



Written by [Alex Newman](#) on December 30, 2010

WikiLeaks Leads to Calls for New Infringements on Speech, Press

American proponents of government secrecy are calling for WikiLeaks founder Julian Assange to be assassinated or imprisoned, even if it means creating a new law to do it. And that is exactly what anti-WikiLeaks activists in the federal government are working on right now.



People calling for the prosecution of Assange and WikiLeaks — mostly Western officials, government apologists, and media talking heads — have generally advocated indictments for conspiracy and even espionage. A few, who may not have realized Assange was an Australian national, actually called for charges of treason. Former House Speaker and establishment Republican Newt Gingrich wants him classified as an “enemy combatant.” Others called for outright extrajudicial murder.

U.S. Attorney General Eric Holder has been intentionally vague about what is going on within the Justice Department in terms of charging WikiLeaks. But he did say “there’s a predicate for us to believe that crimes have been committed here and we are in the process of investigating those crimes.” Holder acknowledged several weeks ago that an investigation was ongoing and that he had “authorized significant steps” in the leak probe, but he did not offer any details.

Analysts are unsure of what U.S. charges would or even could be aimed at Assange. The most likely candidate right now would appear to be “conspiracy,” especially if accused whistle-blower Pfc. Bradley Manning can be prodded into fingering Assange as a co-conspirator.

Manning is currently being held in solitary confinement, as the United Nations and human rights groups around the world continue to express concern over the conditions of his detention. And experts suspect the allegedly harsh treatment could be leading to a mental breakdown, making it easier to coerce him into helping bring charges against Assange.

Another option for the prosecution that has received a lot of publicity recently is the Espionage Act of 1917. Under that statute, individuals can be prosecuted for publishing or even “willfully” keeping information related to national defense or anything that could be “used to the injury of the United States or to the advantage of any foreign nation.”

Democrat Senator Dianne Feinstein is one legislator who was calling loudly for an espionage prosecution. She took to the pages of the *Wall Street Journal*, [calling](#) Assange an “agitator intent on damaging our government” and saying that, because Assange “intentionally harmed the U.S. government,” he should be “vigorously prosecuted for espionage.” She also wrote that she thought such



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a prosecution would be successful.

But there are a few problems with that. First of all, the Espionage Act is normally applied to spies working for foreign governments or leakers within the U.S regime — not journalists [exposing secret wars](#), [climate espionage and bribery](#), and war crimes, such as the [use of illegal cluster bombs](#) by U.S. forces in Yemen. And that is one reason legal experts have consistently dismissed calls for charges of espionage, even during recent congressional hearings on the matter.

But legislators are already moving to modify the 1917 statute to make it easier to prosecute Assange and others like him. Earlier this month, neoconservative Senators Joseph Lieberman (I-Conn.), John Ensign (R-Nev.), and Scott Brown (R-Mass.) introduced a bill to amend the Espionage Act. The proposal would purport to criminalize the disclosure of any information “concerning the human intelligence activities of the United States or any foreign government.”

Naturally, all of the Senators responsible for the bill thought it was a great idea. “Julian Assange and his cronies, in their effort to hinder our war efforts, are creating a hit list for our enemies,” fumed Senator Ensign in a statement. “Let me be very clear, WikiLeaks is not a whistleblower website and Assange is not a journalist.”

Senator Scott Brown, who despite small-government campaign rhetoric has largely disappointed conservatives around the country with his agenda, said in the same statement: “The reckless behavior of WikiLeaks has compromised our national security and threatened the safety of our troops overseas, and this bipartisan legislation gives the Department of Justice a tool to prevent something like this from happening again.” Apparently sending the troops around the world to “nation build” in undeclared wars is not what jeopardized the troops; it was WikiLeaks.

The statement also cited Attorney General Holder, who said: “To the extent there are gaps in the laws, we will move to close those gaps.” A similar measure was introduced in the House, too. Closing the “gaps” indeed, prohibitions on ex post facto decrees notwithstanding. (The Constitution forbids ex post facto laws — laws that have a retroactive effect.)

Government spokespeople have also made clear that the regime in D.C. does not consider Assange a journalist. And judging by their statements, they seem to think that the First Amendment protects only people whom the government considers journalists.

“Mr. Assange obviously has a particular political objective behind his activities, and I think that, among other things, disqualifies him as being considered a journalist,” [said](#) State Department PR boss Philip Crowley.

But experts are already warning against prosecuting WikiLeaks or Assange under the Espionage Act. One analyst, Brookings Institution senior fellow Benjamin Wittes, [noted](#) that in addition to being old and vague, the wording of the statute could lead to very serious problems if it was applied against the whistle-blowing organization.

“By its terms, [the Espionage Act] criminalizes not merely the disclosure of national defense information by organizations such as Wikileaks, but also the reporting on that information by countless news organizations,” Wittes wrote in a blog post. “It also criminalizes all casual discussions of such disclosures by persons not authorized to receive them to other persons not authorized to receive them — in other words, all tweets sending around those countless news stories, all blogging on them, and all dinner party conversations about their contents.” Finally, and perhaps most importantly: “Taken at its word, the Espionage Act makes felons of us all,” Wittes pointed out.



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Some legislators have in fact praised WikiLeaks for the revelations, including, most notably, constitutionalist Republican Rep. Ron Paul (R-Texas) who [stood up](#) before the House of Representatives and offered a speech applauding transparency and the truth. “Despite what is claimed, the information that has been so far released, though classified, has caused no known harm to any individual, but it has caused plenty of embarrassment to our government,” he said. “Losing our grip on our empire is not welcomed by the neoconservatives in charge.”

He also warned of the slippery slope in prosecuting Assange. “If WikiLeaks is to be prosecuted for publishing classified documents, why shouldn’t the *Washington Post*, the *New York Times*, and others who also published these documents be prosecuted? Actually, some in Congress are threatening this as well,” he said, noting that a previous case of publishing classified information had revealed the lies surrounding the war in Vietnam — and that disclosure was found to be legal by the Supreme Court.

Democrat Rep. John Conyers, the Chairman of the House Judiciary Committee, also [warned against](#) trying to prosecute WikiLeaks or its founder. “As an initial matter, there is no doubt that WikiLeaks is very unpopular right now. Many feel that the WikiLeaks publication was offensive,” he said. “But being unpopular is not a crime, and publishing offensive information is not either. And the repeated calls from politicians, journalists, and other so-called experts crying out for criminal prosecutions or other extreme measures make me very uncomfortable,” Conyers added.

“And so whatever you think about this controversy, it is clear that prosecuting Wikileaks would raise the most fundamental questions about freedom of speech, about who is a journalist, and about what the public can know about the actions of its own government,” said Conyers, who held a hearing into the WikiLeaks affair recently. “But let us not be hasty, and let us not legislate in a climate of fear or prejudice,” Conyers concluded, referring to proposals to invent new laws to prosecute Assange and others like him. “For, in such an atmosphere, it is our constitutional freedoms and our cherished civil rights that are the first to be sacrificed in the false service of our national security.”

But new statutes to prosecute WikiLeaks is exactly what some experts fear might be coming. In a piece for the *Atlanta Journal Constitution*, former GOP Congressman and, more recently, libertarian party candidate for President Bob Barr warned of precisely that. “If the congressional critics of WikiLeaks founder Julian Assange have their way, a new and revised version of the Sedition Act may be in the offing,” Barr wrote, referring to the infamous statute that purported to criminalize dissent in the early American Republic. “Yet such ridiculously broad expansion of federal law, simply to pillory a person who clearly delights in embarrassing the government, would seem to be what some in Washington ... just might have in mind. And, unfortunately, there are many in the executive branch who appear to be moving in just such direction; actively constructing what may become a conspiracy case against Assange.”

While legislators, talking heads and “justice” officials conspire to prosecute WikiLeaks in a “court of law,” the Central Intelligence Agency, meanwhile, has created a new [WikiLeaks Task Force \(WTF\)](#). What exactly WTF will do is hard to know, since it was only discovered by anonymous CIA officials talking to the *Washington Post*. But as noted by countless analysts and observers, the U.S. regime does not take kindly to having its embarrassing secrets exposed. And therefore, whether it creates a new law, or, as Assange fears, makes an attempt at assassination, the regime is certainly not through with WikiLeaks just yet.

Photo of Dianne Feinstein: AP Images



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