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THREATS TO PRESS FREEDOMS

A Report Prepared for the Free Media Seminar Commission on Security and Cooperation in Europe

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INTRODUCTION

The Free Media Seminar of the Commission on Security and Cooperation in Europe is taking place at a critical time. First, because developments throughout the region suggest that protection for media freedoms fall well short of international standards. Second, because there are disturbing signs of erosion for universal free expression protections on the part of international and continental bodies that should be insisting on bedrock protections for freedom of the press.

Helsinki Watch, which since 1978 has monitored the state of human rights in many of the nations that signed the Helsinki Final Act, has in recent months published reports or conducted investigations in the countries listed above. We summarize our findings in the sections that follow. We do not claim that this is a comprehensive or exhaustive listing of curbs on media freedom in CSCE countries, or even in the countries we have included in this report. But a number of disturbing developments have emerged:

- In the new democracies of Eastern Europe, the initial euphoria of freedom has given way to crude attempts to control the press -- often relying on discredited Communist-era laws -- and battles for control of state radio and television media;

- In the former republics of the Soviet Union and Yugoslavia, newspapers have been shut down or taken over by the government, members of the opposition are harassed and imprisoned, and ethnic conflict has been stoked by government-controlled media;

- In Turkey, 16 journalists have been killed since September 1992, and no one has been arrested and charged in any of these killings;

- Serious constraints on freedom of expression persist in more established democracies like Britain, where the press is chilled by onerous libel and official secrets laws, and Greece, where numerous anti-nationalist activists have been prosecuted for publishing leaflets and posters.

Disturbing Signs

In the face of these developments, international and regional bodies charged with protecting human rights should redouble their efforts to assure that media freedom guarantees are respected. Yet at the World Conference on Human Rights in Vienna this June, delegates approved language that encouraged press freedom "within the framework of national law" -- a troubling step back from the International Covenant on Civil and Political Rights, which imposes strict limits on the extent to which national law can restrict press freedom. And in July, the Council of Europe issued a declaration on journalistic "ethics" that emphasized media "responsibility" over media freedom, calling for the development of a "European mechanism for "information verification," for the creation of "citizens' media associations," and in general setting forth standards for media content and professional performance that are not properly the province of government.

Recommendations

We strongly urge the Free Media Seminar to move in a sharply different direction by reiterating basic freedom of expression principles throughout the region. Specifically, we call for:

- the repeal of laws that penalize the press, particularly those that make it a crime to criticize government officials;

- the adoption of measures to protect the physical safety of journalists, and prompt and thorough investigation and prosecution of those responsible for acts of violence and intimidation;

- the end of government monopolies on television and radio broadcasting;

- the enactment of laws and regulations that assure the editorial independence of state-funded media, and the non-political allocation of private broadcast frequencies.

CROATIA

Since assuming power in 1990, the government of Croatian President Franjo Tudjman has taken steps to assume greater control over publicly-owned media forms and to suppress the independent press.[1] Moreover, the government-owned media is used as a vehicle through which Tudjman's government and the ruling political party, the Croatian Democratic Union (Hrvatska Demokratska Zajednica - HDZ) exacerbate rather than ammeliorate inter-ethnic tensions and hatreds.[2]

Although approximately 50 percent of the media in Croatia is privately owned, the main forms of mass media either are government-owned or are in the process of being "reprivatized" or "restructured." However, the Croatian government is using economic insolvency, "reprivatization" and "restructuring" as excuses to close publications for political reasons. Large-scale layoffs have been taking place at many government-owned media enterprises and Helsinki Watch is concerned that fear of losing one's job has resulted in self-censorship by journalists employed at such enterprises.

In addition to direct and indirect government interference in the management and editorial policies of a media source, government-owned publishing houses have refused to print, and government-owned distribution companies have refused to distribute, publications critical of the government or the ruling political party, the HDZ. Indeed, the government holds a virtual printing and distribution monopoly in Croatia. Vjesnik and Slobodna Dalmacija are the major newspaper publishing houses in Croatia and both are controlled by the government. Similarly, approximately 75 percent of all newspaper kiosks in Croatia are owned by the government-operated Vjesnik publishing house. The remaining 15 percent are owned by Duhan, a tobacco company. A small percentage of kiosks is operated by private entrepeneurs but most such independently-owned kiosks are located in Zagreb.

Press Laws and Other Applicable Regulations

Croatia's Vice-President and the Minister of Culture and Education have recently proposed that a media law from the communist era be considered in Croatia. The proposed law would protect from slander the country's president, the president of the parliament, the prime minister and the president of the constitutional court. Helsinki Watch believes that such a law would criminalize speech against the country's most powerful government officials and would have a chilling effect on the media, effectively barring all criticism of such officials.

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[1] Helsinki Watch has reported on restrictions on press freedoms in two separate letters to Croatian president Franjo Tudjman on February 13, 1992, and May 22, 1992.

[2] The government-controlled media in Yugoslavia, particularly in Serbia, and in Bosnia-Hercegovina also is manipulated by the respective governments and warring factions to foment inter-ethnic animosities and tension.

Currently, domestic criticism of such a proposal within Croatia has diminished the possibility that such a bill would be introduced in the country's parliament. Nevertheless, such recommendations by high-ranking Croatian government officials reinforce the view that the government is trying to stifle criticism of its policies or members.

Broadcast Media

The main source of information in Croatia is the state-owned and controlled Croatian Radio and Television company. The director of Television, Anton Vrdoljak, is elected by parliament. On many occasions, the news is presented in ways which exacerbate rather than ammeliorate inter-ethnic strife and discrimination (e.g., exaggerating abuses perpetrated against Croats by Serbian or Muslim forces; diminishing or not reporting abuses perpetrated by Croatian troops; etc.). Also, Croatia's news agency, HINA, is firmly under state control and its director, Milovan Šibl, is a member of the ruling HDZ and a member of a state commission responsible for overseeing privatization of the media.

Despite the existence of independent and foreign broadcast media sources, the Croatian government continues to resist allocating frequencies to programs that would be excessively critical of the government or the ruling party. Sixty frequencies are available to Croatia under an international telecommunications agreement but not all have been distributed by the government. Those frequencies and operating licenses that have been allocated usually are given to stations which are sympathetic to the government or ruling party. For example, an Osijek-based television station supportive of the Croatian government and the local HDZ chapter has been given a frequency on which they transmit their programs daily. In contrast, proposals for similar stations in Varazdin and Medjumurje that would have no government or party affiliation have not been granted frequencies.

Independent television stations operate in parts of Croatia. An independent television program commonly refered to as "OTV" is broadcast several hours a day and transmits to one-third of the country, primarily in the north. OTV is not broadcast on government-operated Croatian Television. Rather, OTV operates two privately-owned transmitters and its broadcasts are not obstructed by the government. OTV is not broadcast on government-operated Croatian Television. Rather, OTV operates two privately-owned transmitters and. Several independent radio stations function throughout the country but their reception is limited to a given municipality or region.

The government also has reined in independent radio and television stations.

- Radio 101, a Zagreb-based independent youth station established in 1983, had played a significant role in liberalizing Croatian politics during the communist era. Although part of the communist party apparatus, the radio station received most of its financing through advertisements throughout the 1980s. Six months after the 1990 elections, Tudjman's government took over the station, claiming it was government property. Radio 101 continues to broadcast but generally refrains from criticizing the regime.

- Split-based "Television Marjan" continues to operate but its editorial staff was removed in mid-1991 and it was put under state control in Spring 1992.

- In June 1992, local authorities in Rijeka -- most of whom are not members of the ruling party -- recommended broadcasting of local programs of "TV Adria." However, in mid-August 1992, the government ordered "TV Adria" to cease broadcasting, claiming it had no permission to do so despite the fact that no law either forbids or permits local broadcasting. However, "TV Adria" continues to operate.

The government also has tried to interfere with broadcasts organized by the United Nations in Croatia. The United Nations Protection Force (UNPROFOR) broadcasts daily ten-minute Serbian/Croatian-language programs from radio stations in Zagreb, Belgrade and Sarajevo which report on military activities of all sides to the conflict in Bosnia and Croatia. According to Cedric Thornberry, the head of Civil Affairs for the UNPROFOR mission, the Croatian government wanted to review the UN's radio programs and took eight of the UN's programs off the air in 1992. In mid-March 1993, the Croatian government edited one of the UN's programs, removing half of the news contained in the broadcast.

The Croatian government consistently has refused to allow privatization of the state-owned television and radio company. Opposition political parties have called for the establishment of an independent broadcast media but such efforts have been blocked by the Croatian government. For example, on April 10, 1992, the Croatian Parliament -- in which the ruling HDZ has a majority -- rejected the opposition parties' call that the government cede control of some frequencies for the establishment of private radio and television stations. Similar government resistance to privatization of radio and television led to the walk-out of three opposition parties from parliament in October 1993.

In addition to the independent press and government-controlled media, radio and television broadcasts from Serbian-occupied areas of Croatia and Bosnia-Hercegovina can be heard and seen in areas under Croatian government control. No effort is made to jam such programs. Moreover, a program called "Slikom na sliku" is shown on state-owned television every evening. The program shows Serbian, Bosnian and foreign television broadcasts of one specific event, thereby allowing the viewer to view several interpretations of the same story. Finally, foreign television broadcasts on CNN, SKY and other foreign satellite channels are readily available to the many households that have satellite antennas.

Print Media

Croatia has undertaken a number of steps to privatize former state enterprises, including the media. However, the Croatian government is using economic means to close or obtain control over publications that are critical of the government. In its effort to privatize the economy, the Croatian government's Agency for Restructuring and Development oversaw the re-organization of twelve publications published by the government-owned publishing house, Vjesnik. The government agency created a committee which assumed the financial and property-related management for each of Vjesnik's publications. The committee was comprised of four government appointees. Each publication had the right to appoint one person to the committee but that individual would only be consulted about issues directly affecting the representative's respective publication. The committee had the right to replace managing

directors but, according to Zdravko Mršić, the former director of the Agency for Restructuring and Development, "the content and editorial decisions of the papers would remain in the hands of the current editors." Milovan Šibl, Director of the Croatian News Agency HINA and a member of the aforementioned committee, said that the committee "will not interfere with the editorial decisions of the respective publications."

Despite such assurances, the government has forced the closure of certain publications, not simply for economic reasons, but also because they published articles critical of the Croatian government. In particular, the weekly news magazine *Danas* and its successor, *Novi Danas*, were driven out of business and the Split-based daily newspaper, *Slobodna Dalmacija*, was put under *de facto* government control after nearly three years' of government harassment. *Feral Tribune*, a bi-monthly satirical and news magazine once part of *Slobodna Dalamacija*, was threatened with a 50 percent tax that would have forced the bankruptcy of the independently-funded publication.

Several independent magazines continue to publish without government interference. *Novi List*, a Rijeka-based daily, *Arkzin*, the publication of the Center for Peace, Non-Violence and Human Rights and the newly formed periodical *Erasmus* publish articles critical of the government. In the case of the latter two periodicals, the circulation is small and therefore does not pose a threat to the government. *Novi List*, increasingly seen as the replacement for the once-independent *Slobodna Dalmacija*, has a circulation of approximately 50,000 but is privately owned and is based in a city whose local government consists of members of the opposition parties, not the ruling HDZ. In 1992, the paper successfully resisted efforts by the government's Agency for Restructuring and Development to appoint a new board of directors headed by a deputy interior minister. The right-of-center weekly *Globus* also publishes articles and interviews critical of the ruling regime without interference.

A once-independent regional Osijek-based paper, *Glas Slavonije*, was placed under government control on July 25, 1991, precipitating the resignation of the editor-in-chief, Drago Hedl, and the managing director, Vladimir Kokeza. The next day, then commander of the Croatian armed forces in Slavonia, Branimir Glavaš, entered the paper's offices with ten heavily armed members of the Croatian Army and ordered all those present to leave. Shortly thereafter, Glavaš -- then a military official -- and other government-appointed members of the paper's executive board installed new management at *Glas Slavonije*. Helsinki Watch deplores the methods used by government forces to assert control over *Glas Slavonije*, particularly the armed intervention at the newspaper's offices. The current war in Croatia in no way gives local military or political authorities the right to use force to interfere with freedom of the press.

Also, in 1991, the Croatian Ministry of Information forced the closure of the Zagreb offices of *Borba*, a Belgrade-based daily. Serbian newspapers no longer are available in Croatia due to transportation problems posed by the war and political rivalries between the two countries.

Trials of Journalists

Journalists who have written critically about members of the Croatian government have been investigated or charged under the criminal and civil code. In late May 1992, soon after a right-leaning official of the ruling HDZ, Vladimir Šeks, was appointed as Croatia's Public Prosecutor, investigatory proceedings were started by prosecutor's offices in Zagreb and Split against *Globus* columist Tanja

Torbarina, *Danas* columnist Jelena Lovrić, *Globus* editor-in-chief Denis Kuljiš, and the authors of *Slobodna Dalmacija*'s "Feral Tribune," namely Viktor Ivančić, Predrag Lucić and Boris Dežulović. They were accused of violating Article 197 of the Croatian Criminal Code which forbids "spreading false information" and carries a maximum jail term of five-years. Some were accused of slander. Charges either were never filed or were dropped in most of the cases, due to lack of evidence and public outcry. However, Jelena Lovric was indicted and given a suspended one year sentence for slandering a former government minister she accused of taking bribes.

Other Concerns

On October 30, 1991, citing national security concerns, President Tudjman signed a presidential decree which established rules of conduct for foreign and domestic press covering the war in Croatia between forces loyal to the government and insurgent Serbian rebels. The decree did not call for censorship of all news, only information related to defense matters in times of war. The decree demanded that all media comply with instructions issued by Croatia's Information Headquarters, local administrative bodies and respective regional defense centers. However, the decree was never thoroughly enforced and, coupled by international and domestic oppostion, the decree was repealed.

Hungary

Since the transition from Communist rule, the chief freedom of expression issues in Hungary have revolved around the independence of state television and radio.

In the summer of 1990, Hungary's new Parliament further amended the constitution to require a two-thirds vote in order to pass any laws pertaining to the supervision or nomination of the heads of "public media" or the licensing of commercial radio and television. In an unusual agreement, all parties agreed on the appointment of two well-respected independent persons, Elemer Hankiss and Csaba Combar, to serve as interim heads of, respectively, Hungarian Television (MTV) and Hungarian Radio (MR).

These two set about to restructure state television and radio along independent lines. They gave the two main channels in each medium more defined profiles, began to make some programming changes (for instance, shifting religious programming to the less popular second radio channel), and dismissed a number of employees on the ground that they did not meet professional standards of objectivity. Perhaps most importantly, they did not give the government the kind of enhanced access to the media that it had apparently expected -- as for example, when Prime Minister Antall was refused air time to address the nation before the 1991 municipal elections. The new government led by the Hungarian Democratic Forum (MDF) seemed unprepared for dealing with an independent media that could affect public opinion, as when live coverage of events pertaining to a nationwide taxi strike tilted popular sentiment against the government's hard-line position. At the same time, the MDF's nationalistic wing, led by party VP Istvan Csurka, was pressing for greater control of the media so that it could promote national reconstruction and "Christian values." (Csurka argued during the 1990 election: "If the largest media is the most important power factor, it is justified for the newly elected leaders, the winners of the first free elections to gain

possession of it.")

Csurka successfully moved to cut the budgets for MTV and MR in 1991 and 1992, and in 1993 (after he had left MDF to form his own right-wing party), the budgets were consolidated under the Prime Minister's office -- a considerable loss of independence. Hankiss and Gombar were removed from their posts late last year -- in each case there were also ethical allegations involving misappropriation of funds by subordinates -- but President Arpad Goncz refused to approve their replacements, citing his constitutional duty to protect freedom of the press. The constitutional court backed this position. At this writing, these media are being run by vice-presidents, a stalemate that will not be resolved until after next year's elections.

The opposition complains that the government now enjoys an advantage in air time -- chiefly in terms of the placement of items on the evening news programs -- but there are also debate and discussion programs, with opportunities for opposition voices to be heard. Both radio and television now have BBC-style ethical codes and operating guidelines, but there is no permanent charter that assures personnel and budgetary autonomy.

With respect to the allocation of private -- commercial or non-commercial -- radio and television frequencies, there has been a moratorium for the last several years because the fights between the government and the opposition have made it impossible to obtain a two-thirds vote for an overall media law. In recent months, there has been a decision to allocate some local broadcast frequencies, and opposition parties claim that the standards for making such decisions are not sufficiently insulated from political influence.

From 30 to 50% of Hungarian households have cable television. The largest operator, Kabelkom, is owned by Time Warner and a few other U.S. companies. While this is further evidence of media diversity -- and there is virtually no regulation of it -- the programming is largely non-Hungarian in origin, and not public affairs-oriented.

Print Media

After communism, the print media quickly privatized. ***Nepszasbadsag***, the party paper, held its position as the largest paper even while losing 500,000 of its 800,000 readers, thanks to a 50% investment by Bertelsmann, the German media firm. 80% of the shares in Hungary's print press are foreign-owned, the highest percentage of any sector of the Hungarian economy. Aside from introducing the less savory features of a tabloid press to Hungary, this does not seem to have resulted in any significant freedom of the press problem.

There are overall about a dozen "national" papers published in Budapest and available all over the country. There are also dozens of regional dailies, again mostly foreign-owned.

The government has largely left the print media alone, with the exception of efforts to influence some of the smaller conservative papers by investment through the State Newspaper Publishing Company left over from the Communist era and through state banks. ***Pesti Hirlap***, a pro-government daily, has been virtually kept alive with ads from the State Privatization Agency. (However, approximately 70% of ***all***

advertising is still from government-connected entities, and much of it is in the larger opposition papers, where the readers are.)

Government efforts to restrict the printed press have been rare, perhaps in part because the constitutional requirement for a two-thirds vote in matters affecting freedom of the press has made it difficult to obtain the necessary votes for a new press law:

- In August 1992 the Budapest prosecutor's office seized copies of a weekly tabloid, *Heti Super Pszt!*, after the government complained about allegations in its August 7 issue that Foreign Minister Jeszenszky had been a double agent during the Communist period. The action was taken on the basis of a 1978 Communist-era libel law.

- *Szent Korona*, a weekly newspaper, was indicted in May 1991 for incitement of anti-Semitism. Reviewing the law used to indict the newspaper, the Constitutional Court upheld the validity of its provisions against ethnic hatred, but struck down the provisions against dissemination of "demeaning statements." On September 13, 1993, the case was concluded with a fine of 26,000 forints (about $450.00). In May, President Goncz, after deciding against submitting the matter to the Constitutional Court for an opinion, signed a law banning the "wearing of Swastika, SS badge, arrow-cross (the symbol of Hungarian fascists), hammer and sickle or five-pointed red star, or the dissemination of such symbols." The law exempts the use of such symbols for educational, scientific, artistic or historical purposes, and exempts the official symbols of states.

- Following a complaint by Prime Minister Antall, the Gyor prosecutor's office recently announced that it will press charges against political scientist Laszlo Lengyel, on the basis of a Communist-era law against "insulting the authorities." At a conference, Lengyel had accused the entire government of being corrupt. Government spokeswoman Judit Jahasz said that the Prime Minister had acted to "protect government officials from baseless accusations."

The International Federation of Newspaper Publishers has expressed concern about a new government tax on news and entertainment media, but none of the journalists that Helsinki Watch spoke with viewed this as an effort to curb freedom of the press. The law, which went into effect on April 1, is designed to create a National Cultural Fund for the promotion of art. It assesses a one percent tax on newspaper revenue, but 20 percent for publications deemed to be violent or pornographic. The vagueness of these terms places the Ministry of Culture, which will oversee the administration of the tax, in the position of making subjective judgments about the content of books, films, videos and theatrical productions.

Paper access does not appear to be a problem. Virtually all distribution is done through the state post office (although there is no monopoly -- anyone is free to start a private distribution system, and some companies outside Budapest are beginning to do so). Whatever inefficiencies there are in this system, no one complained that there was any political or ideological discrimination in it.

POLAND

Poland's transition to democracy is endangered by government and private restrictions on freedom of expression. In a distressing series of arrests and prosecutions for "slandering" the state, President Walesa has relied upon a repressive Communist-era law to punish government critics. The government has also instigated prosecutions against artists at the behest of private parties calling for "a healthy and patriotic censorship" in Poland. Reflecting this climate of censorship is a new broadcast law requiring all broadcasters to ensure that all programming respects "Christian values".[3]

Criminal Slander

One of the most disturbing aspects of President Walesa's term has been a recent spate of criminal prosecutions against individuals for "slandering" the head of state. Under Article 270(1) of the Polish Penal Code, anyone who "publicly insults, ridicules and derides the Polish Nation, Polish People's Republic, its political system or its principal organs, is punishable by between 6 months and eight years of imprisonment." For years, this ambiguous, overbroad law was used by the communist government to harass its opponents. Rather than depart from this dishonorable history, the Walesa government has continued to use the law against government critics. An editor of a major daily described the law's chilling effect, noting "This may well set a precedent that will shut people up."

- In early June 1993, twelve people were arrested for putting up posters announcing a demonstration on June 4. The posters claimed that members of the current government had collaborated with the secret police. The twelve people were arrested under Article 270(1), and face up to eight years of imprisonment if convicted. The prosecutor is still investigating whether to bring formal charges against any of the twelve.

- On March 18, 1993, students Adam Harlacz and Mariusz Sokolowski were convicted in the regional court in Brzeg for "abusing and discrediting" President Walesa. The students admitted to shouting "Down with Walesa--communist agent" at a demonstration in June 1992. The students were fined 2.5 million zlotys each--about the average monthly salary--and ordered to pay court costs totalling 260,000 zlotys. Justifying its imposition of fines rather than prison sentences, the court noted that prominent politicians had made similar statements about Walesa. Trial judge Grzegorz Kapera added, "It is normal everywhere for the president to have adversaries and fervent political opponents. Recent attempts at discrediting the president, however, including the activities of the defendants, cannot be seen as anything but an attack on the presidency."

  The students have appealed their case to the Voivodship Court, arguing that they were not allowed to present witnesses necessary to establish a defense of truth in the lower court. Marek A. Nowicki, a Polish lawyer and Acting President of the International Helsinki Federation, agreed, saying that "the defendants were denied an honest court hearing."

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[3]For more information see Helsinki Watch/Fund for Free Expression newsletter, ***Poland: Freedom of Expression Threatened by Curbs on Criticism of Government and Religion***, August 1993.

- On January 11, 1992, Stanislaw Bartosinski, a night caretaker, engaged in a conversation at a bus stop. Bartosinski used insulting words about President Walesa, reportedly calling him the Polish equivalent of a "son of a bitch." He was charged under Article 270(1) for insulting the head of state. On August 28, 1992, Bartosinski was convicted and sentenced to one year in prison, suspended if he does not break the law in the next three years, and fined three million zlotys. His case is currently on appeal. President Walesa has the option to pardon Bartosinski, but as of this writing, he has not done so.

- Ryszard Zając is the first person in post-communist years actually imprisoned under Article 270(1). During the parliamentary elections in summer of 1991, Zając published an article in his periodical *Głos Wodzisławia* (The Wodzisław Voice) in which he referred to a local authority in Katowice and nine Solidarity officials as "dopes" and "small-time politicos and careerists." He also alleged that the council "aspires toward a Communist party committee." In response, Alojzy Pietrzyk, now a Solidarity Sejm deputy, publicly called for the author's prosecution. The regional prosecutor in Wodzisław filed criminal charges, and Solidarity leaders filed a separate slander suit. In January 1992, Zając was fined and sentenced to ten months in prison, suspended if he agreed to apologize in two newspapers. A provincial court upheld his conviction. Zając refused to apologize, and was sent to jail for 74 days. After numerous requests from the Senate, the Polish Helsinki Committee, the ombudsman and others, as well as an appeal filed on his behalf by the Minister of Justice, Zając was released.

- In a well-publicized case, Stanislaw Tyminski was charged under Article 270(1) for remarks made during his unsuccessful presidential bid in the 1990 campaign against Walesa. At a political rally on November 17, 1990, Tyminski had said that then-Prime Minister Tadeusz Mazowiecki had committed "treason" by selling Polish companies to foreign investors at low prices. Tyminski also reportedly threatened to reveal personal materials about Walesa. On December 10, 1990, the day after the election, Tyminski was charged under Article 270(1). After much public attention and an apology by Tyminski, charges were dropped.

It is deeply disturbing to see the Walesa government use slander arrests and convictions to punish individuals who criticize the government or the Solidarity party. We are particularly concerned about application of Article 270(1) in the context of election campaigns, where it is essential that voters and candidates alike engage in a free and open discussion of views and qualifications. Even if some of the reported statements could give rise to a private cause of action for slander, they do not warrant criminal charges brought by the very government that is the object of criticism. Any narrow exceptions to freedom of expression cannot be construed to shield a state, or its elected officials, from criticism, however coarse the language of the complaint.

Broadcast Law of 1992

On December 29, 1992, the Polish Parliament passed the "Radio and Television Law" creating a new regulatory structure for broadcasting. One of the more notable features of the law is the requirement that

all broadcasts "respect the religious feelings of the audience and in particular respect the Christian system of values."

The Sejm, or lower house of parliament, voted in October 1992 to exclude the "Christian values" clause from the broadcasting law upon criticism that the clause was too vague. However, Catholic Church leaders, including Cardinal Jozef Glemp and the episcopate media commission chairman Bishop Adam Lepa, criticized parliament's decision in their campaign against anti-Church bias in the media. The Senate reinserted the "Christian values" provision into the final bill approved by the Sejm.

Both the vague language of the "Christian values" provision and its substantive requirements have generated controversy. The *Warsaw Voice* reported that many journalists "are unsure of how to behave in the face of the new law's controversial requirements." Critics charge that the law requires media owners to reconcile different interpretations of religion in order to determine what constitutes "Christian values." The final arbiter of whether a given piece of material properly respects "Christian values" is left undefined.

Broadcasters who break the law could be fined up to 50% of their annual fee for their transmission frequency. Moreover, they could face difficulty renewing their license when the three to ten year license period expires, or have their license withdrawn. The Radio and Television Law grants the National Radio and Television Council authority to license stations and enforce regulations. The Council is composed of nine people: four chosen by the Sejm, two chosen by the Senate, and three chosen by the President, who also designates the Council Chair. Three of the nine newly appointed members reportedly support the "Christian values" provision.

The "Christian values" standard will chill legitimate speech as broadcasters are forced to censor themselves to fit within the undefined boundaries of the law. Even a narrowly tailored provision would be an effective ban on a range of expression that does not seek to promote a certain religious viewpoint.

Offense to Religion Charges

Under the Polish Penal Code, offending religious sentiment is punishable by a fine or a two-year prison term. The Christian National Union (ZChN), a right-wing political party, has been at the forefront of efforts to bring criminal prosecutions under this provision. ZChN Deputy Maciej Srebro reportedly said that the party sought to create a "special intervention bureau, which would register cases of `offending religious feelings' and establish a `white book', where works whose publication is `not recommended in a Catholic country' would be listed." Actors in a local theater company described one such prosecution as "an attempt to exert pressure on the artistic community." These criminal prosecutions not only penalize certain forms of speech that should not be the target of state prosecution, but contribute to an unhealthy climate of censorship that chills artistic expression.

Some of the recent incidents include:

- In late 1992, the ZChN pressed charges against a rock group called Piersi for a song entitled "ZChN's Coming," sung to the tune of a hymn "Jesus Christ is Coming." The song is about a priest who gets drunk and crashes his car, and the parishioners' complaint that they will bear the cost. Five people complained to the prosecutor that the song

offended their religious feelings. The prosecutor in Warsaw announced on April 20, 1993 that it would abandon proceedings against the rock group on the grounds that the hymn is not an object of a religious cult. The ZChN is appealing the decision. Although the prosecutor dropped charges, ZChN's complaint has been followed by private acts of censorship. While the prosecutor's office was deciding whether to pursue the case, radio producer Alicia Leszczyńska was fired for playing the song on the *Brum* radio show. She was reinstated after members of the Democratic Union intervened.

In June 1993, Piersi was awarded the "Prize of Journalists" at an annual music festival. The organizers of the event refused to announce that Piersi had won the prize, and refused to allow them into the festival to play a song.

- The May 2, 1993, *Warsaw Voice* reported that ZChN deputies were seeking to use the "offense to religion" provision against a movie theater in Poznań after its showing of the Martin Scorcese movie *The Last Temptation of Christ*. Three ZChN deputies reportedly filed a "Notification of Offense" with the Poznań prosecutors office, although they admitted that they had never seen the movie. None of the 600 viewers who saw the Poznań screening signed the deputies' complaint.

- In March 1993, ZChN deputy Marek Jurek unsuccessfully sued the *Poznaniak* weekly for offending his religious feelings, demanding an apology and 500 million zlotys in damages, payable to the Red Cross. The paper had published a trick photograph of the Virgin Mary, with the face of American singer Madonna, holding a baby with the face of Marek Jurek.

ROMANIA

The Romanian Constitution adopted in 1991, guarantees freedom of expression and in general prohibits censorship or the suppression of any publication. In the nearly four years since the fall of the Ceausescu regime, several hundred privately owned newspapers representing a broad spectrum of political and social viewpoints have sprung up in Romania, replacing the heavily censored government controlled press. Independent journalists, editors and publishers tell Helsinki Watch that they enjoy freedom to print what they wish without fear of censorship.

Although there has been no prior restraint of publication, several newspapers have been denied access to government press conferences or had their credentials revoked because of unflattering articles or cartoons they published about the government. In most cases the credentials were quickly restored and even the journalists involved viewed the incidents more as examples of bad form than violations of their human rights, because they had little effect on their ability to gather news and, in some cases, even enhanced their reputations as aggressive journalists.

Because most newspapers cannot afford to develop their own systems of distribution, they depend on the state postal service and Rodipet, the government distribution agency, to ensure delivery

outside their local market. Several minority language newspapers charge that hostile local postal and distribution authorities have periodically damaged their circulation by delivering their newspapers significantly later than their Romanian language competitors' and in some cases destroying their shipments.

The single dominant medium in Romania is television. By far the most influential broadcaster is the state-controlled Romanian Television, Channel 1,[4] the country's only truly nationwide television station.[5] Although Romania was one of the first countries in Eastern Europe to pass a broadcast law and has issued 41 television licenses, none of the 14 private television stations actually in operation is in a position to compete with Channel 1.[6] By order of the Ministry of Telecommunications, each private station has low power and a restricted broadcast range.[7]

The problems with public television stem in large part from the government's virtual monopoly of the medium and are compounded by national television's perennial debt, which reduces it to the role of supplicant, always on the brink of bankruptcy and dependent on the goodwill of the authorities. Unlike the press or radio, Channel 1 is the focus of subtle and, in some cases, overt political pressures which result in unbalanced news programs and occasional instances of censorship and harassment of reporters because of the political content of their work. In addition, the current Director-General of Romanian Television, Paul Everac, is a man known for his extreme political views and his use of national television to propagate them.[8] Although Channel 1 presents a variety of opinions, its news programming frequently favors the positions of the government through a variety of techniques such as the manipulation of camera angles, extensive coverage of government officials, and, occasionally, the relegation of government opponents to less desirable time slots.

In many cases this bias appears to be the result of self-censorship among hand-picked personnel who slant the news according to their beliefs or in a desire to please the authorities. However, there have

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[4] According to a survey conducted by Romanian Television in August, 1992, 40 percent of respondents reported that their main source of information about the 1992 presidential elections was television, compared to press 8.2% and radio 4.5%.

[5] Although Channel 2 operates on a nationwide frequency, it does cover substantially less than forty percent of the country.

[6] The Audiovisual Commission has also issued 82 radio licenses, of which 29 stations are actually on the air, and 196 cable television licenses. All of the private radio and cable licenses are for limited geographic areas. Romanian Radio, operated by the state, has three national radio stations which cover the country but lack the influence of channel 1.

[7] Current licenses for private television stations are restricted to 1 kilowatt or less of transmission power.

[8] Just prior to the evening news on Saturdays, for example, when television audiences are at their peak, Mr. Everac has his own program. Using public television as a pulpit for expounding his ideology, Mr. Everac frequently targets foreigners and ethnic minorities, without allowing others the opportunity to present their opinions or to respond to his.

been several reported instances of direct government interference with television programming as well as harassment of television reporters because of the political content of their work. Perhaps the most serious incident occurred early this year when a high government official ordered a science program scheduled on Channel 1 to be removed and replaced by a program criticizing a judge who had ruled against President Ion Iliescu in an electoral matter. Iliescu's lawyer, who had subsequently become the Minister of Justice, is said to have previewed the program more than once with the Director-General of Romanian Television. Channel 1 has not afforded the judge an opportunity to respond to the allegations against him.

In another incident in 1993, Channel 1 censored the second of a two-part series exposing corruption among the Financial Guards, a state entity that was said to have confiscated goods and sold them illegally. The program was simply never shown. Not long afterwards, the reporter was interrogated by the police about travel expenses she had claimed on another project.

Minority language broadcasts on state-controlled television have been reduced during the past two years, pursuant to a directive issued by the previous Director-General Raztvan Teodorescu, which also sought the elimination of political content from ethnic programs. The powers that be would prefer to see minority television as folklore and culture, rather than an alternative news opinion. To this date the Hungarian and German language divisions have ignored the order. It still remains on the books, however, and could be enforced at any time.

Many questions have been raised about the allocation of broadcast licenses by the national Audio-Visual Council. Although required by law to give reasons for its licensing decisions, it rarely does so. Licenses are given with such conditions that the stations have difficulty surviving. For example, the area of coverage is often so small that the license has little value. Some operators complain that they cannot attract enough investors or advertisers to survive because their stations are too weak and their markets too small. As a result, private television channels pose little threat to the government's dominance of broadcasting.[9]

Further questions surround the licensing decisions themselves, where there is substantial room for political influence. For example, the Audio-Visual Council denied a license to a station in Oradea that had been broadcasting for three years and had expressed an anti-government bias and appeared sympathetic to Hungarians. Instead, it awarded a license to a group from Bucharest with no ties to the local community, despite a preference in the Audio-Visual law for local involvement.

Ultimately, true freedom of expression will not exist until the state monopoly over the national airwaves is broken and there is true competition for viewers.[10] The government has an obligation to foster diversity where there is virtually total state control. The Romanian Parliament is now considering the adoption of a new broadcasting law that would reorganize the Romanian Radio and Television companies.

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[9] Like the private press, private radio and television broadcasters report that they are free to voice their opinions without interference from the government.

[10] The same is true of radio. Although state-controlled Romanian Radio is widely credited with presenting much more objective news and programming than its state television counterpart, there is no private national radio station to provide alternative points of view to the nation as a whole.

Helsinki Watch urges Parliament to break the state's stranglehold on national television and to enact legislation that ensures the development of more private television stations with greater access to powerful state transmitters where necessary and appropriate. For example, state transmitters could be leased to local stations at selected times during prime viewing hours to enable viewers to see alternative news programs. Because the cost of purchasing their own transmitters is prohibitive and the power allotted them so small, a solution of this type may be necessary to enable private stations to survive and compete with Channel 1.

RUSSIA

Freedom in the Russian media has suffered great setbacks in 1993, most of them connected to the crackdown that followed the Russian parliament's attempted coup in October, when the Russian government tightened its grip on the flow of information and opinion in the country. The main Russian television stations are state-owned, and they rarely offer criticism of government policy or outlets for opposition points of view. Until the attempted coup the Russian print media featured a broad array of political views, from the government newspaper *Rossiskie vesti*, to the independent daily *Nezavisimaia gazeta*, to the hard line, pro-fascist newspaper *Den*.

A crackdown on the mass media followed the government's victory over the rebellious parliament. By an order of the Ministry of Press and Information fifteen newspapers were suspended, pending trial. The fifteen represented various fractions of the political opposition, including the former Communist Party daily *Pravda*, the ultra-nationalist *Sovetskaia Rossiia*, and the pro-fascist *Den* and *Russkoe voskresenie*. According to Russia's law on mass media, only the courts have the legal right to suspend or close a newspaper; the executive branch is not authorized to take such action.

The closure of these newspapers--some of which published racist articles and calls to arms --and the transfer of *Rossiskaia gazeta* from the parliament to the Council of Ministers, has meant the elimination of an entire bloc of opinion from Russia's print media. (The parliament had earlier in 1993 unsuccessfully sought to take over *Izvestiia*, the main Russian newspaper.)

Several weeks after it suspended these newspapers, the Ministry of Press and Information, headed by Vladimir Shumeiko, proposed that *Pravda* and *Sovetskaia Rossiia* change their editor, name, and general political orientation in exchange for the right to reopen. Censorship on the main Russian newspapers, notably *Nezavisimaia gazeta*, *Kommerant-Daily*, and *Segodnia* blocked the publication of about ten articles in the first two days after the attempted coup. No regulations or guidelines governed censorship, which was applied in an arbitrary manner. Even after censorship was lifted, Vladimir Shumeiko urged journalists and editors to "practice self-censorship."

This mistrust and disrespect for the press and press freedoms was reflected also in President Yeltsin's public address on October 6, when he twice asked the press to be patient, especially with the police, riot troops, Interior Ministry troops, army troops and other men in uniform who had stormed the parliament building. Yet during the fight for the parliament building and events that preceded and followed it, these very forces beat more than thirty journalists, on the streets, in police stations, and, in one case, in a private apartment.

When the Moscow City Council was dissolved by Presidential decree on September 21, all Moscow-based newspapers registered under the auspices of the Moscow City Council had to be re-registered. In most cases re-registration was a pro-forma matter. In others, the Ministry of Press and Information apparently used the rules to send a message to newspapers critical of Yeltsin. For example, Vitalii Tretiakov, the editor-in-chief of *Nezavisimaia gazeta*, claims that Press Ministry officials sought to replace him as editor and re-register the newspaper under government auspices.

Nezavisimaia gazeta, on the other hand, is seeking to register under the auspices of its own editorial board. As of this writing the case has not been resolved. The government has also reportedly pressured Russian wire services, including ITAR-TASS, Russia's largest government-owned wire service, to maintain a firm pro-government line. A correspondent from Postfactum, an independent wire service resigned in late September to protest censorship.

On October 3, police at Moscow's Sheremetevo Airport apparently confiscated one hundred rolls of undeveloped film belonging to seven photojournalists, who had requested an Aeroflot passenger to mail the film in Paris. The film depicted scenes shot inside the parliament building.

The main Russian television stations are government-owned; one private station, a joint venture with the American television company CNN recently opened, and another independent station is scheduled to begin operating in 1994. As it had done with the print media, the Russian government cracked down on television in October. The popular daily news program "600 Seconds," led by the rabidly anti-Yeltsin Alexander Nevrosov, was swiftly taken off the air. Nevrosov's program was not only critical of Yeltsin, but functioned as an outlet for far-right views, including neo-Nazi ones. The only other regular television program that consistently criticized the government, "The Parliament's Hour," was taken off the air when President Yeltsin dissolved parliament on September 21. In mid-October the hosts of two popular political talk shows, "Red Quadrant" and "Politburo," were dismissed, most likely for their coolness toward President Yeltsin. The former, Alexander Liubimov, had on October 3 told viewers to "stay home and go to bed," even though a late-night pro-government demonstration had been organized in downtown Moscow. Both men had been leaders in presenting challenging material during the glasnost' period.

During the twelve-day stand-off at the parliament building Russian television provided almost no coverage of the events taking place within the building. At one point the Russian government attempted to prevent journalists from gaining access to the parliament building compound. Russian domestic news during this period typically featured reports on new presidential decrees, reports on government activities, and economic news, and allotted at most seconds to the activities of the rebellious parliament.

Not all critical opinion is suppressed, however. Russia's Channel 2 news featured Vitalii Tretiakov's sharp criticism of the Russian government's censorship of major newspapers, for example. *Pravda*'s objections to its closure were also given some coverage. Yet rarely does one hear on the regular

news intelligent, thorough criticism of major government reform efforts, such as price reform, privatization, and the new constitution. The weekly news program draft "Itogi" does, however, feature a broad spectrum of intelligent opinion.

The lack of fair access to a wide access of views is troubling in view of Russia's parliamentary elections, scheduled for December 12. President Yeltsin personally guaranteed freedom of the press during the pre-election period, yet at other critical moments in the Yeltsin administration's drawn-out battle with parliament, it has marshalled the media to conduct its political campaigns. The April referendum, in which citizens approved of President Yeltsin's economic reform program, was accompanied by a massive television campaign featuring the President.

The Russian government in Russia justifies the closure of hardline and pro-fascist newspapers and television programs by pointing to the role they allegedly played
in the mass disorders that paralyzed and frightened Moscow, to their alleged public calls to arms, and to their fascist content. However, the government has closed these newspapers with no deference to due process of law, as noted above. Moreover, the Russian government's reflex to censor and close newspapers can only raise fears about the future of freedom of expression in Russia.

TURKEY

Helsinki Watch is extremely concerned about violations of freedom of expression in Turkey. Under the Anti-Terror Law which was introduced in 1991, many left-wing and pro-Kurdish journalists, writers and publishers continue to be tried, and many go on to be sentenced to prison terms and fines. Penal Code provisions that make it a crime to insult Ataturk, secularity, Islam, the security forces and the president continue to be used to restrict free expression. Newspapers and books are regularly confiscated. The Press Law allows prosecutors to stop distribution of a newspaper without a court order. The same provisions restrict freedom of speech on radio and television, in electoral speeches, symposiums, posters, and leaflets. Publishers and authors are also charged and imprisoned under these laws.

In the first seven months of 1993, four journalists were killed in Turkey, bringing to sixteen the number killed since September 1992. In southeast Turkey, one newspaper distributor and a newspaper vendor selling left-wing newspapers were killed during the same period. The government has made little effort to find and prosecute their killers. Many other journalists, newspaper vendors and distributors have received death threats. While journalists of the mainstream press are left alone for the most part, journalists from left-wing newspapers are frequently attacked, arrested or brought to trial. In southeast Turkey journalists are particularly at risk.

While the coalition government that came to power in November 1991 suggested that past restrictions on freedom of expression would be removed, their actions have proved extremely disappointing. After a promise by the government that private radio and television stations would be allowed, many private channels were started in Turkey. In January of 1993, however, the government closed down all these stations, declaring them unconstitutional.

The convictions of journalists, authors, publishers and artists under the Anti-Terror Law as well as under provisions of the Penal Code contravene the European Convention for the Protection of Human Rights and Fundamental Freedoms, to which Turkey is a signatory, as well as Article 19 of the Universal Declaration of Human Right and Article 19 of the United Nations International Covenant on Civil and Political Rights.

Legal Framework

In 1991, the Turkish Parliament repealed Articles 141, 142 and 163 of the Turkish Penal Code, which legitimized prosecution based on "separatism." Unfortunately, the Anti-Terror Law was introduced to replace these provisions. Many actions that had been banned by the repealed provisions of the Penal Code are now banned by the new Anti-Terror Law.

The Anti-Terror Law (Law No.3713) retained penalties of two to five years imprisonment (in violation of Article 10 of the European Convention on Human Rights) for "written or spoken propaganda, assemblies, demonstrations and marches with the aim of damaging the indivisible unity of the state." The targets of the Anti-Terror Law are writers, journalists, publishers, politicians and musicians who are accused of advocating a separate state for Turkey's Kurdish minority.

The Anti-Terror Law defines terror broadly as:

> any kind of action conducted by one or several persons belonging to an organization with the aim of changing the characteristics of the republic as specified in the Constitution, its political, legal, social, secular and economic system, damaging the indivisible unity of the State with its territory and nation, endangering the existence of the Turkish State and Republic, weakening or destroying or seizing the authority of the State, eliminating fundamental rights or freedoms, or damaging the internal and external security of the State, public order or general health by any one method of pressure, force and violence, terrification, intimidation, oppression or threat.[11]
>
> Two or more people gathering under a common aim constitute an organization under this law.

Article 8 of the Anti-Terror Law, which is most commonly used to charge journalists, writers and publishers, states that "written and oral propaganda and assemblies, meetings and demonstrations aiming at damaging the indivisible unity of the State of the Turkish Republic with its territory and nation are forbidden, regardless of the method, intention and ideas behind it." The sentence for the above offenses is between two and five years' imprisonment and a fine of between 50 million and 100 million Turkish liras (between $4273 and $8546 calculated at a rate of 11,700 TL to one dollar).

The Turkish Penal Code also limits political criticism. Article 158 makes it illegal to insult or use the President, and that the punishment shall be increased by one-third to one-half if the offense is committed in a publication.

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[11] For further information on this law and its effects on political suspects, see Helsinki Watch newsletter, *Turkey: New Restrictive Anti-Terror Law*, June 10, 1993.

Insulting the government, the security forces and the nation is a crime under Article 159 of the Turkish Penal Code, punishable by a sentence of one to six years.

The Turkish government can use the Press Law to restrict printing and distribution of newspapers. The Press Law provides that a public prosecutor may, without securing a court order, stop distribution of a newspaper or magazine. After distribution has been stopped, the public prosecutor may apply to a state security court for an order approving his or her actions.[12] The Press Law also provides for "responsible editors" in each publication who bear legal responsibility for the publication's contents.

Freedom of the Press

1992 was a horrifying year for the independent press in Turkey: twelve journalists were assassinated, the highest number of killings of journalists in any country in the world, and the government failed to seriously investigate their murders; fourteen journalists were sentenced to a total of 228 years and 5 months in prison; and more than 300 newspapers and periodicals were confiscated. The twelve journalists killed in 1992 were: Hatip Kapcak, Namik Taranci, Bulent Ulku, Halit Gungen, Cengiz Altun, Izzet Kezer, Mecit Akgun, Hafiz Akdemir, Cetin Ababay, Yahya Orhan, Huseyin Deniz, and Musa Anter. See Helsinki Watch Newsletter, *Turkey: Censorship by Assassination*, December 1992. All but one of those journalists had written for left-wing or pro-Kurdish journals. Most were targeted for assassination, sometimes killed by one bullet in the back of the head. A mission by the International Federation of Journalists found in March that only one person had been prosecuted for the twelve murders (for the murder of Halit Gungen).

Matters have not improved in 1993. Four journalists, one newspaper vendor and one newspaper distributor have been killed. In addition, journalists have been detained and tortured and sometimes sentenced to prison, and scores of publishers have been banned or seized.

Journalists Killed

Four journalists have been killed in 1993:

- On January 24, Ugur Mumcu, the author of a daily editorial column in *Cumhuriyet*, a mainstream newspaper, was killed when a bomb exploded in his car seconds after he turned on the ignition. Mumcu was a well-known reporter who had published articles critical of Islamic fundamentalism, government corruption, drug trading, and terrorist violence. The Islamic Jihad has claimed responsibility for the killing,

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[12] State Security Courts are made up of one military judge appointed by the Minister of Justice or the Minister of National Defense, and two civilian judges appointed by other government departments. These courts are set forth in Article 143 of the 1982 Constitution:

> Courts of the Security of the State shall be established to deal with offenses against the indivisible integrity of the State with its territory and nation, the free democratic order, or against the Republic whose characteristics are defined in the Constitution, and offenses directly involving the internal and external security of the State.

as have two previously unknown organizations.

- On February 18, 1993, Kemal Kilic was shot dead as he was on his way home from work. Kilic was walking towards the village of Kulunce when he was ambushed by four people. A night watchman at a bridge construction site nearby was the only witness to the struggle between the five men. Kilic's assailants reportedly escaped by car.

Kilic, the Urfa representative for *Ozgur Gundem* (*Free Agenda*), a Kurdish-owned newspaper, was a founding member of the Urfa Branch of the Turkish Human Rights Association. He had organized a press conference on that day in which he denounced the attempts made to stop the distribution of *Ozgur Gundem* and condemned the "silence" of the police. Kilic had been writing for the newspaper *Yeni Ulke* (*New Country*) since *Ozgur Gundem*'s publication was suspended in January. On January 18, Kilic had been arrested for making a statement accusing the Urfa governorate and police headquarters of ignoring the obstruction of *Ozgur Gundem* distribution. He had later again been detained by the police for fifteen hours. Mehmet Senol, the Diyarbakir representative for *Ozgur Gundem*, reported that Kilic had applied for a gun license, but that his application had been rejected.

- On March 13, 1993, Ihsan Karakus, owner of the local newspaper "Silvan," published in Silvan district of Diyarbakir, was killed. Karakus was attacked by two unidentified men on the way to his office.

- Ferhat Tepe, 19, the Bitlis correspondent for *Ozgur Gundem*, was kidnapped by unidentified persons on July 28, 1993. An anonymous caller claiming to represent the Turkish-Ottoman Revenge Brigade reportedly called his family and claimed responsibility. Mr. Tepe's bruised body was found in Elazig on August 3, 1993.

On August 14, 1992, then-Prime Minister Demirel said, referring to the earlier murders, "those killed were not real journalists. They were militants in the guise of journalists. They kill each other." On January 14, 1993, State Minister Mehmet Battalli claimed that Izzet Kezer was the only journalist to have been killed in the southeast.

In addition to the four journalists killed in Turkey this year, one newspaper vendor and one distributor have been killed in 1993.

Harassment of Left-wing Newspapers

While most mainstream newspapers in Turkey are not harassed by the government, it is very difficult for left-wing and pro-Kurdish newspapers to function normally. Below are examples of three left-wing newspapers that have encountered serious problems, including attacks against their staffs and government harassment, confiscations, raids and trials.

Ozgur Gundem

Ozgur Gundem, a Kurdish-owned newspaper, is one victim of government press restrictions in Turkey. Between its initial publication in May 1992 and April 1993, 39 out of 228 issues of *Ozgur Gundem* were confiscated by the State Security Court. The proprietor, Yasar Kaya, has been fined in total 187,538,000 TL ($16,029). The news editor has been fined 94,000,000 TL ($8,034) and threatened with 54

years' imprisonment.

Six journalists from *Ozgur Gundem* (Musa Anter, Huseyin Deniz, Hafiz Akdemir, Yahya Orhan, Kemal Kilic and Ferhat Tepe), three distributors (Kemal Ekinci, Lokman Gunuz, and Orhan Karaagar), a vendor (Hasim Yasa), and a taxi driver who was carrying *Ozgur Gundem* (Halil Adanir) have been killed since June 1992, an appalling total of eleven deaths.

The pressure on *Ozgur Gundem* was so strong that, on January 15, 1993, Yasar Kaya announced its closure and a loss of 30 million TL. The financial problems began when the distribution company was said to have been pressured to break its contract with the newspaper. The paper's attempt to organize distribution by volunteers failed after frequent attacks and death threats against reporters and volunteer distributors.

Ozgur Gundem started publication again on April 26, 1993, and *Yeni Ulke*, a newspaper which had been closed during that time, merged with *Ozgur Gundem*. The April 28 issue of *Ozgur Gundem* was confiscated by the Istanbul State Security Court. The Court's reason was that the newspaper had attempted to portray Turkish citizens as Kurds and that this was an "act of separatism." The Court also found that the use of the words "Kurd" and "Kurdistan" was a breach of the Constitution in which Turkey is defined as a unitary state. In the following 68 days, 41 issues of *Ozgur Gundem* were confiscated. Since then, harassment of *Ozgur Gundem* journalists and distributors by the police have continued:

- Besir Ant, Cizre (Sirnak) representative for *Ozgur Gundem*, was taken into police custody in Cizre on March 12, 1993, and held for 23 days. After being released, Ant stated that he had been tortured by members of the Department for Combatting Terrorism. Ant was reportedly detained again on May 13.

- The house of Rauf Yildiz, the Diyarbakir correspondent for *Ozgur Gundem*, was raided by the police on May 6. After the raid, Ozer Yildiz, brother of Rauf Yildiz who was not at the house at the time, was kept in detention for an hour. During the raid, a sound recorder, tapes and photographs belonging to Rauf Yildiz were seized.

- On June 4, Mahmut Dogan, a reporter for *Ozgur Gundem*, was detained with Abdullah Koc, who is a representative of the Diyarbakir branch of the Human Rights Association and a local government official. They were reportedly held blindfolded for six days in Bingol Police Headquarters until they were released without charge by a prosecutor. Mahmut Dogan was taken into custody again on July 2, 1993, in Bingol.

- On June 22, Ali Celikten, who distributes *Ozgur Gundem*, was allegedly beaten and detained by the police.

- On July 3, the Van representative of *Ozgur Gundem* was reportedly arrested by the Van police and released after four hours with threats.

- A news editor of *Ozgur Gundem*, Ahmet Hamdi Akkaya, is in prison for an article he wrote in another newspaper. Akkaya was arrested on May 26, 1993, and charged with writing "separatist propaganda" under Article 8 of the Anti-Terror Law. He was then transferred to Bayrampasa Prison

where he is awaiting trial.

A press release by *Ozgur Gundem*'s editorial board announced on July 3 that the publishers and editors of the newspaper had been charged with total fines of 8,617,441,000 TL (about $736,500) and sentenced to prison terms totalling from 155 years and 9 months to 493 years and 4 months.

On July 12, 1993, the Istanbul Court of First Instance decided to ban Ozgur Gundem's publication. The decision was taken on the grounds that "chief editor of the newspaper Davut Karadag did not communicate his new address to the Istanbul Governorate." *Ozgur Gundem*, however, did not suspend its publication. Davut Karadag was arrested on July 15, 1993, as a result of about thirty articles which were published in *Ozgur Gundem* on July 12, 13, 14, and fifteen of which, according to the Istanbul State Security Court, "disseminated separatist propaganda." At the time this newsletter was written, *Ozgur Gundem* was still on trial regarding its closure.

Azadi

Another target for violations of freedom of press in Turkey is the *Azadi* newspaper. So far, the editor-in-chief and correspondents have been sentenced to more than 50 years of imprisonment and more than 1.5 billion TL (about $128,200) in trials. Of the 36 issues of *Azadi* that have been published, 13 have been confiscated, many of them immediately after they appeared. According to a press release from *Azadi*, the reasons for confiscation of these issues include "motivating the people to resist military duty and making propaganda for a terrorist organization," and violating the Anti-Terror Law.

Because of threats and attacks to owners of newspaper kiosks and the contracted distributor of the paper, the newspaper is no longer being distributed in many parts of the country.

- Ikamettin Oguz, owner of the *Azadi* newspaper, announced in May that Sedat Karas, the newspaper's editor-in-chief, has been sentenced to six months imprisonment and fined 41 million TL ($3,504) for having allowed the publication in the second issue of an article that was found by the Istanbul State Security to be spreading subversive Kurdish propaganda. In addition, Hikmet Cetin, the owner of the paper at the time of publication, was fined 83 million TL ($7,094).

- The Van office of *Azadi* was raided and searched by the police on March 9. After the search, *Azadi* reporter Hakan Kartal, was detained. Kartal was arrested on March 10 and sent to prison.

Aydinlik

On May 23, 1993, *Aydinlik* newspaper, a left-wing daily of which Aziz Nesin is a shareholder and chief columnist, announced that it would publish excerpts from Salman Rushdie's *The Satanic Verses*. This angered some Islamic groups. The Istanbul office of the newspaper, as well as Kaynak Publishing House downstairs and two nearby shops, were attacked and seriously damaged on May 28. The Izmir office was attacked twice in the following week. A crowd attacked the Diyarbakir office and tried to set fire to it. *Aydinlik* vendors and distributors were attacked and threatened throughout Turkey in the following weeks.

A vehicle distributing *Aydinlik* was set on fire in Kayseri on June 1. Explosives were thrown into two kiosks in Gebze and Osmaniye, Adana, on the night of June 2.

The reaction of the Turkish government to these events has been very disappointing. Although the newspaper has asked for police protection, none has reportedly been given. An application by the newspaper staff to obtain gun permits was reportedly refused by the police. The government confiscated all twelve issues of *Aydinlik* which printed excerpts from *The Satanic Verses*. The *Aydinlik* newspaper and its chief editor Hale Soysu were brought to trial under Article 175 of the Turkish Penal code for insulting Islam. Moreover, four employees of *Aydinlik* were detained on May 26 and five others on June 1. The detainees were released the next day in both cases.

Many journalists for other left-wing newspapers have been sentenced to prison terms recently. Some examples are:

- On December 10, 1992, Kamil Ermis, editor-in-chief of the newspaper *Deng*, was sentenced by the Istanbul State Security Court to five months imprisonment and a penalty of 41 million TL because of articles published in the March 1991 issue. The Court accused Ermis of spreading "propaganda against the indivisibility of the state, its territory, and its people." The Court's reason was "calling eastern and southeastern Anatolia Kurdistan ... and calling the people living there Kurds" in the articles in question. The Court of Appeals subsequently confirmed the sentence passed by the Istanbul State Security Court (Case No.1992/201).

- In February 1993, Tuncay Atmaca of *Emek* was sentenced to two years and six months and fined 83,333,000 TL ($7,122) under Article 8 of the Anti-Terror Law.

- Editor Hidir Ates of *Odak* (*Focus*), who was on trial for his article, "Let us oppose the killing of Kurdish people," was sentenced to six months' imprisonment and a fine of 100 million TL ($8,547) on February 4, 1993. Ates was convicted by the Istanbul State Security Court under Article 6 of the Anti-Terror Law.

- In April 1993, the Istanbul State Security Court fined Huseyin Alatas, owner of *Newroz* magazine, a total of 166 million TL ($14,188) for spreading subversive Kurdish propaganda. The former and current editors-in-chief, Celal Albayrak and Fatma Karabacak, were sentenced to five months' imprisonment and fined 41 million TL ($3,504) each.

- Editor-in-chief Elanur Kaya of *Hedef* was sentenced in April 1993 to five months in prison and a fine of 41 million TL ($3,504) by the Istanbul State Security Court.

- In May, 1993, Yusuf Cacim of *Yeni Ulke* was sentenced to ten months' imprisonment and a fine of 166,666,666 TL ($14,245).

- On May 3, 1993, editor Bulent Aydin of *Yeni Ulke* was sentenced to 5 months in prison and a fine of 117 million TL ($10,000) by the Istanbul State Security Court.

- A sentence of five months for Salih Bal, chief editor of *Medya Gunesi*, was confirmed in June 1993 by the Ninth Chamber of the Turkish Appeals Court for an article which appeared in February 1992

in *Medya Gunesi*.

Arrests, raids, beatings

Many journal offices have been raided, journalists have been beaten, and hundreds of journalists have been detained and interrogated during 1993:

- On February 8, 1993, Guler Celik, a 32-year-old correspondent for *Ozgur Halk*, was detained and interrogated at the Anti-Terror Branch of Istanbul Police Headquarters. According to an International Freedom of Expression Exchange report, she was not permitted to see her lawyer until after her interrogation, which lasted eight days. The interrogators claimed that she had links with the Kurdish Worker's Party (PKK), a separatist group engaged in guerilla warfare in Turkey since 1984. The following is a summary of her testimony:

> Between interrogation sessions, Guler Celik was held in a cell measuring 2m x 1.5m. She alleges that while being interrogated she was stripped to her underwear by force in addition to being insulted, hit, and having her hair pulled; her feet were strapped to a device she could not see because of the blindfold and the soles of her feet were beaten; her arms were strapped to a crucifix-like apparatus and she was hoisted off the ground; while she was suspended, she was given electric shocks to her fingers and toes; ... she was hosed with ice-cold water; she was repeatedly subjected to sexual assault. She was interrogated under such torture three times during the first week of her detention.

- Cemal Ozcelik, owner of the biweekly journal *Medya Gunesi*, was arrested in March 1993 because of his article entitled "Spring Syndrome as Part of the Dirty War" in the March 7 issue of the journal. Ozcelik was ordered arrested on March 12 by the Istanbul State Security Court and charged under Article 8 of the Anti-Terror Law.

- Following an operation conducted by the police on the Ankara office of the journal *Tavir* on April 19, 1993, about 80 people were reportedly harassed and detained. It was also reported that material damage occurred in the office during the raid. Helsinki Watch has the names of the detainees.

- Erdogan Atilgan, Elazig correspondent for the newspaper *Zaman*, was arrested in April 1993 on the grounds that he took photographs without permission of the judge during the last hearing of the trial launched by Elazig Criminal Court No.2 against the newspaper *Zaman*.

- Ahmet Akkaya, the editor-in-chief of the Kurdish News Agency, was arrested in Istanbul on May 26, 1993. He was accused of "malicious agitation" because of a commentary he wrote about the PKK ceasefire.

- On June 16, 1993, the Istanbul-based Press Council released a press statement in which it demanded that those police officers who had beaten reporter Mehmet Oguz thirty-three days earlier and broken his leg while he "was only trying to do his appointed duty" be immediately investigated and tried. Mehmet Oguz is a reporter for *Hurriyet*, a mainstream newspaper.

Arrests of foreign journalists

Two foreign journalists have been arrested in 1993 on the charges of being couriers for the PKK.

On January 22, Stefan Waldberg (25), a German journalist who was arrested for being a courier for the PKK, was sentenced to three years and nine months in jail. Waldberg, a freelance journalist for Germany's Radio Dreyeckland, had visited Turkey and Iraq last fall to collect information on the political situation in southeastern Turkey and northern Iraq. While in Iraq, he interviewed members of the PKK.

Waldberg was convicted under Article 169 (assistance and shelter of members of an armed gang). Article 5 of the Anti-Terror Law was applied, which requires that the sentence be increased by 50 percent; a three-year sentence, the lowest permissible, was therefore increased to four and a half years. (Even though Waldberg provided evidence at trial that he is a journalist, the court wrote in the decision that Waldberg "is a worker but in his spare time a journalist.") The Court also wrote that the items seized were "evidence that he helped and sheltered the PKK."

On April 29, Waldberg was transferred from Diyarbakir Prison to Buca Prison and will reportedly serve 20 months in prison, benefitting from conditional release.

Andrew Norman Penney, who was arrested at the Iraqi/Turkish border on May 16 for being a courier for the PKK and harboring PKK militants, was released in the first hearing of the trial launched against him by Diyarbakir State Security Court.

Freedom of expression violations by the PKK

Free expression problems have been compounded recently by actions taken by the Kurdistan Worker's Party (the PKK--a separatist group that has been waging guerrilla warfare in southeast Turkey since 1984). On October 16, the PKK ordered all Turkish journalists, except those writing for pro-Kurdish journals, and all foreign journalists to leave southeast Turkey and threatened them with death if they remained. The ban on foreign journalists was subsequently lifted. The PKK acted in response to what it sees as inadequate, biased, and incomplete reporting on the guerrilla war in the southeast. Turkish journals *Cumhuriyet*, *Sabah*, *Hurriyet*, *Gunaydin*, and *Aydinlik*, reportedly complied with the PKK's order. One *Milliyet* correspondent, 23-year-old Ferit Demir, was reportedly abducted on October 23 and held for three days for defying the PKK's ban.

The PKK also ordered a ban on the sale of Turkish newspapers in southeast Turkey, allowing newsstands to sell only pro-Kurdish journals. The PKK has also ordered residents to remove television antennas so that they cannot watch Turkish television.

Television and Radio

On January 22, 1993, all private television and radio stations were banned by a directive from the Ministry of the Interior. The directive sent to the governors by the Interior Ministry stated that the radio and television monopoly was given to the TRT (Turkish Radio and Television) by the state and that private

transmissions should be suspended. The directive stated that the Public Prosecutor's Office would be informed of those who continue with the transmissions, and that their equipment would be seized and their workplaces sealed. A few hundred radio stations as well as several television stations were closed as a result.

A government promise to liberalize the networks had prompted more than 200 private radio stations, many based in Istanbul, to begin broadcasting in June 1992. The stations had won large audiences, but officials have said that radio stations transmitting on unauthorized FM frequencies were interfering with air traffic, naval, coastguard and police communications.

On February 2, 1993, the then-Minister of the Interior Ismet Sezgin sent a new directive to governors informing them not to obstruct broadcasting via satellite from abroad. Sezgin said that upon investigation it was found that it would be legally impossible to ban satellite transmission.

On March 31, 1993, Turkish authorities again decided to close all privately-owned radio and television stations in the country and ordered all stations to cease broadcasting. This move silenced a few hundred radio stations, as well as about fifty local television stations that had been established in recent years but are considered illegal because of Article 133 in the constitution. Parliament is reportedly currently considering an amendment of the Constitution that would permit private ownership of television and radio stations. The Directorate of Wireless Communications, part of the Ministry of Transport and Communications, stated that both the television and the radio channels had been "operating illegally and creating chaos." Then-Prime Minister Suleyman Demirel said that until the laws are changed all private television and radio stations are unconstitutional. "We will stop those who do not obey the laws of the country," Demirel announced.

Many Turkish private radio and television broadcasters have resisted government efforts to shut them down. Osman Ataman, the secretary general of the Istanbul-based association of radio operators, vowed that his members would continue broadcasting and said that he hoped their defiance would speed up proposed legislation.

Broadcasters have reported that the police shut down more than 100 radio stations in the provinces of Konya, Sakarya, Eskisehir, Nevsehir, and Kayseri. No television stations have been closed. Three radio stations in Istanbul, Kent FM, Metropol and Power FM, stopped broadcasting on February 1 rather than being forcibly shut down.

On April 7, owners of four separate private radio stations broadcasting locally in Nazilli (Aydin) were arrested by the Nazilli Court of First Instance on charges of opposing Law No.2813. The names of those arrested were Atilla Toraman (Radio Ozlem), Orhan Narin (Radio Nazar), Mustafa Subakan (Radio Gun), and Filiz Guven (Radio Venus).

On April 21, 1993, *Sabah* newspaper reported that requests to re-open by ten private television and radio stations that had been closed upon the directives of Wireless General Directorate of the Ministry of Transportation, were rejected by the State Council. The authorities did not offer any justification for the rejection but said "We have nothing to do in accordance with the Constitution."

On June 14, four of Turkey's private radio stations, three in Istanbul and one in Izmir, and Ankara's

Flash TV, which were all closed down 74 days before June 14, started broadcasting again. The new Prime Minister, Tansu Ciller, has announced that allowing privately-owned television and radio stations will be a priority of her government.

In recent months people have been brought to trial for voicing their opinions on the air:

- On November 19, 1992, the Chief of General Staff of the Turkish Armed Forces, General Gunes, asked the Ministry of Justice to launch a legal proceeding against journalist Mehmet Ali Birand for an interview with Osman Ocalan, the brother of PKK leader Abdullah Ocalan, broadcast on November 16 by a private television channel. Gunes claimed that the film was prepared with cuts from earlier appearances and gave the impression that the PKK had not suffered any losses during the last Turkish military operation against the PKK camps in Northern Iraq. Refuting this claim, Birand presented to the press the originals of the films shot by his television team at the interview with Osman Ocalan.

- Hurriyet reported on April 28, 1993, that Nese Duzel and Ahmet Altan, the hosts of a public affairs program on the private TV channel, Kanal 6, owned by the late President Turgut Ozal's son Ahmet Ozal, and by Yasar Kaya, owner of the pro-Kurdish newspaper *Ozgur Gundem*, have been accused by the Istanbul State Security Court of spreading subversive Kurdish propaganda during an interview. The Court demands sentences of up to five years and fines of 100 million TL ($8,547) each.

TURKMENISTAN[13]

Article 26 of the Turkmenistan constitution confirms that "citizens of Turkmenistan have the right to freedom of their convictions and their free expression and also to receive information." President Niyazov affirmed the primacy of free expression in Turkmenistan at the CSCE (Conference on Security and Cooperation in Europe) summit on July 11, 1992: "We proceed from the fact that the model of a rule of law and democratic state is based on ensuring a normal and safe life to people and the freedom of speech and thought of every citizen."

Freedom of the Press

Legal obstacles to censorship were removed in Turkmenistan when the provision banning censorship in the mass media was annulled prior to the adoption of the current constitution in May 1992. Censorship is now controlled by the Committee for the Protection of State Secrets in the Press and other

[13] For more information see Helsinki Watch report, *Human Rights in Turkmenistan*, July 1993.

Mass Information Media, under the Cabinet of Ministers, which was created on February 27, 1991; reportedly there is a censorship office in every publishing house. Restrictions of a free press in Turkmenistan include censorship and denial of registration to some newspapers and journals.

Ak-Mukhammed Velsapar, the outspoken writer, told Helsinki Watch:

> In the years of stagnation I worked for six years in Turkmen television and radio, and comparing Brezhnevite censorship with Niyazov's I come to the conclusion that Brezhnevite censorship was child's play and a very intellectual censorship by comparison with Niyazov's. Brezhnev's censorship demanded only a few, understandable things: that there be no names of military departments in your article, that you did not curse out socialism, Lenin, Marx or communist ideals. But Niyazov's censorship is omnipresent, penetrating right down to a person's name, to any image; it searches for things against Niyazov on every line.

Another journalist told Helsinki Watch representatives that he also would not write anything critical of President Niyazov, noting that he believed it would not pass the censor; another disagreed, however, saying that he would not hesitate to write criticism, but stated that thus far he had not.

Tight government control of the media has resulted in stories of a very circumscribed scope, by all accounts, exclusively positive toward government policies — a tone reminiscent of media coverage in the communist era. During Helsinki Watch's monitoring of the Russian-language media in Turkmenistan, for example, the stories in all daily newspapers were almost identical, and almost all the articles, particularly on the front pages, were about the president and recent government decrees and statements. As one life-time resident told Helsinki Watch:

> It reaches the point of absurdity: on the first page of all newspapers, even the children's pioneer newspaper, they print official statements. All of the statements [say]: Niyazov met with someone, said this. Then it is repeated on television and several times on the radio.
>
> Although other countries have already emerged onto a level of democratic reformation, we haven't [even] gotten to *perestroika* [restructuring] yet. For example, Radio Rossii, Maiak and other official mass information media in Russia publish polar-opposite opinions: there Khazbulatov can say his piece, and [so can] Baburin and Yeltsin. Here, however, only the official point of view is heard.

Iusup Kuliev, a young journalist and former employee of the newspaper *Esh Kommunist* (Young Communist) (see below), is currently working as an editor at a documentary film studio and stringing for Radio Free Europe/Radio Liberty. He reported the following to Helsinki Watch about the nature of censorship in Turkmenistan:

> We had a satirical magazine at our film studio [called] *Naida*, sort of a *Fitil'* [a satirical film magazine published in the Soviet era]. They changed this magazine, too. Criticism was abolished in the magazine: you can only make people laugh. The president has a rule that materials which are critical or which lower people's spirits should not be published. Even literary works about sad things are forbidden from being published.

> One woman, a Turkmen, whom I interviewed recently, wrote a fairy tale for publication in a children's Pioneer newspaper. This fairy tale was banned because a fair tsar, a shah, figures in it. The censor immediately said, "It's about our president." But it's absolutely not about that. It's almost funny at this point.

The only independent publication in Turkmenistan -- *Daianch* (Support, Source of Strength) -- has been forced to close, under government pressure, after only three issues in two years. Its editor has been fined and its financial sponsor imprisoned on criminal charges unrelated to the publication but believed to be fabricated to silence him and the paper. He may face the death penalty. *Daianch* is an independently funded newspaper/journal (the first issue was a journal, the second and third a newspaper) that was registered in Moscow on April 25, 1991. The magazine's financial backer, who asks that his name be withheld, describes *Daianch* as "an alternative to official propaganda, which creates the image of Turkmenistan as a little corner of heaven for everyone but especially for those who live in the country." He also calls it a "journal of personal opinions" and has likened it to *samizdat* in the 1970s; *Daianch*'s founder has termed it a human rights magazine. *Daianch* features articles in Turkmen and Russian.

Copies reportedly have been confiscated, its founder and editor, Mukhammedmurad Salamatov, fined on several occasions, and Mr. Salamatov and others connected with its publication report that they have suffered harassment. *Daianch*, in the words of its financial backer, "has been given a burial." Both Mr. Salamatov and the backer say that they are not members of any political or social organization or movement.

According to Mr. Salamatov, 24,500 copies of the first issue of *Daianch* were seized on March 11, 1992, as they were being delivered to Ashgabat from Moscow, where the publication was printed. The financial backer states that he believes the issues were later destroyed. On April 28, 1992, MVD officials reportedly confiscated a special, 2,000-copy edition of *Daianch*, called *Daianch-Ekspress*, which was devoted to reporting about what had happened to the first issue, at the Ashgabat airport. Mr. Salamatov reports that he was fined 400 rubles in connection with distribution of the first issue and 1,000 rubles for distribution of the second.

The financial backer explained that the fines were levied as punishment for alleged violation of the law on the mass media of the Turkmenistan Soviet Socialist Republic, which the court ruled could not be appealed. Authorities apparently charged that since *Daianch* had been registered in Moscow (as were all publications under the Soviet system) it could not be distributed in Turkmenistan without permission from Turkmenistan authorities.

The staff of *Esh Kommunist* reportedly quit en masse in the late summer of 1992 when the newspaper's editor-in-chief was fired by government order; a new editor reportedly was appointed and the newspaper was renamed *Vatan* (Fatherland). A former correspondent for the newspaper, Iusup Kuliev, told Helsinki Watch representatives that *Esh Kommunist*

> was considered the most democratic publication in our republic. It had pluralism of opinion. They closed the newspaper in 1992 and we, the newspaper staff, including the technical staff, some thirty people, tried to appeal to the president, but nothing came of it and everyone was forced to leave.

> First they wanted to fire our editor-in-chief, and then take care of the rest. But we stood by the editor-in-chief... The government broke the law. They said, "The government pays the money [for publication] and whoever it wants to be the editor will be the editor... We went out immediately and [expressed] our dissatisfaction, and immediately security officers were called in and they said right away that if we don't disperse within five minutes they will take us into the station... There have already been cases when [people] have been detained for several days, and then at home. [Protesting further] already wouldn't yield us anything, so we were forced to disband.

UNITED KINGDOM

Serious curbs on free expression continue in the United Kingdom, due partly to the lack of written protection for individual liberties. Britain has no Bill of Rights, and is the only Council of Europe country which has not secured the right to freedom of expression in its law, either through inclusion in its constitution or by incorporating into domestic law the European Convention, Article 10 of which protects free speech.

A wide range of government activities are shielded from public view, primarily by operation of the Official Secrets Act, which criminalizes disclosure of broad categories of foreign policy, defense and military information. Suppression of information under this act is aggravated by the government's failure to adopt freedom of information legislation, although in the summer of 1993 the government proposed increasing the right of access to personal information held by the government and other public bodies. Still, the public's right to know remains restricted in regard to both personal information and items of public interest; for example, in July 1993, a High Court ruled that, not only may a trial alleging violations of the Official Secrets Act be heard in secret, but the government's reasons for holding a secret trial are also secret. This effectively prevents the media and other public entities from challenging government demands for secret trials on national security grounds.

The British do not enjoy an affirmative right of peaceful public assembly, and the Public Order Act of 1986 gives police extensive power to restrict or ban public demonstrations, marches and assemblies. The Act has been used to prosecute anti-apartheid demonstrators, anti-abortion protestors and organizers of other peaceful protests. It is also used to ban anyone suspected of being a hippy or new ager from Stonehenge at the time of the summer solstice. In 1992, the Act was used to prosecute Bill Galbraith, a Cheltenham businessperson accused of describing John Taylor, a Conservative parliamentary candidate, as a "bloody nigger," at the meeting of the Cheltenham Conservative Association where Taylor had been nominated. (Galbraith died while awaiting trial.)

British broadcasters are subject to multiple regulatory bodies, which censor on the basis of "offensive programming," sex, violence, taste and decency. Examples of recently suppressed material include sex scenes, provocative interpretations of religion (the BBC self-censored a showing of "The Last Temptation of Christ"), and graphic depictions of Baghdad fatalities during the Gulf War. In addition, the government ban on broadcast interviews with the IRA, the Sinn Fein and other proscribed Northern Ireland

groups continues. The ban permits the person's face to be seen and words to be read (as subtitles) or heard in another person's voice; it forbids the broadcast of the person's words in her own voice. In 1992, the BBC applied this ban to an interview with Bernadette Devlin McAliskey, a former member of Parliament who is neither a member of Sinn Fein nor of the IRA, but who expressed sympathy for the IRA's goals.

British libel law is unusually pro-plaintiff in that it requires the defendant to prove the truth of the allegedly defamatory statements. This, plus the tendency of British juries to be extremely generous to libel plaintiffs, has a deep chilling effect on journalists and writers, many of whom engage in self-censorship out of fear of a libel prosecution. Libel reforms designed to ameliorate the heavy burden on defendants were proposed in December 1992, but have not yet been implemented.

Another threat to journalism, particularly investigative reporting, is the government's use of the Prevention of Terrorism Act to force disclosure of confidential sources. In April 1992, a High Court ordered Channel Four television and an independent production company to disclose the names of confidential sources used in the documentary "The Committee," which alleged collusion between members of the Royal Ulster Constabulary and loyalist terrorists. The defendants were fined 75,000 pounds when they refused to comply with the order.

Largely in response to news stories about the private lives of the royal family, the British government this year proposed legislation to create a new privacy tort. As proposed, this law will provide a cause of action in tort for conduct that infringes upon another's privacy and causes substantial distress; "privacy" will include a person's health, personal communications, and family and personal relationships. The proposed legislation has three serious flaws: (1) it lacks an adequate public interest defense; (2) it appears to permit prior restraint of the press; and (3) it fails to distinguish between public and private figures, despite recognition by the European Court and other common law countries that public officials may be subjected to greater public scrutiny than private individuals. The proposed law is particularly troubling in the absence of a guaranteed right to free expression.

UZBEKISTAN[14]

Article 29 of the Uzbekistan constitution, which was passed under the current administration, echoes this but fails to guarantee free expression as an absolute right: "Every one has the right to freedom of thought, speech and convictions. Every one has the right to seek, receive and impart any information *except [that which is] directed against the existing constitutional structure and other limitations proscribed by law"* (emphasis added). Indeed, Article 29 stipulates that even "freedom of opinion," let alone its expression, may be limited by law in some cases. In practice, as well, freedom of expression, primarily critical speech with a political content, has been restricted in Uzbekistan.

Freedom of the Press

[14] For more information see Helsinki Watch report, *Human Rights in Uzbekistan*, May 1993.

Officially there is no censorship in Uzbekistan; it is forbidden by the constitution. In practice, however, all forms of the printed and broadcast media are subject to review by censors and are often highly restricted by it. In addition, the publication and distribution of several newspapers, both local and central, are outlawed in the republic.

Subscriptions and distribution of several independent daily newspapers published out of Moscow have been prohibited in Uzbekistan. *Komsomol'skaia Pravda*'s local office has been closed, but was reopened after the editor, Mr. Fronin, had a closed-door meeting with President Karimov, after which the President gave permission for the newspaper to be printed in Tashkent. *Moskovskie Novosti* was banned in November 1992; its editor, Mr. Karpinskii, reportedly has also been invited for private discussions with President Karimov, but apparently has delayed on several occasions. Among others, *Izvestia*, which has approximately 160,000 subscribers in Uzbekistan, has been closed and reopened several times over the course of the last year or so, but has not appeared at all since November 1992. In a statement to readers and subscribers, the editorial staff of *Izvestia* stated "The editorial collegium of *Izvestia* extends its apologies for the extended non-publication of the newspaper in Uzbekistan. It is not the fault of the editors... Based on completely unfounded excuses, and not without the knowledge of the government [vlasti], the publishing-polygraphic concern "Sharq" has been refusing to print *Izvestia* since November [1992]. No official explanations have been forthcoming... The editorial collegium of *Izvestia* views these actions as a fatal attack on the principles of democracy and freedom of speech and a violation of the rights of our subscribers and of the agreement on unified dissemination of information of the Commonwealth [of Independent States]."

Helsinki Watch has evidence that in at least one case the Uzbekistan government has attempted to make distribution of the legal media contingent on favorable coverage of events in Uzbekistan. In a letter to the chairman of Ostankino, the Russian state-run television and radio broadcasting company, Sh. Iakh"iaev, press secretary to the president of Uzbekistan, threatened to discontinue transmission of Ostankino on Uzbekistan territory if the station did not condemn and presumably stop broadcasting "contradictory" and slanderous broadcasts about Uzbekistan.

Some local newspapers have also been banned. *Birlik*, the newspaper of the Birlik Popular Movement, operated for more than two years before it was closed in the fall of 1991. At least seven people held a hunger strike beginning February 5, 1992, to press the government to permit registration; the strike did not produce the desired effect. *Erk*, the publication of its namesake party, operated for about six months beginning in early 1992 before it was ordered closed that fall. The Uzbekistan parliament ordered *Dustlik Toui* (Flag of Friendship), a daily newspaper published in the name of Uzbekistan's Kazakh minority, closed and half of its staff dismissed on February 14, 1993, over reported government displeasure with articles and poems it published unfavorably comparing the elections in Uzbekistan with those in the United States. The newspaper was then replaced with *Kourly Yaol* (Bright Voice), which reportedly was mandated by the Uzbekistan parliament to reflect "the politics of the Uzbek government." Sometime after March 1992, the presidium of the Supreme Soviet reportedly voted to dismiss the editor of *Khalq Suzi* (Word of the People), apparently over displeasure with the content of the publication, and later, following a strike by journalists in support of the editor, the newspaper was ordered closed.

Mustaqil Haftalik and *Nezavisimyi Ezhenedel'nik* (Independent Weekly) are banned from distribution on Uzbekistan territory, although officially registered there. *Istikhlol* (Independence), whose

focus is unknown; *Tarjima* (Translation), a news digest; *Tadbirkor* and *Predprinimatel'* (Entrepreneur), Uzbek- and Russian-language versions of a single weekly newspaper, which was closed and its offices reportedly sealed in August 1992; *Rokodrom*, a weekly Russian-language entertainment publication; and *Muloqot* and *Dialog*, differing Uzbek- and Russian-language versions of a monthly magazine devoted to political debate, have all been ordered closed since the beginning of 1992 apparently to silence criticisms expressed in them.

Mustaqil Haftalik has been confiscated on numerous occasions and the individuals in whose possession they were allegedly found harassed by militia and in some cases fined under Article 30 (1), which reportedly prevents dissemination of illegal materials. Vasila Inoiatova, a chemist, poet and secretary of the Birlik Popular Movement, told Helsinki Watch that on September 8, 1992, she was detained by the militia and fined for disseminating *Mustaqil Haftalik*.

According to the newspapers' sponsor, Mahmud Inakov, on May 11, 1992, 5,000 copies of *Mustaqil Haftalik* were confiscated as they were being transported into Uzbekistan from Moscow. He reports that a letter dated May 18 to deputy municipal procurator Anvar Mirzaev requesting the return of the newspapers has not been answered. Mr. Inakov told Helsinki Watch that 3,000 copies of the newspaper he was transporting in Andijan were confiscated, at which time he was attacked, beaten, and kidnapped. He further reported that on November 1, some 5,000 copies of issue No. 12 of *Mustaqil Haftalik* were confiscated in Guliston *raion* (region) as they were being brought in by train from Moscow to Andijan. He stated that the officials did not present any documents to warrant the seizure.

A lawyer, Mr. Saifullo, reportedly served a six-month sentence on slander charges in connection with an article he wrote that appeared in the Moscow-based daily newspaper *Komsomol'skaia Pravda*, criticizing the Uzbekistan procuracy and other legal bodies and their representatives.

Bakhrom Khamroev, chairman of the Zaravshan branch of the Birlik Popular Movement, reported the following incident in connection with his possession of *Ekspress Khronika*, a weekly newspaper published in Moscow that focusses on human rights violations in the former Soviet Union. He told Helsinki Watch representatives:

> Upon my return from Tashkent to Zaravshan on September 24, 1992, I was detained at the station and taken directly to militia headquarters.

Anvar Usmanov, an independent journalist, reportedly has been the victim of numerous human rights violations, including violations of free expression, politically motivated detention in prison and arson. He reports that he was arrested in August 1991 and June 1992 in connection with his coverage of events in Uzbekistan, and that in September 1992 his house was burned down by Uzbekistan authorities.

A total of at least nine people reportedly were arrested on August 20 on similar charges, including fellow Birlik activists Abdurakhim Pulatov, Mirolim Odylov, Quchqorboi Akhmedov and Shukhrat Ismatullaev.

Mr. Usmanov continued:

> I said to my lawyer, "I'll go to the interrogation tomorrow." He said, "What are you, an idiot?" So I got into a car and drove home with two cars following us. I collected some things,

jumped over the back fence, got into another car and drove to Kazakhstan. From there I flew to Moscow. I haven't been home since.

Censorship

Although there is no official censor in Uzbekistan, staff at Goskompechat' (State Print Committee), including Erkin Komilov and Rustam Sharguliamov, and other government agencies reportedly continue to censor the print and broadcast media. One indication of how certain topics are forbidden is that, according to Tashkent residents interviewed by Helsinki Watch, no mention was made at all in the local media of the student demonstrations of January 1992, although they left scores of casualties and caused widespread material damage to one neighborhood. Passages from the now closed newspaper *Erk* have appeared in print whited out. Numerous individuals interviewed by Helsinki Watch report that censorship is more heavy-handed now than under the Soviet system. As one local journalist put it, "At least under the old system you could go and raise a stink [poskandalit']; now they do whatever they want."

The following examples may be illustrative of the severity and broad scope of current censorship. In the November 6, 1992, issue of *Izvestia*, the independent daily newspaper published in Moscow but circulated throughout the former Soviet Union and abroad, an article entitled "Censorship has been Introduced for All Mass Media in Uzbekistan" was replaced in the version that came out in Uzbekistan with an advertisement for a translation agency. In the May 19, 1992, issue of *Erk*, the caption under a cartoon of an emaciated, elderly kolkhoz worker in a hospital bed and a visitor was changed from "Son, I wasn't practicing yoga; I was picking cotton" to "Father, practice yoga and you will get well soon."

According to some local journalists interviewed by Helsinki Watch, television is the most heavily censored medium because it reaches the largest audience. Programs broadcast from Russia which sometimes present unfavorable information about Uzbekistan reportedly have been replaced by programming from Turkey, which reportedly is almost uniformly affirmative of events in Uzbekistan. According to one local journalist, concerned individuals sent a letter to Uzbekistan authorities in 1992 protesting this limitation on Russian broadcasting. The explanation given was that the Russians were charging too much for the service. When asked for a confirmation, however, Russian officials reported that the programming is provided free of charge, prompting the initial protesters to send a letter to Uzbekistan authorities criticizing government "disinformation."

Yugoslavia

By law, the press is free in Yugoslavia and the independent sector may criticize the Serbian government of Slobodan Milosevic. In reality, however, the state maintains tight control over the media, both indirectly through intimidation and harassment of journalists critical of Milosevic, and directly by restricting access to broadcast frequencies and through massive purges of anti-government journalists.

Well aware that between four and five million Yugoslavs watch the main daily television news, while only 30,000 read a daily newspaper, the Serbian government carried out a thorough purge of Radio-Television Serbia. In January 1993, Radio-Television Serbia forced over 1,000 workers on "technical holidays," ostensibly because of economic difficulties, but actually due to their political beliefs. The

journalists who were dismissed either were non-Serbs, open political opponents of the ruling Socialist Party of Serbia (Socijalisticka Partija Srbije - SPS) or members of the independent journalists' union. This fall, the Supreme Court in Belgrade reversed a decision of a lower court holding the forced layoffs to be illegal, thus permitting Radio-Television Serbia to layoff dissenting journalists at will.

Radio-Television Serbia, with its three studios (i.e., Belgrade, Novi Sad and Pristina) thus remains a cornerstone of the ruling party's power structure and continues to play a key role in molding and manipulating public opinion. It is through his control of television that Milosevic fanned the Serbian nationalist frenzy that fueled the collapse of the former Yugoslavia and the wars in Croatia and Bosnia-Hercegovina. In all previous multiparty elections held since 1990, the SPS has steadfastly refused to provide equal access to the media and right of reply to opposition parties. With elections for the Serbian assembly scheduled for December 19, 1993, the state media has yet to change its discriminatory coverage of opposition parties.

Two semi-independent television stations operate from Belgrade, "Studio B" and "Politika television." Studio B reaches only a small radius around the Yugoslav capital; as a result of recent editorial changes, it broadcasts fewer news programs critical of the ruling party than it did three years ago. Still, Studio B remains a valuable source of information, particularly for news about the activities of the opposition parties. Politika television was created a year ago by the umbrella company and publisher of the main pro-regime daily newspaper of the same name. Although the Politika publishing house remains in the hands of the ruling party, the television station carries open discussions between government supporters and opponents. Politika was the first television station in the rump Yugoslavia to re-broadcast foreign television news, including programs from Croatia.

Milosevic's regime similarly maintains a tight rein on radio stations. Late last year, the government took over "Radio Pancevo," formerly an independent local radio station based in a small town near Belgrade. In the process, the government purged all anti-establishment broadcasters from Radio Pancevo. The main independent station still in operation is "Radio B-92," which, having been repeatedly denied a broadcasting frequency, operates as a "pirate station" out of Belgrade. Several other local radio stations scattered throughout Serbia face the same problems with obtaining frequencies as Radio B-92. Given their limited audiences, none of the independent stations exert the same influence on public opinion as state-run Belgrade radio.

Although on paper the requirements for new television and radio stations appear quite reasonable, local and federal ministers of information and trade and commerce work to stymie what could be anti-establishment newcomers. The problem is particularly acute in Montenegro, where pro-Milosevic forces dominate the airwaves. Two groups have attempted to begin independent radio stations there, only to be refused by the local minister of information. According to the Montenegrin minister of information in an interview with Helsinki Watch in September 1993, his hands are tied by the federal minister of information. The local minister claimed that he cannot grant permission for any new stations until the federal parliament passes new media regulations. Yet, in an interview with Helsinki Watch later that month, the federal minister of information disagreed with his subordinate. According to the federal information minister, no applications for frequencies are being denied or delayed; the problem, he said, lies solely with the local minister of information. Meanwhile, independent stations remain off the air, caught in a Catch-22.

This strict government control over the broadcast media cannot be overcome by the efforts of the independent press to promulgate a different message. Granted, staunchly anti-Milosevic magazines and newspapers are printed in all parts of the country, most prominently, *Monitor* in Montenegro, *Vreme* and *Borba* in Serbia proper, and *Bujku* in Kosovo. However, given the dire economic situation, few people can afford to buy these publications. Thus, their readership remains small and shrinking and the independence of some publications has been compromised.

Milosevic began his rise to power in the mid-1980s by first establishing total control of the main newspapers and magazines. He immediately purged the influential publications *Politika* and *NIN* of political opponents. Today, *Politika* no longer publishes articles inciting ethnic hatred for which it was notorious in the early stages of Milosevic's regime. Nevertheless, the newspaper still is very critical of the opposition and does not openly challenge the government. The government maintains control over *Politika* by fostering confusion regarding ownership and control of operations. *Politika* was first nationalized in 1945, then declared "state-owned" and later "socially-owned" property. As socialism in the former Yugoslavia deteriorated, employees tried to privatize the company, staging a protest strike when the regime proposed a law nationalizing *Politika* in 1992. While the government later withdrew the proposal, it never clarified the status of the company. The government thus continues to interfere with the editorial policy of the paper but publicly bears no responsibility over day to day operations.

Borba, once the main Yugoslav communist newspaper, established a reputation as an objective daily newspaper read by the liberal intelligentsia and university students after it aligned itself with Ante Markovic, the former reformist Prime Minister of Yugoslavia. In the process of privatization, the federal government kept 17 percent of the shares and a private company close to the ruling regime held onto another 34 percent. In July, 1993, the two main shareholders changed the paper's editorial board and, as a result, *Borba* has moved closer to official government positions. *Borba*, like many papers, also suffers from severe economic difficulties. Since Serbia "froze" the price of daily newspapers due to hyper-inflation, *Borba*'s sales cover only three percent of its printing and distribution costs. As a result, journalists salaries have plummeted to an average monthly salary of ten US dollars. Despite such difficulties, *Borba* remains the only relatively independent daily newspaper in the rump Yugoslavia.

Vreme, an independent privately-owned weekly news magazine, subsists on financial contributions from abroad. While *Vreme* maintains an objective stance, its readership is limited. Many of the weekly's original readers have emigrated while a majority of potential buyers cannot afford to purchase the magazine.

Some opposition groups and political parties publish their own magazines but these have even more limited readerships than *Vreme*. *Republika*, for example, is an independent paper written by and for intellectuals. *Pacifik*, another small Belgrade-based independent paper, promotes peace and culture. And the Serbian Renewal Movement (Srpski Pokret Obnove - SPO), an opposition party led by Vuk Draskovic, publishes *Srpska Rec*, which challenges the government on virtually all issues in a light designed to promote Draskovic and his party.

The Hungarian minority in the province of Vojvodina publishes Hungarian-language newspapers, including *Magyar Szo*, a daily with a circulation of approximately 70,000. The editor-in-chief, who is appointed by the provincial assembly, opposes privatization of the newspaper, despite journalists' demands to the contrary and the newspaper's pressing financial difficulties. *Naplo* is an independent and

politically critical Hungarian-language weekly and *Ifi* is a recently privatized youth paper based in Subotica. Other minority group papers published in Vojvodina include *Hlas Ludu* in Slovakian and *Ruskoe Slovo* in Ruthenian, but neither are viewed as independent publications.

In Sandzak, the Muslim population publishes a newspaper named after the region. The paper is privately owned, critical of the government and concerned primarily with the needs and interests of the Muslim population of Sandzak.

The situation with the Albanian-language media in Kosovo has been increasingly dismal since July 5, 1990, when police occupied the Radio-Television building in Pristina and prevented employees from entering the premises. About 1,300 employees subsequently were fired for alleged disloyalty to the state. Since then, no independent Albanian radio and television stations have existed in Kosovo. The only Albanian-language programming in all of Kosovo are programs broadcast a couple of hours each week, translated from Serbian. Economic difficulties have prevented Albanians from attempting to establish a new station.

The printed press in Kosovo faced a similar decline beginning in 1990. At that time, the Rilindja publishing house published three main newspapers--*Rilindja* in Albanian, *Jedinstvo* in Serbian and *Tan* in Turkish. In August 1990, Serbian authorities banned *Rilindja*. In response, the editors of *Bujku*, an Albanian-language agricultural newspaper published by the Rilindja publishing house, transformed the publication into a general newspaper. Since then, however, *Bujku* has been beset by a host of difficulties.

In November 1992, the Serbian assembly adopted a law creating "Panorama" to succeed the Rilindja publishing house, thereby acting as an umbrella company for all papers published in Kosovo. The Serbian-controlled Panorama assumed control of Rilindja's physical assets and authority over the latter's printing, distribution and banking operations. The overall effect was to tighten state control over the printed media in Kosovo. In protest, several Albanian journalists held a hunger strike in spring 1993, but Panorama refused to relinquish control. *Bujku* now publishes six times a week as part of the Panorama publishing company, on which it depends for printing and distribution. As operation costs escalate in relation to sales, *Bujku* loses money daily and its continued publication remains precarious.

Government harassment of journalists and fear of a new wave of government purges has led to a climate of self-censorship among many journalists who work in government-controlled media. Stories about white collar crime and the activities of paramilitary troops are viewed as particularly risky. Several journalists throughout Yugoslavia have reported police harassment after writing about such topics.

The federal parliament currently is considering a new information law that could allow for increased restrictions on foreign financing of media projects in Yugoslavia. One proposal would give the Serbian government the right to veto any "foreign" aid being given to any media in the rump state of the former Yugoslavia. This change could cripple independent newspapers that rely on foreign support, such as *Vreme*. Helsinki Watch urges the international community to monitor changes in the information law carefully, and to dissent to any such amendments that impair press freedoms.

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Helsinki Watch was established in 1978 to monitor domestic and international compliance with the human rights provisions of the 1975 Helsinki Accords. The chair of Helsinki Watch is Jonathan Fanton and the vice chair is Alice Henkin. Jeri Laber is executive director; Lois Whitman is deputy director; Holly Cartner and Julie Mertus are counsel; Erika Dailey, Rachel Denber, Ivana Nizich and Christopher Panico are research associates; and Christina Derry, Ivan Lupis, Alexander Petrov and Isabelle Tin-Aung are associates.

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Helsinki Watch is affiliated with the International Helsinki Federation in Vienna, Austria.