

Getting Assange: The Untold Story

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***Julian Assange** has been vindicated because the Swedish case against him was corrupt. The prosecutor, **Marianne Ny**, obstructed justice and should be prosecuted. Her obsession with Assange not only embarrassed her colleagues and the judiciary but exposed the Swedish state's collusion with the United States in its crimes of war and "rendition".*

Had Assange not sought refuge in the Ecuadorean embassy in London, he would have been on his way to the kind of American torture pit **Chelsea Manning** had to endure.

This prospect was obscured by the grim farce played out in Sweden.

"It's a laughing stock," said **James Catlin**, one of Assange's Australian lawyers. "It is as if they make it up as they go along".

It may have seemed that way, but there was always serious purpose. In 2008, a secret Pentagon document prepared by the "Cyber Counterintelligence Assessments Branch" foretold a detailed plan to discredit WikiLeaks and smear Assange personally.

The "mission" was to destroy the "trust" that was WikiLeaks' "centre of gravity". This would be achieved with threats of "exposure [and] criminal prosecution". Silencing and criminalising such an unpredictable source of truth-telling was the aim.



Perhaps this was understandable. WikiLeaks has exposed the way America dominates much of human affairs, including its epic crimes, especially in Afghanistan and Iraq: the wholesale, often homicidal killing of civilians and the contempt for sovereignty and international law.

These disclosures are protected by the First Amendment of the US Constitution. As a presidential candidate in 2008, **Barack Obama**, a professor of constitutional law, lauded whistle blowers as "part of a healthy democracy [and they] must be protected from reprisal".

In 2012, the Obama campaign boasted on its website that Obama had prosecuted more whistle blowers in his first term than all other US presidents combined. Before Chelsea Manning had even received a trial, Obama had publicly pronounced her guilty.

Few serious observers doubt that should the US get their hands on Assange, a similar fate awaits him. According to documents released by **Edward Snowden**, he is on a “Manhunt target list”. Threats of his kidnapping and assassination became almost political and media currency in the US following then **Vice-President Joe Biden’s** preposterous slur that the WikiLeaks founder was a “cyber-terrorist”.

Hillary Clinton, the destroyer of Libya and, as WikiLeaks revealed last year, the secret supporter and personal beneficiary of forces underwriting ISIS, proposed her own expedient solution: “Can’t we just drone this guy.”

According to Australian diplomatic cables, Washington’s bid to get Assange is “unprecedented in scale and nature”. In Alexandria, Virginia, a secret grand jury has sought for almost seven years to contrive a crime for which Assange can be prosecuted. This is not easy.

The First Amendment protects publishers, journalists and whistle blowers, whether it is the editor of the *New York Times* or the editor of WikiLeaks. The very notion of free speech is described as America’s “founding virtue” or, as **Thomas Jefferson** called it, “our currency”.

Faced with this 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 favoured Espionage Act, which was meant to deter pacifists and conscientious objectors during World War One, has provisions for life imprisonment and the death penalty.



Assange’s ability to defend himself in such a Kafkaesque world has been severely limited by the US declaring his case a state secret. In 2015, 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”. This is a kangaroo court.

For Assange, his trial has been trial by media. On August 20, 2010, when the Swedish police opened a “rape investigation”, they coordinated it, unlawfully, with the Stockholm tabloids. The front pages said Assange had been accused of the “rape of two women”. The word “rape” can have a very different legal meaning in Sweden than in Britain; a pernicious false reality became the news that went round the world.

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.”

Enter **Claes Borgstrom**, a highly contentious figure 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 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 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.

At a press conference, Borgstrom was asked by a Swedish reporter why the case was proceeding when it had already been dismissed. The reporter cited one of the women as saying she had not been raped. He replied, “Ah, but she is not a lawyer.”

On the day that 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 [under US command in Afghanistan]”.

Both the Swedish prime minister and foreign minister attacked Assange, who had been charged with no crime. 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 renewed “rape 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 in London.



Finally, he was allowed him to leave. As soon as he had left, **Marianne Ny** issued a European Arrest Warrant and an Interpol “red alert” normally used for terrorists and dangerous criminals.

Assange attended a police station in London, was duly 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 in London, by video or personally, pointing out that Marianne Ny had given him permission to leave Sweden. They suggested a special facility at Scotland Yard commonly used by the Swedish and other European authorities for that purpose. She refused.

For almost seven years, while Sweden has questioned forty-four people in the UK in connection with police investigations, Ny refused to question Assange and so advance her case.

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 she be replaced.

Assange asked the Swedish authorities for a guarantee that he would not be “rendered” to the US if he was extradited to Sweden. This was refused. In December 2010, *The Independent* revealed that the two governments had discussed his onward extradition to the US.

Contrary to its reputation as a bastion of liberal enlightenment, 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.

“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 that faced 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.”

The war on Assange now intensified. Marianne Ny refused to allow his Swedish lawyers, and the Swedish courts, access to hundreds of SMS messages that the police had extracted from the phone of one of the two women involved in the “rape” allegations.

Ny said she was not legally required to reveal this critical evidence until a formal charge was laid and she had questioned him. Then, why wouldn’t she question him? Catch-22.

When she announced last week that she was dropping the Assange case, she made no mention of the evidence that would destroy it. One of the SMS 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 denied they were raped and one of them has since tweeted, "I have not been raped." The women were manipulated by police - whatever their lawyers might say now. Certainly, they, too, are the victims of this sinister saga.

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?"

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 government of tiny Ecuador granted him refugee status on the basis of documented evidence 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 the then prime minister, **Julia Gillard**, had even threatened to take away his Australian passport - until it was pointed out to her that this would be unlawful.

The renowned human rights lawyer, **Gareth Peirce**, 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.

In 2011, in Sydney, I spent several hours with a conservative Member of Australia's Federal Parliament, **Malcolm Turnbull**. We discussed the threats to Assange and their wider implications for freedom of speech and justice, and why Australia was obliged to stand by him. Turnbull then had a reputation as a free speech advocate. He is now the Prime Minister of Australia.

I gave him Gareth Peirce's letter about the threat to Assange's rights and life. He said the situation was clearly appalling and promised to take it up with the Gillard government. Only his silence followed.

For almost seven years, this epic miscarriage of justice has been drowned in a vituperative campaign against the WikiLeaks founder. There are few precedents. Deeply personal, petty, vicious and inhuman attacks have been 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, and to the principle of free speech, was lost in the sordid and the ambitious. I would call it anti-journalism.

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 previous 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". Yet no attempt was made to protect the *Guardian's* provider and source. Instead, the "scoop" became part of a 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".

Journalism students might well study this period to understand the most ubiquitous source of "fake news" — as from within a media self-ordained with a false respectability and as an extension of the authority and power it courts and protects.

The presumption of innocence was not a consideration in **Kirsty Wark's** memorable live-on-air interrogation in 2010.

"Why don't you just apologise to the women?" she demanded of Assange, followed by: "Do we have your word of honour that you won't abscond?"

On the BBC's *Today* programme, **John Humphrys** bellowed:

"Are you a sexual predator?"

Assange replied that the suggestion was ridiculous, to which Humphrys demanded to know how many women he had slept with.

"Would even Fox News have descended to that level?" wondered the American historian William Blum. "I wish Assange had been raised in the streets of

Brooklyn, as I was. He then would have known precisely how to reply to such a question: 'You mean including your mother?'"

Last week, on BBC World News, on the day Sweden announced it was dropping the case, I was interviewed by **Greta Guru-Murthy**, who seemed to have little knowledge of the Assange case. She persisted in referring to the "charges" against him. She accused him of putting Trump in the White House; and she drew my attention to the "fact" that "leaders around the world" had condemned him. Among these "leaders" she included Trump's CIA director. I asked her, "Are you a journalist?"

The injustice meted out to Assange is one of the reasons Parliament reformed the Extradition Act in 2014.

"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, he would have won his case in the British courts and would not have been forced to take refuge.

Ecuador's decision to protect Assange in 2012 was immensely brave. 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 recognise the legitimacy of Ecuador's decision.

Ecuador's embassy in London was placed under police siege and its government abused. 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, Assange has been confined to a small room without sunlight. He has been ill from time to time and refused safe passage to the diagnostic facilities of hospital. Yet, his resilience and dark humour remain quite remarkable in the circumstances. When asked how he put up with the confinement, he replied, "Sure beats a supermax."

It is not over, but it is unravelling. The United Nations Working Group on Arbitrary Detention – the tribunal that adjudicates and decides whether governments comply with their human rights obligations – last year ruled that Assange had been detained unlawfully by Britain and Sweden. This is international law at its apex.

Both Britain and Sweden participated in the 16-month long UN investigation and submitted evidence and defended their position before the tribunal. In previous cases ruled upon by the Working Group – Aung Sang Suu Kyi in Burma, imprisoned opposition leader Anwar Ibrahim in Malaysia, detained *Washington Post* journalist Jason Rezaian in Iran – both Britain and Sweden gave full support to the tribunal. The difference now is that Assange's

persecution endures in the heart of London.

The Metropolitan Police say they still intend to arrest Assange for bail infringement should he leave the embassy. What then? A few months in prison while the US delivers its extradition request to the British courts?

If the British Government allows this to happen it will, in the eyes of the world, be shamed comprehensively and historically as an accessory to the crime of a war waged by rampant power against justice and freedom, and all of us.

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