

JULIAN ASSANGE EXTRADITION HEARING

When: Monday 7th September.

The hearing is expected to last four weeks.

Where: Central Criminal Court, London (Old Bailey)

<https://courtribunalfinder.service.gov.uk/courts/central-criminal-court>

Magistrate: Vanessa Baraitser

Defence Team: Solicitor Gareth Peirce (Birnberg, Peirce & Partners); Barrister Edward Fitzgerald QC, Doughty Street Chambers, Barrister Mark Summers QC, Matrix Chambers

Julian Assange is facing a **175 year sentence** for publishing US government documents revealing evidence of war crimes and human rights abuses. The publication of these public interest releases were the result of collaboration between WikiLeaks and multiple news organizations including The New York Times, The Guardian, Der Spiegel, Le Monde and many others. The political decision to prosecute is unprecedented and would set a chilling precedent for every journalist and publisher in the world.

The Washington Post reportedⁱ in 2013 that the Obama Administration had not prosecuted Assange because there was no way to differentiate WikiLeaks activities from its media partners like The New York Times and The Guardian. The newly elected Trump administration has from the beginning targeted Assange and sought to curtail freedom of the press and publishing.



**“The US government’s unrelenting pursuit of Julian Assange...
is nothing short of a full-scale assault on the right to
freedom of expression”**

The prosecution argues that US Constitutional protections for the press and free speech do not apply because Assange is not a US citizen. The US administration is asserting extraterritorial jurisdiction whilst not accepting constitutional protections for foreign nationals.

Should this precedent be set it will open the door for other journalists and publishers to be extradited to the US for reportage the US administration doesn't like - while excluding them from any press freedom protection.ⁱⁱ

The US began its investigation against Julian Assange and WikiLeaks in early 2010. After several years, the Obama administration decided not to prosecute WikiLeaks because of the precedent this would set against media organizations. In January 2017, the campaign to free Mr. Assange's alleged source Chelsea Manning was successful and President Obama gave her a presidential commutation and freed her from prison.



“[The] indictment is the latest in a long series of moves by the US government ... to divert public attention from the extremely serious press freedom implications of his case”

Throughout the current politically motivated proceedings, the prosecution have not been required to produce any prima facie evidence. The mechanisms through which Julian Assange would be extradited, namely the US-US Extradition Treaty, have been described as imbalanced by UK Prime Minister Boris Johnson and evidently provides no protections to journalists operating overseas.ⁱⁱⁱ

The US has admitted under oath that it has not found any evidence that anyone has come to harm as a result of WikiLeaks' publications. Prosecutors testified to this at the Manning court martial in 2013 and again before extradition hearings for Assange in 2019/20.^{iv}

In August 2017 an attempt was made under the Trump administration to pressure Mr. Assange into saying things that would be politically helpful to the President. After Assange did not comply, he was indicted by the Trump Administration and the extradition request set in motion.



“The US case against the WikiLeaks founder is an assault on press freedom and the public's right to know”

In August 2020, after having spent 17 months being held on the US extradition request, Attorney General William Barr issued a replacement extradition request two days after Assange's defence team had submitted their final evidence for September's extradition hearing. Assange's defence called the eleventh hour move “astonishing”. The reissued request appears to serve only a PR purpose since it contains no new charges though still threatens Assange with **175 years** in jail. Mr. Assange's legal team have been working on arguments and evidence pertaining to an effectively defunct extradition request, undermining Mr. Assange's right to a fair and honest hearing by UK courts.^v The presiding Judge, Vanessa Baraitser, has ordered extradition in 96% of the cases she has presided over for which information is publicly available^{vi}

If extradited, Julian Assange will be placed under "Special Administrative Measures" (SAM'S) - a far more restrictive regime than the UK's most restrictive conditions. SAM's 'combines the brutality and isolation of maximum security units with additional restrictions that deny individuals almost any connection to the human world'^{vii}

In the United States Julian Assange's trial would be held in the Eastern District of Virginia, known as the 'National Security' court of the United States - where no national security defendant has ever won a case . The jury pool is drawn from an area which includes the headquarters of the CIA and extensive network of national security contractors. It is the same court where former CIA whistleblower John Kiriakou, who exposed torture by the CIA was prosecuted.^{viii}

Julian Assange's treatment at HMP Belmarsh has been well-documented. Professor Melzer, the UN Rapporteur on Torture has described how "Mr. Assange has been deliberately exposed, for a period of several years, to persistent and progressively severe forms of cruel, inhuman or degrading treatment or punishment, the cumulative effects of which can only be described as psychological torture."



"[The Council of Europe] consider that the detention and criminal prosecution of Mr Julian Assange sets a dangerous precedent for journalists... he must be promptly released"

The Council of Europe passed a parliamentary motion in 2020 stating 'that Mr Assange's extradition to the United States must be barred'.

Whilst Julian Assange's right to be free from torture has been invariably breached and would continue to be so should he be extradited, his right to a fair trial has also been undermined. Assange's legal team have been denied in-person access to their client since March. His lawyers have experienced a considerable difficulty communicating with their client. Speaking at a recent hearing, Edward Fitzgerald QC, said 'We've had great difficulties in getting into Belmarsh to take instructions from Mr Assange and to discuss the evidence with him, we simply cannot get in as we require to see Mr Assange and to take his instruction.'

Press Freedom organizations have denounced the indictment for criminalizing normal news-gathering behaviour. A huge spectrum of support from Human Rights organizations including Amnesty international, Reporters Without Borders, International Federation of Journalists (British National Union of Journalists & Australian union of Journalists, MEAA) have called for the extradition to be halted.



"Assange's extradition to the United States would establish a dangerous precedent with regard to the prosecution of journalists in this country"



"This sets an extremely dangerous precedent for journalists, media organizations and freedom of the press"

Journalism is not a crime

The material that WikiLeaks published provided evidence of war crimes and state-sponsored killings, extraordinary rendition, and military cover-ups of unlawful killings. Julian Assange is a member of the Australian Union of Journalists (MEAA) and identified by UK courts as a journalist, WikiLeaks as a media organization. A politically motivated prosecution by the Trump administration means that Julian Assange is subject to an already prejudiced legal trial should he be extradited to the United States. If extradited, he will not enjoy constitutional protections under the 1st amendment because the prosecution argues that it does not apply to non-US citizens. Reporters without borders have stated the US is manipulating legal loopholes to 'divert public attention from the extremely serious press freedom implications of his case'.



" This case now represents a threat to freedom of expression and, with it, the resilience of American democracy itself."

The repercussions of an Assange extradition on UK sovereignty

The US alleges that by making information available to the public, WikiLeaks potentially harmed national security and therefore can be prosecuted. There is no need to prove actual harm and in fact, the prosecution had admitted that it has no evidence that any person has come to harm as a result of the publications.

The indictment and extradition are already setting a dangerous precedent for press freedoms. In the United Kingdom it disturbs the political-legal consensus concerning the application of the Official Secrets Act (OSA). If extradited, in accordance with the dual criminality requirement of the extradition process, the courts will have accepted the Trump administration's interpretation of the criminalisation of journalistic activities as translatable into UK law under the equivalent statute (OSA)^{ix}

Frequently Asked Questions

Will Julian Assange be present in court?

Julian Assange is scheduled to appear each day of the hearing which is expected to last four weeks. He is currently on remand in maximum security HMP Belmarsh where he has been for the past seventeen months.

If extradited, what sentence would Assange receive?

The charges carry a sentence of **175 years**.

If extradited, can Assange argue that he published in the public interest?

No. There would be no public interest defence available in a US court once extradited.

What conditions would he be held under in the United States?

If extradited, Julian Assange will be placed under "Special Administrative Measures" (SAM'S) a far more restrictive regime than the UK's most restrictive conditions. SAM's 'combines the brutality and isolation of maximum security units with additional restrictions that deny individuals almost any connection to the human world' <https://ccrjustice.org/sams-report>

Can Assange rely on First Amendment Protections?

The Trump Administration has stated that Julian Assange has no First Amendment rights because he is a foreign national. Hence, US criminal laws would apply abroad--but US constitutional protections would not. This means that all journalists, anywhere in the world, risk US prosecution if they publish something the US government finds inconvenient.

Doesn't the US-UK Extradition Treaty exclude political offences?

Yes. Extradition is barred for political offences – and the Assange case is clearly political. The judge will determine whether the extradition should be thrown out on these grounds.

Is the US-UK Extradition treaty fair?

There is consensus in the UK Parliament that the US-UK Treaty is in need of reform. Prime Minister Boris Johnson has criticized the Treaty's imbalance in favour of the United States in Parliament on 12 February 2020. <https://www.independent.co.uk/news/uk/politics/jeremy-corbyn-julian-assange-extradition-us-wikileaks-war-crimes-a9331376.html>

Is there any evidence that WikiLeaks publications have caused harm?

The US testified in court that they could not find anyone harmed by WikiLeaks publications - both in the 2013 hearings of Chelsea Manning and in this February's London hearings "We were told" [the impact of WikiLeaks revelations] "was embarrassing but not damaging". *State Department Briefing 2010 Reuters, January 18, 2011* <https://www.reuters.com/article/us-wikileaks-damage/u-s-officials-privately-say-wikileaks-damage-limited-idUSTRE70H6TO20110118>

Has Assange been charged with hacking?

No. The indictment makes no claim that Assange "hacked" anything. In fact, the indictment makes no mention of "hacking". This language comes from a press release from the US prosecution office announcing Assange's indictment on 11 April 2019. The charge is that Julian Assange allegedly agreed to try help Chelsea Manning log into her work computers (which she already had access to) using a different username so that she could maintain her anonymity. <https://theintercept.com/2019/04/11/the-u-s-governments-indictment-of-julian-assange-poses-grave-threats-to-press-freedoms/>

Is Julian Assange a journalist?

Julian Assange has been a member of the Journalist Union of Australia for more than a decade, and has received the highest journalistic award in his home country, the Walkley Award. He is also a member of the International Federation of Journalists and has won dozens of journalism awards. UK courts have described Julian Assange as a journalist and WikiLeaks as a media organization

Regardless, the activities that the US is seeking to extradite Assange for are normal journalistic practices, and this prosecution would set a precedent that would effect all journalists and publishers. <https://defend.wikileaks.org/2019/12/03/the-fate-of-journalism-and-julian-assange/>



The charges “contain a real threat to press freedom for journalists and media outlets around the world”

MEAA, Australian Media Union (equivalent UK NUJ/ US NewsGuild)

Can Julian Assange get a fair trial in the Eastern District of Virginia?

The court that will hear Julian Assange's case in the 'National Security' court of the United States. The jury pool is drawn from an area which includes the headquarters of the CIA and extensive network of national security contractors. It is the same court where former CIA whistleblower John Kiriakou, who exposed torture by the CIA was prosecuted.

John Kiriakou on the prospects of Assange getting a fair trial in the Eastern District Court of Virginia
<https://www.zerohedge.com/news/2019-05-24/cia-whistleblower-assange-going-get-railroaded-hanging-judge>

Does WikiLeaks only publish leaks about the United States?

WikiLeaks has published documents related many countries and jurisdictions including Syria, Saudi Arabia, Russia, Namibia, Peru and Norway.

Comment on proposed extradition of Julian Assange:

Council of Europe - Commissioner for Human Rights, Dunja Mijatovic:

"In view of both the press freedom implications and the serious concerns over the treatment Julian Assange would be subjected to in the United States, my assessment as Commissioner for Human Rights is that he should not be extradited."

New York Times Editorial board:

"This case now represents a threat to freedom of expression and, with it, the resilience of American democracy itself." <https://www.nytimes.com/2019/05/23/opinion/julian-assange-wikileaks.html>

Reporters Without Borders:

"The superseding indictment is the latest in a long series of moves by the US government to manipulate legal loopholes in their targeting of Julian Assange, to undermine his defence, and to divert public attention from the extremely serious press freedom implications of his case.

<https://rsf.org/en/news/rsf-reiterates-call-charges-against-julian-assange-be-dropped-us-issues-new-superseding-indictment>

Amnesty International's Deputy Europe Director, Massimo Moratti:

"All charges underpinning the US extradition request should be dropped to allow for Julian Assange's prompt release... UK authorities are under a clear and unequivocal obligation not to send him to the USA.." <https://www.amnesty.org/en/latest/news/2020/02/usuk-drop-charges-and-halt-extradition-of-julian-assange/>

Alan Rusbridger, former Editor The Guardian:

"I fear that we may be in a situation now where any editor or reporter who tries to do national security reporting will be told that they have no public interest defence, the government will say what the public interest is, and not just the publishing but also the receiving of documents would mean that you could be arrested and charged." <https://www.pressgazette.co.uk/former-guardian-editor-alan-rusbridger-surprising-that-more-cant-see-assange-case-is-worrying-for-all-journalists/>

Washington Post Executive Editor Marty Baron:

"With the new indictment of Julian Assange, the government is advancing a legal argument that places such important work in jeopardy and undermines the very purpose of the First Amendment" <https://thehill.com/homenews/media/445426-washington-post-new-york-times-editors-blast-assange-indictment>

USA Today Editor-in-Chief Nicole Carroll:

"Investigative journalists routinely obtain and publish information the government would like kept secret. This indictment threatens such reporting and is a chilling attack on press freedoms and the public's right to know."

International Federation of Journalists:

"This sets an extremely dangerous precedent for journalists, media organizations and freedom of the press. We do not want to be silent at this time."

<https://www.ifj.org/media-centre/news/detail/category/regions/article/speak-up-for-assange-international-journalists-statement-in-defence-of-julian-assange.html>

Council of Europe – Parliamentary Assembly Resolution 2317 (2020)

"[The Council of Europe] consider that the detention and criminal prosecution of Mr Julian Assange sets a dangerous precedent for journalists, and join the recommendation ... that Mr Assange's extradition to the United States must be barred, and that he must be promptly released" <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=28508&lang=en>

Committee to Protect Journalists

"Taken together, the 18 counts in the DOJ indictment criminalize key reporting practices and the publication of information obtained through them....A successful prosecution would chill whistleblowers and investigative reporting. This is why CPJ opposes Assange's extradition."

<https://cpj.org/blog/2019/12/press-freedom-julian-assange-wikileaks-defend.php>

European Federation of Journalists General Secretary Ricardo Gutiérrez:

"the arbitrary detention and criminal prosecution of Julian Assange set an extremely dangerous precedent for journalists, media actors and freedom of the press,"

<https://europeanjournalists.org/blog/2020/01/02/international-journalist-statement-in-defence-of-julian-assange/>

Reporters Without Borders (RSF) General Secretary, Christophe Deloire

"These proceedings violate the US Constitution. The democratic example set by Thomas Jefferson and Benjamin Franklin is in danger."

<https://rsf.org/en/news/assanges-extradition-us-would-threaten-work-all-journalists>

Video

Foreign Press Association, 19 February 2020, London

Press conference with Assange lawyer Jennifer Robinson, WikiLeaks' Kristinn Hrafnsson , and Australian Members of Parliament George Chirstensen and Andrew Wilkie

<https://www.pscp.tv/w/1MYGNkaYogwJw?t=2m14s>

The Persecution of Julian Assange - System Update with Glenn Greenwald

Glenn Greenwald focuses on the case and prosecution of WikiLeaks founder Julian Assange. Talking to human rights lawyer Jennifer Robinson, who represents Assange, and Washington Post media columnist Margaret Sullivan, who is an outspoken and consistent defender of press freedom https://www.youtube.com/watch?v=gG_9j6aquaY

Kristinn Hrafnsson, WikiLeaks' Editor-in-Chief, Address to the Australian Press

Association (7 December 2019) <https://fowlchicago.wordpress.com/2019/12/07/transcript-wikileaks-editor-in-chief-hrafnsson-speaks-natl-press-club-australia/>

World Press Freedom Day 2020: The Prosecution of Julian Assange

Pulitzer prize winning journalist Barton Gellman (Washington Post, The Atlantic), Ewen MacAskill (The Guardian), Rebecca Vincent (Reporters Without Borders) discuss the Assange prosecution on World Press Freedom Day 2020: <https://www.youtube.com/watch?v=8ir2Mg5j13Y>

Commentators

James Goodale, lawyer for the New York Times for the Pentagon Papers

Jack Goldsmith, Harvard Law Professor, head the Office of Legal Counsel (US Department of Justice) 2003-2004

Alan Rusbridger, Former Editor The Guardian

Ben Wizner, American Civil Liberties Union

Electronic Frontier Foundation

UN Special Rapporteur on Torture, Nils Melzer

Recommended reading

WikiLeaks has the same mission as The Post and the Times | Oped - Washington Post | Julian Assange | April 11 2017

https://www.washingtonpost.com/opinions/julian-assange-wikileaks-has-the-same-mission-as-the-post-and-the-times/2017/04/11/23f03dd8-1d4d-11e7-a0a7-8b2a45e3dc84_story.html

Some 169 lawyers and legal groups join calls for Julian Assange extradition to halt 17 August .2020

<https://www.pressgazette.co.uk/some-169-lawyers-and-legal-groups-join-calls-for-julian-assange-extradition-to-halt/>

James Goodale: Will alleged CIA misbehavior set Julian Assange free? (The Hill, 13 January 2020 <https://thehill.com/opinion/criminal-justice/477939-will-cia-misbehavior-set-julian-assange-free>

Julian Assange in Limbo - London Review of Books - Patrick Cockburn (18 July 2020) <https://www.lrb.co.uk/the-paper/v42/n12/patrick-cockburn/julian-assange-in-limbo>

James Goodale: Pentagon Papers lawyer: The indictment of Assange is a snare and a delusion (The Hill, 14 April 2019) <https://thehill.com/opinion/criminal-justice/438709-pentagon-papers-lawyer-indictment-of-assange-snare-and-delusion>

James Goodale: More Than a Data Dump - Why Julian Assange deserves First Amendment protection (Harpers Magazine, April 2019) <https://harpers.org/archive/2019/04/more-than-a-data-dump-julian-assange/>

Jack Goldsmith: The U.S. Media Is in the Crosshairs of the New Assange Indictment <https://www.lawfareblog.com/us-media-crosshairs-new-assange-indictment>

Gabe Rottman: The Assange Indictment Seeks to Punish Pure Publication <https://www.lawfareblog.com/assange-indictment-seeks-punish-pure-publication>

40+ Rights Groups call on UK to Free Julian Assange 3 July 2020

Dozens of press freedom, human rights, and privacy rights organizations across five continents have co-signed an open letter to the U.K. government, calling for the immediate release of imprisoned WikiLeaks founder Julian Assange, the publisher, who turns 49 years old today in HMP Belmarsh <https://defend.wikileaks.org/2020/07/03/rights-groups-call-on-uk-to-free-julian-assange/>

- i https://www.washingtonpost.com/world/national-security/julian-assange-unlikely-to-face-us-charges-over-publishing-classified-documents/2013/11/25/dd27decc-55f1-11e3-8304-caf30787c0a9_story.html
- ii <https://defend.wikileaks.org/2019/03/18/the-assange-precedent-the-threat-to-the-media-posed-by-trumps-prosecution-of-julian-assange/>
- iii <https://www.independent.co.uk/news/uk/politics/jeremy-corbyn-julian-assange-extradition-us-wikileaks-war-crimes-a9331376.html>
- iv <https://www.reuters.com/article/us-wikileaks-damage/u-s-officials-privately-say-wikileaks-damage-limited-idUSTRE70H6TO20110118>
- v <https://dontextraditeassange.com/press-release/chaos-in-assange-case-management-hearing/>
- vi <https://www.dailymaverick.co.za/article/2020-07-31-uk-government-refuses-to-release-information-about-assange-judge-who-has-96-extradition-record/>
- vii <https://ccrjustice.org/sams-report>
- viii <https://www.zerohedge.com/news/2019-05-24/cia-whistleblower-assange-going-get-railroaded-hanging-judge>
- ix <https://www.standard.co.uk/comment/comment/justice-s-scales-are-lopsided-in-extradition-treaty-with-us-a4343671.html>