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To: Foreign Affairs, Defence and Trade Committee  
Department of the Senate  
Parliament House, Canberra

### **Submission to inquiry: Wrongful detention of Australian citizens overseas**

Thank you for the opportunity to provide a submission to this inquiry. MAPW is an organisation of health professionals dedicated to the prevention of armed conflict, the use of resources to promote human and environmental welfare rather than warfare, and the abolition of nuclear weapons.

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### ***Introduction***

The wrongful detention of Australians overseas has adverse impacts on the individuals concerned and their loved ones, and can also have far broader implications that go beyond the individual case. The most outstanding example of the latter in recent times is the case of Julian Assange, on which this submission will focus.

### ***Julian Assange***

Julian Assange was the founder of the Wikileaks publishing organisation, which published evidence of war crimes and other serious misconduct perpetrated by the US and its allies in the Iraq and Afghanistan wars. The evidence included the “Collateral Damage” video, published in 2010, which showed the murder of Iraqi civilians and two Reuters reporters.

In April 2019, Assange was arrested by British police at the Ecuadorean embassy in London, where he had been granted political asylum since 2012. He had been seeking to avoid extradition to Sweden because that would have placed him at risk of subsequent extradition from Sweden to the US. Assange was charged and convicted of violating the UK Bail Act in May 2019, and sentenced to fifty weeks in prison.

AFFILIATE



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Almost immediately after his arrest in London, the US sought his extradition for espionage and computer fraud. He was subsequently held for over five years in Belmarsh Prison in London, some of it in solitary confinement, finally being released in June 2024 after a plea deal was reached.

During his incarceration, widespread concerns emerged about Assange's mistreatment and violations of due process in his legal proceedings.

### ***Psychological torture***

In November 2019, the UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment, Nils Melzer, having visited Assange with a medical team, [found](#) that Assange showed "all the symptoms typical for prolonged exposure to psychological torture" as a result of long-standing persecution. Melzer had demanded immediate measures for the protection of his health and dignity, but instead, he said, "what we have seen from the UK Government is outright contempt for Mr. Assange's rights and integrity", stating that "the UK has not undertaken any measures of investigation, prevention and redress required under international law."

Concerns regarding Assange's health continued; see for example [here](#) and [here](#).

### ***Lack of due process***

Nils Melzer also stated that Mr. Assange's access to legal counsel and documents had been "severely obstructed, thus effectively undermining his most fundamental right to prepare his defence".

In May 2019, the UN Working Group on Arbitrary Detention [expressed](#) its deep concern that Assange had been "arbitrarily detained by the Governments of Sweden and the UK". The Group stated that Assange has been detained since 11 April 2019 in Belmarsh prison, a high-security prison, "as if he were convicted for a serious criminal offence". This treatment, they said, "appears to contravene the principles of necessity and proportionality envisaged by the human rights standards". The Group also referred to preliminary investigations initiated in 2010 by a prosecutor in Sweden, which did not lead to any charges being laid, the Swiss prosecutor discontinuing the investigations and bringing an end to the case in 2017. Myths surrounding the Swedish investigations had been allowed to fester and smear Assange's reputation.

In March 2020, the [International Bar Association's Human Rights Institute \(IBAHRI\)](#) [condemned](#) the reported mistreatment of Assange during his US extradition trial in February of that year. The Association's Co-Chair the Hon Michael Kirby AC CMG (an Australian), commented that "the mistreatment of Julian Assange constitutes breaches of his right to a fair trial and protections enshrined in the United Nations Convention against

Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment”. Australia is party to this Convention, as is the UK.

IBAHRI also stated “With this extradition trial we are witnessing the serious undermining of due process and the rule of law. It is troubling that Mr Assange has complained that he is unable to hear properly what is being said at his trial, and that because he is locked in a glass cage is prevented from communicating freely with his lawyers during the proceedings commensurate with the prosecution.”

The organisation Reporters Without Borders (RSF) also [reported](#) on the obstacles from the British legal system that their organisation faced in working on Assange’s case, which included “extensive and evolving barriers to accessing court hearings as NGO observers”.

### ***Australian government and parliamentarians’ roles***

Despite the above concerns, MAPW was informed by the Department of Foreign Affairs and Trade in a letter dated 25 January 2022, that “The Australian Government has full confidence in the UK legal system to deliver due process and to deal with the case and any subsequent appeals according to law”. The letter stated that Assange was offered Australian consular assistance, that the government had raised the case with their US and UK counterparts, but that the Australian government was unable to intervene.

In a very brief letter dated 24 June 2022 from the Attorney-General on the matter of Assange, MAPW was informed that the case did not fall within the Attorney-General’s portfolio responsibilities. However, this did not prevent the Attorney-General joining (with the PM and the Minister for Foreign Affairs) a [media release](#) on 26 June 2024 to welcome Assange’s release and express appreciation to our allies the US and the UK – the very nations that had persecuted an Australian citizen over many years.

It is unclear the extent to which the current Australian Government did intervene more recently to help secure Assange’s release. To the extent that they did, then this is to the government’s credit.

However there does not appear to be much record of such interventions. [FOI requests](#) by former senator Rex Patrick to the Prime Minister, the Foreign Minister and the Attorney-General for correspondence or other records of communication from 23 May 2022 in relation to Assange to their US counterparts drew no results. Patrick also [writes](#) that “Other FOI applications directed towards Australia’s Embassy in the US have revealed no evidence of significant diplomatic activity, indeed quite the contrary. The Assange case has been carefully corralled off from the bilateral diplomatic agenda.” Patrick notes, by contrast, the government’s “energetic and persistent representations that eventually secured the release of Australian citizen and journalist Cheng Lei, charged with a bogus espionage offence [from the People’s Republic of China]”.

Other Australian parliamentarians from across the political spectrum who did consistently and strongly advocate for Assange's release are to be applauded.

### ***Severe damage to press freedoms***

Despite the fact that Assange is now free, the dangers posed to press freedom by his persecution will persist.

Journalists have a critical role to play in reporting impartially about war crimes and other illegal acts committed by governments. A world in which the most powerful nations can silence those who expose their crimes, and intimidate the rest, is a dangerous one.

The book "[The trial of Julian Assange : a story of persecution](#)" by Nils Melzer and Oliver Kobold sets out how "unchecked power reveals a deeply undemocratic system". The authors argue that "the Assange case sets a dangerous precedent: once telling the truth becomes a crime, censorship and tyranny will inevitably follow."

### ***Conclusions***

Australia largely failed over many years to protect the rights and freedom of Australian citizen Julian Assange when he was wrongfully detained overseas.

The use of the term "regime" in the terms of reference of this inquiry – "regimes that wrongfully detain Australian citizens" – suggests that wrongful detention is seen as a problem that only exists in countries not regarded as democracies. However, the case of Assange illustrates that this is not so. Two of our closest allies, the US and the UK, colluded over many years to persecute an Australian citizen.

Any attempt to whitewash the seriousness of the abuse of power by our allies the US and the UK in this case will merely augment perceptions that Western powers regard themselves as above the law.

### ***Recommendations***

1. Australia's responses to cases of wrongful detention of Australian citizens overseas must be determined according to principles that are applied consistently, regardless of where our political allegiances lie.
2. Australia should show full respect for UN representatives and other authorities in relation to matters of wrongful detention.
3. Australia must take strong and positive actions for the protection of press freedom.

