

# Iraq Body Count co-founder: WikiLeaks exposed mass civilian casualties to a global audience

Thomas Scripps and Laura Tiernan  
18 September 2020

Professor John Sloboda, co-founder of Iraq Body Count and Every Casualty Worldwide, testified at Julian Assange's extradition hearing yesterday morning. He described the worldwide impact of WikiLeaks' journalism in exposing civilian casualties in Iraq and flatly contradicted the prosecution's claims that Assange had a "cavalier" attitude to the redaction of sensitive documents.

Sloboda worked with WikiLeaks and a consortium of news organisations to publish the Iraq War Logs in October 2010, which he described in court as "the largest single contribution to knowledge of civilian casualties in the Iraq War," revealing "about 15,000 hitherto unknown deaths... even when the reports were not new, very often important additional detail was added."

WikiLeaks brought this information "to the largest global audience of any single release." There have been no comparable revelations in the last decade. "All of [the recorded civilian deaths] which were unique to the Logs in 2010 are still unique... the Iraq War Logs remain the only source of those incidents."

In addition to unreported civilian casualties, the Iraq War Logs revealed multiple specific instances of war crimes, including the killing of Iraqis attempting to surrender, and human rights abuses including torture and summary execution.

Sloboda told the court that he and his colleagues approached WikiLeaks with an offer to help cross-reference the leaked documents with the details of deaths already compiled by Iraq Body Count. Describing Assange's response to this offer, he said, "He was absolutely welcoming of it... after our first serious encounter with him he immediately suggested we join a consortium of other media organisations including the *Guardian*, the *New York Times* and others, which had pre-

publication access to the logs, so that we could do some preliminary analyses and have something serious and rigorous to say about [the documents] before they were released in their highly redacted form."

Asked about the redaction process, Sloboda said it was "impressed upon us from very early on in our encounters with Mr Assange and the rest of his team that the aim was a very, very stringent redaction of the Logs before publication... That was the aim of Mr Assange and WikiLeaks." This was done "to ensure that no information which could be damaging to living individuals, including informants or others, would be present in the version of the Logs which was made public."

Sloboda explained, "There were considerable pressures on Mr Assange and WikiLeaks to hurry up because [media] partners wanted to publish. Those pressures were consistently and clearly rejected. They could not be published before a redaction had been achieved with which everyone was satisfied. That was stuck to completely, consistently, with no equivocation throughout the time we were with Mr Assange and his organisation."

Defence lawyer Florence Iveson summarised the eventual solution to redacting the documents as a "painstaking process" which "took weeks." Sloboda agreed and explained that the Iraq War Logs released in 2010 "were over-redacted for caution... the approach taken was to be overcautious and in certain circumstances, possibly, on further investigation, un-redact."

During the afternoon session, expert witness testimony was heard from Carey Shenkman on the history of the US Espionage Act, which forms the basis for 17 of the 18 indictments against Assange.

A New York-based constitutional and civil rights attorney, Shenkman is co-author of *A Century of*

*Suppression: The Espionage Act from WWI to the War on Terror* (2016). He testified on the application of the Espionage Act throughout the twentieth century and its far-reaching extension against Assange's activities as a journalist and publisher.

Asked by Mark Summers QC for the defence to explain how broad the Act was, Shenkman replied, "The Espionage Act was born out of what is considered by any serious First Amendment scholar to be one of the most repressive periods in the history of the United States. During World War I, there was initially fierce opposition to US entry into the war, but that changed."

Shenkman elaborated, "Essentially the Espionage Act was part of a suite of legislation that also included the Sedition Act a year later, that became the principal tool of Woodrow Wilson in what [he] called, in his own words, 'the firm hand of stern repression' against US opposition to participation in the war."

The Democratic Party president regarded the Espionage Act as the principal tool against those who sought to "inject the poison of disloyalty into our most critical affairs." Wilson's administration, Shenkman explained, "sought censorship powers against the press that were fiercely rejected by Congress. So, what the Espionage Act did was impose penalties for criticism of the war, it imposed penalties for communication of information around the war."

"The first 2,000 prosecutions of nearly 2,500 hundred individuals were political prosecutions under the Espionage Act. They included prosecutions of labour leader Big Bill Haywood, who was the leader of the International Workers of the World, or the IWW. He was tried in an *en masse* Espionage Act trial. Also, Eugene Debs, who was at the time the leader of the Socialist Party in the United States. He was its presidential candidate—it was the third largest political party in the United States. Debs was sentenced to ten years under the Espionage Act over a speech in Canton, Ohio, which was called the most famous protest speech of its time."

Shenkman said the Act was "extraordinarily broad" in scope. Its historical origins "showed why this was the case."

Replying to a question from Summers about the attitude of legal experts and scholars toward the Act, Shenkman said, "I would safely say that the Espionage Act is one of the most contentious laws in the United States, for any serious scholar of constitutional law, the First Amendment or national security law."

In the wake of the Espionage Act's use in the Pentagon

Papers case, these concerns were magnified. Shenkman cited Harold Edgar and Benno C. Schmidt Jr's authoritative 1973 article for the *Columbia Law Review*. "Their conclusion was that there was incredible confusion surrounding the scope of the law and they believed that it was truly at prosecutorial discretion to ensure that its provisions would not be invoked against innocent citizens."

Summers asked whether such "prosecutorial discretion" had provided a "robust safeguard" against such targeting of innocents. Shenkman replied it had not, because there was "no legal limitation in the text of the Espionage Act against its potential use against any individual disseminating national defence information to anyone unauthorised to receive it."

This was a prohibition which could "potentially apply to anyone, whether it be a member of the media, [or] whether it be an ordinary citizen in the United Kingdom, retweeting on social media, or media, whether it's the third person or the fifth person."

Shenkman said there was no public interest defence for whistleblowers under the Espionage Act. The Act also did not limit prosecution to distribution of classified information, but to national defence information—a far broader category.

He confirmed there was no precedent in US history for the indictment of a publisher under the Espionage Act. While successive administrations had considered such prosecutions—going back to Roosevelt's 1942 grand jury against *The Chicago Tribune* and including subsequent grand juries under Truman (*Amerasia*), and Nixon (Pentagon Papers and Boston Grand Jury)—these were subsequently abandoned.

A lengthy cross-examination of Shenkman by barrister Clair Dobbin for the US government followed. It continues today.



To contact the WSWS and the  
Socialist Equality Party visit:

**[wsws.org/contact](https://wsws.org/contact)**