

Your Man in the Public Gallery: Assange Hearing Day 15

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*When **Daniel Ellsberg** released the Pentagon Papers, the US Government [burgled the office](#) of his psychiatrist to look for medical evidence to discredit him. **Julian Assange** has been obliged to submit himself, while in a mentally and physically weakened state and in conditions of the harshest incarceration, to examination by psychiatrists appointed by the US government. He has found the experience intrusive and traumatising. It is a burglary of the mind.*

Julian is profoundly worried that his medical history will be used to discredit him and all that he has worked for, to paint the achievements of Wikileaks in promoting open government and citizen knowledge as the fantasy of a deranged mind. I have no doubt this will be tried, but fortunately there has been a real change in public understanding and acknowledgement of mental illness. I do not think Julian's periodic and infrequent episodes of very serious depression will be successfully portrayed in a bad light, despite the incredibly crass and insensitive attitude displayed today in court by the US Government, who have apparently been bypassed by the change in attitudes of the last few decades.

I discuss this before coming to Tuesday's evidence because for once my account will be less detailed than others, because I have decided to censor much of what was said. I do this on the grounds that, when it comes to his medical history, Julian's right to privacy ought not to be abolished by these proceedings. I have discussed this in some detail with Stella Morris. I have of course weighed this against my duty as a journalist to you the reader, and have decided the right to medical privacy is greater, irrespective of what others are publishing. I have therefore given as full an account as I can while omitting all mention of behaviours, of symptoms, and of more personal detail.

I also believe I would take that view irrespective of the identity of the defendant. I am not just being partial to a friend. In all my reporting of these proceedings, of course my friendship with Julian has been something of which I am mindful. But I have invented nothing, nor have I omitted anything maliciously.

I will state firmly and resolutely that my account has been truthful. I do not claim it has been impartial. Because in a case of extreme injustice, truth is not impartial.



The following account tries to give you a fair impression of today's courtroom events, while omitting the substance and detail of much of the discussion. The single witness all day was the eminent psychiatrist **Prof Michael Kopelman** (image on the right), who will be familiar to readers of [Murder in Samarkand](#). Emeritus Professor of Psychiatry at Kings College London and formerly head of psychiatry at Guy's and St Thomas's, Prof Kopelman was appointed by the defence (he is not one of the psychiatrists of whom Julian complains, who will give evidence later) and had visited Julian Assange 19 times in Belmarsh Prison. His detailed report concluded that

"I reiterate again that I am as certain as a psychiatrist ever can be that, in the event of imminent extradition, Mr. Assange would indeed find a way to commit suicide,"

Kopelman's evidence was that his report was based not just on his many consultations with Assange, but on detailed research of his medical records back to childhood, including direct contact with other doctors who had treated Assange including in Australia, and multiple interviews with family and long-term friends. His diagnosis of severe depression was backed by a medical history of such episodes and a startling family history of suicide, possibly indicating genetic disposition.

Prof Kopelman was firm in stating that he did not find Assange to be delusional. Assange's concerns with being spied upon and plotted against were perfectly rational in the circumstances.

Kopelman had no doubt that Julian was liable to commit suicide if extradited.

"It is the disorder which brings the suicide risk. Extradition is the trigger."

James Lewis QC cross-examined Professor Kopelman for four hours. As ever, he started by disparaging the witness's qualifications; Prof Kopelman was a cognitive psychiatrist not a forensic psychiatrist and had not worked in prisons. Prof Kopelman pointed out that he had been practising forensic psychiatry and testifying in numerous courts for over thirty years. When Lewis persisted again and again in querying his credentials, Kopelman had enough and decided to burst out of the bubble of court etiquette:

“I have been doing this for over thirty years and on five or six occasions London solicitors have phoned me up and said that James Lewis QC is acting in an extradition case and is extremely keen to get your services for a report. So I think it is a bit rich for you to stand there now questioning my qualifications.”

This caused really loud laughter in court, which remarkably the judge made no attempt to silence.

The other trick which the prosecution played yet again was to give Prof Kopelman two huge bundles which had, they said, been sent to him that morning and which he said he had never seen – unsurprisingly as he started testifying at 10am. These included substantial items which Prof Kopelman had never seen before but on which he was to be questioned. The first of these was an academic article on malingering which Kopelman was in effect scorned by Lewis for not having read. He said he had read a great many articles on the subject but not this particular one.

Lewis then read several sentences from the article and invited Kopelman to agree with them. These included “clinical skills alone are not sufficient to diagnose malingering” and one to the effect that the clinical team are best placed to detect malingering. Prof Kopelman refused to sign up to either of these propositions without qualification, and several times over the four hours was obliged to refute claims by Lewis that he had done so.

This is another technique continually deployed by the prosecution, seizing upon a single article and trying to give it the status of holy writ, when JStor would doubtless bring out hundreds of contending articles. On the basis of this one article, Lewis was continually to assert and/or insinuate that it was only the prison medical staff who were in a position to judge Assange’s condition. Edward Fitzgerald QC for the defence was later to assert that the article, when it referred to “the clinical team”, was talking of psychiatric hospitals and not prisons. Kopelman declined to comment on the grounds he had not read the article.

Lewis now did another of his standard tricks; attempting to impugn Kopelman’s expertise by insisting he state, without looking it up, what the eight possible diagnostic symptoms of a certain WHO classification of severe depression were. Kopelman simply refused to do this. He said he made a clinical diagnosis of the patient’s condition and only then did he calibrate it against the WHO guidelines for court purposes; and pointed out that he was on some of the WHO committees that wrote these definitions. They were, he said, very political and some of their decisions were strange.

We then entered a very lengthy and detailed process of Lewis going through hundreds of pages of Assange’s prison medical notes and pointing out phrases omitted from Kopelman’s sixteen page synopsis which tended to the view Assange’s mental health was good, while the Professor countered repeatedly that he had included that opinion in shortened form, or that he had also omitted other material that said the opposite. Lewis claimed the synopsis was partial and biased and Kopelman said it was not.

Lewis also pointed out that some of Assange’s medical history from Australia lacked the original medical notes. Kopelman said that this was from the destruction policy of the state of Victoria. Lewis was only prepared to accept history backed by the original medical notes; Kopelman explained these notes themselves referred to earlier episodes, he had consulted Professor Mullen who had treated Julian, and while Lewis may wish to discount accounts of

family and friends, to a medical professional that was standard Maudsley method for approaching mental illness history; there was furthermore an account in a book published in 1997.

After lunch Lewis asked Prof Kopelman why his first report had quoted Stella Morris but not mentioned that she was Julian's partner. Why was he concealing this knowledge from the court? Kopelman replied that Stella and Julian had been very anxious for privacy in the circumstances because of stress on her and the children. Lewis said that Kopelman's first duty was to the court and this overrode their right to privacy. Kopelman said he had made his decision. His second report mentioned it once it had become public. Lewis asked why he had not explicitly stated they had two children. Kopelman said he thought it best to leave the children out of it.

Lewis asked whether he was hiding this information because having a partner was a safeguard against suicide. Kopelman said that some studies showed suicide was more common in married people. Besides, what we were considering here was stress of separation from partner and children.

Lewis then addressed the reference in Prof Kopelman's report to [the work of](#) Prof Nils Melzer, the UN Special Rapporteur on Torture. Without specifying Professor Melzer's background or position or even making any mention of the United Nations at all, Lewis read out seven paragraphs of Prof Melzer's letter to Jeremy Hunt, then UK foreign secretary. These paragraphs addressed the circumstances of Assange's incarceration in the Embassy and of his continual persecution, including the decision of the UN Working Group on Arbitrary Detention. Lewis even managed to leave the words "United Nations" out of the name of the working group.

As he read each paragraph, Lewis characterised it as "nonsense", "rubbish" or "absurd", and invited Prof Kopelman to comment. Each time Prof Kopelman gave the same reply, that he had only used the work of the psychologist who had accompanied Prof Melzer and had no comment to make on the political parts, which had not appeared in his report. Baraitser – who is always so keen to rule out defence evidence as irrelevant and to save time – allowed this reading of irrelevant paragraphs to go on and on and on. The only purpose was to enter Prof Melzer's work into the record with an unchallenged dismissive characterisation, and it was simply irrelevant to the witness in the stand. This was Baraitser's double standard at play yet again.

Lewis then put to Prof Kopelman brief extracts of court transcript showing Julian interacting with the court, as evidence that he had no severe cognitive difficulty. Kopelman replied that a few brief exchanges really told nothing of significance, while his calling out from the dock when not allowed to might be seen as symptomatic of Asperger's, on which other psychiatrists would testify.

Lewis again berated Kopelman for not having paid sufficient attention to malingering. Kopelman replied that not only had he used his experience and clinical judgement, but two normative tests had been applied, one of them the TOMM test. Lewis suggested those tests were not for malingering and only the Minnesota test was the standard. At this point Kopelman appeared properly annoyed. He said the Minnesota test was very little used outside the USA. The TOMM test was indeed for malingering. That was why it was called the Test of Memory Malingering. Again there was some laughter in court.

Lewis then suggested that Assange may only get a light sentence in the USA of as little as six years, and might not be held in solitary confinement. Would that change Kopelman's prognosis? Kopelman said it would if realistic, but he had done too many extradition cases, and seen too many undertakings broken, to put much store by this. Besides, he understood no undertakings had been given.

Lewis queried Kopelman's expertise on prison conditions in the USA and said Kopelman was biased because he had not taken into account the evidence of Kromberg and of another US witness on the subject who is to come. Kopelman replied that he had not been sent their evidence until substantially after he completed his reports. But he had read it now, and he had seen a great deal of other evidence that contradicted it, both in this case and others. Lewis suggested it was not for him to usurp the judgement of the court on this issue, and he should amend his opinion to reflect the effect of the US prison system on Assange if it were as Kromberg described it. Kopelman declined to do so, saying he doubted Kromberg's expertise and preferred to rely on among others the Department of Justice's own report of 2017, the Centre for Constitutional Rights report of 2017 and the Marshall report of 2018.

Lewis pressed Kopelman again, and asked that if prison conditions and healthcare in the USA were good, and if the sentence were short, would that cause an alteration to his clinical opinion. Kopelman replied that if those factors were true, then his opinion would change, but he doubted they were true.

Suddenly, Baraitser repeated out loud the part quote that if prison conditions in the US were good and the sentence were short, then Kopelman's clinical opinion would change, and ostentatiously typed it onto her laptop, as though it were very significant indeed.

This was very ominous. As she inhabits a [peculiar world](#) where it is not proven that anybody was ever tortured in Guantanamo Bay, I understand that in Baraitser's internal universe prison conditions in the Colorado ADX are perfectly humane and medical care is jolly good. I could note Baraitser seeing her way suddenly clear to how to cope with Professor Kopelman in her judgement. I could not help but consider Julian was the last person in this court who needed a psychiatrist.

Lewis now asked, in his best rhetorical and sarcastic style, whether mental illness had prevented Julian Assange from obtaining and publishing hundreds of thousands of classified documents that were the property of the United States? He asked how, if he suffered from severe depression, Julian Assange had been able to lead Wikileaks, to write books, make speeches and host a TV programme?

I confess that at this stage I became very angry indeed. Lewis's failure to acknowledge the episodic nature of severe depressive illness, even after the Professor had explained it numerous times, was intellectually pathetic. It is also crass, insensitive and an old-fashioned view to suggest that having a severe depressive illness could stop you from writing a book or leading an organisation. It was plain stigmatising of those with mental health conditions. I confess I took this personally. As long-term readers know, I have struggled with depressive illness my entire life and have never hidden the fact that I have in the past been hospitalised for it, and on suicide watch. Yet I topped the civil service exams, became Britain's youngest Ambassador, chaired a number of companies, have been Rector of a university, have written several books, and give speeches at the drop of a hat. Lewis's characterisation of depressives as permanently incapable is not just crassly insensitive, it is a form of hate speech and should not be acceptable in court.

(I am a supporter of free speech, and if Lewis wants to make a fool of himself by exhibiting ignorance of mental illness in public I have no problem. But in court, no.)

Furthermore, Lewis was not representing his own views but speaking on the direct instructions of the government of the United States of America. Throughout a full four hours, Lewis on behalf of the government of the USA not only evinced no understanding whatsoever of mental illness, he never once, not for one second, showed one single sign that mental illness is a subject taken seriously or for which there is the tiniest element of human sympathy and concern. Not just for Julian, but for any sufferer. Mental illness is malingering or if real disqualifies you from any role in society; no other view was expressed. He made plain on behalf of the US Government, for example, that Julian's past history of mental illness in Australia will not be taken into account because the medical records have been destroyed.

The only possible conclusion from yesterday's testimony is that the performance of the representative of the United States Government was, in and of itself, full and sufficient evidence that there is no possibility that Julian Assange will receive fair consideration and treatment of his mental health issues within the United States system. The US government has just demonstrated that to us, in open court, to perfection.

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