

Debate in Israel on Gag Order in Security Leak Case

Published: April 6, 2010

A young Israeli journalist is scheduled to go on trial in Israel in mid-April on accusations of serious security offenses, possibly including espionage, according to Israelis familiar with the case.

A court-imposed gag order has prevented any reporting of the case in Israel, but on Tuesday, a retired Israeli Supreme Court judge sharply criticized the forced news blackout, saying in a radio interview that it must be fought, and stirring a public furor.

The journalist, Anat Kamm, 23, is accused of having copied Israeli military documents concerning the premeditated killing of Palestinian militants in the West Bank and of leaking them to a reporter. She apparently had access to the documents during her compulsory military service.

Observers have speculated that the recipient was Uri Blau from the liberal newspaper Haaretz, and that he used the documents as the basis for a 2008 exposé.

Ms. Kamm has been held secretly under house arrest for more than three months. After leaving the military, she had been working for Walla!, a Hebrew Web site partly owned by Haaretz.

Constrained by the gag order, the Israeli news media have so far made only cryptic references to the case. On March 9, for example, The Seventh Eye, an electronic journal of media affairs published by the Israel Democracy Institute, an independent research body in Jerusalem, ran an item saying simply that Ms. Kamm was about to go on unpaid leave from Walla!, but not why.

The popular Israeli newspaper Yediot Aharonot suggested in its April 1 issue that readers searched the Internet with the keywords "Israeli journalist gag" in order to learn about an affair of interest to Israelis that could only be reported on abroad. And on Tuesday the same newspaper ran a translation of an article by Judith Miller, a former reporter for The New York Times, on the case, with all the details that would have violated the gag order literally blacked out.

If Ms. Kamm is found guilty, informed observers said she could face up to 15 years in jail.

The case has already received extensive coverage abroad. Details began to emerge in mid-March on a blog called Tikun Olam, or Repairing the World, by an American writer, Richard Silverstein. The New York-based Jewish Telegraphic Agency, the British newspapers The Guardian and The Independent and The Associated Press have also written about the affair.

The New York Times

According to The Independent, Mr. Blau, the Haaretz reporter suspected of having used the confidential military documents, is currently “hiding in Britain.”

The article by Mr. Blau at the center of the storm was published in November 2008. It focused on an episode in June 2007 in which two Palestinian militants belonging to the Islamic Jihad group were killed by Israeli security forces in the West Bank. The military said at the time that the two were killed in an exchange of fire with Israeli forces.

Mr. Blau noted that months before, one of the militants, Ziad Subhi Muhammad Malaisha, had been marked as a target for assassination by the Israeli Army’s Central Command, which is responsible for the West Bank.

Mr. Blau’s article suggested that Mr. Malaisha’s killing contravened an Israeli Supreme Court ruling from December 2006 that strictly limited the circumstances in which the military can carry out pre-emptive strikes. Haaretz printed copies of Central Command documents stating that Mr. Malaisha and two other Islamic Jihad leaders were eligible targets alongside the report.

Israeli news media were not even allowed to mention that there was a gag order in place, according to Uzi Benziman, the chief editor of The Seventh Eye. But in a Tuesday morning interview with Army Radio, Dalia Dorner, the retired Supreme Court judge who is now the president of the Israeli Press Council, said the gag order by a magistrate’s court should be fought all the way up to the Supreme Court.

Ms. Dorner’s comments opened the floodgates to Israeli debate about such gag orders, though the ruling still prevented any discussion of the actual case.

Mordechai Kremnitzer, a law professor at Hebrew University and a senior fellow of the Israel Democracy Institute, said that Israel’s treatment of suspected criminal offenses in the security realm was “draconian.” By isolating the suspect and preventing any public debate, he said, the authorities could more easily press the suspect to arrive at a plea bargain.

Mr. Kremnitzer also criticized the ease with which courts in Israel hand out gag orders.

“Only the poor Hebrew readers do not know what is going on,” he said of Israelis unable to read foreign reports about the case in English.

Haaretz and Israel’s Channel 10 are fighting to lift the gag order. Mibi Moser, the lawyer representing Haaretz, said there would be a court hearing on the matter on April 12, if the gag order was not lifted before.