

British Journalists who Publish “Leaked Information” will be Jailed Under New Tory Legislation

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There are some well known stages that mark the path towards totalitarianism – and one indicator that we are strolling down this dangerous path is the UK government’s Investigatory Powers Act.

One of the principal purposes of the IPA is to records the phone calls, internet browsing records and other data traffic of every person in the country, just in case it comes in useful later. Namely – to create an internal surveillance system. This was quite rightly judged to be illegal by The Court of Justice of the European Union, although the government is yet to meaningfully respond to the ruling. One can only surmise that our impending exit from the jurisdiction of the CJEU will mean that any protection afforded by the judgement will be short lived, if it ever materialises at all.

Apparently undeterred by this small setback, the government now appears to be considering new, even more oppressive, legislation which would easily fulfil a key requirement on any aspiring dictator’s to do list – that of control of the press.

Proposals for a new ‘Espionage Bill’ are quietly being considered by the UK Law Commission and would replace official Secrets Acts dating back to 1911, but they go much further than that in their scope.

Their recommendations, due to be finalised by April 3rd, are contained in a consultation paper entitled ‘Protection of Official Data’ which pointedly targets those who both communicate and obtain leaked information, classifying them as spies liable to spend up to 14 years in prison. Crucially it also seeks to remove the statutory public interest defence for finding, handling and releasing such information.

Anyone publishing or even re-publishing already leaked material that is “capable of benefiting a foreign power” would be a crime. Of course that definition would be open to a wide interpretation by anyone seeking to hush up something they wanted kept quiet, for example it’s been speculated that this will include any information about the forthcoming Brexit negotiations.

Journalists would be walking a virtual tightrope with little confidence about the implications of revealing any information they had obtained through unofficial channels. This flies in the face of previous guidance and legislation on the fair treatment of whistle blowers, meaning that hackers, journalists, NGOs and even elected politicians could now be treated in the same way as foreign agents, even if the information they reveal is in the public interest.

Jodie Ginsberg, chief executive of free expression campaign group Index on Censorship, said:

“The proposed changes are frightening and have no place in a democracy, which relies on having mechanisms to hold the powerful to account. It is unthinkable that whistle blowers and those to whom they reveal their information should face jail for leaking and receiving information that is in the public interest.”

Whistle-blower Edward Snowden, who also lambasted The Investigatory Powers Act as something that would make most despotic regimes green with envy, said of these new proposals:

“It is alarming that such a far-reaching proposed reform of laws which could be used to jail whistle blowers and journalists should have been drafted without any adequate consultation with free speech organisations.”

Despite claims from the Commission to have “consulted widely”, The National Union of Journalists have said they were told nothing and were never contacted. The Commission themselves have confirmed that most British organisations concerned with human rights and free expression have not been involved. This includes the Bureau of Investigative Journalism, the Centre for Investigative Reporting, Reporters Without Borders, Amnesty International, Article 19, Open Democracy, Privacy International, Index On Censorship and the writers group PEN. They did however seek advice from MI5 and MI6 as well as selected media corporations.

Ironically, Parliament itself has often been the source of many a leaked document. Indeed it's seemed in recent years that leaks have become the preferred method of announcing government proposals, to test the water and perhaps reduce the shock of unpopular legislation when it's officially announced. This proposed bill itself is only being discussed now due to what could easily be characterised as a leak. Were this legislation to be in force at the moment I might be treated to a night in the cells, or worse, simply for writing about it.

That threat of jail can only serve to effectively curtail any investigative journalist who values his or her freedom. Investigative journalism by its very nature involves discovering something that someone doesn't want to be found. The mere act of happening across some information in the course of researching a story, or speaking to a source could see journalists arrested and prosecuted, or at the very least threatened with as much if they don't keep quiet. Official government stamped announcements will become the only safe sources of news, regardless of its veracity or the agenda of those behind it. Effectively we will have a state controlled press.

It's clear that we're seeing both an orchestrated attack on the rights of a free media, along with a more subversive undermining of faith in news reporting across all platforms. In many ways the discussions around so called fake news also plays into this scenario. This isn't a coincidence and it would not be surprising if similar legislation is drafted in the USA before too long. If Nixon could be brought down by two determined journalists exposing the Watergate scandal, how paranoid is the Trump administration likely to be? Assuming it's humanly possible to be more paranoid than Trump.

An unfettered and trusted media is part of the bedrock of a free and democratic society, even if both those concepts are at times questionable in themselves. We mustn't allow shady, oppressive legislation to drive real journalism into the shadows. As we all know, knowledge is power and a free press should keep that power with the people, where it belongs.

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