[GB] BBC Wins Right to Broadcast Interview with Terrorist Suspect Held in Prison

IRIS 2012-3:1/24

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On 11 January 2012 the English High Court overturned a decision by the Justice Minister preventing the BBC from interviewing a suspected terrorist who has been held in prison for seven years without trial.

Babar Ahmad has been held in prison pending extradition to the United States since 2004, and is currently awaiting a final decision on his case by the European Court of Human Rights, which had ruled in 2007 that he should not be extradited until it had considered his application. The BBC and a journalist had sought permission to interview him in prison; this was originally granted but with audio recording only which was not to be broadcast. The decision was reviewed by the Secretary of State for Justice who decided to refuse any face-to-face interview, arguing that such an interview would case distress to victims of terrorist acts and would undermine confidence in the criminal justice system through assisting the mounting of a media campaign alongside court proceedings. Instead, the prisoner could make his views known through written correspondence.

The High Court held that the refusal to allow an interview would breach the right to freedom of expression under Art. 10 of the European Convention on Human Rights. Potential offence was not a sufficient ground for restricting freedom of expression, and the truly exceptional nature of this case meant that the case for freedom of expression was particularly strong. Thus the decision to refuse an interview was disproportionate; it had not been shown that no less restrictive alternatives to a ban were available, for example agreeing with the BBC that the programme in which the interview was shown would not be used as a platform for a media campaign protesting the prisoner's innocence. Although there were arguments for the public interest on both sides, Art. 10 conferred on the public a right to receive information and to engage in debate on the issues raised in the case that was as fully informed as possible. However, this exceptional case would not set a precedent for other cases in the future.

The Justice Secretary decided not to appeal and to open negotiations with the BBC about the terms of the interview.

BBC and Dominic Casciani v. Secretary of State for Justice [2012] UKHC 13 (Admin)

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