

'The Trial of Julian Assange'

A story of persecution

by Nils Melzer 2022 Verso

This book should be read by all who believe in the righteousness of the democracy in which they live and whose freedoms they enjoy, and by those who believe they are well-served by their robust and impartial legal system.

Essentially this book traces the changes of attitude of Nils Melzer as he investigates the detention of Julian Assange in London. He admits to having absorbed the prejudices conveyed by the western media, and so was reluctant to become involved in the case.

Melzer's credentials seem impeccable, and his experience qualified him for appointment by the United Nations Human Rights Commission as a Special Rapporteur on Torture.

In setting the scene he explains the structure of the UNHRC and its scope and responsibilities. It is necessarily free from external interference. In essence the role of Special Rapporteur is advisory and not judicial, with wide investigative powers.

Melzer outlines his experience as an advisor to and delegate of the ICRC (International Commission of the Red Cross); and his experience in those capacities in war zones around the world over two decades. Additionally, he is a professor of international law, and has experience in the application of the law of war. Accordingly, his response to the revelations of the 'Collateral Murder' video released by WikiLeaks in April 2010 should warrant careful consideration.

One incident in Collateral Murder is analysed thoroughly, and interpreted through the basic understanding of the law of war provided by Melzer. He concludes that the events portrayed constitute war crimes on two counts. The subsequent investigation by the USA military command exonerated the culpable American combatants, and thus absolved their superiors of complicity. Thus their report was consigned to disappear forever into secret files. Melzer clearly describes the multiple betrayals resulting from this secrecy. WikiLeaks exposed these crimes to public view. The perverse twisting of language to accuse whistleblowers of treason while protecting war criminals is HuxWellian, and does not escape Melzer's critical scrutiny.

He describes how in late 2018 his office received an e-mail request for assistance for Julian Assange; which he dismissed without further consideration – based on his personal bias. A second approach by Assange's lawyers caused Melzer to examine the case and decide if his office should become involved. On reading the supplied documents he was forced to confront his own ignorance. He recalls: "I slowly began to wake up to my own prejudice, which had clouded my judgement and led me to summarily dismiss Assange's initial appeal three months earlier. What troubled me most was the self-righteous ease and unshakeable certainty with which I had accepted a largely unsubstantiated narrative as unquestionable fact." (Just like most of the population)

From the beginning this story is disturbing. Before too long it becomes alarming. In the introduction Melzer outlines the difficulties he had dealing with the governments involved which completely refused to co-operate with his investigations. Why would they stonewall him if they had nothing to hide? The details are explained in later chapters. Through diligence and persistence Melzer obtains pieces of the puzzle and methodically analyses and assembles them. He admits to never having all of the pieces, but from those he had was able to form reliable judgements.

Occasionally Melzer explores the reasons for human behaviour, and thus our inherent need for the protection of our societies by oversight and constitutional constraints. Human nature often determines social and political structures and procedures, in addition to personal interactions. Thus psychology, anthropology and evolutionary processes are introduced as reference points in what becomes a shadowy international powerplay.

Throughout this sad story Melzer relates, sometimes briefly but often in-depth, his dealings with 'responsible authorities' in the relevant countries; and their replies to his enquiries. Often his correspondence was not even acknowledged. He quotes verbatim from official replies and press releases. Sometimes those replies are blatantly false, othertimes they are laughable. Always the analysis that follows is either legal or moral, and always counter-acts the official announcements. It is interesting to contemplate the levels of official self-delusion that produce such ineffective statements from supposedly credible authorities. (Or perhaps the system has become so cynical that it believes that any lies it proclaims will be uncritically accepted) Melzer reminds us constantly that this is a very dangerous state of affairs.

National focus

After eight years of asylum within the Ecuadoran embassy in London, and with Assange currently being held in a British prison, most of Melzer's attention centres on the U.K.. His first experience of the Assange case was his official visit to Assange in Belmarsh Prison in early 2020. He carefully contrasts his visit to Belmarsh, as a U.N. special rapporteur, with the usual response to his presence at detention centres and prisons in other parts of the world – many in unstable, poor or war-torn countries. The contrast is stark. His official visit to Belmarsh was tolerated but not welcomed. Melzer does not state this: but the official British response was more likely a calculated insult to him and his office. On many counts the U.K. demonstrates that it is no paragon of either legal or moral rectitude.

Based on his first experience Melzer formed the conclusion that the Assange case has been politicised at the highest levels of the British government. He includes quotes from the memoir of Alan Duncan, a former minister in the U.K. government, who was involved in negotiations with the Ecuadoran government over the termination of Assange's asylum in its London embassy. The political nature of the British government's treatment of the Assange case is clearly evident, and by the end of the book Melzer's conclusion is not only unaltered but also strengthened.

By diligent comparison of facts, dates and sources, Melzer carefully burrows beneath facile official pronouncements to reveal the sinister machinations of the governments involved : Sweden, Ecuador, United Kingdom, and the United States of America.

Repeatedly it is demonstrated that the British government treated the office and role of the UN special rapporteur with contempt, and did everything it could to render his investigation ineffective. This may not matter in diplomatic parlour games of no real-world consequence, but in this case the fundamental human rights and liberty of an illegally-detained person are at stake. The U.K. government resembles a rogue regime in its single-minded persecution of Julian Assange.

Melzer is habitually careful and thorough in detailing the accumulation of relevant information, in addition to his reasoning in forming his conclusions. His focus is legal, and his processes governed by cool rationality and logic.

The Swedish Picture

The events in Sweden that precipitated this whole saga in August 2010 are patiently assembled by Melzer and his team. Despite the personal nature of the interactions involving Assange, and the resulting complaints, the events are recorded in Swedish police files. It quickly becomes apparent that the police records are unreliable, and other sources assume great importance.

Those events are re-told in some detail, and reading this section presented an ethical dilemma. The personal lives of Julian Assange and his associates are not my business, and I have no interest in them. I am not interested in gossip and innuendo, because of the damage that they can do to people's lives. Reading of these personal details was discomfoting, making me an un-invited spectator of the intimate relations of consenting adults.

However there are probably good reasons why this material has been included in Melzer's account of his

investigations. The events that have been the basis of a systematic campaign of vilification of Assange are, in the great scheme of things, fairly innocuous. This is not to trivialise matters of sexual assault; but when the story turns on different accounts of the same events from the separate viewpoints of the consenting adults involved, the matter is not of the order of a criminal or capital offence.

I believe that Melzer thought it important to include these details in order for the prejudiced reader to understand how the publicised version of those events has been so thoroughly misrepresented.

In seeking explanations for the bizarre behaviour of the Swedish police in handling this case, Melzer describes the 'parallel universe' phenomenon of informal 'intelligence sharing' between Sweden and the U.S.A. via numerous national spy and security agencies. These exchanges are frequent and conducted in secret, directly between such agencies, and beyond the knowledge of the Swedish parliament. From secret cables he quotes the desires of these agencies to maintain their informal communications, and their understanding of the damage that could be done to these arrangements if parliament or the public becomes aware of them. This is implicit acknowledgement of the illegality of their activities.

It is established by Melzer that Assange was under surveillance during his visit to Sweden. It becomes obvious that Julian Assange and WikiLeaks had embarrassed the U.S.A. with their revelations, and made themselves targets for retribution. Assange was fully aware of how desperately the Americans wanted to capture and prosecute him, and that they were watching him closely. Melzer reveals the extent to which the American and Swedish authorities were aware of Assange's plans.

The entire Swedish police investigation is riddled with inconsistencies, delays and incompetence. However, Melzer compiles enough evidence to show that police were playing a long-game to encourage media and public hostility to Assange, and to deny him due judicial process. To be fair to Swedish police, appearances of incompetence may in fact indicate the depth of politicisation of this case – right from the start. Either interpretation should alarm all who believe in democratic government and the rule of law.

During their first interview with the police, the two women complainants were shocked to find that their stories were hijacked by police. Very soon the women had lost control of their own stories. That same evening, within hours of that interview, the police report was leaked and picked up by a journalist who fed the story to one of the popular tabloid newspapers. An initial journalistic enquiry to the police prosecutor's office confirmed the leak, and so began an international media frenzy that irreversibly stained Assange's reputation. Right from that first contact police handling of the case can only be described as unprofessional.

Time and again Melzer dismisses co-incidence as a viable explanation of multiple irregularities in the Swedish police investigation of the Assange case. The resulting conclusion is that this case has been entirely politicised, and the Swedish police and prosecutorial system is exposed as having been corrupted. So much for one of the brightest lights of liberal democracies worldwide.

Hidden Pressure

Ecuador features in the early part of the story. Initially it acted with respect, dignity and compassion. Then a profound change occurred when there was a change of political leadership in Ecuador. After that time consular arrangements changed and life became more and more difficult for Julian Assange.

Hovering in the background but mostly unseen was the threatening presence of the U.S.A.. Its government and secret agencies obviously have considerable influence and exert serious pressure on foreign governments to serve American interests. At almost every turn Melzer identifies subservience to American demands as the most logical explanation for repeated procedural failures in the Swedish police investigations, which otherwise would be inexplicable. The same applies to the U.K. and Ecuador. This has been a constant theme during the twelve years covered in the course of this story. The U.S.A. can remain quietly in the background while those other countries corrupt themselves doing America's dirty work. Clearly the deck is stacked against the interests of Julian Assange.

Many times Melzer reminds us that the persecution of Julian Assange has been very effective in deflecting public attention away from the crimes of governments, to concentrate on the character of the whistleblower.

If we are aware of being hoodwinked and convinced by the lies of a compliant and dishonest media, we might choose to reject the propaganda and seek the truth; but only if a more honest and truthful scenario is available to us. The absence of a viable alternative leaves the public with a choice of one narrative. This highlights the critical need for complete transparency of governance, and so the vital importance of this book.

Careful Comparisons

Frequently Melzer explains, in definitional terms, concepts of mis-treatment, abuse, inhuman treatment and torture of prisoners; and of proportionality in sentencing. Matters of extradition are similarly treated. These internationally accepted standards are then compared with the treatments applied to Chelsea Manning and Julian Assange.

Melzer does not limit his considerations to his own assessments. He is reliant on the experience and impartiality of numerous internationally renowned medical and psychological experts. Some of these specialists have vast experience examining the survivors of ill-treatment and torture during imprisonment. They can recognise physical and psychological signs and patterns of behaviour common to such victims. So when they claim that Julian Assange exhibits signs of suffering inhuman treatment, we should not lightly dismiss their findings. Melzer certainly relies on their work in forming his official judgements.

As an example of the abuse of the British legal system, one need go no further than the matter of proportionality of sentencing. Solitary confinement within a maximum-security prison is not proportional to the 'crime' of bail-violation, yet this has been imposed on Assange. Arbitrariness is also of importance here, because of its role in de-humanising victims in detention. Sentence proportionality is not the only failure.

Sadly there are numerous other violations of the 'due process of law' that Assange has endured, all catalogued in extraordinary detail by Melzer's rigorous investigation. This has to be read to be believed.

Procedural Integrity

It is important to understand the role and mandate of the U.N. Special Rapporteur on 'Torture and other Cruel, Inhuman or Degrading Treatment or Punishment'. The role is independent of political influence, and his conclusions and recommendations are apolitical. Melzer explains the need for this as absolutely necessary for the functioning and credibility of his office, and ultimately of the U.N. itself. His investigations are on behalf of member-states of the U.N., and his reports are legal documents, based on law and legal reasoning. All of this is explained in various ways throughout the book, so it is not an unreliable or emotional personal flight-of-fancy.

Throughout his enquiry into the Assange case he was forced to confront some unpleasant realities and disturbing facts. Fortunately his experience equipped him with the ability to recognise deception and lies in legal and official pronouncements, and to search behind the obfuscation for deeper political motivations. In this book Melzer provides a wonderfully clear-eyed understanding of otherwise obscure and mysterious processes.

Conclusion

It is time for some direct language. In at least three of the four countries involved in the Assange saga it is clearly demonstrated that governments and/or legal systems have been corrupted.

This is a chilling story that should be read by all who believe that Julian Assange is a sleazy and disreputable bludger undeserving of sympathy, support or protection.

What is exposed in this frightening account is really sinister. But the real threat is not WikiLeaks or Julian Assange. The real menace is the combined national, secret/security and corporate interests whose power and control are threatened by exposure of their dirty secrets. They and their rogue agencies must

despise Julian Assange and WikiLeaks. They have been relentlessly pursuing him for twelve years. This is made abundantly clear, time after time as Melzer patiently and meticulously assembles the facts of the case.

If this sounds so far-fetched that it just cannot be believed, then try explaining in other terms all of the myriad irregularities and contradictions of the Assange case. The explanations proposed by all of the authorities involved amount to no more than glib platitudes. Thankfully the clues are laid out in this excellent book and are made easy to follow. Melzer's purpose in writing it is to compile the facts and allow you – the reader – to analyse them and form your own conclusions.

Logical in its presentation, its timeline reverts to early events, after having explained the difficulties of investigating those events (and subsequent legal proceedings) nine years later. This enables the reader to recognise the points at which the narrative starts to go wrong for Assange and WikiLeaks.

On almost every page are more revelations to complicate the picture. Many other countries are drawn into the net; and demonstrate at least acquiescence, if not complicity, in the elaborate scheme to isolate Assange, demonise him in world opinion, and deny him justice.

Australia is almost absent from this book, as it has been from most of the events described. When Australia is mentioned, its inaction is glaring and its craven complicity with U.S.A. government interests is stark and undeniable. The word used by Melzer is 'shameful'.

Nils Melzer explains that, having completed his investigation in the face of indifference and hostility from the four governments involved, morally his only possible response was to write this book. He felt compelled to alert the world to the malign schemes being played out internationally that threaten democracies worldwide.

It is more than disturbing to confront the evidence that the nations that speak the loudest about the rule of law and the freedoms of democracy are the same who have denied due legal process, personal liberty and human rights to Julian Assange. Just read this book to learn how this has been done.

As a result of Melzer's excellent research, the western media has shown itself to be self-serving and superficial, easily mis-led and moulded by powerful interests into fraudulent purveyors of lies and propaganda.

'The Trial of Julian Assange' should be compulsory reading. Unfortunately many people will not pick it up because they already 'know' all they need to know about him. They do not realise how their minds have been made up for them.

This book is comprehensive, and rewarding to read. Although the message is a bitter and uncomfortable pill to swallow, it is empowering to know the extent to which some powerful interests will go to preserve their privileges. In military terms this principle is 'know thine enemy'. Essential to this is the ability to identify and recognise one's enemy. It is encouraging that honourable people like Nils Melzer have exposed our supposedly clean governmental systems and much-vaunted legal systems for what they are – now untrustworthy. We must heed and act on his warnings.

Australia can take no comfort from this account. We must accept that we will be known for the friends we keep. When our special relationships align us with abuses of human rights and denial of proper legal processes, what should be our response? When our 'reliable friends' are shown to have corrupted their own legal, constitutional and democratic processes; do we have the moral courage to stand up to these bullies?

This is a powerful book. Melzer is clear that the warning signs he has identified will lead to an un-democratic future – unless we counter-act this downward spiral, now.

Amongst others, the main players who shine through this travesty with honour and courage are Julian Assange and his support team, and Nils Melzer.

A Sense of Responsibility

The importance of this book cannot be over-stated. Melzer pulls no punches. Carefully he catalogues all of the systemic failures that have allowed the human rights and liberty of Julian Assange to be abused and withdrawn; in a deliberate and orchestrated campaign of vilification, slander and defamation. Assange cannot refute these allegations because he has been silenced by illegal imprisonment and repeated denials of due process. Whatever happened to *habeus corpus*?! ... and *the separation of powers* ?!

Melzer's investigation into the (mis)treatment of Julian Assange revealed "compelling evidence of political persecution and gross judicial arbitrariness, as well as of deliberate torture and ill-treatment." He also states that "It is the story of a man who has been scapegoated by all of us for our own societal failure to address government corruption and state-sanctioned crimes. It is also a story about each and every one of us, our lethargy, our self-deception and our responsibility for the political, economic and human tragedies of our time." From this it is evident that Melzer has a highly-developed respect for democracy as an ideal, but is pragmatic in his understanding of its weaknesses.

The reader may need reminding that the events so thoroughly recorded in this book have been conducted in your name, on your behalf. If you believe in democratic government, then you are responsible for the actions and inactions of your government. If you are interested in what really happened to Julian Assange you must read this book. Then ask yourself if his treatment has been fair or just. Does democracy look like this? Is this **really** democracy at work? Melzer confronts us with these uncomfortable questions.

A challenge has been thrown down in our path by Nils Melzer, for us to take personal and political responsibility for the fundamental changes in our society that have allowed such transgressions.

Considering that the Australian government has completely failed to defend one of its own citizens, what responsibility do we bear for these inactions and failures?

After reading this book the reader's question should be : **now that I know, what will I do about it ?**

Review by John Endacott
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