

Pentagon Papers Case Vindicates Julian Assange

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On June 30, 1971, the US Supreme Court ruled that the NYT and Washington Post were legally permitted to publish what's known as the Pentagon Papers — material leaked by Daniel Ellsberg.

Six justices concurred, a per curiam statement saying the following:

"Any system of prior restraints of expression comes to this court bearing a heavy presumption against its constitutional validity."

The government "thus carries a heavy burden of showing justification for the imposition of such a restraint."

A federal district and appeals court held that government did not have just cause to impose restraint.

The Supreme Court agreed, affirming that "Congress shall make no law (that) abridg(es) the freedom of speech, or of the press" — upholding the Constitution's First Amendment without which all other freedoms are jeopardized.

During oral arguments, Justice William O. Douglas asked a government lawyer if the Department of Justice views the First Amendment's "no law" language to literally mean no law.

In their majority ruling, the Supreme Court held that the press has a right to publish truthful information in the public interest no matter how it was obtained.

Under the First Amendment, affirmed by the Supreme Court in the Pentagon Papers case, analogous to the Trump regime v. Assange, no one may be lawfully punished for truth-telling — not journalists or anyone else.

In wanting Julian Assange extradited to the US for prosecution under the long ago outdated Espionage Act relating to WW I, the Trump regime aims to reverse the landmark Supreme Court Pentagon Papers ruling.

Arguing to uphold speech and press freedoms when the case was heard by the High Court, Justice Hugo Black said the following:

The government's injunction to prohibit publication by the NYT and Washington Post "should have been vacated without oral argument when the cases were first presented," adding:

"(E)very moment's continuance of the injunctions...amounts to a flagrant,

indefensible, and continuing violation of the First Amendment.”

“The press was to serve the governed, not the governors. The government’s power to censor the press was abolished so that the press would remain forever free to censure the government.”

“The press was protected so that it could bare the secrets of government and inform the people.”

“Only a free and unrestrained press can effectively expose deception in government.”

“And paramount among the responsibilities of a free press is the duty to prevent any part of the government from deceiving the people and sending them off to distant lands to die of foreign fevers and foreign shot and shell.”

“(W)e are asked to hold that...the executive branch, the Congress, and the judiciary can make laws...abridging freedom of the press in the name of ‘national security.’ ”

“To find that the president has ‘inherent power’ to halt the publication of news...would wipe out the First Amendment and destroy the fundamental liberty and security of the very people the government hopes to make ‘secure.’ ”

“The word ‘security’ is a broad, vague generality whose contours should not be invoked to abrogate the fundamental law embodied in the First Amendment.”

“The guarding of military and diplomatic secrets at the expense of informed representative government provides no real security.”

“The framers of the First Amendment, fully aware of both the need to defend a new nation and the abuses of the English and colonial governments, sought to give this new society strength and security by providing that freedom of speech, press, religion, and assembly should not be abridged.”

Justice William O. Douglas concurred, arguing that press freedom is a check on government, constitutionally protected from restraint by the nation’s ruling authorities.

Citing *Near v. Minnesota* (1931), a landmark case at the time that upheld press freedom against government restraint, Justice William Brennan argued that publication of the Pentagon Papers was a First Amendment right.

Three other justices agreed, notably Thurgood Marshall. He argued that the term “national security” is too broad and ill-defined to be used as justification to restrain publication of information in the public interest.

He also stressed that it’s not the High Court’s right to create laws in cases where Congress has not acted.

The right of speech, press, and academic freedoms are upheld in other Supreme Court decisions.

In *USA v. Julian Assange*, the Trump regime wants the First Amendment abrogated.

He considers the press “the enemy of the people.” His regime argues that Australian

national Assange isn't entitled to US constitutional protections.

During his extradition hearing in London's Belmarsh Magistrates Court, prosecutors claimed he's "not a journalist," and that material he published endangered the lives of Americans — false on both counts.

Attorney representing Assange Mark Summers explained that he and WikiLeaks "worked tirelessly" with news outlets to redact information that potentially might put US government and other sources at risk, adding:

"The state department was also part of the process. They gave numbers to (the media collaboration to) redact, which WikiLeaks did, knowing the requests were coming from the US government."

US officials in Washington were and remain fully aware of the above. "The notion that Assange deliberately published unredacted information is knowingly false," Summers stressed.

The Trump regime's case against Assange is political, unrelated to wrongdoing.

Asked during day three proceedings if he was well enough to remain in court, Assange said he's prevented from participating in the hearing nor permitted to communicate privately with his lawyers, adding:

"There is already enough spying on my lawyers as it is. There are a number of unnamed embassy officials here."

"There are two microphones in here. What's the point of asking if I can concentrate if I can't participate?"

Assange committed no crimes, nothing warranting imprisonment in London, extradition to the US, and prosecution.

With ample evidence supporting them, his legal team maintains that Trump regime charges used by prosecutors are "lies, lies, and more lies."

Truth-telling journalism is on trial in London. The Trump regime's case against Assange is all about silencing it — ignoring the Constitution's First Amendment, upheld by the Supreme Court in the Pentagon Papers case and other landmark rulings.

A Final Comment

James Goodale was general counsel for the NYT when the Supreme Court ruled on the Pentagon Papers case.

In April 2019, he said the following:

"If Assange is found guilty of conspiring with (Chelsea) Manning under (his) indictment, which incorporates the Espionage Act, this will be a blow to the First Amendment."

"It will criminalize the news-gathering process and will be a precedent for future cases concerning leaks."

"This will be particularly so since substantially all leaks in the future will be computer-generated."

"And so, while the indictment by itself is bad enough, there still is more to come, such as further indictments of Assange," other journalists, and others revealing information US authorities want suppressed.

"All we are seeing now is the tip of the legal iceberg."

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