The David Miranda ruling and the attack on press freedom

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To appreciate in full the deeply reactionary import of the ruling that David Miranda was detained lawfully at Heathrow airport last August, one need only cite some of the arguments marshalled by the High Court in London.

The formulations employed by Lord Justice Laws, Mr. Justice Ouseley and Mr. Justice Openshaw in their judgement last Wednesday go far beyond this one incident—itself an unprecedented assault on journalistic freedom. They point to the outlawing of any notion of a "free press." On the spurious grounds of "anti-terrorism" and "national security", no one is safe from the reach of a British state determined to cover up its crimes and legitimise those yet to come.

Miranda is the partner of Glenn Greenwald, a former *Guardian* journalist and close associate of National Security Agency (NSA) whistle-blower Edward Snowden. He had been in Berlin with filmmaker Laura Poitras, who collaborated with Greenwald on his disclosures of mass spying by the NSA and Britain's Government Communications Headquarters (GCHQ). He was en route to Brazil when he was detained by the Metropolitan Police for nine hours and his laptop, phone and encrypted storage devices were seized under the Terrorism Act 2000.

This legislation was enacted by the Labour government of Tony Blair. It permits police to detain any individual at UK borders and confiscate their possessions, even if there is no suspicion of criminal activity. Miranda's detention marks the first time the Act's provisions have been used to seize journalistic material.

Miranda challenged this as unlawful on the grounds that the Act was used improperly and the actions of the police constituted disproportionate interference with his right to freedom of expression, as defined by the European Convention on Human Rights (ECHR).

The High Court acknowledged his arrest "constituted an indirect interference with press freedom," but ruled that this was warranted by "very pressing" interests of national security.

The subordination of fundamental democratic rights to an omnipotent state runs as a constant thread through the ruling.

Greenwald had submitted that "not to publish material simply because a government official has said such publication may be damaging to national security is antithetical to the most important traditions of responsible journalism."

Lord Laws dismissed this as "true but trivial." Journalists have no "constitutional responsibility" as regards matters of national security, he ruled, and could not know the whole "jigsaw" of intelligence information. They are therefore unable to judge whether disclosure of certain information could endanger "life or security."

Making clear that only the state could make such a judgement, the High Court deferred to the submissions of British cabinet minister Oliver Robbins, deputy national security adviser, and the police.

As regards improper use of the Terrorism Act, the court stated that Miranda was "not a journalist" and that "the stolen GCHQ intelligence material he was carrying was not 'journalistic material', or if it was, only in the weakest sense."

This was only one of numerous references to "stolen" material, which in the Orwellian world of modern-day Britain refers not to the material illegally gathered and hoarded by the NSA/GCHQ, but to Snowden's exposure of such activities.

Laws stated as regards press freedoms and national security that in "this case, the balance is plainly in

favour of the latter."

In addition, the High Court ruled that it was not necessary for the police to suspect someone as a terrorist to detain and confiscate his possessions, only to decide that he "appears to be". According to Justice Ouseley, under the Terrorism Act a police officer can act, for example, on "no more than hunch or intuition."

Laws accepted that the real purpose of Miranda's detention was to "ascertain the nature" of the material he was carrying and "to neutralise the effects of its release (or further release) or dissemination", and that this "fell properly" under the 2000 Act.

No "hunch" was involved in the decision to detain Miranda. The High Court heard evidence that the security services had been monitoring both Miranda and Greenwald before the arrest and had sent three requests to border police over several days to ensure Miranda was detained. The final request stated chillingly that the planned disclosure of the material Miranda was thought to be carrying " is designed to influence a government, and is made for the purpose of promoting a political or ideological cause. This therefore falls within the definition of terrorism…"

The High Court ruling effectively criminalises not only investigative journalism and whistle-blowing, but also anyone who receives such information—in this case the *Guardian* newspaper. It means that security services responsible for falsifying "intelligence" to justify a pre-emptive war on Iraq, involved in extraordinary rendition and torture, and caught carrying out mass illegal surveillance can brand someone about to expose their criminal actions as a "terrorist," to be held by police and have their possessions seized.

There are no exceptions and the police do not have to justify their actions. All it requires is the say-so of a government minister and the security services. There is no defence of holding journalistic material or freedom of expression.

Lord Laws dismissed the need to place "any reliance on the jurisprudence of the European Court of Human Rights," declaring that English common law was sufficient. It should be noted that it was also Lord Laws who ruled in 2004 that there was no "principle [that] prohibits the Secretary of State from relying" on evidence obtained by torture overseas.

It is for good reason that Greenwald drew the comparison between the UK's assertion that the release of the Snowden documents is tantamount to "terrorism" and the way the same argument is "now being used by the Egyptian military regime to prosecute Al Jazeera journalists as terrorists."

In Britain, as in Egypt, the bourgeoisie recognises that its economic order, based on pervasive and growing social inequality, is unviable and faces massive popular opposition. Just the day before the High Court ruling on Miranda, students at the University of Glasgow in Scotland voted to elect Snowden as rector of the University.

The High Court arguments make plain that Miranda's detention was not a "misuse" of the Terrorism Act. Rather, the Terrorism Act was conceived as an instrument of state intimidation, with the purpose of waging war on democratic rights and repressing political opposition.

The historical implications are far-reaching. The Gestapo had such powers. Under the guise of the "war on terror", Britain's ruling elite have established their own political police force, equivalent to that of Nazi Germany.