

Assange: The Untold Story of an Epic Struggle for Justice

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This is an updated version of John Pilger's 2014 investigation which tells the unreported story of an unrelenting campaign, in Sweden and the US, to deny Julian Assange justice and silence WikiLeaks: a campaign now reaching a dangerous stage.

The siege of Knightsbridge is both an emblem of gross injustice and a gruelling farce. For three years, a police cordon around the Ecuadorean embassy in London has served no purpose other than to flaunt the power of the state. It has cost £12 million. The quarry is an Australian charged with no crime, a refugee whose only security is the room given him by a brave South American country. His "crime" is to have initiated a wave of truth-telling in an era of lies, cynicism and war.

The persecution of Julian Assange is about to flare again as it enters a dangerous stage. From August 20, three quarters of the Swedish prosecutor's case against Assange regarding sexual misconduct in 2010 will disappear as the statute of limitations expires. At the same time Washington's obsession with Assange and WikiLeaks has intensified. Indeed, it is vindictive American power that offers the greatest threat – as Chelsea Manning and those still held in Guantanamo can attest.

The Americans are pursuing Assange because WikiLeaks exposed their epic crimes in Afghanistan and Iraq: the wholesale killing of tens of thousands of civilians, which they covered up, and their contempt for sovereignty and international law, as demonstrated vividly in their leaked diplomatic cables. WikiLeaks continues to expose criminal activity by the US, having just published top secret US intercepts – US spies' reports detailing private phone calls of the presidents of France and Germany, and other senior officials, relating to internal European political and economic affairs.

None of this is illegal under the US Constitution. As a presidential candidate in 2008, Barack Obama, a professor of constitutional law, lauded whistleblowers as "part of a healthy democracy [and they] must be protected from reprisal". In 2012, the campaign to re-elect President Barack Obama boasted on its website that he had prosecuted more whistleblowers in his first term than all other US presidents combined. Before Chelsea Manning had even received a trial, Obama had pronounced the whistleblower guilty. He was subsequently sentenced to 35 years in prison, having been tortured during his long pre-trial detention.

Few doubt that should the US get their hands on Assange, a similar fate awaits him. Threats of the capture and assassination of Assange became the currency of the political extremes in the US following Vice-President Joe Biden's preposterous slur that the WikiLeaks founder

was a “cyber-terrorist”. Those doubting the degree of ruthlessness Assange can expect should remember the forcing down of the Bolivian president’s plane in 2013 – wrongly believed to be carrying Edward Snowden.

According to documents released by Snowden, Assange is on a “Manhunt target list”. Washington’s bid to get him, say Australian diplomatic cables, is “unprecedented in scale and nature”. In Alexandria, Virginia, a secret grand jury has spent five years attempting to contrive a crime for which Assange can be prosecuted. This is not easy. The First Amendment to the US Constitution protects publishers, journalists and whistleblowers.

Faced with this constitutional hurdle, the US Justice Department has contrived charges of “espionage”, “conspiracy to commit espionage”, “conversion” (theft of government property), “computer fraud and abuse” (computer hacking) and general “conspiracy”. The Espionage Act has life in prison and death penalty provisions. .

Assange’s ability to defend himself in this Kafkaesque world has been handicapped by the US declaring his case a state secret. In March, a federal court in Washington blocked the release of all information about the “national security” investigation against WikiLeaks, because it was “active and ongoing” and would harm the “pending prosecution” of Assange. The judge, Barbara J. Rothstein, said it was necessary to show “appropriate deference to the executive in matters of national security”. Such is the “justice” of a kangaroo court. The supporting act in this grim farce is Sweden, played by the Swedish prosecutor Marianne Ny. Until recently, Ny refused to comply with a routine European procedure routine that required her to travel to London to question Assange and so advance the case. For four and a half years, Ny has never properly explained why she has refused to come to London, just as the Swedish authorities have never explained why they refuse to give Assange a guarantee that they will not extradite him on to the US under a secret arrangement agreed between Stockholm and Washington. In December 2010, *The Independent* revealed that the two governments had discussed his onward extradition to the US.

Contrary to its 1960s reputation as a liberal bastion, Sweden has drawn so close to Washington that it has allowed secret CIA “renditions” – including the illegal deportation of refugees. The rendition and subsequent torture of two Egyptian political refugees in 2001 was condemned by the UN Committee against Torture, Amnesty International and Human Rights Watch; the complicity and duplicity of the Swedish state are documented in successful civil litigation and in WikiLeaks cables. In the summer of 2010, Assange had flown to Sweden to talk about WikiLeaks revelations of the war in Afghanistan – in which Sweden had forces under US command.

Documents released by WikiLeaks since Assange moved to England,” wrote Al Burke, editor of the online Nordic News Network, an authority on the multiple twists and dangers facing Assange, “clearly indicate that Sweden has consistently submitted to pressure from the United States in matters relating to civil rights. There is every reason for concern that if Assange were to be taken into custody by Swedish authorities, he could be turned over to the United States without due consideration of his legal rights.

Why hasn’t the Swedish prosecutor resolved the Assange case? Many in the legal community in Sweden believe her behaviour inexplicable. Once implacably hostile to Assange, the Swedish press has published headlines such as: “Go to London, for God’s sake.”

Why hasn't she? More to the point, why won't she allow the Swedish court access to hundreds of SMS messages that the police extracted from the phone of one of the two women involved in the misconduct allegations? Why won't she hand them over to Assange's Swedish lawyers? She says she is not legally required to do so until a formal charge is laid and she has questioned him. Then, why doesn't she question him? And if she did question him, the conditions she would demand of him and his lawyers – that they could not challenge her – would make injustice a near certainty.

On a point of law, the Swedish Supreme Court has decided Ny can continue to obstruct on the vital issue of the SMS messages. This will now go to the European Court of Human Rights. What Ny fears is that the SMS messages will destroy her case against Assange. One of the messages makes clear that one of the women did not want any charges brought against Assange, "but the police were keen on getting a hold on him". She was "shocked" when they arrested him because she only "wanted him to take [an HIV] test". She "did not want to accuse JA of anything" and "it was the police who made up the charges". (In a witness statement, she is quoted as saying that she had been "railroaded by police and others around her".)

Neither woman claimed she had been raped. Indeed, both have denied they were raped and one of them has since tweeted, "I have not been raped." That they were manipulated by police and their wishes ignored is evident – whatever their lawyers might say now. Certainly, they are victims of a saga which blights the reputation of Sweden itself.

For Assange, his only trial has been trial by media. On August 20, 2010, the Swedish police opened a "rape investigation" and immediately – and unlawfully – told the Stockholm tabloids that there was a warrant for Assange's arrest for the "rape of two women". This was the news that went round the world.

In Washington, a smiling US Defence Secretary Robert Gates told reporters that the arrest "sounds like good news to me". Twitter accounts associated with the Pentagon described Assange as a "rapist" and a "fugitive".

Less than 24 hours later, the Stockholm Chief Prosecutor, Eva Finne, took over the investigation. She wasted no time in cancelling the arrest warrant, saying, "I don't believe there is any reason to suspect that he has committed rape." Four days later, she dismissed the rape investigation altogether, saying, "There is no suspicion of any crime whatsoever." The file was closed.

Enter Claes Borgstrom, a high profile politician in the Social Democratic Party then standing as a candidate in Sweden's imminent general election. Within days of the chief prosecutor's dismissal of the case, Borgstrom, a lawyer, announced to the media that he was representing the two women and had sought a different prosecutor in the city of Gothenberg. This was Marianne Ny, whom Borgstrom knew well, personally and politically. On 30 August, Assange attended a police station in Stockholm voluntarily and answered all the questions put to him. He understood that was the end of the matter. Two days later, Ny announced she was re-opening the case. Borgstrom was asked by a Swedish reporter why the case was proceeding when it had already been dismissed, citing one of the women as saying she had not been raped. He replied, "Ah, but she is not a lawyer." Assange's Australian barrister, James Catlin, responded, "This is a laughing stock... it's as if they make it up as they go along."

On the day Marianne Ny reactivated the case, the head of Sweden's military intelligence service – which has the acronym MUST — publicly denounced WikiLeaks in an article entitled “WikiLeaks [is] a threat to our soldiers.” Assange was warned that the Swedish intelligence service, SAPO, had been told by its US counterparts that US-Sweden intelligence-sharing arrangements would be “cut off” if Sweden sheltered him.

For five weeks, Assange waited in Sweden for the new investigation to take its course. The Guardian was then on the brink of publishing the Iraq “War Logs”, based on WikiLeaks' disclosures, which Assange was to oversee. His lawyer in Stockholm asked Ny if she had any objection to his leaving the country. She said he was free to leave.

Inexplicably, as soon as he left Sweden – at the height of media and public interest in the WikiLeaks disclosures – Ny issued a European Arrest Warrant and an Interpol “red alert” normally used for terrorists and dangerous criminals. Put out in five languages around the world, it ensured a media frenzy.

Assange attended a police station in London, was arrested and spent ten days in Wandsworth Prison, in solitary confinement. Released on £340,000 bail, he was electronically tagged, required to report to police daily and placed under virtual house arrest while his case began its long journey to the Supreme Court. He still had not been charged with any offence. His lawyers repeated his offer to be questioned by Ny in London, pointing out that she had given him permission to leave Sweden. They suggested a special facility at Scotland Yard commonly used for that purpose. She refused.

Katrin Axelsson and Lisa Longstaff of Women Against Rape wrote: “The allegations against [Assange] are a smokescreen behind which a number of governments are trying to clamp down on WikiLeaks for having audaciously revealed to the public their secret planning of wars and occupations with their attendant rape, murder and destruction... The authorities care so little about violence against women that they manipulate rape allegations at will. [Assange] has made it clear he is available for questioning by the Swedish authorities, in Britain or via Skype. Why are they refusing this essential step in their investigation? What are they afraid of?”

This question remained unanswered as Ny deployed the European Arrest Warrant, a draconian and now discredited product of the “war on terror” supposedly designed to catch terrorists and organised criminals. The EAW had abolished the obligation on a petitioning state to provide any evidence of a crime. More than a thousand EAWs are issued each month; only a few have anything to do with potential “terror” charges. Most are issued for trivial offences, such as overdue bank charges and fines. Many of those extradited face months in prison without charge. There have been a number of shocking miscarriages of justice, of which British judges have been highly critical.

The Assange case finally reached the UK Supreme Court in May 2012. In a judgement that upheld the EAW – whose rigid demands had left the courts almost no room for manoeuvre – the judges found that European prosecutors could issue extradition warrants in the UK without any judicial oversight, even though Parliament intended otherwise. They made clear that Parliament had been “misled” by the Blair government. The court was split, 5-2, and consequently found against Assange.

However, the Chief Justice, Lord Phillips, made one mistake. He applied the Vienna Convention on treaty interpretation, allowing for state practice to override the letter of the

law. As Assange's barrister, Dinah Rose QC, pointed out, this did not apply to the EAW.

The Supreme Court only recognised this crucial error when it dealt with another appeal against the EAW in November 2013. The Assange decision had been wrong, but it was too late to go back. With extradition imminent, the Swedish prosecutor told Assange's lawyers that Assange, once in Sweden, would be immediately placed in one of Sweden's infamous remand prisons..

Assange's choice was stark: extradition to a country that had refused to say whether or not it would send him on to the US, or to seek what seemed his last opportunity for refuge and safety. Supported by most of Latin America, the courageous government of Ecuador granted him refugee status on the basis of documented evidence and legal advice that he faced the prospect of cruel and unusual punishment in the US; that this threat violated his basic human rights; and that his own government in Australia had abandoned him and colluded with Washington. The Labor government of prime minister Julia Gillard had even threatened to take away his passport.

Gareth Peirce, the renowned human rights lawyer who represents Assange in London, wrote to the then Australian foreign minister, Kevin Rudd: "Given the extent of the public discussion, frequently on the basis of entirely false assumptions... it is very hard to attempt to preserve for him any presumption of innocence. Mr. Assange has now hanging over him not one but two Damocles swords, of potential extradition to two different jurisdictions in turn for two different alleged crimes, neither of which are crimes in his own country, and that his personal safety has become at risk in circumstances that are highly politically charged."

It was not until she contacted the Australian High Commission in London that Peirce received a response, which answered none of the pressing points she raised. In a meeting I attended with her, the Australian Consul-General, Ken Pascoe, made the astonishing claim that he knew "only what I read in the newspapers" about the details of the case.

Meanwhile, the prospect of a grotesque miscarriage of justice was drowned in a vituperative campaign against the WikiLeaks founder. Deeply personal, petty, vicious and inhuman attacks were aimed at a man not charged with any crime yet subjected to treatment not even meted out to a defendant facing extradition on a charge of murdering his wife. That the US threat to Assange was a threat to all journalists, to freedom of speech, was lost in the sordid and the ambitious.

Books were published, movie deals struck and media careers launched or kick-started on the back of WikiLeaks and an assumption that attacking Assange was fair game and he was too poor to sue. People have made money, often big money, while WikiLeaks has struggled to survive. The editor of the Guardian, Alan Rusbridger, called the WikiLeaks disclosures, which his newspaper published, "one of the greatest journalistic scoops of the last 30 years". It became part of his marketing plan to raise the newspaper's cover price.

With not a penny going to Assange or to WikiLeaks, a hyped Guardian book led to a lucrative Hollywood movie. The book's authors, Luke Harding and David Leigh, gratuitously described Assange as a "damaged personality" and "callous". They also revealed the secret password he had given the paper in confidence, which was designed to protect a digital file containing the US embassy cables. With Assange now trapped in the Ecuadorean embassy, Harding, standing among the police outside, gloated on his blog that "Scotland Yard may get the last

laugh”.

The injustice meted out to Assange is one of the reasons Parliament reformed the Extradition Act to prevent the misuse of the EAW. The draconian catch-all used against him could not happen now; charges would have to be brought and “questioning” would be insufficient grounds for extradition. “His case has been won lock, stock and barrel,” Gareth Peirce told me, “these changes in the law mean that the UK now recognises as correct everything that was argued in his case. Yet he does not benefit.” In other words, the change in the UK law in 2014 mean that Assange would have won his case and he would not have been forced to take refuge.

Ecuador’s decision to protect Assange in 2012 bloomed into a major international affair. Even though the granting of asylum is a humanitarian act, and the power to do so is enjoyed by all states under international law, both Sweden and the United Kingdom refused to recognize the legitimacy of Ecuador’s decision. Ignoring international law, the Cameron government refused to grant Assange safe passage to Ecuador. Instead, Ecuador’s embassy was placed under siege and its government abused with a series of ultimatums. When William Hague’s Foreign Office threatened to violate the Vienna Convention on Diplomatic Relations, warning that it would remove the diplomatic inviolability of the embassy and send the police in to get Assange, outrage across the world forced the government to back down. During one night, police appeared at the windows of the embassy in an obvious attempt to intimidate Assange and his protectors.

Since then, Julian Assange has been confined to a small room under Ecuador’s protection, without sunlight or space to exercise, surrounded by police under orders to arrest him on sight. For three years, Ecuador has made clear to the Swedish prosecutor that Assange is available to be questioned in the London embassy, and for three years she has remained intransigent. In the same period Sweden has questioned forty-four people in the UK in connection with police investigations. Her role, and that of the Swedish state, is demonstrably political; and for Ny, facing retirement in two years, she must “win”.

In despair, Assange has challenged the arrest warrant in the Swedish courts. His lawyers have cited rulings by the European Court of Human Rights that he has been under arbitrary, indefinite detention and that he had been a virtual prisoner for longer than any actual prison sentence he might face. The Court of Appeal judge agreed with Assange’s lawyers: the prosecutor had indeed breached her duty by keeping the case suspended for years. Another judge issued a rebuke to the prosecutor. And yet she defied the court.

Last December, Assange took his case to the Swedish Supreme Court, which ordered Marianne Ny’s boss – the Prosecutor General of Sweden Anders Perklev – to explain. The next day, Ny announced, without explanation, that she had changed her mind and would now question Assange in London.

In his submission to the Supreme Court, the Prosecutor General made some important concessions: he argued that the coercion of Assange had been “intrusive” and that that the period in the embassy has been a “great strain” on him. He even conceded that if the matter had ever come to prosecution, trial, conviction and serving a sentence in Sweden, Julian Assange would have left Sweden long ago.

In a split decision, one Supreme Court judge argued that the arrest warrant should have been revoked. The majority of the judges ruled that, since the prosecutor had now said she

would go to London, Assange's arguments had become "moot". But the Court ruled that it would have found against the prosecutor if she had not suddenly changed her mind. Justice by caprice. Writing in the Swedish press, a former Swedish prosecutor, Rolf Hillegren, accused Ny of losing all impartiality. He described her personal investment in the case as "abnormal" and demanded that she be replaced.

Having said she would go to London in June, Ny did not go, but sent a deputy, knowing that the questioning would not be legal under these circumstances, especially as Sweden had not bothered to get Ecuador's approval for the meeting. At the same time, her office tipped off the Swedish tabloid newspaper *Expressen*, which sent its London correspondent to wait outside Ecuador's embassy for "news". The news was that Ny was cancelling the appointment and blaming Ecuador for the confusion and by implication an "unco-operative" Assange – when the opposite was true.

As the statute of limitations date approaches – August 20 – another chapter in this hideous story will doubtless unfold, with Marianne Ny pulling yet another rabbit out of her hat and the commissars and prosecutors in Washington the beneficiaries. Perhaps none of this is surprising. In 2008, a war on WikiLeaks and on Julian Assange was foretold in a secret Pentagon document prepared by the "Cyber Counterintelligence Assessments Branch". It described a detailed plan to destroy the feeling of "trust" which is WikiLeaks' "centre of gravity". This would be achieved with threats of "exposure [and] criminal prosecution". Silencing and criminalising such a rare source of truth-telling was the aim, smear the method. While this scandal continues the very notion of justice is diminished, along with the reputation of Sweden, and the shadow of America's menace touches us all.

For important additional information, click on the following links:

<http://justice4assange.com/extraditing-assange.html>

<http://www.independent.co.uk/news/uk/crime/assange-could-face-espionage-trial-in-us-2154107.html>

https://www.youtube.com/watch?v=1ImXe_EQhUI

<https://justice4assange.com/Timeline.html>

<https://justice4assange.com/Timeline.html>

http://pdfserver.amlaw.com/nlj/wikileaks_doj_05192014.pdf

<https://wikileaks.org/59-International-Organizations.html>

<https://s3.amazonaws.com/s3.documentcloud.org/documents/1202703/doj-letter-re-wikileaks-6-19-14.pdf>

http://www.theguardian.com/media/2015/jul/23/julian-assange-ecuador-and-sweden-in-tense-standoff-over-interview?CMP=tw_t_gu

<http://assangeinsweden.com/2015/03/17/the-prosecutor-in-the-assange-case-should-be-replaced/>

<https://justice4assange.com/Prosecutor-cancels-Assange-meeting.html>

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