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Human rights situations that require the Council's attention

Written statement* submitted by International Association of Democratic Lawyers (IADL), a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[11 February 2019]

* Issued as received, in the language(s) of submission only.



Attempts to prosecute Julian Assange on account of his publishing activities set a dangerous precedent against the freedom of the press throughout the world

For more than 8 years, WikiLeaks' founder and editor, Julian Assange has been under various forms of restrictions upon his liberty without charge in the United Kingdom of Great Britain and Northern Ireland. Despite a Working Group on Arbitrary Detention ruling in December 2015 (opinion No. 54/2015) that Mr Assange was being arbitrarily deprived of his freedom and demanded that he be released. The UK has not only refused to comply with this decision, but senior government representatives, including the Prime Minister, have condemned the decision.

On 21 December 2018, UN human rights experts repeated the demand that the UK abides by its international obligations and immediately allows Mr. Assange to walk free from the Ecuadorian embassy in London where he has been for over 6 years, fearing arrest by British authorities if he leaves, and extradition to the United States of America.

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Mr Assange has won numerous international journalism awards – from the Amnesty New Media Award to the Walkley Award for outstanding contribution to journalism in his native Australia – and been nominated for the Nobel Prize for eight consecutive years (2010-2018) as a result of the work he has done with WikiLeaks.

WikiLeaks is a not-for-profit international media organization that is available to any individual who wishes to reveal and expose sensitive information that is of interest to the public. WikiLeaks provides technological protection and anonymity to sources and whistle-blowers so that information in the public interest can be provided and published without fear of prosecution or reprisal.

Some of the most well-known WikiLeaks publications to date include: the dumping of toxic waste in Côte d'Ivoire by the multinational company Trafigura; the instruction manuals for the Guantánamo military base; databases documenting the wars in Afghanistan and Iraq; evidence of corruption and extrajudicial killings in Kenya; and Internet censorship in China, among others. Documents published by WikiLeaks have recently helped identify Maher Mutreb, one of the alleged killers of the Saudi journalist Jamal Khashoggi at the consulate of Saudi Arabia in Turkey. WikiLeaks' publications have been cited by newspapers around the world and in human rights cases before the International Court of Justice, the European Court of Human Rights and the UK Supreme Court.

However, WikiLeaks publications have also put Mr. Assange, a journalist and editor, at the centre of reprisals by the States that have been the subject of WikiLeaks' revelations of serious human rights violations or the commission of war crimes. Examples of this persecution are announcements by Saudi Arabia, Australia and other states concerning criminal proceedings against the publisher.

US persecution of Mr Assange

The main threat suffered by Mr. Assange as a result of his journalistic activities with WikiLeaks has been the political persecution deployed by the United States of America (US), through seeking Mr. Assange's criminal prosecution and through the deployment of extrajudicial measures against him and WikiLeaks. WikiLeaks has revealed evidence of US involvement in war crimes and torture, has documented – through the Afghanistan and Iraq War Logs – the extent of civilian casualties in US-led wars, and human rights abuse and corruption the world over. Since 2010 the US has had an active, ongoing criminal investigation into Mr Assange and Wikileaks which the Australian government has described as “unprecedented in size and scale”.

While the criminal investigation was commenced under the Obama administration, the Trump administration has taken a more aggressive institutional position in relation to Mr.

Assange and WikiLeaks. After WikiLeaks publication Vault 7 in 2017, which has been described as "the most important leak in the history of the CIA", the Director of the CIA, Mike Pompeo (who is now Secretary of State), said that the US would treat WikiLeaks as a "hostile, non-state intelligence service", that the United States would "no longer allow Assange and his colleagues the latitude to use free speech values against us" and asserted that Mr Assange would not benefit from constitutional free speech protections. Soon after, the Attorney-General Jeff Sessions confirmed that prosecuting Mr Assange as "a priority". In November 2018, it was confirmed in US media that the US has issued an indictment for Mr Assange. The US courts have refused to unseal the indictment.

It is extraordinary and dangerous for the Trump administration to claim that it has the right to prosecute publishers in Europe, publishing from Europe. IADL is concerned that this precedent could be used to shut down critical reporting worldwide.

Successive US administrations have taken unprecedented actions with complete disregard to basic legal safeguards in relation to WikiLeaks, a journalistic organization that enjoys protections both under the US legal system and international human rights law. US' attempts to bring a prosecution against Julian Assange and WikiLeaks set a dangerous precedent against the freedom of the press throughout the world.

Asylum, Ecuador, the UK and the US

Mr Assange was granted asylum by Ecuador in 2012 on the grounds of his legitimate fear of persecution in the US as a result of WikiLeaks' publications. Mr Assange is now a dual Australian-Ecuadorian citizen and he remains inside the Ecuadorian embassy in London as a result of the failure of the UK government to provide assurances against his extradition to the US. The purported basis for the UK to arrest Mr Assange was a criminal investigation in Sweden which was dropped in 2016. The UK now claims it will arrest Mr Assange for breach of bail for seeking asylum in the Ecuadorian embassy during extradition proceedings to Sweden in relation to that criminal investigation which has since been dropped. The UK continues to refuse to provide an assurance against extradition to the US. Mr Assange has repeatedly stated he is willing to face British justice, but not at the risk of facing American injustice.

As a result of the UK's failure to respect Ecuador's grant of asylum, Mr Assange remains inside the Ecuadorian embassy. The UK refuses to allow him to leave the embassy to seek essential medical treatment without risking arrest and extradition to the US, which medical doctors have found is resulting in serious and permanent impact upon Mr Assange's health. In effect, the UK is attempting to force Mr Assange to choose between his right to health and his right to asylum.

Rule of law and compliance with WGAD decisions

As the Working Group made clear in its recent statement supported by the UN special rapporteur on human rights defenders:

"The United Kingdom has ratified the International Covenant on Civil and Political Rights (ICCPR) and has a responsibility to honour its commitment, by respecting its provisions in all cases ... As the High Commissioner for human rights said several years ago, human rights treaty law is binding law, it is not discretionary law. It is not some passing fancy that a state can apply sometimes and not in the other... the recommendations of the WGAD Opinions are expected to be implemented by all States, including those which have not been a party in the case concerning Mr. Assange."

It further stated that WGAD is concerned that the continued arbitrary deprivation of liberty of Mr. Assange is undermining his health, and may possibly endanger his life given the disproportionate amount of anxiety and stress that such prolonged deprivation of liberty entails.

In conclusion, the UN experts said “it is time that Mr. Assange, who has already paid a high price for peacefully exercising his rights to freedom of opinion, expression and information, and to promote the right to truth in the public interest, recovers his freedom.”

In the light of the above, IADL urges the United States:

- to end its attempts to criminally prosecute WikiLeaks and Julian Assange, which threaten fundamental and universal press freedoms;

IADL urges the United Kingdom:

- to comply with the WGAD opinion and therefor to put an end to the indefinite confinement of Mr. Assange in the Ecuadorian embassy in London, in a manner that is fully consistent with his status as a refugee.

Finally IADL urges Ecuador:

- to continue to protect Mr. Assange and seek the assurances required to allow him to leave the embassy without the risk of facing US extradition.
 - to end the regime of isolation imposed on Mr. Assange, suspending the application of the so-called Special Protocol and
 - to ensure Mr. Assange’s rights while he remains in the embassy, including visitation, access to the internet and other basic protections
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