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Your Man in the Public Gallery: Assange Hearing Day 21

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I really do not know how to report Wednesday's events. Stunning evidence, of extreme quality and interest, was banged out in precis by the lawyers as unnoticed as bags of frozen chips coming off a production line.

The court that had listened to Clair Dobbin spend four hours cross-examining Carey Shenkman on individual phrases of first instance court decisions in tangentially relevant cases, spent four minutes as Noam Chomsky's brilliant exegesis of the political import of this extradition case was rapidly fired into the court record, without examination, question or placing into the context of the legal arguments about political extradition.

Twenty minutes sufficed for the reading of the "gist" of the astonishing testimony of two witnesses, their identity protected as their lives may be in danger, who stated that the CIA, operating through Sheldon Adelson, planned to kidnap or poison Assange, bugged not only him but his lawyers, and burgled the offices of his Spanish lawyers Baltazar Garzon. This evidence went unchallenged and untested.

The rich and detailed evidence of Patrick Cockburn on Iraq and of Andy Worthington on Afghanistan was, in each case, well worthy of a full day of exposition. I should love at least to have seen both of them in the witness box explaining what to them were the salient points, and adding their personal insights. Instead we got perhaps a sixth of their words read rapidly into the court record. There was much more.

I have noted before, and I hope you have marked my disapproval, that some of the evidence is being edited to remove elements which the US government wish to challenge, and then entered into the court record as uncontested, with just a "gist" read out in court. The witness

then does not appear in person. This reduces the process from one of evidence testing in public view to something very different. Wednesday confirmed the acceptance that this “Hearing” is now devolved to an entirely paper exercise. It is in fact no longer a “hearing” at all. You cannot hear a judge reading. Perhaps in future it should be termed not a hearing but an “occasional rustling”, or a “keyboard tapping”. It is an acknowledged, indeed embraced, legal trend in the UK that courts are increasingly paper exercises, as noted by the Supreme Court.

In the past, the general practice was that all the argument and evidence was placed before the court orally, and documents were read out, Lady Hale said. She added: “The modern practice is quite different. Much more of the argument and evidence is reduced into writing before the hearing takes place. Often, documents are not read out. “It is difficult, if not impossible, in many cases, especially complicated civil cases, to know what is going on unless you have access to the written material.”

At least twice in the current case, Judge Baraitser has mentioned that the defence gave her three hundred pages of opening argument, and has done so in the context of doubting the need for all this evidence, or at least for lengthy closing arguments which take account of the evidence. She was highly resistant to any exposition by witnesses of their evidence before cross-examination, arguing that their evidence was already in their statements so they did not need to say it. She eventually agreed on a strict limit of just half an hour for witness “orientation”.

However much Lady Hale thinks she is helping by setting down a principle that the documentation must be available, having Patrick Cockburn’s statement online somewhere will never have the impact of him standing in the witness box and expounding on it. What happened on Wednesday was that the whole hearing was collapsed, with both defence and prosecution lawyers hurling hundreds of pages of witness statement at Baraitser’s head, saying: “You look at this. We can get finished tomorrow morning and all have a long weekend to prepare our next cases.”

I was so disappointed by the way the case petered out before my eyes, that the adrenaline which has carried me through must have dried up. Returning to my room at lunchtime for a brief doze, when I tried to get up for the afternoon session I was overcome with dizziness. I eventually managed to walk to the court, despite the world having decided to present itself at a variety of sharp and unusual angles, and everything appearing to be under glaring orange sodium light. The Old Bailey staff – who I should say have been really friendly and helpful to me throughout – very kindly took me up in a lift and through the advocate’s robing room to the public gallery.

I am happy to say that after court two pints of Guinness and a cheese and ham toastie had a substantial restorative effect. Those who have followed these reports will understand how frustrating it was to be deprived of James Lewis asking Noam Chomsky how he can venture an opinion on whether this extradition is politically motivated when he is only a Professor of Linguistics, or whether he has ever published any peer-reviewed articles. To attempt to encapsulate the wealth of information skipped through yesterday is not the work of an evening.

What I shall do for now is give you the eloquent and brief statement by Noam Chomsky on the political nature of Julian Assange's actions:

IN THE CITY OF WESTMINSTER MAGISTRATES COURT

BETWEEN:

THE GOVERNMENT OF THE UNITED STATES OF AMERICA

v.

JULIAN PAUL ASSANGE

Expert Report of Professor Noam Chomsky

1. I am currently based at the University of Arizona where I am Laureate Professor of Linguistics and the Chair of the Agnese Nelms Haury Program in Environmental and Social Justice.
2. I joined the staff of the Massachusetts Institute of Technology in 1955 and in 1961 was appointed full professor in the Department of Modern Languages and Linguistics (now the Department of Linguistics and Philosophy.) From 1966 to 1976 I held the Ferrari P. Ward Professorship of Modern Languages and Linguistics. In 1976 I was appointed Institute Professor. I am now Emeritus Professor. During the years 1958 to 1959 I was in residence at the Institute for Advanced Study at Princeton, NJ.
3. I have received honorary degrees from many universities, including the University of London, University of Chicago, Loyola University of Chicago, Swarthmore College, Delhi University, Bard College, University of Massachusetts, University of Pennsylvania, Georgetown University, Amherst College, Cambridge University, University of Buenos Aires, McGill University, Universitat Rovira I Virgili, Tarragona, Columbia University, University of Connecticut, Scuola Normale Superiore, Pisa, University of Western Ontario, University of Toronto, Harvard University, University of Calcutta, and Universidad Nacional De Colombia.
4. I am a Fellow of the American Academy of Arts and Sciences and the National

Academy of Science. In addition, I am a member of other professional and learned societies in the United States and abroad, and am a recipient of the Distinguished Scientific Contribution Award of the American Psychological Association, the Kyoto Prize in Basic Sciences, the Helmholtz Medal, the Dorothy Eldridge Peacemaker Award, the Ben Franklin Medal in Computer and Cognitive Science, and many others awards.

5. I have written and lectured widely on linguistics, philosophy, intellectual history, contemporary issues, international affairs and U.S. foreign policy. My works include: Aspects of the Theory of Syntax; Cartesian Linguistics; Sound Pattern of English (with Morris Halle); Language and Mind; American Power and the New Mandarins; At War with Asia; For Reasons of State; Peace in the Middle East?; Reflections on Language; The Political Economy of Human Rights, Vol. I and II (with E.S. Herman); Rules and Representations; Lectures on Government and Binding; Towards a New Cold War; Radical Priorities; Fateful Triangle; Knowledge of Language; Turning the Tide; Pirates and Emperors; On Power and Ideology; Language and Problems of Knowledge; The Culture of Terrorism; Manufacturing Consent (with E.S. Herman); Necessary Illusions; Deterring Democracy; Year 501; Rethinking Camelot: JFK, the Vietnam War and US Political Culture; Letters from Lexington; World Orders, Old and New; The Minimalist Program; Powers and Prospects; The Common Good; Profit Over People; The New Military Humanism; New Horizons in the Study of Language and Mind; Rogue States; A New Generation Draws the Line; 9-11; Understanding Power; Hegemony or Survival; Hopes and Prospects; What Kind of Creatures are We?; Who Rules the World
6. I have been asked whether Julian Assange's work and actions can be considered as "political", a question I am informed is of significance to the extradition request by the United States for Mr. Assange to be tried for espionage for having played a part in the publication of information that the United States government did not wish to be publically known.
7. I have previously spoken of the subject matter on which I am asked now to comment

in relation to Mr. Assange. The following paragraphs constitute my views. I confirm my assessment that Mr. Assange's opinions and actions should be understood in their relationship to the priorities of government.

8. A Professor of the Science of Government at Harvard University, the distinguished liberal political scientist and government adviser, Samuel Huntington, observed that "the architects of power in the United States must create a force that can be felt but not seen. Power remains strong when it remains in the dark. Exposed to the sunlight it begins to evaporate". He gave some telling examples concerning the real nature of the Cold War. He was discussing US military intervention abroad and he observed that "you may have to sell intervention or other military action in such a way as to create the misimpression that it is a Soviet Union that you're fighting. That's what the United States has been doing ever since the Truman Doctrine" and there are many illustrations of that leading principle.
9. Julian Assange's actions, which have been categorized as criminal, are actions that expose power to sunlight -- actions that may cause power to evaporate if the population grasps the opportunity to become independent citizens of a free society rather than subjects of a master who operates in secret. That is a choice and it's long been understood that the public can cause power to evaporate.
10. The one leading thinker who understood and explained this critical fact was David Hume writing on the First Principles of Government in one of the first modern works of political theory over 250 years ago. His formulation was so clear and pertinent that I'll simply quote it. Hume found "[n]othing more surprising than to see the easiness with which the many are governed by the few and to observe the implicit submission with which men resigned their own sentiments and passions to those of their rulers. When we inquire by what means this wonder is brought about we shall find that as force is always on the side of the governed the governors have nothing to support them but opinion. It is therefore an opinion only that government is founded and this maxim extends to the most despotic and most military governments as well as to the most free

and the most popular.”

11. Actually Hume underestimates the efficacy of violence but his words are particularly appropriate to societies where popular struggle over many years has won a considerable degree of freedom. In such societies, such as ours of course, power really is on the side of the governed and the governors have nothing to support them but opinion. That is one reason why the huge public relations industry is the most immense propaganda agency in human history, a reach that's developed and reached its most sophisticated forms in the most free societies, the United States and Britain. That institution arose about a century ago when elites came to understand that too much freedom had been won for the public to be controlled by force so it would be necessary to control attitudes and opinions. Liberal intellectual elites understood that as well which is why they urged, to give a few quotes, that we must discard “democratic dogmatism about people being the best judges of their own interests.” They are not. They are “ignorant and meddling outsiders” and therefore must be “put in their place” so as not to disturb the “responsible men” who rule by right.
12. One device to control the population is to operate in secret so that the ignorant and meddling outsiders will stay in their place, remote from the levers of power which are none of their business. That's the main purpose for classification of internal documents. Anyone who has pored through the archives of released documents has surely come to realize pretty quickly that what is kept secret very rarely has anything at all to do with security, except for the security of the leadership from their domestic enemy, their own population. The practice is so routine that illustration is really quite superfluous. I'll mention only one contemporary case. Consider the global trade agreements, Pacific and Atlantic, in actuality investor rights agreements masquerading under the rubric of free trade. They're negotiated in secret. There's an intention of Stalinist style ratification by Parliament – yes or no - which of course means yes, with no discussion or debate, what's called in the United States “fast-track.” To be accurate they're not negotiated entirely in secret. The facts are known to the corporate lawyers and lobbyists who are writing the details in such a way as to protect the interests of the

I will also give you the breathtaking testimony of “Witness 2”:

A friend last night gave me the cold comfort that I should not worry about the hurried close of these proceedings reducing the public gaze on the evidence and the arguments (and I think there were altogether nine witness statements yesterday), because that public gaze had been extremely limited, as indeed I have been continually explaining. In other words, it makes no difference. I follow that argument, but it goes against some fundamental beliefs and motivations I have about bearing witness, which I shall need to develop further in my own mind.

In the next few days I will try to bring you a synthesis and analysis of all that passed on Wednesday. Now I need to go to court and see the last few dribbles of this case, and exchange last glances of friendship with Julian for some months.

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