

# the end game

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“The goal is justice, the method is transparency. It’s important not to confuse the goal and the method.”

—Julian Assange

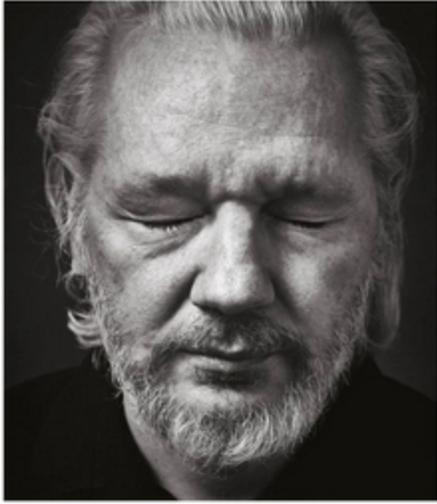
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“Oh my god,” tweets Australian journalist Mary Kostakidis. “No extradition.”

A crush of TV news crews and demonstrators with placards are packed into the street outside Westminster Magistrates’ Court. It’s just before 11 on the morning of January 4, 2021; face masks against an invisible plague, puffer jackets and woollen beanies against London’s midwinter chill.

# The Monthly



FREEING ASSANGE by Scott Ludlam

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Access to the courtroom has been heavily restricted, and for those assembled out here the only hints of what's been happening inside have come from the handful of journalists watching a videolink and live-tweeting proceedings. And now, the twist.

Shortly afterwards, against all expectations, Stella Moris emerges from the courtroom into the waiting media storm with a hint of a smile. "Please bear with me because I've had to rewrite my speech," she tells the press pack. Lawyers representing her fiancé, imprisoned Australian publisher Julian Assange, have just defeated an attempt to have him extradited from London's Belmarsh prison to face charges under the *Espionage Act* in the United States. The US Department of Justice is seeking to jail him for 175

years.

The shock judgement leads news bulletins in every time zone on Earth.

"I had hoped that today would be the day Julian would come home," Moris says. "Today is not that day. But that day will come soon. As long as Julian has to endure suffering and isolation as an unconvicted prisoner in Belmarsh prison, and as long as our children continue to be bereft of their father's love and affection, we cannot celebrate. We will celebrate the day he comes home."

The ruling feels like the circuit breaker that could bring this tortuous marathon to an end. "Today's victory is the first step towards justice in this case," Moris says.

Jennifer Robinson has been on Assange's legal team since the heady days of 2010, and thought she'd seen it all. "The judgement was the right outcome, but for all the wrong reasons. It's terrifying, because [the magistrate] agrees with the US prosecutors on every single point on free speech and the ability to prosecute and extradite journalists," she tells me. "It means that any government, anywhere around the world, can seek to prosecute and extradite a British-based or British citizen journalist who has published truthful information."

In an astonishing cave-in to US prosecutors, the court agreed that despite most of the publications having occurred while Assange was in the United Kingdom and Europe, "the conduct in this case occurred in the US because the publication of the materials caused harm to the interests of the US".

"Sitting in the courtroom and listening to the judge accept the US grounds was hard," Moris tells me months after addressing the press outside the court. "I'd prepared for the worst, but my instinct was that the US could not possibly get away with this travesty. So, when the final part of the judgement was read out, it was an incredible relief. It was the first time that there was a rupture to this trajectory that there had been for the past 10 years closing in on him."

It's a shocking precedent: the judgement accepted US prosecutors' arguments that national-security journalism can be considered a form of espionage no matter where it occurs, leaving other publishers and journalists open to being charged as spies.

This chilling finding had a catch: the magistrate recognised that burying people alive in the US prison system could kill them. "I am satisfied that, in these harsh conditions, Mr Assange's mental health would deteriorate causing him to commit suicide with the 'single-minded determination' of his autism spectrum disorder ... I find that the mental condition of Mr Assange is such that it would be oppressive to extradite him to the United States of America."

Oppressive. Surely now the incoming Biden administration would reverse Trump's decision to prosecute. For the first time in recent memory, there's hope.

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It was January 2010, and US Army Private First Class Chelsea Manning wrote a brief cover note originally intended for *The Washington Post*. "These items have already been sanitized of any source identifying information. This is one of the most significant documents of our time removing the fog of war and revealing the true nature of 21<sup>st</sup> century asymmetric warfare. Have a good day."

Neither *The Washington Post* nor *The New York Times* was interested. Manning turned to a contact on an encrypted chat service. Although it has never been proven, court filings later allege she was talking to Julian Assange at WikiLeaks.

Back then, three innovations had already set WikiLeaks apart from other publishers: the use of encrypted dropboxes to protect the identity of sources, partnerships with established media organisations to add audience reach and institutional protection, and a preference for making whole archives public rather than curating a drip-feed. "You can't publish a paper on physics without the full experimental data and results; that should be the standard in journalism," argued Assange.

WikiLeaks had been publishing large-scale drops of inside information since 2006: a quick skim through the timeline brings up entries such as "The looting of Kenya under President Moi" and "Footage of 1995 disaster at the Japanese Monju nuclear reactor". The real opening act, the one that would put it on the map, was one that PFC Manning provided.

Glitchy footage from 2007 shows US Apache gunships unleashing cannon fire on a group of men on a street corner on the east side of Baghdad. "Look at those dead bastards," chuckles one of the airmen. Two of the dead bastards will later be revealed as Reuters war correspondent Namir Noor-Eldeen and his assistant, Saeed Chmagh. The helicopters continue their slow orbit around the dusty carnage, with casual banter and radio traffic soundtracking the unblinking video feed. A short time later they obliterate a van attempting to evacuate the wounded; when US ground units arrive, it's revealed the cannon fire has seriously injured two children in the van. "Well, it's their fault for bringing their kids into a battle," one of the helicopter crew quips, as soldiers hundreds of feet below him cordon off the area and evacuate the wounded children to a field hospital.

Just another day in occupied Baghdad.

WikiLeaks released the clip in April 2010 at the National Press Club in Washington, DC, catapulting the horrors of the Iraq invasion back into the headlines. They titled it “Collateral Murder”, a riff on anodyne military terminology reclassifying screaming, bleeding human beings into “collateral damage”: unfortunate and regrettable, but necessary and forgettable.

Like the collateral murder victims, the US soldiers picking through the dead and dying are nameless in the video, anonymous pixels smudging their way across the screen. One of them, US Army Specialist Ethan McCord, later co-signed an open letter of reconciliation and responsibility to the families of the dead and to the Iraqi people more broadly: “... [w]hat was shown in the WikiLeaks video only begins to depict the suffering we have created ... we know that the acts depicted in this video are everyday occurrences of this war: this is the nature of how U.S.-led wars are carried out in this region.”

For those of us comfortably distant from the sound of gunfire, the magnitude of these everyday occurrences began to dawn two months later when WikiLeaks published 91,000 classified documents known as the Afghan War Diaries. Three months later, 391,000 documents making up the stupendous Iraq War Logs were published. A month later, a quarter of a million diplomatic cables from the far-flung arms of the US State Department went live: the first instalment of “Cablegate”, an archive that would eventually grow to nearly three million cables. In astonishing detail, the whole central nervous system of the world’s sole superpower was being laid bare.

“What makes the revelations of secret communications potent is that we were not supposed to read them,” Assange wrote. “Diplomatic cables are not produced in order to manipulate the public, but are aimed at elements of the rest of the US state apparatus, and are therefore relatively free from the distorting influence of public relations.”

Now in partnership with *The New York Times* and *The Washington Post*, as well as *Le Monde*, *The Guardian* and many others, WikiLeaks kept up an astonishing tempo of bombshell revelations. Assange made the cover of *Time* magazine; he was suddenly one of the most recognisable people in the world.

Like depth charges going off one after another, the disclosures had profound effects. The fiction that the occupation of Afghanistan was going well was permanently shattered: “The discussion became, *how could we get out?*” Assange told an audience at the Sydney Opera House by videolink in 2013. “*It is a debacle, a quagmire – how can we get out?* The discussion from then on saw a very important shift in perception of that war.”

Negotiations over continuing immunity for US personnel in Iraq were taking place against saturation coverage of a State Department cable detailing a US airstrike called in to destroy evidence of the massacre of an Iraqi family in 2006. “Prime Minister Maliki specifically cited that document as a reason for why immunity could no longer be extended,” Assange reminded the audience. “So Cablegate was critical in ending the Iraq war. Perhaps it would have ended sometime later, who knows? But that year, Cablegate ended it.”

The truth of regime collusion with the US government helped fan an uprising in Tunisia that cascaded into the Arab Spring. Details of provisions contained in secret drafts of the Trans-Pacific Partnership helped galvanise opposition and crash the deal. Communities of solidarity and resistance, empowered with the truth, organised in collective self-defence.

Arguably, the enduring value of these disclosures didn't turn on the high-profile needles in the haystack. The real value is that finally there was a map of the whole. "Only by approaching this corpus holistically – over and above the documentation of each individual abuse, each localised atrocity – does the true human cost of empire heave into view," Assange wrote.

Other than the US political establishment and its obedient proxies in Canberra, nobody doubted that this reportage was in the public interest. In late 2011, when Australia's Walkley Foundation added an award to the expanding list of international media prizes received by WikiLeaks, it noted the "courageous and controversial commitment to the finest traditions of journalism: justice through transparency".

Assange joined the Walkleys ceremony by videolink from London, striking a sombre tone. "Our lives have been threatened, attempts have been made to censor us, banks have attempted to shut off our financial lifeline," he told the gathering. "Censorship in this manner has been privatised. Powerful enemies are testing the water to see how much they can get away with, seeing how they can abuse the system that they've integrated with to prevent scrutiny." His speech on that long-distant awards night later assumed a mournful prescience. "Well, the answer is: they can get away with too much."

In December 2012, in London's posh Knightsbridge district, I joined Julian Assange and a handful of family and friends in the Ecuadorian embassy for a strange Christmas in exile. I'd first met Assange more than a year earlier, in the final months of legal skirmishing prior to the government of Ecuador accepting that "retaliation by the country or countries that produced the information ... may endanger [his] safety, integrity, and even his life". A long white van packed with surveillance equipment was parked in the street outside; it was confronting to make eye contact with uniformed officers in the adjacent building when I drew the curtains back for a moment. Sitting directly in the focal range of the most powerful military intelligence agencies in the world was an experience I was only just beginning to get my head around: for Assange, his team and the embassy staff, that was their life now.

By then we'd spent a year trying to wrench some flicker of interest out of the Australian government using the various tools a Senate crossbencher can bring to bear. Media work, speeches, motions, direct approaches to ministers, long late-night sessions in budget estimates committee hearings. Prime Minister Julia Gillard declared the WikiLeaks website "illegal" before being contradicted by the Australian Federal Police. Attorney-general Robert McClelland floated the idea of revoking Assange's passport until that idea was scotched by foreign minister Kevin Rudd.

It was a shit-show.

Subsequent government messaging quickly coagulated around two key lines: “We are confident that Mr Assange will receive due process in any legal proceedings”, and “Mr Assange is receiving consular assistance, as is the right of any Australian citizen”. Consular assistance – as though he’s some backpacker in Bali with a lost passport – and due process within the unimpeachable British legal system. Successive prime ministers have played this dead bat as governments have come and gone; all the while the walls slowly closed in around Assange.

“If you want to tell people the truth, make them laugh, otherwise they’ll kill you,” Oscar Wilde once advised. In his public appearances Assange can present as articulate and hyper-focused, as someone who chooses words with great care, but not always as someone who’d make you laugh. This earnest disposition has been warped out of all recognition in an endless series of lurid documentaries, tell-all books and tabloid hit-pieces painting him anywhere along the spectrum from inscrutable cyber-savant to high-tech Bond villain. In person it was a relief to discover Julian Assange to be warm, thoughtful and bloody funny.

This is only worth mentioning because for more than a decade Assange and those around him have been subjected to a systematic campaign of reputational mutilation. In 2011 an appalling pitch deck carrying the logos of Palantir Technologies, HBGary Federal and Berico Technologies was leaked to WikiLeaks. In here we find the basic plan: “Feed the fuel between the feuding groups. Disinformation. Create messages around actions to sabotage or discredit the opposing organisation. Submit fake documents and call out the error ... Media campaign to push the radical and reckless nature of wikileaks activities. Sustained pressure. Does nothing for the fanatics, but creates concern and doubt among moderates.”

Private security contractor Stratfor added this advice – also subsequently leaked – in 2012: “Pile on. Move him from country to country to face various charges for the next 25 years.”

Even as these suggestions were being made, allegations of sexual misconduct in Sweden were reactivated against Assange, forming the basis of nine years of “preliminary investigation”. The surreal procedural delays and unexplained obstructions by the UK’s Crown Prosecution Service would eventually be ruled as a form of “arbitrary detention” by the United Nations Working Group on Arbitrary Detention. No charges were ever laid.

Nils Melzer is the United Nations special rapporteur on torture: it is his job to call to account the worst humanity can do. In May 2019 he visited Assange in Belmarsh prison, after the Australian’s removal from the embassy, with two medical professionals trained in assessing victims of torture and ill-treatment. “In 20 years of work with victims of war, violence and political persecution,” he said, “I have never seen a group of democratic states ganging up to deliberately isolate, demonise and abuse a single individual for such a long time and with so little regard for human dignity and the rule of law.

“It was obvious that Mr Assange’s health has been seriously affected by the extremely hostile and arbitrary environment he has been exposed to for many years,” Melzer bluntly concluded. “Mr Assange has been deliberately exposed, for a period of several years, to progressively severe forms of cruel, inhuman or degrading treatment or punishment, the cumulative effects of which can only be described as psychological torture.”

Long-time friend of Assange and Australian activist Felicity Ruby was named as a surveillance target by CIA contractor UC Global, currently before the Spanish courts for spying on Assange during his long years of limbo in the embassy. She recalls visiting him in 2019: “Being inside the Belmarsh dungeon for less than two hours still haunts me today. After weeks of waiting to get on the list, I got the privilege of being fingerprinted twice, my mouth and ears searched before passing through corridors, gates, razor wire and mesh, to finally arrive to a room full of plastic chairs – green for the prisoners, blue for the visitors opposite. Belmarsh was designed for sensory deprivation and torment and it’s working; he is wasting away in that COVID-infested cage.”

The adept campaign to divert attention away from the content of the WikiLeaks publications to focus on the character of the publishers has now mutated into something truly menacing.

Jennifer Robinson describes how the process itself slowly becomes the punishment. “If we fail in fighting his extradition, he will be sent to the United States where there will be a criminal trial, there will be appeals all the way to the Supreme Court, which could take another 10 years or more in the end to be proven right in a case that should never have been brought.

“They are punishing him by putting him through these processes, which have been inherently unfair and abusive, and have been dragged out over years and years.”

US National Security Agency whistleblower Edward Snowden concurs, warning of the risk that Assange will “remain in prison indefinitely while the [Department of Justice] endlessly files meritless appeals out of spite”.

Stella Moris is blunt when I ask how her partner is holding up. “He’s suffering,” she says. “It’s a daily struggle, to wake up and not know when and how it’s going to end. Julian’s incredibly strong and draws strength from knowing that he’s on the right side of history, that he’s being punished for doing the right thing. He’s a fighter, but no person would remain unaffected by this progressive closing in on him, trying to break him in every respect.”

Assange has now been under some form of house arrest, political asylum or imprisonment for 11 years. Electronic ankle bracelets and long white vans have given way to solitary confinement in a freezing maximum-security prison. “I’m slowly dying here,” he told friend Vaughan Smith in a rare phone call on Christmas Eve 2020.

The Westminster Magistrates’ Court agrees. Continuing down this oppressive path is going to kill Julian Assange.

Yet within days of her judgement the same magistrate refused bail while US authorities considered their appeal options, leaving Assange still trapped in a cell.

“Due process,” recite dead-eyed Australian officials when invited to comment on this slow-motion assassination. “Consular assistance.”

There’s a reason why the previous US administration, in which Joe Biden served as vice president, had stopped short of laying charges. Matthew Miller, an official in Barack Obama’s Department of Justice, explained in a 2017 interview that they called it the “*New York Times* problem”: “How do you prosecute Julian Assange for publishing classified information and not *The New York Times*?”

In 2017 Jennifer Robinson was present in the Ecuadorian embassy in London when Republican congressman Dana Rohrabacher and Donald Trump associate Charles Johnson arrived to make Assange an offer: give up the source of the 2016 leaks detailing a compromised nomination process within the Democratic National Committee, in exchange for a “pardon, assurance or a commitment” to end the investigation into WikiLeaks.

“They said that President Trump was aware of and had approved of them coming to meet Mr Assange to discuss a proposal,” Robinson testified to the extradition hearings in 2020.

Assange refused to burn his source. And for the Trump administration, *The New York Times* winding up as collateral damage in a WikiLeaks prosecution no longer seemed like a deal-breaker. With a green light from a more compliant regime in Ecuador than the one that had offered shelter back in 2012, Metropolitan Police was given the go-ahead: after weeks of rumour and media speculation, Assange was ripped from the embassy and bundled into a van with a copy of Gore Vidal’s *History of the National Security State* in hand.

With the subsequent unsealing of the indictments relating to the Chelsea Manning leaks, president Trump’s rhetorical war on the press abruptly transformed into a legal one. “Obtaining and publishing information that the government would prefer to keep secret is vital to journalism and democracy,” wrote Dean Baquet, executive editor of *The New York Times*, in 2019. “The new indictment is a deeply troubling step toward giving the government greater control over what Americans are allowed to know.”

Fast forward to June 2021: in an astonishing and under-reported development, the US government’s star witness suddenly blows a huge hole in the prosecution’s case. Convicted child molester and embezzler Sigurdur Thordarson confesses to an Icelandic newspaper that key parts of his evidence were made up. The government’s central argument, that Assange secured classified material through solicitation and conspiracy to commit computer intrusion, is based on testimony that Thordarson now admits was bullshit.

“This is the end of the case against Julian Assange,” Snowden tweets.

“Enough information has emerged to show how hollow and political the entire case is,” Kristinn Hrafnsson tells me. This old-school investigative journalist, who cut his teeth in the Icelandic print and broadcast sector, threw his hand in with WikiLeaks in 2010 to help steer the release of “Collateral

Murder”. Since 2018 he’s been the organisation’s editor-in-chief. “The pressure on the Biden administration to overturn the Trump legacy and drop the case is mounting.”

Trump and his appointees are gone, but the “*New York Times* problem” is no longer a hypothetical. An unprecedented alliance of media unions, press freedom advocates and global human rights organisations has now mobilised to urge Biden and his new attorney general, Merrick Garland, to drop the appeal. In February 2021, an open letter to the incoming administration was signed by Amnesty International, Human Rights Watch, Reporters Without Borders, the American Civil Liberties Union and a dozen other high-profile organisations. “We share the view that the government’s indictment of [Assange] poses a grave threat to press freedom both in the United States and abroad,” the letter reads. “The indictment of Mr. Assange threatens press freedom because much of the conduct described in the indictment is conduct that journalists engage in routinely.”

Here in Australia, an unlikely alliance is bringing heightened pressure to bear on the federal government to move beyond empty promises of consular assistance. “The case against Assange has always been politically motivated with the intent of curtailing free speech, criminalising journalism and sending a clear message to future whistleblowers and publishers that they too will be punished if they step out of line,” the federal president of the Media, Entertainment and Arts Alliance, Marcus Strom, said in a statement. Assange has been a member of the media union since 2007, but the MEAA isn’t a lone voice within the trade union movement.

“The charges against Assange relate entirely to his work, which brought to light serious war crimes committed by the US military in Iraq,” reads a March 2021 resolution passed by the Australian Council of Trade Unions. “Continuing to prosecute him for this work constitutes an attack on journalists, journalism and the public right to know. We urge the Australian Government to do all in its power to lobby US authorities to end their prosecution.”

The ACTU represents nearly two million Australian working people across 36 affiliated unions. It’s an organisation that rarely finds itself on the same side of an argument as Deputy Prime Minister Barnaby Joyce. Nonetheless, here we are. “So what exactly are you going to extradite Julian Assange – a citizen of Australia – to the United States for?” Joyce asked rhetorically on a live TV cross. “For the actions of a third party ... who gave him information which he then published? Surely that is no different to the newspapers who then published what was on WikiLeaks. Maybe they should all go to the United States to be tried under US law? I mean, where does this one stop?”

Joyce is a longstanding member of the Bring Julian Assange Home Parliamentary Group, a formal alliance of cross-party parliamentarians co-chaired by a former Office of National Assessments whistleblower, independent MP Andrew Wilkie. Early in 2021 representatives of the group met with Michael Goldman, chargé d’affaires at the US embassy in Canberra, to press the case. “The US’s pursuit of Mr Assange is obviously not in the public interest and must be dropped,” Wilkie said in a statement after the meeting.

“Where there is courage there is hope,” Greens Senator Peter Whish-Wilson wrote online. “We are building a campaign to bring Assange home.” At last, the campaign has spread beyond the crossbench, with fiery ALP backbencher Julian Hill setting the tone in parliament: “He has been locked up and confined for years, facing extradition to the US and an effective death sentence, on trumped-up, politically motivated charges ... treated worse than those responsible for America’s war crimes in Iraq and Guantanamo Bay, which he and WikiLeaks exposed.”

It appears the ALP leadership is listening. “Enough is enough,” Opposition Leader Anthony Albanese told a caucus meeting in February 2021. A resolution from the ALP national conference a month later confirmed: “Labor believes it is now time for this long drawn out case against Julian Assange to be brought to an end.”

This rare break in bipartisanship is one sign among many that establishment politicians are finally hearing the message. A strange accord of Greens, independents, Labor MPs and the Nationals deputy prime minister is now on the same page as grassroots organisers, the trade union movement, Amnesty International and Human Rights Watch. Enough is enough.

“My message to other journalists,” Hrafnsson tells me, “is that you need to take note and take action, because it is in your interest to fight this case. This is not limited to the interests of Julian Assange or WikiLeaks: it will have an effect on the work journalists do in general, all over the world.”

Hundreds of grassroots actions have sparked up around the world as the magnitude of what’s at stake has caught the public imagination. The 2021 “Home Run for Julian” speaking tour gave Assange’s father, John Shipton, the opportunity to meet with curious crowds in dozens of towns across Victoria, New South Wales and Queensland.

Yet a decade on from the Walkley awards night, the horizon of “justice through transparency” has darkened. The architects of the invasion of Iraq and Afghanistan – Bush, Blair and Howard – are free men, celebrated as elder statesmen against a backdrop of hundreds of thousands of dead men, women and children. The Australian Federal Police raided the ABC headquarters and the home of then News Corp journalist Annika Smethurst, hunting the sources of stories on war crimes in Afghanistan and expanded military surveillance of every one of us. Julian Assange turned 50 in July; the whole time you’ve been reading this article, he’s been in isolation in a maximum-security prison, locked in tortuous appeals and counter-appeals with no end in sight.

“The Australian government holds the key to Julian’s prison cell,” Stella Moris tells me on a late-night call from London. “If the Australian government intervened on Julian’s behalf, this would end. It can be reversed by popular pressure, and by pressure from Julian’s colleagues in the media, by constantly drawing attention to the fact that an innocent man is being persecuted for exposing state crimes.”

“Knowing you are out there fighting for me keeps me alive in this profound isolation,” wrote Assange in a letter to a supporter in 2019.

Transparency alone isn't enough to ensure justice. It's going to take a fight.

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