Published on *Adam Smith Institute* (http://www.adamsmith.org)

Superinjunctions and the rule of law [1]

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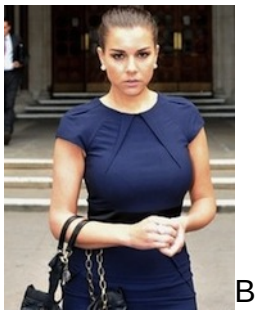

Britain?s furore over legal gagging orders ? superinjunctions ? raises some serious questions for rights and the rule of law in a free society.

Do people have a right to privacy? Well, I have certain information, such as my bank login codes, that I think should be protected from being made known to the public, so yes. But should that extend to, say, the illicit affair of a top footballer, whose wife and children could be damaged by the media circus surrounding its revelation? Are ?pro-family? politicians fair game if they cheat on their spouses? But should politicians who make no moral pronouncements be allowed privacy with respect to their private lives?

One thing that is certain is that the rule of law isn?t working. There is one law for the rich who can afford to take out gagging orders, and another for the poor who can be libelled but cannot afford the huge cost of defending themselves. Until we make the courts a lot cheaper ? and that means denationalising them and opening the legal profession up to competition ? such injustice will remain.

And how far can or should one country?s courts attempt to block information that is freely available elsewhere? The law can?t defend people against reality, and the reality is that the superinjunction names are all out there.

Press freedom is essential, though. Back in 1957, the editor of the Express, John Junor, was called to the Bar of the House of Commons and made to apologise for revealing the special petrol allowances that MPs granted themselves. We need our leaders to be held to account.

Our legal system should follow reality, not try to distort it. That means that politicians and celebrities will need to follow a new rule. Don?t do anything that you are not prepared to see reported in the News of the World. The amazing thing is (as the expenses scandal showed) how few of them actually follow this rule. But in the age of instant and cheap information, what other option is there?

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