

UK ruling on Julian Assange extradition resets the game



By John T Psaropoulos / published by Al Jazeera *** May 22, 2024

Legal experts are voicing hope and caution after London's High Court ruling this week allowed WikiLeaks founder Julian Assange to appeal his extradition to the United States.

“The judges have assessed that the issues raised by the Assange legal team had sufficient legal merit that they were suitable for determination by the Court of Appeal,” Donald Rothwell, an international law professor at Australian National University, told Al Jazeera.

Assange’s team has argued that he could face a prejudicial trial process or the death penalty if extradited.

Monday’s decision did not guarantee protection from extradition, and did not mean the court accepted these arguments, Rothwell said. But there was a victory in the reversal of a March 26 ruling, which might have allowed the extradition.

“The only ‘win’ here for Assange is that he was granted leave to appeal,” said Rothwell.

The High Court had sought written assurances from the Virginia court where Assange would stand trial that the Australian national would be accorded the same rights as a US citizen under the First Amendment, which protects free speech and freedom of the press.

“If assurances are given, then we will give the parties an opportunity to make further submissions before we make a final decision on the application for leave to appeal,” said Justice Jeremy Johnson in his official decision (PDF) at the time.

Justice Johnson was one of the two judges in Monday’s decision to allow the appeal, along with Justice Victoria Sharp. “[The decision] resets the game,” said Andreas Takis, a human rights lawyer and president of the Hellenic League for Human Rights, a nongovernmental body.

“This may be a slender victory but it opens possibilities that are critical – because Assange gives the impression of being an apostle for human rights rather than a malicious actor against the interests of the United States,” Takis told Al Jazeera.

“The fact that the US wasn’t prepared to offer written assurances made the British judges sceptical about [Assange’s] fate.”

Assange’s wife, Stella, welcomed the news. “As a family we are relieved but how long can this go on?” she said. “This case is shameful and it is taking an enormous toll on Julian.”

She and Assange’s friends have argued that fighting extradition, first from the Ecuadorean embassy in London for seven years, then from the Belmarsh maximum-security prison for another five, has been punishment enough.

“There will be a new appeal, and then another appeal, and another appeal, but he remains in prison and he might be entombed in prison for life just for revealing war crimes, torture, extrajudicial killings,” Stefania Maurizi, an investigative journalist, told Al Jazeera.

Maurizi has worked on all WikiLeaks secret documents, partnering with Assange and WikiLeaks since 2009.

“Media partners like me, who published the very same revelations, have never been put in prison or even questioned by the US or UK authorities. How do the US and UK authorities explain this double standard?” she said.

British courts have gone back and forth over whether Assange should be extradited to the United States. A British judge in January 2021 ruled Assange should not be extradited because he was likely to end his own life in near-total isolation.

But Assange was ordered extradited the following year to face 17 espionage charges, which could carry sentences of 175 years in jail.

The charges stem from Assange's publication in 2010 of hundreds of thousands of pages of classified U.S. military documents on WikiLeaks. The files were widely reported in Western media and revealed evidence of what many consider to be war crimes committed by US forces in Iraq and Afghanistan.

They include video of a 2007 Apache helicopter attack in Baghdad that killed 11 people, including two journalists with the Reuters news agency.

Assange's lawyers have argued that he acted as a publisher of leaked intelligence documents, and should enjoy the rights and freedoms accorded under the First Amendment. The U.S. government says he did more than that, conspiring to steal classified information and harm U.S. interests abroad, and merits prosecution under the 1917 Espionage Act.

The U.S. legal representative, James Lewis, has also said the First Amendment would not protect Assange.

"No one, neither U.S. citizens nor foreign citizens, are entitled to rely on the First Amendment in relation to publication of illegally obtained national defence information giving the names of innocent sources, to their grave and imminent risk of harm," Lewis said this week.

Many free speech experts believe the U.S. should drop the charges – among them Jameel Jaffer, an international law professor at Columbia University. "Prosecuting Assange for the publication of classified information would have profound implications for press freedom, because publishing classified information is what journalists and news organisations often need to do in order to expose wrongdoing by government," Jaffer told Al Jazeera.

Jaffer said the charges did not establish an intent to harm the US, nor acknowledge the benefits brought to the US by the disclosure. The oscillation of the British courts on extradition is part of a deeper political tension, said Takis, between pro-Brexit Conservatives who want Britain to declare itself independent of the European justice system, and those who see it as a guarantee of human rights.

"We're seeing British courts hewing to a continental sense of justice, like the Council of Europe in Strasbourg, rather than the British tendency to distance itself," said Takis.

"It appears that the U.S. is tying justice to citizenship. The fact that the U.S. wasn't prepared to offer written assurances made the British judges sceptical about [Assange's] fate. This case could now end up in Strasbourg where we could witness a robust defence in accordance with European rights."

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