

WHEN JULIAN ASSANGE TESTIFIED BEFORE A NATION-STATE INVESTIGATION OF A SUSPECTED SPY...

Back on December 20, 2019, Julian Assange testified in a nation-state's investigation of someone suspected of spying for another nation-state. He testified pursuant to international legal process that got challenged on jurisdictional grounds, but ultimately upheld. While El País provided a report of his testimony, the testimony itself was not open to the press.

As he testified, Chelsea Manning and Jeremy Hammond sat in jail in Alexandria, VA, being held in contempt for refusing to testify, under a grant of immunity, in their own nation-state's investigation of someone suspected of working with the intelligence services of another nation-state. Related charges are being challenged on jurisdictional issues. Manning, at least, claims she won't testify because any hearing – like the one Assange testified in – would not be public. Tomorrow, prosecutors in EDVA will bring Manning before the grand jury again, in a third attempt to get her to testify before a hearing on Friday over her motion to be released based on an assertion the coercion of contempt will never bring her to testify.

This is just one irony about the way WikiLeaks supporters are treating the investigation of David Morales, the owner of a security contractor that provided the security for Ecuador's embassy until 2018. Morales is accused of spying for the CIA – that is, spying for a third country's intelligence service.

There are some problems or obvious alternative explanations for the accusations against

Morales, but even assuming the allegations are true, there is little that separates what Morales would have done from what Assange did on at least one occasion: work as a willing participant in a third country's intelligence service operation compromising the privacy of private citizens. Indeed, there are allegations of Russian involvement in two other WikiLeaks-related publications: there were Russians active in Stratfor hack chat rooms, and Joshua Schulte allegedly expressed an interest in Russian help (though the allegations are contradictory and post-date the initial leak to WikiLeaks, which I'll return to).

You might argue that Morales' surveillance of Assange – on whoever's authority – constituted a far more serious privacy violation than those WikiLeaks has committed by publishing the private emails of John Podesta and the private information of Turkish, Saudi, and third party citizens. That might be true in first instance, but since some of the people exposed by WikiLeaks' publications live in authoritarian countries, the secondary effects of WikiLeaks' publication of details about private individuals might not be.

(I have heard, directly and indirectly, multiple consistent allegations about WikiLeaks itself engaging in practices that constitute privacy violations of the sort implicated by the surveillance of Assange, but it would take a law enforcement investigation to substantiate such claims, most of the affected parties would never want to involve law enforcement, and some investigations would be barred by privilege protections.)

Ultimately, though, Spain's investigation into UC Global is the same thing the US investigation into WikiLeaks is: a properly predicated nation-state investigation into someone suspected of engaging in espionage-related activities with a foreign intelligence service. There are legitimate reasons why those who respect privacy might support both investigations.

WikiLeaks supporters might argue that it's different because it's the United States. That's a perfectly justifiable stance, but if it's the basis of supporting one investigation and another, should be admitted explicitly.

WikiLeaks supporters might argue it's different because Assange *is* the alleged victim, but that doesn't change that there are victims (and not just spy agencies) that the US is trying to protect with its investigation.

Manning and Hammond say they are refusing to testify because they object to American grand jury practices. That amounts to civil disobedience, which is certainly their prerogative. They are paying a steep price for that civil disobedience (as both already paid with their decisions not to cooperate after pleading guilty). But when WikiLeaks supporters complain about the treatment Manning is suffering for her stance, they might think about the fact that – when it came to testifying in an equivalent inquiry – Julian Assange had none of the objections to testifying.