

Warning from lawyers for Julian Assange

WikiLeaks founder faces “real risk” of rendition to US, torture and death

Julie Hyland
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WikiLeaks founder Julian Assange appeared at Belmarsh magistrates’ court, London, yesterday for a preliminary hearing on the extradition warrant issued against him by Sweden’s public prosecutor.

Assange is being held under virtual house arrest on £240,000 bail. The full two-day extradition hearing will take place February 7 and 8.

The 10-minute hearing came just hours after WikiLeaks’ Twitter account posted a press release calling for US politicians and media figures who are publicly advocating Assange’s assassination to face criminal prosecution for incitement to murder.

The release was issued as further evidence came to light of the connection between the attempted assassination of Democratic Congresswoman Gabrielle Giffords in Tucson on January 8 and the ultra-right propaganda spouted by Fox News, the Tea Party wing of the Republican Party and other right-wing extremists.

Noting that WikiLeaks staff and contributors have been the target of “unprecedented violent rhetoric” by US politicians and media personalities, the release stated:

“No organisation anywhere in the world is a more devoted advocate of free speech than WikiLeaks but when senior politicians and attention seeking media commentators call for specific individuals or groups of people to be killed they should be charged with incitement--to murder. Those who call for an act of murder deserve as significant share of the guilt as those raising a gun to pull the trigger....”

Concerns that Assange’s extradition to Sweden on politically motivated, trumped-up charges of sexual misconduct could lead to his “onward rendition” to the US, where he would face possible torture and even death, are to form part of the WikiLeaks founder’s legal defence at the February hearing.

Sweden is seeking Assange’s extradition, despite the fact that he has not been charged with any crime. Two women in Sweden allege rape, molestation and unlawful coercion. Both women admit that they had sex with Assange willingly. However, one claims that Assange did not use a condom during intercourse. The other alleges that he had sex with her when she

was not fully awake. Assange admits having had consensual sex with each woman, but rejects any criminal wrongdoing.

In August, Sweden’s chief prosecutor Eva Finne dropped the rape investigation against him on the grounds that there was no “reason to suspect that he [Assange] had committed rape.”

By this time, however, the allegations against Assange had been disclosed to the media by the Swedish authorities. The rape investigation was then re-opened at the instigation of Claes Borgström, acting for the women. Borgström is a Social Democrat who served in government between 2000 and 2007. One of the two women making the allegations is associated with the Christian wing of Swedish Social Democracy.

Assange’s legal team has posted a “Provisional Skeleton Argument” that will form the basis of their defence against extradition.

It argues that the European Arrest Warrant (EAW) is invalid on a number of criteria. It contends that Swedish Prosecutor Marianne Ny does not have the judicial authority to issue an EAW, since a previous case established that the Swedish National Police Board was the sole issuing authority.

Further, the EAW has been issued for an improper purpose. Ny has repeatedly stated that extradition is simply to facilitate further questioning of Assange and that a decision has not been taken as to any possible prosecution. This is an improper use of extradition, since “[I]t is a well-established principle of extradition law...that mere suspicion should not found a request for extradition.”

In the absence of any decision to prosecute, and given Assange repeatedly stating he is available to answer questions by telephone or other means, the EAW is an abuse of process by the Swedish prosecutor.

The document outlines other examples of an abuse of process, including non-disclosure by the Swedish prosecutor, particularly as regards SMS messages sent by Assange’s accusers. It notes that an SMS message by one of the women had stated that she was “half asleep” at the time of sexual intercourse. If the “Complainant’s own evidence that she was ‘half asleep’ has been bolstered in the EAW into an allegation that she was fully asleep, in order to support the making of a

rape allegation, then this would in itself constitute prosecutorial abuse.”

Other text messages that have not been disclosed but have been seen by Assange’s Swedish lawyer, Bjoern Hurtig, “speak of revenge and of the opportunity to make lots of money and of going to the Swedish national newspaper, *Expressen*.”

The document continues that “expert evidence from distinguished Swedish legal authorities will show that Mr. Assange has been the victim of a pattern of illegal and or corrupt behaviour by the Swedish Prosecuting Authorities.” This includes the prosecutor releasing Assange’s name to the press as a suspect in a rape inquiry, contrary to Swedish law, “thus ensuring his vilification throughout the world.”

It notes that after the initial rape investigation was dropped, “a secret process took place from which Mr. Assange and his lawyers were excluded and by virtue of which, at the behest of a lawyer acting for the complainants, the rape allegation was revived” by Ny—a process in breach of the European Convention on Human Rights (ECHR).

The prosecutor’s office illegally made extracts of the prosecution file against Assange available to the English media, “with the object that he should be further vilified in the UK and elsewhere.”

In addition, the Swedish state has paid Borgström “to give interviews to international journalists assassinating the character of Mr. Assange and prejudicing his fair trial on these charges.”

Under the ECHR, extradition can be barred if a warrant is issued for the purpose of prosecution or punishment on the grounds of a person’s “race, religion, nationality, gender, sexual orientation or political opinions,” or if extradited a person might receive an unfair trial, or be punished or detained by reason of any of the above.

The defence argues that the EAW has been issued against Assange “for the purposes of prosecuting or punishing him for his political opinions” and/or that he would be prejudiced at any trial “by reason of those opinions.”

The section outlining the human rights grounds for opposing extradition amounts to a damning legal indictment of the erosion of civil liberties in Europe and the US.

The document states that extradition would be in breach of Assange’s human rights, as Sweden would likely be complicit in his “onward rendition to the USA”, where he could face torture and even death.

Sweden has a record of expelling individuals to countries where it was likely they would be ill-treated. The skeleton brief notes that the United Nations Human Rights Committee has previously found that Sweden had “committed multiple violations of the prohibition on torture”, referencing the case of Mohammed Alzery, who had been expelled from Sweden to Egypt, where he was tortured. These violations include those “committed by foreign agents (US and Egyptian agents) on Swedish territory.”

Sweden had conceded there was a risk of ill-treatment in Alzery’s case that should have prevented his expulsion, but had relied “on diplomatic assurances” claiming the contrary, the HRC said.

The defence outline continues, “It is submitted that there is a real risk that, if extradited to Sweden, the US will seek his extradition and/or illegal rendition to the USA, where there will be a real risk of him being detained at Guantanamo Bay or elsewhere, in conditions which would breach Article 3 of the ECHR.

“Indeed, if Mr. Assange were rendered to the USA, without assurances that the death penalty would not be carried out, there is a real risk that he could be made subject to the death penalty.”

As regards the “death penalty”, the document continues, “It is well-known that prominent figures have implied, if not stated outright, that Mr. Assange should be executed.”

It names Mike Huckabee, a potential Republican candidate for the 2012 presidential election and Fox News talk-show host, who has demanded that those responsible for leaking US Embassy cables be executed, and former Republican vice-presidential candidate Sarah Palin, who said Assange “should be hunted down just like al-Qaeda and Taliban leaders.”

In the event of the US seeking Assange’s “rendition” from Sweden, the defence submits that “Sweden would bow to US pressure and/or rely naively on diplomatic assurances from the USA that Mr. Assange would not be mistreated, with the consequence that he would be deported/expelled to the USA, where he would suffer serious ill-treatment.”

The Socialist Equality Party and the International Students for Social Equality are holding a series of meetings throughout the US to discuss the significance of the revelations in the leaked documents and the political implications of the attack on WikiLeaks. Click here for information on meetings around the country, or to schedule a meeting in your area.



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