British Supreme Court endorses extradition of Julian Assange

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At the UK Supreme Court in London, Wednesday, WikiLeaks founder Julian Assange lost his appeal against extradition to Sweden. The judges ruled by a majority of five to two that the extradition request had been "lawfully made".

Assange is challenging the extradition, which is based on contested allegations of sexual assault made by two women in August 2010.

Though the ruling allowed for Assange's extradition as soon as possible, his lawyer Dinah Rose requested a 14-day stay be granted in which to consider an application to re-open the court's ruling. She said that, from an initial reading, the decision could have been made on the basis of legal points never argued by either side during the initial Supreme Court hearing in February.

If Assange decides to appeal on these grounds, a court statement said, "the Justices will then decide whether to re-open the appeal and accept further submissions (either verbally through a further hearing, or on paper) on the matter."

Despite the fact that he has never been charged with any crime in Sweden or any other country, Assange was arrested in London in December 2010 under the anti-democratic European Arrest Warrant (EAW) system. Even on the arrest warrant, issued by Swedish public prosecutor Marianne Ny, he is not designated as an "accused" person.

Assange has since spent 540 days under house arrest in Norfolk under restrictive bail conditions. He is forced to wear an electronic ankle tag at all times and has to report to a local police station daily.

Any objective appraisal of the persecution of Assange by the Swedish authorities since August 2010 would have to acknowledge the extreme bias and politically motivated axis of those prosecuting him, the highly dubious nature of the allegations and the timing of the EAW issued against him.

His arrest came just days after WikiLeaks released thousands of secret United States embassy cables detailing the dirty character of so-called US "diplomacy". These followed its publication of thousands of secret documents exposing the criminal nature of the US-led invasions of Iraq and Afghanistan.

Yet, in hearing Assange's case, the Supreme Court considered none of this background, only agreeing to rule on a single matter of "great public importance". This was "Whether a European Arrest Warrant ("EAW") issued by a public prosecutor is a valid Part 1 EAW issued by a 'judicial authority' for the purpose and within the meaning of sections 2 and 66 of the Extradition Act 2003."

In other words, the Supreme Court did not address the legal basis for the issuing of the EAW. This is despite the fact that in his submission, Judge Phillips stated in a section titled "The facts of the case" that, following the allegations made by two Swedish women of sexual assault, "A Preliminary Investigation conducted by the Chief Officer, in which Mr Assange co-operated, concluded that there was no case against him in respect of the alleged rape".

Within 10 days of the case being thrown out, it was revived, following the intervention of Claes Borgstrom, a leading Social Democratic Party figure in Sweden and lawyer for the two women, without any evidentiary foundation.

Each of the seven justices outlines the reason for deciding on whether or not to support Assange's extradition in the judgement. In the main, their verdicts demonstrate contempt for a centuries-old democratic principle: that all must be entitled to be judged impartially.

In his submission, Lord Kerr states explicitly, "It would be destructive of the international co-operation between states to interpret the 2003 Act in a way that prevented prosecutors from being recognised as legitimate issuing judicial authorities for European Arrest Warrants, *simply because of the well-entrenched principle in British law that to be judicial is to be impartial*" (emphasis added).

The majority of the judges cited Article 31.3(b) of the 1969 Vienna Convention on the Law of Treaties in evaluating the implementation of the EAW legislation. The Vienna Convention codifies the principles of international treaties. Article 31 states that, along with the context, there

shall be taken into account, "any subsequent practice in the application of the treaty which establishes the agreement of the parties regarding its interpretation."

Lord Phillips, the president of the Supreme Court, cited the Vienna Convention and noted that European Union member states, the European commission and the European council have all proceeded as if the extradition agreement allowed prosecutors to issue extradition orders.

Lord Walker stated that the Article 31 clause was "determinative" in his rejection of Assange's appeal.

The utilisation of the Vienna Convention to overturn basic democratic norms and dismiss the appeal is only the latest episode in efforts—led by the US—to silence Assange and WikiLeaks, and intimidate all those who seek to expose the truth about the criminal operations of American imperialism.

Assange's solicitor Gareth Peirce said of the decision that the UK parliament "thought a 'judicial authority' meant a judge or court but the majority of supreme court judges based their decision on what is the practice in Europe and decided it on the basis of the Vienna convention, which was never argued before the court."

In response to the judgement, the Justice for Assange website raised that the "Vienna convention allows state practice to determine what the law is."

In his dissenting judgement, Lord Mance stated that the wording of the original EAW "Framework" document was ambiguous and the "intention of Parliament and the effect of the Extradition Act 2003 was to restrict the recognition by British courts of incoming European arrest warrants to those issued by a judicial authority in the strict sense of a court, judge or magistrate." He added that "the arrest warrant issued by the Swedish Prosecution Authority is incapable of recognition in the United Kingdom under section 2(2) of the 2003 Act".

If a re-application to the Supreme Court fails, the only legal avenue left for Assange is an appeal to the European Court of Human Rights (ECHR). There is little chance of such an appeal being accepted. Moreover, the ECHR only recently handed down a judgement allowing five men detained without trial for years on terror-related charges in the UK to be extradited to the US. None of these men, three of whom are British citizens, have ever been charged with an offence in the UK.

Assange has long argued that the real objective of the Swedish extradition warrant is to prepare the grounds for his removal to the US to face charges of espionage for releasing confidential cables. Significantly, an article on Wednesday's verdict in the *New York Times*—the "newspaper of record" of the US ruling elite—dealt at length with this possibility.

Referring to a WikiLeaks press release issued prior to the verdict, the *Times* wrote, "In effect, the four-page WikiLeaks statement depicted the decision in London as a prelude to a much grimmer challenge awaiting Mr. Assange than the sex abuse charges."

It continued, "Leaked e-mails from the global intelligence company Stratfor earlier this year suggested that a sealed indictment was ready to be made public when American officials judge that legal proceedings against Mr. Assange in Britain and Sweden are coming to a close."

While the *Times* described the WikiLeaks statement as "speculative", it noted, "[T]he United States ambassador to Britain, Louis B. Susman, has said the Justice Department will 'wait to see how things work out in the British courts,' and there have been reports in the past year of confidential meetings between American officials and representatives of Britain, Sweden and Australia concerning the Assange case."

Should Assange be found "guilty on espionage charges" in the US, it said "he could face a life sentence in a maximum-security prison."

There is every reason to believe that the US is determined to carry out this threat. Private Bradley Manning, who is accused of passing on classified documents to WikiLeaks, has already been charged with "aiding the enemy." Before the beginning of his court martial trial earlier this year, he was held for months by the US military under conditions of solitary confinement, while being subject to other cruel and degrading conditions. Manning's trial, which could result in life in prison, is scheduled to begin in September.