

BLAIR'S LEGACY: OFFICIAL SECRECY OR OPEN GOVERNMENT?

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The very day Blair formally announced his intention to step down as leader of the Labour Party, an Old Bailey judge sentenced a whistleblower to six months' imprisonment and issued a gagging order against the media, sending a clear signal that government secrecy remains strong. Parallel efforts by the government to undermine the two-year old Freedom of Information Act reinforce that message.

"In the area of openness, Tony Blair's project of modernising government has failed. The much heralded Freedom of Information Act is far less progressive than those of countries like Mexico, South Africa and India, while no effort has been made to reform the draconian Official Secrets Act" remarked Dr. Agnès Callamard, ARTICLE 19 Executive Director.

On 10 May, David Keogh, a Whitehall Communications Officer, and Leo O'Connor, a former researcher for an MP, were sentenced, respectively, to six and three months' imprisonment for breach of the Official Secrets Act, 1989. Their crime was to disclose a confidential memo containing the minutes of a meeting between Blair and President Bush in which the latter is alleged to have proposed the bombing of the Arab-language satellite TV station, Al-Jazeera, to limit negative coverage of the Iraq war. The judge also imposed a gagging order, prohibiting the British media from reporting on the fact that Keogh's allegation was based on an official memo.

ARTICLE 19 is of the view that the sentence breaches several freedom of expression principles. Secrecy rules should not apply to disclosures which serve an overriding public interest: whistleblowers should be protected when they disclose evidence of official wrongdoing. A decision to bomb Al-Jazeera would have constituted a flagrant violation of international law and of the public's right to know.

The jailing of Mr. O'Connor moreover goes against the principle that public authorities bear sole responsibility for protecting the confidentiality of official information. Other individuals, including researchers like O'Connor, should never be subject to liability for publishing leaked information, unless it was obtained through fraud or another crime.

The gagging order is illegitimate and defies common sense, since the basis for Keogh's allegation has previously been widely reported and continues to be reported by foreign media which are freely accessible online. It recalls the 1991 Spycatcher case, in which the European Court of Human Rights found the United Kingdom in breach of the right to freedom of expression for imposing an injunction on the memoirs of a former agent, when the book was already freely available in the United States, rendering the injunction inutile.

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