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Julian Assange, the Glass Cage and Heaven in a Rage: Day Four of Extradition Hearings

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Thursday, February 27, Woolwich Crown Court. The first round of extradition hearings regarding Julian Assange's case concluded a day early, to recommence on May 18th. It ended on an insensible note very much in keeping with the woolly-headed reasoning of Judge Vanessa Baraitser, who is of the view that a WikiLeaks publisher in a cage does not put all heaven in a rage. On Wednesday, Assange's defence had requested whether he would be able to leave the confines of his glass cage and join his legal team. As Assange had explained in response to his nodding off during proceedings, "I cannot meaningfully communicate with my lawyers." There was little point in "asking" if he could follow proceedings without enabling his participation.

This was not a point that fell on reasonable ears. The judge felt it came too close to a bail application, and was initially refused as posing a potential risk to the public. Gibberish was duly thrown at counsel for both sides, with "health and safety", "risk assessment" and "up to Group 4" featuring as meaningless terms on the obvious: that Assange could pose no threat whatsoever, as he would be in the continuous company of security guards. As former UK diplomat Craig Murray observed, "She started to resemble something worse than a Dalek, a particularly stupid local government officer of a very low grade."

According to the judge, to permit such a measure of access between Assange and his team effectively constituted a departure from court custody, a striking nonsense of Dickensian dimensions. Not even the prosecution felt it unreasonable, suggesting that one need not be so "technical" in granting such applications.

Thursday's proceedings reaffirmed Judge Baraitser's stubborn position. Her first gesture was to permit Assange a pair of headphones to better enable him to hear the proceedings, followed by a brief adjournment to see if his hearing had, in fact, improved. Assange was unimpressed, removing them after 30 minutes.

Her stretched reasoning found Assange sufficiently accessible to his lawyers despite his glassed surrounds; he could still communicate with them via notes passed through the barrier. "It is quite apparent over the past four days that you have had no difficulty communicating with your legal team." The judge was willing to permit Assange a later start in proceedings to enable a meeting with the legal team and adjourn should the defence wish to meet their client in a holding cell.

That so complex a case as extradition can be reduced to sporadic notes passed to legal counsel and staggered adjournments suggests the continued hobbling of the defence by the authorities. Its invidiousness lies in how seemingly oblivious the judicial mind is to the scope

of the case, complexity reduced to a matter of meetings, small points of procedure and law.

The defence team submitted that the process of consultation suggested by the judge unduly prolonged proceedings, rendering them cumbersome and insensible. The court might have to adjourn ever three minutes for a 20-minute break. To constantly take Assange to and from his holding cell was would unnecessarily lengthen proceedings and complicate matters. Judge Baraitser was dismissive of such argument, claiming that the defence was merely exaggerating.

The legal issues discussed on the fourth day centred on quibbling over the issue of espionage and its nexus with political activity. Espionage, suggested James Lewis QC for the US-driven prosecution, need not be political. Nor did it seem that Assange was intent on bringing down the US government. "It can't possibly be said that there is a political struggle in existence between the American government and opposing factions."

Lewis, as has been his approach from the start, preferred a more restrictive interpretation about what a "political" offence might be, notably in connection with extradition. "Extradition is based on conduct, it is not anymore based on the names of offences." In a rather crude, end-of-history line of thought, Lewis argued that political offences were "dated" matters, hardly applicable to modern societies which no longer see dissidents upholding the values of liberal democracy. (It seems that the tree of liberty, according to the US prosecution, no longer needs urgent refreshment.)

Besides, argued Lewis, the court did "not need to resolve these issues, but they demonstrate that any bare assertion that Wikileaks was engaged in a struggle with the US government was in opposition to it or was seeking to bring about a policy change would need to be examined far more closely."

That is exactly what the defence contended. Assange's core activities in publishing had been based on altering US policy, with Iraq and Afghanistan being key theatres. "Why was he seeking to publish the rules of engagement?", posed the defence. "They were published to show that war crimes were being committed, to show they breached their own rules of engagement." Ditto the publication of the Guantanamo files, an act done to reveal the extent of torture being undertaken during the course of the "war on terror". All these, contended Edward Fitzgerald QC for the defence, did change government policy. "WikiLeaks didn't just seek to induce change, it did induce change."

The documentary record on Assange's political activity in this regard is thick, much of it from the contentions of US officials themselves. The US State Department preferred to see him, as former spokesman PJ Crowley did in 2010, a "political actor" with "a political agenda", rather than being a journalist.

Incidentally, Crowley's link with WikiLeaks has a curious end, with his resignation in 2011 following comments made about the treatment of Chelsea (then Bradley) Manning at the Quantico marine base in Virginia. "What is being done to Bradley Manning," he claimed at an MIT seminar that March, "is ridiculous and counterproductive and stupid on the part of the department of defence." Not an entirely bad egg, then.

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