Has terrorism—and the war on terrorism—contributed to a decline in press freedom? Some observers would say the answer is clearly yes, the press in the United States and many other countries is less free in the wake of the events of September 11 and after. As evidence, they point to controls placed by the American government over access to the war zone in Afghanistan, to censoring of information about hundreds of detainees in the United States, and, especially, to new laws giving the state the ability to monitor electronic communications which may affect sources and content of the news media.

The evidence, in fact, has been mixed. Press reporting of the war in Afghanistan has been robust, from battlefield accounts to analyses of future strategy. Some laws adopted by democratic states have restricted access to information, but not press freedom per se. Some authoritarian governments have exploited the terrorism threat to reinforce their illegitimate rule.

Any discussion of the vexing questions posed by the war on terrorism must begin with a recognition that the United States, along with other countries, is in a state of war. The war on terrorism differs in important respects from previous wars. But there is no question that the United States is engaged in an armed conflict against an enemy that has demonstrated a ruthless willingness to kill civilians, has tried to gain access to weapons of mass destruction, and has fighters and agents in practically every part of the world.

Before September 11, it was not clear whether the war declared by Islamic extremists encompassed the entire globe. After 9/11 there could be no doubt. By striking at various targets in the United States, the terrorists were announcing that they could strike at any country or any people they deemed an enemy of Islam. It was soon revealed that loosely linked Islamic terror cells existed in many countries, with the goal of launching violent attacks on political enemies, government buildings, monuments, or civilians.

In wartime, some restrictions on the press are inevitable. Journalists operating in the new, post-September 11 environment faced new challenges in both free and not-free nations. Louis D. Boccardi, president of the Associated Press, the world’s largest news agency, said that the challenge for journalists was to “seek a new balance between our vigorous advocacy of open government and our understanding as responsible citizens that the nation is now in a fight in which information and openness can be weapons used against us.”

**Striking a balance in wartime**

Seven months after 9/11 it is clear that a measure of news control has been applied in stages coinciding roughly with changing military initiatives. At the outset, Washington officials did not provide reporters advance information on military operations or allow even a select pool to accompany troops in initial forays, as was done at the cross-channel invasion in World War II.

During that war, *New York Times* reporter William L. Laurence covered the first atomic explosion at Los Alamos in July 1945; his “top secret” report was withheld without leaks until
the first bomb was dropped on Hiroshima. Laurence then flew in the B-29 that dropped the second atomic bomb on Nagasaki. In December 1943, Edward R. Murrow, dean of U.S. broadcast reporters, described the harrowing bombing run over Berlin, and the death in that raid of two journalists. All were covering the action first-hand for Americans at home.

By contrast, in Afghanistan, journalistic access was influenced by the “lessons” of Vietnam and Watergate. These models of aggressive investigative journalism caused one Secretary of State to challenge a journalist: “Whose side are you on?” After Vietnam, the American military was more cautious in its policies with the press. There were controls on reporters at the U.S. incursions in Grenada and Panama and the war in the Persian Gulf.

Those lessons were recalled by one journalist last September, in the immediate aftermath of the terror attacks. “I think if you know that there’s to be an invasion tomorrow, you’re obliged not to report that,” remarked the AP’s Boccardi. Other journalists, however, may not have agreed with this common sense approach.

Security was stepped up. It became more difficult to enter the Pentagon and the Congress. Nevertheless, many journalists were pleased by official government briefings, particularly those of Defense Secretary Donald Rumsfeld. He was believed to be candid and revealed tips that could be triangulated—that is, followed up elsewhere for details that filled in a broader picture. Of such top-level Pentagon spokesmen, said ABC’s Washington bureau chief Robin Sproul, “This has been the most accessible Pentagon I’ve ever experienced…for almost 20 years.” But Pentagon briefings, by definition, were second-hand coverage of a combat action.

The ground combat in Afghanistan was largely conducted by small units of commandos. Journalists could not be professionally trained to accompany them; nor could the forces that swiftly entered and left combat be expected to protect reporters accompanying them. Reporters visited aircraft carriers from which the Navy flew bombing raids, but no journalists flew on bombing missions, as they did in other wars. The press complained it was not allowed to visit the 10th Mountain Division awaiting action in Uzbekistan, nor the Marine expeditionary units before they entered Afghanistan from ships in the Arabian Sea. The Pentagon maintained that the unusual combat operations had to be kept secret. The press were also kept from other U.S. forces in Pakistan, Tajikistan and on the island of Diego Garcia before the military operations began.

The control exercised by U.S. officials did not prevent journalists from reporting on numerous occasions bombing mistakes that killed civilians and friendly troops and injured some Americans. Indeed, some newspapers carried item after item on American combat operations that may have gone awry. Journalists protested when a U.S. officer prevented the press from photographing a wounded American. The White House press briefer later apologized to Washington bureau chiefs.

The domestic U.S. tightening

An immediate official response to the 9/11 attacks was domestic restrictions affecting journalists as well as the general public. “Ground zero,” the scene of the World Trade Center bombing, was initially cordoned off and declared a crime scene. Reporters could not roam at will, partly to protect them from falling debris, partly to avoid interference with rescue operations, and partly to restore some control to an otherwise chaotic scene of giant devastation.

Some foreign journalists and press freedom organizations saw this policy as an example of censorship. These critics accused U.S. journalism of being caught up in a wave of patriotism or of practicing self-censorship. In one extreme case, Don Emmert, a correspondent for Agence
France-Presse, said New York was “like a police state” because the mayor’s office asked the press not to display images of firefighters recovering the bodies of their colleagues.

These criticisms were unwarranted. There was no justification in demands for access to the corpses of victims at ground zero. Terrible pictures were, indeed, made available to television producers, but in the interest of good taste, the networks decided not to show them. Some TV stations showed people jumping from buildings, but the stations later regretted doing so.

Some changes were adopted that had modest effects on domestic journalism. Hundreds of non-citizens and some citizens were detained and interrogated, but the press was not given the names of the detainees nor the charges on which they were held. Immediately after the September 11 attacks, agents of the Federal Bureau of Investigation went to the major U.S. Internet providers (ISPs) such as AOL to install the Carnivore program on their servers. This enabled the FBI to monitor e-mail messages, trace the trail of previous communications, and obtain stored voice mail as well as email. The FBI’s action was contested, but the new U.S.A. Patriot Act gave federal law enforcement officials broad authority to wiretap and monitor terrorist suspects and allow ISPs to assist without a court order. This enabled authorities to track cybercrime as well as cyber terrorism. To preserve some privacy, Congress passed a new education bill in December allowing parents to bar companies from using the Internet to collect information about their children in school.

Paralleling restrictions on journalists in the field came specific new policies by Attorney-General John Ashcroft, who cast tighter secrecy-protection rules over the decades-old Freedom of Information Act (FOIA). The FOIA process enables academics and the general public to secure government papers. Journalists use the process extensively to research investigative stories or provide greater context for current news.

Under new rules, an FOIA request can be denied merely to protect the privacy of a named individual. Previously, records could be withheld if disclosure would result in foreseeable harm. On the basis of national security, the Attorney-General guided FOIA handlers to withhold information that might be detrimental to “institutional, commercial, and personal privacy interests.” Under this rubric many government agencies could keep secret much information that was previously available to journalists. “We can’t tell what the government is going to do,” said Anders Gyllenhaal, FOIA chairman of the American Society of Newspaper Editors. “There is a new climate in the country since September 11,” he added.

On September 25, the Voice of America decided to broadcast part of an interview with a Taliban leader after the State Department had initially prevented the VOA from airing it. Strong press criticism helped reverse the State Department’s decision. The government also drew modest criticism when the Secretary of State urged U.S. television not to cover the lengthy full delivery of Osama bin Laden’s anti-American diatribes. Instead, TV excerpted newsworthy portions of a later speech by bin Laden, and the U.S. Secretary of State was interviewed on Al-Jazeera, the originating Arab station.

In February, the Department of Defense was revealed to be planning an Office of Strategic Influence that would employ disinformation—“black” or false news—for release abroad. After a week of opposition in the press, the office was shut down. Far better would be a major effort by the Agency for International Development (USAID) to encourage diverse, independent news media where state-run outlets provide the main source of information. The development of indigenous, diverse—ultimately critical—public voices can change the present rampant anti-Americanism abroad.
As with the broadcast of the VOA interview, the killing of the Office of Strategic Influence indicated that First Amendment protections could be effective even in an emergency. “This is not the time to let terrorists erode our nation’s history of open inquiry,” said Chris Peck, president of the AP’s Managing Editors Association.

**The volume of information increases**

By mid-December, the Pentagon relaxed some controls on information and apologized for “severe shortcomings in our preparedness to support news organizations in their efforts to cover U.S. military operations in Afghanistan.” By January, the first reporters were permitted to accompany U.S. Special Forces in Afghanistan. The *New York Times* sent more than a dozen reporters and photographers to combat zones. Suddenly, there was a flood of reporting but, says Sandy Johnson, the AP Washington bureau chief, mostly on the “small subjects” of the war, not the “big picture.” As a result, opinion and speculation were rife, particularly on radio and television.

Perhaps neither the White House nor the U.S. military had yet framed the longer-term objectives. There was, however, critical reporting of civilian deaths and erroneous bombing in Afghanistan, presumably based on faulty intelligence. There was also speculation of less than explicit future objectives.

In terms of press controls, the American public was strongly supportive of military censorship. By 53 to 39 percent, respondents told the Pew Research Center in November that it is more important for the government to be able to censor stories it believes could threaten national security than for the media to be able to report news as it sees fit. Americans said the military should exert more control over news about the war rather than leave most decisions to the media.

Yet the public supported neither substituting propaganda for news, nor the press becoming merely a lapdog rather than a watchdog of government. Three quarters of those interviewed praised the news media for their coverage of the attacks and the war against terrorism. This was a sharp increase in support of the media, though it still reflected the public’s preference for military censorship that had been expressed during several U.S. military forays in the past two decades.

**Other responses in democratic countries**

Following the attacks of September 11, many countries undertook various actions against terrorism. Some democratic nations copied U.S. procedures by expanding or creating laws to legitimize domestic surveillance, although few resulted in any measurable decrease in press freedom.

- Canada’s “Law C-36”, passed in December, increased surveillance of the Internet, electronic mail, and telephone conversations. A new amendment to a defense law enabled the telecommunications security center to intercept private communications between Canada and other countries to monitor aspects of international affairs, defense, or security.
- In November, France passed a series of laws affecting private life in the anti-terrorism era, and effectively made encryption of electronic messages an offense.
• Germany’s Bundestag enacted a number of anti-terrorist laws that included the intelligence services’ right to gain access to stored telecommunications data and discover the origin of e-mail and its contents.
• The Indian cabinet approved the Prevention of Terrorism Ordinance, which specifies that journalists must give authorities full information concerning terrorist activities or face imprisonment. Courts could sentence journalists to three years in prison for not revealing sources of terrorist activities, particularly the names of terrorists and supporters they have met or interviewed. (After protests from domestic journalists as well as press freedom advocates, these provisions were withdrawn from the version of the anti-terrorism bill currently being considered)
• In the United Kingdom, where Prime Minister Tony Blair was the first to stand beside the United States in the war on terrorism, the police were given added power to monitor the Internet, electronic mail, and telephone conversations. The prime minister’s spokesman declared that news media “must not put on an even level the Taliban’s web of lies and the [anti-terrorist] coalition’s declarations.”

Press-freedom advocates may express some concern over the global electronic summit planned for December 2003 because of the new interest in monitoring Internet content. The International Telecommunications Union (ITU), the world’s oldest intergovernmental organization, will run the conference. In the past, the ITU has been the regulatory agency that negotiated consensual agreements to assign telephonic, broadcast, and satellite sites on the spectrum. Never before has it delved into the content of messages. Press freedom advocates fear that next year’s summit could break that hands-off tradition.

Other measures

In the aftermath of the September attacks, some non-democratic countries quickly exploited the anti-terrorism climate to further harass their own journalists. In the past, these countries never needed such a rationale to deal harshly with domestic or foreign news media. Some now cited the threat of terrorism as justification for policies of repression.
• Local journalists in Indonesia attacked an anti-terrorist bill, writing “the amalgams and inaccuracies contained in this text could easily justify all kinds of crackdowns attributed to terrorism, reminiscent of the 30 dark years of the Suharto regime.”
• Immediately after the September attacks, Jordan amended its penal code to increase censorship. Journalists faced prison for messages that “could breach national unity, divide the population, or damage the image and reputation of the state.” Egypt cracked down similarly, focusing on the Muslim extremists who had long attacked the ruling party.
• One ominous attempt to exploit the fear of terrorism is entailed in the draft program submitted by the Russian government to the United Nations Educational, Cultural, and Scientific Organization (UNESCO). The draft, prepared by a Russian journalist union, purports to define “the role of journalists in international efforts to prevent and eradicate terrorism.” The draft would be presented this May to a UNESCO-sponsored seminar in Manila on media and terrorism. It would mobilize journalists worldwide to inspire publics to reject terrorism, introduce anti-terrorism subjects into journalism schools, and solicit international recommendations for the media to fight terrorism. What makes this
resolution of particular concern is the implication that it would legitimize state influence or control over independent journalism.

- Saudi Arabia required ISPs to keep records of all Internet users, including their addresses and phone numbers, so that officials could use the information to discover whether a user accesses a forbidden Internet site.
- Ukrainian President Leonid Kuchma, casting a chill over communicators in the new climate, said, “the Internet has become a killer.” He accused critics of writing “whatever they like without signing their names, and then it appears in the mass media.”

Clearly, there is an international consensus that terrorism must be rooted out wherever possible. But how? And with what protections for the human rights of innocent citizens and the freedom of independent journalism?

The dilemma

There is a real dilemma presented by the need to employ communication technologies to track terrorists before they strike, and yet preserve the privacy of individuals and the freedom of the independent press to monitor and criticize government activities. The dilemma faces governments as well as journalists. In the past, American support for war diminished when the integrity of reporting declined, either by censorship or by inadequate or inflammatory journalism. The public’s rejection of the Vietnam War was driven more by deceitful official claims than by a few horrendous television pictures.

By last December, polls of print and broadcast viewers revealed that the public’s approval of press coverage of the war on terrorism had dropped to 63 percent, down from 75 percent in September. The difference could be explained by the clear emphasis on opinion rather than on straight reporting. Greater use of opinion, particularly on radio and television, may be attributed to less “hard” news made accessible to reporters by officials and to the impatience of journalists to discover or predict the “next phase” of the conflict. Whichever the primary cause, the public noticed the difference.

The public’s right to know is not absolute. Officials need time and space to formulate strategies and tactics. Journalists need to protect their sources from public and official scrutiny. Within that slightly narrowed playing field, however, a new contract is needed for the press/government relationship in wartime.

What, then, should be the new guideline in democratic states? In the United States, for example, government should forthrightly provide information about its activities, except in the interest of legitimate national security. That phrase should not be over-used. The government should define through public debate what kinds of information must be kept secret and under what circumstances and conditions. As part of the system of checks and balances a diligent and skeptical Congress and press must do everything possible to make the government fulfill this obligation.

Government also has the obligation to protect the privacy of its own negotiating and decision-making process. Just as the judicial conferences of the U.S. Supreme Court are held in private, so decision-makers in the executive branch are entitled to privacy in seeking staff advice and weighing alternative policies. Such privacy, however, should be of limited duration unless severe negative domestic or foreign repercussions would result from revealing details of the process.
For journalists, investigative reporting is often essential to secure the basic facts of a complex event. Officials should acknowledge and not seek to frustrate this essential role. Reporters, for their part, should maintain an adversarial stance without becoming purely antagonistic or an enemy of government. This distinction is particularly vital in wartime, especially in as amorphous a conflict as a war on international terrorism that has domestic as well as foreign roots.

The war on terrorism is likely to be a long, tedious hunt involving diplomatic and economic as well as military actions. In all these fields and in all regions of the world the flow of communications will be central to both the activity of the terrorists and to those opposing them. The news and information flow, however, is also central to the protection of civil rights.

As polls already indicate, the public recognizes when the press is not performing well, for whatever reason. Officials should understand that a democratic public will not accept reports of an obviously manipulated press, or one labeled unpatriotic. Nor should individual privacy be invaded, particularly over the Internet and the telephone, without formal judicial approval. While this intrusion would be abhorrent in peacetime, even broad Internet surveillance in an emergency is defensible provided the process is publicly acknowledged and sustained by a court. This and related actions, otherwise unacceptable in a democratic state, are defensible once there is national agreement that the nation faces “a clear and present danger.” Even then, journalistic surveillance of official actions is vital.

Officials and journalists alike should recall this precedent in American constitutional law. During the U.S. Civil War, President Abraham Lincoln suspended habeas corpus (the right to hear formal charges used to detain a citizen). He also employed military courts to try opponents of his war policies. After the war, the U.S. Supreme Court declared that these acts were unconstitutional. The court said that “the Constitution of the United States is a law for rulers and people, equally in war and in peace, and gives protection to all classes of men, at all times, and under all circumstances…In no other way can we transmit to posterity unimpaired the blessings of liberty, consecrated by the sacrifices of the Revolution.”

This is an important lesson not only for democratic societies, but also for those who rule through military power or the absence of legitimizing electoral processes. Especially in these countries, journalists are viewed as an irritation or, at best, an adjunct of governance. The international war on terrorism has been a boon to such states. They seek to join the war on terrorism while defining their domestic critics as terrorists who must be rooted out. This shoddy exploitation should be revealed even while democratic states accept from the same countries some intelligence and geopolitical cooperation. In this as in other aspects of the rush to legislate surveillance and other measures of information control in many countries—free and less than free—journalists must publicize the implications of such laws without fear of official attack or condemnation.