



Saving Julian Assange, Free Speech, and Democracy

Description

US : How much is a non-binding “assurance” worth from people who probably want to see you dead? This is the linchpin question as a British court deliberates on the Biden administration’s latest conniving to bring Julian Assange to America for his legal destruction.

Since Julian Assange was indicted in 2019 for 17 charges of violating the Espionage Act, the U.S. Justice Department has sought his extradition from Belmarsh, the supermax prison in Britain where he has spent almost five years. The fight against extradition is probably the last best chance for even a facade of due process for Assange.

On Tuesday, the British High Court announced that it had effectively accepted assurances from U.S. politicians to British politicians that the Assange case is non-political, but the British judges did recognize three potential grounds for appeal.

That court gave the U.S. government three weeks to provide “satisfactory assurances” that “Assange is permitted to rely on the First Amendment to the United States Constitution... that he is afforded the same First Amendment protections as a United States citizen and that the death penalty is not imposed,” and that the U.S. court would not be prejudiced against him because he is a foreigner.

None of the British or American officials recognized the supreme irony of the court decision. Assange and Wikileaks exposed deceptions and depredations by many governments around the world.

Yet his legal fate depends on whether the British government chooses to trust the U.S. government—regardless of the endless lies that Assange exposed.

Stella Assange, Julian’s wife, scoffed that the decision was “astounding”: “What the courts have done is to invite a political intervention from the United States, to send a letter saying, ‘It’s all okay.’”

Amnesty International stated, “While the U.S. has allegedly assured the UK that it will not violate Assange’s rights, we know from past cases that such ‘guarantees’ are deeply flawed—and the diplomatic assurances so far in the Assange case are riddled with loopholes.”

If Assange is brought to the U.S., his fate will be settled in an Alexandria, Virginia federal courtroom notorious for stacking the deck against anyone who exposed government crimes or wrongful killings.

Ask John Kiriakou—the former CIA agent and torture whistleblower who was convicted there and sentenced to 30 months in prison. Ask Daniel Hale—the whistleblower who exposed the coverup of mass killings of innocent people by Obama’s drones, convicted and sentenced to prison for 45 months.

Edward Snowden was charged in the same court but prudently omitted showing up for a kangaroo trial.

Assange’s fate threatens to be a bellwether for the destruction of journalists who vex officialdom. David Davis, a Conservative member of Parliament, warned, “The successful extradition of Julian Assange would effectively criminalize investigative journalism as espionage.

It would set a legal precedent allowing the prosecution of anyone who breaks the duty of silence on classified American information and state sponsored crime.”

Jodie Ginsberg, chief of the Committee to Protect Journalists, warned that Assange’s prosecution “would have disastrous implications for press freedom. It is time that the U.S. Justice Department put an end to all these court proceedings and dropped its dogged pursuit of the WikiLeaks founder.”

The U.S. government has been vilifying Assange ever since he and Wikileaks commenced revealing that thousands of innocent Iraqis and Afghans were killed by the U.S. military.

Vice President Joe Biden denounced Assange in 2010 as a “high-tech terrorist.” But even Biden admitted at that time: “I don’t think there’s any substantive damage” from the Wikileaks revelations. “Look, some of the cables that are coming out here and around the world are embarrassing,” he said.

Federal agencies also never proved that any of the information that Assange and Wikileaks released was false. At the court martial of former Army Corporal Bradley (now Chelsea) Manning, who leaked the documents, prosecutors failed to show that any information Wikileaks disclosed had led to the death of a single person in Afghanistan or Iraq.

That conclusion was re-confirmed by a 2017 investigation by PolitiFact. But Assange was guilty of violating the U.S. government’s divine right to blindfold the American people.

The fact that Assange disclosed classified documents is sufficient to seal his legal doom—at least according to how the game is played in federal courts. After Britain arrested Assange on behalf of the U.S. government in 2019, Sen. Joe Manchin, a West Virginia Democrat, whooped that Assange “is our property and we can get the facts and the truth from him.”

But Manchin had no recommendations on how Americans can “get the facts and the truth” from the federal government. Federal agencies are creating trillions of pages of new “classified” secrets each year.

Ironically, while howling for Assange's scalp, the Biden White House purportedly launched a "new war on secrecy" and is especially concerned about "potentially illegal [government] activities that have been shielded from the public for decades," POLITICO reported in late 2022.

A Biden administration official, speaking anonymously, declared that it is in the "nation's best interest to be as transparent as possible with the American public."

Sen. Elizabeth Warren, a Massachusetts Democrat, grouched, "We spend \$18 billion protecting the classification system and only about \$102 million ... on declassification efforts... That ratio feels off in a democracy."

But inside the Beltway, rigging the game 176-to-1 is "close enough for government work" for transparency. Thus far, Biden's "war on secrecy" has apparently not gone beyond self-serving White House statements.

Perhaps the most important testimony for Assange dribbled out during a sometimes scatter-brained interview last October conducted by Special Counsel Robert Hur.

As Hur was pressing President Biden about the stashes of confidential documents discovered illicitly stored in his garage, his den, his think tank, his office, etc., Biden declared, "We over-classify everything.... And 99.9 percent of it has nothing to do with anything I couldn't pick up and read out loud to the public."

Special Counsel Hur deigned not to file charges against Biden—even though his violations of federal law had plenty of similarities to the conduct that spurred 40 felony charges against former President Donald Trump. The bizarre dichotomy in the Biden and Trump cases is showcasing the arbitrariness and absurdities of federal classification policy.

Another key to the Assange case is whether he is "permitted to rely on the First Amendment," as the British judges wrote. Assange can't rely on the First Amendment when telling the truth is the only war crime now recognized by the U.S. government.

Defendants on espionage act cases routinely face so many piled-on court charges that they plea bargain, muzzling themselves as the price for not being locked up forever.

There are lessons from an early American landmark court case that could help resolve the Assange case. In 1735, John Peter Zenger was charged with seditious libel for an article he published on the Royal Governor of New York.

Zenger's criticism was accurate but that was irrelevant. In Britain and its colonies, truth was no defense against seditious libel; thus, any criticism of the government risked personal destruction. But a jury of New Yorkers heroically refused to convict Zenger, thereby revolutionizing both freedom of speech and the relation of citizens to government.

Could a similar legal standard be used to end persecution of anyone who publicly reveals official documents that never should have been classified? Instead of rubberstamp convictions, the government should be obliged to prove that a disclosure harmed the public interest or endangered the nation.

That would also undermine the perverse incentive that perpetually propels overclassification. Unfortunately, it would not be possible to get the same positive impact simply by relying on jury trials. Since that federal court is inside the Beltway, the jury pool would be overstocked with people who work for the feds and/or believe everything they hear on National Public Radio.

Washington jurors are prone to behave like Soviet mobs in the 1930s who howled for death sentences for anyone the Communist Party accused of being a “wrecker.”

Almost all the media coverage of the Assange case is failing to credit him for revealing how blindfolding citizens defines down democracy. Self-government is a sham if citizens are prohibited from knowing what elected officials are doing in their name.

Politicians and Washington’s “best and brightest” have long been accustomed to covertly and recklessly intervening around the world with none of the usual checks and balances of democracy. But there is never a penalty for officialdom deceiving the public they claim to serve.

Biden’s Justice Department and Assange’s lawyers have reportedly discussed a possible plea deal that would drop the most serious charges against him.

Fair play would be satisfied if Assange pleads guilty to lese majeste—embarrassing the government by exposing its follies, frauds, and crimes. I still believe that Assange deserves a presidential Medal of Freedom, as I recommended in USA Today in 2018.

But that would never satisfy people like Hillary Clinton, who joked about seeing Assange dead, or former CIA chief Mike Pompeo, who plotted on kidnapping and killing Assange.

Hell-raisers like Assange are necessary to prevent America from becoming an Impunity Democracy in which government officials pay no price for their abuses.

The next hearing in the Assange case will be May 20 in London, a few weeks after the annual World Press Freedom Day. Biden marked that day last year by proclaiming, “Courageous journalists around the world have shown time and again that they will not be silenced or intimidated.

The United States sees them and stands with them.” Except, of course, for any courageous journalist that Biden seeks to destroy.

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Date Created

03/28/2024