IN THE CITY OF WESTMINSTER MAGISTRATES' COURT

THE UNITED STATES OF AMERICA

-v-

JULIAN ASSANGE

SKELETON ARGUMENT

ON BEHALF OF THE UNITED STATES OF AMERICA

(POLITICAL OFFENCE)

Introduction

1. This skeleton argument responds to the submission made on behalf of the accused that his extradition is unlawful because the offences of which he is accused are 'political' offences. It is submitted on behalf of Mr Assange that, as the Extradition treaty between the UK and the USA (31 March 2003) (the "UK- US Treaty") provides (in Article 4) for a political offence exception, this precludes his extradition as a matter of domestic law (because his extradition would amount to an abuse of process in the face of such a provision).

2. The defence are no doubt driven to argue this point as there can be no sustainable evidence that Mr Assange will be prejudiced at his trial on account of his political opinions and the statutory provision will not avail them.

3. This argument is wrong as a matter of fundamental, constitutional law for reasons which may be summarized as follows:

(i) First: the accused can derive no rights under the UK-US Treaty. As a matter of English law his extradition is governed only by the Extradition Act 2003;

(ii) Second: The Extradition Act 2003 makes no provision for extradition to be barred because the individual sought is accused or convicted of a political offence. The omission of such a provision marked a deliberate legislative choice to remove the political offence exception in domestic law;

(iii) Third: an individual cannot, by the back door (of abuse of process), rely on a right which Parliament has elected not to provide by the front door (here by the Extradition Act 2003); and

(iv) Fourth: This application goes further and is ultimately an invitation to the Court to provide the accused with a bar to extradition in circumstances where Parliament has expressly precluded reliance upon it.

Political Offences

4. Before selective prosecution and discrimination clauses (e.g Section 81 of the 2003 Act) protecting a fugitive from discrimination at his trial in the requested state on account of his political opinions, most extradition treaties and statutes contained an exception to extradition based upon the offence being a 'political offence'.

5. However, with one known exception, no statute or treaty has attempted to define what constitutes a political offence in positive terms, although it is often defined in negative terms, for example excluding from its scope crimes such as genocide, war crimes and crimes against humanity. The only known attempt to define "political offence" is found in the German Extradition Law of 1920, which is considered to be a "miserable failure".[1]

6. There is an accepted divide between pure political offences and relative political offences. Pure political offences are directed against the government or political organisation of the

[1] Manuel R. Garcia-Mora, *The Nature of Political Offences: A Knotty Problem of Extradition Law,* (1962) 48 VA. L. REV. 1226, 1229-30; R. Stuart Phillips, "The Political Offence Exception and Terrorism: Its Place in the Current Extradition Scheme and Proposals for Its Future" (1997) 15(2) *Penn State International Law Review* 337, 340.

state (treason, sedition, espionage), do not impact upon an individual and contain no element of a 'common' crime. There is no exhaustive list of what amounts to a purely political offence.

7. Relative political offences are common criminal offences committed in connection with a political act. They may be rendered political by reason of the alleged perpetrator's motivation (subjective test) or because they had political consequences or were committed within a political context (objective test) or a combination of the two.

8. The most prominent theory, the "political incidence theory", which is followed in the United Kingdom, Australia and the United States. According to this theory, which was applied for the first time *Re Castioni* [1891] 1 Q.B. 149 the High Court (Denman, Hawkins and Stephen J.J.) stated that political offences were those crimes which were "*incidental to and formed part of political disturbances.*" In *re Meunier* [1894] 2 Q.B. 415, Cave J. suggested that in order to constitute an offence of a political character, there must be two or more parties in the State, each seeking to impose the Government of their own choice on the other, and that if the offence is committed by one side or the other in pursuance of that object, it is a political offence.

9. The modern approach is to replace the 'political offence' exception with selective prosecution and discrimination clauses. However, the United Kingdom treaty with the United States of America still contains an old 'political offence' exception and this is the basis on which the defence assert they are still able to rely on this treaty provision excepting political offences. This defence submission is fundamentally misconceived as shown below.

Treaties: The General Position

10. The fundamental point in issue in the defence submission is that a treaty to which Her Majesty's Government is a party does not alter the laws of the United Kingdom by means of legislation and therefore does not allow a person to ask the court to apply a treaty provision unless it has been incorporated into English law by a statute. Except to the extent that a treaty becomes incorporated into the laws of the United Kingdom by statue (such as the Human Rights Act 1998), the courts of the United Kingdom have no power

to enforce a treaty rights and obligations at the behest of a sovereign government or at the behest of a private individual; JH Rayner (Mincing Lane) Ltd v Department of Trade and Industry [1990] 2 AC 418, Lord Templeman at 476 (emphasis added):

> *"Losing the construction argument, the appellants put forward alternative submissions which are unsustainable. Those submissions, if accepted, would involve a breach of the British constitution and an invasion by the judiciary of the functions of the Government and of Parliament. The Government may negotiate, conclude, construe, observe, breach, repudiate or terminate a treaty. Parliament may alter the laws of the United Kingdom. The courts must enforce those laws; judges have no power to grant specific performance of a treaty or to award damages against a sovereign state for breach of a treaty or to invent laws or misconstrue legislation in order to enforce a treaty."*

11. Municipal courts have not and cannot have the competence to adjudicate upon or to enforce rights arising out of treaties. This is because [per Lord Oliver at 500]:

> *"Quite simply, a treaty is not part of English law unless and until it has been incorporated into the law by legislation. So far as individuals are concerned, it is res inter alios acta from which they cannot derive rights and by which they cannot be deprived of rights or subjected to obligations; and it is outside the purview of the court not only because it is made in the conduct of foreign relations, which are a prerogative of the Crown, but also because, as a source of rights and obligations, it is irrelevant."*

12. The position contended for here (that the Court can essentially confer a right not to be extradited for a political offence via its abuse of process jurisdiction) is expressly and authoritatively ruled out: *"If the treaty contained such a provision and Parliament had not seen fit to incorporate it into municipal law by appropriate legislation, it would not be for the courts to supply what Parliament had omitted and thus to confer on the Crown a power to alter the law without the intervention of the legislature;* (Lord Oliver at page 512). See also R (on the application of Hasan Akarcay) v Chief Constable of the West Yorkshire Police, Secretary of State for the Home Department, National Crime Agency [2017] EWHC 159 (Admin) Lord Justice Burnett (as then) at 21.

13. Treaties may, in certain circumstances, be used as an aid to statutory interpretation (this does not arise here for the reasons set out below) but it is equally a fundamental constitutional principle that if Parliament has legislated and the words of the statute are clear, the statute must be applied regardless of the terms of any Treaty. See the House of Lords in R v Secretary of State for the Home Department, Ex parte Brind [1991] 1 A.C. 696 (rejecting the existence of a right to rely upon the European Convention on Human

Rights prior to it being domestic effect by the Human Rights Act 1998). See, to same effect, *R v Lyons* [2003] 1 AC 976 Lord Hoffman at §27:

> *"In other words, the Convention is an international treaty and the ECHR is an international court with jurisdiction under international law to interpret and apply it. But the question of whether the appellants' convictions were unsafe is a matter of English law. And it is firmly established that international treaties do not form part of English law and that English courts have no jurisdiction to interpret or apply them: J H Rayner (Mincing Lane) Ltd v Department of Trade and Industry [1990] 2 AC 418 (the International Tin Council case). Parliament may pass a law which mirrors the terms of the treaty and in that sense incorporates the treaty into English law. But even then, the metaphor of incorporation may be misleading. It is not the treaty but the statute which forms part of English law."*

14. It follows this court cannot take any account of any provision in the United Kingdom extradition treaty with the United States of America. As a simply matter of law it is not allowed to do so. (And no court has ever done so under the 2003 Act).

The Extradition Context

15. This point is clear as a matter of constitutional law but in any event has been determined in the extradition context in relation to the 1972 UK- US Extradition Treaty. In Norris v The Secretary of State for the Home Department [2006] EWHC 280 (Admin), reliance was placed upon Article IX of the 1972 Treaty. This provided that extradition should be granted only if the evidence was sufficient according to the law of the requested Party … to justify the committal for trial of the person sought if the offence of which he is accused had been committed in the territory of the requested Party. …"

16. Under the Extradition Act 2003, the US was designated as a category 2 territory within paragraph 3 of the Extradition Act 2003 (Designation of Part 2 Territories) Order SI 2003/3334 (the 2003 Order) so as to abrogate the evidential sufficiency requirement in respect of the US. It was argued in *Norris* that there was a contradiction between this designation and the express terms of the 1972 Treaty, which was then still in force, embodying an agreement that extradition between the two states should not proceed without sufficient evidence to show a case to answer. As recited by the Court [PQBD at 35] the argument ran:

"If the 2003 Treaty is ratified by the United States, the inconsistency between the designation and the express terms of the extant Treaty would disappear and citizens of the United Kingdom would cease to have any enforceable right based on it. Until then, however, the right of United Kingdom citizens to rely on the terms of the existing Treaty applies in the same way as it does to citizens of the United States..... The Secretary of State has failed sufficiently to appreciate that the 1972 Treaty continues in force, and that it provides protections enforceable by United Kingdom citizens faced with proceedings to extradite them to the United States."

17. The Court proceeded [PQBD at §37] on the basis that the Designation Order had altered the arrangements for extradition between the United Kingdom and the United States, and removed the protective condition found in Article IX of the 1972 Treaty. That was irrelevant as regards the operation of the Extradition Act 2003 [§144] which alone governed the extradition and remained the source of any rights for the individual:

"Mr Jones was unable to show any previous authority in the United Kingdom which suggested that the 1972 Treaty, standing alone, created personal rights enforceable by its individual citizens. The Treaty specified the circumstances in which the governments of the United Kingdom and United States agreed that extradition would, or would not, take place and they bound themselves to a series of pre-conditions which would govern the extradition process. Thereafter, the rights of citizens of the United Kingdom were governed by domestic legislative arrangements which ensured that the extradition process should be subject to judicial oversight, in an appropriate case, extending as far as the House of Lords in its capacity as the final appellate court. The Treaty reflected the relationship agreed between the United Kingdom and the United States for the purposes of extradition, rather than the municipal rights of United Kingdom citizens, enforceable against their own government. In brief, therefore their rights were provided and guaranteed, not by treaty, but by domestic legislation."

18. Norris is determinative of this application. Self-evidently there are no examples of extradition treaties conferring personal rights, because (as set out above) such treaties are not a source of rights and the Courts are not permitted to enforce such rights (or create laws to do so) absent domestic legislation intended to give effect to such rights.

19. The reliance, on behalf of the accused, upon R. v Governor of Pentonville Prison Ex p. Sinclair [1991] 2 A.C. 64 and R (In Re Guisto (FC) [2004] 1 A.C. 101 is also wide off the mark. These cases concerned the specific arrangements under section 2 of the Extradition Act 1870[2] whereby

[2] 2. Where arrangement for surrender of criminals made, Order in Council to apply Act.
Where an arrangement has been made with any foreign state with respect to the surrender to such state of any fugitive criminals, Her Majesty may, by Order in Council, direct that this Act shall apply in the case of such foreign state.
Her Majesty may, by the same or any subsequent order, limit the operation of the order, and restrict the same to fugitive criminals who are in or suspected of being in the part of Her Majesty's dominions specified in the order, and render the operation thereof subject to such conditions, exceptions, and qualifications as may be deemed expedient.
Every such order shall recite or embody the terms of the arrangement, and shall not remain in force for any longer period than the arrangement.

(by Order in Council) provisions found in bilateral treaties were expressly incorporated into domestic law. Under Schedule 1 to the 1989 Act, which gave effect to the Orders in Council made under section 2 of the 1870 Act, the 1870 Act procedure continued largely intact in respect of the US. Those historic statutory arrangements have no bearing upon the 2003 Act. The 2003 Act provides a self -contained regime for extradition (without reference to any extradition treaty and without incorporating any term of any extradition treaty) and contains no device for the incorporation of provisions made in extradition treaty provisions into domestic law. Put simply the 2003 Act is itself a complete extradition code.

The abolition of the political offence exception

20. It is accepted by Mr Assange that the 2003 Act marked the abolition of the political offence exception [see skeleton at §6.2] and indeed that this development kept pace with modern extradition treaties which do not provide any such protection. Self -evidently this trend negates any suggestion that the political offence bar can be regarded as a fundamental human right.

21. The political offence exception was provided for in section 3 of the 1870 Act[3] and section 6(1)(a) and paragraph 1(1) of Schedule 1 of the Extradition Act 1989 [4]. The protection against extradition requests which were politically *motivated* (selective prosecution) was provided for separately (see, for example, section 6(1)(c) of the 1989 Act). No issue thus arises in this case as to the interpretation of the 2003 Act. It is agreed that it marked the abolition of the political offence exception as a matter of domestic law.

22. The point is made, on behalf of the accused, is that regardless of this election by Parliament, the UK-US Treaty was ratified and came into force in 2007 (i.e. after the 2003 Act) and that both Governments must therefore have regarded it as a necessary protection [skeleton at 6.3].

Every such order shall be laid before both Houses of Parliament within six weeks after it is made, or, if Parliament be not then sitting, within six weeks after the then next meeting of Parliament, and shall also be published in the London Gazette.

[3] (1.) A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he prove to the satisfaction of the police magistrate or the court before whom he is brought on habeas corpus, or to the Secretary of State, that the requisition for his surrender has in fact been made with a view to try or punish him for an offence of a political character:

[4] 6.— General restrictions on return.

(1) A person shall not be returned under Part III of this Act, or committed or kept in custody for the purposes of return, if it appears to an appropriate authority—

(a) that the offence of which that person is accused or was convicted is an offence of a political character;

23. The precise chronology may not matter here although to be clear the treaty was signed by both States on 31 March 2003[5] with instruments of ratification exchanged on 26 April 2007. As above, this ratification had no bearing upon and did not alter domestic law. The suggestion that both States must have thought the political offence exception to be significant or necessary is nothing to the point. If the United Kingdom Government considered that the political offence exception ought to be available to those facing extradition to the United States, such provision could have (and indeed would have had to) been conferred by domestic legislation. To the contrary, by removing the political offence exception (and never re-enacting it) the Government has conclusively signalled to opposite effect.

24. Extradition treaties are intended to provide the mutual standards by which both States agree they will grant extradition. Such treaties do not preclude either state from providing extradition on a *less* onerous basis (rather they prevent States erecting more onerous barriers to extradition). This is precisely what Norris established.

Abuse of Process

25. It is also argued that it is an abuse of process to prosecute in England in breach of the terms of a Treaty or a Convention that confers rights on a citizen (and that by extension) this can be applied in the context of extradition.

26. There is no authority that this is a principle of general application as regards *domestic* prosecutions. Reliance is placed on behalf of the accused on R v Uxbridge Magistrates' Court, Ex p Adimi [2001] QB 667 and R v Asfaw (United Nations High Commissioner for Refugees Intervening) [2008] 1 AC 1061. Both of these cases were concerned with domestic prosecutions of asylum seekers. In *Adimi*, three applicants (each prosecuted for an offence involving the possession or use of a false passport) argued that they had a legitimate expectation that they could rely upon Article 31 of the Convention Relating to the Status of Refugees 1951. The broad humanitarian purpose of article 31 is "to provide

[5] It is orthodoxy that by signing a treaty a State shows that it is in agreement with the text, but it is not bound by it until the treaty has been ratified and has entered into force. The state is not obliged to ratify it. "The UK, however, does not sign a treaty unless it has a reasonably firm intention of ratifying" [see Foreign and Commonwealth Office, TREATIES AND MEMORANDA OF UNDERSTANDING (MOUs) GUIDANCE ON PRACTICE AND PROCEDURES, March 2014 Edition.

immunity for genuine refugees whose quest for asylum reasonably involved them in breaching the law." [Lord Justice Simon Brown (as then) in Adimi at 677G]. In Adimi Simon Brown LJ appeared to conclude that article 31, through the doctrine of legitimate expectation, gave rise to a right in domestic law not be prosecuted (see 686D-E), by contrast Newman J considered that it gave rise only to a right to have the executive consider whether to accord protection (see 696C-H).

27. However Simon Brown LJ cast doubt, in R (European Roma Rights) v Prague Immigration Officer [2004] QB 811 [at para 51], that his conclusion in Adimi could be relied upon:

> *For present purposes I wish to say no more than that, in the light of the extensive arguments developed before us both orally and in writing, I now recognise that the views I expressed in the Divisional Court in Ex p Adimi [2001] QB 667 , 685-686, in particular in reliance on R v Secretary of State for the Home Department, Ex p Ahmed[1998] INLR 570 , are to be regarded as at best superficial, and that the conclusion I reached there, with regard to the legitimate expectations of asylum seekers to the benefits of article 31, is suspect.*

28. By contrast in Asfaw, the House of Lords rejected an argument that the appellant had a legitimate expectation that she would be afforded the protection of Article 31 because she could not, at the relevant time, have had any legitimate expectation of being treated save than in accordance with the Immigration and Asylum Act 1999. Section 31 of the 1999 Act had been enacted to give effect to Article 31 (see §§30 and 69)). The House of Lords nevertheless held that, because the appellant had been acquitted of a first offence, it would be an abuse of process to proceed with her prosecution for a second offence (not covered by section 31). However, that conclusion was on the narrow basis that if the second count had only been included in the indictment in order to prevent the Appellant from relying upon the defence which section 31 would otherwise have provided, it was abusive. Put shortly, it was an abuse of process to prosecute for an offence, only as a device, to defeat the protection section 31 was intended to confer.

29. Both of these cases are far removed from the instant context. Moreover, the application of both these cases, in the extradition context, has been rejected; Arranz v The 5th Section of the National High Court of Madrid, Spain [2016] EWHC 3029 (Admin) Case No: CO/3129/2016. In Arranz reliance upon Article 31, as creating a legitimate expectation in extradition proceedings, was rejected on conventional grounds (which would apply

with equal force to any argument that the political offence exception in the US-UK Treaty could create a legitimate expectation here), see Leggatt J (as then) at [69]:

> "*Despite this authority, we are not able to accept that an unincorporated treaty provision is capable, without more, of founding a legitimate expectation which is enforceable in English law. If that were the case, it is hard to see why, for example, the European Convention on Human Rights did not give rise to directly enforceable rights in UK law without the need to enact the Human Rights Act. Yet an argument that the Convention, as an international treaty, could have any effect in domestic law otherwise than through its incorporation through the mechanism of the Human Rights Act was given short shrift by the House of Lords in R v Lyons [2003] 1 AC 976, where Lord Hoffmann described it as "a fallacy*" (§40).

30. Nor could abuse of process possibly arise here. Setting aside the distinct considerations that apply to the Refugee Convention, the abolition of the political offence exception, in domestic law, was a deliberate decision and one that has never been revisited. In *Asfaw* the abuse of process was rooted in the fact that effect had been given in domestic law to the international protection and that the second charge was intended to circumvent this protection.

31. The position here is to opposite effect. The political offence exception to extradition existed between the enactment of the Extradition Act 1870 and the coming into force of the Extradition Act 2003. By the Extradition Act 2003, Parliament abolished it. This is not simply a case of reliance, by an accused, upon an unincorporated treaty provision but, in reality, an attempt to resurrect a bar to extradition which Parliament has expressly removed.

32. It is not disputed that this Court may have a limited abuse of process jurisdiction in extradition proceedings but the jurisdiction simply does not arise here. The Court is bound to apply the clear terms of the 2003 Act to the accused. It cannot provide a political offence exception in the absence of statutory provision and that is determinative of the position.

The Conduct Alleged

33. While the legal position is determinative as to this application. The skeleton argument on behalf of the accused is for the most part concerned with the argument that the conduct described would amount to a political offence if that bar were available. Whilst this argument is sterile, for the avoidance of doubt, it is not accepted that the political offence

exception would have had any application here even if it had been provided for in domestic law. These reasons can be stated shortly.

34. There was never any statutory definition of a political offence and the concept gave rise to considerable difficulty as it became outmoded; see T v Immigration Officer [1996] A.C. 742, Lord Mustill at page 753, foreshadowing its demise:

> *"These laws were conceived at a time when political struggles could be painted in clear primary colours largely inappropriate today; and the so-called "political exception" which forms part of these laws, and which is the subject of this appeal, was a product of Western European and North American liberal democratic ideals which no longer give a full account of political struggles in the modern world. What I regard as the exceptional difficulty of this appeal is that the courts here, as in other legal systems, must struggle to apply a concept which is out of date."*

35. T explained the jurisprudential basis upon which a political offence might be demonstrated. It could arise where a political struggle was either in existence or in contemplation between the government and one or more opposing factions within the state where the offence is committed, and that the commission of the offence was an incident of this struggle; Reg. v. Governor of Brixton Prison, Ex parte Schtraks [1964] A.C. 556 ; Reg. v. Governor of Pentonville Prison, Ex parte Cheng [1973] A.C. 931 where Lord Diplock said, at p. 945:

> *"even apart from authority, I would hold that prima facie an act committed in a foreign state was not 'an offence of a political character' unless the only purpose sought to be achieved by the offender in committing it were to change the government of the state in which it was committed, or to induce it to change its policy, or to enable him to escape from the jurisdiction of a government of whose political policies the offender disapproved but despaired of altering so long as he was there."*

36. A crime was a political crime if it was committed for a political purpose, i.e. with the object of overthrowing or subverting or changing the government of a state or inducing it to change its policy; and (2) there was a sufficiently close and direct link between the crime and the alleged political purpose [Lord Lloyd at pp.786- 787]

37. That an offence could be described as inherently political was not definitive; see Simon Brown LJ (as then) in R v Secretary of State for the Home Department and Others ex parte Fininvest [1997] 1 W.L.R. 743, 761 referring to the example of the murder of the Sovereign, carried out for purely personal reasons, albeit by definition treason, which might not be regarded as political. Equally, he did not accept that any offence committed

with a view to inducing a change in government policy was ipso facto to be regarded as a political offence: *The difficulty comes in defining just when it will be and when it will not* [pp 761-762].

38. In *Ex parte Schtraks*, Viscount Radcliffe (pp. 591–592) concluded:

> *"In my opinion the idea that lies behind the phrase 'offence of a political character' is that the fugitive is at odds with the state that applies for his extradition on some issue connected with the political control or government of the country. The analogy of 'political' in this context is with 'political' in such phrases as 'political refugee,' 'political asylum' or 'political prisoner.' It does indicate, I think, that the requesting state is after him for reasons other than the enforcement of the criminal law in its ordinary, what I may call its common or international, aspect. It is this idea that the judges were seeking to express in the two early cases of In re Castioni [1891] 1 Q.B. 149 and In re Meunier [1894] 2 Q.B. 415 when they connected the political offence with an uprising, a disturbance, an insurrection, a civil war or struggle for power: and in my opinion it is still necessary to maintain the idea of that connection. It is not departed from by taking a liberal view as to what is meant by disturbance or these other words, provided that the idea of political opposition as between fugitive and requesting state is not lost sight of: but it would be lost sight of, I think, if one were to say that all offences were political offences, so long as they could be shown to have been committed for a political object or with a political motive or for the furtherance of some political cause or campaign. There may, for instance, be all sorts of contending political organisations or forces in a country and members of them may commit all sorts of infractions of the criminal law in the belief that by so doing they will further their political ends: but if the central government stands apart and is concerned only to enforce the criminal law that has been violated by these contestants, I see no reason why fugitives should be protected by this country from its jurisdiction on the ground that they are political offenders."*

39. As is plain, these principles are of little relevance here. The description of the conduct alleged against the accused includes a description of the operation of Wikileaks. It described itself as an 'intelligence agency of the people" [see affidavit of Kellen Dwyer at §11]. It encouraged the provision to it of classified materials from numerous countries; it was not locked in a battle or a power struggle with a single state as classically described by the authorities on political exception. Insofar as it is claimed that Wikileaks was seeking to force any of these States to change a *policy*, it is unclear even what policy was contended for. A policy not to classify any documents? A policy to be "open"? [6]

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[6] See Mueller at 3a: *WikiLeaks, and particularly its founder Julian Assange, privately expressed opposition to candidate Clinton well before the first release of stolen documents. In November 2015, Assange wrote to other members and associates of WikiLeaks that "[w]e believe it would be much better for GOP to win . . . Dems+Media+liberals woudl [sic] then form a block to reign in their worst qualities. . . . With Hillary in*

40. As also set out in the opening note on behalf of the Government and in the affidavit of Mr Dwyer, the gravamen of the allegations against the accused are not his leaking of materials to the press but rather his actions in publishing the 250,000 cables; 75,000 Afghanistan significant activity reports and 400,000 Iraq significant activity reports, absent redaction, thus putting named individuals at risk. Per Schtraks above, the US Government is not "after" the accused for reasons other than the enforcement of the criminal law following its usual course.

41. Furthermore, drawing back from these allegations and looking at the position, more generally, it is impossible to place it or the accused in an analogous position to a political refugee,' or in the context of 'political asylum' or 'political prisoner.'

42. The Court does not need to resolve these issues but they demonstrate that any bare assertion that Wikileaks was engaged in a *struggle* with the US Government; was in opposition to it or was seeking to bring about policy change would need to be examined far more closely having regard to all of these matters. They do not however arise for determination as they are entirely academic here.

Conclusion

43. It is respectfully submitted that the Court should reject this application on grounds that:

(1) It is contrary to the fundamental principles set out in JH Rayner (Mincing Lane) Ltd; Brind; Lyons and Norris; and

(2) It could not amount to an abuse of process, to preclude the accused from relying upon the political offence, when Parliament has expressly abolished it as a bar to extradition.

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charge, GOP will be pushing for her worst qualities., dems+media+neoliberals will be mute. . . . She's a bright, well connected, sadisitic sociopath