



Written by [Joe Wolverton, II, J.D.](#) on April 16, 2023

Anniversary of the Indictment of Julian Assange: Freedom and the First Amendment

Although explicitly protected by the First Amendment to the U.S. Constitution, the right to a free press has been repeatedly denied by the federal government.

One of the most unconscionable examples of this is the case of Julian Assange, founder of Wikileaks, who has been imprisoned in England since 2019 and has been in some form of imprisonment since 2012.

Four years ago this week the United States government sought to arrest Assange, charging him with violation of the Espionage Act of 1917 and accusing him of having possessed and published state secrets.



AP Images
Julian Assange in 2011

Here's a history of the Espionage Act published by the Electronic Frontier Foundation that should provide a sufficient context for the current criminal case the U.S. government is building against Assange:

Signed into law on June 15, 1917, the Espionage Act 18 U.S.C. § 792 et seq., was Congress's response to a fear that public criticism of U.S. participation in World War I would impede the conscript of soldiers to support the war effort and concerns about U.S. citizens undermining the war effort by spying for foreign governments. Although some parts of the law were repealed, many remain in effect 100 years later.

Most pertinent today, the law criminalizes both the disclosure and receipt of certain national security information. As a result, the Espionage Act remains the most common grounds upon which leakers of US governmental information are prosecuted.

To date, however, the United States has never sought to prosecute a journalistic entity under the Espionage Act for either receiving secret government documents from a source or further disseminating the documents themselves or information from them in the course of reporting. As it is written — and how it is being applied in the case against Julian Assange — there is nothing in the language of the Espionage Act that would prevent its use against a news organization, or against an individual who shares the Wikileaks documents on social media! That's not an exaggeration.

Anyone who believes that the act being deployed against individuals sharing Wikileaks documents online is hyperbole for journalistic effect should understand that prior to the Assange case, it had been unofficially accepted that the Espionage Act would not be applied to the press. That unwritten rule has now been violated, and one can foresee that its being applied to an individual is on the horizon, as well.

The fact of the matter is that Julian Assange did not pass state secrets to an enemy of the United States; he passed evidence of corruption to the public. Given the Biden administration's persisting in the



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prosecution of Assange, the public must now be the enemy of the government of the United States.

Therefore, any American who identifies himself as a friend to freedom and to the Constitution that protects it should agree with the position that the press should never be stifled by the government, that the Espionage Act as written is a violation of the First Amendment and should be legislatively repealed, and that attempting to continue prosecuting Julian Assange is both unconstitutional and unconscionable.

For now, though, Assange continues to cling to life and hope that the government of the United States will someday abandon their quest to extradite him.

As it stands now, the Biden administration has appealed Judge Vanessa Baraitser's January 2021 decision to not extradite Assange. Biden's appeal was granted, and the legal effort to "bring him to justice" continues.

If Assange ultimately is extradited, he would be brought to the Eastern District of Virginia to face 17 Espionage Act counts, amounting to 175 years in prison.

The notable French philosopher Benjamin Constant put an even finer point on the issue of government censorship of the press, warning of what happens when a people place such immense power in the hands of one man:

By authorizing the government to deal ruthlessly with whatever opinions there may be, you are giving it the right to interpret thought, to make inductions, in a nutshell to reason and to put its reasoning in the place of the facts which ought to be the sole basis for government counteraction.

This is to establish despotism with a free hand. Which opinion cannot draw down a punishment on its author? You give the government a free hand for evildoing, provided that it is careful to engage in evil thinking. You will never escape from this circle.

The men to whom you entrust the right to judge opinions are quite as susceptible as others to being misled or corrupted, and the arbitrary power which you will have invested in them can be used against the most necessary truths as well as the most fatal errors.



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