

Forum:	International Court of Justice
Issue:	The Extradition of Julian Assange (United Kingdom V. Ecuador)
Student Officer:	Anas Soliman (ICJ President), Zeina Gohar (ICJ Chair)

I- Introduction

Since June of 2012, Julian Assange's extradition case has been notorious for being one of the most controversial legal and political disputes, given the nature of the numerous parties involved. Julian Assange is an Australian journalist and publisher, mostly renowned for being the founder and editor of WikiLeaks¹, a non-profit organization that facilitates the anonymous leakage of information and the exposition of wrongdoing².

In 2010, during his trip to Sweden, it was reported that Julian Assange sexually assaulted two Swedish women¹. After his return to the UK, Swedish prosecutors issued a European Arrest Warrant, which was certified by the Serious Organized Crime Agency, the SOCA, demanding Assange's extradition and return to Sweden in order to proceed with the investigations¹.

Since the establishment of WikiLeaks, the organization has been releasing secret and classified documents belonging or pertaining to the United States government¹, which have caused it great embarrassment. Subsequently, the US government initiated a criminal investigation, which targeted Assange with espionage charges¹. Moreover, the US military has officially labeled Julian Assange as a wanted individual and an "enemy of the United States"³. The United States and Sweden share an extradition treaty, which means that Assange is under the threat of extradition to the United States if he is extradited to Sweden⁴. Escaping a threat of eventual extradition to the United States, Assange sought political asylum in the embassy of Ecuador in the UK, which he was granted finding that he "could at any moment find himself in a situation likely to endanger life, safety or personal integrity"¹.

Through its application to the ICJ, the United Kingdom seeks to confirm that Assange is not a political refugee and that his political asylum has no legal foundations, thus authorizing his extradition to Sweden. On the other hand, Ecuador aims to confirm that Assange's Human rights are severely threatened, therefore justifying his blatant recognition as a political refugee, in order facilitate his safe passage out of the UK.

II- Definition of Key Terms

Refugee: A refugee is someone who "owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality, and is unable to, or owing to such fear, is unwilling to avail himself of the protection of that country."⁵

European Arrest Warrant: The European arrest warrant is a judicial decision valid throughout all member states of the European Union "issued by a Member State with a view to the arrest and surrender by another Member State of a requested person, for the purposes of conducting a criminal prosecution or executing a custodial sentence or detention order."⁶

¹ "Extraditing Assange." *Justice For Assange*. Justice4assange.com, Web. 8 July 2014

² "About WikiLeaks." *WikiLeaks*. Wikileaks.org, 5 July 2011. Web. 12 July 2014

³ Dorling, Philip. "US Calls Assange 'enemy of State'" *The Sydney Morning Herald*. Web. 12 July 2014

⁴ Baker, Scott, David Perry, and Anand Doobay. "A Review Of The United Kingdom's Extradition Arrangements." n. pag. *Gov.uk*. 30 Sept. 2011. Web. 12 July 2014

⁵ "Refugees." *UNHCR*. Web. 09 July 2014

⁶ "Law No. 65/2003 of 23 August." *Portuguese Legislation in English*. GDDC, Web. 12 July 2014

WikiLeaks: WikiLeaks is a non-profit organization, which has a “goal to bring important news and information to the public”, and provides an “innovative, secure and anonymous way for sources to leak information to the organization’s journalists.”⁷

Extradition: “The surrender of an alleged criminal usually under the provisions of a treaty or statute by one authority (as a state) to another having jurisdiction to try the charge.”⁸

Journalist: “A person engaged in journalism, who is a writer or editor for a news medium and aims at a mass audience.”⁹

Political Asylum: The protection granted by a nation to someone who has left their native country as a political refugee.

III- Background Information

Julian Assange is an Australian journalist and activist that has aroused great concern among numerous governments since he initiated the WikiLeaks organization in 2007¹⁰. WikiLeaks is an international, online, non profit organization dedicated to bringing “important news and information to the public”. The WikiLeaks organization has disclosed hundreds of classified information and published thousands of secret government documents in order to achieve its purpose of bringing truth and information to the public. The WikiLeaks website has published more than 1.2 million documents just within a year of its initiation¹¹.

Assange’s organization met hostile responses from governments all around the world. In 2009, the Australian Communications and Media Authority added WikiLeaks to the list of sites to be banned after the implementation of its mandatory Internet filtering scheme¹².

The United States government openly condemned the actions of WikiLeaks and the Obama administration along with the U.S. Army, Federal Bureau of Investigation and the U.S. Department of Justice have pursued personal legal actions towards Assange. The Obama administration is attempting to bring him to court on grounds that his organization “encourages the theft of government property”¹³. The US government has reportedly asked other parties such as the UK, Germany and Australia to limit his travel across international borders and consider bringing him to international court.

WikiLeaks and its founder did however gain much support from other countries and even the United Nations. Following Assange’s arrest in the UK in 2010, Brazil’s President, Luiz Inacio Lula da Silva, expressed his solidarity with Assange and his organization, and went on to state that an attack on Assange or any volunteers or employees of his organization is an “attack on freedom of expression”¹⁴.

Later that year, the government of Ecuador offered Assange residency in Ecuador so he may freely publish the information his organization possesses with no fear of arrest or surveillance, according to

⁷ "About WikiLeaks." *WikiLeaks*. Wikileaks.org, 5 July 2011. Web. 12 July 2014

⁸ "Definition of Extradition." *Merriam Webster*. Web. 12 July 2014

⁹ "Definition of Journalist." *Merriam Webster*. Web. 12 July 2014

¹⁰ "About WikiLeaks." *WikiLeaks*. Wikileaks.org, 5 July 2011. Web. 12 July 2014

¹¹ "WikiLeaks Introduction." *WikiLeaks.org*. Web. 12 July 2014

¹² "Australia Secretly Censors Wikileaks Press Release." *WikiLeaks.org*. Web. 12 July 2014

¹³ Freeman, Colin. "Rape Claim against Wikileaks Founder Julian Assange Withdrawn." *Telegraph.co.uk*. 21 Aug. 2010. Web. 12 July 2014

¹⁴ "President Lula Shows Support for Wikileaks (English/EspaÑol/Italiano Subtitles)." *YouTube*. Web. 12 July 2014

Ecuador's Deputy Foreign Minister, Kinto Lucas. However, President Rafael Correa later forfeited the offer to Assange and refuted Lucas's statements¹⁵.

The United Nations Special Rapporteur for Freedom of Opinion and Expression, Frank LaRue, agreed that Assange was a "martyr of free speech" and he later expressed that neither Assange nor his respective coworkers should be held accountable for any of the disclosed information, rather it is the sources that leaked the information that should be held accountable by the entities to which they pertain to¹⁶.

In mid August 2010, Assange was charged by the Swedish authorities for the sexual assault of two Swedish women¹⁷. Swedish authorities issued a European Arrest Warrant, requesting that the journalist returns to Sweden immediately for questioning regarding the sexual assault allegations. This arrest warrant was later certified by the United Kingdom Serious Crime Agency. The following day, Assange peacefully surrendered to British police, pleading innocence.

In February 2011, a hearing took place before the Chief Magistrate of England and Wales. The European Arrest Warrant was labeled as valid and after two unsuccessful appeals the Supreme Court of the United Kingdom released a statement in 2012 admitting the United Kingdom's legal obligation to extradite Assange to Sweden for questioning¹⁸.

On 19 June 2012, Assange sought diplomatic asylum in the Ecuadorian embassy in London, where he has remained since. UK government officials have stated that Assange will be arrested and immediately extradited to Sweden once he steps foot outside the doors of the embassy¹⁹.

In late November 2010, WikiLeaks released a total of 251,000 diplomatic cables. Subsequently, the United States Department of Justice launched a full-scale criminal investigation on Assange²⁰. The publication of the government documents unleashed great chaos and outrage in America. In December 2010 Michael Huckabee, the 44th Governor of Arkansas and formal presidential candidate, called for the assassination of Julian Assange²¹.

The United States seeks to prosecute Assange in American court under the Espionage Act of 1917 for colluding with Chelsea Manning²², the US military official that illegally extracted the 251,000 documents that were published by WikiLeaks.

If found guilty, Assange could face conviction or even a death penalty. However, the grounds on which the US wishes to prosecute Assange are still debated and they might not be enough for the court to find the accused guilty. Furthermore, the United States has not yet submitted an official extradition request, nor is it clear in the extradition treaty it has with Sweden. Whether Sweden would have the rights to extradite Assange to the US under the extradition treaty also remains unclear.

In order to bring an end to the case of the internationally wanted Julian Assange, the United Kingdom has applied to the United Nation's International Court of Justice to determine whether Ecuador's diplomatic

¹⁵ "Ecuador Offers Asylum to WikiLeaks Founder." *The Jerusalem Post*. 30 Nov. 2011. Web. 12 July 2014

¹⁶ Hall, Eleanor. "The World Today with Eleanor Hall." *The World Today*. Web. 12 July 2014

¹⁷ Davies, Nick. "10 Days in Sweden: The Full Allegations against Julian Assange." *The Guardian*. Guardian News and Media, 18 Dec. 2010. Web. 10 July 2014

¹⁸ Green, David A. "The Legal Mythology of the Extradition of Julian Assange." *New Statesman*. 3 Sept. 2012. Web. 12 July 2014

¹⁹ Davies, Lizzy, and Jo Adetunji. "Julian Assange Granted Asylum by Ecuador - as It Happened." *Theguardian.com*. Guardian News and Media, 16 Aug. 2012. Web. 12 July 2014

²⁰ "Extraditing Assange." *Justice For Assange*. Justice4assange.com, Web. 8 July 2014

²¹ Collins, Nick. "WikiLeaks: Guilty Parties 'should Face Death Penalty'" *Telegraph.co.uk*. 1 Dec. 2012. Web. 12 July 2014

²² Kohn, Stephen M. "A Sad Day for the US If the Espionage Act Is Used against WikiLeaks." *Theguardian.com*. Guardian News and Media, 15 Dec. 2010. Web. 12 July 2014

asylum has proper legal foundations, in reference to the Convention and Protocol on the Status of Refugees, thus determining if Ecuador is under a legal obligation to surrender Assange to British custody in order to facilitate the UK's obligation of extraditing him to Sweden.

IV- Major Parties Involved

The United Kingdom

The United Kingdom Serious Crime Agency validated the European Arrest Warrant issued by Sweden and admitted its obligation to turn Assange over to Swedish authorities in December 2010. The following day, London police arrested the accused after he peacefully turned himself over to a local police station, pleading his innocence²³.

In February of 2011 the European Arrest Warrant was officially certified at a hearing before the Chief Magistrate of England and Wales. The judgment was unsuccessfully appealed twice. In June of 2012, the Supreme Court of the United Kingdom released a statement admitting the United Kingdom's duty to hand Assange over to Swedish authorities.

On the 19th of June 2012, Julian Assange sought asylum in the Embassy of Ecuador in London, where he has remained until today. London Metropolitan police forces surrounded the embassy and have also remained stationed there ever since. British authorities could state no clearer that police will arrest Assange once he steps foot outside the premises of the embassy.

Shortly before the Ecuadorian embassy granted the wanted man safe asylum, British authorities threatened to invade the embassy's premises to arrest Assange, violating the terms of the Vienna Conventions and dismissing the building's diplomatic status. This threat was however withdrawn after it met great international condemnation and disapproval²⁴.

The Republic of Ecuador

Ecuador, upholding its duty to protect individuals' "freedom of expression" as explained by foreign minister Ricardo Patino²⁵, continues to grant Julian Assange political asylum. Assange entered the Ecuadorian embassy, located on British territory, on the 19th of June 2012, seeking asylum, given his fears of persecution by the United States government and Swedish authorities.²⁶ On the following August the 16th, Ecuador announced that Assange's fears of persecution were well-founded, thus officially granting him political and diplomatic asylum.²³

Ecuador cited that Assange's indictment for crimes of a political nature is the basis of his request, and that Ecuador finds that he, as a result of his dedicated defense of freedom of expression and press, is facing a situation involving an imminent danger of political persecution, which could eventually violate his rights, integrity and could become a risk to his personal safety.²⁷ The Constitution of the Republic of Ecuador clearly recognizes the right of asylum and its "extradition laws prevent the extradition of any person whose life or safety could suffer as a result of the extradition"²⁷. Thus, Ecuador maintains that it is not in violation of the Extradition Treaty between the UK and itself, given that it regards Assange as a political refugee whom is no longer eligible for extradition.

Ecuador continues its efforts to protect Assange's rights by not allowing him to be extradited to Sweden "without adequate safeguards against US threat"²⁴. As long as Sweden continues its refusal to provide such safeguards, Ecuador finds itself obligated to shelter Assange as a political victim and refugee, thus refusing to hand him in to the British authorities.

²³ "Wikileaks' Assange Refused Bail." *BBC News*. 8 Dec. 2012. Web. 12 July 2014

²⁴ "Extraditing Assange." *Justice For Assange*. Justice4assange.com, Web. 8 July 2014

²⁵ "Ecuador to Continue Assange Asylum." *BBC News*. 17 June 2013. Web. 12 July 2014

²⁶ "Extraditing Assange." *Justice For Assange*. Justice4assange.com, Web. 8 July 2014

²⁷ "Ecuador Grants Asylum to Julian Assange. (Press Conference)." *WikiLeaks.org*. 17 Aug. 2012. Web. 12 July 2014

Kingdom of Sweden

In 2010, Swedish authorities came across evidence proving that the founder of WikiLeaks had sexually assaulted two Swedish citizens. An investigation was launched and authorities issued a European Arrest Warrant, demanding the accused's immediate return to Sweden for questioning²⁸. The investigation is forcibly put on hold, as Swedish authorities await Assange's return until today.

Sweden shares extradition treaties with both the United Kingdom and the United States of America. Under the terms of the treaty with the United Kingdom, it is clearly nonnegotiable that the UK is legally obligated to extradite Assange to Sweden, as under the terms of the European Arrest Warrant²⁹.

Sweden's extradition treaty with the United States however is what sparks controversy. Under the terms of the treaty, the assertion that Sweden is under legal and international obligation to extradite Assange to the US is doubted³⁰. This is due to many reasons that are clearly presented within the clauses of the treaty.

United States of America

Since the establishment of Julian Assange's non-profit organization, WikiLeaks, secret and classified documents belonging or pertaining to the United States government have been released³¹, causing it great embarrassment. In 2010, Assange oversaw the largest publication of over half a million documents from the Pentagon and US State Department, which included precise details elucidating the deaths of thousands in Iraq and Afghanistan.³¹ Consequently, the US government initiated a criminal investigation, which targeted Assange and his associates with espionage charges³¹.

The United States government openly condemned the actions of WikiLeaks, and the Obama administration along with the U.S. Army, FBI and the U.S. Department of Justice have pursued personal legal actions towards Assange. Moreover, the US military has officially labeled Julian Assange as a wanted individual and an "enemy of the United States"³².

Even though the United States has not yet issued an extradition request, Assange fears his eventual extradition to the United States. Assange is in danger of facing charges including espionage under the Espionage Act, which could eventually result in a death penalty, if it is within jurisdiction. Also, the United States and Sweden share an extradition treaty, which means that Assange is under the threat of extradition to the United States if he is extradited to Sweden³³. However, no official charges or extradition requests have been filed by the United States against Assange.

²⁸ Davies, Nick. "10 Days in Sweden: The Full Allegations against Julian Assange." *The Guardian*. Guardian News and Media, 18 Dec. 2010. Web. 10 July 2014

²⁹ Green, David A. "The Legal Mythology of the Extradition of Julian Assange." *New Statesman*. 3 Sept. 2012. Web. 12 July 2014

³⁰ "Extradition for Criminal Offences." *Swedish Government*. Web. 12 July 2014

³¹ "Extraditing Assange." *Justice For Assange*. Justice4assange.com, Web. 8 July 2014

³² Dorling, Philip. "US Calls Assange 'enemy of State'" *The Sydney Morning Herald*. Web. 12 July 2014

³³ Baker, Scott, David Perry, and Anand Doobay. "A Review Of The United Kingdom's Extradition Arrangements." n. pag. *Gov.uk*. 30 Sept. 2011. Web. 12 July 2014

V- Important Events & Chronology

Date (Day/Month/Year)	Event
4 October 2006	Julian Assange launches WikiLeaks in Iceland.
20 August 2010	Following reports of rape and molestation, Swedish prosecutors order the arrest of Assange.
26 August 2010	The prosecutor pursuant to the Council of the European Union issues a European Arrest Warrant.
28 August 2010	WikiLeaks issues more than 250,000 US diplomatic cables, which is regarded as a “serious damage to national US security”.
6 October 2010	The UK Serious Organized Crime Agency certifies the European Arrest Warrant.
19 June 2012	Assange enters the Ecuador’s embassy in London.
20 June 2012	British police forces surround the Ecuadorian embassy, where they have remained since.
26 August 2012	Ecuadorian government officially grants Assange political and diplomatic asylum granted by the Ecuadorian Embassy

VI- Related Documents

Vienna Convention on Diplomatic Relations

The Vienna Convention on Diplomatic Relations provides an overview of the structure for diplomatic relations between sovereign countries and it encompasses the certain freedoms of a diplomatic mission. This document preserves the concept of diplomatic immunity. 189 States are parties to this convention.

Organization of American States (OAS) Convention of Diplomatic Asylum 1954

As the right to diplomatic asylum is not established in international law, the Organization of American States Convention on Diplomatic Asylum is regarded as the only treaty in the world that addresses the concept of diplomatic asylum. The convention was an attempt in 1954 by Latin American countries to recognize the right to diplomatic asylum as a principle of international law. Ecuador is one of 14 signatories of this treaty, and this treaty heavily influences its foreign and diplomatic affairs. The fact that neither the United Kingdom nor Sweden is bound to this treaty, questions either party’s legal obligation to respect or even recognize Ecuador’s grant of asylum to subjects such as Julian Assange.

Convention and Protocol Relating to the Status of Refugees

The Convention Relating to the Status of Refugees (CRSR) is a United Nations multilateral treaty that defines a refugee, the rights of a refugee that is granted asylum and the responsibilities of any nation that provides asylum.

Bilateral Extradition Treaty of 1880 Between UK and Ecuador

The extradition treaty the UK and Ecuador are dually bound to outlines the foundation of extradition between the two entities. The treaty respects the OAS Convention of Diplomatic Asylum and its terms that the United Kingdom is not bound to, which causes controversy between the two parties. It is also noteworthy that the treaty denotes that Ecuador is one of few nations that do not extradite their own nationals.

Convention on Extradition Between The United States of America and Sweden

This document provides the terms of the Extradition Treaty between the United States and Sweden. It is a document that causes debate regarding the duty of Sweden to extradite Julian Assange to the United States, as it is argued that the terms of the convention exclude the case of Julian Assange.

Council Framework Decision on the European Arrest Warrant and the Surrender Procedures Between Member States

This Council Framework Decision of 13 June, 2002 provides an encompassing understanding of the European Arrest Warrant including the definition, scope, and obligation to execute the warrant. It also includes the grounds for optional and mandatory non-execution of the warrant as well as the procedures to be taken during the surrender of an extradited individual from one entity to another. This document specifies the basis on which the United Kingdom should extradite individuals to nations part of the European Union.

VII- Useful Links

1. <http://www.government.se/sb/d/2710/a/15435>
2. <https://www.gov.uk/extradition-processes-and-review>
3. [http://www.unog.ch/80256EDD006B8954/\(httpAssets\)/7F83006DA90AAE7FC1256F260034B806/\\$file/Vienna%20Convention%20\(1961\)%20-%20E.pdf](http://www.unog.ch/80256EDD006B8954/(httpAssets)/7F83006DA90AAE7FC1256F260034B806/$file/Vienna%20Convention%20(1961)%20-%20E.pdf)
4. <http://www.oas.org/juridico/english/treaties/a-46.html>
5. <http://www.unhcr.org/3b66c2aa10.html>
6. <http://internationalextraditionblog.files.wordpress.com/2010/12/us-sweden-extradition-treaty-14-ust-1845.pdf>
7. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/117680/european-arrest-warrant.pdf
8. <http://justice4assange.com/extraditing-assange.html#UKVETO>

VIII- Bibliography

- "About WikiLeaks." *WikiLeaks*. Wikileaks.org, 5 July 2011. Web. 12 July 2014
- "Australia Secretly Censors Wikileaks Press Release." *WikiLeaks.org*. Web. 12 July 2014
- Baker, Scott, David Perry, and Anand Doobay. "A Review Of The United Kingdom's Extradition Arrangements." n. pag. *Gov.uk*. 30 Sept. 2011. Web. 12 July 2014
- Collins, Nick. "WikiLeaks: Guilty Parties 'should Face Death Penalty'" *Telegraph.co.uk*. 1 Dec. 2012. Web. 12 July 2014
- Davies, Lizzy, and Jo Adetunji. "Julian Assange Granted Asylum by Ecuador - as It Happened." *Theguardian.com*. Guardian News and Media, 16 Aug. 2012. Web. 12 July 2014

- Davies, Nick. "10 Days in Sweden: The Full Allegations against Julian Assange." *The Guardian*. Guardian News and Media, 18 Dec. 2010. Web. 10 July 2014
- "Definition of Extradition." *Merriam Webster*. Web. 12 July 2014
- "Definition of Journalist." *Merriam Webster*. Web. 12 July 2014
- Dorling, Philip. "US Calls Assange 'enemy of State'" *The Sydney Morning Herald*. Web. 12 July 2014
- "Ecuador Grants Asylum to Julian Assange. (Press Conference)." *WikiLeaks.org*. 17 Aug. 2012. Web. 12 July 2014
- "Ecuador Offers Asylum to WikiLeaks Founder." *The Jerusalem Post*. 30 Nov. 2011. Web. 12 July 2014
- "Ecuador to Continue Assange Asylum." *BBC News*. 17 June 2013. Web. 12 July 2014
- "Extraditing Assange." *Justice For Assange*. Justice4assange.com, Web. 8 July 2014
- "Extradition for Criminal Offences." *Swedish Government*. Web. 12 July 2014
- Freeman, Colin. "Rape Claim against Wikileaks Founder Julian Assange Withdrawn." *Telegraph.co.uk*. 21 Aug. 2010. Web. 12 July 2014
- Green, David A. "The Legal Mythology of the Extradition of Julian Assange." *New Statesman*. 3 Sept. 2012. Web. 12 July 2014
- Hall, Eleanor. "The World Today with Eleanor Hall." *The World Today*. Web. 12 July 2014
- Kohn, Stephen M. "A Sad Day for the US If the Espionage Act Is Used against WikiLeaks." *Theguardian.com*. Guardian News and Media, 15 Dec. 2010. Web. 12 July 2014
- "Law No. 65/2003 of 23 August." *Portuguese Legislation in English*. GDDC, Web. 12 July 2014
- "President Lula Shows Support for Wikileaks (English/EspaÑol/Italiano Subtitles)." *YouTube*. Web. 12 July 2014
- "Refugees." *UNHCR*. Web. 09 July 2014
- "Wikileaks' Assange Refused Bail." *BBC News*., 8 Dec. 2012. Web. 12 July 2014
- "WikiLeaks Introduction." *WikiLeaks.org*. Web. 12 July 2014.