

Rt. Hon. Boris Johnson MP
10, Downing Street
City of Westminster
London, SW1A 2AA

22 February 2020

Dear Mr Johnson,

As international jurists, with an acute awareness of the responsibilities that our profession demands of us, we call on the British authorities to refuse the request for the extradition of Mr. Julian Assange to the United States. We also call for his immediate release.

The treatment of Mr. Assange, the circumstances surrounding his continued detention in Belmarsh maximum security prison, and the circumstances surrounding British attempts to comply with the US request for his extradition, highlight:

1. the involvement of the United Kingdom in long-term, severe, psychological ill-treatment of Mr. Assange (ECHR Article 3)
 2. the disregard shown by the British authorities towards their duties and responsibilities under international law
 3. the disregard by the British authorities of British law, including Mr. Assange's right to a fair trial (ECHR Article 6), for protection of his private life (ECHR Article 8) and his right to freedom of speech (ECHR Article 10)
 4. the sweeping, extraordinary, extra-territorial claims now being made by the United States, who are seeking to prosecute in the US and under US laws, non-US citizens for conduct outside the United States (including in jurisdictions such as the United Kingdom where that conduct is lawful).
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1. **UK involvement in the psychological torture and mistreatment of Mr. Assange (infringement of ECHR Article 3):**
International human rights experts , healthcare professionals and the UN Special Rapporteur on Torture, Prof. Nils Melzer, have all found that Mr. Assange has been subjected to arbitrary confinement, and cruel, inhuman and degrading treatment amounting to torture. They note that the

torture poses grave risks of significant physical, psychological, neuropsychological harm, with life-changing and potentially fatal consequences for Mr. Assange. Prof. Melzer has found the British state responsible for Mr. Assange's torture "through perpetration, or through attempt, complicity or other forms of participation". This involvement of the British authorities in the psychological torture and mistreatment of Mr. Assange violates his rights under ECHR Article 3 and takes various forms:

a. **Interference in the Swedish investigations, and inordinate protraction of Mr. Assange's detention:**

Mr. Assange originally sought asylum in the Ecuadorean embassy - as was his right - because he was concerned that if extradited to Sweden where he was being investigated in relation to (now-abandoned) sexual assault allegations, he might be subjected to onward rendition from Sweden to the United States (or another state with a US interrogation facility / black site), for which there were precedents. Whilst physically present in the embassy, Mr. Assange offered to make himself available for interview by the Swedish authorities, whether in person or by video link, so as to facilitate the investigation of the sexual assault allegations. Mr. Assange also offered to go to Sweden, subject to an assurance from the Swedish authorities that he would not be rendered to the United States.

Information obtained under the Freedom of Information Act reveals that the Swedish authorities may have been minded to accept Mr. Assange's offers of interviews in the embassy or by video link. However, they were dissuaded from doing so by the British authorities. The Crown Prosecution Service repeatedly urged Swedish authorities not to interview Mr. Assange in the United Kingdom and suggested they insist instead on his extradition to Sweden. This compelled Mr. Assange to remain in the embassy for many years, despite the injury this was known to be causing to his health. Even the Stockholm Chief District Prosecutor has described the Swedish extradition effort, now known to have been urged on the Swedish authorities by the United Kingdom's Crown Prosecution Service (CPS), as: "... unreasonable and unprofessional, as well as unfair and disproportionate."

Requests under the Freedom of Information Act show that the CPS specifically and repeatedly urged the Swedish authorities to keep their investigation of Mr. Assange ongoing. In such misdeeds, the CPS made extraordinary comments such as, "...do not think this case is being treated as just another extradition" and "Don't you dare get cold feet!!!", discouraging the Swedish authorities from concluding their investigations.

Mr. Assange was therefore unduly confined to the Ecuadorean embassy, on the urging of the UK authorities, when in fact, there were no charges to answer in Sweden. The United Kingdom therefore shares responsibility for the severe injury to health that Mr. Assange suffered as a consequence of this protracted and unnecessary stay at the embassy, and the consequent damage which the British authorities, in part caused, through their arbitrary, disproportionate and illegal treatment of Mr. Assange.

b. Denial of Medical Treatment whilst in the embassy:

Mr. Assange had to endure debilitating and painful medical conditions in the embassy. These conditions included an excruciating tooth abscess and a serious injury to his shoulder, both of which remained untreated for several years.

Mr. Assange was denied permission by the Foreign and Commonwealth Office to leave the Embassy to receive hospital treatment. This was despite a request from the Ecuadorean embassy to the British government for such access to be provided on medical grounds.

c. Conditions of Mr. Assange's detention since his forced removal from the embassy and subsequent denial of proper medical treatment

Disregarding the well-established principle of 'proportionality', Mr. Assange, an award-winning journalist with complex healthcare needs (some of which are the result of the mistreatment he endured whilst forced to remain in the embassy), was given a custodial sentence of 50 weeks in the maximum-security Belmarsh prison for the offence of skipping police bail.

This sentence was not only harsh and disproportionate; in the circumstances, given Ecuador's granting of asylum and the findings of the UN Working Group on Arbitrary Detention (see above), it was vindictive.

The conditions in which Mr. Assange continues to be detained whilst on remand also appear harsh, disproportionate and vindictive. Mr. Assange poses no threat to the public. Given the significant breakdown in his health he is not a flight risk. Yet the court, even before his lawyers had initiated any application for bail in the extradition proceedings, said that he would be remanded in custody because of his behaviour "*in these proceedings*". Yet, at the time there had been no proceedings in the extradition case. He has been kept in custody in a maximum-security prison which the UN special rapporteur referred to, as "oppressive conditions of isolation involving at least 22 hours per day in a single occupancy cell... [He] is not allowed

to socialize with other inmates and, when circulating in the prison, corridors are cleared and all other inmates locked in their cells. Contrary to assurancesby the prison administration....., and contrary to the general population of the prison, Mr. Assange reportedly still is not allowed to work or to go to the gym, where he could socialize with other inmates.” Visitors to Mr. Assange have reported that he was wearing prison uniform despite only being a remand prisoner, that he is denied civilian clothes, and that his access to his prescription glasses was “inexplicably delayed” for months, after they were sent to him at Belmarsh . Coming after 9 years of arbitrary and illegal detention in the embassy, the harsh and disproportionate conditions in which Mr. Assange is being held have unsurprisingly caused further grave injury to his health. An international group of doctors has expressed serious concern for his present and future safety and wellbeing. They too have called for him to urgently receive appropriate treatment there. British authorities bear responsibility for the ongoing situation.

2. Disregard for international law and infringement of Mr. Assange’s rights as a refugee:

Sweden, the United Kingdom and Ecuador are parties to the Convention relating to the Status of Refugees, which places on States an obligation to respect non-refoulement with no reservations. Not only have Mr. Assange’s rights as a refugee been ignored, U.K. authorities have helped undermine Mr. Assange’s rights as an Ecuadorean citizen to protections under Ecuadorean law such as a protection against extradition. In addition, the U.K. authorities have not paid due regard to the clear findings of the UN Working Group on Arbitrary Detention on the arbitrary detention of Mr. Assange. Importantly, the U.K. authorities have repeatedly ignored their duty to investigate the serious concerns raised by the UN Special Rapporteur Prof Nils Melzer in relation to the prohibition against torture and other cruel, inhuman or degrading treatment or punishment.

3. Disregard for Mr. Assange’s right to a fair trial (ECHR Article 6), and for protection of his private life (ECHR Article 8)

Mr. Assange has suffered sustained infringement of his private life, whilst the conduct of the legal proceedings which have been brought against him, has been riddled with procedural irregularities that call into question the possibility of a fair trial.

a) Intrusive Surveillance: It is now known that Mr. Assange and his visitors, including his lawyers, were put under extraordinary levels of covert surveillance within the Ecuadorean embassy at the behest of the US. Evidence has now emerged to prove that this surveillance breached not

just the diplomatic sovereignty of the Ecuadorean embassy, but also Mr. Assange's human rights in respect of privacy, and attorney-client privilege. It also intensified his torture. Prof. Melzer notes, "relentless surveillance for 24 hours a day is often used deliberately in psychological torture in order to drive victims into paranoia, except that the victim's perception actually corresponds to reality".

- b)** Destruction of Evidence: When the actions of the British and Swedish authorities came to be scrutinised via Freedom of Information Act requests and through other channels, it emerged that evidentiary trails - including communications with the US Federal Bureau of Investigations (FBI) – have been destroyed by Swedish and British prosecutors, with no plausible explanation provided.
- c)** Political interference: Senior UK governmental ministers have boasted about using their diplomatic skills and clout to broker a deal with Ecuador's new government to rescind Mr. Assange's asylum so that he could be taken into custody.
- d)** Inability to Prepare Defence: Mr. Assange has been subjected to material and repeated disruptions both with respect to his access to the documents he needs in order to prepare his case and with respect to the facilities he needs in order to consult with his lawyers so that he can prepare his defence.
- e)** Concerns about impartiality: Officials responsible for key decisions about various aspects of Mr. Assange's case have made inappropriate comments about him, suggesting high levels of prejudice and bias. For example, Mr. Assange has been called a 'narcissist' by a judge during a court hearing. There are also concerns that the senior judge who dealt with his previous case appears to have had serious, multiple conflicts of interest. All this has led to doubts about whether an attempt to deny Mr Assange a fair investigation of his case may be underway.
- f)** Failure to respond to UN and other experts: UN officials have stated publicly that Mr. Assange has been detained illegally and arbitrarily and has been tortured. The British authorities have an obligation to engage with and to investigate these criticisms. Instead their responses to UN officials have been belated, improper and inadequate. Moreover, those responsible for these inadequate replies are those – in the British government and the criminal justice system – who are specifically responsible for ensuring that justice is served.

4. **US extra-territorial overreach and the dangers to Mr. Assange from extradition to the United States**

The extradition request made by the US authorities in itself gives rise to serious concerns. Mr. Assange is an Australian citizen and a journalist based in the United Kingdom. There is no suggestion that he has ever broken any British law whilst undertaking his work as a journalist in the United Kingdom.

Mr. Assange, however, faces an extradition request from the United States in which the US authorities claim that he has committed offences including under the US Espionage Act, which applies exclusively to the jurisdiction of the United States. The charges the US authorities are seeking to bring against Mr. Assange are seen by many journalists around the world as an open assault against investigative journalism as it is practiced. These demands by the US authorities for the extradition to the United States of an Australian journalist based in the United Kingdom must inevitably give rise to serious concerns about the extraordinary extra-territorial demands which the US authorities are now making. The consequences if such demands are accepted by the UK to facilitate the extradition of a multi award-winning journalist and publisher are a matter of great concern.

There must also be serious concerns, whether in the context of such demands, Mr. Assange has any realistic prospect of a fair trial if he is extradited to the United States. This is especially concerning given the disproportionate, cruel and inhuman punishment with which Mr. Assange is being threatened if he is convicted in the United States. His alleged accomplice and whistleblower Chelsea Manning, after already serving a lengthy prison term in often inhumane conditions, is now being held in indefinite detention in order to coerce her into giving evidence against Mr. Assange. Mr. Assange faces a possible prison sentence of 175 years. Extraditing Mr. Assange to the United States would in such circumstances not only be inhumane and wrong; it would set a disastrous precedent, legitimising the US authorities' practice of extra-territorial overreach, whilst infringing Mr. Assange's human rights in the most fundamental way, putting his very life at risk. It would also set the scene for a trial whose eventual outcome might set extraordinarily dangerous precedents which could endanger the entire practice of journalism.

Conclusion

Under the rule of law, a State is required to afford all defendants their human rights and to honour international law whether "deriving from treaty or from international custom and practice".

Such considerations are not intended to be optional or dependent on the nature of the crime. Nor are they justified by the nature of the circumstances; nor are they implemented at the discretion of the judge or the State.

As Lord Bingham eloquently reminds jurists in his eponymous 2006 lecture on the subject, the constitutional principle of the 'Rule of Law' is statutory and paramount.

Yet time and time again in Mr. Assange's case, we have seen the law ignored, manipulated or summarily rejected.

We call on the British legal community to reclaim professional standards, to condemn the torture of Mr. Assange and to engage in urgent actions to secure his immediate and safe release.

Signed by:

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