



Conflicts of Interest in the Assange Case | With Investigative Journalist Matt Kennard

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Taylor Hudak (TH): Hi, everyone, I'm Taylor Hudak with acTVism Munich, and welcome back to another Julian Assange case update. I'm in London outside the Old Bailey courthouse. And joining me to speak about today's court proceedings is journalist and head of investigation with declassified U.K. Matt Kennard. Matt, thank you for speaking with me. Now, before we get into your investigative journalism, I just wanted your perspective on what took place in court today.

Matt Kennard (MK): Yeah, I think first it's worth mentioning the conditions within which this hearing is being held. Now, this is my first day here at the Old Bailey, and I got into the public gallery because a nice activist allowed me to take their place. They had been queuing since early in the morning. And you're not allowed to take your phone or your computer in, i.e., there's no place to even store them. So you have to give it to an activist outside. You have to go up six flights of stairs. You sit in an empty courtroom, except for a few journalists at the bottom. But we're in the viewing gallery and to look at a screen which is kind of like 20 feet away from you with air vents just pumping out cold air. So you're freezing cold. It felt, I mean, shocking, to be honest with you, because I had heard reports about how difficult it was to access this case. But sitting in the public gallery, I was shocked that this is one of the maybe the most important press freedom cases in history and these are the conditions within which people who want to see it have to sit. And I mean, the whole point about justice is it has to be seen to be done. So we should have a transparent process around the case but it doesn't seem to be happening.

In terms of what I saw today. It was about Assange's mental health again and the risk of suicide if he is extradited to the United States. And I think that it's quite clear. There's a consensus that he has had thoughts of suicide for a long time. And as the final witness said - who has always been related to extradition to the United States - she [Witness] said he [Assange] always said to her, if I were extradited to the United States, I will commit suicide. So, I mean, there's no two ways about that in that sense. And as usual, the prosecution, the U.S- prosecution lawyer, Mark Lewis, his tactic is just to impugn the reputation and the expertise of the witness rather than actually try and get any information out. Now, I don't

think that's that's a very effective way to go about the case because the evidence is so clearly in Assange's favour. But as I've said before, in this case, we don't know because although I'm optimistic about the fact that what's happening in the courtroom is really showing the political nature of the case and the risk to Assange, we we aren't aware of the context of the British legal system and what's going on in the US as well. And there are forces at play that we don't know about. I won't speculate because I don't want to be conspiratorial, but there are definitely. This case has been from the start irregular when you put it in the context of other normal criminal cases.

TH: Now, many are wondering if Assange is actually receiving a fair hearing. You have done a number of investigations specifically on this judge, Judge Vanessa Baraitser, as well as Lady Arbuthnot. Can you speak to your work with that?

MK: Yes. So we looked initially at the history and the network of Lady Arbuthnot, who's Westminster chief magistrate, who's the most senior judge in Westminster, and she oversees her junior judges, including Vanessa Baraitser. And she actually ruled on the case. She made two key rulings in February 2018 which upheld his [Assange's] bail violation conviction, which the lawyers were trying to get taken away because then it would be easier to negotiate safe passage to Ecuador. So she's been a player previously in terms of actual rulings in the courtroom, but is still a player because she's overseas rer junior judges, including Braitser, and she is deeply embedded in terms of her family links to the British military establishment and also the U.S. Military and intelligence establishment.

So the first story we did was about her husband, Lord Arbuthnot whose a former conservative defence minister who was a director of a company alongside the ex-head of MI6, Sir John Scarlett. He's been closely working with the Henry Jackson Society. That was another story we did, which is a neo-conservative group, which has for a decade been briefing against WikiLeaks and Assange in the media. That was the first story. We also looked to her son, who works for an Investment House that has invested heavily in something called *Darktrace*, which was a cyber security company, which is basically to stop data leaks, which was set up by GHQ, the UK surveillance agency, and MI5, the domestic security agency, and then recruited personnel directly from the CIA and NSA.

I mean, these stories had no impact. And in fact, we've done six [stories] recently. And then every single time I requested a comment from Westminster Magistrates Court and the Ministry of Justice - I never got anything back. The final one we did recently, which was about the Henry Jackson Society, which I just referenced, we finally got a one line comment from them saying Lady Arbuthnot has not shown any evidence of bias, which doesn't really answer my questions, but at least it was some sort of response. Now, in that context, you kind of wonder when this is known about and nothing has been done about it. There's not even any public acknowledgement or official acknowledgement that exists. You wonder what other conflicts of interest exist. And the fact is, we don't have a press in this country that is looking into this case like it should be. Basically the work that "*Declassified*", myself and Mark

Curtis have done on this - we kind of the only journalist looking at the legal process around it, which is really mad when you think of the level of conflict of interest there is and the importance of the case.

So, yeah, as I said, that I don't know how this is going to play out, but Baraitser herself is an example of the lack of transparency around the case, because the story we did about her was I applied to the Ministry of Justice through the Freedom of Information Act for basic information about how I wanted a case list. So [a record of] every case she's ruled on and what the ruling was - nothing, nothing particularly detailed. And the Ministry of Justice rejected it and said it violated the Constitutional Reform Act as well as data protection. I did the same request for a different judge who was appointed as a magistrate on the same day as her, and they didn't reject it. So that tells you something. And then I did a parallel construction whereby I just used open source stuff to construct an extradition case list for her. I found 24 cases through Westlaw, which is a legal database, as well as Factiva, the media database. [Findings:] 24 cases, 23 of which she had ordered extradition. So she's got a 96 percent extradition record based on publicly available information. So it doesn't look good when you think about that. And the work we've done has been basically ignored by the mainstream media - number 1 - and then obviously by officials themselves - number 2. But if the mainstream media became interested in the stories we're doing and as I say, we did investigations themselves, I think it could really change the game with this case. Because [Daniel Ellsberg] testified the other day, as we know in the Pentagon Papers case, the government malfeasance in that case, they [U.S government] Raided his [Daniel Ellsberg's] psychologist's office to try and get information to smear him in the media that got the case thrown out. Now, if we can find out information, which clearly shows that this case is corrupted, in some sense, it would have a major impact, and especially if it appears in the mainstream media, because I think even if the stories we've done had appeared in, say, The Guardian or The Times, it would have had a big national impact and maybe have changed things. But I think that it's because they don't see Assange as a journalist. They don't see what's happening to him as a threat to them. And of course, it is because he's in prison and the extradition is happening because he revealed information which is embarrassing to the U.S. government. Now if he gets extradited, that gives licence to the U.S. Government to go anywhere in the world and pluck someone because they don't like what they're publishing about them and put them in supermax prison. And that is terrifying. I mean, I know it's an overused word, but I think it is one step on the way towards fascism. And, of course, it's been done by the Trump administration as well. And it's funny that all the "resistance Democrats" who get upset about him [Trump] being mean to reporters, which is fair enough, he's got an awful record on the media. It doesn't transpose over to Assange when, in fact, what he's doing to Assange and his administration and his DOJ [Department of Justice] is doing to Assange is the most grave threat to press freedom in history because it will set a precedent that they can use against anyone.

TH: You're exactly right. Now, has the previous judge in this case, Lady Arbuthnot, has she formally recused herself in this case?

MK: That's a good question. And the answer is no. It's all, as I say, being completely untransparent. Basically, six months ago or so, the Westminster Magistrates Court released a statement to *Private Eye Magazine* saying that she had stepped aside on the case, i.e., she wasn't ruling on it anymore. We did know at that point she wasn't ruling, but we never got official acknowledgement. But that was the first official acknowledgement and it was only because a reporter requested it. And then since that, as I say, they haven't responded to any of my requests. And in fact, it's an important distinction, because if she recused herself, which is an official admission of conflict of interest, one, it would mean that the defence could revisit the ruling she made in 2008, which I mentioned. And also it would completely change her role in the case now, because just stepping aside allows her to maintain her mentoring and liaison role that she has with her junior judges with Baraitser on this case - which we obviously we don't know anything about what their relationship on this case is, but there's no reason that they [conflicts of interests] can't still exist, she just can't rule on it [the case]. So the difference between recusement and stepping aside is huge and has massive ramifications. And of course, if you look at the evidence, and we've compiled thousands of words of it, she 100 percent has huge conflicts of interest across the board. That means she should recuse herself. But it hasn't happened. And it really is like so much of this case, a stain on the British judiciary. And when history is written, it's going to be an embarrassing moment in the British judicial history, even if they don't extradite him. The whole record is just abysmal.

TH: Now, as an investigative journalist yourself, how would the outcome of this case impact your work?

MK: I think that a free, vibrant press is a cornerstone of democracy. So we can't let the powers that be undermine that central tenet of democracy by threatening people. And of course, this case is a threat to everyone, but we will carry on doing what we're doing. Of course, for many journalists, it will - who don't have the predilection - It will soften what they do. Because a lot of this case is about Assange's interactions with Chelsea Manning and he is being extradited for basically helping her protect her identity, which is what, as a journalist, you have a responsibility to help your source protect themselves from the powers that they're upsetting by releasing the information to you. So all sorts of source interaction for journalists will change after this or people will have to think about it in a very different way, because it will criminalise effectively the reporting of national security issues, especially in the U.S., or around the world. A good example is we recently published a really good investigation about the CIA and MI6, their secret war in Kenya, which became a big issue in Kenya. It was published, got two front pages in the main one of the main papers in Kenya. And in fact, if Assange gets extradited, that article contained things that essentially the CIA didn't like that were classified, which means that they could bring a case against that journalist just for publishing information they don't like - if Assange is extradited. So, I mean, so much is riding

on this and it should send chills through any investigative journalist around the world, because if they get Assange, then they can get anyone.

TH: OK, Matt Kenard, thank you!

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