



The Rt. Hon Priti Patel
Secretary of State for the Home Department
2 Marsham Street
London
SW1P 4DF

May 9, 2022

Dear Home Secretary,

Defending Rights & Dissent is a US-based Non-Governmental Organization that works to defend the right to political expression and other fundamental human rights within the United States. We urge you to reject the United States Government's request to extradite Julian Assange.

Given our domestic focus, it is unusual for us to correspond with foreign governments. However, given the extraordinary nature of Assange's case and its implications for press freedom not just in the US, but globally, we are compelled to do so.

For 12 years, our organization has closely monitored the US government's attacks on WikiLeaks and its publisher Julian Assange. We have also monitored the cases of other individuals indicted under the Espionage Act. Based on this extensive monitoring, we have concluded that the case against Assange is politically motivated, that he will not receive a fair trial in the US, and that he will be subjected to conditions of confinement that would constitute serious deprivations of human rights. For these reasons, we urge you to reject his extradition.

The United States government's incentive to put Julian Assange on trial is political. The 18 charges brought against Assange all stem from his role in publishing revelations about the US wars in Iraq and Afghanistan, the US prison camp in Guantánamo Bay, Cuba, and activities of the State Department. Shockingly, seventeen of these charges are brought under the Espionage Act. This information was published in conjunction with news outlets around the world, including *The New York Times*, *The Guardian*, *Le Monde*, and others.

These revelations were embarrassing to our government, but they were in the public interest. Nonetheless, they provoked the wrath of US intelligence agencies, who engaged in a full scale war on Assange. The Department of Justice demanded access to the Twitter accounts

not only of WikiLeaks publisher Julian Assange and source Chelsea Manning, but Birgitta Jonsdottir, a sitting member of the Icelandic parliament.¹ Later, the FBI demanded and received access to the GMAIL accounts of three journalists associated with WikiLeaks.² In 2011, the FBI lied to the government of Iceland and entered the country on false pretenses in order to investigate WikiLeaks. When the Icelandic Foreign Minister discovered the true purpose of their visit, he expelled them from the country.³ The National Security Agency discussed declaring WikiLeaks a “malicious foreign actor” and included Assange in their “Manhunting Timeline”, which typically includes foreign terrorists. Per Assange's entry in the NSA Manhunting Timeline, the US government asked multiple allied nations to pursue criminal charges against Assange with hopes of stopping future WikiLeaks publications.⁴ After a 2017 disclosure about the CIA, the CIA declared WikiLeaks a “non state hostile intelligence agency”. The CIA discussed assassinating Assange and seriously contemplated kidnapping him in violation of both US and international law.⁵ Employees of the Spanish security firm UC Global have similarly reported an illegal campaign to neutralize Assange, including a proposed assassination attempt.⁶

In spite of immense pressure from intelligence agencies, the Obama Administration and its Justice Department refused to bring charges against Assange. The Obama administration rejected the politically motivated campaign to indict Assange due to “*The New York Times* problem”--any charges against Assange would have set a precedent for charging *The New York Times* and other journalists. After the Trump Administration reversed course and indicted Assange under the Espionage Act, Matthew Miller, the former spokesperson for the Department of Justice under the Obama Administration, responded by stating, “Dangerous and probably unconstitutional. DOJ doesn't get to decide who is deserving of first amendment

¹ “Lawmaker: U.S. subpoenaed Twitter information linked to WikiLeaks,” *CNN*, (January 8, 2011). Available at <http://www.cnn.com/2011/CRIME/01/08/us.wikileaks.twitter/index.html>

² Ed Pilkington and Dominic Rushe, “WikiLeaks demands answers after Google hands staff emails to US government,” *The Guardian* (January 25, 2017). Available at <https://www.theguardian.com/technology/2015/jan/25/wikileaks-google-staff-emails-us-government>

³ David Carr and Ravi Somaiya, “Assange, Back in News, Never Left U.S. Radar,” *The New York Times* (June 24, 2013). Available at https://www.nytimes.com/2013/06/25/world/europe/wikileaks-back-in-news-never-left-us-radar.html?page-wanted=2&_r=2

⁴ Glenn Greenwald, Ryan Gallagher, “Snowden Documents Reveal Covert Surveillance and Pressure Tactics Aimed at WikiLeaks and Its Supporters,” *The Intercept* (February 18 2014). Available at <https://theintercept.com/2014/02/18/snowden-docs-reveal-covert-surveillance-and-pressure-tactics-aimed-at-wikileaks-and-its-supporters/>

⁵ Zach Dorfman, Sean D. Naylor and Michael Isikoff, “Kidnapping, assassination and a London shoot-out: Inside the CIA's secret war plans against WikiLeaks,” *Yahoo News* (September 26, 2021). Available at <https://news.yahoo.com/kidnapping-assassination-and-a-london-shoot-out-inside-the-ci-as-secret-war-plans-against-wiki-leaks-090057786.html>

⁶ Ben Quinn, “US intelligence sources discussed poisoning Julian Assange, court told.” *The Guardian* (September 30, 2020). Available at <https://www.theguardian.com/media/2020/sep/30/us-intelligence-sources-discussed-poisoning-julian-assange-court-told>

protections and who isn't. There's a reason we wouldn't charge this in the Obama administration."⁷

That so many of the charges are brought under the Espionage Act further exposes the political nature of the prosecution. Assange is the first publisher ever indicted under the Espionage Act. The Espionage Act has been used to prosecute journalists' sources. While a publisher is legally distinct from a government employer who gives information of public interest to the media, these cases also involve national security journalism and thus are instructive. Senator Daniel Patrick Moynihan while acting as chairman of the Commission on Protecting and Reducing Government Secrecy, criticized the use of the Espionage Act against such a source noting that "leaking information to the press in order to bring pressure to bear on a policy question" was a "a routine aspect of government life" making what was remarkable not the crime, but the prosecution. As Senator Moynihan noted, "an evenhanded prosecution of leakers could imperil an entire administration."⁸ Those who disclose information that bolsters the government's claims face no consequences, but those who embarrass the government or expose misconduct are prosecuted. The US government uses the Espionage Act not against those who disclose classified information, but against those who disclose classified information that is politically inconvenient. This is equally as true of the charges against Assange as a publisher as it is against Espionage Act charges brought against journalists' sources.

Assange's prosecution is political, stemming from his publishing of information that embarrassed the US government. For this reason alone his extradition must be rejected. But there are additional reasons to reject the extradition.

Assange will not receive a fair trial in the Eastern District of Virginia. The Eastern District is known as the "national security" docket, because the US government deliberately brings national security cases in this district. As many of the US intelligence and defense agencies are based in this district, Assange is likely to face a jury already prejudiced against him.

Recently, we monitored the case of Daniel Hale. Hale was a US Air Force Veteran accused of giving classified information about the human costs of the US drone program to a reporter. He was charged under the Espionage Act. There are legal issues of first impression involving the prosecution of a publisher under the Espionage Act. And there are legal distinctions between a publisher and a government employee who assists a journalist in news gathering by acting

⁷ See <https://twitter.com/matthewamiller/status/1131653613141536770?s=20>

⁸ Letter from Senator Daniel Patrick Moynihan to President William Jefferson Clinton (September 29, 1998). Available at <https://sgp.fas.org/news/2001/04/moynihan.html>

as a source. Nonetheless, given that Hale was tried under the same act, in the same district, by the same prosecutor and in a case involving national security journalism, Hale's case serves as a warning for what Assange faces. Before the trial, the prosecution requested that Hale be barred from mentioning his "good motives" for giving information about the drone program to a journalist, mentioning how leaks are common and rarely prosecuted, challenging the classification of the information he was accused of giving to a journalist, or even suggesting someone else could have been the source without identifying a specific individual. The judge granted these requests essentially depriving Hale of a meaningful chance to mount a defense. Faced with the prospect of a show trial, Hale understandably pleaded guilty. In spite of the distinctions between the two cases, the similarities are alarming and indicate that Assange is also unlikely to get a fair trial.

Finally, Julian Assange will be subjected to conditions of confinement in the US that violate international human rights norms. UK District Judge Vanessa Baraitser correctly concluded Assange's treatment in the US would be oppressive given his mental health. Since then the US has given guarantees designed to address concerns about Supermax Prisons and Special Administrative Measures. Many have noted these "assurances" have many exceptions rendering them useless. We agree with this analysis. However, we also note that even the assurance given by the US violates international law. US prosecutors have stated it is likely that Assange will be housed at William G. Truesdale Alexandria Adult Detention Center in Alexandria, Virginia and kept in isolation for 22 hours a day. In spite of claims by the US that this would not constitute solitary confinement, the United Nations (UN) Standard Minimum Rules for the Treatment of Prisoners defines solitary confinement as "22 hours or more a day without meaningful human contact." Under these rules, solitary confinement in excess of fifteen consecutive days constitutes prolonged solitary confinement. Prolonged solitary confinement violates the international prohibition on torture, cruel, inhuman or degrading treatment or punishment.

We are uniquely positioned to weigh in on this case. We have repeatedly monitored the treatment of national security journalism-related individuals detained at the Alexandria Detention Center (including witnesses called before the grand jury that indicted Assange). We raised concerns about their treatment to both local officials and United Nations experts. Based on our experiences, we believe it is highly likely that Assange will be subjected to conditions of confinement if extradited that violate human rights norms.

For the reasons outlined above, we urge you to reject the extradition request.

Sincerely,
Chip Gibbons, Policy Director, Defending Rights & Dissent