

# Julian Assange and the Scales of Justice: Exceptions, Extraditions and Politics

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*The Home Secretary of the United Kingdom did his thing, which was little in the way of disagreement. The superpower has issued a request; the retainer would comply. This week, the US Department Justice Department formally sought the extradition of Julian Assange. The process was certified by Sajid Javid, a man rather distracted of late. He is, after all, seeking to win the hearts of the Conservatives and replace Theresa May as Prime Minister. Boris Johnson, not Wikileaks and press freedom, is on his mind.*

The WikiLeaks front man had failed to satisfy Javid that there were exceptions warranting the refusal to sign off on the request. A spokesman explained the matter in dull terms. "The Home Secretary must certify a valid request for extradition... unless certain narrow exceptions to section 70 of the Extradition Act 2003 apply." Robotic compliance was almost expected.

The [exceptions outlined](#) in the section note that the Secretary may refuse to issue a certificate in circumstances where it may be deferred; where the person being extradited is recorded as a refugee within the meaning of the Refugee Convention; or where, having been granted leave to enter or remain in the UK, Articles 2 or 3 of the Human Rights Convention would be breached if removal of the person to the extraditing territory would take place.

The [European Convention on Human Rights](#) expressly prohibits torture and inhuman or degrading treatment or punishment, with Article 3 also prohibiting the extradition of a person to a foreign state if they are likely to be subjected to torture.

Massimo Moratti, Amnesty International's Deputy Director for Europe, is certain that the Wikileaks publisher [will suffer grave mistreatment](#) if extradited to the United States.

"The British government must not accede to the US extradition request for Julian Assange as he faces a real risk of serious human right violations if sent there."

This will further add substance to the potential breach of Article 3 of the Human Rights Convention, [a point reiterated](#) by Agnes Callamard, Special rapporteur on extra-judicial executions. Ecuador, she argues, permitted Assange to be expelled and arrested by the UK, taking him a step closer to extradition to the US which would expose him to "serious human rights violations." The UK had "arbitrary [sic] detained Mr Assange possibly endangering his life for the last 7 years."

On May 31, Nils Melzer, UN Special Rapporteur on torture, [concluded](#) after visiting Assange in detention that the publisher's isolation and repeated belittling constituted "progressively severe forms of cruel, inhuman or degrading treatment or punishment, the cumulative effects of which can only be described as psychological torture."

The issue of Assange's failing health is critical. An important feature of his legal team's argument is the role played by the UK authorities in ensuring his decline in physical and mental terms. The argument in rebuttal, disingenuous as it was, never deviated: you will get treatment as long as you step out of the Ecuadorean embassy.

There is also another dimension which the distracted Javid failed to articulate: the sheer political character of the offences Assange is being accused of. Espionage is a political offence par excellence, and the UK-US extradition treaty, for all its faults, retains under Article 4 the prohibition against extraditing someone accused of political offences, including espionage, sedition, and treason. As John T. Nelson notes in [Just Security](#), "Each of Assange's possible defences are strengthened by the 17 counts of espionage".

The prosecutors heading the effort against Assange were not content with keeping matters confined to the single count of conspiracy to violate the Computer Fraud and Abuse Act. Had they done so, the narrow scope would have made the challenge from Assange's legal team more difficult. Hacking is an artificial fault line in the world of publishing and revealing classified material; such individuals have been quarantined and treated as standard middle-of-the-road vigilantes who fiddle computer systems.

Assange, as he has done so often, blurred the lines: the youthful hacker as political activist; the more mature warrior of information transparency. The Justice Department's efforts, at least initially, involved divorcing Assange the publisher from Assange the hacker. According to [Steve Vladeck](#), a legal boffin versed in national security law, "the more the US is able to sell the British government, sell British courts the idea that [the CFAA charge] is the heart of the matter, I think the more of a slam dunk it will be for extradition."

Assange's legal team were ready for the Home Secretary's decision, but their case has been hampered. Supporters such as the Chinese dissident artist Ai Weiwei [have been perturbed](#) by the way Assange has been hamstrung in case preparations. "The big problem there is that Julian has no access to the means to prepare his case. And his case, I think, has another two months before its full hearing. He needs more access to the means to prepare his defence against this terrible extradition order."

The enormity of the case against the Assange team, prosecuted by an assemblage of security machinery wonks and a sociopathic establishment, has presented WikiLeaks with its greatest challenge. In the information war environment, it has thrived; in the legal warfare environment, the circumstances are upended. But the legal grounds are there to defeat the case; the question, more to the point, is where Britain's scales of justice, rather unbalanced on the issue of dealing with classified information, will be tipped.

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