

UK May Block Assange's Attendance at Appeal to European Court of Human Rights

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Demonstrators hold large letters spelling out "Free Assange," at a rally on August 5, 2023, in Berlin, Germany.

By Patrick Maynard / published by TRUTHOUT / September 3, 2023

Should he be deported from the U.K., Julian Assange, the Australian publisher of WikiLeaks, faces up to 175 years in a U.S. prison on charges related to his release of information that revealed U.S. war crimes

and torture. His legal team has stated that they plan to appeal the extradition case to the European Court of Human Rights (ECHR) in Strasbourg, France, arguing that the British litigation process has been rife with malpractice.

However, experts say, there is little likelihood that Assange, who is currently being detained without British charges at London's Belmarsh Prison pending extradition, will be allowed to physically attend any ECHR hearings in Strasbourg, which lies in France's Alsace region.

"The U.K. authorities' case against bail has always been that he is 'a significant flight risk' and a reminder of his seven years in the Ecuadorian embassy," Tim Dawson of the International Federation of Journalists, a group opposing Assange's detention, told Truthout. "I can't see that they are going to allow anything similar to arise."

One reason the British Home Office could be nervous about letting Assange attend hearings is that this "flight" could come in the form of an embarrassing asylum bid once Assange reaches French soil — a bid that would have significant credibility behind it, given that United States government officials have already broken the publisher's attorney-client privilege and actively considered killing their would-be defendant, and given that the British legal process has included documented conflicts of interest.

A British Home Office spokesperson declined to comment on whether Assange would be allowed to attend ECHR hearings, emphasizing that any appeal to the ECHR is still theoretical for now. Assange's legal team tried last year to appeal preemptively to the ECHR, but was told at the time that the British appeals process needed to be exhausted first, according to Kevin Gosztola, who wrote a book on the case.

That timeline worries Assange's lawyers, Gosztola says.

"A fear among the Assange legal team is that the [British] High Court of Justice may issue a final decision on the extradition and then the authorities could whisk him away to an airplane," Gosztola wrote in an email to Truthout. "He could be in transit to the U.S. before his attorneys are notified of the outcome of the appeal and can appeal to the ECHR."

Among other revelations, WikiLeaks has published video showing the killing of two Reuters journalists by U.S. military personnel, along with documents describing torture of detainees at U.S. military facilities in Iraq.

According to WikiLeaks releases from 2016, the U.S. privately pressured Germany into dropping its demand for "a 25- to 45-percent mid-term carbon dioxide reduction" in 2008 — a move that almost certainly had an impact on the current climate emergency.

While those revelations may seem somewhat historical at this point, other releases from WikiLeaks remain essential to recent news. This summer has seen the seven hottest days on record during a month that is poised to go down as the hottest in recorded history. According to WikiLeaks releases from 2016, the U.S. privately pressured Germany into dropping its demand for "a 25- to 45-percent mid-term carbon dioxide reduction" in 2008 — a move that almost certainly had an impact on the current climate emergency.

While Assange is often described by colleagues as a difficult person to get along with, and one increasingly prone to erratic behavior, his case could set a significant and dangerous precedent if his extradition is allowed to go through, free speech advocates from across the political spectrum argue.

That's partially because of what's called the "New York Times problem" — essentially, the worry that if the door to prosecution of journalists for dealing with secret but civically important information were to be opened by this case, it could never be shut, with future governments not hesitating to prosecute reporters

for outlets like The New York Times if they published embarrassing stories.

Similarly problematic for Assange's supporters, including many in the media who have also criticized him, is the assertion of universal jurisdiction by the United States.

"The effect of the U.S., China, or any other country claiming universal jurisdiction for prosecutions means that investigative journalism — particularly efforts to uncover crimes and abuses of power committed by military or security agencies — is endangered," Gosztola told Poynter in April, noting that other national governments could see an extradition as a "green light" to pursue their own draconian clampdowns on free speech in the name of national security.

On the topic of national security, U.S. voices critical of Assange have often been outspoken, citing the idea that secret sources and operatives working for Americans in hostile territory have been put in danger by his publishing of the leaks.

Asked to name a single person killed or injured by WikiLeaks's publications, however, a State Department spokesperson declined to comment, referring Truthout to a Justice Department spokesperson. The Justice Department spokesperson then declined to comment on the matter.

If the U.S.'s British allies attempt to prevent an ECHR appeal by shipping Assange immediately to the United States after a British judgment, it would not be the first time an attempt has been made to do an end-run around the Strasbourg court, according to reporting by Italian outlet *il Fatto Quotidiano*, which found via Freedom of Information Act (FOIA) requests that Swedish and British officials had tried to preempt a theoretical ECHR appeal in a Swedish investigation of potential sexual misconduct by Assange that was later closed. (Assange at the time offered to testify via video but not to visit Sweden, as his legal team believed the Swedish investigation to be a ruse to facilitate U.S. extradition — a suspicion borne out by the Italian outlet's FOIA reporting.)

The Home Office spokesperson told Truthout that this case "is not about freedom of expression or a free press, which the UK unequivocally supports."

Gosztola says that's simply not true, stating that the U.K. government "does not unequivocally support freedom of expression or a free press."

"At a time when people in the U.K. are suffering due to record-breaking heat from climate change, the U.K. government has targeted environmental protesters with Public Order Act 2023. This bill was appropriately condemned by United Nations High Commissioner for Human Rights Volker Türk, who condemned the 'deeply troubling legislation,'" Gosztola said.

Gosztola cites the Index on Censorship, which assessed U.K. freedom of information and activism, and found that the country had dropped into the third tier globally in 2023.

"Many of the ... groups that pressured the UK government to successfully alter [a national security bill] to diminish its impacts on journalists are the same groups that say the extradition case against Julian Assange is absolutely about freedom of expression," Gosztola wrote.

"The U.K. government cannot have it both ways."

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