

The Siege of Julian Assange is a Farce

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The siege of Knightsbridge is a farce. For two years, an exaggerated, costly police presence around the Ecuadorean embassy in London has served no purpose other than to flaunt the power of the state. Their quarry is an Australian charged with no crime, a refugee from gross injustice whose only security is the room given him by a brave South American country. His true crime is to have initiated a wave of truth-telling in an era of lies, cynicism and war.

The persecution of Julian Assange must end. Even the British government clearly believes it must end. On 28 October, the deputy foreign minister, Hugo Swire, told Parliament he would “actively welcome” the Swedish prosecutor in London and “we would do absolutely everything to facilitate that.” The tone was impatient.

The Swedish prosecutor, Marianne Ny, has refused to come to London to question Assange about allegations of sexual misconduct in Stockholm in 2010 – even though



Swedish law allows for it and the procedure is routine for Sweden and the UK. The documentary evidence of a threat to Assange’s life and freedom from the United States – should he leave the embassy – is overwhelming. On May 14 this year, US court files revealed that a “multi subject investigation” against Assange was “active and ongoing.”

Ny has never properly explained why she will not 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 before the European Arrest Warrant was issued.

Perhaps an explanation is that, contrary to its 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 WikiLeaks cables. In the summer of 2010, Assange had been in Sweden to talk about WikiLeaks revelations of the war in Afghanistan –

in which Sweden had forces under US command.

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.

For his part in disclosing how US soldiers murdered Afghan and Iraqi civilians, the heroic soldier Bradley (now Chelsea) Manning received a sentence of 35 years, having been held for more than a thousand days in conditions which, according to the UN Special Rapporteur, amounted to torture.

Few doubt that should the US get their hands on Assange, a similar fate awaits him. Threats of capture and assassination became the currency of the political extremes in the US following Vice-President Joe Biden's preposterous slur that Assange was a "cyber-terrorist". Anyone doubting the kind of US ruthlessness he can expect should remember the forcing down of the Bolivian president's plane last year – 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 four 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. As a presidential candidate in 2008, Barack Obama lauded whistleblowers as "part of a healthy democracy [and they] must be protected from reprisal". Under President Obama, more whistleblowers have been prosecuted than under all other US presidents combined. Even before the verdict was announced in the trial of Chelsea Manning, Obama had pronounced the whistleblower guilty.

"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."

There are signs that the Swedish public and legal community do not support prosecutor's Marianne Ny's intransigence. Once implacably hostile to Assange, the Swedish press has published headlines such as: "Go to London, for God's sake."

Why won'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?

This week, the Swedish Court of Appeal will decide whether to order Ny to hand over the SMS messages; or the matter will go to the Supreme Court and the European Court of Justice. In high farce, Assange's Swedish lawyers have been allowed only to "review" the

SMS messages, which they had to memorise.

One of the women's messages makes clear that she 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 worthy of Kafka.

For Assange, his only trial has been trial by media. On 20 August 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. She, too, was involved with the Social Democrats.

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 re-activated the case, the head of Sweden's military intelligence service ("MUST") publicly denounced WikiLeaks in an article entitled "WikiLeaks [is] a threat to our soldiers." Assange was warned that the Swedish intelligence service, SAP, 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 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 product of the “war on terror” supposedly designed to catch terrorists and organized 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 last year. The Assange decision had been wrong, but it was too late to go back.

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 will eventually vote on a reformed 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. And the genuineness of Ecuador's offer of sanctuary is not questioned by the UK or Sweden."

On 18 March 2008, a war on WikiLeaks and 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 this rare source of independent journalism was the aim, smear the method. Hell hath no fury like great power scorned.

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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

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>

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