because their income would count as the transfer of funds which could be used for my benefit. But can someone support terrorist organisations when they are on benefits with five kids to feed?' (*Guardian* 3.11.08, Birnberg Peirce press release 24.4.08)

Egyptian lawyer subjected to assets freezing order

An Egyptian human rights lawyer who successfully challenged his removal to Egypt is the subject of a UN assets freezing order. This means that he can be given neither money nor 'benefit' without a licence. His wife requires a licence to cook his meals and is obliged to account for every penny spent by the household, having to submit monthly accounts to the Treasury of every apple bought from the market, every bus fare to school. Failure to do so constitutes a criminal and imprisonable offence. (Victoria Brittain, 'Besieged in Britain', *Race & Class*, Volume 50, no.3, Jan-March 2009.)

Palestinian relief agency cleared for third time by Charity Commission

For the third time in 13 years, the Charity Commission has cleared Interpal, a UK-registered charity that provides humanitarian relief in Gaza, of allegations of supporting terrorism. The Charity Commission report did however contain criticisms of some of Interpal's working practices, particularly in relation to partners on the ground in the Occupied Territories.

Israeli and US allegations

The governments of the US and Israel have repeatedly charged Interpal with 'indirect' links to the military wing of Hamas, which is on the EU list of proscribed organisations. The latest Charity Commission inquiry was triggered by a BBC *Panorama* documentary, broadcast in July 2006, that repeated the US and Israeli allegations. The Charity Commission rejected the accusations made on the programme and cleared the organisation of any bias in its work and aid delivery as well as accusations that it was carrying out non-charitable work. For the second time, the US authorities failed to provide the Charity Commission with any credible evidence against Interpal, despite its repeated

accusations against the organisation. The Israeli government failed to produce any evidence that would 'reach the standard of proof required under UK civil law'. 'The charity is entitled to operate and to operate specifically in the Occupied Palestinian Territories, and is entitled to continue doing so', the Charity Commission concluded.

Banking facilities withdrawn

In November 2008, Interpal was notified by the Islamic Bank of Britain (IBB) that Lloyds TSB bank, the IBB's clearing bank, had served notice on IBB to cease all dealings with Interpal. In a statement Interpal said that: 'Lloyds TSB has treated IBB with contempt. Their action sends a signal to other Muslim charities – as well as the bank's 50,000 Muslim account holders – that their accounts can be closed down without warning or explanation at any time.' In early 2007, NatWest bank withdrew banking facilities from Interpal. This followed an unrelated action in the US courts at a time when Israeli victims of suicide bombings were suing a French bank for damages, alleging a link between a French-based Palestinian support charity and the funding of Hamas.

Other organisations face withdrawal of banking facilities

The Palestine Solidarity Campaign, and the organisation Helping Households under Great Distress (HHUGS which helps the families of immigration and national security detainees) have also had banking facilities withdrawn. (CAMPACC press release 26.2.09, (*IRR News Service* 27.11.08, Interpal press release, 27.2.09, <<http://www.charity-commission.gov.uk/investigations/inquiryreports/interpal09.asp>>)

Racial and religious profiling

Neighbourhood profiling will map Muslim communities across UK

A top-level police counter-terrorism committee has drawn up a plan, with the backing of the Association of Chief Police Officers, to map every area of the country for its potential to produce extremists and supporters of al-Qaida. Although the 40-page document which forms the basis of a 'neighbourhood profiling' strategy has not been made public, a senior source with knowledge of it told the *Guardian* that mapping was important. 'You have to assess where the need is greatest. Just relying on the census data for the number of Muslims in an area is not detailed or sophisticated enough.' The mapping strategy would be backed up by guidance to parents on how to stop children searching for extremist websites and to help parents understand the 'legal/potentially illegal divide', as well as a new strategy to prevent radicalisation in prisons. (*Guardian* 28.2.08)

Inquest verdict in Jean Charles de Menezes case

In December 2008, an inquest jury returned an open verdict into the death of Jean Charles de Menezes. By so doing it rejected the police claim that the Brazilian man was killed lawfully at London's Stockwell tube station by armed police who had mistaken him for one of the failed July 2005 bombers. Despite the fact that the coroner

had barred jurors from considering a verdict of unlawful killing, the jury constructed the most censorious finding they could from the options available to them. As such, the verdict represented a fundamental criticism of almost every aspect of the police operation, indicating that juror's wholly rejected the police's account of events of that tragic day.

In February 2009, the CPS announced that no fresh evidence had been presented at the inquest to make it reconsider its earlier decision not to prosecute senior officers for negligence. The family are now suing the Metropolitan police for damages and have asked the Independent Police Complaints Commission (IPCC) to reconsider disciplinary action against the officers involved. (*Guardian* 13.12.08, 13, 14.2.09)

Massive increase in stop and search under terrorism and public order laws

In January 2009, the *Guardian* newspaper reported that an increasing number of innocent people were being stopped and searched by the Metropolitan police using powers designed to fight terrorism. Previously, in May 2008, it emerged that police were also using powers under section 60 of the Public Order Act 1994 (allowing them to stop and search youths without having reasonable suspicion) to deal with knife crimes.

Terrorism-related stop and search triples

In the year to September 2008, stop and searches in the London Metropolitan area under anti-terrorism laws tripled, with a total of 157,290 stops, leading to 1,200 arrests. Railway enthusiasts and students doing photography and architecture courses are amongst those who complain of harassment.

Searches used to fight knife crime

In May 2008, following a series of fatal stabbings in London, the Metropolitan police assistant commissioner, Tim Godwin, announced police would swamp areas to try and catch and deter youngsters with weapons. Godwin said the measures would be intelligence-led but conceded that they would be 'invasive' and a 'fairly big imposition' on young people in up to ten inner London boroughs who would be targeted. There are fears that Afro-Caribbean youths are being disproportionately stopped under the powers. (*Guardian* 14.5.08, BBC News Online 23.1.09)

Focus on airline profiling

For three years, the Home Office ran a pilot project, Project Semaphore, under which airlines were asked to supply passenger data on selected routes. On the basis of an analysis of data conducted by police, customs and immigration authority computers, British authorities

made 1,200 arrests for various offences during the pilot. (*Guardian* 7.11.07)

Religious profiling rife at Manchester airport

Adam Kelwick, an imam from Liverpool who is well known for his community work, said that his humiliating questioning on three separate occasions at Manchester airport was symptomatic of the treatment of Muslims by anti-terrorist officials at the airport. After arriving back from a business trip in Qatar in March 2008, he was stopped, questioned and escorted to a cell. 'There was a sign telling you in which direction to pray if you are a Muslim. I was very disappointed with that as it suggested to me that this cell was not used for anything other than holding Muslims'. Kelwick believes that many Muslims would prefer to suffer the congestion at London airports 'rather than put up with the unreasonable questioning and discrimination at Manchester'. (Islam Online 22.3.08, *Socialist Worker* 5.4.08)

Black musicians thrown off aircraft win damages

Michael Toussaint, a blind calypso musician, and four members of the London-based Caribbean Steel International Orchestra were awarded damages after being escorted off a Ryanair flight on New Year's Eve 2006 at gunpoint by Italian police without warning or explanation. The band, who were the only black people on the flight, were thrown off the flight to Stansted after a passenger told cabin crew of his concern that the group were sitting separately after sitting together in the terminal building. The passenger, who claimed to be a psychology lecturer, also accused Toussaint of feigning blindness and threatened to leave the flight with his family unless the band members were removed. Even when the Italian authorities confirmed they were bona fide passengers, the airline crew refused to take them back on board. This meant that the band members were stranded in Sardinia, only being offered a flight to Liverpool by the airline the following day. (*Guardian* 6.2.08)

BBC radio reporter mistaken for terrorist

Staffordshire police have apologised to Max Khan, a BBC radio reporter, after police officers targeted him, holding him to the ground and searching him under the Terrorism Act. Khan was on his way back from filing a story, and was wearing a backpack containing equipment that is regularly used to allow reporters to broadcast from locations around the city centre. The police described him as an 'Arabic-looking man' 'acting suspiciously'. 'It seems somewhat basic to be treated in that way just because of the colour of your skin', commented Khan. (BBC News Online 11.4.08)

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