



Assange's fiancée Stella Moris on the Espionage Act & Free Speech

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Stella Moris: Hi, everyone, thank you for inviting me to speak about the Espionage Act. Julian Assange is my partner. We have two little boys, Max, who's two, and Gabriel, who's almost four. The sole reason Julian remains in jail is because the U.S. government under Trump decided to bring an outrageous, abusive and political case under the Espionage Act against Julian. And the Biden administration has not yet put a stop to it. Julian has been in a high security jail in London for two years now, even though he has not been convicted of any crime. The U.S. extradition case is progressing through the courts. In January, a judge decided Julian should not be extradited. The U.S. government is appealing. Julian faces one hundred and seventy five years. Julian has not been able to hold his sons in his arms for almost over a year. The last time he saw them in person was in October, when the jail briefly allowed visits. Julian is a public figure and he is known for his courageous publishing work. But he's also a son, a father and a brother. He's caring and he's funny. He is the most principled man I know. He has helped bring justice to victims of state and corporate abuses all over the world. Our family is fighting for him, fighting to free him. But because of the case that has been brought against Julian under the Espionage Act- the fight, that fight is the same fight for our collective freedoms. Julian faces 17 charges under the Espionage Act. The hundred and seventy five year sentence concerns receiving, possessing and publishing the Guantanamo Bay files, the Afghan and Iraq war logs, the Collateral Murder Publications, Rules of Engagement and the U.S. State Department cables. There is no allegation that Julian did anything that could be construed as espionage. The U.S. government is accusing him of publishing information to the public. These same publications have won Julian in the most prestigious journalism prizes like the Martha Gellhorn Prize and the Australian equivalent to the Pulitzer Prize. He has also been nominated for the Nobel Peace Prize, because of these revelations. The Sydney Peace Prize jury said the following about Julian: "Assange's work is in the Tom Paine Rights of Man and

Daniel Ellsberg The Pentagon Papers tradition challenging the old order of power in politics and journalism. Assange has championed people's right to know and has challenged the centuries old tradition that governments are entitled to keep the public in a state of ignorance. In the Paine, Ellsberg and Assange cases, those in power moved quickly to silence their critics, even by perverting the course of justice. Julian says that the best way to obtain justice is by exposing injustice and exposing injustice is what has made Julian enemies on both sides of politics in Washington, D.C. He is also admired on both sides of politics. And that is because regardless of where you stand on the political spectrum, what Julian represents goes to the heart of what it means to live in a democracy. It is no overstatement to say that the use of the 1917 Espionage Act against Julian is the single biggest, most urgent threat to press freedom and a free society- a free democratic society. It is also profoundly wrong. Julian isn't simply just innocent, he's being punished for doing the right thing, for exposing the wrongful killing of journalists and of thousands of civilians, for documenting war crimes, for doing the most important work, the most important journalism any person can possibly do. So how did we get here? The first thing to understand about the Espionage Act is that it is in itself a terrible piece of legislation. It was originally designed to try World War One spies, but the wording is so broad and indefinite that the act has been abused again and again for political purposes. The wording is so broad that pretty much anyone could be prosecuted under it. During Julian's extradition proceedings, expert witnesses explained that reading the daily newspaper could be construed as a violation of the Espionage Act. Another example, say you were a journalist and you write that the CIA torture memo should be in the public domain and then a source sends it to you. You could go to prison as a co-conspirator. That is what the conspiracy charge against Julian alleges in relation to the so-called most wanted leaks, a Wiki page where any random person on the Internet could nominate documents that ought to be in the public domain. Secondly, what Bill Barr's Department of Justice did in launching an Espionage Act indictment against Julian is to do precisely what the First Amendment explicitly forbids. It is completely unconstitutional. Think about what the First Amendment says. It says Congress shall make no law abridging the freedom of speech or of the press. The First Amendment doesn't grant people rights that can be taken away. It doesn't specify whose rights apply and whose don't. What it does is impose a constitutional prohibition on lawmakers, which prevents the executive from restricting speech and publishing. James Goodale, who was the general counsel of The New York Times, himself says that Julian Assange is indistinguishable from The New York Times reporter in the Pentagon Papers, Neil Sheehan. The conduct described as criminal in the indictment against Julian is standard journalistic conduct. The U.S. Newsrooms know that what is being criminalised here is not Julian or WikiLeaks, but journalism itself. The indictment against Julian has already sent a chill on freedom of the press. That is why The New York Times editorial board, the Washington Post and USA Today and virtually every other press freedom- every press freedom organisation

that exists- have been absolutely clear that the prosecution against Julian must be dropped. Thirdly, the Espionage Act is a strict liability offence, it is an authoritarian piece of legislation that has no public interest defence. Imagine what an Espionage Act trial of a publisher will look like. Julian will have no ability to explain why he published what he published, the fact that no person was harmed and the undeniable public interest it served. If that wasn't bad enough, the U.S. government intends to try him in Alexandria, Virginia, just 15 miles from CIA headquarters. No national security defendant has ever won a case there. And that is because the Eastern District of Virginia is effectively a federal national security court where members, where jury members, cannot be excluded on the basis that they or their spouses work in government. The use of the Espionage Act has been rightly criticised, especially since the Obama era. But the indictment against Julian is categorically different to anything that has come before. Before Obama only a handful of prosecutions had been brought in cases of journalistic sources. The only media source convicted prior to Obama was pardoned. The Department of Justice prosecution against Pentagon Papers source Daniel Ellsberg, famously fell apart because of misconduct by the executive. However, this all changed with Obama. Obama's DOJ prosecuted more journalistic sources than all the previous administrations combined, including WikiLeaks alleged source Chelsea Manning, who was sentenced to 35 years. Trump's administration continued this trend by prosecuting Reality Winner, Terry Albury and Joshua Showalter and drone whistleblower Daniel Hale, amongst others, under the Espionage Act. Like previous administrations, Obama's administration had considered prosecuting journalists under the Espionage Act. For example, prosecutors in the Kim case said, in relation to Fox News reporter James Rosen, that there was, quote, probable cause to believe that the reporter has committed a violation of the Espionage Act, unquote. But just like in the cases of investigative journalists Jack Anderson and Seymour Hersh, who had been investigated under the Espionage Act in the 1970s, prosecutors ultimately decided not to indict Rosen. The Obama administration also decided not to indict Julian Assange. Matthew Miller, the DOJ spokesperson under the Obama administration, said, quote, There is no way of prosecuting Assange for publishing information without the same theory being applied to journalists. And that is why the Obama administration did not prosecute Julian. They had what they called a New York Times problem. Obama did not want to set a precedent that could be used against the rest of the press. Obama also freed Chelsea Manning, who is Julian's alleged source, from prison, by granting her clemency. Then came the Trump administration. Under Bill Barr the fact that the indictment of Julian under the Espionage Act would set a precedent for the rest of the press was no longer considered a New York Times problem. It became a New York Times solution, that is to say, a solution to the problem that leaks were appearing about the Trump administration in The New York Times. The Trump administration indicted Julian, not in spite of the threat this case poses to press freedom and American democracy, but

precisely because of it. It is being pursued so that the U.S. government can have a precedent to go after the rest of the press whenever it wants to, The New York Times included. The long history of attempted prosecutions against journalists shows that the prosecutions will not stop with Julian. Hence, the Espionage Act prosecution against Julian changes everything. The indictment of Julian under the Espionage Act hangs a noose around every reporter's neck. It hangs around your neck too, every activist, every Internet intermediary and every research institute. And that noose is especially tight around the necks of national security reporters whose entire careers are now incriminating. There is a huge difference between a country in which publishers are free to publish government documents and a country where they are not. The U.S. is a massive state with a very large security complex. The saving grace is that it has a robust First Amendment that defines the political culture domestically. The attempt to change that through the prosecution of Julian will change the law with disastrous effects, especially as a U.S. security state is emboldened with the new Cold War rivalry with China. What the indictment of Julian does is change the nature of the United States from a superpower with a free press to a superpower where journalism is a crime. And unless the case against Julian is dropped, that is here to stay. Unless Biden drops this prosecution, he will be following in the footsteps of the worst elements of the Trump administration. Biden, whose policy is to close Guantanamo Bay prison camp, is prosecuting the publisher for exposing abuse in Guantanamo Bay. Biden, whose policy is to withdraw troops from Afghanistan, is prosecuting the publisher for exposing the war crimes committed there and the excesses of the war on terror. Important journalism will always upset the centres of power, exposing crimes and especially crimes of the highest order, like war crimes against innocent civilians, or the lies told by governments to lead us into wars, is the most important journalism that we can possibly have. It is not only a moral act, but a duty that we owe ourselves and those who came before us. It is what we have to do to keep living in a free society. And it is also the only insurance we have against unbridled authoritarianism.

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