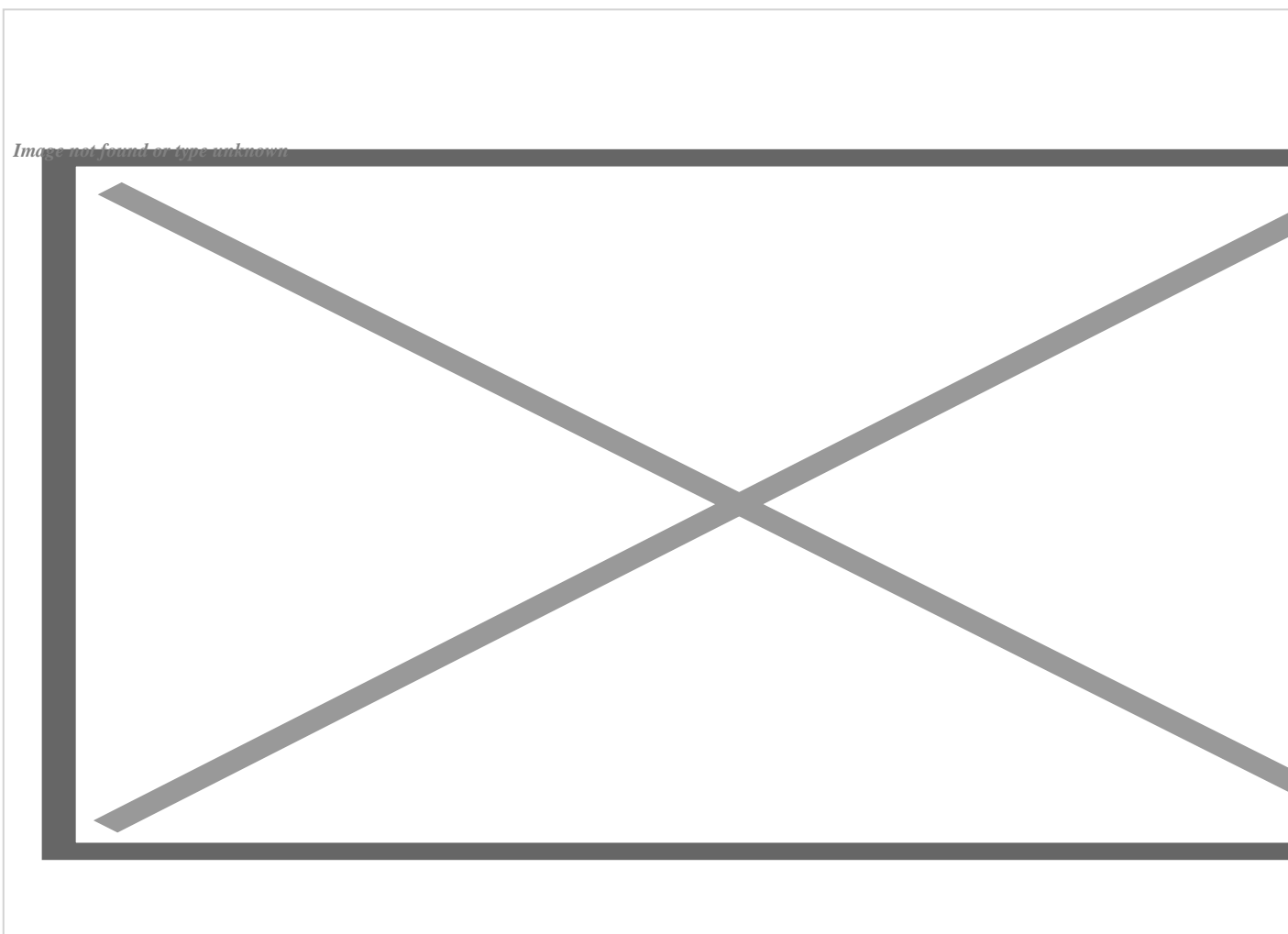


# *Julian Assange is dangerously close to extradition for revealing U.S. war crimes*

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By Marjorie Cohn

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New York, July 15 (RHC)-- For nearly five years, publisher and journalist Julian Assange has fought extradition to the United States where he faces 175 years in prison for revealing evidence of U.S. war crimes.

Instead of protecting freedom of the press, to which he pledged allegiance at the White House Correspondents' Dinner in April, Joe Biden is continuing Donald Trump's prosecution of Assange under the infamous Espionage Act. Journalist James Ball is one of at least four journalists that the Department of Justice (DOJ) and FBI are pressuring to cooperate with the prosecution of Assange, Ball wrote in Rolling Stone.

Biden's DOJ is apparently attempting to bolster its prosecution of Assange in the event he is extradited to the United States. Ball said that all three of the other journalists being pressured to provide a statement told him they have no intention of helping the prosecution.

Assange, who is in frail physical and mental health after years of confinement, is contesting the U.K. High Court's rejection of his appeal. If he loses in the U.K., Assange's last resort is to the European Court of Human Rights to litigate several violations of the European Convention on Human Rights (ECHR).

But even if the European court issues an injunction against extradition, the U.K. courts may not honor that ruling. Assange is "dangerously close" to extradition, according to his family and observers.

"Julian Assange and Wikileaks were responsible for the exposure of criminality on the part of the U.S. Government on a massive and unprecedented scale," including "torture, war crimes and atrocities on civilians," Assange's Perfected Grounds of Appeal states.

"Assange's work, dedicated to ensuring public accountability by exposing global human rights abuses, and facilitating the investigation of and prosecution for state criminality, has contributed to the saving of countless lives, stopped human rights abuses in their tracks, and brought down despotic and autocratic regimes," his appeal papers say. Human rights defenders who expose state crimes suffer "political retaliation and persecution from the regimes whose criminality they expose. Julian Assange is no exception."

In 2010, U.S. Army intelligence analyst Chelsea Manning provided WikiLeaks with documents containing evidence of U.S. war crimes. They included the "Iraq War Logs," which were 400,000 field reports describing 15,000 unreported deaths of Iraqi civilians, as well as systematic rape, torture and murder after U.S. forces "handed over detainees to a notorious Iraqi torture squad." They contained the "Afghan War Diary," 90,000 reports of more civilian casualties by coalition forces than the U.S. military had reported. And they also included the "Guantánamo Files" — 779 secret reports with evidence that 150 innocent people had been held at Guantánamo Bay for years, and 800 men and boys had been tortured and abused, which violated the Geneva Conventions and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Manning also furnished WikiLeaks with the notorious 2007 "Collateral Murder Video," which shows a U.S. Army Apache attack helicopter targeting and killing 11 unarmed civilians, including two Reuters journalists, as well as a man who came to rescue the wounded. Two children were injured. The video reveals evidence of three violations of the Geneva Conventions and the U.S. Army Field Manual.

This is the first time a publisher has been prosecuted under the Espionage Act for disclosing government secrets. In December 2022, The New York Times, The Guardian, Le Monde, El País and Der Spiegel signed a joint open letter calling on the U.S. government to dismiss the Espionage Act charges against Assange for publishing classified military and diplomatic secrets. "Publishing is not a crime," the letter says. "This indictment sets a dangerous precedent, and threatens to undermine America's First Amendment and the freedom of the press."

Extradition was initially denied on mental health grounds. On January 4, 2021, U.K. District Judge Vanessa Baraitser ruled that Assange could not be extradited to the United States because of the repressive prison conditions in the U.S. and the threat that imprisonment would pose to his mental health, including the likely risk of suicide. The Biden administration's DOJ appealed.

The U.K. High Court reversed Baraitser's ruling after the DOJ presented questionable "assurances" that Assange would be held in humane conditions if extradited. Assange asked the High Court to consider his other grounds of appeal which Baraitser had rejected when she denied extradition for mental health reasons.

On June 8, 2023, British Judge Sir Jonathan Swift rejected Assange's appeal in a cursory three-page denial with almost no analysis of the issues raised in Assange's 150-page submission. Assange appealed Swift's ruling to the U.K. High Court and his appeal is pending.

*The Espionage Act charges in the indictment include the following:*

- \* Conspiracy to obtain, receive and disclose national defense information (Count 1);*
- \* Unauthorized obtaining and receiving of national defense information (Counts 3 to 9); and*
- \* Unauthorized disclosure of national defense information (Counts 10 to 18).*

*In addition, Assange is charged with "conspiracy to commit computer intrusion" with intent to "facilitate Manning's acquisition and transmission of classified information related to the national defence of the United States."*

*Article 4(1) of the U.K.-U.S. Extradition Treaty provides that "extradition shall not be granted if the offence for which extradition is requested is a political offence." In their appeal, Assange's lawyers note that espionage is a "pure political offence" as it is an offence against the state.*

As Assange's legal team wrote, "The gravamen (and defining legal characteristic) of each of the charges is thus an alleged intention to obtain or disclose US state secrets in a manner that was damaging to the security of the US state," which makes them political offences.

In his denial, Swift wrote that the 2003 Extradition Act trumps the binding treaty between the U.S. and the U.K. The act doesn't include the "political offences" bar to extradition.

The extradition request was made for ulterior political motives and not in good faith. Article 4(3) of the Extradition Treaty forbids extradition if the request was "politically motivated."

The legally unprecedented and selective nature of the prosecution in focusing on leaked national security information speaks to the political character of the prosecution and request for extradition, the appeal says.

Assange's lawyers wrote that "this prosecution is motivated by matters other than the proper and usual pursuit of criminal justice. It is motivated instead by a concerted intent to destroy or inhibit the publishers of evidence of state criminal ability, and thereby put a stop to the process of investigating, prosecuting and preventing such international crimes in the future."

The appeal papers point out that Assange is being prosecuted for exposing "wholesale abuse and war crimes" committed by the United States. If instead he had "exposed war crimes or crimes against humanity committed by a state such as the Russian Federation," the defense lawyers write, "there can be no doubt that his prosecution for such revelations would be regarded as both a political offence (within the Treaty) and an impermissible prosecution motivated by a desire to punish him for his political opinions/acts."

"While the leakers of such materials have been prosecuted albeit selectively, no prosecution for the act of obtaining or publishing state secrets has ever occurred," the appeal says.

That is “[b]ecause the First Amendment protects the free press and it is vital that the press expose rather than ignore ... not because journalists are somehow privileged but because the citizenry has a right to know what is going on,” Mark Feldstein, journalism professor at University of Maryland, testified at Assange’s extradition hearing.

Columbia Law Professor Jameel Jaffer testified that the indictment is focused “almost entirely” on things that national security journalists do “routinely and as a necessary part of their work,” including “cultivating sources, communicating with them confidentially, soliciting information from them, protecting their identities from disclosure, and publishing classified information.”

The conviction of Assange would chill journalists from fulfilling their function as watchdog for the public.

The appeal quotes the 1996 case of Goodwin v. the United Kingdom:

"Press freedom assumes even greater importance in circumstances in which State activities and decisions escape democratic or judicial scrutiny on account of their confidential or secret nature. The conviction of a journalist for disclosing information considered to be confidential or secret may discourage those working in the media from informing the public on matters of public interest. As a result, the press may no longer be able to play its vital role as “public watchdog” and the ability of the press to provide accurate and reliable information may be adversely affected."

There is new evidence not considered by the District Judge.

The ECHR protects the right to life (Article 2) and forbids torture and cruel, inhuman or degrading treatment (Article 3). The appeal argues that there is a real risk of violation of Article 2 and/or Article 3 if Assange is extradited.

In September 2021, a Yahoo! News report revealed that while Assange was living in the Ecuadorian embassy in London under a grant of asylum, senior CIA and Trump administration officials asked for “sketches” and “options” for assassinating him. Trump himself “asked whether the CIA could assassinate Assange and provide him ‘options’ for how to do so.”

“If these state agencies were prepared to go to these lengths whilst he was under the protection of an embassy and located in the UK, there must be a real risk of similar extra-judicial measures or reprisals if he is extradited to the US,” the appeal says.

The High Court’s ruling on Assange’s appeal could be issued any day.

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