

THE PERSECUTION OF JULIAN ASSANGE

A review of Nils Melzer: *The Trial of Julian Assange*, Verso Books, 2022

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PROLOGUE: A BRIEF HISTORY OF WIKILEAKS¹

As a teenager in Australia in the 1980s, Julian Assange had explored the possibilities of hacking with a couple of friends calling themselves the 'International Subversives'. This got him into trouble with the law through the 1990s. He wrote a book about this period of his life - *Underground* - which was made into a film. Subsequently in the 1990s, with a group called the Cypherpunks, he turned his attention to cryptography as a means of defending the Internet against state surveillance. He wrote a book about this too - *Cypherpunks*. Wikileaks was designed as a 'drop box' in which whistleblowers could with the highest degree of anonymity, deposit documents deemed to be in the public interest. The 'wiki' part of the project was that, as with Wikipedia, these documents would be made available in an accessible and searchable form and would then be open to analysis by whoever wished to engage in it. As the Wikileaks website explained: *'To the user, Wikileaks will look very much like Wikipedia. Anybody can post to it, anybody can edit it. No technical knowledge is required. Leakers can post documents anonymously and untraceably. Users can publicly discuss documents and analyse their credibility and veracity. Users can discuss interpretations and context and collaboratively formulate collective publications. Users can read and write explanatory articles on leaks along with background material and context. The political relevance of documents and their verisimilitude will be revealed by a cast of thousands.'* (Lord, ch 2)

According to Assange (Lord, ch 1):

'The creation of WikiLeaks was, in part, a response to Iraq. There were a number of whistle-blowers who came out in relation to Iraq, and it was clear to me that what the world was missing in the days of Iraq propaganda was a way for inside sources who knew what was really going on to communicate that information to the public ... The Iraq War was the biggest issue for people of my generation in the West. It was also the clearest case, in my living memory, of media manipulation and the creation of a war through ignorance.'

The domain name 'Wikileaks' was registered in 2006 and the site went into action in 2007, claiming that *'Our primary interests are oppressive regimes in Asia, the former Soviet bloc, sub-Saharan Africa and the Middle East, but we also expect to be of assistance to those in the West who wish to reveal unethical behaviour in their own governments and corporations ...'* (Lord, ch 2). The advisory board included two Chinese dissidents and a Tibetan. China was the first country to block it - in January 2007, before it started publishing material. But in the end it was mainly, though not at all exclusively, Western-orientated documents that were leaked.

Documents posted in 2007 included material related to the looting of Kenya under President Moi (August), the complete equipment register for the US army in Afghanistan (September),

¹ This account is based mainly on Gary Lord's online *Wikileaks - a true history* - <https://jaraparilla.xyz/index.html>
This is an ongoing project. Two new chapters have appeared since I thought I'd finished writing this article.

and Iraq (November)², the employment of former STASI officials in Germany (October), the Standard Operating Procedure for the Joint Task Force in Guantanamo Bay (November) and in Camp Bucca, the largest prison in Iraq - 20,000 prisoners (December), and a report into the failure of the May 2004 siege of Fallujah (December). But given the quality of this material Assange was exasperated at the failure of the media to report it, publishing an attack on the British press - *The Hidden Curse of Thomas Paine* - in April 2008.

The project nonetheless continued, including, in June 2008, the 219 page US military manual: 'Foreign international defense tactics, techniques and procedures for special forces' which the Wikileaks website summarised (Lord, ch 3) as '*What we learned about running death squads and propping up corrupt government in Latin America and how to apply it in other places.*' But it was in 2010 that Wikileaks really attracted attention with the huge trove of material leaked by Bradley Manning on 'SIGacts' (significant actions) reported in the Afghanistan and Iraq wars.

In April 2010, Wikileaks released, under the title 'Collateral Murder', film of the killing of a group of Iraqis together with two Reuters journalists, an incident that occurred on 12th July 2007. What was particularly shocking about the killing was not just the lack of any justification for it but the glee with which it was done. The video made a huge impact (17 million views on Youtube at the time of writing). Manning was arrested in May 2010. This was not a failure in Wikileaks' security. Deeply disturbed about his own sexual identity and about what he increasingly felt was the criminal activities his own army was engaging in, he had, he thought, found an online friend in a fellow transsexual, with whom he could share his secrets but who, in the event, betrayed him.

The publicity given to *Collateral Murder* and the arrest of Bradley Manning persuaded Assange that for releasing the first tranche of the Manning SIGacts he should get some cover with the mainstream press, establishing the principle that Wikileaks was a publisher and therefore entitled to the legal protections given (supposedly) to the press. The first group of documents - the 'Afghan War Logs' - was released in conjunction with *Der Spiegel*, the *New York Times* and the *Guardian*. Publication began on 25th July - 75,000 documents covering a period between January 2004 and December 2009, '*the most comprehensive history of a war ever to be published during the course of the war - in other words at a time when they still had a chance of doing some good,*' according to Assange (Lord, ch 6). Some 15,000 documents were held back in order to avoid putting lives in danger.

On the 11th August, Assange went to Sweden, partly to arrange a change of Internet Service Provider and partly with an idea of asking for Swedish citizenship, imagining it to be a very liberal country well disposed to dissenting opinion. He was also due to give a talk to the *broderskapsrorelsen*, "the Brotherhood movement", a Christian group attached to the Social Democratic Party with a record of campaigning on issues of '*peace and disarmament, aid, human rights, refugee, migration and asylum issues, environmental issues and the Middle East, especially the Israel-Palestine conflict, as well as anti-racism, minority and LGBT issues*'.³ The woman organising

² This included the handling of the Iraq Development Fund, made up of seized Iraqi assets - \$9,000,000,000 unaccounted for.

³ Wikipedia account. It is now, since 2011, called the Social Democrats for Faith and Solidarity and is open to non-Christian believers, eg Muslims.

the meeting, Anna Ardin, offered him the use of her very small flat for the 13th, saying she would be away, but she turned up unexpectedly.

There are many accounts of what happened next.⁴ I shall try to keep it brief, keeping to uncontested facts. More detail will be given in the following article.

They spent that night together in bed. According to Ardin this proved to be an unpleasant experience. Nonetheless, for the next few days they looked like a couple, with her acting as his personal assistant and press secretary. She arranged a party for him on the 14th August, tweeting on the morning of the 15th August: *'Sitting outdoors at 02.00 and hardly freezing with the world's coolest smartest people, it's amazing!'* Assange continued to live in her flat despite offers of alternative accommodation.

On the 16th, however, Assange went off for the night to sleep with another woman he didn't know who had been rather ostentatiously angling for his attention. I shall call her 'SW'. Her name is all over the internet but I'm not sure that her anonymity isn't still under a very ineffective legal protection. Four days later, on Friday 20th, SW contacted Ardin, apparently still seeing her as Assange's personal assistant, wanting him to test for HIV / AIDS on the grounds that they had had unprotected sex. Ardin brought SW to a friend of hers, a woman police officer who, she said, could help find him. To SW's surprise and distress, however, the police officer recorded the request as an accusation of rape. SW refused to sign it. Early that afternoon she texted a friend saying she *'did not want to put any charges against JA but the police wanted to get a grip on him.'*

The next morning, Saturday, Assange woke up to learn from the headline of one of the leading Swedish tabloids, *Expressen*, that he had been arrested in his absence for rape. To quote the account by Geoffrey Robertson, acting at one time as Assange's lawyer: *'Within a few hours seven million people had clicked on the website of Expressen, the tabloid paper to which the story had been leaked. There was much less publicity a day or so later when the senior prosecutor of Stockholm [Eva Finne - PB] dropped the charge and said there was virtually nothing else to investigate.'*⁵ But Ardin then brought charges of her own, relating to the night they had spent together on the 13th, and soon afterwards the original accusation of rape was revived by another Swedish prosecutor Marianne Ny. Assange waited for some weeks in Sweden to be interviewed by Ny for the 'preliminary investigation', on the basis of which she would decide whether or not he should be charged. The interview still hadn't taken place when, on 27th September - with, as he thought, Marianne Ny's permission - he left Sweden for London.

Jan Melzer (p.102) provides some background information that might or might not be relevant. He tells us that *'on 10th August, the US news website The Daily Beast reports United States officials as saying that the Obama administration is pressing Britain, Germany, Australia and other allied Western governments to consider opening criminal investigations against Assange and to severely limit his ability to travel across international borders.'* Sweden had traditionally - through two world

⁴ The most detailed account I have seen is by Celia Farber at <https://observer.com/2016/02/exclusive-new-docs-throw-doubt-on-julian-assange-rape-charges-in-stockholm/> It is not as one-sidedly sympathetic to Assange as the title might suggest.

⁵ Geoffrey Robertson: *Rather his own man - in court with tyrants, tarts and troublemakers*, Penguin Random House, 2018, p.338.

wars and the Cold War - been a neutral country. *'After the fall of the Berlin wall in 1989, however, the country rapidly gave up its traditional neutrality and became a de facto member of the Western security, intelligence and defence community led by the United States. Come 2010, Sweden is now a close ally of the US in Afghanistan and the broader "War on Terror," with a security policy that can only be described as subservient to US interests.'*

Assange's 'Unauthorised Autobiography' (it was supposedly co-authored by Assange and Andrew O'Hagan but was repudiated by Assange - *'People think you're helping me write my book, but actually I'm helping you write your novel'* - Lord, ch.1) quotes him as saying of Sweden (p.148): *'indeed the decision to go to Afghanistan was mainly based on feminist principles; despite the women's movement traditional anti-war stance, they deplored understandably the Taliban's treatment of women and sanctioned, less understandably, bombing as a way of opposing it.'*⁶

Melzer says (still p.102): *'It is no exaggeration to say that, on the day Sweden issues an arrest warrant against Assange for the alleged rape and harrassment of two women, his fame turns to shame and his success story into a story of persecution.'*

Nonetheless the work of Wikileaks continued. The Iraq war logs were released in October 2010. Then, in November, with the Swedish net closing in on him, there was 'Cablegate' - a *'huge cache of US State Department cables - seven times the size of the Iraq war logs'* (Lord ch 7), also gained from Manning, a record of diplomatic exchanges between the State Department and 274 embassies round the world, from 1966 to February 2010. Almost immediately after this release came an Interpol arrest warrant for sex crimes in Sweden. In December, after presenting himself to the police in London, Assange was put in Wandsworth gaol. On payment of a massive bail of £200,000, he was transferred to the comfort of house arrest in Ellingham Hall, a stately home owned by military man, organic farmer, video journalist (specialising in war coverage), 'right wing libertarian', Vaughan Smith. Vaughan Smith was the founder of the Frontline Club for Journalists which was very supportive of Wikileaks.

The work continued. In April 2011, Wikileaks released 'The Guantanamo File' - the personal file of every prisoner in GITMO. Wikileaks commented (Lord, ch 10): *'Most of these documents reveal acts of incompetence familiar to those who have studied Guantanamo closely, with innocent men detained by mistake (or because the US was offering substantial bounties to its allies for al Qaeda or Taliban suspects) and numerous insignificant Taliban conscripts from Afghanistan and Pakistan.'* In February 2012 there was a huge trove of material from the Texas based 'global intelligence' company, Stratfor, hacked by the 'Anonymous' team. It included Strafor's advice on what to do about Assange: *'Ferretting out Julian Assange's confederates is also key. Find out what other disgruntled rogues inside the tent or outside [sic]. Pile on. Move him from country to country to face various charges for the next twenty five years. But, seize everything he and his family own, to include every person linked to Wiki.'* Lord's account (ch.13) continues: *'There were over 4,000 emails that mentioned Wikileaks or Assange, including multiple mentions of a sealed indictment going back to as early as June 2010, after the release of the Collateral Murder video but prior to the Afghan War Diaries release.'*

In April 2012, living in Ellingham Hall, Assange launched a TV show, hosted by Russia Today, in which he interviewed prominent people by video link, starting with the Hizbollah leader,

⁶ Julian Assange: *The unauthorised autobiography* [or *Julian Assange, the unauthorised autobiography*, the cover and title page can be read either way], Edinburgh, Canongate, 2011.

Hassan Nasrallah. Other interviewees included Imran Khan, soon to become Prime Minister of Pakistan, and the post-Arab spring Tunisian President, Moncef Marzouki. And Rafael Correa, President of Ecuador. Still following Lord's account (ch.13): *'Correa said Wikileaks had actually strengthened the government. In the wake of the Cablegate publications, he expelled the US Ambassador ... "As Evo Morales says, the only country that can be certain it's never going to have a coup d'état is the United States - because it doesn't have a US embassy!"'*

Assange sought asylum in the Ecuadorian embassy in June 2012. He was in the embassy when, in June 2013, the Edward Snowden saga began. Snowden had not operated through Wikileaks but, without concealing his identity, through the journalists Glen Greenwald and Ewan McAskill (*Guardian*), Barton Gellman (*Washington Post*) and film maker Laura Poitras, but it was Wikileaks that made the whole material publicly available in a searchable form and it was through Wikileaks, and in particular Assange's close associate Sarah Harrison, that he managed to evade capture and eventually find asylum in Moscow.

I think, however, that I should suspend my potted history of Wikileaks here (there's lots more to say) and begin my review of Melzer's book.

A CASE FOR A RAPPORTEUR ON TORTURE

The persecution and torture of Julian Assange can only be understood in its details as caused by the coming together of two distinct political projects. On the one hand there was the desire of the Swedish Social Democratic Party - and in particular a Christian subset within it, the *broderskapsrorelsen*, "the Brotherhood movement" - to establish that the offence of which Assange was accused was very serious and required to be punished. On the other hand there was the desire of the US government and its allies to incapacitate a man who had found a means by which the conduct of war could become a matter of accurately informed public debate. Although the two projects can be separated out conceptually they nonetheless together formed a marvellous symbiosis and it is difficult to separate them out in practice.

Nils Melzer's book is concentrated almost wholly on the US project despite the fact that, as I hope to show later, he himself fell victim for a while to the Swedish project. Melzer is the United Nations Special Rapporteur on Torture. That means his job is to investigate accusations of torture coming from all over the world. It is an unpaid job - he earns his living as an academic. He has an office in Geneva and two assistants. It is obvious that with such limited means - hardly likely to strike fear in the hearts of wrongdoers - he has to choose his priorities carefully. He was first contacted by Assange's lawyers in December 2018. He admits (p.10) that his first reaction was negative: *'Julian Assange? Was this not the founder of Wikileaks, the shady hacker with the white hair and leather jacket who was hiding out in an embassy somewhere because of rape allegations ... No, I certainly would not be manipulated by this guy.'* Even when his fellow rapporteurs on the situation of human rights defenders and on the UN Working Group on Arbitrary detention put out a press statement calling on the UK to let Assange leave the Ecuadorian embassy freely, he refused to be associated with them.

It was in March 2019, and specifically because of a report on Assange's state of health by Dr Sondra [sic - PB] Crosby, that he began to change his mind (p.33): *'Crosby was not just anyone. A*

medical doctor and professor of medicine at Boston University, she was specialised in the examination of refugees and victims of torture and had been one of the first physicians to independently examine detainees in Guantanamo. She had an excellent reputation and her voice carried weight. Most important to me she was not associated with the Assange activist camp and was therefore unlikely to take a one-sided position.'

The conditions under which Assange was living in the Ecuadorian Embassy had begun to deteriorate radically with a change of government in Ecuador which took place in March 2017. The left-wing President, Rafael Correa, who had given Assange refuge in 2012, was replaced by his Vice-President, Lenin Moreno. As implied in Moreno's first name, this ought to have been a continuity government, but of course, as members of the British Labour Party have been discovering lately, first names are not to be trusted.

Melzer's account of what followed is a little odd. He says that Moreno was willing to offer Assange's rendition to the US in exchange for financial concessions, including debt relief, as early as May 2017. But in fact Moreno's first initiatives seem to have been favourable to Assange. In December 2017 he granted Assange Ecuadorian citizenship which meant that he could then appoint him as Ecuadorian Ambassador to Moscow. On the face of it rather a brilliant solution to the problem. Had Britain been a country that had any respect for international law that would have given him diplomatic immunity and enabled him to leave the embassy. But Britain had been maintaining a police siege of the embassy (at a total cost to the London ratepayer of some £16 million) since 2012 to prevent Assange from leaving, and Britain is a country that has little or no respect for international law, at least when it comes to being inconvenienced by an insignificant little country such as Ecuador.

Following this, Moreno set about getting Assange out of the embassy by other means, basically by making the conditions of his life as uncomfortable as possible. Of course they were hardly comfortable prior to that. For five years he had been unable to leave the building. He had a small room and a bathroom to himself. But he had, for the most part, good relations with the embassy staff and, most importantly, he had access to the internet, enabling him to continue his work for Wikileaks.

In March 2018, however, Assange's internet and telephone access were blocked and his right to receive visitors, other than from lawyers and doctors, severely restricted. Meetings could only take place in a conference room monitored through surveillance cameras and hidden microphones. Embassy staff deemed to be sympathetic to him were replaced. The consul-general himself, Fidel Narvaez, was removed in the Summer, about the same time that Moreno in Ecuador received a visit from the US Vice-President, Mike Pence. Internet access was restored in October 2018 but in the context of a *Special Protocol of visits, communications and medical attention for Mr Julian Paul Assange*. 'According to Narvaez,' Melzer tells us (p.201), 'the purpose of the protocol is to "lay out banana peels all over the floor," making sure that Assange will repeatedly slip and thus supply excuses for his expulsion by the Ecuadorian government.'

The process of rendering life intolerable in the embassy was cheered on by the British government, and specifically by Sir Alan Duncan, Minister for Europe and the Americas. In March 2018, as the process began, Melzer (p.207) quotes Duncan telling the House of Commons: 'It's about time that this miserable little worm walked out of the embassy and gave himself up to British

justice' and in January 2019 he recorded in his diary (Melzer, p.199): *'Meet the new Ecuador Ambassador, Jaime Marchan-Romero. His principal mission is to get Assange out of the embassy - it has been six years - and although he had been aiming for tomorrow, as I'd just learnt, it's going to be longer. A tad frustrating, but we'll get there.'* Duncan, incidentally, was one of the politicians targeted by the Israeli Embassy for their supposed Palestinian sympathies, as revealed in January 2017 in the Al Jazeera series, *The Lobby*. In 2014, he had declared that anyone who refused to recognise that West Bank settlements were illegal should be judged unfit for office and had made reference to a *'very powerful financial lobby'* which dominates US politics. The Board of Deputies of British Jews had complained, but this of course was before they had the weapon of the International Holocaust Remembrance Alliance definition of antisemitism.

Assange was still in the embassy in March 2019, when Melzer began to feel there was a case that needed his attention. He wrote an op-ed on the subject, submitting it to *'The Guardian, The Times, the Financial Times, the Sydney Morning Herald, the Australian, the Canberra Times, the Telegraph, the New York Times, the Washington Post, Thomson Reuters Foundation, and Newsweek. None responded positively.'*⁷ He secured permission to visit Assange on 25th April. He also wanted to discuss with the British authorities the possibility that Assange would be arrested and extradited to the United States. The British ambassador to the UN in Geneva refused his request on 10th April, saying (p.39): *'You will appreciate that it would not be appropriate for officials to speculate on hypothetical scenarios.'* The hypothetical scenario began to play out the very next day, 11th April. Assange was - in a day, by presidential order - stripped of his Ecuadorian citizenship, dragged out of the embassy without any prior notice, pushed into a police car, brought before Westminster Magistrates Court and sent to Belmarsh prison after a fifteen minute hearing to await sentencing. The judge, Michael Snow, informed him that he was *'a narcissist who cannot get beyond his own selfish interests.'* (p.47)

THE SWEDISH 'PRELIMINARY INVESTIGATION'

Assange was sent to Belmarsh - Britain's highest security gaol - on the basis of his indictment for skipping bail when he had sought asylum in 2012. That was to avoid extradition to Sweden, hence the oft-repeated smear that he was 'hiding' in the Ecuadorian embassy in order to avoid extradition to Sweden in order to avoid the Swedish investigation of an accusation of sexual assault. But when the accusation was made, Assange had waited four weeks in Sweden to be interviewed by the Director of Public Prosecutions, Marianne Ny, for the 'preliminary investigation' which had to be conducted before any charges could be brought. The most important accusation, that of rape, had been quickly dropped by the Stockholm prosecutor, Eva Finné, for lack of evidence, though not before it had been splashed all over the Swedish, and hence world press. It was taken up again by Finné's superior, Ny, on 1st September after an application by the lawyer Claes Bogström. According to Gary Lord's history of Wikileaks, quoting the Australian Swedish-speaking journalist Guy Rundle: *'Claes Borgström was "not only the Social Democratic Party's gender equality spokesperson, but a major driver of Sweden's Sexual*

⁷ He issued it after Assange's expulsion from the embassy 'on the occasion of the International Day in Support of Torture Victims, 26 June 2019.' Nils Melzer: *Demasking the torture of Julian Assange*, <https://medium.com/@njmelzer/demasking-the-torture-of-julian-assange-b252ffdc768>

Offences Act 2005". And the new prosecutor, Marianne Ny, was a sex crime expert who "had headed a crime development unit whose brief was to explore ways in which sex crime law might be changed or extended."⁸ Borgström, Ny and Anna Ardin, one of the two women at the centre of the case, were all members of the *broderskapsrorelsen*.⁹

A fortnight later, on 15th September, without yet having interviewed him, Ny told Assange's Swedish lawyer that he was free to leave Sweden. He left on 27th September. On that very day, according to the account by the Swedish political commentator Marcello Ferrada de Noli, unbeknownst to Assange, Ny issued a detention warrant for his arrest. It was issued at 14.15. Assange arrived at the airport at noon but took a later flight than expected, which left at 17.15. Since on his arrival in Berlin his laptops and checked-in suitcase were missing, the security services were well aware of who he was and could have arrested him if they had been properly notified of the warrant, as normally they would have been.

De Noli argues that had he been detained at the airport *'The prosecutor would have had to interrogate Assange within a few hours. Assange would have requested the presence of a lawyer or that the interview was videotaped. Afterwards he would have been released because in terms of the evidence available to the prosecutor there would have been nothing new that had not already come up in the preliminary investigation conducted by prosecutor Eva Finné (who had previously dismissed the case on this evidence). He would have never been held incommunicado, as he will certainly be if he comes to Sweden under the extradition terms that resulted from the EAW.'*¹⁰ In other words, the whole point was to let Assange leave Sweden in order then to be able to produce a European Arrest Warrant and indeed an Interpol 'red notice', normally only issued for dangerous criminals and 'terrorists'. To take up Melzer's account (p.161): *'The plan clearly does not appear to be to arrest Assange but to create and perpetuate the public narrative of a fugitive sex offender, all the while denying him an opportunity to defend himself. Although Prosecutor Ny was obliged by law to issue an arrest warrant against Assange as soon as she had reopened the rape investigation on 1st September, she only does so once he appears in the passenger monitoring system a few hours before his departure. She then allows him to leave the country and thereby gets him to inadvertently confirm the alleged flight risk by his own action.'*

Assange offered through his solicitor to come to Sweden any time during the week beginning 10th October but Ny, who had kept him waiting for four weeks between her taking the case up and calling him for interview, declared that that was too late. Assange presenting himself voluntarily for interview didn't fit the desired scenario.

⁸ Gary Lord: *Wikileaks: a true history*, Chapter six: mid 2010, <https://jaraparilla.xyz/ch6.html>

⁹ A footnote in Prof Marcello Ferrada de Noli: *Sweden vs Assange, human rights issues*, Sweden, Libertarian Books, 2014, p.244, informs us that 'Mr Claes Bogström advocates for the institution in Sweden of a "man tax". Meaning that the totality of the male population of Sweden should pay a special, separate tax to the state, in compensation for the "patriarchal" situation that would have existed in Sweden back in hundreds years, and thus affected women as a gender. He has quite recently abandoned the Social Democratic Party to enter the "Vänster" Party (formerly the Communist Party of Sweden), an organization that in spite its name has voted favourably in the Swedish Parliament for C Bildt's propositions to intervene militarily on behalf of NATO in the recent Libyan war.' [I have made some minor grammatical corrections - PB]

¹⁰ Sweden vs Assange, p.30.

By the time the European Arrest Warrant was issued, on 18th November 2010, Assange was insisting on a guarantee that his removal to Sweden on the sexual assault charge, where he could now be immediately imprisoned as a flight risk, would not be followed by his removal to the United States, where the consequences could be a great deal more serious. A 'Grand Jury' had been convened in Alexandria, Virginia, to investigate Wikileaks. Grand Juries meet in secret and have the power to issue sealed indictments but, more openly, Assange was the object of what a statement issued by Wikileaks in January 2011 called:

'unprecedented violent rhetoric by US prominent media personalities, including Sarah Palin, who urged the US administration to "Hunt down the WikiLeaks chief like the Taliban". Prominent US politician Mike Huckabee called for the execution of WikiLeaks spokesman Julian Assange on his Fox News program last November, and Fox News commentator Bob Beckel, referring to Assange, publicly called for people to "illegally shoot the son of a bitch." US radio personality Rush Limbaugh has called for pressure to "Give [Fox News President Roger] Ailes the order and [then] there is no Assange, I'll guarantee you, and there will be no fingerprints on it.", while the Washington Times columnist Jeffery T. Kuhner titled his column "Assassinate Assange" captioned with a picture Julian Assange overlaid with a gun site, blood spatters, and "WANTED DEAD or ALIVE" with the alive crossed out. John Hawkins of Townhall.com has stated "If Julian Assange is shot in the head tomorrow or if his car is blown up when he turns the key, what message do you think that would send about releasing sensitive American data?" Christian Whiton in a Fox News opinion piece called for violence against WikiLeaks publishers and editors, saying the US should "designate WikiLeaks and its officers as enemy combatants, paving the way for non-judicial actions against them."

Melzer (p.81) explains why it was thought that Sweden was more likely to extradite Assange than the UK. The extradition arrangements both Sweden and the UK had with the US included a provision, which could obviously be used by a defence lawyer, excluding political reasons for the extradition. However Sweden, unlike the UK, had a 'mechanism of "temporary surrender", a loophole in the US-Swedish extradition treaty permitting the United States to "borrow" a suspect from Sweden for the purposes of criminal prosecution without full extradition proceedings. While such surrender must remain "temporary", its duration is to be agreed by the two governments on a case-by-case basis - enough room for a tailor-made arrangement ensuring Assange's permanent disappearance into the black hole of a US Supermax prison.' That Wikileaks supporters were fully aware of this possibility is shown in a series of tweets issued by Assange's mother, Christine, explaining the dangers faced by her son. They included these:

'11. The Swedish/US Bilateral Treaty gets around safeguards of normal extradition with a fast-track "Temporary Surrender" clause.

'12. The US Grand Jury convenes in secret. There are 4 prosecutors, no defence, and no judge. It can issue indictments for Extradition with no proper legal process.

'13. Sweden has not refused an Extradition request from the USA for over 20 years.

'14. In 2001 Sweden gave two innocent Egyptian refugees to the CIA for rendition to Egypt, where they were tortured.

'15. The Swedish Justice Minister who signed off on the CIA rendition torture flight was Thomas Bodström.

*'16. Thomas Bodström is now the business partner of Claes Borgström, the politician/lawyer of the two Swedish women in the Assange case.'*¹¹

The US, however, carefully refrained from issuing any indictment or request for extradition so it was easy to accuse Assange of paranoia or reluctance to face up to the Swedish sex allegations. Assange's Swedish lawyer, Björn Hartig, tried to have the 'preliminary investigation' conducted in London, but Ny insisted: *'The interview planned with Assange must take place in Sweden for investigative reasons. These include, among other things, that the interview with Assange must be conducted in the same manner as the interviews with other persons in this investigation, and that these interviews are likely to lead to other investigative measures.'* Melzer comments (p.169): *'This is a rather brazen justification, given that the initial interviews with most witnesses and one of the alleged victims had been conducted by phone, whereas Assange had personally come to the police for questioning on 30th August 2010.'*

ENTER KEIR STARMER (PERHAPS)

By now (2011), Assange was living in relatively comfortable house arrest in Ellingham Hall. He was to be living there for 550 days, wearing an electronic tag and reporting daily to the police. The delay in implementing the Swedish extradition request came down to a technicality. The European Arrest Warrant had been issued by Marianne Ny, a prosecutor. Assange's lawyers argued that the 2003 British Extradition Act, implementing the EU legislation concerning the Arrest Warrant, required that the warrant be issued by a 'judicial authority' and that in the House of Commons debates on the act it was emphasised that this meant a court or a judge, not the police or a public prosecutor. It was when the case finally reached the Supreme Court which ruled (for reasons Melzer finds bizarre) in favour of a broad definition of the term, that Assange knew the game was up, skipped bail and, on 19th June 2012, entered the Ecuadorian Embassy, asking for asylum (President Correa had previously indicated that such a request would be looked on favourably).

But before that happened an interesting correspondence was struck up between the British Crown Prosecution Service and Marianne Ny.

In January 2011, while Assange was still in house arrest in Ellingham Hall, Marianne Ny seems to have shown signs of weakening: *'it almost seemed as if Prosecutor Ny had changed her mind and was now seriously entertaining the idea of interviewing Assange in London.'* But she was advised against it by the Crown Prosecution Service. The CPS was charged with representing the interests of the Swedish prosecution service and on 25th January 2011 the officer responsible, Paul Close, wrote: *'My earlier advice remains, that in my view it would not be prudent for the Swedish authorities to try to interview the defendant in the UK.'* Close gives reasons which I thought rather obscure, why such a course would give possible arguments to Assange's defence, but in the course of explaining them Melzer refers to *'the Swedish practice of detaining rape suspects without bail'*, which would seem to be highly relevant (Melzer pp.174-5).

¹¹ Gary Lord: Wikileaks, Chapter thirteen, <https://jaraparilla.xyz/ch13.html>

In his book *Rather his own man*, Geoffrey Robertson QC, who acted for Assange in the period immediately following the European Arrest Warrant, complains that his lawyers had failed to use what he regarded as the strongest case for resisting extradition - that under Swedish law *'his trial would be held in total secrecy, and even the judgment would omit the crucial factual details. There would be no jury, just a judge sitting with three "lay judges" who would vote on the verdict, people not selected at random or from a professional magistracy, but nominated by the main political parties, for which reason they were often retired politicians. All leaders of those parties had by now condemned Assange ...'*¹²

It is, then, fairly obvious why there would be advantages in conducting the 'preliminary investigation' in Sweden.

Melzer goes on to say (p.80) that once the Supreme Court had made its final decision on 14th June, Ny requested his immediate surrender, *'thus effectively withdrawing the suspensive effect of a possible appeal by Assange to the European Court of Human Rights in Strasbourg.'* But the Supreme Court refused Ny's request, giving Assange *'a final reprieve of fourteen days.'* He doesn't explain why, then, Assange didn't use this time to appeal to the European Court. Neither can I explain it but when, five days later on the 19th June, Assange sought asylum in the Ecuadorian embassy, he explained, in an interview with ABC News, that *'we had the surprise news that the Crown Prosecution Service here suddenly objected to the fourteen days we were meant to have to file an EU appeal, and were asking for zero.'*¹³

There was more to come. Ecuador made the formal decision to grant Assange asylum on the 16th August and soon afterwards in an interview Assange said he thought the most likely outcome was that Sweden would drop the case. Ny then got the famous email from the CPS which read *'Don't you dare get cold feet!'* Raising the question why should the CPS care if she got cold feet? Did they feel so strongly about the question whether or not Julian Assange was wearing a condom on two nights in August 2010 (that was the point at issue) that they were willing to continue paying - or requiring London to pay - *'over £15,000 a day for round the clock police surveillance of the Ecuadorian embassy'*? Boris Johnson, then Mayor of London, complained that it was *'absolutely ridiculous; that money should be spent on frontline policing ... it's completely wasted.'* Baroness Jenny Jones, Deputy Chair of the Police and Crime Committee at the London Assembly, said: *'It's absolute madness ... either somebody else has to pay - that is, the Swedish authorities - or we just have to back off and stop guarding the embassy. It is ludicrous.'*¹⁴

Even the Swedish authorities seem to have had doubts on the matter. In October 2013, Ny wrote to the CPS, saying:

'There is a demand in Swedish law for coercive measures to be proportionate. The time passing, the costs and how severe the crime is to be taken into account, together with the intrusion or detriment to the suspect.'

In December, she elaborated on the 'costs' in question:

¹² Geoffrey Robertson: *Rather his own man*, p.353.

¹³ Gary Lord: Wikileaks, chapter fourteen, <https://jaraparilla.xyz/ch14.html>.

¹⁴ Quotes from the account in *Russia Today*, 6th August, 2014.

'It has been argued in Sweden that the English police regards the costs getting unreasonably high. I understand from your answer that the costs on your side is not an issue that we should take into consideration at this stage?'

She was assured in the reply: *'Just to confirm that I do not consider costs are a relevant factor in this matter ... I am not aware of any adverse comment or concern being expressed by any government departments.'* (Account in Melzer, pp.186-7)

Keir Starmer was Head of the Crown Prosecution Service and Director of Public Prosecutions from July 2008 to November 2013 so in the period covered by these emails, except the ones exchanged in December, which were apparently just confirming advice already given. Whether or not the crimes for which Jimmy Savile was accused were sufficiently important to attract his attention, it seems very improbable that he wouldn't have had a say in the Assange case with its obviously important international and political ramifications. The lawyer who actually signed the emails, Paul Close, retired in 2014 and his emails were deleted *'in accordance with standard procedure.'*¹⁵ They were recovered by the Italian Journalist Stefania Maurizi, after a long and determined pursuit of Freedom of Information requests, from the Swedish side of the correspondence.

ASSANGE LEAVES THE EMBASSY

Assange entered the Ecuadorian embassy fit and healthy, a man at the top of his immensely difficult, immensely courageous game. Prior to 2012, following the list of his honours given in his Wikipedia entry, he had won the *Economist* New Media award (2008), the Amnesty International UK New Media Award (2009), in 2010 he was *Time* Person of the Year and *Le Monde* Readers Choice Award for Person of the Year, in 2011 he won the Sydney Peace Foundation Gold Medal, the Walkley Award (the *'pinnacle of achievement for any Australian journalist'*) and the Martha Gelhorn Prize for Journalism.

When he left the embassy, however, on the 11th April 2019, the then *Guardian* journalist, Suzanne Moore, felt able to write, in the *New Statesman*: *'O frabjous day! We are all bored out of our minds with Brexit when a demented gnome is pulled out of the Ecuadorian embassy by the secret police of the deep state. Or "the Met", as normal people call them.'* Labour MP Jess Philips commented in the *Daily Mirror*: *'Finally Julian Assange, everyone's least favourite squatter, has been kicked out of the Ecuadorian embassy and into custody on charges of skipping bail after accusations of sexual violence in Sweden.'*

The BBC informed its viewers on *News at Ten* that Assange *'took refuge originally to avoid extradition to Sweden over charges of sexual assault.'* *Newsnight* began its report: *'Out of his hiding place and under arrest.'*¹⁶ A *Guardian* editorial conceded that he *'has shone a light on things that should never have been hidden'* (the *Guardian* of course had done rather well out of the affair) but

¹⁵ Ewen MacAskill and Owen Boycott: 'UK prosecutors admit destroying key emails in Julian Assange case', *The Guardian*, 10th November, 2017

¹⁶ This account of media reaction is taken from the Media Lens accounts from April 2019: <https://www.medialens.org/2019/assange-arrest-part-1-so-now-hes-our-property/> and <http://medialens.org/index.php/alerts/alert-archive/2019/901-assange-arrest-part-2-definite-creep-probable-rapist.html>

continued sternly: *'When he first entered the Ecuadorian embassy he was trying to avoid extradition to Sweden over allegations of rape and molestation. That was wrong.'*

Of course the very moment Assange left the embassy the US unveiled its sealed indictment and demanded his extradition so the *Guardian* knew - even if they hadn't read the revelations in the leaked Stratfor emails¹⁷ - that Assange's anxiety about extradition to the US was far from unjustified.

Everything was done to make Assange look sordid and ridiculous. The *Daily Mail* (12-13 April 2019) was allowed into the embassy to post a story: *'Assange inside his fetid lair: Revealed, the full squalid horror that drove embassy staff to finally kick him out.'*¹⁸

Subheadings:

- *Photos of Julian Assange's "dirty protests" have been revealed*
- *He left soiled underpants in the toilet in the Ecuadorian embassy in a fit of rage*
- *On other occasions he left excrement smeared across the wall and ignored warnings not to leave half-eaten meals in the kitchen*

To back this up there was one photograph of some dirty dishes in a sink. And a picture of a very clean looking toilet. As Melzer comments (p.207) *'Mysteriously, in Assange's meetings with doctors, lawyers, visitors, his surveillance always seems to have worked flawlessly, yet the same sophisticated technology has failed to capture any of the misconduct he is accused of. No photographs or audio/video footage of the alleged soccer games, none of the alleged torture of his cat, none of the alleged smearing of toilet walls with excrement. Nevertheless, these allegations are relentlessly repeated and obediently disseminated by the press until they have taken root in the minds of the public. As a result, when people hear the name 'Assange', they no longer think of the war crimes and corruption he exposed, but only of the tragicomic loser they can treat with pity, ridicule or disdain.'*

Melzer however misses a subtlety in the reporting, The excrement on the walls incident is attributed to the Rafael Correa period, before the heavy surveillance began. Of course at that time Melzer tells us (p.198) *'the former consul [Fidel Narvaez] found it remarkable that, overall, the co-existence of the embassy staff with Assange had been marked by friendliness and mutual respect for five years.'* But *'There was a brief exception in October 2016, when the Ecuadorian government temporarily suspended Assange's access to the internet during the Presidential election, in order to mitigate the political tensions caused by the DNC leaks.'* This refers to the leak of some 19,252 emails and 8,034 attachments from the Democratic National Convention, the governing body of the US Democratic Party, which revealed machinations favouring the nomination of Hillary Clinton over Bernie Sanders. Accusations that the emails had been obtained from Russian hackers and that they had contributed to the election of Donald Trump were to do Assange and Wikileaks a great deal of harm among supposedly 'liberal' opinion.

Melzer finally met with Assange in Belmarsh prison on the 9th May: *'Clean-shaven, his white hair neatly trimmed, he bore no resemblance to the man who had been dragged out of the Ecuadorian embassy*

¹⁷ See the account in the Prologue.

¹⁸ <https://www.dailymail.co.uk/news/article-6917341/Assange-inside-fetid-lair-squalid-horror-drove-embassy-staff-finally-kick-out.html>

a few weeks earlier. Then Assange had looked unkempt, pale and much older, with long, matted hair and a messy beard. The pictures had gone around the world. What the public had not been told, however, was that Assange's squalid appearance had been deliberately staged by the Ecuadorian authorities to make him look repulsive and bizarre in the media. According to Assange, three months before his arrest, his shaving kit had been taken away by the embassy's security personnel - one of countless small reprisals with which they obstructed his daily struggle for a dignified existence.' (p.58)

While as a UN Special Rapporteur on Torture Melzer would naturally expect his conclusions and recommendations to be ignored, he was used to being treated in the various countries he investigated with at least formal respect. In the Assange case he was unable to speak to the senior politicians concerned and when he visited Belmarsh, the governor was absent, and when he went to the chief nurse's office *'to have a copy of Assange's medical records printed out ... and to get the prison doctor's opinion on various aspects of his health'* he found that *'not a single prison doctor was said to be present all day. In a high-security prison with almost 1,000 inmates. At the time of an officially announced visit by a UN expert and his medical team.'*

He had announced his visit in advance and that he would be holding a press conference. He thought there would be media interest *'including the BBC, Sky News, the Guardian and the Times'* but found that there was only one journalist present. *'He worked for Ruptly, a news agency affiliated with Russia's state-run RT television network.'* (pp.61-2)

Melzer submitted his formal report to the British government on 27th May and to the Ecuadorian, Swedish and United States governments on the 28th. He released a press statement on 31st May. In a chapter entitled 'Government denial of reality' he describes the responses he received to his formal letters of complaint. He sums them up with the well-known phrase of Hannah Arendt - *'banality of evil.'*

On 26th June he released the article *Demasking the Torture of Julian Assange*, the article which, as mentioned earlier, was refused publication by the *Guardian*, the *Times*, the *Financial Times*, the *Sydney Morning Herald*, the *Australian*, the *Canberra Times*, the *Telegraph*, the *New York Times*, the *Washington Post*, Thomson Reuters Foundation, and *Newsweek*. It was at this point that what I have called the Swedish project - aiming to establish that the offence of which Assange was accused was very serious and required to be punished - jumped up to bite him.

SWEDEN STRIKES AGAIN

According to Melzer's article:

'Surely, I thought, Assange must be a rapist! But what I found is that he has never been charged with a sexual offence. True, soon after the United States had encouraged allies to find reasons to prosecute Assange, Swedish prosecution informed the tabloid press that he was suspected of having raped two women. Strangely, however, the women themselves never claimed to have been raped, nor did they intend to report a criminal offence. Go figure. Moreover, the forensic examination of a condom submitted as evidence, supposedly worn and torn during intercourse with Assange, revealed no DNA whatsoever — neither his, nor hers, nor anybody else's. Go figure again. One woman even texted that she only wanted Assange to take an HIV test, but that the police were "keen on getting their hands on him". Go figure, once more. Ever since, both Sweden and Britain have done everything to prevent Assange from

*confronting these allegations without simultaneously having to expose himself to US extradition and, thus, to a show-trial followed by life in jail. His last refuge had been the Ecuadorian Embassy.'*¹⁹

In response 'more than 300 human rights lawyers and law professors from numerous countries'²⁰ published an open letter, dated 1st July 2019, accusing his argument of being 'both legally absurd and harmful in relation to sexual violence.' Melzer replied the following day²¹ and subsequently received a 'dossier' from Anna Ardin calling for his resignation.

Unfortunately I haven't been able to get hold either of the Open Letter or Ardin's dossier and am relying on a short and I think pretty inadequate article in *Der Spiegel* and on Melzer's reply to the Open Letter. According to the *Spiegel* account of the dossier: 'So he blames the victims, writes the woman; it is "a classic patriarchal technique to define the conditions for how 'a real rape victim' should behave". She also accuses the lawyer of slandering her personally and of having partly spread untruths about the investigation, for example about Assange's willingness to testify about the incidents. This is "completely unacceptable, shocking and a reason to end his work at the UN".'

Melzer touches on this only very lightly in the book (p.265): 'Particularly in the early stages of my investigation I was criticised by many who genuinely feared for the hard-fought gains of the women's rights movement. I was censured by long-time colleagues, lost a research assistant, and received letters of protest from women's rights organisations, lawyers, academics, and even one of the two Swedish women. I did my best to address these legitimate concerns, to clarify my position and to resolve misunderstandings. Most importantly, I made unequivocally clear that my criticism was in no way directed against the women or their rights and integrity, nor against the description of the alleged conduct as serious sexual offences, but solely against the authorities and their deliberate abuse of a legal process for the purposes of political persecution. In fact, I considered A. and S. to be victims of state instrumentalisation just as much as Assange himself.'

In fact, however, in the passage I've quoted above, he trashes the case that 'A' was trying to bring quite severely and in his reply to the Open Letter, he says: 'While I agree with the prosecution that AA's allegations, if proven to be true, could amount to sexual assault other than rape, the fact that she submitted as evidence a condom, supposedly worn and torn during intercourse with Assange, which carried no DNA of either Assange or AA, seriously undermines her credibility.' He continues in the book to refer to her as 'A', even though, in January 2021, unmentioned by Melzer, she had published her own account of the affair - *In the shadow of Julian Assange* - under her own name. It was published in Swedish (Melzer, although himself Swiss, reads Swedish) and so far as I know it hasn't been translated.

According to an account, sympathetic to her, in the *Daily Beast*: 'She readily admits to fancying the budding celebrity and even offering him her spare bedroom [most of the accounts I've seen say it was a one-room flat with only one bed, though there has been mention of a mattress on the floor - PB], and writes that she had considered sleeping with him, in part out of revenge on an ex-boyfriend. She

¹⁹ <https://medium.com/@njmelzer/demasking-the-torture-of-julian-assange-b252ffdc8768>

²⁰ Dietmar Pieper; 'Serious allegations Alleged Assange victim criticizes UN torture experts', *Der Spiegel*, <https://www.spiegel.de/ausland/julian-assange-opfer-von-wikileaks-gruender-kritisiert-uno-folterexperten-nils-melzer-a-5d1882b7-945f-42fd-a7a0-ec3012dd886b>

²¹ Nils Melzer: *Dismantling the Swedish 'rape' narrative against Julian Assange*, <https://medium.com/@njmelzer/response-to-open-letter-of-1-july-2019-7222083dafc8>

recalled thinking at the time, "It might be a pretty fun thing, and no big deal to 'score' with Julian Assange." The article continues: "Julian is in many ways a fantastic person," she told a top Swedish talk show while promoting her book over the weekend. "But the Julian who took part in the party is totally different from the one who humiliated and abused me the previous evening."

The *Daily Beast* article is headlined 'I'm not a CIA agent. I'm a sexual abuse victim.' Under the circumstances the suspicion that Ardin was working for the US government comes naturally, the more so when we learn that in 2006 she visited Miami and Havana on a research project for Uppsala University investigating the role Cuban dissidents might play in the overthrow of Fidel Castro.²² The US government wanted Assange's reputation to be trashed and that's exactly what Anna Ardin managed to do - very successfully. Nonetheless I think her animus against Assange was sincere and personal. Quoting the *Daily Beast* again: "'Julian is definitely not a monster'" she writes, "but he crossed my boundaries." Boundaries obviously much more important than the release of 750,000 documents 'which included records about the deaths of nearly 20,000 people.'

None of that reflects very favourably on a woman who is a deacon, ordained in 2019, in the Swedish 'Equmenia Church' (formed in 2011 from a union of the Swedish Baptist Society, Methodist Church in Sweden and Swedish Mission Church) and author of a treatise - *Political and prophetic diakonia* - in which she declares that 'she wants to see a church that stands on the side of the oppressed.'²³

There is, however, possibly, a serious issue at stake in all this which I think Melzer may have missed. According to the account by Geoffrey Robinson: 'Sweden has three classes of rape: extreme, serious and minor. Assange was charged with "minor rape" - a contradiction in terms, but that is what the Swedes actually call the allegation against him. It amounted to having consensual sex without a condom, the use of which had been an implied condition of the consent.'²⁴ The allegation against Assange falls into a grey area in which the sex was certainly consensual but something happened which one of the partners didn't like. The more serious accusation concerned SW. This was that Assange had entered her not wearing a condom when she was half asleep. As we have seen, she had gone to the police not to accuse him of rape but because after a testy exchange on the telephone (Assange was in the middle of delicate business in the wake of the release of the Afghan logs) she wanted to be sure that he would be examined for any possibility of AIDS (in all the accounts I've read of these much commented events I've never actually found if he did have such an examination). The policewoman who received it, a friend of Anna Ardin's as it happens, recorded it against her will as an accusation of rape.

Anna Ardin had had difficulty persuading Assange to wear a condom. When she heard SW's story and found a torn condom in her room she suspected that the same thing might have happened to her. The torn condom in the end proved to be useless as evidence since it didn't

²² See eg Tim Elfrink: 'Anna Ardin, Swede Accusing WikiLeaks Founder Julian Assange of Assault, Probably Didn't Work For the CIA In Miami', *Miami New Times*, 20th December, 2010, <https://www.miaminewtimes.com/news/anna-ardin-swede-accusing-wikileaks-founder-julian-assange-of-assault-probably-didnt-work-for-the-cia-in-miami-6524400>

²³ Swedish Wikipedia articles on the Equmenia church and Anna Ardin.

²⁴ Geoffrey Robertson: *Rather his own man - in court with tyrants, tarts and troublemakers*, Penguin Random House, 2018, p.348.

carry any trace of his DNA, but she still brought three charges of what might be called bullying behaviour on his part. The statute of limitations on these ran out in 2015 so by the time Melzer appeared on the scene, Ardin was theoretically out of it. But she, unlike SW, was ideologically motivated.

The first Swedish prosecutor to examine SW's case - Eva Finné - declared that there was no case to answer. But there were still the three lesser accusations brought by Ardin. Assange presented himself for interrogation to the Swedish police on 30th August. According to Melzer (p.151): *'Now that Assange had denied the allegations made against him, and since no investigative measures could realistically prove those allegations beyond reasonable doubt, the time has come for the Swedish Prosecution Authority to also close the case of A. - due to lack of evidence and based on the presumption of innocence.'*

But that, it seems to me, was, from the Swedish feminist point of view, the point at issue. Famously, cases of sexual misconduct are very difficult to prosecute. There is rarely anything that could be presented as evidence (a torn condom for example). It is the word of the person who claims to be a victim against the person they say is a perpetrator. But if there is a 'presumption of innocence' then the advantage is always with the 'perpetrator'.

Professor Marcello Ferrada de Noli, however, tells us, in his book *Sweden vs Assange* (p.173):

'I found the following "guidelines" contained in a verdict by Stockholm's Court of Appeal regarding a rape trial. The passage summarizes the praxis used by the Swedish courts for, on subjective grounds, taking the side of the women accusers. Or in other words, what is in principle regarded as "sufficient" in the Swedish courts for sentencing a man to jail in such trials: basically the woman's version:

"Criteria for judgement: In the absence of direct witness testimony or forensic/technical evidence, however a thoroughly credible testimony on the part of the accuser, in conjunction with what is otherwise presented before the court, can be sufficient for a conviction." [19]

'And in "what otherwise is presented before the court" it includes at the highest degree the eventual "expert testimony", e.g. psychiatric assessments of the accuser, performed also in Sweden by radical-feminist gynaecologists which otherwise have publicly declared they fight in their (public service) jobs for an increase of rape-convictions.'

De Noli himself is very hostile to this as a criterion for judgment and he writes interestingly on the rise and influence of feminism and in particular of its theological dimension. Those of us whose memories go back that far will think of Sweden and Denmark in the 1960s as the very citadels of free love and promiscuous sex. There is an interesting book, once, apparently, available on Kindle, but I haven't been able to get hold of a copy, called *A Brief history of Swedish sex: how the nation that gave us free love redefined rape and declared war on Julian Assange* by Oscar Swartz. De Noli tells the story, with a particular emphasis on the coming together of the Social Democratic Party and a particularly virulent anti-male variety of feminism willing to argue its case on theological grounds. In a sense one can see in Ardin's willingness to have casual sex with someone she doesn't know, together with her sense of outrage when the casual sex goes wrong (an occupational hazard, I would have thought) a combination of the two images of Sweden - sexually free and sexually repressive.

But the problem - presumption of innocence vs credibility of the accuser as primary criterion in the absence of hard evidence - is a real one. Melzer may be wrong to imply, as he does throughout, that participation in the US conspiracy against Assange was the only motive for the strange behaviour of the Swedish prosecutor, Marianne Ny.

THE EXTRADITION PROCESS

In fact we now come to a brief moment in which the Swedish project appeared to cut across the US project.

When Assange took refuge in the embassy in June 2012 there was no shortage of people telling him that his fear of extradition to the US was nonsense. Quoting from Lord's account (ch.14) *'Two days after he had entered the embassy the Washington Post editorial board wrote that the US extradition concerns of Assange, "the Australian hacker" were just "fantasy"'. The Australian Foreign Minister, Bob Carr, referring to the rumours of a Grand Jury, declared 'there's not the remotest evidence that that's the case.'* A *Guardian* editorial insisted that *'Miss A and Miss W are at the heart of this story'* and there was *'no serious evidence that Washington plans to start [extradition] proceedings.'* The *Guardian's* vendetta against Assange is a story in itself, too complicated to go into here. *'In August 2012'* - the month when Ecuador granted him asylum, Lord tells us (ch.9): *'Reuters falsely reported that the USA had "no current case" against Assange, and State Department spokeswoman Victoria Nuland dismissed his extradition concerns as "wild assertions" - "He is clearly trying to deflect attention away from the real issue" Nuland said.'*

But of course the very day Assange was manhandled (video of the event shows at least nine burly men pretending they were having difficulty doing it) out of the embassy the indictment was unsealed and extradition demanded. As Melzer puts it (p.214): *'For years Assange has feared the United States would demand his extradition as soon as he was to set foot outside the embassy - and for years he has been ridiculed as paranoid and unreasonable for it. But on the day of his expulsion from the embassy, Assange's worst nightmare comes true; the US unseals its secret indictment against him and formally requests his extradition from the United Kingdom.'*

At the same time: *'Assange's personal belongings, including professional documents and computers, remain in the Ecuadorian embassy. They are not handed over to his lawyers or to his family or to the British authorities, but straight to the United States.'*

Melzer elaborates on what Assange could expect once he landed up in the US, giving a list of death threats interestingly different from the one I gave earlier, as well as describing what was done to whistleblower and former CIA agent, John Kiriakou who revealed CIA torture methods, including waterboarding (he got 45 years) and to Bradley - now Chelsea - Manning (a story that is part and parcel of the Assange story but I haven't been able to pursue it here). He describes the 'Special Administrative Measures' likely to be imposed on him.

The sealed indictment revealed to the world at the moment of Assange's arrest on 11th April 2019 seemed, at first sight, surprisingly modest. Assange was charged with *'conspiracy to commit computer intrusion'* on the basis of an exchange of emails between Manning and a representative of Wikileaks who might have been Assange, in which they discuss a password that would have enabled Manning to access anonymously material he was able to access under his own name on

the basis of his security clearance. Manning, incidentally, had been released by Obama on the last day of his presidency as a way of massaging his reputation, but was back in prison because she refused to testify against Assange. Anyone who feels inclined to mock transsexuals should keep it in mind that this particular transsexual is one of the outstanding heroes - or heroines - of the age.

The maximum penalty for this 'crime' would have been five years. As Melzer comments, however (p.69), it was pretty obvious that *'the United States wanted to avoid officially charging Assange with espionage, at least for the time being. Espionage being the classic example of a political offence, any such charge would have blocked Assange's extradition under Article 4 of the Anglo-American Extradition of 2003, which expressly prohibits extraditions for political offences.'* Once they had him in the US, land of the free, however, they could do what they liked with him.

It was at this point, however, that the Swedes became a nuisance.

The allegations made by Anna Ardin had, as we have seen, run out of time under the Statute of Limitations in 2015, but the case of SW still had 15 months to run, to August 2020. Under pressure from the Swedish Supreme Court, Marianne Ny had finally, in November 2016, agreed that Assange could be interviewed in the embassy and submit his witness statement.²⁵ But she had then continued to procrastinate, neither issuing an indictment nor closing the case. The Swedish Code of Judicial Procedure specifies (Melzer p.191) that *'Upon the conclusion of the preliminary investigation decision on whether to institute a prosecution shall be issued ... When there is no longer reason for pursuing the investigation, it shall be discontinued.'* On those grounds the Supreme Court was threatening to take the case out of her hands.

'On 19th May 2017, Prosecutor Ny chooses the only option that allows her to circumvent these safeguards of the law and to continue to perpetuate the rape suspect narrative against Assange without the required evidence. She "discontinues" the preliminary investigation into the alleged rape of S, but claims that its proper conclusion is rendered impossible because Assange remains under the protection of the Ecuadorian embassy ... ' She claims that "to continue with legal proceedings would require Julian Assange's appearance in court", thereby implying that his absence is the only reason for not proceeding with a formal indictment and trial.'

Melzer explains that this is totally spurious: *'the decision to formally charge a suspect never depends on his physical presence but on the strength of the evidence against him.'* He goes on to describe the petty vindictiveness by which, only a few days before announcing this decision and bowing out of the scene, she refused Assange's request to be allowed, with all necessary safeguards, to be present at the birth of his son (by his partner Stella Morris who had been visiting him in the embassy).

Once the Swedish case had been withdrawn - with the 'rape' allegation still hanging over him - all that was left was the violation of the bail. The whole responsibility now lay with the British government.

Marianne Ny had retired by the time Assange was bundled out of the embassy, but on 13th May 2019, the Deputy Director of Public Prosecution, Eva-Marie Persson, suddenly revived the 'preliminary investigation' - a preliminary investigation that had now lasted ten years. So there

²⁵ It is available at <https://www.craigmurray.org.uk/archives/2016/12/julian-assanges-defence-statement/>

were now two competing extradition requests, and since the Swedish request predated the US request it could have been given priority. Indeed this was demanded by a petition co-ordinated by Labour's Stella Creasey and supported by 70 MPs. But as the journalist Jonathan Cook commented the petition amounted to a legitimization of the US extradition request: *'This is no longer about an illegitimate US extradition request on Assange we should all be loudly protesting. It is a competition between two legal claims, and a debate about which one should find legal remedy first.'*²⁶

But in the event the question didn't arise:

'It took the United States just ten days to put their heavy foot down. On 23rd May 2019 ... the US Department of Justice transmitted its first "superseding indictment", extending their list of charges by seventeen additional counts under the Espionage Act of 1917. From now on the US case against Assange was no longer some failed attempt to decode a password hash, but plainly and blatantly about espionage - the classic textbook example of a political offence. ... For each count Assange now faced an additional sentence of up to ten years in prison, resulting in a possible prison sentence of up to 175 years. The disparity with the Swedish maximum sentence of four years was now so great, and the US claim to priority had been so unequivocally stated, that a possible Swedish extradition request would have to come second.' (Melzer, p.84)

As a result, by the time the actual 'show trial', as Melzer calls it, opened on 24th February 2020, the US extradition request was open to the objection that the offences were political in nature, though they were still mixed up with the very dubious accusations of hacking. This article is already long, and I don't feel I've got the energy to detail the succession of outrages that occurred under the supervision of Judge Vanessa Baraitser. They are given in Melzer's book and also in the day by day detailed reports posted on his blog by Craig Murray, who actually describes moments when even the prosecution is shocked by her behaviour. But Baraitser's judgment²⁷, given on 4th January 2021, is a masterpiece of the deep apparently ineradicable cynicism of the British judicial system.

The defence argued that the accusations made against Assange were political in nature and were therefore excluded under Article 4 of the Extradition Treaty signed with the US. The prosecution argued that the political exemption was not mentioned in the Act of Parliament under which the treaty was passed into British law, and it is British law, not the treaty, that counts. Baraitser in her judgment, predictably following her whole conduct of the trial, accepted the whole prosecution case. But then, quite unpredictably, she refused the US extradition request and ordered that Assange be allowed to go free. 'Julian Assange Imminent Freedom' was the heading of Craig Murray's jubilant report of the judgement.²⁸ She justified this on the grounds of Assange's mental health - that if he was sent to the US there was a very high probability that he would commit suicide. He had indeed told Melzer (p.67) *'that he would not be extradited to the United States alive.'*

Needless to say Assange was not allowed to go free because the US immediately and predictably launched an appeal, and Baraitser immediately and predictably refused bail. So

²⁶ Medialens account.

²⁷ All 132 pages of it - <https://www.judiciary.uk/wp-content/uploads/2021/01/USA-v-Assange-judgment-040121.pdf>

²⁸ <https://www.craigmurray.org.uk/archives/2021/01/julian-assange-imminent-freedom/>

how can we account for her refusing the extradition request? Following Melzer's account (pp. 320-1), in accepting the whole of the prosecution case, *'Judge Baraitser laid the legal foundation for the prosecution of anyone, anywhere in the world who dared to expose the dirty secrets of the government concerned, and for depriving defendants of the right to justify their actions based on the public interest. In effect she had set a legal precedent amounting to introducing an absolute duty of silence on classified evidence for state sponsored crimes.'* Had the defence been able to launch an appeal, however, *'the case would be examined by a more experienced and authoritative panel of judges whose decision would be difficult to predict. In order to avoid a full legal review of her judgment by the High Court, Judge Baraitser had to forestall an appeal by Assange's legal team.'* Instead, then of an Assange appeal against a judgement in favour of extradition, *'it would be up to the US government, and not Assange, to lodge an appeal and, therefore, to select the legal questions that would be reviewed by the High Court ... In this scenario, the British High Court would not have to examine any of Assange's legal objections regarding the political nature of the prosecution, the prohibition of extraditions for political offences, freedom of speech or the systematic abuse of process throughout this case.'*

The only point at issue, then, was whether or not the United States can give assurances that their treatment of Assange would not be such as to cause him to commit suicide. Meanwhile, attention is focussed on Assange's mental instability, just as the failure of the Swedish prosecutors to bring charges before the time available for all the accusations against him ran out leaves him still under the suspicion of sexual misconduct. And of course he remains in the closest thing the UK has to a Supermax prison.

Melzer continues the story (p.326): *'On August 2021, High Court Justices Timothy Holroyde and Judith Farley upheld an appeal by the US government against Justice Swift's decision of 5th July [Swift had upheld only three out of the five grounds for the US appeal] and granted the United States permission to appeal Baraitser's ruling on all five grounds including challenging the evidence on Assange's mental health and suicide risk. The main appeals hearing was held on 27th and 28th October 2021 before Chief Justice Ian Duncan Burnett, the most senior judge in England and Wales and, again, Justice Holroyde ... By and large, the judge asked questions of clarification and, at the end of the second day, concluded the hearing without announcing a date for the rendering of their judgment.'*

The High Court on 24th January ruled that there was a point of law to be considered and referred it to the Supreme Court. On 14th March the Supreme Court ruled that there wasn't a point of law to be considered. In summarising where we are now, I can't do better than to quote the account by Craig Murray:²⁹

'In saying there is no arguable point of law, the Supreme Court is accepting that diplomatic assurances are not tested and are to be taken at face value – which has been a major point of controversy in recent jurisprudence. It is now settled that we will send someone back to Saudi Arabia if the Saudis give us a piece of paper promising not to chop their head off ...

'So the extradition now goes to Priti Patel, the Home Secretary, to decide whether to extradite. The defence has four weeks to make representations to Patel, which she must hear ...

'Assuming Patel does authorise extradition, the matter returns to the original magistrate's court and to Judge Baraitser for execution. That is where this process takes a remarkable twist.

²⁹ Craig Murray: Assange extradition: on to the next hurdle, 15th March, 2022, <https://www.craigmurray.org.uk/archives/2022/03/assange-extradition-on-to-the-next-hurdle/>

'The appeals process that has just concluded was the appeal initiated by the United States government, against Baraitser's original ruling that the combination of Julian's health and the conditions he would face in US jails, meant that he could not be extradited. The United States government succeeded in this appeal at the High Court. Julian then tried to appeal against that High Court verdict to the Supreme Court, and was refused permission.

'But Julian himself has not yet appealed to the High Court, and he can do so, once the matter has been sent back to Baraitser by Patel. His appeal will be against those grounds on which Baraitser initially found in favour of the United States. These are principally:

the misuse of the extradition treaty which specifically prohibits political extradition:

the breach of the UNCHR Article 10 right of freedom of speech;

the misuse of the US Espionage Act

the use of tainted, paid evidence from a convicted fraudster who has since publicly admitted his evidence was false [a detail of the story I haven't discussed - PB]

the lack of foundation to the hacking charge

'None of these points have yet been considered by the High Court. It seems a remarkably strange procedure that having been through the appeals process once, the whole thing starts again after Priti Patel has made her decision, but that is the crazy game of snake and ladders the law puts us through. It is fine for the political establishment, of course, because it enables them to keep Julian locked up under maximum security in Belmarsh ...

'On the brighter side, it means that finally, in a senior court, the arguments that will really matter will be heard. I have always felt ambivalent about arguments based on Julian's health, when there is so much more at stake, and I have never personally reported the health issues out of respect for his privacy. But now the High Court will have to consider whether it really wishes to extradite a journalist for publishing evidence of systematic war crimes by the state requesting his extradition.

'Now that will be worth reporting.'

Peter Brooke

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