



DISSENT

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**International Association
of People's Lawyers**

2nd IAPL Congress held in Istanbul



Presidium of the Congress from left to right: P.A. Sebastian, Hakan Karakus and Edre Olalia.

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Communiqué of the 2nd Congress of IAPL

November 7-9, 2003
Istanbul, Turkey

The International Association of People's Lawyers (IAPL) held its Second Congress in Istanbul, Turkey from 7-9 November 2003. The theme of the Congress is "The Task of Lawyers and Jurists of the People in the Time of 'Terrorism' and Resistance". Twenty-six (26) human rights/people's lawyers and law students attended the 2nd Congress as delegates representing countries in Asia, Latin America, Middle East and Europe.

Delegations from lawyers offices and organizations from Afghanistan, Belgium, India, the Netherlands, the Philippines and

Turkey attended as members while the delegations from Brazil, the United Kingdom and Germany attended upon invitation by the Board of Directors. Lawyers from Nepal, were unable to send a delegation due to compelling reasons, and instead sent a message of solidarity.

The International League of Peoples' Struggle (ILPS) and the Alliance for the Advancement of People's Rights (Karapatan-Philippines) also sent their solidarity greetings.

The 2nd Congress opened with a minute of silence to pay tribute to lawyers and legal workers who had sacrificed their lives in the struggle for human rights. Delegates from India, the Philippines and Belgium were elected to the presidium.

P.A. Sebastian, of India, delivered the Chairman's Report. He presented the current world situation and expounded on the role of lawyers under such milieu. The

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Secretariat and Treasurer also presented their respective reports. Papers on Europe, Latin America, Middle East and Asia on the theme of the conference were presented to the assembly.

The delegates then presented reports on human rights situations in their respective countries. The following observations are notable: Although US imperialism is perceived as being stronger than ever, it faces an ever growing and intensifying class struggle and people's resistance. To crush this resistance, the United States and other imperialist countries used the events of September 11 to enact repressive laws and measures and have influenced or pressured other governments to do the same. These measures are ostensibly meant to target terrorism but in fact target legitimate expression of democratic rights and quell national liberation and social movements. Thus, existing human rights and international humanitarian conventions and instruments are rendered meaningless. In the face of the intensified struggle of the people, a big responsibility is placed on the shoulders of people's lawyers, law students and legal workers and the IAPL in particular is called upon to be ever more militant and to respond accordingly.

In relation to this, the presenters put forward the following proposals: Belgium proposed that an exchange program among the offices of the IAPL members be undertaken as well as participation in the European Conference in February 2004 to oppose the passage of an anti-terrorist bill; India proposed the sending of a fact finding team to Andhra Pradesh to investigate human rights violations in Andhra Pradesh; the United Kingdom proposed to liaise with the Greek Bar Association which has launched a complaint against Prime Minister Tony Blair of the UK before the International Criminal Court, similar to what lawyer Michael Mansfield Q.C. proposes to file in the UK; the Philippines supported the proposal of Belgium as a concrete step in strengthening international cooperation and support

for anti-imperialist initiatives around the world.

Brazil and the UK formally submitted their applications to join the IAPL, which was accepted by the Board.

The Congress also discussed and approved amendments to the Statutes of the IAPL, passed resolutions on human rights issues in their various countries including condemning the continuation of lawlessness and widespread violation of human rights in Afghanistan, the persecution of people's lawyers in Brazil, particularly of Ermogenes Jacinto de Souza (lawyer of the League of Poor Peasants of Rondonia), the attacks on the legal democratic movement in the Philippines, the continued terror listing and persecution of Prof. Jose Maria Sison and other progressive individuals and groups, calling for justice for peasants' lawyer Gabriel Sales Pimenta of Brazil and supporting the hunger strike of human rights lawyer Nadia Nasravi of Tunisia.

The Congress also agreed to undertake aggressive expansion work, promote the IAPL publication "Dissent", initiate an international war crimes tribunal against US aggression, undertake a fact-finding mission in India in January 2004, participate in the human rights workshop of the ILPS Second International Assembly in November 2004 and in other activities.

Elected as new Members of the Board of Directors are Hakan Karakus of Turkey as President; Edre Olalia of the Philippines as Vice President; Gabrielle Machado of Brazil as Secretary General; Dundar Gurses of the Netherlands as Treasurer; Rateb Ahmed of Afghanistan as Auditor; and Raf Jaspers of Belgium and Rajindar Claire of the U.K. as the other members. P.A. Sebastian of India was elected Honorary Chairperson.

There were short speeches by two prominent guests, namely: former Chairman of the Istanbul Bar Association, Professor Sayman and forensic doctor of the Turkish Medical Association, Professor Sebnem Korur Fincanci. #

DISSENT is the official publication of the IAPL. The IAPL is an international organization of human rights lawyers, paralegals, law students and legal workers that aims to contribute to the establishment of a just and humane world order and use the legal profession to obtain immediate and concrete gains for the people's struggles for national freedom, social justice, democracy and respect for human rights.

editorial**THE ROLE OF PEOPLE'S LAWYERS IN OUR TIME**

As the class struggle has intensified in recent times, the responsibility of people's lawyers, who are active parties in this struggle in accordance with their institutional mission, has become weightier and of critical importance. This is due to the fact that some of the countermeasures to the intense attacks carried out by the merciless front led by the US imperialists lie in the field of law.

Jurisprudence reflects not just the present acts of the powers, but also their aims for the future, since it is not just a mirror of what they do, but also a means used in the attainment of their aims. The legitimization of certain actions, the imposition of their will and the institutionalization of this imposition, requires, both from a juridical and an operational point of view, a legislative framework. Thus, jurisprudence, as a means of expression, acquires a function of concealment.

The reflection on rights and freedoms of the results and gains, of all kinds of movements and transformations related to the class struggle, constitute acts tied to the field of jurisprudence. That is why, the "legal struggle"--part and parcel of the struggle for popular democracy, independence and socialism--has to be interpreted in this way. This struggle has to be carried out in a way that keeps in perspective interrelated points like the safeguarding of the gains obtained up to the present time, the application and development of acquired rights and freedoms, and the acquisition of new ones.

We are living in an age in which the American law professor Alan Dershowitz from Harvard and the famous British political scientist John Gray (on 17th February 2003) propound the legalization of torture. The American human rights law professor Michael Ignatieff from Harvard has

become one of the fiercest proponents against solving problems with bombs. On the other hand, the Israeli minister Avigdor Lieberman can propose the strangling of Palestinian prisoners (on 6th July 2003) and the Italian minister Umberto Bossi puts forward the idea of bombing any ships carrying illegal aliens (on 16th June 2003).

Nowadays, we are witnessing a wave of attacks encompassing military occupations, interventions and wars, and attacks against labor, fundamental rights and freedoms and the economic welfare of the masses. An attempt is being made to enslave and massacre populations that make up the overwhelming majority of the world. The results obtained by resistance to this situation, notwithstanding the problems tied to leadership and organization, has brought about further attacks by imperialist and cruel circles, intensifying the class struggle.

Enemies of humanity do not hesitate to call their attacks on the people "an indefinite war" and "a borderless war". "Terrorism" is the name they give to those who oppose and resist the present policies of transforming the world into hell and their system of exploitation. They are developing strategies for the destruction of all classes and circles that they have bundled in this category, and are directing the thrust of these strategies against national and social liberation movements. The steps taken regarding Afghanistan and Iraq are important when considered together with the geopolitical and economic importance of the area in which they are located. Since imperialist circles know very well that the main threat to their power lies in revolutionary dynamics, they are carrying through their campaign of attacks with tactics developed on this basis.

Due to conditions in which violence, in many forms, has become

the only course of action and a choice between sides is being imposed on all countries, a process--in which the day of reckoning is being brought forward--has begun. George W. Bush has repeatedly said: "In the war against terror no one can remain neutral. You are either for us or against us." He said this in his speech to the General Assembly of the UN (23rd September 2003) and has repeated it many times.

In such a polarized situation, concerned parties take a decisive step and play an active role. The gains acquired or the losses incurred in such moments are always greater in scope, in comparison to those of other phases. In such breaking points, greater efforts are required.

People's lawyers should take upon themselves a greater role in unveiling the truth in the present circumstances in which law has become an important point of struggle and matters pertaining to jurisprudence are being heatedly discussed in the context of rights and freedoms. Success in carrying out such a role will accelerate the process of exposing the true nature of the imperialist and fascist aggressors. It will also serve to make the masses conscious of the legitimacy and righteousness of the popular resistance movements. It will help in broadening and strengthening the front of struggle.

The defense of movements and leaders of movements of the working and oppressed classes who are being targeted by the imperialists is another duty that is coming to the fore. A platform must be established to defend those leaders that the counter-revolutionaries are preying upon. They are being demonized as "terrorists", besmirched with lies and slander and subjected to harassment and threats of physical harm. We must expose the demagoguery behind their use of the "terrorist" tag and show who the real terrorists are.

The anti-imperialist struggle is manifesting itself in the actions waged against unjust wars, aggressions and occupations; all efforts should be concentrated in this field. The aim should be

State of Lawlessness and Violence against the People's Movements in Andhra Pradesh, India

Extra Judicial Killings, State Sponsored Vigilante Gangs and other Illegal Acts by the Chandrababu Naidu government

Presented by Adv. P.A. Sebastian, chairman, IAPL at Second Congress of the Inter-national Association of People's Lawyers in Turkey, November 2004.

Based on reports compiled and prepared by the Andhra Pradesh Civil Liberties Committee (APCLC)



P.A. Sebastian presenting report on human rights situation in India

The Indian state (administrative unit in India) of Andhra Pradesh (A.P.) has achieved notoriety over the last twenty five years for being in the forefront of developing newer and

newer forms of illegal, extra judicial violence against the people's movements and activists.

During the period of the centrally imposed state of Emergency (1975-77) it launched

the system of killing of activists who were in custody and declaring that the death had been due to an exchange of fire, an attempt to escape, as an act of self defence by

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↵p.3

to enlarge the front as much as possible by recruiting all right-thinking forces. People's lawyers should become effective and active actors in this process at the national and international level through their professional organizations.

The mechanism of extra-judicial sentencing of all those who are not in agreement with the dominant classes, those who do not cooperate with them, and those who oppose them, should be prevented from functioning. Those who attempt to carry out such extra-judicial sentencing should be tried, exposed for what they are, and condemned by world opinion. People's Lawyers should take upon themselves a role of leadership in this.

Despite their enormous army with its ultra-sophisticated technology, missiles, airplanes, tanks, artillery and manpower running into the hundreds of thousands, the occupiers have not been able to impose their will on the people of Iraq, a people who do not even have a regular army. The occupying forces are panicking and do not know what to do in the face of an ever expanding resistance that is gaining strength each day that passes. They will pay once more the heavy price arising from their forgetfulness of the truth--so clearly made evident in Vietnam--that the most effective weapon is, in all times and circumstances, made up of the masses.

An arch of resistance extending from Palestine to Iraq will not be easily destroyed. It is exactly at this point that

our struggle becomes so much more important. To avoid having to back down, imperialists will have to increase their violence. Even though this will not be enough to make them victorious, their expulsion from Iraq, as soon as possible, is important in view of the minimization of the suffering of the Iraqi people.

Cruel people, exploiters, and all kinds of violent bullies, are enthusiastically participating in imperialism's campaign of aggression. Reactionaries and fascists of all countries are trying to make the most of this opportunity. The fight between occupation and resistance is being waged not just in Iraq, Afghanistan and Palestine, but in all parts of the world. We have the duty of making of the fire of this war, burning in all countries, battlefields and fronts, a torch that will direct humanity towards light. #

the police and so on. These killings came to be termed as 'encounters', which in India today is widely accepted as a synonym for illegal, extra-judicial killings by the state forces.

Ever since then it has indulged in such illegal killings as the most convenient way of disposing of activists, especially those connected with the radical Marxist-Leninist movement, which has a long tradition and deep roots in the state, who are commonly referred to as Naxalites.

In the last decade this state violence has been widespread, and efforts by human rights activists and lawyers to expose these violations has only been met with more brutal attacks, including on the lawyers and activists themselves.

Over the following pages we present a few representative cases for the attention of the human rights activists and lawyers across the world and hope that they will raise a voice of protest against these brutal assaults on the people. The information is not presented in chronological order, but rather in different categories, according to the nature of the victims, the type of attacks and so on.

KILLINGS OF NAXALITE ACTIVISTS

The most brutal violations of human rights have taken place in the state's response to the activists of the militant 'naxalite' movement, led primarily by the CPI (ML) (People's War). This movement has developed all over A.P. and even spread to neighbouring states, over the last thirty years and has focused on issues of the most oppressed classes, especially the landless, small and middle peasants, workers, women, dalits, tribals etc.

The police have declared an unofficial ban on the party and its activities since 1985, and subsequently officially banned it and some of the other mass organizations associated

with the movement for over a decade now. All legal gatherings of these bodies are prohibited, and activists of these organizations, who fall into police custody, are usually eliminated in 'encounters'.

A description of a few incidents will highlight the illegal methods used by the police.

THE KOYYUR ENCOUNTER'

This was one of the most blatant cases of extra legal killings by the A.P. police and occurred on December 2, 1999, when police reported that three top leaders of the CPI (ML) (PW) had been killed in an encounter.

An all India team of human rights activists after investigating the background of the incident, concluded that the three -- Seelam Naresh, Adi Reddy and Santosh Reddy had actually been detained on Dec 1, 1999, between 1.15 hrs to 1.30 hrs in the afternoon, at "Sarakka" layout in Bangalore, were brutally tortured for the next 24 hours and later killed, after which their bodies were thrown in the Koyyur forests in A.P. and a false story that they had been killed in an exchange of fire between the naxalites and police was released to the press. To lend authenticity to the story the police also threw the body of a local tribal youth, Singam Laxmi Rajyam, who was in their custody, at the same site after killing him.

Their report states –

a) All the three were arrested without following any legal procedures and under no jurisdiction.

b) The encounter was false and there is no evidence at the site itself, though there is evidence to show that they were arrested in

Bangalore.

c) The police in order to lend credibility to their story killed Laxmi Rajyam in a fake encounter.

d) The police intentionally suppressed facts relating to the identity of Laxmi Rajyam. His murder came to light only due to the efforts of APCLC which got court orders to publish the photo of the deceased in the newspapers and ordered for a re-post mortem.

e) The police tried best to prevent the team from visiting the so-called encounter site and even tried preventing them from meeting the family of Laxmi Rajyam.

f) The photos received from the family members showed that the deceased were tortured before being killed.

Another example is the encounter that took place on March 11, 2002 in the Thupakulagudem-Mukunoor forest area of Warangal district. A fact-finding led by the civil liberties committee exposed the true facts.

Thupakulagudem-Mukunoor are bordering villages of Warangal and Karimnagar districts. The naxalites {activists of revolutionary Marxist-Leninist organizations, the biggest of which is the CPI (ML)(People's War), whose members have been the prime target of police violence} had organized a meeting there on the occasion of March 8, International Women's Day. On receiving information about the meeting, about 200 police surrounded the venue and unilaterally commenced firing. At that time there were 30-40 naxalites in the meeting who

countered the police firing. Mukunoor villagers said that the firing started at 3 pm and continued till the SI of Matteevaada, Warangal district got injured and died at 6 pm. In the same incident, eight naxalites were killed. It is clear that the police raided the meeting with the aim of wiping out all the activists present there.

Following this incident, the police began combing operations in the villages near the forest areas of Warangal, Karimnagar and Khammam districts. On March 12 they at Yettunagaram village, Girijana, Karimnagar district they detained two female naxalites, Sammakka @Vennela and Meekala Prameela @ Swarnakka who were on their way to the hospital. Both were unarmed. The police severely tortured them for three hours and then shot them dead at a shed near the village. All the villagers were witness to this murder.

* On April 21, 1998, in the evening, Bongi Sivalingam, a Naxalite activist was shot dead by the police at Chunchanakota, Charyala mandal, Warangal district. He was from the Kuruma caste and belonged to the same village but was living in Hyderabad. On 21st April, evening, when Shivalingam was having a cold drink at a roadside stall, in Chunchanakota; sub-inspectors of Cheryala and Bachannapeta and four constables came to the village on motorcycles. Shivalingam, on noticing them, tried to cross the road and escape behind the nearby houses. But due to a leg injury he was noticed and shot at. Shivalingam fell down. The police closed on him, dragged him a few feet away and shot him dead.

* On May 21, 1998, early morning, Venugopal @ Damaodar, a naxalite activist and Fazial, a farmer

were shot dead by the police at Narsing, Chenguta mandal, Medak district. Venugopal belonged to Indupriyal, Daulatabad mandal while Fazial was from the Peda Nizampeta, Ramayanpeta mandal. On 20th May, both had gone to Khasapur, Bikkanur mandal, Nizamabad district to attend a marriage ceremony. Since it was late, they decided to spend the night in that village. In the early morning, at 4am, the police swooped down upon the village, arrested Fazial and Venugopal and shot them dead at Narsing.

* On 26th May 1998, in the evening, between 8-8.30 pm, Jaadi Pocham @ Ramakrishna, a leader of the coal mine workers organization called Singareni Karmika Samakhya was shot dead by the police at the Government degree college premises in Godavarikhaini. At the time of his arrest, Pocham was speaking to Peddapalli Satyanarayana, a leader of another union. The policemen opened fire directly on Ramakrishna killing him. In the firing, Satyanarayana was also injured but managed to escape. He sought the help of another legal union leader Nageshwara Rao and an ex-TDP MLA, Koppula Eshwar to get admitted into a local hospital. But all of them were arrested by the police that night, cases were foisted on them and they were put into jail as Pedda Palli Satyanarayana had witnessed the encounter personally.

EVEN FORMER ACTIVISTS ARE NOT SPARED

* On March 2, 1998, the police shot dead Marapaka

Venkata Swamy at Shodaspalli village, Dharmasagar mandal, Warangal district in the early hours of morning. A cobbler by caste, Swamy belonged to Tatikonda village station, Ghanapur mandal. Swamy had left the squad life due to ill-health and was staying with his brother-in-law at Laxmidevi peta, Venkatapuram mandal, intending to surrender to the police. On March 1, he was arrested from home in the presence of Yadgiri's daughter, Srilatha; brutally tortured and taken to Shodasapalli the next day, where he was shot dead.

* On March 17, 1998, the police shot dead a squad member, Kandikonda Sudhakar, between Chinta Ramayyapalli and Navabpeta, Chityala mandal, Warangal district. Sudhakar was a member of the Radical Youth Association of his area, Nachiniparti, near Challagarigai, Chityala mandal. Due to a severe leg injury he had intended to surrender. On the previous night, he had gone to meet his fiancé at Chellagarigai. On receiving information about this, the police intended to kill him. Promising that he would not be encountered, the police took him with them, brutally tortured and killed him before daybreak, at Chityala. Thousands of people from the area went to the police station to claim his body. When the crowd became violent, the police chased them away, threatening to impose criminal charges against them.

COMMON PEOPLE AS TARGETS

In a large number of cases, the victims of the violence are common people, often belonging to the

oppressed classes and castes, who may be sympathizers of the movements, but cannot be described as activists. There are mass raids on the villages suspected to be sympathetic to the movement, mass beatings, tortures, rapes and even 'encounters'. Such extra-judicial behavior of the police has become a common practice in the villages of AP. A few cases listed below will represent the nature of these victims of arbitrary action by the police forces.

* In Guntur district, in early July, the activists of the CPI (ML) (PW) shot dead a sub-inspector of police and a constable. As retaliation, the police spread a reign of terror in the villages with raids houses of people in no way connected to the incident. On July 13, 1999, a fact finding team of the APCLC visited various villages and gathered the following information:

- a) On the night of July 4-5, a special police force raided Ramapuram village, woke up the people and assembled all the youth near the village church. They then started mercilessly beating them. Many sustained injuries on their hands, legs and heads.
- b) A young lady was poked with a stick and woken up from her sleep and questioned about her husband in most disrespectful language.
- c) One villager, Rama Sydulu was brutally tortured and dragged from the village to the main road, where the police stopped a lorry and asked the driver to take him to a nearby hospital as they thought he would die. The driver took him and dumped his body at the Dachehalli bazaar. He was admitted to a local hospital by someone who recognized him and was later shifted to Guntur for better treatment.
- d) The police raided the house of

Benjamin's parents and ransacked it. He is a trade union leader at a nearby cement factory. They then went to Benjamin's house after beating Gopi Reddy's son to provide directions. There they abused his wife, destroyed his books and other household possessions. At 3 pm they returned and began thrashing Benjamin's wife's relatives who had come from Ramapuram. They were made to lie down on the floor and kicked and beaten with lathis. Then the police produced some kit bags, weapons and books recorded the 'evidence' on video, with the Superintendent of Police falsely claiming that these had been recovered from Benjamin's house. The police didn't stop at this. Apparently Benjamin's brother Shankar is a commander of an armed squad of the naxalites and so the police were hell bent on harassing him. They also put a false murder case on him and threatened to set fire to the house owner's paddy fields if he didn't force Benjamin to give up his house

- e) In Srinagar too they raided houses. In one home they poured kerosene on clothes and set them on fire. When an old woman of the house tried to stop them, they broke her hand.
- f) Police raided the house of Koteswara Rao, member of APCLC, in Karampudi, on the morning of July 4.
- g) On July 7, the police raided village Grammalapadu and the house of its local MLA, near Dachaepalli. On getting down from the jeep the cops started indiscriminately thrashing bystanders on the road. When village leaders questioned their actions, the police left the village. But they came back at 10 am in a

convoy of jeeps and vans, challenged the people and started indiscriminately beating them. This was their method of harassing villagers in retaliation for the murder.

- i) The district administration conducted raids and flag marches in the dalit bastis, neighboring Dachaepalli, like Takellapadu, Katrapadu, Batrapadu and Kotturu Agraharam. They beat the villagers and insulted women and youth. The police justified these repressive measures saying that the people had not been informing the police about the movement of naxalite squads in their areas.

ATTACKS ON DEMOCRATS AND OTHER HUMAN RIGHTS ACTIVISTS

Those who protest against the police actions are also targeted themselves.

* On August 26, 2000, the All India People's Resistance Forum (AIPRF) along with other peoples' organizations had decided to organize a meeting in Dachaepalli, to oppose the ongoing raids on villages after the murder of a SI. But the police started arresting the AIPRF leaders before the meeting; even though AIPRF had filed a petition for grant of permission with the concerned authorities. On August 19 itself a conspiracy case was foisted against one of the AIPRF leaders, Ravichandra. On August 20, AIPRF state leader Ramakrishna was arrested from his residence and false

allegations were put on him. On August 21, a false case was foisted against AIPRF leader, G. Ramarao. Another AIPRF leader Nallapati Ramarao was implicated in a false case for allegedly conspiring with the PW to kill the ex-home minister, Kodela Siva Prasada Rao. The police also raided 23 families of that district and arrested 23 persons. APCLC and other peoples' organizations met the District Collector and DIG of Police on September 11 and demanded protection of life for the 23 arrested. The imposing of false cases by the police led by SP Poornachandra against AIPRF leaders is to prevent their questioning of violence by the state.

APCLC LEADERS TARGETTED

Most recently the police have been setting up private armies to retaliate against the human rights activists themselves. APCLC joint secretary Adv. T. Purshottam was the first victim and another activist Mohammed Azam Ali was another.

* On November 23, 2000, T Purushottam, a practicing advocate and joint secretary of APCLC was hacked to death in broad daylight in Hyderabad. When the AP police in Dec. 2000 produced two persons whom they claimed had carried out the killing of Purushottam, the two accused persons openly announced to the media that more leading activists of APCLC would be killed; such was the confidence of these criminals in police custody.

* On February 18 2001, Mohammed Azam Ali, a government teacher in Nalgonda and a leader of the APCLC was stabbed in broad daylight in Nalgonda town. The police claimed

that the murder was committed by 'unknown miscreants'.

KILLINGS THROUGH COVERT OPERATIONS/ PRIVATE ARMIES

The government has adopted several different methods to suppress the peoples' movement. One such method is called 'covert operation' where the police establish links with an activist, pressurize them to turn informers, or give other incentives and use them to kill leading members of the people's organisations.

Another new way adopted by the police to suppress the peoples' movement is by backing the creation of armed gangs with names like 'Green tigers', 'Black tigers', and also by sending unknown persons to kill sympathizers, revolutionaries and ex-naxalites. In this way the police try to pass off the killings as 'internecine war' or clashes between two gangs, or some form of private violence in which the state is a neutral observer. But it is clear that this too is only an extension of the extra-judicial violence being employed by the police to suppress the people's movements.

* One such group exists in Nizamabad district. It is clearly understood that this group is created by the police to confuse the people after the attack as to whether the attackers were the police or some unknown assailants. On June 1, 1999, five persons arrived in a private jeep to meet Krishna Rao, an ex-naxalite of Odikal village, Ghandhara mandal, Nizamabad district, when he was doing some cultivation at his bore-well. They tied his hands to the back and took him to a nearby hillock. Raju, his son, who saw all this, ran to get village help. But by the time he reached the hillock with the

villagers, his father was dead and the assailants had fled.

* In a similar incident, another ex-militant, Venkata Reddy was murdered by unidentified persons. On July 29, a woman named Rambai of Gundivededhi village, Gandhari mandal, was kidnapped by a private army along with the police.

* On August 2, a private army picked up Rayani Vithal of Banapur village, Lingam peta mandal from the village rest room, tortured him in front of the villagers before handing him over to the police.

* Using covert operations the police killed three squad members with the help of Katulla Sammayya in Karimnagar district. Another three squad members were killed in Nalgonda district by Somla Naik. In the same way, Karimnagar district secretary of the CPI (ML)(PW) was killed by a renegade squad member, Jadala Nagaraju.

THE MURDER OF BELLI LALITHA

Belli Lalitha was born in a backward caste family at Bhuwanagiri town, Nalgonda district. From a young age she was involved in social activities – like the struggle against prostitution to help change the life of the prostitutes staying near her house, or the gutka (orally consumed tobacco) prevention committee to highlight the destruction of health due to the consumption of gutka.

Later she joined the Telengana Jana Sabha which was agitating for a democratic Telengana (creation of a separate state) and was actively involved, especially as a cultural artist in the campaign against the injustice done to the Telengana region and its people. She was also involved in a campaign to oppose the suppression and denial of rights of

the Golla kurma caste in which she was born.

The government had started perpetuating severe repression on the Telengana Jana Sabha activists who were consolidating people through awareness and on the other hand attempted to kill those leaders who enjoyed the support and confidence of the people. The police were able to make use of Naeemuddin for this purpose.

Naeemuddin had been a PW activist in the past but was in jail for over four years under trial for alleged involvement in the murder of a police DIG, Vyas. Fearful of being convicted in the case, he approached JV Rayadu, DIG Hyderabad range through his relatives. The police agreed to cooperate only if he would murder some political activists. Naeem's brothers had already been involved in such activities. Naeemuddin agreed to the conditions laid down by the police and was supplied with a list of people to be killed. Belli Lalitha was chosen as the target. The police agreed to accept his surrender and bail plea if he would kill her.

For two months, Naeemuddin made several attempts to kill Lalitha. Since he was from the same town as Lalitha, she used to frequently meet him. He introduced his sister, Saleema to her and Lalitha used to frequently visit her without suspecting the hideous intentions of the family members. On May 25, 1999, Lalitha went to meet Naeemuddin in jail and decided to spend the night at Saleema's house. In the morning she left for Bhuvangiri. She was called by a youth, Sudhaka and brutally killed by 8 people comprising Naeemuddin's brothers, sister and his friends. Her dead body was cut into 17 pieces, put

into plastic bags to which were tied stones and then thrown into wells.

The government initially declared that it had no link in the Belli Lalitha murder case. But when people began questioning the role of the state, the police convinced Naeemuddin's brothers to claim responsibility. They declared that they killed her and fabricated a story of her having a love affair with their brother, and later having clandestine relations with other men.

The police tried their best to deny their role by fabricating different stories. They first said that the dead body parts didn't belong to Lalitha and that she was missing. Later on they fabricated a letter in her name, saying that she was upset and hence going far away after being duped with a marriage promise by a naxalite leader. When it was found that the so called letter wasn't written by Lalitha, another story was fabricated. The police thus murdered Lalitha and cleverly created different stories to confuse the issue

These are just a few of the examples of the state of lawlessness that prevails today in A.P. and the brutal methods being employed by the police there to suppress the people's movements. Similar brutalities are also reported from many other states, especially those where there are active movements of the people, but it would seem that the track record of AP is particularly gruesome.

APPEAL

Life And Liberty Of APSLC Activists Under Serious Threat

Dear Friends,

In the backdrop of C.P.I.(M.L.) Peoples War's attack on the life of Chief Minister Andhra Pradesh Mr.

Chandra Babu Naidu on 1st October 2003, near Tirupati Ghat Road (temple town), the APCLC activists have been targeted by the police and vigilante groups. The life and the liberty of the civil rights activists is under serious threat in Andhra Pradesh.

Mr. Hari Prasad (Advocate), Mr. M.V. Prasad, Mr. Kesava, Mr. C. Raja Ram of APCLC and their relatives Shankar, Mr. Uday, Eswaraiah and Chandrasekhar have been arrested in the early hours on 2nd October 2003. The police whisked away the APCLC members from their houses and detained in the station house and later released them by stating that their arrests are preventive arrests u/s. 151 Cr. P.C. During the custody the activists were subjected to interrogation and humiliation. In the early hours on the same day, the police in search of Mr.K. Kranthi Chaitanya (Advocate), the state joint secretary of A.P.C.L.C., forcibly made their way into his house and created panic and terrorized the family members. They left the house, as they could not find Kranthi Chaitanya in his house. Till today the police have been searching for some of the APCLC members and keeping close and continuous surveillance on their houses.

The police again on 17-10-2003 have arrested M.V. Prasad and Vijay Bhaskar convener for Revolutionary Writers Association, (RWA), tortured for 2 days and extracted confessions. Based on the involuntary confession a case is registered under AP. Public security Act. The family members of the activists are terribly afraid and suspected that the police may kill the detainees in false encounter. Further the police are planning to implicate Kranti chytanya and others in the above case.

As soon as the electronic media flashed out the news of attack on Chief Minister, at Hyderabad a group

of persons in TATA SUMO vehicles reached Dr. Laxman's (State President, APCLC) house and keep on surveillance till mid night. The next day some unidentified persons made an attempt to enter the house of Dr. Laxman, situated in the Osmania University Campus. They knocked the doors several times and terrorized his wife and children. Similarly some unidentified persons made their entry into the house of Mr. K.G. Kannabiran (PUCL), and his daughter received phone calls that she would be kidnapped. It is open secret that in A.P. the police are conniving with the surrendered Naxalites and using them to terrorize the Human rights activists. You might be aware of the brutal murder of Prushotham and Azam Ali by the state sponsored criminal gangs.

On 14-10-2003, the houses of APCLC activists Chilaka Chandra Sekhar, Ch. L.N. Murthy, in Guntur District are simultaneously attacked between 2-30 a.m. and 3-30 a.m.. The police ransacked the houses and attempted to enter and catch hold of the activists. But, the activists narrowly escaped death. After causing damage, the police claimed themselves as 'Planadu Tigers' and shouted slogans against APCLC and issued a death warrant to the activists.

It is common for APCLC leaders to receive threatening phone calls from the "Green Tigers or the Red Tigers". When ever a police man was killed or kidnapped by the CPI(M.L.) Peoples War, these self styled 'Tiger forces' terrorize the APCLC., and other mass organizations. Immediately after the attack on the Chief Minister a press statement was

released in the name of 'Red Tigers' warning Mr. G. Laxman and Prof. S. Sheshaiah, the APCLC State President and General Secretary, Ballad singer Gaddar, Revolutionary Writers Association secretary and Executive Member Mr. Pinka Pani and Varavara Rao. Further the statement says if these leaders do not facilitate and help to nab or surrender the persons responsible for the attack on Chief Minister, all will be physically liquidated. The State police knew that the members of APCLC are no way concerned with the bomb blast. The Peoples War Party itself made it clear and owned the responsibility for the attack. But the police higher officials including the D.G.P. Mr. Sukumaran, talks like a private person and use the language of revenge and retaliation.

The APCLC will not subscribe to the theory and practice of Peoples War and never take part in its activity. It is an independent organization fighting for the defense and protections of people's rights. APCLC has been pleading with the government that the Naxalite movement is a socio, economic and political movement and not a law and order problem. But the government, instead of dealing with the movement politically unleashing repression on the movement and in the process the state became a "Police State". During the Chandra Babu Naidu regime there are about 1500 persons killed by the police indiscriminately in false encounters. In the wake of bomb blast, the police have seized the opportunity to blame and delegitimise the activities of APCLC by branding it as one of the frontal organisation of People War.

Although the APCLC reacted against the Bomb attack on Chief Minister as unfortunate and sad and further explained the incident is nothing but an inevitable result of the

increasing repression by the State on the Naxalite Movement. The APCLC has been urging the state Government that providing more and more democratic space would reduce the violence in society, including the counter violence by the Peoples War Party. It is the responsibility of the State Government to open a dialogue with the Peoples War and other revolutionary parties and provide a conducive atmosphere in the state. But the state Government is delaing with the single agenda of crushing the Naxalite movement and at present an absolute state lawlessness is prevailing in the state. Any kind of dissent or agitation could not be tolerated by the state Government. Now the state police have targeted human rights activists and determined to cripple their voice.

We therefore request all the human rights organizations and the democratic forces across the country to raise voice of protest and bring pressure on the state Government to give due respect for the human rights and ensure protection to the human rights defenders.

With regards,
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Country Report: Philippines

Submitted by the Public Interest Law Center (Philippines)



A. Status of Repression

In January 2001, President Joseph Estrada was overthrown through a combination of the mass mobilizations of the people and the withdrawal of support by the military. Estrada's government was characterized by corruption and cronyism which alienated him even from the elite, as well as the policy of all-out war against Muslim secessionists and military overspending which made his government financially bankrupt.

Gloria Macapagal-Arroyo is Estrada's successor. Her government is not much different from Estrada's.

Arroyo's indebtedness to the military establishment ensured the continuation of the all-out war policy against the MILF and the CPP-NPA. Mindanao bore the brunt of military operations resulting to massive displacement of the civilian population, destruction of property and harassment. This was facilitated by the proclamation of a state of emergency in the island of Basilan in July of 2002 ostensibly for the purpose of exterminating the Abu Sayyaf bandit group.

Courting American support to serve her ambition to stay in power beyond her term, Arroyo aligned her government to

the US' so-called global war on terrorism. Mindanao became the host of the largest number of US troops deployed outside of the Afghanistan and Iraq. Later on, US troops were also deployed in other parts of the country including Central Luzon.

A significant development is the targeting of the electoral party Bayan Muna (People First) which won three seats in Congress, the maximum allowed for party-list groups. Out of the 254 document cases of summary killings attributed to the armed forces, at least 38 are leaders and members of Bayan Muna. They include organizers of peasant organizations and human rights activists. The latest casualty are Eden Marcellana, the leader of the human rights alliance KARAPATAN in Southern Luzon, and Eddie Gumanoy, the leader of the alliance of peasant organizations in Southern Luzon, who were kidnapped and killed in April 2003 by elements of the army battalion in Mindoro island.

There is also an impending legislation criminalizing various forms of dissident political activities called the Anti-Terrorism Bill. Under this proposed law, terrorism is broadly defined to include even the most legitimate exercise of fundamental freedoms if the same tend to "alienated the confidence of the people in the government". The bill gives the police and military enhance surveillance powers and allows persons to be detained for more than 36 hours without charges.

Outside of the country, the CPP-NPA and Prof. Jose Maria Sison has been tagged as terrorists in the official blacklists of the US and the EU. This development has been welcomed by Arroyo's government resulting in the breakdown of peace negotiations.

Globalization policies continue to be pursued by Arroyo's government despite the its ill effects on the economy and the people which includes loss of employment, higher cost of living and landlessness. Even after the breakdown of the Cantun WTO Ministerial Meeting, Arroyo sought to strengthen its bilateral trade arrangement

with the United States.

On top of this, corruption and cronyism is still rampant. Among the most notorious cases involve the husband the president who was accused of using his influence to obtain huge commissions from government contracts. Recently, the Chief Justice has been impeached on allegations that he used the funds of the courts to build mansions and buy luxury cars for himself and the justices of the Supreme Court.

B. People's Lawyers' Response

Nature of lawyers' organization / law students' organization

There are about 48,000 lawyers all over the Philippines and of this number, less than one percent are engaged in people's lawyering. People's lawyers in the Philippines, as distinguished from the traditional or private practitioners, criticize the law as a tool of maintaining and preserving the oppressive structures while making use of all legal means in combination with people's action to obtain thorough-going social changes for workers, peasants and other oppressed sectors. The Public Interest Law Center (PILC) is the most active organization of people's lawyers based in Manila along with the Pro-Labor Legal Assistance Center (PLACE). There is a people's lawyers group in Baguio City (DINTEG) (Northern Luzon), in Cebu City and Iloilo City (Central Philippines) and in Davao City (Southern Philippines)

People's lawyers also aim to attract more young lawyers and law students to become active in the protection and defense of people's rights. A number of law students' associations have been organized in Metro Manila and act as volunteer paralegals for people's organizations or in their schools.

People's lawyers and paralegals are an integral part of the open mass movement, participate in mass campaigns and

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mobilizations (e.g., Bush visit to the Philippines), and influence the public opinion on current political developments.

Actual cases of PILC

Terrorism & war

Estrada's all-out war policy against the MILF in Mindanao spread to Manila with the arrest of Moros in the Muslim communities of Metro Manila on false charges of spreading terror by bombing shopping malls orchestrated by the police and military. PILC represented 26 Moros arrested in Maharlika village. Parenthetically, more than 100 persons are currently detained on false charges of being members of the Abu Sayyaf as a result of indiscriminate arrests by the military in Basilan which was subjected to a proclamation of a state of emergency in 2000.

PILC actively opposes the passage of the Anti-Terrorism Bill in and outside of the halls of Congress.

PILC questioned (in vain) the constitutionality of American troop deployment in the southern part of the Philippines which is expressly prohibited by the Philippine Constitution. Undaunted, PILC posed recently a constitutional challenge to the Bilateral Immunity Agreement (BIA) with the United States which seeks to exempt American troops deployed in the Philippines from arrests and surrender to the International Criminal Court.

PILC also assists in the handling of the case of Prof. Jose Maria Sison to have himself delisted from the list of terrorists in the European Union.

Civil and political rights

The defense of political prisoners continue to be a priority of PILC. The documented political prisoners amount to 320 most of whom are not charged with political offenses but with common crimes. Among the notable cases handled by the PILC are the case of the "Maburao 6" which involves six peasant leaders and active members of KMP who

were tortured into admitting responsibility for the murder of a scion of despotic landlord family. PILC also pursues the prosecution of military officers involved in the summary killings of Bayan Muna leaders and members.

PILC is seeking legislated compensation for the more than 10,000 victims of torture and other gross human rights violations during the martial law regime of Ferdinand Marcos.

Agrarian reform

Peasants of Hacienda Looc are among PILC's most valued clients. Hacienda Looc has been tilled by our clients and their ancestors and the land has already been awarded to them under the agrarian reform program of the government. However, they face eviction because the land is being converted to world-class golf courses for tourists.

Corruption and transparency in government

PILC leads the mass movement in exposing corruption in government. People's lawyers' work on the impeachment of the overthrown President Estrada which was initiated by groups represented by PILC has been continued with the prosecution of Estrada for the crime of plunder.

The corruption in Macapagal-Arroyo's government is also being exposed through cases handled by and efforts of the PILC in this area, among them being:

(1) the prosecution of high government officials for the gross overpricing of the Macapagal Boulevard;

(2) the investigation into the awarding of multi-million dollar government contracts (PAGCOR) to favored cronies of the husband of the President

Most recently, the PILC represented the alliance of court employees associations nationwide to demand an accounting of the funds of the court system controlled by the Chief Justice of

the Supreme Court, now facing an impeachment trial in the Philippines precisely because of this issue.

Globalisation policies of deregulation and privatization

The struggle against globalisation policies has involved PILC in a number of cases, among them:

(1) the opposition to increase of power rates by the electric power monopoly in Metro Manila, and

(2) the constitutional challenge to the privatization of power generation and transmission under the new power industry reform law.

PILC also opposes amendments to the Philippine Constitution intended to open up land ownership to foreigners and further align economic policies to globalisation.

C. Plans

Assistance in the creation of PILC-type organizations in the regions

Individual people's lawyers scattered around the country have been trying to organize themselves into functioning law offices. PILC is actively helping lawyers in the Bicol Region (Southern Luzon), Samar and Leyte (Eastern Visayas), Zamboanga (Western Mindanao) and Nujeva Ecija (Central Luzon) to form their organizations.

These lawyers' organizations may form the basis for an IAPL chapter in the Philippines.

Strengthening international linkages

We intend to strengthen international linkages, cooperation and support for anti-imperialist initiatives of other people's lawyers groups. It will also be helpful to popularise IAPL's publication "Dissent" among our ranks, come out with timely primers, position papers and urgent action bulletins concerning human rights issues and concerns of other lawyers groups around the world. It is likewise our desire to participate in fact finding missions, people's tribunals and other conferences in solidarity with other anti-imperialist organizations. #

The Antiterrorist Legislation and Freedoms in Europe

Jan Fermon, lawyer at the Bar of Brussels

(Translated from the French original.)

Preliminary note:

This report is not a comparative study of the national legislations in the various European countries. Such a study would be useful and necessary because it is obvious that the various European countries (and even beyond) are inspired mutually and that a mechanism of "spiral to the bottom" settles where each country takes again on its account certain aspects of the measures enacted in other countries. A shared experience on the ground of the police and legal practices of application of the anti-terrorist legislations would be also very useful besides. Indeed, it is through the practical applications that the real range of certain provisions which seem to be inoffensive can become clear and the arguments and attitudes developed in reaction can also help the people and movements confronted with attempts at criminalisation based on the anti-terrorist legislations. It would be useful to open a list of discussion on the Internet on this subject, which would enable us to quickly exchange information on the following subjects:

- * Evolution of the anti-terrorist legislations in the European Union
- * Applicable procedures of exception in the European Convention countries in files known as "fight against terrorism"
- * Police and legal practices in relation to the anti-terrorist legislations. Marked court orders pursuant to the anti-terrorist legislations.
- * The use by the authorities of the anti-terrorist legislations for

criminalizing social movements, dissenting political opinions, national liberation movements and social activists in Europe and solidarity movements.

* Resistance, on the ground and in front of the jurisdictions, against the use of the anti-terrorist legislations for criminalizing various social fights.

War on dissent: in war against the "dissidents"

The European Union plays an increasingly active part in the installation of new repressive legislations constituting a serious danger to the fundamental democratic rights of anti-globalists, anti-war activists and all those who are engaged in social struggles, or in "dissenting" political activities.

These measures are taken under the pretext of the fight against terrorism but also of the fight against organized criminality. The essential characteristics of the legislation in this matter was also elaborated at the European level. It goes without saying this legislation was presented like "anti-Mafia". With the occasion of the discussion within the Belgian Parliament on the transposition in Belgian legislation, many voices rose to warn against the dangers of the use at fine policies of this type of legislation. These criticisms were systematically rejected by the political leaders like "sights of the spirit". However, and in the middle of this discussion, the police force of Amsterdam stopped 150 of the demonstrators who opposed the European summit on the basis of the law against the criminal organizations which was already being applied in the Netherlands.

After the Summit of Gothenburg, 25 magistrates of the public ministry of various Convention countries met in Stockholm. With this meeting, it was suggested to use the structures of Europol to gather information on the groups of "suspect" demonstrators in



order to establish files of analysis in connection with these groups. But Europol is not qualified as regards to maintenance of law and order. The magistrates then made a statement, affirming that "criminal organizations" are hidden behind the demonstrators. By this reference to the criminal organizations, the magistrates opened the door to all kinds of police and legal forms of cooperation as regards maintenance of law and order.

The process of criminalisation of "dissent" consists in many forms. Thus the lawsuits carried out in the old socialist countries and mainly in FRG against the political leaders of these countries are in many cases forms of criminalisation of an opinion or a political action judged as "undesirable".

In the same direction, it is worrying to note that several old socialist countries of Eastern Europe have a legislation already prohibiting the Communist Parties and/or propaganda for Communism or are preparing such legislations.

Some of these countries will become very soon members of the European Union. It is at the very least worrying.

This report will treat primarily two types of measures taken at the European level and presented like initiatives intended to fight terrorism:

The framework decision of June 13, 2001 relating to the fight against

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terrorism¹. This decision was made the same day as the framework decision concerning the common teams of investigation². This last decision makes it possible to organize transnational teams of investigation of police officers, in particular as regards fight against terrorism. All the preparatory discussion on the framework decision relating to the fight against terrorism was also held parallel to the discussion on the introduction of a European arrest warrant. This discussion also resulted in a framework decision³. Common teams of investigation and European arrest warrant, although not being limited to the procedures as regards terrorism, are nevertheless important measures, directly related to the decisions as regards terrorism and must in this direction be considered as procedures of

A common characteristic of these measures is the total absence of definite democratic control.

exception. The introduction of a European arrest warrant which will replace in the European Union the procedure of extradition envisages the total abolition of "the political exception" which made it possible in a state to refuse an extradition required within the framework of the commission of a political offence.

As it is exposed hereafter, this framework decision relating to the fight against terrorism allows the criminalisation of many forms of more radical opposition and specific political offences.

Council Regulation (EC) No 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism⁴ which makes it possible for the Council to draw up physical lists of people and organizations whose funds, and other

assets such as financial and economic resources can be frozen.

This decision already made it possible to freeze the funds belonging to active liberation movements in the Third World or to people associated to these organizations. In certain cases, even the social allowances of refugees were blocked. This regulation constitutes moreover a very serious threat for the third world solidarity movements in Europe in so far as they organize financial solidarity with movements included in the lists.

Common characteristics of these measures are the total absence of a specified democratic control in the adoption of these measures like on their implementation. The framework decisions are adopted after discussions at the Committee of permanent representatives of the Member States near the European Union or at the time of councils of the ministers. The European Parliament can deliver its opinion but the example of the framework decision relating to terrorism shows that this discussion is purely pro forma. The European Parliament was solicited to deliver an opinion but while the Parliament concentrated on the text of the original proposal, the Council and the permanent representatives as well as technocratic authorities like the Committee of art. 36 held discussions in parallel on a text already appreciably amended which had not been even communicated to the Parliament. This one thus made many proposals for an amendment on a text already exceeded. Useless to specify that the amendments were used for nothing. The final text, result of political negotiations to the Council was pro forma subjected for opinion to the Parliament which did not play any significant part any more.

The national Parliaments are not parcelled out better. The national authorities are obliged to transpose the framework decisions in their national law (even if a non-transposition is not sanctioned). To choke very critical, the governments which are at the base of the decisions tallies and which carried out the political negotiations - in the

majority of the cases without mandate of their national parliaments hold up then the obligation of transposition before these same Parliaments to prevent that their projects are rejected. Thus, the national legislators see their role reduced to a formality.

An important aspect of all these measures is the increased transnational police co-operation. Normally, the police officers carry out their surveys in a form of control exerted by magistrates. Already, at the national level, this control often became an illusion but it's obvious that within the framework of common teams of investigation, any control of a magistrate becomes completely illusory.

In the same direction, many pleas were held after September 11 for a greater use of human sources of information - in other terms, intelligence agents which infiltrate and a greater collaboration between services of police force and information. However these two types of service, which use in theory completely different working methods, are set up with completely different purposes. In measures aiming at freezing the funds, the decisions are made on the basis of secret file, without the least possibility for the interested parties of being heard, even without possibility of access to the documents a posteriori.

Council Framework Decision of 13 June 2002 on combating terrorism

This measure was presented like a response to the attacks of September 11 2001 to the United States. However, the speed with which the text of the proposal was presented confirms the fact that it acts of a project already conceived before and left the paperboards following the attacks. The first version of the proposal of decision-tallies relating to the fight against terrorism dates indeed from September 19, 2001.

The objective of the proposal of the framework decision is to bring closer the legislations the Member States as regards terrorism, in accordance with article 34, paragraphe², not B, of the Treaty on the European Union. Six Member States have

a specific legislation already. They all consider the destabilization of the political power or economic power an element specifying the terrorist infringement.

The other Member States did not create specific incrimination. They continue these offences thanks to already existing incriminations such as the concept of criminal conspiracy, which, associated an abundant jurisprudence, makes it possible to punish not only the participation in terrorist acts but also the simple membership such organizations.

A too liberal definition

The announced objective of the framework decision is to work with the unification of the definition of terrorism and the sorrows envisaged by the national legislations in the Convention countries.

The framework decision first of all establishes a joint definition of "terrorism" that the Member States should insert in their national legislation.

This definition is at this point so wide that it makes it possible to describe as "terrorists" many social movements.

Article 1

"Terrorist offences and fundamental rights and principles

1. Each Member State shall take the necessary measures to ensure that the intentional acts referred to below in points (a) to (i), as defined as offences under national law, which, given their nature or context, may seriously damage a country or an international organisation where committed with the aim of:

- seriously intimidating a population, or
- unduly compelling a Government or international organisation to perform or abstain from performing any act, or
- seriously destabilising or destroying the fundamental political, constitutional, economic or social structures of a country or an international organisation, shall be

deemed to be terrorist offences:

(a) attacks upon a person's life which may cause death;

(b) attacks upon the physical integrity of a person;

(c) kidnapping or hostage taking;

(d) causing extensive destruction to a Government or public facility, a transport system, an infrastructure facility, including an information system, a fixed platform located on the continental shelf, a public place or private property likely to endanger human life or result in major economic loss;

(e) seizure of aircraft, ships or other means of public or goods transport;

(f) manufacture, possession, acquisition, transport, supply or use of weapons, explosives or of nuclear, biological or chemical weapons, as well as research into, and development of, biological and chemical weapons;

(g) release of dangerous substances, or causing fires, floods or explosions the effect of which is to endanger human life;

(h) interfering with or disrupting the supply of water, power or any other fundamental natural resource the effect of which is to endanger human life;

(i) threatening to commit any of the acts listed in (a) to (h)".

First of all, the definition comprises a moral element which par excellence reintroduces in the criminal law a political offence. The acts that qualify as terrorist are those which, given their nature or context, may seriously damage a country or an international organisation where committed with the aim of:

- seriously intimidating a population, or
- unduly compelling a Government or international organisation to perform or abstain from performing any act, or
- seriously destabilising or destroying the fundamental political, constitutional, economic or social structures of a country or an international organisation, »

What does it mean to have the aim to "seriously to destabilize the economic or social structures" ? It is, in particular, with this argument that Margaret

Thatcher tried criminalizing the great strike of the miners at the beginning of the '80s while trying to apply to this movement the British anti-terrorist law. Would a social conflict of a great width, like a general strike, escape from such a definition ?

In addition to the moral element, it is necessary obviously that an offence is made. Here also, width of the acts aimed change to the eyes. The murder, the taking of hostages, the provocation of explosions qualify as terrorist if they are made with the above mentioned aims. But the definition suggested goes much further.

Are also stated :

* Physical injuries

* The illicit capture of official or governmental installations, public good and public place, infrastructure, means of transport or the damage, which is caused to them.

* The disturbance or the interruption of the provisioning of water, electricity or any other fundamental resource

* And even the threat to make one of these infringements.

Let us review these infringements. The purpose of the anti-globalisation demonstrators of Genoa, of Prague, of Gothenburg is to seriously affect the social, political and economic structures.

Numbers of them require another society. They damaged state-owned properties, for example the fences built around the sites of the meetings.

Their actions are "likely to endanger human lives or to produce considerable economic losses". Indeed it is not necessary that this danger was carried out, it is enough that the actions are "likely" to produce such effects. This concept is obviously very subjective. And what means "considerable economic losses"?

This definition (of terrorism) is at this point so wide that it makes it possible to describe as "terrorist" many social movements.

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Don't demonstrations accompanied by incidents often result in damaged material from police force, windows of damaged stores and urban furniture? And quid of "the considerable economic loss" due to the expenses related to the mobilization of the police force? Won't it be enough? Here still, the concept is highly subjective and "adaptable" to the needs for the moment.

What happens if workmen of the companies of water and of electricity which leave in strike and declare themselves radically for a company where the profit is not the engine of the economic and social life? Don't they disturb the provisioning of water or electricity? The cut of electricity - in theory isn't likely to endanger human lives, was this only because the road traffic lights do not function any more and that accidents could occur?

And what is necessary to think of a demonstration of steelmakers which leads to a confrontation with the police force? Some trucks of the police force are damaged. Some gendarmes have blue euges. Didn't they inflict physical injuries? Didn't they cause a damage to official infrastructures? In a lawsuit counters delegates of an iron and steel company in Belgium, the gendarmerie required €500.000 damages for damage caused with the material and disabilities of gendarmes which resulted from a confrontation between demonstrators and gendarmes. Don't these €500.000 constitute a "considerable economic loss"? And, even if that is not the case, wouldn't the gendarmerie have been tempted in this case to call upon the anti-terrorist provisions to continue the trade unionists in question?

Will they consider in the future Europe militants who are against genetically modified seeds and who destroy a corn field as "terrorists"? They endanger goods or they cause a damage to a good. And their action causes "considerable economic losses" insofar as, not only the corn is destroyed, but also a research program.

The participation in a terrorist organization: the work of solidarity

with the prisoners and national liberation movements in the line of sight.

Article 2 .2 of the decision framework relates to the infringements relative to a terrorist group:

"Each Member State shall take the necessary measures to ensure that the following intentional acts are punishable:

(a) directing a terrorist group;

(b) participating in the activities of a terrorist group, including by supplying information or material resources, or by funding its activities in any way, with knowledge of the fact that such participation will contribute to the criminal activities of the terrorist group.

This provision must be read together with the Council Decisions drawing up a list "of terrorist organizations". On this list, are reproduced the Popular Front for the Liberation of Palestine, the Communist Party of the Philippines, the Revolutionary DHKP-C, PKK and FARC.

What will happen to those who make a financial solidarity campaign for these organizations or a project set up directly or indirectly by one of these organizations?

With the new law, it is to be noticed that the condition of being informed "that this participation will contribute to the criminal activities of the terrorist group" is highly subjective and can give way to very extensive interpretations.

Organizations and individuals are targeted

The framework decision provides that not only individuals can be held criminally responsible but also legal persons:

"Article 7

Liability of legal persons

1. Each Member State shall take the necessary measures to ensure that legal persons can be held liable for any of the offences referred to in Articles 1 to 4 committed for their benefit by any person, acting either individually or as part of an organ of the legal person, who has a leading position within the legal person, based on one of the following:

(a) a power of representation of the

legal person;

(b) an authority to take decisions on behalf of the legal person;

(c) an authority to exercise control within the legal person.

2. Apart from the cases provided for in paragraph 1, each Member State shall take the necessary measures to ensure that legal persons can be held liable where the lack of supervision or control by a person referred to in paragraph 1 has made possible the commission of any of the offences referred to in Articles 1 to 4 for the benefit of that legal person by a person under its authority.

3. Liability of legal persons under paragraphs 1 and 2 shall not exclude criminal proceedings against natural persons who are perpetrators, instigators or accessories in any of the offences referred to in Articles 1 to 4. »

Remarkable is obviously that the organization concerned will not be only held responsible if infringements are made 'for its own benefit' but also if the organization made "a defect of monitoring or controlling" It is the large door opened with police provocations or services of information. It is enough to push a member of a board of directors of an organization to an adventure, saying that this action was inspired by the objectives of the organization and that it was thus made "for its account". Then, it will be enough to accuse the association of not having controlled its members.

The sanctions with regard to the organizations are stipulated in art. 8 of the framework decision and can go until legal dissolution.

The objective of the framework decision and its potential consequences.

Isn't this a lawsuit of intention to see in these measures a danger to political and social activists who have nothing to do with terrorism?

First of all, it is obviously necessary to register this decision-tallies in the context of criminalisation of the radical social action and political dissidence.

But there is more:

Why the explanatory note which accompanied the preliminary draft by framework decision of September 19 said whereas "urban violence" is aimed? Urban violence is the code word

of intelligence services and police to indicate the revolts of the young people of the underprivileged districts or of the demonstrations antiglobalist during which there are incidents with the police.

The reference to urban violence shows that the project executors did not target only real acts of terrorism.

The preliminary draft went even further. Its authors also proposed to regard as a terrorist offence " the encouragement or the support of a terrorist group " ;

Who did not hear the American criticisms against the channel Al Jazeera which broadcast the official statements of the Talibans and Bin Laden estimating that it is information and that in a war, it is dangerous to censure the point of view of one of the two parts. Didn't the American authorities imply that Al Jazeera " thus encouraged" Bin Laden and its partisans ?

Who of those which say that certain acts of terrorism are acts of despair of persecuted populations, oppressed and that it is necessary to solve the problems which are at the base of these acts such as the war, oppression, poverty ? Didn't one intend to qualify this kind of explanations of unacceptable and which they constitute a kind of justification of the terrorist acts ?

Which is the utility in this type of legislation in the fight against terrorism? Apparently, nobody puts really this question. However it is crucial.

Would there be a country in Europe with a gap in its criminal law such as the participation under whatever form that it is with the assassination premeditated several thousands of people or the preparation of such acts is likely to remain unpunished ? The answer goes from oneself. No need for a special legislation to prosecute and condemn the people having taken part in such acts.

The Commission must have been conscious of this.

Another indication in this direction is certainly provided by a proposal of the Spanish Presidency of for a decision

" introducing a standard form for exchanging information on incidents caused by violent radical groups with terrorist links »5.

This proposal explicitly mentions to be based on the above mentioned definition of the terrorist acts.

It specifies in the introduction:

"Representatives and experts from agencies, under JHA Ministers, responsible for combating terrorism in the European Union meet in the Working Party on Terrorism for the purpose of improving cooperation between such agencies.

In the course of its proceedings, the Working Party has noticed a gradual increase, at various European

Will they consider in the future Europe militants who are against genetically modified seeds and who destroy a corn field as "terrorists"?

Union summits and other events, in violence and criminal damage orchestrated by radical extremist groups, clearly terrorising society, to which the Union has reacted by including such acts in Article 1 of the Framework Decision on combating terrorism, where the offence is defined. Such vandalism has attracted widespread media coverage and alarmed the Union's citizens.

These acts are the work of a loose network, hiding behind various social fronts, by which we mean groups taking advantage of their lawful status to aid and abet the achievement of the aims of terrorist organisations recognised as such within the European Union. Such clear manipulation poses a serious present threat, liable to increase substantially in the very near future.

Admittedly, the proposal was not finally adopted but it constitutes an interesting barometer to know the way in which certain governments define "terrorism".

Isn't it enough, to avoid a diverted use of the legislations anti-terrorists which will be adopted pursuant to this framework decision that, the definition comprises restrictive clauses such as the mentions which the made facts must be likely to endanger human lives or to cause considerable economic losses? Or that the text affirms: "Nothing in this Framework Decision may be interpreted as being intended to reduce or restrict fundamental rights or freedoms such as the right to strike, freedom of assembly, of association or of expression, including the right of everyone to form and to join trade unions with others for the protection of his or her interests and the related right to demonstrate ».

I do not think this is a sufficient guarantee.

The general reaffirmation of rights obviously never prevented a misuse of a legislation.

It is certainly not very probable that jurisdictions of the Member States of the Union will pronounce in the next months the judgments based on the new anti-terrorists legislation. The principal problem of this kind of decisions is often before the judicial procedure itself, in the police phase. Which interpretation the police, in charge of the public security, will give to the concept of actions "likely to endanger human lives or to produce considerable economic losses"? The example of the United Kingdom is eloquent: 97% of the people challenged on the basis of the British anti-terrorist law are free without any charges and only 1% of the challenged people are finally condemned. In other words, 99 people out of 100 challenged as " terrorist " are the innocent ones. These data should encourage prudence.

Nobody can dispute the need for the co-operation between the Member States as regards fight against terrorism. However, it is legitimate to worry if such a co-operation is organized according to such a broad definition of terrorism.

That can give place only to one massive pointing of data in personal matter at the European level. After the protests at the Summit of Goteborg, the names of the apprehended demons-trators were thus introduced into the Schengen information

↪ p.17

system. This is an example on a small scale of what could await us in the future. Projects exist in order to create a computerized central data base of the visas and accesses to the territory related to irises copy of the scans of the eye. In the name of being pro-active, the police services will be able to subject to screening whole populations considered "risky". That singularly brings us closer the scenes of certain films which were considered, a few years ago as science fiction.

* In addition, the practice shows that the countries which adopted anti-terrorist legislations introduce at the same time provisions organizing a procedure of exception : specific judges, emergency courts, prolonged times of police custody, limitations of the contacts with outside and even with lawyers.

Council Regulation (EC) No 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism 6

In addition to the specific incrimination of the acts known as "terrorist", the Council of the Union adopted a second type of measures in the "fight against terrorism". The Council wants to combat the funding of terrorism and declares to take the necessary measures to combat any form of financing for terrorist activities

This measure constitutes a very serious threat not only for the activities of activists anti-capitalists, anti-war, anti-impérialistes but especially for the national liberation movements of country except Union having activities on the territory of the Union.

The regulation is actually the translation of a Resolution of the Security Council of the United Nations. In the United States exists a similar system. The regulation forms part of a complex series of decisions to which belonged also a common position with almost identical and adopted contents the same day 7. The same day, the Council adopted a first list pursuant to the regulation⁸. What falls into the

scope of "terrorism"? The Common position and the Regulation refer directly or indirectly to the definition of "terrorism" such as recovery in the framework decision above mentioned.

In the first lists annexed to the common position and established by the Council pursuant to the regulation, some organizations and persons are related to the conflict in the Middle-East (Hezbollah, Jihad, Hamas).

The Council included in the list on the basis of regulation several national liberation movements and social which carry out in their country of origin an armed struggle. Appeared on the list in particular: Revolutionary Armed Forces of Colombia (FARC), the Popular Front for the Liberation Palestine (FPLP), Brigades of martyrs Al-Aqsa (Related to El Fatah), the Party of the Workers of Kurdistan (PKK), Popular revolutionary Front/Party of liberation (DHKP/C), Mujahedin-e Khalq Organization of Iran, New People's Army (NPA) of the Philippines and the founder of Communist Party of the Philippines, Professor Jose Maria Sison.

We are thus very far from a problem of terrorism operating in Europe. I don't think one of these movements takes violent actions in Europe. Several of them have representatives and even official

The police services will be able to subject to screening whole populations that are considered "risky".

offices in European countries. Nevertheless, they have in common that they think that the force can be used to combat the regime which rule their country. All these movements argue that their activities are within the framework of a legitimate fight for the national or social liberation. About the Palestinian organizations, the international law (through the resolutions of UNO) even established indisputably that the

Palestinian people are confronted with an occupation. The same international law recognizes the right to be opposed to the occupation, including by the force.

Measures with very important consequences

The regulation envisages the freezing of all the financial funds, assets and other economic resources held by the persons and entities included in the list and prohibits the availability of these entities of such resources.

Moreover, the regulation prohibits to provide a several financial services to the entities on the list:

Article 2

"1. Except as permitted under Articles 5 and 6:

(a) all funds, other financial assets and economic resources belonging to, or owned or held by, a natural or legal person, group or entity included in the list referred to in paragraph 3 shall be frozen;

(b) no funds, other financial assets and economic resources shall be made available, directly or indirectly, to, or for the benefit of, a natural or legal person, group or entity included in the list referred to in paragraph 3.

2. Except as permitted under Articles 5 and 6, it shall be prohibited to provide financial services to, or for the benefit of, a natural or legal person, group or entity included in the list referred to in paragraph 3."

Financial services by. 2 of art. 2 are vast:

Article 1. 3. says that "Financial services" means any service of a financial nature, including all insurance and insurance-related services, and all banking and other financial services (excluding insurance) as follows:

Insurance and insurance-related services:

(i) Direct insurance (including co-insurance):

(A) life assurance;

(B) non-life;

(ii) Reinsurance and retrocession;

(iii) Insurance intermediation, such as brokerage and agency;

(iv) Services auxiliary to insurance,

such as consultancy, actuarial, risk assessment and claim settlement services.

Banking and other financial services (excluding insurance)

(v) Acceptance of deposits and other repayable funds;

(vi) Lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transaction;

(vii) Financial leasing;

(viii) All payment and money transmission services, including credit, charge and debit cards, travellers' cheques and bankers' drafts;

(ix) Guarantees and commitments;

(x) Trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:

(A) money market instruments (including cheques, bills, certificates of deposits);

The analysis of these some extracts of the list of the prohibited services shows the very large scope of the prohibition. It will be thus prohibited to insure against fire the buildings rented by a person or an organization included on the list. It will be also prohibited to insure the public liability of a person included in the list. It is totally impossible to cash a cheque issued in the name of such a person or such organization, etc.

The solidarity movement is also a target

Article 2.3 of the regulation enumerates in its people who can be include on the list established by the Council pursuant to the regulation:

“(i) natural persons committing, or attempting to commit, participating in or facilitating the commission of any act of terrorism;

(ii) legal persons, groups or entities committing, or attempting to commit, participating in or facilitating the commission of any act of terrorism;

(iii) legal persons, groups or entities owned or controlled by one or more natural or legal persons, groups or

entities referred to in points (i) and (ii); or

(iv) natural legal persons, groups or entities acting on behalf of or at the direction of one or more natural or legal persons, groups or entities referred to in points (i) and (ii). »

Thus the persons who take part in an act of terrorism within the meaning of the criminal law (like accomplice) are not the only targets of the regulation. The Council includes also people who "facilitate" such acts, persons or entities acting on behalf of or at the direction of one or more natural or legal persons, groups or entities included on the list.

The concept of “facilitating” is nowhere defined and is does not have a

The concept of “facilitating” is nowhere defined and does not have a precise content in criminal law. The concepts “acting on behalf of or at the direction of” is not more precise.

precise content in criminal law. The concepts “acting on behalf of or at the direction of” is not more precise. They allow the Council to choose the groups arbitrarily.

Moreover, under Article 9 of the regulation, each Member State must impose effective, proportionate and dissuasive sanctions when the provisions of the regulation are infringed for example by providing prohibited services or by making funds available to an organization or a person included.

The representative offices of the national and social liberation movements in Europe included in the list could easily be shown as facilitating the activities of the organization in the country of origin.

Even a committee of solidarity which collects funds for a project in Colombia or Palestine could very easily suffer a freezing of its bank accounts

(because the funds intended for the entities taken again on the list must be blocked), but moreover it could be the subject of the sanctions "effective, proportional and dissuasive" established by the national authorities.

Deprived of social allowance, health insurance and its housing: the case of Prof Jose Maria Sison.

The measures imposed by the regulation have very important consequences especially when they are inflicted to natural persons.

Professor Jose Maria Sison is a very eloquent example. Professor Sison is the founder of the Communist Party of the Philippines. He passed many years in the jails of Marcos. After the fall of Marcos, he was released and travelled around the world for an international lecture tour. During his absence of the Philippines, the most repressive fractions of the new regime, primarily of the soldiers named under the dictatorship of Marcos, put a price on its head and cancelled its passport.

Since 1988, he lives in the Netherlands where he applied for asylum. Under the pressure of the United States, the Dutch authorities refused on several occasions the statute of refugee to JM Sison. The Dutch administrative jurisdictions (Council of State) broke at two times the decisions of the authorities and justified their decision by the fact that J.M. Sison was indisputably a refugee within the meaning of art. 1 of the Convention of Geneva.

August 12, 2001, the government of the United States, through the Office for Foreign Assets Control, included JM Sison in the American list of "terrorists" whose assets must be frozen.

August 13, the government of the Netherlands adopted a similar decision.

The joint bank account of Sison and his wife were frozen. On this account, JM Sison received since many years a social allowance and the Sison husbands used this account to pay their daily purchases, to pay their invoices of electricity and others. The balance of the account never exceeded 2.000 €. It must be recall that the aim of the regulation was combating the funding of terrorism

p.19

as a decisive aspect of the fight against terrorism. Qualifying such measures as a contribution to the fight against terrorism is very ridiculous in the case of Prof Sison, but the government of the Netherlands does not seem to fear the ridiculous.

September 10, Sison was informed by the City of Utrecht where he lives, that no more social allowance shall be granted to him, that his health and liability insurance were cancelled and that he must leave the housing rented by the local authorities for him.

In the name of the fight against terrorism, a person is thus private of all the social rights most elementary and the authorities try to reduce it to the state of tramp.

Professor Sison applied for the restoration of his fundamental rights by proceedings before the Dutch jurisdictions but on October 28, he was included in the list established by the Council of the Union pursuant to regulation 2580/20019.

The Dutch Government, withdraws its national decision but is based henceforth on the Council Decision to continue to deprive Professor Sison of very returned, health insurance etc.

Professor Sison seized the Court of First Authority of the Union in Luxembourg.

The list established by the Council mentions that Professor Sison would be known under alias Armado Liwanag, the President of the Communist Party of the Philippines. Actually, Professor Sison, who was the founder of this party, could not have any function since he was stopped by Marcos in 1977, having been detained during 8 years before being exiled. On the other hand, he is the chief political consultant of the Negotiating Panel the National Democratic Front of the Philippines which carries out to the Netherlands and in Norway of the negotiations of peace with the government of the Philippines under the patronage of the governments of these countries and

Belgium.

No reasonable person can regard such measurements as a useful contribution to combat terrorism.

On the contrary, these measures are very clearly intended to demonise and to paralyse a person who engaged with dimensioned of a movement of release and, especially, to put pressure on the NDF to sign a capitulation agreement prepared by the government of the Philippines under the influence of the United States. The Foreign Minister of the Philippines declared besides that the name of Sison would be withdrawn from the list only if the NDF signs such an agreement¹⁰.

A procedure in which the intelligence services play a key role

The persons or organizations included in the list were never informed of the intention of the Council to insert them into the list.

None the movements or persons had the possibility to be heard by the Council.

Worse even, when they apply for access to the file which was at the base of their inclusion on the list, the Council answer that reports of the meeting of Coreper are classified as confidential and that others documents provide by Member States were already given back to them "for security reasons".

Within the framework of the procedure before the Dutch jurisdictions, the counsel of Professor Sison received communication of two pages of wrong accusations, written in English and without mention of the author of the document or less of the origin of information. It is obvious that the CIA is at the origin of this document.

The persons and organizations included in the list are seen taxing with "terrorists" and are private of straight without least possible contradiction. They are thus deprived of their right to the presumption of innocence, an equitable lawsuit before being subjected to sanctions of an extreme gravity, their right to be heard and to bring

contradiction to the elements "to load". With through stigmatization they are obviously private of their right to the freedom of expression, organization and even of movement.

Actually, in the name of the fight against terrorism, all the guarantees and basic rights are swept and pulverized.

Conclusion:

In the name of the fight against terrorism, the European Union and the Member States adopt measures which allow to criminalise any political and social opposition radical in his principles or his methods of action, even if this have nothing to do with acts of terrorism.

These measures are elaborated on the basis of information provided by unverifiable secret service.

In the name of the fight against terrorism, all the democratic guarantees are destroyed. The fundamental democratic rights are violated. Procedures of exception are set up.

The present period is characterized by a policy of war carried out by the United States against the countries and movements which require the respect of their sovereignty and dispute the foreign domination. Such a policy based on aggressions such as in Iraq and of which other country like Syria, Iran, the North Korea are threatened, inevitably goes hand in hand with a policy of repression with regard to the interior opposition. The European Union (even if certain Member States dispute the policy of the USA) seems to take the same repressive route of criminalisation of the "dissidents" as the USA.

The democratic movement in Europe must awake, denounce this policy of criminalisation and fight it. The movement must be freed from any consequence of the intimidation carried out by the authorities, according to which to be opposed to this policy would be a form of complicity with terrorism. A movement of defence of the elementary democratic rights, right to resist to the globalisation, the war, repression, the dismantling of employment and social

rights must be organized on the level where measures are elaborate, i.e. on a European level.

NOTES:

1 Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism, Official Journal L 164, 22/06/2002 P. 0003 – 0007.

2 Council Framework Decision 2002/465/JHA of 13 June 2002 on joint investigation teams Official Journal L 162, 20/06/2002 P. 0001 – 0003.

3 Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States - Statements made by certain Member States on the adoption of the Framework Decision Official Journal L 190, 18/07/2002 P. 0001 - 0020

4 Official Journal L 344, 28/12/2001 P. 0070 - 0075

5 Initiative by the Kingdom of Spain for the adoption of a Council Decision introducing a standard form for exchanging information on incidents caused by violent radical groups with terrorist links COM(2001)521, 2001/0217, Brussels, 19/9/2001. Brussels, 13 February 2002 (19.02) (GOLD be) 5712/1/02 REV 1 ENFOPOL 18 (<http://register.consilium.eu.int/pdf/en/02/st05/05712-r1en2.pdf>)

6 Council Regulation (EC) No 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism

Official Journal L 344, 28/12/2001 P. 0070 – 0075.

7 Council Common Position 2001/930/CFSP of 27 December 2001 on combating terrorism Official Journal L 344, 28/12/2001 P. 0090 - 0092

8 Council Decision 2001/927/EC of 27 December 2001 establishing the list provided for in Article 2(3) of Council Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism Official

Journal L 344, 28/12/2001 P. 0083 - 0084

9 Council Decision 2002/848/EC of 28 October 2002 implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism and repealing Decision 2002/460/EC, Official Journal L 295, 30/10/2002 P. 0012 - 0013

10 "Reds must sign peace accord to get off terror list -- Ople", Agence France-Presse, February, 1, 2003 http://www.inq7.net/brk/2003/feb/01/brkpol_12-1.htm)

Bibliography:

"The enemy within: EU plans to criminalise protests", Report by Statewatch, <http://www.statewatch.org>

Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism, Official Journal L 164, 22/06/2002 P. 0003 – 0007.

Council Framework Decision 2002/465/JHA of 13 June 2002 on joint investigation teams Official Journal L 162, 20/06/2002 P. 0001 – 0003.

Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States - Statements made by certain Member States on the adoption of the Framework Decision, Official Journal L 190, 18/07/2002 P. 0001 – 0020.

Council Regulation (EC) No 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism

Official Journal L 344, 28/12/2001 P. 0070 - 0075

Initiative by the Kingdom of Spain for the adoption of a Council Decision introducing a standard form for

exchanging information on incidents caused by violent radical groups with terrorist links COM(2001)521, 2001/0217, Brussels, 19/9/2001. Brussels, 13 February 2002 (19.02) (GOLD be) 5712/1/02 REV 1 ENFOPOL 18 (<http://register.consilium.eu.int/pdf/en/02/st05/05712-r1en2.pdf>)

Council Regulation (EC) No 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism

Official Journal L 344, 28/12/2001 P. 0070 - 0075

Resolution 1373 (2001) of the Security Council of the United Nations of September 28, 2001

Council Common Position of 27 December 2001 on the application of specific measures to combat terrorism

Official Journal L 344, 28/12/2001 P. 0093 - 0096

Council Decision 2001/927/EC of 27 December 2001 establishing the list provided for in Article 2(3) of Council Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism

Official Journal L 344, 28/12/2001 P. 0083 - 0084

Council Decision 2002/848/EC of 28 October 2002 implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism and repealing Decision 2002/460/EC

Official Journal L 295, 30/10/2002 P. 0012 - 0013

"Reds must sign peace agreement to get off terror list -- Ople", Arranges France-Press, February, 1, 2003 http://www.inq7.net/brk/2003/feb/01/brkpol_12-1.htm)

INDICTMENT

The peoples of the world struggling against imperialism, through the International Association of People's Lawyers (IAPL),

Accuses:

the Governments of the USA and of Great Britain, George W. Bush, Tony Blair and the people in authority of other states supporting US aggression against Iraq in 1991 and 2003

with having committed crimes against humanity, the crime of genocide, war crimes, aggression, violations of international humanitarian law and the crime of undermining peace and of having acted against national and international law

as a result of their embargo, aggression and occupation waged against Iraq and its people.

FACTS:

According to the Charter of the UN, the use of force or the threat of force, by one country against another, is wrong in principle and all international problems should be solved by peaceful means. There are only two exceptions accepted by the UN: That the war should be approved by the Security Council of the UN or that the war should be waged in self-defence.

The USA (and Great Britain) justified their aggression against Iraq and their occupation of its land on the basis of their assertions that Iraq had "weapons of mass destruction" and that this constituted a serious threat to other countries and thus to world peace.

The fact that an all-out war was launched -- before the UN inspectors could determine Iraq's open infringement of its obligations

concerning weapons of mass destruction arising from international treaties and before a decision on this had been taken by the UN Security Council -- was an infringement of the Charter of the UN.

Not only were the UN inspectors not able to find any weapons of this kind up to the time the US intervention began, but also the US has not been able to provide any proof that Iraq did have weapons of mass destruction, even though it has been in Iraq many months. This has to be compared with the fact that countries like Russia, Great Britain, China, France and -- most of all the USA itself -- have all got such weapons and do not even feel the need to hide this fact from world opinion.

Even though the USA has tried to justify its purported "preemptive attack" by claiming that the supposed weapons of mass destruction in Iraqi hands constituted a threat to it that legitimised its action as "self-defence" (UN Charter Article 51), it has not been able to provide any kind of proof nor any convincing explanation.

The claim that Iraq could be a military threat for a superpower at a distance of thousands of kilometres, across an ocean (even though there were no-fly zones over Iraqi territory that were being constantly patrolled and some targets in its territory were being bombed from time to time) was clearly wrong and rendered baseless also the claim of the USA to "legitimate self-defence".

When the USA could not convince world opinion in this way, it started to claim that the war and the subsequent occupation were justified since in this way the people of Iraq would be freed from a cruel and tyrannical regime. This, notwithstanding the fact that international law does not recognise any right for a few countries to band together with the aim of "liberating" a country or "giving it its freedom".

Given the fact that the world is full of repressive, authoritarian and dictatorial regimes, this reason for waging a war against Iraq was clearly not the real reason. The real aim of the USA (and of Great Britain) was to acquire control of the oil wealth of Iraq and to gain a geopolitical supremacy in the region in addition to military and political control of Iraq.

The USA (and Great Britain) have not hesitated in embarking on an occupation of a country, with the aim of gaining control of its mineral and other wealth, as has happened many times before, even though this would impoverish its population. While on the one hand the USA is creating new markets for itself by applying the "law of the jungle", on the other it is in a constant struggle to find new sources for itself and going to war and occupying countries for the attainment of this aim.

(In 1953 the USA overturned the democratically elected Mossadegh government of Iran, substituting it with the regime of the Shah, who went on to govern dictatorially for another 25 years; it overturned the democratically elected Arbenz government of Guatemala throwing this country into chaos that was to last 30 years; in 1962 it overturned the Lumumba government of Congo, installing Mobutu Sese Seko's reign of terror that lasted 32 years; it overturned the democratically elected Allende government of Chile, which had promised social and economic equality in the fields of health and education and put in its place the military dictator General Pinochet, who terrorised his own people. The democratically elected leaders of Vietnam, Pakistan, the Philippines, Panama and Haiti were overturned and people supported by the USA were installed in their places. The USA opposed the regime of Cuba and attacked this country and its people. For the last 40 years it has imposed a blockade on Cuba. In December 1998 the General Assembly found the USA guilty for its embargo against Cuba, with 155 countries voting for this motion and only 2 against. The USA supported uncounted repressive and authoritarian governments, on all five

continents and tried to destroy the culture, history, character, values, art, literature and music of the people of this world with its worthless commercial products.) (UDHR; ICCPR; ICESCR)

That such policies have resulted to the fact that tens of thousands of people die, are maimed, are made homeless and become refugees in their own countries has been peddled to the world as natural or at least inevitable.

The air and land forces of the USA have attacked Iraq with spent uranium missiles, bombs and ammunition that have deadly effects in the long run. Such weapons cause genetic mutations, cancers and tumors that are potentially deadly for the people of Iraq and contaminate the atmosphere, ground, underground water sources, the food chain and solid objects with radiation. The use of cluster and napalm bombs was widespread and as a consequence there were mass killings, woundings and damages at places with a high density of people like hospitals, mosques, schools, apartment buildings, because of flying metal pieces.

The USA, which already holds virtually complete monopoly in nuclear weaponry, air military hardware, missile technology, armoured vehicle technology and in general military high technology, is nonetheless constantly working for the increase of its superiority. It owns 43 percent of the weaponry available in the world. Its defence budget is more than the combined total of the defence budgets of the next 12 countries. This enormous war machinery is being used, with utter contempt of the law, to establish worldwide domination.

The government of the USA is permitting the arrest of unarmed civilians. According to its regulation, civilians that resist the Americans or impede their actions may be detained for up to 30 days. Even though the new regulation keeps the requirement to "protect non-combatant civilians", spelled out in the Geneva Treaty, its statement permitting "the arrest of unarmed civilians for urgent reasons within the framework of security

measures or in case they could provide information useful for the successful operation of military operations", nullifies for all practical purposes this requirement. Near the port city of Um Qasr in the south of Iraq, a prison camp with a 100 thousand person capacity has been readied for Iraqi war prisoners.

(Evidence to support the foregoing ultimate facts shall further be submitted to an International Tribunal to be established for this purpose.)

CHARGES:

Acting in ways not permitted by the UN Charter, Resolutions of the UN General Assembly and Security Council, the Universal Declaration of Human Rights, the 1907 The Hague Convention, the 1949 Geneva Conventions and its supplemental Protocols, the Treaty Against Genocide, the UN Environmental Convention, the Paris Convention on the Safeguarding of the Cultural and Natural Heritage of the World and the 1998 Rome Treaty establishing the International Criminal Court (in the case of Great Britain),

The Governments of the USA and of Great Britain, George W. Bush, Tony Blair and the people in authority of other states supporting US aggression against Iraq in 1991 and 2003, are hereby charged with:

1. Undermining the UN and preventing it from carrying through its professed role of establishing and maintaining peace in the world. The approach of the USA, throughout this phase, has completely sidelined the UN. It has established precedents according to which the "powerful" will be able to impose their will and ignore all rules when they do not suit their interests. The doctrine of "preemptive attack" it has developed is the basis for this course of action.

2. Imposing a food and medicine embargo on the Iraqi people, affecting especially the children, elderly, sick and women and causing the death and suffering of hundreds of

thousands of civilians. This embargo, having lowered the standard of life of the Iraqi people, has been much more harmful than the war itself. (Nuremberg Principles 6 c; Treaty on Crimes of Genocide, Geneva 1977, Articles 48, 54 and 55)

3. Concentrating its military forces in the countries and seas around Iraq, threatening Iraq and world peace by declaring openly that this was preparation for war and carrying through this threat.

4. Taking control of Iraq's oil wealth, redrawing the borders of the countries of this region and hiding the real reason for this war from its own people and the world, deceiving the world by repeating continuously the exaggerated -- if not outright false -- claim that Iraq was threatening world peace and security by manufacturing and secreting weapons of mass destruction, even though one of its real aims was to secure the borders of Israel, which is the only country in that region to have nuclear weapons.

5. Making false statements and deceiving its own citizens and the other nations of the world with the aim of spreading fear and hatred and thus neutralizing opposition to its own policies of aggression and occupation.

6. Ignoring the will and liberty of the Iraqi people by appointing a governing council and using this council as a means to impose its own decisions from the top after having overturned by military means the Iraqi government, attempting to destroy the historical values and cultures and the liberty and freedom to govern their own fate.

7. Bringing about the death of thousands of innocent civilians, making millions of them homeless and refugees in their own countries. (The Hague, Articles 22 and 23; Geneva 1949, Article 19; Nuremberg Principles, Article VI a, b and c; American Constitution, Article 1, Section 8, Paragraph 2.)

8. Creating wide-ranging and long term environmental damage with its bombing and missile attacks against Iraq. Even the excessive number of military flights has created air pollution way above the normal. The thousands of tons of explosive materials have polluted the air with dangerous chemicals and the explosions have created clouds of dust and

fires which lasted for days. (The Hague, Articles 22 and 23, *Geneva 1977, Articles 48, 51, 54 and 55; The Stockholm Proclamation on the Environment 1972, Articles 1, 2; Principles I, II; etc.*)

9. Destroying basic foodstuffs essential for the people of Iraq. Carrying out missile attacks that systematically destroyed fundamental manufacturing, stocking, distribution, health and irrigation facilities related to the provision of food, water, electricity, medicines and health services to the people of Iraq. (The Hague 1907, Articles 22 and 23; *Geneva 1949, Article 19; Nuremberg 1970, Principles b and c; Geneva 1977, Articles 48 and 54*)

10. Destroying or seriously damaging the buildings of the economic, social, cultural, health provision, diplomatic and religious institutions of Iraq. Organising destructive and harmful attacks with the aim of destroying the economic and social structure of Iraq. (The Hague, Articles 22 and 23; *Geneva 1949, Article 19; Geneva 1977, Adjunctive Protocol I, Articles 48, 52 and 53; UN Charter, Article 2; Protected People Treaty; Geneva 1977, Articles 48 and 51*).

11. Looting and permitting the looting of the museums, libraries and ancient artefacts in Baghdad and Basra. (The 1972 Paris Treaty on the Conservation of the World *Cultural and Natural Heritage*)

12. Using banned weapons analogous to weapons of mass destruction that cause mass killings. Even now the USA refuses to ratify the Protocol dated 1980 and banning the use of napalm bombs that was added to the Geneva Convention.

(The Hague, Articles 22 and 23; *Geneva 1977, Articles 48, 51, 54 and 55; The POONA Accusation concerning the Abuse of Technology and Science 1978*)

13. Threatening with aggression, imposing economic pressure and sanctions and offering bribes, with the aim of gaining

individual and governmental level support to its policies of aggression and occupation.

14. Arresting, kidnapping, murdering people in extrajudicial ways and subjecting them to physical and moral torture. According to the fourth Geneva Conventions that have been signed between the years 1864-1949, with the aim of reducing the devastating effects of wars, civilians should be safeguarded. In particular the Geneva Convention establishes the principle according to which "occupying armies are responsible for the security of occupied regions." This principle refers to the people present in occupied areas or in enemy territory. Forcing individuals or groups to flee, hostage taking, acts against the dignity of individuals, torture, collective punishments and retaliation, unjustified damage to property and discrimination on the basis of race, religion, nationality and political beliefs are all forbidden.

15. Preventing people that have been detained from sleeping, obliging them to stay in painful positions, keeping them for a long time with their heads covered, firing on detainees, damaging or confiscating objects found in houses during searches, keeping people in prisons under unacceptable conditions or in excessively hot tents, keeping them in camps without water and sanitary facilities. All of these are considered torture and inhuman treatment, which are banned by both the Geneva Convention and the Universal Declaration of Human Rights. The USA, which has committed serious infractions in this field, refuses to let human rights organisations from monitoring its detention centres.

16. Initiating bidding processes regarding the oil wealth of Iraq and taking other decisions about this, even though it has no right or authority. As an occupying

power, the USA has no right over the oil wealth of Iraq. The use of oil revenues for the restructuring of Iraq or the signing of contracts for the modernisation of the oil industry are infringements of the Geneva Convention. The convention forbids occupying powers from signing contracts for the long term use of the natural reserves of the occupied country or from intervening in its administration. In addition to which, the USA does not have the right to initiate bidding processes or to grant privileges concerning the oil industry, with the excuse of restructuring Iraq, without the approval of the Security Council of the UN.

17. Refusing to ratify the Rome Statute creating the International Criminal Court based in the Hague with the aim of escaping prosecution for the crimes its military troops and civilian authorities committed and are going to commit, including crimes against humanity, the crime of genocide, war crimes.

18. Using international media under its control to depict the Iraqi people as a primitive society requiring modernisation and made up of potential terror supporters and murderers, with the aim of gaining support for its aggression.

DEMAND AND CONCLUSION:

We demand that the governments of the USA and Great Britain be tried for the occupation of Iraq, the looting of the material, moral and cultural wealth of this country, the death of tens of thousands of civilians, the loss of everything they own, the hundreds of thousands of people that have become refugees in their own country and similar constant aggressive behaviour towards other countries they consider potential dangers. We further demand that these countries leave the territory of Iraq, compensating for the material and moral damage they have wrought and that they try those responsible for these policies. #

Human Rights Report from Turkey

By Acilim Hukuk Burosu



(Translated from Turkish original)

The two big economic crises of November 2000 and February 2001 have had a significant impact on present-day developments. The speculative enterprises by financiers in the Stock Market, the Banking Business and the Foreign Exchange Market culminated in these crises. The devaluation which followed both crises resulted in a 10% contraction of the national economy and left 1.000.000 (one million) people without a job. In general, 25% of people who are able to work are jobless. If the latent jobless portion of the population in rural areas is taken into consideration, the unemployment ratio must not be under 40%.

The existing economic situation has required efforts to regain the legitimate social status which has been lost. The efforts to fully abide by IMF policies, democratization and reduction of violations of human rights in the process of becoming part of the European Union are the economic and political endeavors undertaken in this direction.

As a consequence of the application of IMF policies, a deficit of 46 Billion in the Banking sector has been transferred to

national budget. Many tax impositions have become effective and the existing taxes have been raised in order to be able to pay the internal and external debts. The tax increases do not involve income taxes, but only indirect sales taxes. Presently, there is an extraordinary imbalance in tax revenues which is 30% from income taxes and 70% from indirect taxes. While big businesses have not been affected at all by tax increases resulting from the economic crisis, the working classes give back 60% of their income to the state in some form of tax. The natural result of this picture is that while 20% of the population gets 80% of the national income, the remaining 80% of the population lives at the border of hunger or deprivation.

Under these circumstances, the only way for the continual existence of the system are to maintain the disorganized state of the deprived and to defeat or destroy the opposition.

Both the tendency toward aggression in the international policies of the United States imperialism after September 11, and the sharpening of contrasts between imperialists which has developed as a natural consequence of this aggressive attitude have provided an opportunity to implement, one after the other, constitutional and legal amendments which are claimed to have been prepared

the to democratize the pressurizing policies of national sovereigns. The ineffectiveness of the opposition has been achieved and alleviated pressurizing policies have become prevalent.

In the course of events, the lives of laborers have almost completely been re-organized. The working class has been disorganized by means of privatization and subcontracting. The number of workers in trade unions has been reduced by half in the last 15 years. The number of workers belonging to a trade union is not even 1 million in a country which has a population of 70 million. The workers who attempt to get organized may lose their jobs without being given a reason. Even though some changes are required by the ILO agreements for work safety and job security, they have never been realized or have been postponed due to pressures imposed by capitalists. There is no public control over work places for the security of workers.

Due to demoralization created by the high unemployment rate, many workers are unwilling to be organized and to pursue their rights. As to the existing trade unions, they are incapable of performing their duties even on an economic level. The government is the employer of a large number of workers belonging to a trade union. The trade unions accept the proposals of the government at times of collective bargaining because of the continuous economic crisis. Since there is considerable difference between wages of workers in trade unions and those who do not belong to one, the former are alienated from general worker movements and problems.

In December 2000, the Government has turned prisons into blood pools with an operation which took place in 20 prisons on the same day. The political prisoners have been transferred to Cell Type (F) Prisons following the massacre of 28 convicted prisoners under arrest. The Hunger Strike which began at that stage has so far taken 62 lives. Over 500 people have become handicapped as a result of the strike or due

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to intervention by force. In the meantime, the prisoners in Type (F) Prisons are kept in extreme isolation. They are prevented, by various means, from conferring with their lawyers and families, from communicating with the outside world and from access to publications and books. Their requirements for food, clothing, heat and cleanliness are met at the lowest level or are incorporated into the rehabilitation programs. The long-term prisoners develop serious health problems which are either not taken care of or the treatments are given late and superficially. Sentencing policy forms the most important basis to pacify the revolutionary and communist opposition. For this reason, a model called Type D has been developed and is being constructed, which will enhance the state of isolation existing in Type F Prisons. The Turkish government is in a state of preparation to put back into use the single type clothing practice used by the military junta of September 12, 1980 as a device for exerting special pressure, to assault and to take captive.

The pressures on the Kurdish population in Turkey have not been reduced despite the peace process of the National Kurdish Movement. Although some legal changes have been made concerning the radio and television broadcasts in the Kurdish language and the initiation of a Kurdish Language Course, no practical steps have been taken in those directions. Any public attempts are met with bureaucratic obstacles. People in those areas live under trying conditions.

No budgetary provisions are made to improve living conditions. Neither are there any programs being developed for this purpose. As for those who were forced to leave their villages, supposedly permission has been given to return, however with no avail. People cannot go back to their own villages, but may only move to villages designated by the government. It is also not clear how these people are supposed to earn a living and survive.

Some legal steps were taken for freedom of thought and expression.

Particularly, even though the abrogation of Article 8 of the Law concerned with Fighting Against Acts of Terrorism seemed to be a positive step on paper, in practice it has brought no benefits, and on the contrary, has had even worse consequences. The system, and especially the courts have not abandoned the kind of punishments included in this Article and has tried to fill the gap by following the legal proceedings of Articles 159, 168 and 312 of the Turkish Criminal Law. Again, even though some articles of the Criminal Law concerning the freedom of thought which have been widely criticized were readapted, it turned out to be a mere show off. Periodicals and books can be banned, collected and destroyed. The only step taken has been the partial replacement of imprisonment with high fines.

A series of changes were also made in legislations for Unions and Foundations, important public organizations. However, the kind of government control over these organizations has not changed and due to a multitude of bureaucratic procedures, they have either become non-functional or ineffective.

Recently, the law concerning gatherings and protest marches has been altered several times. However, these are not fundamental changes. Presently, even press statements are considered illegal, people are beaten violently and put under arrest and punished by Law 2911 concerning Gatherings and Protest Marches. The gatherings and protest marches, are not only to be held by given permission, but can also be banned or postponed for supposedly security reasons.

As to torture, there is a selective attitude. The more widespread and milder practices have been abandoned, but real torture goes on. As a result of this, there has been a decrease in incidences of torture. On the other hand, there have been no attempts to fight against torture. There have been no developments toward uncovering incidences of torture or punishing those who use it as a force, aside from some superficial measures. The torturers are still under the effective

protection of law and the government.

An important portion of the public opposition holds out hope that the country will join the European Union which they think will open doors to economic and democratic progress; a big deception. This has become seriously imprinted on consciousness of bourgeois people and others within their influential circles, who have been unable to respond to imperialistic policies and expressions shrouded with veils of liberalism and globalization and has created great disturbance.

In the process of all this, the fundamental role of the law and the jurists should be to protect the system from these exploitations. Such exploitations are the objectives, and not the consequences of the existing system. The system is based on these exploitations and works accordingly.

A code of law always selects between two cases of self-interest and offers a solution. It is the responsibility of the man of law to explain why one is chosen and the other rejected. Thus, the legal proceedings in the country should display the basics of steps taken in legal exploitations.

The state authorities are under pressure because of violations of human rights and anti-democratic practices. Being under pressure, they take steps with difficulty. Even though a minute amount of legal changes have been realized, the door before freedom of thought and organized action is still closed.

Adjudicatory power is extremely politicized and not legal, but political requirements have become matters of primary importance. An action which no longer is illegal becomes so, if necessitated politically and is punished. In the other way around, an illegal action may not be considered a punishable offence if the offender is a civil officer in one way or another (due to lapse of time, lack of evidence, etc.)

The opposition is intimidated by house arrests, arrests, torture and threat of punishment. The public is not allowed to insist on their rights against the actions of public officers. Most people avoid taking legal steps toward obtaining their rights because of a fear of finding themselves in an even worse situation or because of their beliefs that it imminently is a hopeless

THE NEO-INQUISITIONIST APPROACH TO LAW OF US IMPERIALISM

By Hakan Karakus (Turkey)

(Translated from Turkish original.)

Since jurisprudence has throughout history been a reflection of the social relations concerning production, of class conflicts and of the evolution of societies, it has always warranted a special interest. Thanks to jurisprudence, not only can one follow the results of class struggle, but also acquire the means to reach further positive results. Even though jurisprudence is not a guide or a decisive factor by itself, it nevertheless constitutes one of the arenas where this

struggle is waged in a clear way.

Throughout history, all judgments and procedures encompassed by jurisprudence have not just reflected relations between classes, but also the conception of administration and the ideological basis of the dominant classes. Another important point that should be stressed is the fact that the philosophy pervading jurisprudence, acquires the characteristic of being able to influence the spirit of all laws as a whole. This derives from jurisprudence being applied by means of a single organisation. Finally, one has to take into consideration the fact that jurisprudence's relevance derives from

its effectiveness.

An evaluation of the present phase, which began with the events of 11th September, shows us that a juridical background suitable to the new order being imposed -- called "globalisation" -- is taking shape. With this new order, the USA is trying to establish world dominance by means of its military strength and in the name of a redistribution of the resources of the world. All the means being used for this end are ideologically homogeneous.

The main philosophy behind this policy is based on the "superiority"

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endeavor. A verdict of not guilty is either not taken into consideration or becomes ineffective by a new resolution.

In view of the legal, political and economic pictures presented, the basic purpose of our activities is to induce the public to seek their rights by getting involved in relevant proceedings. Particularly, legal help is provided for and legal procedures are followed for sufferers of torture, for those who have been forced out of their villages and are prevented from returning, and for prisoners and convicts whose human rights have been violated. Providing legal assistance to the accused who are being tried in special courts established for political crimes (National Security Courts) and undertaking their defense constitute the most important part of our activities.

The legal proceedings for the Massacre Operation of December 19-23, 2000 are still underway. Lawsuits have been brought against the arrested and the convicts, as well as the military and civil personnel who took part in the operation. These are now being followed.

Another one of our important activities involves the cases of isolation.

The prisoners and convicts in Type (F) Prisons are completely isolated from each other and from the public because of involvement in activities relevant to their thought processes. Attempts are being made to prevent unlawful circulars and illegal procedures used against these convicts and to draw public attention to such treatments which are in complete violation of human rights and honor.

Attention is also drawn to international agreements made by the government and to its legal proceedings. Particularly, the clarification of the commercial and economical agreements enforced by the imperialists, and the requests of the IMF and the World Bank based on loan contracts are of special national importance.

Providing the means to seek legal rights for those who are beaten and tortured, put under house arrest or arrested, and following such cases to bring to a justful conclusion are among our endeavors. Also, it is attempted to draw public attention to anti-democratic procedures used by the authorities.

It is a must to expose the imperialist aggressors in view of the deep sensitivity of the nation toward attacks on Iraq by imperialist USA and its allies. The

imperialistic and aggressive nature of this attack and, thus the imperialistic policies of the USA ; as well as the United Nation's Codes of Law should be revealed to the public.

As IAPL, exposing and preventing any kind of anti-democratic actions and violations of human rights form the basis of our activities. It is particularly important for us to co-operate with various local organizations and persons in the course of our work. Attempts are made to share attitudes and to co-ordinate requests relevant to our objectives.

The activities of IAPL are presently undertaken via the *Açılım Law Bureau*. In the short-term, it has been found to be more convenient to function this way. It is hoped that a local recognition of IAPL will be attained through effective distribution of its publications. (Dissent, published under the Turkish title of "Aykırı", in Turkish). Possibly, the local organization will expand eventually. However, this can only be possible if the number of members in international organizations increase and common legal and political campaigns are realized jointly. Under the present circumstances, expansion of the local organization does not seem feasible. #

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conception deriving from the USA's power, and its arbitrariness is being justified with the "American mission". The logical framework of this mission, which has a past of approximately one and a half centuries, is what can really be called "world dominance", and is the typical characteristic of imperialism. Nowadays, the USA defines the world in terms of its "interests" and its "sphere of influence", and from this point of view it is not so much different from similarly positioned countries throughout history.

The fact that the USA is attacking now can be explained with the fact that circumstances are suitable. But it is fundamentally the result of the phase through which its system is going through. Put very simply, it is the result of the capacity to govern of the imperialist-capitalist system not being as effective as it once was. As class conflicts are becoming more visible and profound in a constant state of crisis, the crises of agony of the system are getting more and more frequent. As the earth beneath them is slipping away, they are having ever more difficulty in keeping hold of the rope in their hands. All their instruments of power have degenerated. Labour in particular, and all the working classes in general, are expressing their anger and reaction towards ever worsening economic conditions by staging continuous actions of protest and resistance. In short, the law of action and reaction is active throughout the social and economic spheres.

Such circumstances require a historical initiative. The world is at a turning point when concerted action can be decisive, both as far as gaining new positions and as far as pushing back the adversaries is concerned. American imperialism had predicted this state of affairs and was ready for it. The doctrine of the Neo-Conservatives that have come to power in the USA -- called "Absolute American Internationalism" (Pax-Americana) -- was formulated in the reports titled Quadrennial Defense (30th September 2001), Nuclear Posture Review (31st

December 2001), and National Security Strategy (20th September 2002). The architects of the "Project For The New American Century" formulated in 1997, gave the finishing touches to this document in September 2002.

The main aim of the doctrine expressed in these documents focused on the need to use the USA's present military and political-economic strength to gain absolute world dominance. Such a strategic operation had to be carried through by means of new concepts and argumentations. Its ideological axis was made up of the thesis central to the law of the jungle according to which, "he who is strong is also right". All the rest had to be "subject" if they did not want to be labelled as "enemies" and be "destroyed".

The ultimatum, "With me or against me", created a front against those that were opposed and thus "enemies" that were defined as being "terrorists". It is at this point that an intervention in jurisprudence, with the aim of codifying the relationships and modes of behaviour, became necessary. The ideological basis of the policies guiding the White House and the Pentagon required a limitation to the fundamental rights and freedoms in a way suitable to the indiscriminate and arbitrary use of violence. This created a situation akin to the Spanish Inquisition.

An international regime established by a rough military and economic power would change the gains obtained up to that moment -- the established values and the accepted modes of behaviour -- by means of neglect or, when the need arose, by means of counteractions. This is being carried through to the accompaniment only of feeble protests. The fundamental juridical values have been subverted or eliminated. The new juridical approach of the new world order is being applied with an effrontery reminiscent of the Dark Ages.

Fundamental concepts of Criminal Law and of Criminal law Procedure, like "the individuality of crime and punishment", "the distinction between

perpetrator and accessory", "the obligation to prove accusations", "the presumption of innocence", "the right to defence", "the right to a fair trial", "the right to put forward evidence", and "the right to appeal", have either been eliminated or subverted beyond recognition. Killings (both judicial and extrajudicial), torture and abuse, unlimited detention without trial, conviction without putting forward evidence, and extrajudicial sentencing, have all been legitimised. Legal proof has been substituted with plain lies. Stating plain lies and putting forward baseless claims have become accepted modes of behaviour for the powerful.

People connected to the running of this process have died "mysteriously" (10 American biologists working on viruses and genetics have been found dead between 12th November 2001 and 27th March 2002, and David Kelly, consultant to the British Defence Department, was found dead on 19th July 2003). Rights and freedoms like "the privacy and inviolability of private life", "the inviolability of one's home", and "freedom of communication" have been weakened. With the invention of the concept of "indirect crime", the framework has been expanded. The basis of the legitimacy of all this was provided by the "war against terror".

International law also encountered a similar fate. Concepts like "the right to self determination of nations", "the inviolability of internal affairs", and "the banning of the use of force and of the threat of force", have been discarded completely. "Legitimate defence" has been substituted with a "right to attack". The evolution of bullying that was first called "humanitarian intervention", and later "preventive intervention", has legitimised occupation, annexation, intervention and aggression. The "redistributive" character of militarist imperialism(?) became a concrete instrument in the hands of everyone who were powerful enough.

The concept of "right" was based on the concept of might, as clearly stated by Tony Blair, "We are right even if we are wrong." (18th July 2003). The concept of "freedom" underwent a similar transformation. Complete victory and the

THE MIDDLE EAST AS THE CAPITAL OF THE SOVEREIGN WORLD: A Breaking Point of Occupation and Resistance

By Acilim Hukuk Burosı (Turkey)

(Translated from Turkish original.)

The Middle East, that part of the world where events capable of influencing the whole world seem to culminate, exhibits this character even more strongly today. The progression of events prior to and following September 11 and the happenings in our present day indicate that it will maintain this character in the future as well. The Middle East comes forth as the heart of the fate of the whole world and a region most prone to outside interventions.

The Middle East owes its geopolitical and geostrategic character to more than one factor. In addition to possessing two thirds¹ of the total petroleum and natural gas reserves of the world, it serves as an inter-continental bridge, is the motherland of monotheistic religions, and, with the tremendous wealth of its cultural

accumulations, it is the place where the heart of the sovereign world beats. Alexander the Great expressed this by the words "the Sovereign of the Middle East is the Sovereign of the World".

The Middle East of the present is perceived in a broader sense. It encompasses the Mediterranean, the Black Sea, the Caspian Sea basin, the Caucasus and the narrowly defined Middle East itself. This kind of approach to the area has made it even more valuable. This reality is reflected in the projects produced at the headquarters of imperialists and is echoed in other texts related to the region.

In 2001, the USA received 138 million of its total need of 895.6 million tons of petroleum, the European Union 176.2 million of 637.1 million tons and Japan 208.8 million of 247.2 million tons, from the Middle East. (**Statistical Review of World Energy, 2002**).

According to the reports of the US

Department of Energy, the daily world petroleum need from the Gulf countries which was 14.8 million barrels in the year 2000 will increase to 33.5 million barrels in 2020; thus, the share of the Gulf countries in meeting total needs will increase from 35% to 47%. In the same report it is stated that in the year 2010, the Moslem world will control 60% of petroleum produced in the world and will be in possession of 95% of the petroleum export capacity.

The ambitions of great empires running after the sovereignty of the whole world and the fact that the ethnic and religious character of the region is mainly Arabic and Muslim are responsible for the extent of events in the Middle East, a region which has a "special" status for the imperialist powers. The region is mostly populated by the Arabs and the Islamic nations and remains so in spite of the 22-piece map of British imperialism drawn after World War I

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elimination of all centres of resistance required the severance of people from their historical and cultural values and their religious beliefs. That is why the looting of natural resources was followed by the looting of cultural values (museums, libraries and historical artifacts). "Looting" became an expression of freedom and was defended as such.

During this process, the number of international treaties and other documents that American Imperialism has not signed or that it has been hindering, has increased three to five-fold. It is no coincidence that all these are related to the weapons race and the environment. Even the International Criminal Court, which was founded within the UN organisation but which has not been given any real power, could not escape the wrath of the USA. Fifty-three of the ICC signatories were

obliged to sign treaties with the USA giving it exemptions. Fifty signatories which did not, were subjected to an embargo. During this phase, even Holland that is one of the closest and most loyal allies of the USA in Europe, was threatened with "military measures" because it was host to the ICC at The Hague.

The UN has become a plaything in the hands of the USA. The UN had already lost a lot of its charm almost immediately after its founding, because of the Korean affair. And especially during the 1990's, it lost all its effectiveness since it became a front for the USA. As can be clearly seen from the passage, immediately after 11th September, of resolutions 1368 and 1373 (with which "the war against terrorism" was imposed on all countries) and of resolutions 1441 and 1500 (with which the aggression against Iraq was in a way approved and

the subsequent occupation was legitimised), and the way it debated the reports of the weapons inspectors, the UN has become a theater used by the USA as it pleases.

The neo-inquisitionist attitude of American imperialism, which we have been trying to summarise, has been formulated by means of resolutions approved by the Security Council of the UN (1368 and 1373), the American National Security Strategy Document, the Patriot Act and other similar laws and regulations, a series of speeches and interviews by high level members of the administration, and articles by former members of the administration and members of the academe and the media who are now occupying the position of consultants. These policies are now being applied by all sorts of imperialists, fascists and reactionaries, in Afghanistan and Iraq, in Guantanamo, in the USA, and all over the rest of the world. #

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and the creation of states on petro-monarchical foundations.

The greatest influential development in the region has been the transplantation of the state of Israel. The pirate Jewish nation, artificially transplanted by US imperialism like a dagger thrust into the heart of the region, is a blend of geographic and historical Jewish roots and the survivors of Nazi genocide. Its function, as has quickly been observed, is to serve as the regional gendarme of imperialism. Nearly half a century has passed with its forceful occupations, massacres and aggressions toward the people of the region, most particularly the Palestinians, while its military structure has been developed in a way the likes of which is not found in the whole world. After the Oslo meeting, Israel, which continually occupied land since 1967, started to gradually divide the Palestinian land outside the occupied territories by building a network of roads and Jewish settlements among them.

Along with the fall of Russian social imperialism in 1990, the Middle East has become the main target for the United States and a need has been felt to re-organize the region in parallel with the new balance of powers. In the first step, the areas controlled by Russia were chosen and the prepared plans were put to action. On the one hand, attempts were made to weaken the Palestinian resistance and to pressurize Syria, Jordan and Lebanon; and on the other hand, Iraq was attacked with the excuse of helping out Kuwait (the first Gulf War). In the meantime, the collapse of Iran by internal interventions was planned.

However, a hard rock was hit in Palestine; the "beast" created by the "green belt" project became non-functional in parallel with the collapse of the regime in Russia; and the governments in Arab countries began to experience difficulties (continues to be so presently)²; and as the result of all of these events the plans could not be worked out. This condition would lead to increased violence, pressure and attacks toward the United States. Thus, the state of events indicated that the turning point for putting into operation the plans prepared since the end of the "cold war" had been reached.

At the time of this turning point, the

United States and the whole world witnessed the September 11 event. The propaganda around the "Arabs" and the "Moslems" as being the criminals of this act, together with the concepts of "Terrorism", "Rogue States" and "Weapons of Mass Destruction", turned the attention of the whole world to the region again. The attack on Afghanistan and its occupation were covered up by September 11-El Kaide-Taliban scenarios. Following Afghan occupation, a period of completion of plans and formation of an infrastructure started. The idea was to attack and occupy Iraq, to pressure other "sources of trouble" in the region by threats and internal provocations, and finally, if necessary, to continue with further occupations.

The United States (and Great Britain) took certain steps based on their plans and confidence in their military powers, but found out that "not everything works out exactly the way you expect it will". Not only that they were not able to get the support of Saudi Arabia, their devoted ally, but they also stepped into a marsh in Iraq shortly after the first days of what may be considered an easy occupation. They were met with growing resistance in Iraq; and at the other end, their anti-regime provocations in Iran were unsuccessful. Although it looked as if they were somewhat successful in initiating internal reform movements in Syria, it soon became obvious that these were not going to have an effect on the Syrian regime. More important than all of these, they were unable to put into operation the "road map" project, which was developed to fully eliminate an already passive Arafat and to legalize the occupation of Palestine. In spite of the massacres, destructions and economic sanctions perpetrated by Israel, the Palestine plans failed.

It can be said that the main region to pay the bill for September 11 is the Middle East. In other words, the first targets of US imperialism, supposedly in retaliation to September 11, are various regions of the Middle East. It is for this reason that the Middle East is the center of gravity for acts of aggression against fundamental human rights and freedom, which also take place in all parts of the world. The acts of aggression toward fundamental codes of law, particularly the international law; as well as to common values and wealth of the people

of the world have their source in wrong policies utilized in this region.

Disregard of the basic rights of people and the rights of nations to determine their own destinies, attempts to intervene with internal affairs of nations, violations of national boundaries, use of force and threat, denouncing the rights of nations to defend themselves and legitimization of aggression to prevent "aggression", massacres and assaults on civilians in complete violation of the United Nations Geneva Charter, destruction of underground or other national values, and disregard of the decisions of the United Nations, are all intentional acts to achieve ambitions.

The Middle East operation is the major step of a strategy adopted to capture the whole world, to silence revolutionary, democratic, national and progressive voices, to hinder the progress of other imperialist powers, and to get rid of opponents. Thus, for all these reasons it is of immense importance for the near future of mankind. Obviously, US imperialism will continue to push further if it is successful in its acts of aggression. This thrust forward will not only involve physical gains, but will include legal interventions and alterations in codes of law. The United States is not only on the way to re-divide the world, but is also after creating new laws to legalize its actions.

At this point, the occupation of Iraq and the resistance of the people of Iraq against this occupation indicate that we are at a turning point in the course of events. The one who gets out of this situation with a victory will have gained morale and a chance for the next leap. The resistance of the people of Iraq against the occupation of their land is similar to the struggle of the Palestinians. The success of struggles against the occupations and aggressions experienced in the Middle East will be a boost to morale and provide the means to face up to aggressions directed against all peoples of the world in general, not only by the imperialist United States (and Britain), but by other imperialists as well who have legalized the action of the United States and Britain by changing the United Nations General Council decision Number 1500 (it was known all along that their worry was the investments they had made in Iraq)

If necessary measures are not taken now, the other nations, and particularly those in the

Striker, demonstrator, terrorist

By Raf Jespers
Progress Lawyers Network (Belgium)

(Translated from Belgian original.)

Almost without fanfare, the Lower House approved the anti-terrorism law on 13 November. There was hardly a debate about the law. The “war against terrorism” has apparently succeeded in silencing every critical voice that calls for respect for the basic democratic rights. The Senate has to review the law and will discuss it in the coming weeks.

The new anti-terrorism law is the most important legal attack since the Second World War on every social and political movement opposed to the free market and profit-making. The law goes much farther than just simply fighting terrorism: it includes a category of crimes that can only be distinguished from the political motive of the promoters of this law. It is inconsistent with classical criminal law. “Terrorism” is



such a vague and loaded concept that you cannot invoke to describe a crime, unlike such concepts as “robbery” or “attacks and injuries”. The latter are clear to everyone. Political violence has definitely taken on different names depending on who is talking about this violence.

The first new crime that the law introduces is “terrorist crime”.

The political motive of the promoters the so-called moral element of the crime, is defined too broadly. A terrorist crime “must cause a country or international organization immense damage” and “must be wilfully perpetrated with the purpose of driving a people to extreme fear”, or to force a country or interna-

p. 40 ↩

↩ p.30

Middle East, will have their turn.⁴ In their own words, the initial step in a long-lasting war is important. It is not difficult to predict that the United States will increase its acts of aggression with even more violence and brutality if the struggles continue. However, if it follows this kind of a policy, it is bound to lose even more. The Middle East is awaiting days of more oppression, bloody violence and greater destruction. But those are also going to be days when the people of the Middle East will not only expel the imperialists, but will act with the consciousness that it must dominate over and destroy other similar forces in the region.

NOTES:

1. By the end of 2001 the total petroleum reserves of the Middle East: 685.6 billion barrels. The ratio of these

reserves to total world reserves: 65%

The shares in these reserves: Saudi Arabia: 261 billion barrels; Iraq: 112.25; United Arab Republics: 97.8; Kuwait: 96.5; Iran: 89.7.

Approximate capacity of Iraq: 220 billion barrels.

World petroleum production/day: 74-75 million barrels

OPEC production: 30 million barrels

USA consumption: 19.6 million barrels

European Union consumption: 13.5 million barrels

2. Said Aburiş, The Guardian, 16.05.2003:

“The Saudi Arabian public has been in a state of continuous rebellion for almost a year now which is attributed to the disobedience of the Wahabi group to authorities, to conflicts between tradesmen who belong to the fundamentalist right and those with milder tendencies, to protests by women against Bush and the increasing crime rate... Although the protests come from different sources, all are

anti-regime.”

3. The French Total Fine Elf petroleum company has the authority to develop 25% of the reserves in Iraq.

Russia wants to increase its shares in the region via the Lukoil company. In order to process the rich petroleum reserves in Iraq, the French Total Fine Elf Company has invested 6.9 billion dollars in two different areas, the Russian Lukoil 3.7 billion dollars, the Italian Eni and the Spanish Repsol together 1.9 billion dollars, the English-Dutch monopoly of Shell de Petronas 1 billion dollars. (Der Spiegel with a reference to Times, 43/2002).

4. Wesley Clark, Democratic Party Presidential Candidate, Retired NATO General, 23.09.2003:

“The White House plans to strike Syria, Lebanon, Libya, Somalia and Sudan after Iraq. I gathered this information from a top military authority when I met him in Washington in November 2001.”

The Rising Fascism in Latin America After September 11th

*By Nucleus of People's Lawyers of the
Brazilian Centre of Solidarity to the People*

In 2001 the whole world was shaken by the September 11th events which came to express all the seriousness of the crisis of the world system on the verge of a collapse. Such events have created a historical turn that points to a third world war on the basis of a new and deeper partition of the world through a limitless aggression, genocide and fascism for the people and countries of the Third World.

The campaign that started after September 11th as a "war on terror" was an enormous machination of Yankee imperialism for justifying their imperialist war of aggression, attempting to destroy the revolutionary movement in the whole world. A machination was used as a smokescreen as well to dissimulate the real contradictions the whole system has presently: 1) between the imperialist powers; 2) between nations, oppressed peoples and imperialism and 3) between bourgeoisie and proletariat, besides the existing contradictions between the group of Yankee monopolists and the American people.

Two years have gone by and within this new wave of imperialist plundering war the aggression to Afghanistan, the military victory and the fall of Saddam Hussein have permitted Yankee imperialism to reach the top of a new counter-revolutionary offensive, whose basis is a deep economic crisis and not a capitalist expansion. The United States has settled down an important military basis in the Middle East, and has favoured a larger offensive against the Palestinian people by the genocidal State of Israel. But the situation has not developed in the sense of consolidating this military occupation. The internal divisions of the power group have

deepened and the USA had to make concessions to the other European powers related to Iraq partition.

However, not even the truculence, arrogance and fierceness of the USA have been able to prevent that the Afghan and Iraqi resistance go on harassing, day by day, the invader troops. In spite of limitations on the people's national resistance leadership in Afghanistan and Iraq, because of their theocratic petit-bourgeois or bureaucratic bourgeois character, respectively, the struggle has been marching forward, step by step. It is possible to say that it will spread out all over the Middle East, and, afterwards, in some other regions which will, in the long term, transform themselves into a swamp land in which the USA and their lackeys will inevitably sink.

Latin America: "The people's" governments and the escalating repression after September 11th

Presently the situation is favourable to imperialism, mostly to the Yankee hegemony. However, the development of the world situation under imperialist policy will quickly lead to the general crisis of the system on one hand and on the other, the increase of fascism all over the world as a way of suppressing the oppressed and exploited people's rebellion. This is what has been happening, very quickly, after September 11th.

Under such conditions Latin America, the main basis, will configure itself as the weakest link of the imperialist chain of domination.

In Latin America, the objective of the USA is to lead to the ultimate consequences of the Monroe Doctrine, that is, to have the control and complete colonization of the continent through the

application of the following policies: implanting the Alca (commercial, industrial and technological questions), Amazon militarization (the question of resources monopoly of the region bio-diversity) and the control of the continental straits and some other positions, as for instance the Panama Canal, Cape Horn and the Triple Platine frontier (the question of its regional geo-strategy and geo-policy).

The election of the so-called "people's democratic" governments in several countries as Venezuela, Peru, Ecuador, Chile, Argentina and Brazil, according to this, has coincided with the international counter-revolutionary offensive. Although they have represented the aspirations of millions of Latin people for change, the so-called people's governments of Chaves, Toledo, Gutierrez, Lagos, Kirchner and Lula, among others, have served the interests of the USA in the continent. They do not represent any threat to the system inasmuch as they are part of the system and play the role of giving legitimacy to the old States.

Unemployment, misery, starvation, disrespect to the human rights have increased dramatically as a result of the worsening of the semi-colonial countries' conditions. On the other side, the persecutions and the terror campaigns against people in struggle for their rights have also increased. Based on this it is visible the militarization of the continent. And the structures of the old States actuate in repressing the social fighters and the revolutionaries brutally. The existing laws which formerly respected the social fighters and democratic freedom have been denied while some other laws have been approved to support the increasing repression.

The data on the economic crisis in Latin America are as clear as the evidence of the climbing repression. Around 220 million Latin-Americans live nowadays in poverty, a figure that represents 43.3% of

the continent's population according to Cepal (Economic Commission for Latin America and Caribe). From this total 95 million people (18.85%) are considered indigent. Those rates of poverty and indigence have remained constant since 1997 and in every country the variations have been very small. Exceptions are for Argentina and Uruguay where life conditions of the population have drastically deteriorated in the last years.

The external Uruguayan debt – which was 700 million dollars at the beginning of the military dictatorship – has been transformed into 7 billion dollars with the “return of democracy”, in 1985. And it has now arrived to 16 billion representing 100% of the GNP of the country. In the 90s the unemployment in Uruguay was around 8% and today, according to official data, it has reached 17%, equivalent to 300,000 workers; the figure of the so-called under-employment is from 30 to 40%. It means that 700,000 workers – representing half of the economically active population in Uruguay – are facing serious employment troubles.

In the urban area of Argentina, the poverty rate has nearly doubled, from 23.7% to 45.4%, while indigence has multiplied by three., from 6.7% to 20.9%. Kirchner, a Peron follower, elected president as a second chosen (16.8%), has adopted a national populist speech, for acquiring credibility and for trying to maintain the rotten status quo. In spite of his bombastic initial declarations, he committed himself to pay the fraudulent external debt which will increase hunger and starvation in Argentina. His trips to USA show his involvement with the Bush government, the bankers and the Yankee monopolies. Presently, the Argentine people are on the streets in pugnacious fight, and the data about it shows that around 4,000 Argentine protesters have been arrested and sued for struggling against misery.

In Ecuador, Col. Lúcio Gutierrez – elected with the support of indigenous people from the Pachakutik movement and CONAIE, together with other people's forces – continues applying the same pro-imperialist policies and is sinking the country in a serious economic crisis. Among many measures

against the people, Gutierrez wants to enlarge the working-hours from 40 to 44 week hours, reducing salaries and finishing with other worker's rights. But the Ecuadorian young people, teachers and peasants are on the streets struggling for their rights while the crisis sharpens and it may take to serious confrontations between the exploited population and the repressive State apparatus.

In Venezuela, unemployment and misery rise. The people resist the attempt of domination by the USA, which has its greedy eyes on the huge existing oil reserves in the Venezuelan subsoil. However, president Hugo Chavez has donated to the North American monopolies two natural gas reserves and, as a solution for the recent political crises in the country, made a non-violence agreement with the local reactionaries which means disarming the people,

In the North American plans for Latin America, Colombia plays a specific role since under the pretext of combating the “narco-guerrilla”, the US increases its preparation for a military intervention in the continent as a way of guaranteeing its control and hegemony on the whole region.

politically, morally and militarily.

In Peru, the economic, social and political crisis have deepened, according to the disputes between the ruling classes which has intensified. The so-called Commission for Truth and Conciliation, used by the Alejandro Toledo government for trying to create bounds with his political adversaries (political mafias, mostly the groups of Fujimori/Montesinos and Alan Pez), is the continuation of Yankee monitoring of the “Low Intensity War” for concealing the hideous crimes done by the Death Squads and State terrorism so that they keep

fighting the people's war in the attempt to save the Peruvian State in farther disintegration. Misery and hunger have taken people to the streets for fighting for their rights. The government has declared a State of Emergency in several areas of the country. In the meantime, the Peruvian dungeons are becoming crowded: there are more than 4,000 political and war prisoners, living in subhuman conditions, sued by the “faceless judges” courts.

In Bolivia, the poorest country in South America, the people's insurrection against misery and Yankee domination has brought to the streets thousands of peasants, workers and students provoking the fall of president Sanchez de Louzada. Fierce struggles left more than 90 people murdered, hundreds wounded and arrested. After one month and half of rebellion and confrontation with the violent State repression, the Bolivian people's resistance against the pro-imperialist policy proceeds, now under the government of Carlos Mesa. The new president is not going to solve the enormous crisis in Bolivia, much less face the Yankee interests in the country. New conflicts are bound to happen.

In the North American plans for Latin America, Colombia plays a specific role since, under the pretext of combating the “narco-guerrilla”, the US increases its preparation for a military intervention in the continent as a way of guaranteeing its control and hegemony on the whole region. Alvaro Uribe's election has perfectly fit their sinister plans for domination at any cost.

Because of that, many defenders of people's rights have been under death threat after the denouncement by Uribe of their being supposedly linked to the Colombian so-called terrorist organizations. Such an accusation has worked as a password for the action of paramilitary groups that owe their existence to Uribe himself, who tried to “legalise them” as a governor of Antioquia (1995-1997). In accordance with international Amnesty, in 2002 only, more than 170 unionists were murdered. The guerrilla faces, presently, a strong pressure which increases with an inevitable USA intervention together with the Brazilian reactionary Armed Forces actions along the

Brazilian-Colombian frontiers.

Brazil's weight and the role played by Luís Inácio

As a direct consequence of this general counter-revolutionary offensive, Luís Inácio Lula da Silva, after some months of managing the old State, keeps serving the imperialist project, mostly North-American. After the "*Cuzco Consensus*" he became the spokesman of Bush in Latin America carrying out the role of selling out the "big land" and its people. Strictly speaking, he is ready to repress, by all means, the Brazilian people who rises in struggle in the countryside and in the cities.

During his speech in the UN (09/23/2003) Luís Inácio proved to be in tune with the general strategy of the USA performed after September 11. Reiterating his deep rejection of all forms of terrorism, he has supported the making of a comprehensive convention about the theme and has defended the judiciary and financing police co-operation in the repression of "eventual terrorist group associating with any criminal organizations".

Brazil has already ratified nine out of twelve agreements pertaining to terrorism, negotiated in the UN, of the Specialised Agencies and of AIEA (International Agency of Atomic Energy). And it has been co-operating with the Inter-American Committee against Terrorism of OAS (Organization of American States), with the Group of Financial Action form South America and with the Group of Special Work On Terrorism in Mercosul. And more, Brazil has implemented all resolutions of the Security Council about the issue, in special the 1373, which foresees comprehensive measures for restraining the activities classified as "terrorist". All of this guaranteeing the so-called "respect to the legality and to the State of Law". For emphasising this role it has already performed, in co-operation with the repressive Peruvian forces, in an episode in the news as being a guerrilla assault to the camping of the enterprise Techint, when a Brazilian aircraft and a specialised team in control and electronic

detection were displayed for localising the guerrilla positions (*Isto É magazine*, 09/24/93). And also in Bolivia, where Lula has worked with Kirchner with the intention of guaranteeing a favourable way out to the Yankees in the recent conflicts.

Domestically, the situation in Brazil has aggravated, although all the propaganda shows excellent indexes in the economic performance. But unlike before when members of the government used to promise a "*show of development*" they have now admitted the Brazilian economy will not grow as much in 2003. The figures are crystal clear as to the

After the "*Cuzco Consensus*", Lula became the spokesman of Bush in Latin America carrying out the role of selling out the "big land" and its people. Strictly speaking, he is ready to repress, by all means, the Brazilian people who rises in struggle in the countryside and in the cities.

deepening of the crisis. Unemployment has reached, according to the government indexes, the recording rate of 13% per month. Only in the city of São Paulo, the largest industrial and economic centre of the country, unemployment has reached 20%.

In accordance with this, Luís Inácio's government has been working hard to approve the "*reforms*" package which are essentially counter reforms imposed by imperialism sold to the public opinion as reforms in behalf of the country and people. The so-called social-welfare, tributary, judiciary and labourite "*reforms*" have, all of them, the same goal: to raise funds to pay the commitments with IMF, increase the exploitation rate to the workers and end up their last rights.

Politically, Luís Inácio's government

wants to hide the social crisis that increases, but different sectors of the poor masses have already been organising and putting themselves into action. Land occupations have intensified as well as the struggle for housing in the large and medium urban centres. In the countryside the explosive situation confirms the main contradiction, in Brazil, of landlords and poor peasants. Land occupations have been happening all over the country as a result of the brutal impoverishment of the peasant masses.

In the middle of the rising repression with the criminalization of the people's struggles, persecutions, prisons and convictions of the people's leaderships, the peasant movement faces an internal struggle between the revolutionary and reformist road. Among this dispute, it exists from the part of the government and from the leadership of MST (Landless Movement) a gamble not very different from the period of Fernando Henrique Cardoso; and everything has been done for trivializing and hiding the seriousness of the situation in the countryside, specifically, but in the rest of the country as well. The national leadership of MST insists in giving false hopes to the peasants and the radicalised masses, proposing to them to sit at the table of negotiation with Luís Inácio's government. It is the policy of giving him credit instead of combating his pro-imperialist policies, instead of combating him completely as the management of a State which historically has been crushing and oppressing the poor peasants for maintaining them in ruin and in misery. Recently the main leader of MST has censured the decision of the peasants to respond the landlords' armed aggressions and has publicly attacked the more radical sectors of the movement calling for an unrestricted support to the present government (*Tribuna da Imprensa newspaper*, October, 2003).

From its side, the government uses shrewdness to answer to the landlords' and to the communication monopolies' pressures. They give a speech defending the legal order, saying they are going to try to identify the landlord criminals who have been killing with starvation and bullets the poor people and attacking the peasant movement that does not submit to them.

But they do nothing against the landlords that shamelessly make public threats and show of their armed militias on television.

A wave of provocation has been put in place with the objective of preparing “public opinion” in favor of more repression, more arrests of leaders and slaughtering of the poor in Brazil. And the aim is to intimidate those who are fighting for their rights. However, in spite of difficulties in this period of the counter-revolutionary offensive, its basis is decomposing. The systemic crisis of the Brazilian State and of the established order is really enormous. It is not possible to appease the masses who suffer from such extreme misery and who demand work, bread, freedom, justice and democracy.

Persecutions, arrests and murders in the countryside

A recent report from the Land Pastoral Commission (CPT – Comissão Pastoral da Terra) has disclosed the dramatic reality of the violence in the countryside in Brazil: among the 214 conflicts registered in the countryside, between 1995 and 2002, 278 poor peasants, landless people and rural unionist leaders were murdered. And out of this total only 6 cases have been tried. That means that only 2.8% of the 214 conflicts have been concluded by the Brazilian Justice. The others are still in procedure, as inquiries or lawsuits. In the completed cases, 165 acquittals have occurred and 163 out of them were of military policemen accused of 11 deaths in the Corumbiara resistance, Rondônia State, in August 1995, and of 19 deaths in the massacre of Eldorado dos Carajás, Pará State, north of the country, in April 1996. According to the report, in 2002, 43 murders of peasants happened, a number that has already been surpassed in the period of January to August 2003, when there were 44 peasants murdered. The current monthly murder average is of 5.5%, the largest percentage since 1990.

In Rondônia state, Amazon western area, since July 2003, several occurrences confirm this rise in

repression in Latin America and Brazil. The violence against the social movements has been increasing as an attempt to stop hundreds of land invasions that have been happening on the whole area. The police, the Justice, the INCRA (National Institute for Colonization and Agrarian Reform) and the press have launched a violent terror campaign against the poor people who struggle for the land. The office of the Poor Peasant League and several houses of peasants were invaded and plundered by the police; more than 40 persons, among leaders and peasants, have been arrested and a lot of them are under a warrant of arrest; 2 peasants were murdered.

Moreover, the peoples’ lawyer, Ermógenes Jacinto de Souza, lawyer of the Poor Peasant League of Rondônia, was prevented from having access to his imprisoned clients. Although being a lawyer, acting as a lawyer, he was barred at the entrance hall of the police station and not permitted to talk to the peasants he represented; in the meantime the police made available the entrance of some gunmen and took them personally to the room where the imprisoned peasants were so that they could identify and threaten them.

Ermógenes Jacinto has also been a victim of persecution and calumnies by the police and the press and has been suffering constant death threats. Without presenting any proof, Major Eneidy, the military commander of Rondônia, slandered the lawyer on a TV news report (ROTV, Rede Globo) and recently on the newspaper *Diário da Amazônia* (08/24/03), claiming that the lawyer had been inciting the peasants of São Bento settlement to use violence. According to the document exposed by the Poor Peasant League of Rondônia (LCO/RO), at a meeting, Ermógenes “had only explained the kind of services he would render and signed a contract with them”.

José Rainha, a MST leader (Landless Poor Movement) of Pontal do Paranapanema, northeast of São Paulo state, was arrested, charged with illegal possession of weapon and criminal association. Sentenced to a 6 years and 8 months prison term, he was transferred to

a maximum security penitentiary. With him was imprisoned another MST leader, Felinto Procópio. José Rainha’s brother, Roberto Rainha, was also accused of criminal association and is being hunted by the police. José Rainha’s wife, Diolinda Alves de Souza, was arrested on September 10 at home in front of her children. She and some other 10 MST participants had also been condemned to 2 years prison for criminal association and land invasion.

With the arrests of Caco, Joel, Valmir and Russo, all of them leaders and activists of the Poor Peasant League, Rondônia state, last July 26, on the false charge of involvement with the murder of a gunman who worked in the area, the number of imprisoned people in Brazil in the “peoples’ democracy” of Luís Inácio’s government has increased legion.

Besides the legislation that has been attributed the crime of “criminal association” to the peasants involved in land appropriation in Brazil, the National Security Law has been maintained. This law was sanctioned on December 1983, the final period of the military dictatorship with the objective of criminalizing the people’s movement and punishing its leadership under supposed political crimes. And now, Luís Inácio’s government proposes the Statutes of Disarmament, restricting the possession of weapons only to official authorities and qualifying as unbailable the crime of illegal possession of weapons.

But the repression and its escalation in all Latin America has not weakened either the social fighters or the revolutionaries. On the contrary, it has inspired the spirit on untameable struggle and released a new moral, pointing out to the real perspective of the power of the masses. The opportunists, with their demagogical speeches in defense of “human rights”, do not deceive the people that have already identified them as their new hangmen in the service of the ruling classes and imperialism. The “democratic” veil – that nowadays covers the rise of fascism in Peru, Colombia and that has been developing in Brazil and in other countries in Latin America – will be torn up when imperialism, together with local reaction will try to stop the people’s just struggle for their rights. Nothing can deter the people. This poses a direct and serious threat to the interests of survival of Yankee imperialism in Latin America. #

Preliminary Report of the Fact Finding Mission of the International Association of People's Lawyers January 23-27, 2004.

Introduction

An international fact finding mission has just completed a tour of Andhra Pradesh. The fact finding mission was carried out by the International Association of People's Lawyers (IAPL). IAPL is an organisation comprised of lawyers and other workers from many countries in defence of people's civil and democratic rights.

The fact finding team included people from the Philippines, Belgium, Turkey, New Zealand and Canada. It was documented by a journalist from the United States.

The team was investigating allegations of violations of civil and democratic rights in the state of Andhra Pradesh. We met various victims, witnesses and relatives of victims throughout the region, speaking with many people and hearing their first hand stories. We met with Indian lawyers of different bar associations of the districts of Guntur and Krishna and discussed with them the situation of Human Rights and their attempts to get legal redress in these areas.

Some of the members of the fact finding team are here to present a preliminary report. A comprehensive report will be released at a later date.

Preliminary Findings:

With the aim of learning about the situation of the people of Andhra Pradesh, the group divided itself into two teams and toured the districts of Warangal,

Mahabubnagar, Guntur and the cities of Hyderabad and Vijayawada to gather information an evidence concerning the allegations of civil rights violations by the police and by private groups operating with police support. The teams spoke to a large number of people, victims as well as witnesses of



Fact-finding team interviewing a torture victim in hospital

such violations. What follows is a preliminary report of the findings of the teams. A more detailed report will be published in due course.

We find it convenient to categorise the incidents of civil rights violations into a few headings. Under each heading we will give brief details of the incidents we could gather information about, with emphasis on the reasons for arriving at the conclusions we draw.

1.) Extra-judicial executions. Indian law as well as international law prohibit the taking of life except by a procedure sanctioned by law. Killing, especially by State forces, without the authority of law is described as extra-judicial execution. High incidence of extra-judicial executions is one of the complaints about Andhra Pradesh that the team had heard of before taking up the investigation. We were able to obtain information about a few cases of extra-judicial executions.

Madunamma of Shyamnagar, Warangal district, told of her elder son Devender being taken away by the police in her presence in the early hours of

16/9/2003 and later declared to have died in an 'encounter' with the police. She told us that her son had hurt himself at work that evening and had taken an injection to prevent infection. He had then gone to sleep. At about 3:00 am, plain clothes policemen with weapons, of whom she recognised one by name, came and persuaded her that they would take Devender to talk for a few minutes with their officer who was outside the village. So saying, they took her son away. The next morning Madunamma went around to three police stations before she came to know that her son had been killed along with two others in what the police called an 'encounter.' We are told that the local doctor who gave Devender the injection confirmed the version of Madunamma. It is clear that if the young man was already in the custody of the police, he could not have had an exchange of fire with them.

Ravi of Torur, Warangal district, told us of the killing of his brother Ilaiah by the police on 35/12/2001. Ilaiah, a dalit, was a cardiac patient and had applied to the State Government's Social Welfare Department for a loan to finance

a heart operation. On the evening of 24/12/2001, two men came to Ilaiah on a motorcycle and told him that the loan was waiting for him. They made him sit between them on the motorcycle. As they sped away past the Guest house without stopping, Ilaiah shouted but nobody could help him. He was seen by the people being put in a jeep and taken away. The police later claimed that he died in an 'encounter'. It is the opinion of this team that when there are eyewitnesses who have seen him being taken into custody and taken away, there can be no question of any subsequent exchange of fire with the police.

The tribals Banavat Bheemudu Naik, Banavat Babu Naik and Wakdatvat Chinna Naik of Bodipalem in Guntur district were taken into custody by the police on 5/1/2003. The widows told the team that the relatives and family members of the three persons went to Vinukonda police station and asked the police why they have arrested the three persons. The police said they would be released the next day. Satisfied with the answer, the people went away. But the police took them out and shot them dead on 6/1/2003, describing them as naxalites, and claiming that they had died in an 'encounter' with the police. Inasmuch as a large number of people had seen them when the police arrested them, there is no question of any 'encounter' having taken place between them and the police.

We were told by villagers that Koumidi and his wife Latha were arrested on the 22nd of October, 2003. The police brought them to Ipuru P.S. limits near Venkata Reddy Puram Thanda hillocks. They were tortured and killed on October 24th by the Special Task Police. Nearby villagers report hearing the gunshots.

We found evidence to believe that extra-judicial executions are not confined to activists or sympathisers of naxalite groups. At Vijayawada we heard from witnesses of the cold blooded killing of two crime suspects Pilli Durga Prasad and Kodeboyina Srinivasa Rao Budda Sathan by the

police. Sathan was killed inside the police station at Governorpet in Vijayawada on 14/7/2002, after his arrest was recorded by a Magistrate. Witnesses told us of how a witness of that killing, T. Babu Rao, was abducted by the police in the last week of December 2003 and forced at gunpoint to retract from his earlier statement in the case, and to accuse the lawyers of Sathan of forcing him to give evidence. Babu Rao's detailed narration of how the police forced him to do all this has been recorded by the High Court of Andhra Pradesh in the habeas corpus petition filed by his wife for his release. The members of the family of Durgaprasad told us that on 26th June 2002, Dinga Prasad was shot dead by Machavaram Sub Inspector. Durga Prasad, pilli Prasad, a prisoner still in custody, was said to have escaped from the prison.

The mother of Prasad told the team that the escape was false. He was shot dead by the police while in custody.

2.) Brutal methods of torture. Victims of torture spoke to us of the very painful methods of torture employed by the Andhra Pradesh police. Two such witnesses whom we met at Warangal demonstrated what are described as 'roller treatment' and 'aeroplane treatment.' In the former, the victim is made to lie on his belly. A thick roller is placed behind the knee joints and his legs are folded over it. The legs are pressed hard so that the full pressure of the roller is felt most painfully and simultaneously the head is pulled up by the hair. In this position the victim is thrashed hard with sticks. A person who suffered this treatment for one day in the year 2000 is still taking medical treatment for the injury caused. In "Aeroplane treatment" the hands are tied behind the back with the wrists joined together, and then the rope holding the wrists together is pulled up over the head and with the

arms raised above in a painfully twisted posture the victim is suspended from the roof and thrashed with sticks. Both the victims spoke of being given electric shocks as a form of torture. We have no reason to disbelieve the two witnesses, who continuously expressed apprehension that they would suffer again at the hands of the police for talking to us. Apart from such torture being most brutal, torture per se as a method of investigation is outlawed in international law and Indian law as well.

Rape is a form of torture. In Guntur district we talked to Anjamma, who told us that along with two other Mangamma, Edamma, were taken by the police and abused by them. The police then raped them on the 26th of September 2003 in the fields of Batukulapaya Thanda. She told that the police tortured them to reveal the whereabouts of naxalites. When the victim denied links with the naxalites, they were humiliated and taken to Macherla police station and later to the Superintendent of police at Guntur. They were released after four days. The victim has narrated the consequences of rape. The proposal of marriage was cancelled. The relatives abandoned them. Now it is very difficult to eke her livelihood. In Indian law rape in police custody and gang rape not only attract more serious punishment, but in such offenses the burden of proof partly shifts on to the accused. In spite of that, no policeman has been identified or prosecuted for this outrage.

At Warangal we were told that the Inspector of Police, Hanumakonda, has invented a regime of surveillance by



Torture victim demonstrating the "roller treatment"

which the persons he has listed out to have to attend the police station every Sunday to mark their attendance. Indian law does not permit such power to the police but only to the Courts, but without any order from a Court of law, this officer is enforcing such attendance for more than two years now. One of the victims spoke to us and explained that the effect of this enforced weekly attendance is that the person so directed will abide by the Charter of conduct prescribed by the Police Officer in the meanwhile. A person forced to resign from an organization and made to attend the Police Station every Sunday thereafter will keep himself strictly away from the activities of that organization for fear of what may happen when he goes to the Police Station.

We met the villagers of Gummanam Padu of Guntur district who have been implicated in robbery and decoity cases. In fact, the villagers told us that Peoples War Party had organized a famine raid in the same village on 18th/19th of August, 2002. The police came to the village and searched the houses and seized the grain and arrested the villagers. A case had been filed on 117 persons charging criminal cases under several sections of IPC. They told us that they are not responsible for the famine raid. But, because of serious drought conditions some of the

villagers might have received the grain. The police are harassing them by foisting cases.

The villagers of Pamidipadu of Guntur District, Devasahayam, Gabriel and others, told the team that they were arrested on 14/4/2003 in connection with a bank robbery case. In fact, the robbery was committed by the People's War Party. The bank was 35 K away from the village. They had not participated in the raid.

Further they told us that in all actions committed by the PW in the area, the villagers were implicated in those cases. They deny involvement. Now there are 16 criminal cases filed against them.

3.) Forcing persons to give up lawful social/political activity. We met a number of persons who told us how they had been forced at the point of severe torture to give up their activity which was entirely legal. The former President of Andhra Pradesh Civil Liberties Committee (APCLC), Warangal, Mr. Suresh, narrated how he was detained by the police and tortured with 'roller treatment' and electric shocks to resign from the organisation. He finally succumbed to the pressure when they also threatened to implicate his wife and son as associates of the People's War. Mr. Kattaiah of the Ambedkar Youth Association, resident of Warangal, told us of the Struggle Committee

for Justice formed in that district by the coming together of dalit, women's, tribal and civil rights groups to take up agitation against injustice to a vulnerable section of the populations. He told us how the police had broken the Committee by arresting the husbands of six women members, tortured them and threatened them that if their wives did not leave the Committee both husband and wife would be charged with aiding and abetting the People's War. Most of the organizations, Mr. Kattaiah pointed out, do not even see eye to eye ideologically with the People's War, and yet that bogey came in handy to the police to silence the Committee.

The Democratic Teachers Federation, whose officer-bearers we met at Hyderabad, have submitted a very detailed note giving instances of how its members were arrested, tortured and forced to resign from the organisation, in the districts of Adilabad, Mahabubnagar, Warangal and Karimnagar.

In Warangal we were told of Trade Union and Agricultural Labour Union activists who are working entirely within the legal sphere being muzzled by the police by framing charges against them of associating with aiding naxalites. The office bearers of the Union at the big factory of A.P. Rayons at Kamalapur recounted how the police had raided their houses and charged with collecting funds for the naxalites and supplying explosives to them.



It appears from these accounts that the police are systematically using the bogey of naxalism to curb a wide range of totally legal and legitimate activity.

4.) Killings, assaults and threats by private criminal gangs. A very major complaint we heard about the civil rights situation in Andhra Pradesh was that some private groups or gangs of surrendered naxalites were operating in the State, killing, assaulting, abducting and threatening people working in various democratic organizations at will, with the connivance of the police. We found ample evidence for this in all the places we visited. A number of outfits/ individuals describing themselves as 'Tigers' of various kinds appear to be operating in the State, threatening and assaulting activists of democratic organizations.

We met the mother of Belli Lalitha in Hyderabad. She told the team that her daughter was brutally killed by the criminal gangs on May 26, 1999. The body was cut into pieces and thrown in parts into various wells in the region. Even now, the family members are insecure and leading a miserable life.

At Hyderabad, we met with Ms. Jyothi, who told us of the murder of her husband Purushotham, a senior office-bearer of A.P.C.L.C., who was hacked to death in broad daylight in the State's capital. We met with Dr. Laxman, formerly President of A.P.C.L.C., who narrated the nerve-racking tale of his abduction and torture on November 6, 2003 by a gang claiming to be 'Tirumala Tigers.' He was put to severe torture and threatened with murder if he did not resign from A.P.C.L.C. He later resigned from the position of President of A.P.C.L.C., though he continues to be a member of the organisation. We met with the very popular cultural artist Gaddar who told of the attempt on his life on April 6, 1997 by persons claiming to be 'Green Tigers.' Dr. B. Ramulu of the Human Rights Forum (H.R.F.), Warangal told us of the telephone calls he had been getting in the name of "Green Tigers" threatening him of dire consequences if he does not give up his activity as an activist of

H.R.F. Gaddar gave a long list of such threatening telephone calls. We were informed by all the persons and organisations concerned that the attacks and threats made by these various 'Tigers' have been repeatedly brought to the notice of the higher echelons of the police administration and the Government of the State as well as the National Human Rights commission, but not a single such 'Tiger' has been arrested or even identified by the police till now.

In Guntur we met Mr. P. Raja Rao, Mr. Ch. Chandrasekhar and Mr. Murthy of the A.P.C.L.C. who told us of how they have been threatened by the 'Palnadu Tigers' over the telephone that if they do not stop their civil rights activity they will be killed. They told us how the houses of Mr. Murthy and Mr. Chandrasekhar were raided in the early hours of the 14th of October 2003. by some persons claiming to be Palnadu Tigers, causing terror to their families. In spite of the high court intervention to protect the life of the lawyers, still the attacks and threats are continuing.

The team met Uppu Krishna, who is now the convener of Martyrs Family Committee at Piduguralla. He told the team that because of bringing together the victims families his house was ransacked and he was beaten by the so-called Palnadu Tigers.

At Mahabubnagar we met and talked to Biccha Reddy of the A.P.C.L.C., who is only just now re-

covering from the trauma of being hit by a car in an apparent accident on November 11, 2003. He was hospitalised with severe loss of blood and multiple fractures and has luckily survived. The suspicion that this incident was not an accident but a deliberate attempts to run him over is supported by three circumstances: one, the car which ran him over has a false registration; tow, it has since been abandoned and lies unclaimed; and three, in the course of telephone threats to other persons including Dr. Ramulu of Warangal, the caller has said 'what happened to Biccha Reddy of Mahabubnagar will happen to you.'

Preliminary Conclusions

The majority of the people of Andhra Pradesh live in extremely harsh economic and social conditions. We witnessed a strong will from the people to struggle for better living conditions.

Extra-judicial executions, brutal methods of torture, the prevention of legal social and political activity by the police and assaults and threats by organised private criminal gangs for the purpose of silencing the people must be stopped.

The IAPL fact finding mission firmly condemns the numerous human rights violations described to us by victims, relatives of victims and witnesses and as summarised in the above preliminary report. #



Members of fact-finding team mingling with the local people.

International Association of People's Lawyers

tional organization into negotiation, or to undermine or destroy the political, constitutional, economic or social structures of a country or international organization”.

Workers' and people's organizations or political parties with an anti-imperialist platform are threatened to be included, because concepts such as “serious damage” and “undermining basic structures” are open to interpretation. A general strike against a government policy, mobilizations of anti-globalization, or those of the port workers who are protesting against the lack of protection from the European Union, are no longer guaranteed. Do I see ghosts? In the United Kingdom, Thatcher used the anti-terrorism law against the miners' strike in the '80s. And Turkey wanted to include *Doctors Without Borders* in its terrorist list because the latter was giving medical care to the Kurds.

The law introduces an uncontrollable concept that will give rise to political abuse. Let us not forget that the Nazi occupiers attached the word terrorist to the political prisoners in Bredonk.

A host of acts are sure to be labelled a terrorist crime. It becomes clear that there is more to it than how terror has been defined in the criminal law in the last two centuries. It is totally not about the “classical” terrorist acts like bomb attacks, killing of political opponents, kidnapping of diplomats or hijacking. All possible violent acts are being envisioned, even simple attacks or injuries. The European policy framework, which is the basis of this Belgian law, literally talks about “state violence”. It is striking that large-scale destruction or damage to, for example, buildings, sluices, railways, work places, machines used for the production or distribution of electricity, gas and the like are also included. Also the destruction or sabotage of infrastructure, transport system (metro, tram, bus), public or private property, disruption of electric supply or other utilities are in the list. Even a

threat is included in the list of punishable crimes.

A broad scale of actions can thus be defined via the anti-terrorism law. Just imagine a strike in the power sector wherein electricity goes out and there are some injuries because traffic signs are not working.

The law does not intend to put a limitation or hindrance to rights and fundamental freedoms, so it says. But in practice, who is going to determine the line between terrorism and right to expression? If a demonstration is being dispersed, how do you explain to the anti-riot police that it is all about freedom of expression?

The introduction of the second new crime “terrorist group” makes the law much more dangerous. Especially because everyone who is part of this terrorist group, or group that gives data, material or financial resources to this group, falls under this crime. Consequently, all solidarity to the liberation movements in the third world is put under pressure. For some time now the European Union has been working on that so-called list of terrorist organizations. It is curious that included in the list are several liberation movements that are waging guerrilla struggle against the power of big landlords, against neo-colonialism. These groups include the New People's Army (NPA) in the Philippines, the People's Front for the Liberation of Palestine, the FARC in Colombia, the Maoist guerrilla movement in Nepal, etc. An individual like Professor J.M. Sison of the Philippines is also tagged as terrorist in the list. These movements say that they are waging a legitimate struggle for social and national liberation. They are comparable to the ANC of Nelson Mandela in South Africa, which also launched an armed struggle against the apartheid regime and which was also branded then as terrorist. The new law appears to make it impossible for every solidarity work in Belgium because they are being equated to extending support to terrorism.

This is definitely going beyond fighting the terrorist acts such as the September 11 attacks.

Last July experts from the Human Rights Commission of the United Nations in Geneva warned against the “increasing threat against human rights” and for “the danger of the broad use of the term terrorism”. In 2002, 200 European lawyers, magistrates and jurists signed an appeal wherein they expressed their apprehensions over the European framework to fight terrorism. They pointed to the danger of this policy framework to the basic democratic rights of the citizens. And it is precisely this policy that is being literally adopted by the Belgian law.

Telephone tapping and other extraordinary intelligence methods (infiltration, observation...) also fall under terrorism. I'm afraid that this opens the door for provocation. From the record of the ALF (Animal Liberation Front) in 1998-1999, it has been apparent that a police-infiltrator tried in vain to suggest to an ALF member to deliver semtex, an explosive used to manufacture bombs. The former justice minister at that time called the ALF the epitome of a terrorist organization.

Belgian parliamentarians are hiding behind the argument that there exists a moral obligation to implement this European policy framework in Belgium. That is probably so, but there follows no single sanction if it is not implemented. The moral obligation to interpret it as implementation would definitely render the lawmaking body (of the country) powerless. This European policy framework is an undemocratic dictate from the European Union. It is inspired by the security and intelligence services that operate without any semblance of democratic control. The Belgian parliament should assume its responsibility and should not hide behind a European dictate.

No one disputes that real terrorism should be confronted. But the present Belgian jurisprudence already contains enough articles that make real terrorism punishable with the heaviest punishment as life imprisonment. The Senate has discussed the new law and they can better throw it to the garbage bin. It has been pointed out that an intensive debate about this very sensitive issue should take place. #