

Pandemic Delays: Postponing the Assange Extradition Hearing

By [Dr. Binoy Kampmark](#)

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*“Mr Assange will be facing a David and Goliath battle with his hands tied behind his back.”
– Edward Fitzgerald QC, lawyer for Julian Assange, April 27, 2020*

Julian Assange must have had time amidst cramped and hostile surrounds, paper work, pleas and applications, to ponder what circle of Dante’s Hell he finds himself in. Ailing but still battling, the WikiLeaks publisher, through his lawyers, made another vicarious appearance at the Westminster Magistrates’ Court on Monday to delay the next stage of extradition proceedings slated for May 18. He would have appeared via video link, but [medical advice suggested](#) it would be unsafe for him to do so at Belmarsh prison.

Assange, one of the most conspicuously wanted individuals by US authorities for fancifully broad claims of espionage and computer intrusion, had a range of eminently sensible reasons for seeking the delay. The defence continued in relentless fashion, making arguments they have done throughout. The feeling for the observer is that, at some point, the District Judge Vanessa Baraitser might bite, or at least shift ever so slightly.

Assange’s legal team, spearheaded by Edward Fitzgerald QC, [noted](#) that adequate case preparations were, in the current circumstances, impossible. There had been the briefest of phone calls with their client; the defence team had been unable to speak to Assange for over a month. The case, claimed Fitzgerald, had gone “from difficult to impossible”. There were “no person-to-person meetings. The alternative of video conferences is medically dangerous.” A [meeting that was due to take place](#) last week in the holding cells of Woolwich Crown Court never transpired, as prison authorities refused to permit it.

According to the written submission, “It is not possible to take Mr Assange’s instructions in order to respond to the recently served declarations of Mr Kromberg, the US Attorney representing the case for the US.” Those representing the publisher were “unable to fulfil their professional obligations to him in the circumstances and he is deprived of equality of arms with the prosecution”.

The [second ground](#) followed from the first: no full extradition could take place in May that would enable Assange to “participate effectively in the hearing”. Abiding by principles of open justice would also be improbable given the ongoing pandemic restrictions that would prevent the press and public “to attend and follow proceedings”. The fourth ground focused on Assange’s own vulnerable constitution, already ravaged by stress and pressure occasioned by his confinement at HMP Belmarsh. The sum of this was that “he could not fairly be expected to participate in a full evidentiary hearing in May.”

The ever unsympathetic Baraitser, usually unmoved by any defence application that might suggest favour to Assange, accepted the argument that the May 18 date be vacated, and an administrative hearing scheduled for May 4, enabling lawyers on all sides to consider a new date for the full hearing. The measure was granted, in no small part because of lack of protest from the prosecution. As James Lewis QC, putting the case for the United States, [submitted](#), “In this extraordinary time, we would support the application.” Given the circumstances (the judge finally acknowledged the obvious: that Britain was in a coronavirus lockdown), it was unlikely that Assange and his lawyers would be able to physically attend the scheduled May 18 hearing. “Remote attendance by the parties in this case will not be appropriate. It is now appropriate to vacate that hearing and fix it to a later date.” At the earliest, a three-week block from November 2 can be made available.

On other points, Baraitser remained cold and tenaciously blind. She could not see how the lockdown itself had any evident impact on case preparation, nor affect the proper attendance of witnesses. “I have been given no reason to believe that pre-hearing discussion with expert witnesses can’t take place remotely.” The issue of Assange’s safety in being transported to a video conference room was a matter for the prison to make. Nor would press reporting be impaired, despite witnessing, in her own court, the [distinctly shonky coverage](#) for media offered by the teleconference facility.

As the UK Bureau Director of Reporters Without Borders Rebecca Vincent would [comment](#), reflecting upon the day’s [technical challenges](#), “resuming the full extradition hearing in such conditions would not allow for open justice. This case is of tremendous public interest, and the press and NGO observers must be able to scrutinise proceedings.”

Assange supporters and case watchers were relieved by the change of heart shown from the bench. Kevin Gosztola of *Shadowproof* [opined](#) that a May 18 hearing during the COVID-19 pandemic “would’ve significantly undermined due process rights of Wikileaks founder Julian Assange”.

Then came the next question, a spectre over the stuttered court proceedings: Would Assange be able to obtain bail? His father, John Shipton, [certainly thought so](#), as obtaining such relief would alleviate the danger of contracting COVID-19 in a “prison where two people have died of the disease”. According to Renata Avila, a key human rights lawyer and board member for Creative Commons, such a delay [would surely entitle Assange to the measure](#). “Under current conditions, he cannot prepare his legal defence and he is risking his life.”

The hope for legal, and compassionate sense to prevail, remains admirably optimistic. Assange is bound in a cruel legal purgatory, a shackled David facing the Goliath of the US imperium. But even with his hands tied, Assange is still putting up a most resolute fight.

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Dr. Binoy Kampmark was a Commonwealth Scholar at Selwyn College, Cambridge. He lectures at RMIT University, Melbourne. He is a frequent contributor to Global Research and Asia-Pacific Research. Email: bkampmark@gmail.com

Featured image: Julian Assange court sketch, October 21, 2019, supplied by Julia Quenzler.

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Kampmark](#)

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