

**PARLIAMENTARY BRIEFING:**

**WHY OPPOSING JULIAN  
ASSANGE’S EXTRADITION TO THE  
U.S. MATTERS FOR THE U.K.**

February 2019

**Summary**

The Trump Administration has confirmed that the US government has charged WikiLeaks’ publisher Julian Assange and that it seeks his extradition from the UK.<sup>1</sup> In the US, he faces life in prison.

Parliamentarians should oppose Assange’s extradition to the US. The case raises a number of fundamental issues for the UK:

- The UK has clear obligations under international law to protect the rights of refugees and asylum seekers. Assange’s asylum status requires that he not be transferred to the persecuting state (i.e., the country that he was given asylum in relation to, the US).
- The United Nations has repeatedly called for Assange to walk free.
- Amnesty International, Human Rights Watch and other leading human rights organisations have released statements categorically opposing Assange’s extradition.

The Swedish preliminary investigation was closed without charge in 2017.<sup>2</sup> The Swedish authorities wanted to drop the arrest warrant for Assange as early as 2013 – it was the UK government that improperly insisted it continue.<sup>3</sup>

The shortcomings in the UK-US Extradition Treaty are already the subject of concern for many Parliamentarians, many of whom expressly opposed the extradition of Lauri Love, who was accused of hacking the US government and US companies. The extradition of Assange is for *publishing* and confronts even more fundamental issues:

- The extradition by the Trump Administration of a publisher in the UK for the “crime” of publishing truthful information, would set a very dangerous

precedent for the extra-territorialisation of state secrecy laws and interference in the right to publish and media freedom in the UK.

- It cannot be the case that the Trump Administration be permitted to dictate what can and cannot be published in the UK.
- An extradition would post an invitation to other states to follow suit, severely threatening the ability of journalists, publishers and human rights organisations to safely reveal information about serious international issues.

*This is not simply a matter for the UK courts but for the government. The government has a simple solution available to this matter:*

- *It can provide a diplomatic assurance to Ecuador that Assange would not be extradited to the United States (the state in relation to which he has refugee status). Such assurances are standard practice in the transfer of refugees or persons involved in legal processes, from one jurisdiction to another (i.e., if Ecuador hands him over to the UK, to resolve any remaining legal issues in the UK). The very foundation of the international refugee system is that refugees cannot be transferred to the state in relation to which they have refugee status.*

## **Main briefing**

**1. US charges and extradition.** On 15 November last year, the US Department of Justice inadvertently revealed that “Assange has been charged” under seal and that the US seeks his extradition from the UK.<sup>4</sup> These charges have been confirmed to various media, including Associated Press, the Washington Post and the New York Times.<sup>5</sup> In the US, Assange faces life in prison for publishing truthful information. The charges relate to WikiLeaks’ 2010-2011 joint publications on war, diplomacy and rendition with a range of media organisations - The Guardian, Channel 4, The Telegraph, Al Jazeera, the Bureau of Investigative Journalism, the Independent and Reuters, among others. (At no time has WikiLeaks or Julian Assange been contacted by the “Mueller investigation” which is looking into the 2016 US election.)

**2. Threats against Assange.** High ranking US officials have issued a series of threats against Assange and WikiLeaks to “take down” the organisation, asserting that “Julian Assange has no First Amendment privileges. He is not a US citizen” (then CIA director Mike Pompeo<sup>6</sup>) and stating that arresting Assange is a “priority” for the US (then US Attorney General Jeff Sessions<sup>7</sup>). The key reason for this approach is WikiLeaks’ release of thousands of files on the CIA in 2017 - “the largest leak of CIA documents in history”<sup>8</sup> which revealed the CIA’s efforts to infest computers, smartphones, TVs, routers and even vehicles with CIA viruses and malware. The US government arrested a young US intelligence officer as WikiLeaks’ source who now faces 160 years in prison and is being held in harsh conditions. The media reported in 2017, just after the Vault 7 publications, that the US was expanding the investigation against Assange and had prepared charges against him.<sup>9</sup> All the while, it has never been questioned that WikiLeaks simply published truthful information.

**3. Granting of refugee status.** Julian Assange was granted asylum by Ecuador in 2012, including under the 1951 Refugee Convention, to which the UK is party, owing to his well-founded fear of persecution.<sup>10</sup> Asylum was granted after the UK and Swedish governments refused to give Ecuador diplomatic assurances that they would not extradite him to the US over WikiLeaks' publications. The risk of extradition to the US is the only reason he sought and received asylum by Ecuador. It is the only reason in his asylum application and the only reason in Ecuador's asylum determination.

Julian Assange has always been willing to face any outstanding bail issue in a UK legal process but not at the expense of facing extradition to the United States.

**4. Closing the Swedish preliminary investigation.** No charges were ever brought against Assange in Sweden, which closed its "preliminary investigation" in 2017. Emails released under a tribunal challenge following a Freedom of Information Act request revealed that the Swedish authorities wanted to drop the arrest warrant for Assange as early as 2013 – it was the UK government that improperly insisted it continue.<sup>11</sup>

**5. Obligations under international law.** Julian Assange is protected under international refugee law and cannot be returned to the persecuting state. The core principle of the 1951 Convention is non-refoulement "which asserts that a refugee should not be returned to a country where they face serious threats to their life or freedom".<sup>12</sup> Asylum was granted to Assange by Ecuador citing a "threat to his life, personal safety and freedom" and the torture, cruel and degrading treatment of his alleged source under US custody.<sup>13</sup>

**6. United Nations call on the UK to uphold international law.** The UN Working Group on Arbitrary Detention (WGAD), the supreme international body scrutinising this issue, has repeatedly called on the UK government to end Assange's "arbitrary detention".<sup>14</sup> In December 2018, it "repeated a demand that the UK abides by its international obligations and immediately allows Wikileaks founder Julian Assange to walk free from the Ecuadorian embassy".<sup>15</sup> The UN states that WGAD determinations are legally-binding.<sup>16</sup> The latest UN statement was also reiterated by the UN Special Rapporteur for Human Rights Defenders Michel Forst.<sup>17</sup>

**7. Human rights organisations oppose extradition.** Amnesty International and Human Rights Watch, among other human rights organisations, have released statements categorically opposing Assange's extradition. Amnesty states that it "believes that Julian Assange should not be extradited or subjected to any other transfer to the USA, where there are concerns that he would face a real risk of serious human rights violations due to his work with Wikileaks".<sup>18</sup> Human Rights Watch has stated: "UK should reject extraditing Julian Assange to US".<sup>19</sup>

**8. The UK-US extradition treaty.** Extradition arrangements between the US and the UK were agreed in the 2003 Extradition Treaty which came into force in 2007. However, the shortcomings in these arrangements are well-known and

have been subject to several Parliamentary inquiries in recent years. These inquiries have particularly identified the inability of those facing UK-to-US extradition to address the evidence against them, which is available to those facing extradition from the US to the UK. In several recent cases involving alleged computer crimes, such as Gary McKinnon and Richard O'Dwyer, vocal public campaigns have blocked extradition. In the recent case of Lauri Love, more than 100 British MPs wrote to then-President Obama, urging him to withdraw the extradition request. The UK courts ruled against extradition in February 2018.

**9. The Trump administration should have no right to prosecute a journalist in the UK, operating from the UK and the rest of Europe, over claims under US laws.** This would open the flood gates to an extremely dangerous precedent that everyone should be worried about. Julian Assange's co-publishers at the Guardian, Telegraph, Independent and Channel 4, among others, all risk prosecution if the US is allowed to prosecute a non-US publisher or journalist for revealing information it says is secret. If the US government can prosecute a non-US journalist publishing from the UK for revealing secrets about the US, why can't Russia prosecute a British journalist in London for revealing secrets about Moscow, or Saudi Arabia do the same for revealing secrets about the Khashoggi murder?

**10. Deteriorating health.** Julian Assange has been unable to leave the embassy for over six years for fear of being arrested and then extradited to the United States. During this time, medical assessments show that his health has deteriorated.<sup>20</sup> The United Nations has stated that it is "concerned that the modalities of the continued arbitrary deprivation of liberty of Mr. Assange is undermining his health, and may possibly endanger his life given the disproportionate amount of anxiety and stress that such prolonged deprivation of liberty entails".<sup>21</sup>

**11. A solution to the issue.** This is a matter for government, not simply the courts. The government has a simple solution available to this matter: It can provide a diplomatic assurance (to Australia or to Ecuador) that it will respect its refugee obligations and not extradite Assange to the United States (the state in relation to which he has refugee status). Such assurances are standard practice in the transfer of refugees in legal processes from one jurisdiction to another (i.e., if Ecuador hands him over to the UK, to resolve any remaining UK domestic legal issues). The UK itself insists that other states provide "no secondary purpose" guarantees for *all* extraditions *from* the UK.<sup>22</sup> Interpol also forbids arrest notices for refugees from the states in relation to which they have refugee status.<sup>23</sup> The very foundation of the international refugee system is that refugees cannot be transferred to the state in relation to which they have refugee status.

There is real urgency about Julian Assange's situation given the confirmation of the existence of US charges against him and credible reports that the Ecuadorian government has caved in to pressure and may imminently expel him from the embassy.

For more information, contact: [courage.contact@couragefound.org](mailto:courage.contact@couragefound.org)

The Courage Foundation – [www.couragefound.org](http://www.couragefound.org) - is an international organisation that supports those who risk life or liberty to make significant contributions to the historical record. It campaigns and fundraises for the legal and public defence of specific individuals such as Julian Assange who are subject to serious prosecution or persecution.

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