Assange targeted for political views in “terrifying threat to First Amendment,” expert witnesses tell hearing

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10 September 2020

Julian Assange is being targeted for prosecution under the Espionage Act for his political opposition to US-led wars and government secrecy, an expert witness told extradition hearings yesterday at the Old Bailey. Under current US-UK treaty arrangements, extradition for political offences is barred.

Paul Rogers, Emeritus Professor of Peace Studies at Bradford University, a political scientist and author of nine books on the war on terror, who has published extensively on the Afghan and Iraq wars, testified via video link during the morning session.

Rogers explained how WikiLeaks’ revelations about US conduct in Iraq and Afghanistan had exposed the “fiction of success” promoted by the US government from 2001. His written testimony cited US academic Yochai Benkler that WikiLeaks was “essentially a networked version of the Pentagon Papers” which exposed US military intervention in Vietnam between 1945 and 1967.

The US had given a firm impression that Afghanistan was under control and that victory had been achieved, Rogers said. “What the WikiLeaks revelations did was to confirm the view of some analysts that in fact the war had gone more or less wrong from the start. So the impression which was being given to the general public and the international community that this was a success, was clearly not the case, and the evidence published by WikiLeaks really confirmed that in a degree of detail that was not otherwise available.”

On Iraq, Rogers said, “From the start, the United States believed that the war in Iraq was going to be a very significant success. Within three weeks, the statue in that Baghdad square had come down and three weeks later George W. Bush gave his famous ‘mission accomplished’ speech.”

During the first year or two, there had been “very clear evidence not available to the public that the war was going wrong. WikiLeaks was able to confirm much of that in 2011” and this had led to “people reappraising the whole of the Iraq war.”

WikiLeaks’ exposure of civilian casualties had played “possibly the most important role” in catalysing public opposition to both wars. “The British NGO Iraq Body Count (IBC) had been doing very good work on this, but WikiLeaks added hugely to that and if I remember rightly the information they provided in various war logs was an additional 15,000 civilians killed, in addition to those carefully recorded by IBC. That’s probably one of the most significant parts of the whole appraisal, bringing to the public domain an unfortunate and very distressing aspect of the whole war.”

Underscoring the implications of US-UK efforts to silence Assange, Rogers said that due to WikiLeaks’ exposures there had been a “much greater caution by western countries, particularly by the United States and the UK, in the willingness to go to war at an early stage.”

Assange was, “someone with quite strong political views,” Rogers said. Edward Fitzgerald QC for the defence read from a speech Assange delivered to a Stop the War rally at London’s Trafalgar Square in August 2011. Assange said that WikiLeaks had revealed, “the everyday squalor and barbarity of war, information such as the individual deaths of over 130,000 people in Iraq, individual deaths that were kept secret by the US military who denied that they have counted the deaths of civilians… Instead, I want to tell you what I think is the way that wars come to be and that wars can come undone. … It should lead us also to an understanding because if wars can be started by lies, peace can be started by truth.”

In 2012, Assange had founded the WikiLeaks Party in Australia, contesting elections to the federal senate on a platform of human rights, transparency, and accountability. Rogers said, “At the root of this is a libertarian view of the need for individuals and public groups to produce a much greater degree of transparency and accountability… It’s a very clear political position.”

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Assange's political opinions, especially in relation to the Chelsea Manning disclosures, had placed WikiLeaks on a collision course with successive US administrations and at "the crosshairs of dispute with the philosophy of the Trump administration."

James Lewis QC for the US government made several attempts during cross-examination to establish that Assange does not have political views and that WikiLeaks' publications were not politically motivated. Rogers countered, showing the broader political context for the indictments, namely the Trump Administration's war on journalism and free speech, and "the history of war over the last twenty years."

Rogers sought to draw a sharp distinction in his testimony between the actions of the Obama and Trump White House toward Assange, emphasising the Democrats' alleged "decision" to not indict the WikiLeaks publisher. Lewis seized on this claim, stressing it was the Obama Administration which had launched the Grand Jury investigation into Assange. Lewis said there was no evidence Obama had decided *not* to prosecute Assange. He pointed to decisions by US federal judges in 2013 and 2015 that the investigation was being continued.

Lewis then challenged Rogers' status as an expert witness, alleging bias and political sympathy for Assange. An Honorary Fellow at the Joint Services Command and Staff College, Rogers has taught senior defence personnel for 38 years, lecturing on international security at the highest levels of the British state, including the Home Office, Foreign and Commonwealth Office, MI5 and UK Special Forces. He countered that some of Assange's views he found "objectionable."

The defence called Trevor Timm as an expert witness in the afternoon session. Timm is a qualified lawyer and the co-founder and executive director of the Freedom of the Press Foundation in the US. He submitted a statement testifying that the "unprecedented charges against Julian Assange and WikiLeaks can be considered to be the most terrifying threat to the First Amendment in the 21st century" and they would "explicitly criminalise national security journalism." Timm elaborated in questioning that "Bob Woodward and Carl Bernstein [the Watergate reporters] could have been charged" under sections of the indictment against Assange.

The prosecution attempted to challenge Timm's status as an expert, on grounds with chilling implications. Timm was asked whether he would feel "threatened if this prosecution went ahead," having described the case as the "thin end of the wedge to prosecute journalists." He replied that he worked "on behalf of journalists in the United States," believed "their rights are under threat" and so felt fear "on behalf of them." He added that, since the Espionage Act is written so broadly even people reading the newspaper containing classified information could potentially be violating it, "everybody should be fearful of this case."

On this basis, Lewis argued he was not impartial, as demanded by his status as an expert witness, since there was a conflict of interest! That is, if the US government attempts to criminalise journalism, then anyone with a commitment to a free press should be barred from passing comment in court. The argument recalls the decision by the law Lords to overturn and earlier House of Lords ruling denying Chilean dictator Augusto Pinochet sovereign immunity by citing the possible biased verdict due to the involvement of Lord Hoffmann, a director and chairman of Amnesty International Charity Ltd. Having already set a precedent for denying the accused basic legal rights to a defence, the Assange case is now stripping principled individuals' rights to serve as expert witnesses in court.

The prosecution again tried to claim that Assange was not a journalist, citing the shameful September 2011 statement of the *Guardian*, *New York Times*, *El Pais*, *Der Spiegel* and *Le Monde* renouncing their work with WikiLeaks and condemning the organisation.

Lewis said that since the US government stated Assange was "no journalist" in its affidavits, they could not be accused of seeking to criminalise journalism.

Timm answered that "it does not matter whether the government considers Julian Assange a journalist… Nobody needs the *New York Times* to issue them a press pass to act as a journalist or receive First Amendment rights. This goes all the way back to the country's founding with famous pamphleteers… [Assange] was engaging in journalistic behaviour, he was acting as a publisher, and that's the right of everybody."

The final exchanges of the day dealt with procedural issues which underscored the deeply unfair treatment of the defence in this hearing. Lewis complained to the judge after learning his time for cross examination was limited to one or two hours for each witness—compared to the half hour afforded the defence for chief examination. Baraitser refused to grant him unlimited time but gave him the opportunity to propose his own revised limits.

The hearing continues today.

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