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UK and US Freedom of Expression

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Introduction

English law balances freedom of expression with public order criminal offences with regard to freedom of assembly. Participation in a political protest or demonstration constitutes an act of expression attracting the protection of Article 10. The arrest and detention of a person for breach of the peace in the course of such a protest will be compatible with Article 10(2) only to the extent that it is proportionate to the need to maintain public order or to protect the rights and freedoms of others as in *Steel v UK* [1998] Crim.L.R. 893, in which the arrest and retention of two applicants for physical obstruction was held compatible with Article 10(2).

Recently, in the UK case of *Tabernacle v Secretary of State for Defence* [2009] EWCA Civ 23; [2009] WLR (D) 35, the court decided that Paragraph 7(2)(f) of the Atomic Weapons Establishment (AWE) Aldermaston Byelaws 2007, was not justifiable and violated the rights to individual freedom of expression and to freedom of peaceful assembly protected by articles 10 and 11 of the European Convention for the Protection of Human Rights and Fundamental Freedom. In both the UK and the US, and as decided in the US case of *United States v Johnson*, 390 U.S. 563, 566-67 (1968), there are criminal penalties against intimidation and violence. These penalties are aimed at securing equal access to constitutional rights and privileges.

International protection of freedom of expression

Freedom of expression is protected in several international laws, namely, articles 6 and 8 of the United Nations Declaration on Human Rights Defenders; article 19 of the Universal Declaration of Human Rights; article 19 of the International Covenant on Civil and Political Rights; article 9 of the African Charter on Human and Peoples' Rights; the Declaration of Principles on Freedom of Expression in Africa...

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