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## **CCPR - International Covenant on Civil and Political Rights**

### **HUMAN RIGHTS COMMITTEE**

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### **Examination of the 8th report and country situation of United Kingdom of Great Britain and Northern Ireland**

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A not-for-profit Association “Justice for All International / Justice pour Tous Internationale” is registered in Geneva (CHE-226.634.549). The Association has no profit purposes, including combating injustice and human rights abuses worldwide; promoting and protecting human rights and fundamental freedoms, with a particular focus on the protection of entrepreneurs, human rights defenders, political activists, bloggers, and journalists at risk of persecution; and strengthen developing civil societies and democracies in the countries engaged. The Association offers professional assistance in preparing and submitting human rights violation complaints to the UN protection mechanisms.

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## **I. ABUSE BY THE UK OF COUNTER-TERRORISM AND STATE SECURITY LAWS: TARGETING OF JOURNALISTS, POLITICAL CRITICS, PEACEFUL PROTESTERS, AND WHISTLEBLOWERS**

The central theme of this analysis is the abuse of counter-terrorism, extremism, and state security powers at UK ports, which appears to be part of a broader pattern targeting whistleblowers, journalists, peaceful political protesters, and critics of state policy. This evaluation critically examines the UK's adherence to International Covenant on Civil and Political Rights (ICCPR) standards, particularly Articles 9, 14, 17, 19, 20, 21, and 26.

## **II. COUNTER-TERRORISM AND STATE SECURITY LAWS**

The United Kingdom has enacted several robust laws in response to national security and counter-terrorism challenges. Its commitment to safeguarding national security is underscored by its comprehensive suite of counter-terrorism and state security laws, notably including the Terrorism Act 2000, the Anti-terrorism, Crime and Security Act 2001, the Counter-Terrorism and Security Act 2015, the Investigatory Powers Act 2016, the recent 2019 Counter-Terrorism and Border Security Act, and the Public Order Act 2023. While these legislative measures are designed to fortify national security, they have raised significant concerns under the standards of the International Covenant on Civil and Political Rights (ICCPR), particularly in relation to liberty and security of person (Article 9), the right to a fair trial (Article 14), privacy (Article 17), freedom of expression (Article 19), peaceful assembly (Article 21), and violation of equality and prohibition of discrimination (Article 26 of the ICCPR). Also, Justice for All International is concerned that the evolution of the counter-terrorism and state security laws in the UK led to shrinking of civil society space and freedom of expression in violation of the country's international human rights obligations. Additionally, these legally imposed restrictions seemingly contravene the principles of proportionality, necessity, and legitimacy, which guide permissible restrictions..

The Terrorism Act 2000, along with subsequent legislation like the Anti-terrorism, Crime and Security Act 2001, has been a cornerstone of the UK's counter-terrorism legal framework. Notably, the Terrorism Act 2000 allows for detention without charge for up to 14 days, a provision that has been criticized for potentially infringing on the right to liberty and security (Article 9 of the ICCPR). Concerns have been raised about the broad powers granted to law enforcement, which may impinge on individual rights. The Home Office publishes statistics on the operation of police powers under the Terrorism Act 2000, including the number of arrests and outcomes related to terrorist activity, which indicates [the scale of its application](#).

Similarly, the Investigatory Powers Act 2016, often referred to as the "Snooper's Charter," authorizes extensive surveillance and data collection capabilities. It has raised significant concerns regarding the right to privacy (Article 17 of the ICCPR), as it allows for bulk data collection and interception of communications. The legislation's

impact on privacy rights underscores the tension between security measures and individual freedoms.

The 2019 Counter-Terrorism and Border Security Act, which augmented the existing framework, especially by further extending state powers, particularly by enhancing the scope of questioning for individuals suspected of involvement in 'hostile activities.' The broad and somewhat ambiguous definition of 'hostile activities' has been a point of contention, as it could potentially be applied to legitimate journalistic or protest activities, infringing upon freedoms of expression and peaceful assembly, as enshrined in Articles 19 and 21 of the ICCPR. High-profile incidents, such as the detention of David Miranda at Heathrow Airport in 2013, have brought these concerns into sharp focus, underscoring the potential conflict between national security measures and the safeguarding of fundamental civil liberties.

The application of these laws, particularly in the context of UK ports, has been a point of concern, with journalists, political critics, and peaceful protesters often finding themselves disproportionately targeted. The practices of detention and interrogation, along with the seizure of journalistic materials or denial of entry based on professional activities or political views, have raised significant human rights concerns.

Part of the UK's counter-terrorism approach, [Prevent](#) aims to identify and intervene with individuals at risk of radicalization. However, it has faced criticism for disproportionately targeting Muslim communities and potentially undermining basic rights and freedoms. The strategy has been accused of having a "chilling effect" on free speech in educational and public sector settings, raising concerns about its compliance with the right to freedom of expression.

### **III. THE TARGETING OF JOURNALISTS UNDER COUNTER-TERRORISM AND STATE SECURITY LAWS**

The treatment of journalists and political critics under UK counter-terrorism and state security laws has raised significant human rights concerns. Practices such as detention, interrogation, and denial of entry based on professional activities or political views directly challenge the protection of freedom of expression and the assurance of a fair trial. These actions are at odds with Article 19 of the ICCPR, which safeguards freedom of expression, and potentially compromise the rights to liberty and security and to a fair trial as stipulated in Articles 9 and 14 of the ICCPR. The cases of David Miranda and Julian Assange are emblematic of the challenges and controversies surrounding these laws.

[David Miranda's](#) detention at London's Heathrow Airport in August 2013 under the Terrorism Act 2000 highlighted the tension between national security measures and the protection of journalistic freedom. Miranda, who was carrying encrypted data containing classified UK intelligence documents, was stopped while en route from Berlin to Rio De Janeiro. Although the British Court of Appeal found that the detention of Miranda was lawful due to the potential release of material that could fall within the definition of terrorism, it also recognized that the powers allowing the detention and

seizure of documents breached Article 10 of the European Convention on Human Rights, which protects the right to receive and impart information without interference by public authority. The court emphasized the importance of confidentiality in journalistic information and the potential chilling effect on freedom of expression if journalists and their sources cannot expect confidentiality. It was argued that the lack of independent oversight of the use of such powers rendered the legislative scheme incompatible with Article 10 of the ECHR, underlining the need for prior judicial or independent oversight to safeguard against the unlawful exercise of Schedule 7 powers in cases involving journalistic freedom.

Similarly, the case of Julian Assange, the founder of WikiLeaks, known for his role in publishing classified materials through WikiLeaks, has sparked significant international debate. Assange's prolonged confinement and the legal proceedings against him for publishing classified materials have ignited global debates on the protection of whistleblowers and the balance between press freedom and national security. His case underscores the need to reevaluate the extent to which states can limit freedom of expression in the name of national security. The legal and human rights implications of his extradition proceedings and potential impacts on press freedom have been extensively discussed.

The use of [Schedule 7](#) of the Terrorism Act 2000, which allows for detention and questioning at ports and borders without the need for suspicion, has been a point of contention, especially in its application to journalists. Instances of journalists being stopped and questioned under this power, such as the case of award-winning photojournalist Edmond Terakopian, have led to concerns about its potential to impede press freedom and discourage investigative journalism, a crucial element for a transparent and accountable democracy, as well as illustrate the potential for such laws to chill press freedom. The application of Schedule 7 has been scrutinized for its broad scope and potential misuse, particularly in cases where journalists are targeted for their work, raising concerns about the compliance of such practices with international human rights standards.

The targeting of journalists under counter-terrorism and state security laws can have a chilling effect on press freedom and investigative journalism. This impact is particularly concerning in a democratic society where a free press plays a vital role in holding the government accountable and informing the public. The necessity of ensuring that counter-terrorism measures do not unduly infringe upon the rights of journalists and political critics is paramount. It is crucial that the UK's approach to national security does not disproportionately impede the essential role of the media in a democratic society.

These cases illustrate the fine line that needs to be treaded in applying counter-terrorism and state security laws. While the UK has legitimate concerns about national security, it is crucial that the application of these laws does not infringe upon the fundamental rights of freedom of expression and a fair trial, and that adequate safeguards and oversight mechanisms are in place to protect these rights. The balance

between national security and human rights is a delicate one, and continual reassessment and refinement of these laws are necessary to ensure they align with international human rights standards.

Legal challenges and human rights analyses have repeatedly called into question the compatibility of these practices with international human rights standards. Justice for All International asserts that the broad and sometimes vague definitions within the counter-terrorism laws could be used to target journalists and political activists, thereby infringing upon their rights to freedom of expression and to a fair trial. The UK's legal obligations under the ICCPR necessitate a careful assessment of these laws to ensure they are applied in a manner that respects fundamental human rights.

Here is additional evidence of a pattern of abuse of counter-terrorism and state security powers in the UK, particularly targeting journalists and political critics. This pattern is illustrated through three cases:

1. **Case of a British Eurosceptic Author and University Lecturer:** He experienced an encounter under the Counter Terrorism and Border Security Act 2019 (CTBSA) at Gatwick Airport. His laptop was seized and retained for three weeks, and he received communication from the UK Home Office's Homeland Security Group regarding the retention of his computer's data. The seizure was linked to potential connections with individuals involved in activities related to the Russian state, not due to any suspicion of wrongdoing on his part.
2. **Case of a Freelance Journalist and Blogger from Edinburgh:** She was detained under the CTBSA at Edinburgh Airport, and her and her daughter's mobile phones were seized. She was interrogated about her journalistic work, financial connections, and links to Russia, and compelled to provide the PIN to her phone. Authorities informed her that the data from the devices would be retained for national security reasons. This experience led her to cease her freelance writing due to fear of future detentions.
3. **Case of an Independent Freelance Journalist:** He was detained under the CTBSA at Luton Airport, and his electronic devices and bank cards were seized. He underwent a lengthy interrogation focusing on his work and was fingerprinted, DNA sampled, and photographed. He believes he is still under criminal investigation and denies any criminal wrongdoing.

These cases highlight the misuse of specific anti-terrorism powers against journalists, often without legitimate basis. Victims were informed they were 'detained' but not 'arrested,' impacting their legal rights and access to representation. The trend of using anti-terrorism legislation in this manner raises serious concerns about freedom of the press and the right to free expression in the UK.

In the case of Mr. Murray, he was targeted by these counterterrorism and state security powers, possibly triggered by his attendance at a pro-Palestinian rally and

public expression of support for Palestinian self-defense. An investigation under the Terrorism Act 2000 further exemplifies the deviation from the intended use of anti-terrorism legislation.

This pattern indicates a troubling disregard for journalistic freedom and the rule of law, with journalistic activities and personal political stances met with disproportionate and unjustified security measures.

#### **IV. TARGETING OF JOURNALISTS AND POLITICAL CRITICS THROUGH JUDICIAL MECHANISMS (SLAPPS)**

The targeting of journalists and political critics in the UK, particularly under the purview of judicial mechanisms, has increasingly come under scrutiny for potential human rights violations. The case of [Craig Murray](#), a former British diplomat and blogger, is emblematic of this issue. In 2021, Craig Murray was convicted for contempt of court over his reporting on the trial of the former First Minister of Scotland, Alex Salmond, on charges of sexual assault and Salmond's defence – clearly accepted by the jury that acquitted him of all charges – that the charges against him were false and fabricated at the highest level of the political establishment. Reportedly, Craig Murray's conviction was based on an order issued under Section 11 of the UK Contempt of Court Act 1981 (the S.11 Order), applied in a flawed and arbitrary prosecution and trial. It effectively silenced him as a journalist and still prevents him – and indeed anyone in the UK – from reporting on credible evidence of abuse of power at the highest levels of the establishment, a matter of undoubtedly great public interest.

Murray's case centered around the concept of "jigsaw identification", where he was accused of indirectly identifying accusers in a high-profile sexual assault trial. The courts' rejection of a public interest defense in this context has been criticized for its disproportionate impact on journalistic freedom and the public's right to be informed about matters of significant public interest. This approach underscores the tension between protecting the privacy and safety of individuals involved in legal proceedings and preserving the fundamental right to freedom of expression.

The concept of "jigsaw identification," pivotal in Murray's case, highlights a challenging aspect of legal proceedings involving anonymity orders. The contention revolves around the balance between protecting the identity of accusers in sensitive trials and upholding public interest journalism and freedom of expression. The legal stance in Murray's case, which sidelined the public interest defense, sparks a debate on the adequacy of current legal provisions to protect journalistic activities and the public's right to information.

The case exemplifies the issue of Strategic Lawsuits Against Public Participation (SLAPPs), where legal systems are allegedly used to silence critical voices. Despite the UK government's efforts to combat SLAPPs, especially in cases connected to financial crimes and corruption, there is an urgent need to broaden the scope of these protections. Cases like Murray's, which fall outside the realm of economic crimes or actions by private individuals, demonstrate the necessity for comprehensive legal

safeguards against all forms of SLAPPs, ensuring that journalists and whistleblowers are fully protected against legal actions designed to suppress critical reporting of the actions of government's officials, state policy and freedom of expression.

Murray's case, within the context of broader actions against journalists and political critics in the UK, signals a troubling trend towards the constriction of press freedom and public discourse. The situation points to the need for a more nuanced legal framework that adequately protects journalists while ensuring the integrity and privacy of legal proceedings. The UK's declining status in various international indices concerning media freedom, as noted by organizations like [Reporters Without Borders \(RSF\)](#) and [Amnesty International](#), underscores the imperative for action. The government's proposed amendments, while a step in the right direction, must extend to cover all instances of legal abuse that threaten journalistic freedom and democratic discourse.

Justice for All International expresses concerns about the UK's declining status in terms of media freedom and civic space. Recommendations call for a reevaluation of existing laws and the introduction of comprehensive protections against all forms of SLAPPs, not just those related to economic crimes, to safeguard the fundamental rights of journalists, writers, and publishers.

The issue of discrimination in the UK's legal treatment of bloggers like Craig Murray compared to mainstream journalists is a subject of significant discussion and concern. The case of Craig Murray, as highlighted on his blog, suggests that there might be different standards applied to bloggers and mainstream media in legal proceedings. Murray's case raises questions about the fairness and equality of treatment between citizen journalists and institutional journalists under UK law.

The discussion on the Birmingham Law School Research Blog provides insight into the broader context of media freedom in the age of citizen journalism. It emphasizes the significant role citizen journalists play in the public sphere, especially in situations where access to information is challenging for the institutional press. This highlights the vital democratic function performed by citizen journalists in contributing to public interest content and making professional journalists and the institutional media more accountable.

However, there is an ongoing debate and confusion about the categorization of citizen journalists as 'media' and their recognition under the law. Traditional methods used to define media and determine who should benefit from media freedom may not adequately encompass the role of citizen journalists. This is problematic because citizen journalists are increasingly important in the newsgathering process and in the publication of public interest news.

The legal challenges faced by bloggers like Craig Murray and the broader discussion on the role of citizen journalists indicate a need for a modernized understanding of media freedom that aligns with the realities of 21st-century communication. This includes recognizing the contribution of citizen journalists to the



public sphere and ensuring equitable legal protections for all actors engaged in journalistic activities, regardless of their institutional status.

## **V. IMPACT ON PEACEFUL PROTESTERS**

The impact on peaceful protesters in the UK due to the enforcement of counter-terrorism and state security laws, particularly under [the Public Order Act 2023](#), has been stark. A notable incident involved more than 60 climate activists from the group Just Stop Oil being arrested in London. These activists were partaking in a peaceful 'slow march' around Parliament Square, a form of protest against new oil and gas licenses. Despite the peaceful nature of their demonstration, the police swiftly intervened, leading to their arrests under the new act, which prohibits activities interfering with key national infrastructure. This case highlights the increasing use of stringent laws against peaceful protests and the significant implications for the right to peaceful assembly in the UK.

The Stansted 15 case, which pre-dated the adoption of the Public Order Act 2023, further amplifies these concerns. This case vividly illustrates the potential overreach of these laws and the implications for the right to peaceful assembly, as guaranteed by Article 21 of the ICCPR. This group of activists was arrested and initially convicted under the Aviation and Maritime Security Act 1990 for preventing a deportation flight. Although their conviction was later overturned, the case highlights the potential misuse of counter-terrorism powers against non-violent civil disobedience.

The Court of Appeal ruled that their actions did not meet the critical test of endangering safety at the airport, thus the prosecution was unjustified. It found that the protesters' conduct did not satisfy the elements of the offense they were charged with. The judges stated that there was no case to answer, underscoring that the appellants' convictions must be quashed. The court's decision highlighted that the law used to prosecute the Stansted 15 was intended for situations involving threats of serious violence, such as terrorism, and not for demonstrators like the Stansted 15. [This ruling underlines a fundamental legal safeguard](#): individuals can only be prosecuted for actions that fit the specific wording and intent of an offense.

Furthermore, one of the Stansted 15 activists reflected on the impact of their action, which had stopped a deportation flight. This action was considered by them as a significant achievement in their advocacy against the hostile environment policy and the use of deportation as a tool of repression. The case also underlines the importance of organizing and solidarity in the migrant justice movement, which has been active in response to various injustices, including the Grenfell Tower fire and the Windrush scandal. The case of the Stansted 15 is a poignant example of how peaceful protest can intersect with national security laws and the challenges this poses for the right to peaceful assembly. The case underscores [the necessity](#) of aligning the application of security laws with the rights protected under the ICCPR, particularly when it comes to peaceful protest and expression. The Stansted 15 case serves as a critical example of

the potential misuse of these powers against non-violent civil disobedience, highlighting the need for [a careful balance](#) between security measures and the protection of fundamental democratic rights, including the right to peaceful assembly as enshrined in the ICCPR.

These cases collectively illustrate the complexities and challenges in balancing national security with fundamental rights and freedoms, emphasizing the need for careful scrutiny and compliance with international human rights standards. This context enriches the understanding of how the application of counter-terrorism and state security laws at ports and borders has significant implications for peaceful protesters.

## **VI. BROADER PATTERN OF MISUSE OF COUNTER-TERRORISM AND STATE SECURITY LAWS**

The United Kingdom has developed an increasingly stringent suite of laws aimed at counter-terrorism and state security, including the Terrorism Act 2000, the Anti-terrorism, Crime and Security Act 2001, the Counter-Terrorism and Security Act 2015, the Investigatory Powers Act 2016, and notably, the 2019 Counter-Terrorism and Border Security Act, along with the Public Order Act 2023. The application of these laws, particularly in targeting specific groups ostensibly for national security reasons, demands critical evaluation to ensure adherence to the principles of non-discrimination (Article 26 of the ICCPR) and protection against arbitrary or unlawful interference with privacy (Article 17 of the ICCPR).

These laws, particularly the Terrorism Act 2000, have faced scrutiny and criticism for potentially undermining civil liberties, including the rights to a fair trial and privacy. They have been critiqued for their broad definitions that might encompass legitimate political and journalistic activities. [Concerns](#) have been raised about the laws' potential to chill journalistic freedoms, highlighted by the proposed creation of new offences for viewing terrorist material online and traveling to areas designated as a terrorist threat. Although journalistic exemptions were introduced, the breadth of these powers remains a point of contention. In this regard, the News Media Association's calls for amendments reflect the urgency to safeguard journalistic integrity and independence against the sweeping powers endowed upon border officials, which include the authority to stop, question, and confiscate property sans reasonable suspicion.

The Terrorism Act 2000 and subsequent legislation have been criticized for extending the [definition of terrorism](#), potentially classifying many forms of legitimate political activity as 'terrorist' acts. These laws also extend beyond the UK's borders, expanding the scope compared to previous terrorism legislation. The permanent nature of most provisions, without regular parliamentary review, adds to the concern. The Prevention of Terrorism Act 2005, for instance, has been criticized for allowing control orders without trial or criminal charge, thereby violating the right to a fair trial.

The ramifications of these legislative frameworks extend beyond the realm of civil liberties, touching upon societal fabrics. The alarming surge in stop-and-search incidents, particularly among Asian communities, under the Terrorism Act 2000 has stoked fears of racial profiling and the criminalization of entire communities based on racial or ethnic stereotypes. This not only flouts the principle of non-discrimination but also undercuts the broader counter-terrorism objectives by alienating key segments of the society.

The systemic targeting and [potential for discrimination](#) inherent in these laws, particularly against British Asians and other minority groups, raise significant concerns. The increase in the number of Asians stopped and searched under the Terrorism Act 2000, with Blacks and Asians four times more likely to be stopped than Whites, points to potential racial profiling and the criminalization of entire communities based on racial or ethnic stereotypes.

The necessity for stringent safeguards and robust oversight mechanisms is underscored by the risk of profiling and disproportionate targeting of minority groups. Ensuring accountability and transparency in the application of these laws is crucial. Regular review of these laws and their enforcement is needed to align them with the UK's human rights obligations under the ICCPR, particularly concerning non-discrimination (Article 26) and the right to privacy (Article 17).

The broad pattern of application of these laws indicates a need for a systemic review of the legal and enforcement frameworks to ensure compliance with the principles of non-discrimination and equality before the law. This review is essential to realign the UK's counter-terrorism and state security measures with fundamental human rights principles, ensuring national security imperatives do not unjustifiably infringe upon individual liberties and freedoms.

## **VII. PROSECUTING AND STIGMATIZING THOSE WHO EXPRESS SOLIDARITY WITH GAZA**

On 16 October 2023, Mr. Murray was stopped by three police officers and taken to a detention room at Glasgow Airport upon his return from Iceland. He was informed that he was detained but not arrested, thereby denying him the right to legal representation and advice. He was also told that he had no right to remain silent and was obligated to answer all questions and surrender passwords to his electronic devices. Failure to do so would be considered a criminal offense.

During the detention, Mr. Murray's personal belongings, including his laptop and phone, were searched and seized. He was questioned about his recent travels, affiliations, and activities related to human rights campaigns, including his involvement in the campaign to free Julian Assange and his attendance at a pro-Palestinian rally in Iceland.

His detention lasted one hour; after that period, he was released, but his devices were kept by the police. Later, his laptop was returned, but his phone is still being kept

by the police, as he was informed, "for the purpose of the ongoing investigation." However, he was not informed of any investigation or accusations against him. Shortly after this incident, Mr. Murray gave an interview to the Grayzone, which published a [detailed account of the incident](#).

The situation involving [Mr. Murray](#) and others who express solidarity with Gaza highlights the complex interplay of international law, human rights advocacy, and national security concerns. Mr. Murray's case, where he faced legal challenges under the UK Terrorism Act 2000 for his stance on Palestinian rights, underscores the UK's failed balance between national security measures and the protection of individual rights to free expression and peaceful political advocacy.

The use of counterterrorism legislation in contexts like Mr. Murray's raises critical questions about the potential overreach of such laws. The application of these laws against individuals engaged in non-violent political expression, particularly those advocating for contentious political causes like Palestinian rights, suggests a need for careful scrutiny to ensure that fundamental freedoms are not unduly compromised in the name of national security.

The lack of a substantive response from key international actors, including [the United Nations High Commissioner for Human Rights](#), to Mr. Murray's situation and similar cases, points to challenges in the international legal and diplomatic landscape. It highlights the need for international human rights mechanisms to be more responsive and proactive in addressing potential abuses of counterterrorism legislation and safeguarding the rights to free expression and peaceful political advocacy.

The proscription of Hamas in the UK as a terrorist organization is indeed a contentious issue, with significant variations in stance among different countries and international bodies. While Hamas is designated as a terrorist organization by several countries, including Israel, the United States, Canada, and the European Union, it is important to note that the United Nations itself does not officially list Hamas as a terrorist organization. This discrepancy underscores the complexities and challenges in applying international legal standards to politically charged situations.

The experiences of individuals like Mr. Craig Murray, who face legal challenges and stigmatization for expressing solidarity with Gaza, emphasize the need for a nuanced and principled approach in addressing sensitive matters related to international law, counterterrorism legislation, and the principles of self-defense and self-determination. It is crucial for international legal standards to be upheld in safeguarding individual rights and freedoms, and for a balanced approach to be maintained in the context of national security and international conflict resolution.

## **VIII. WHISTLEBLOWERS AND PUBLIC INTEREST: THE CASE OF JULIAN ASSANGE IN THE UK**

Julian Assange, the founder of WikiLeaks, has become a central figure in discussions about whistleblowing, journalistic freedom, and national security. His case

in the UK, especially concerning his potential extradition to the U.S., has significant implications for public interest journalism and whistleblowers' protection under international law, particularly the International Covenant on Civil and Political Rights (ICCPR).

#### *Key Developments in Assange's Case*

- **Arrest and Legal Proceedings:** Assange was arrested in April 2019 for breaching bail conditions in the UK. Before his arrest, he had spent seven years in the Ecuadorian Embassy in London to avoid extradition to Sweden over sexual assault allegations, which were later dropped in November 2019.
- **Extradition Battle:** Assange faces extradition to the U.S. on 18 charges of espionage and one charge of computer misuse, linked to WikiLeaks' release of classified U.S. documents. His legal battle includes:
  - **17 June 2022:** UK Home Secretary Priti Patel authorized Assange's extradition.
  - **24 June 2022:** Assange's appeal was filed at the High Court.
  - **20-21 February 2024:** Scheduled final appeal hearing at the UK High Court.

#### *Political Motivation and ICCPR Violations*

- **Allegations of Political Persecution:** Assange's supporters argue that his case is politically motivated, violating ICCPR articles regarding the prohibition of torture (Article 7), right to liberty and security (Article 9), fair trial rights (Article 14), and freedom of expression (Article 19).

#### *There is Extensive Independent Evidence that this is a Politically- Motivated Case*

Article 3(1) of the European Convention on Extradition very clearly states that “[e]xtradition shall not be granted if the offence in respect of which it is requested is regarded by the requested Party as a political offence or as an offence connected with a political offence.” Article 3(2) of the Convention states that “[t]he same rule shall apply if the requested Party has substantial grounds for believing that a request for extradition for an ordinary criminal offence has been made for the purpose of prosecuting or punishing a person on account of his race, religion, nationality or political opinion, or that that person's position may be prejudiced for any of these reasons.<sup>1</sup> Furthermore, according to article 4 of the 2007 Extradition Treaty between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America, the Extradition shall not be granted if the offense for which extradition is requested is a political offense.

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<sup>1</sup> European Convention on Extradition, *entered into force* Apr. 18, 1960, at arts. 3(1) and 3(2). Extradition Treaty between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America, 2007

Assange’s supporters and lawyers maintain he was acting as a journalist and is entitled to protections of freedom of speech. They argue that the case is politically motivated, that he would face inhumane treatment and be unable to get a fair trial in the U.S.

- **Potential Inhumane Treatment:** Concerns have been raised about the risk of inhumane treatment Assange might face in the U.S., including the possibility of being held in solitary confinement, which could amount to torture or cruel, inhuman, and degrading treatment.

#### *Excessive Length of Detention*

- The protracted nature of Assange's detention and legal proceedings in the UK raises concerns under ICCPR Article 9(4) about the right to have his case considered within a reasonable time. Drawing parallels to the case of Mukhtar Ablyazov, as discussed in Opinion No. 49/2016 by the Working Group on Arbitrary Detention, prolonged detention during extradition procedures can be considered arbitrary and excessively long, violating the right to a prompt hearing.

#### *Humanitarian Concerns and Health*

- **Mental Health Considerations:** A UK judge initially blocked Assange's extradition, citing risks to his mental health and potential suicide in U.S. custody. However, this decision was overturned following U.S. assurances regarding his treatment.

#### *Implications for Whistleblowers and Public Interest*

- **Public Interest Disclosure Act (PIDA) 1998:** Although PIDA was enacted to protect whistleblowers in the UK, its effectiveness in high-profile cases like Assange's, where national security is a factor, appears limited.
- **Chilling Effect on Whistleblowing:** Assange's case highlights the potential risks whistleblowers face, especially when disclosures involve state security matters, potentially deterring future disclosures of public interest.

## **IX. ARBITRARY OF DETENTION: THE CASE OF JULIAN ASSANGE**

According to ICCPR Article 9(4), “[a]nyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that the court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.” The UN Basic Principles and Guidelines provide that “everyone is guaranteed the right to take proceedings before a court . . . and to obtain without delay appropriate and accessible remedies.” The European Convention on Human Rights similarly requires that extradition proceeds be conducted with due diligence without “delays of sufficient length” that render the “total duration of the proceedings excessive.” As was discussed above, the extradition proceedings against Assange in the UK have not been concluded within a reasonable time or without undue delay. Assange has been detained in the UK since 2019, or almost 5 years. The case is still on

appeal to the High Court, which must decide on 20-21 February 2024, whether or not to allow appeal to annul the extradition decree that the UK Government issued on 17 June 2022 in reliance on the London Court decision of 20 April 2022.

Julian Assange's extended detention in the UK, in connection with his ongoing extradition proceedings to the U.S., raises significant concerns under international human rights law, particularly the International Covenant on Civil and Political Rights (ICCPR).

The prolonged detention of Julian Assange in the United Kingdom, particularly in relation to his ongoing extradition proceedings to the United States, presents significant issues under international human rights law. This situation specifically pertains to the International Covenant on Civil and Political Rights (ICCPR).

A key reference point in this context is Opinion No. 49/2016 by the Working Group on Arbitrary Detention. Paragraph 67 of this opinion discusses the case of Mukhtar Ablyazov, noting his detention during extradition procedures, which exceeded three years, was excessively long and violated his right to a prompt hearing, constituting arbitrary detention. This paragraph emphasizes that even though legal challenges posed by Mr. Ablyazov may have contributed to the length of his detention, it was ultimately deemed excessively prolonged by the Court of Cassation, thereby violating ICCPR articles 9(4) and 14(3)(c).

Applying this precedent to Julian Assange's case, his detention since 2019 can be considered excessively lengthy, especially in the context of extradition proceedings. This situation appears to breach the standards established by ICCPR Articles 9(4) and 14(3)(c) concerning the right to a prompt hearing and fair trial. Assange's case is further complicated by the political nuances and human rights concerns surrounding his potential extradition to the U.S.

The extent of Assange's detention and the ongoing legal processes highlight potential shortcomings in the protection of individuals under similar conditions, raising questions about the UK's legal system's adherence to international human rights standards, especially in cases with significant political and journalistic implications.

Assange's situation underscores the necessity for a balanced approach that safeguards both national security and the rights of individuals under international law. His case is indicative of the UK's commitment to international human rights standards, particularly concerning freedom of expression and the protection of whistleblowers.

Julian Assange's case, viewed in light of the principles articulated in Opinion No. 49/2016, underscores the critical need for timely and fair judicial processes in extradition cases. It highlights the importance of safeguarding the rights enshrined in the ICCPR, ensuring that the detention duration does not undermine the principles of a fair trial and prompt hearing.

Assange's case is a litmus test for the UK's adherence to international human rights standards, particularly regarding freedom of expression and whistleblowers'

protection. The complex interplay of legal, political, and humanitarian factors in this case underscores the need for a balanced approach that safeguards both national security and the rights of individuals under international law.

## CONCLUSION

The UK, once a beacon of freedom and democracy, has been downgraded in the [Civicus Monitor's annual global index of civic freedoms](#), reflecting a troubling shift towards an "increasingly authoritarian" stance. The government's proposed laws to restrict civic freedoms, such as the right to peaceful assembly and protest, have led to the UK being classified as "obstructed," putting it alongside countries like Poland, South Africa, and Hungary. The introduction of restrictive laws like the Police, Crime Sentencing and Courts Act, and the Public Order Bill, along with the government's hostility towards charities and campaigners, has created a hostile environment that threatens the democratic principles the UK once championed.

This alarming trend is not only a betrayal of the UK's democratic legacy but also a stifling of civil society and freedom of expression. The government's crackdown on campaigning, its attempts to undermine human rights, and its increasing hostility towards those who speak out against its policies have had a "chilling effect" on civil society. A survey by the Sheila McKechnie Foundation found that 94% of campaigners perceive threats to their freedom to organize, contribute to public debate, or protest. The UK's descent into this obstructed category should serve as a wake-up call, highlighting the urgent need to restore and protect the very freedoms that define a healthy democracy.

[Recently](#), the legal profession in England and Wales expressed grave concern over an incident where the Conservative party shared a dossier about a senior solicitor, Jacqueline McKenzie, with newspaper reporters. The dossier targeted McKenzie's work as an immigration and asylum lawyer, leading her to describe the attack as "vile and self-serving." In response, the leaders of the Bar Council and the Law Society issued a joint statement emphasizing that no lawyer should be criticized or targeted for doing their job. They stressed that lawyers should not be identified with their clients' causes and that actions undermining confidence in the legal professions risk the entire justice system. The incident highlights the importance of respecting the independence of the legal profession and the rule of law. It serves as a reminder that lawyers should not be subject to political attacks or intimidation for representing their clients, reflecting broader concerns about the UK's commitment to democratic values and principles.

Human rights, including the rights to freedom of expression and association, have been increasingly under attack in the United Kingdom. The government, facing widespread opposition, withdrew a Bill to repeal the Human Rights Act, the country's primary legal protection for human rights.<sup>2</sup> However, it remains committed to changes

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<sup>2</sup> For a description of what was in the Bill, see: <https://www.hrw.org/news/2022/06/22/uk-governments-bill-wrongs> (Human Rights Watch)



to its national human rights framework, including providing a legal basis for UK courts to disregard judgments and interim rulings by the European Court of Human Rights.

The latest Amnesty International Annual Report (2022/23) notes that the Police, Crime, Sentencing and Courts Act 2022 has increased police and ministerial powers to further restrict the right to freedom of peaceful assembly. This includes new policing powers to implement restrictions on the grounds of noise and nuisance, which risk being disproportionate.<sup>3</sup> As Amnesty International noted, the Public Order Act, which received royal assent on 2 May 2023, criminalizes a wide range of peaceful protest activities, expands police stop-and-search powers, and removes the rights to peaceful assembly for individuals subjected to specific protest banning orders.

The global freedom of expression NGO, Index on Censorship, in its 2021 Freedom of Expression Index (the latest available), categorized the UK as only “partially open” (category 3), the same ranking as it gave to the USA, Suriname, South Africa, Namibia, Botswana, Romania, and Greece.<sup>4</sup> By contrast, Austria, Germany, Switzerland, the Netherlands, Belgium, Norway, Sweden, Ireland, Finland, the Baltic states, Australia, and New Zealand were all classed as “open” (category 1), and Canada, Chile, Uruguay, Spain, France, and Italy as “significantly open” (category 2).

In the Reporters Without Borders (RSF) Index for 2023, the UK was ranked 26 (two down from 2022), below Norway, Ireland, the Scandinavian countries, the Baltic states, Germany, and France.<sup>5</sup> In its 2022 report on the UK, RSF noted that a restrictive political climate impacted press freedom in the UK in 2022. Despite government assurances that media freedom is a priority, legislative proposals with worrying implications for journalism continued to move through parliament. The arrest of journalists covering protests was also a chilling development in a country where journalists have generally been able to operate freely. The home secretary’s approval of a US request to extradite Julian Assange is a further source of alarm.<sup>6</sup> RSF also expressed concerns about proposed bills in the parliamentary process which risk criminalising investigative journalism.<sup>7</sup>

Ironically, the UK Government is taking action against abuse of the legal system by wealthy individuals who try to block reporting on their wrongdoings by commencing (or threatening to commence) legal proceedings against those who expose those wrongdoings (an issue also noted by RSF). As the Government points out<sup>8</sup>, such

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<https://www.libertyhumanrights.org.uk/issue/3-facts-that-expose-the-governments-bill-of-rights-as-a-rights-removal-bill/> (Liberty, the leading UK civil liberties association)

<sup>3</sup> Amnesty International Report 2022/23: The state of the world’s human rights, 27 March 2023, AI Index Number: POL 10/5670/2023, entry on the *United Kingdom*, pp. 384 – 387, available at:

<https://www.amnesty.org/en/documents/pol10/5670/2023/en/>

<sup>4</sup> Index on Censorship, Index Index, with an interactive chart and map, available at:

<https://www.indexoncensorship.org/campaigns/indexindex/>

<sup>5</sup> See: <https://rsf.org/en/index>

<sup>6</sup> See: <https://rsf.org/en/country/united-kingdom>

<sup>7</sup> *Idem.*

<sup>8</sup> UK Government, Policy paper – Factsheet: strategic lawsuits against public participation (SLAPPs), updated 20 June 2023, available at:

actions, commonly known as SLAPPs (Strategic Lawsuits Against Public Participation), are typically brought against investigative journalists, writers, and publishers, and are designed to silence criticism. At their heart, SLAPPs fundamentally undermine freedom of speech and the rule of law.

RSF and others have remarked that this government action against SLAPPs comes rather late in the day and will only offer protection to journalists in 70 percent of SLAPP cases when they are connected to financial crime and corruption. However, it should be noted that the Bill (if adopted) will only protect investigative journalists, writers, and publishers from abusive litigation by private persons. The Bill will not protect them from equally abusive state action designed to silence criticism of the state or officials or politicians.

Both RSF and Scottish PEN (the Scottish branch of the global writers' organisation) protested against the imprisonment of Craig Murray (but without noting the public interest aspect of his reporting):

RSF:<sup>9</sup> “While journalists must ensure they adhere to court orders with regard to witness protection, Craig Murray’s prison sentence on charges related to his blogging is disproportionate and highly concerning. RSF emphasises that journalistic activity should not lead to prison sentences anywhere; imprisonment in connection with any journalistic activity should only ever be a measure of absolute last resort – if at all. It is certainly not what we would expect in a country committed to protecting media freedom and the safety of journalists. Murray should be released and alternative measures considered in lieu of his prison sentence.”

Scottish PEN:<sup>10</sup> “Scottish PEN expresses grave concern over the imprisonment of Craig Murray and calls for his release. The writer is the first person to be imprisoned in Scotland for media contempt for over 70 years. We fear this ruling will have a chilling effect on reporting and free expression.”

In our view, the UK government's recent initiative to combat Strategic Lawsuits Against Public Participation (SLAPPs) marks a significant stride in the protection of freedom of speech and the rule of law. SLAPPs are legal actions that are often initiated by corporations or wealthy individuals with the intention of harassing, intimidating, and financially or psychologically exhausting their opponents through the misuse of the legal system. These actions are often framed as defamation cases and are designed to silence criticism, particularly from investigative journalists, writers, and publishers. The UK government's proposed amendments to the Economic Crime and Corporate Transparency Bill aim to provide defendants with greater protection when faced with SLAPPs related to economic crimes. The amendments introduce a new early dismissal

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<https://www.gov.uk/government/publications/economic-crime-and-corporate-transparency-bill-2022-factsheets/factsheet-strategic-lawsuits-against-public-participation-slapps>

<sup>9</sup> RSF, UK: *Blogger Craig Murray jailed for eight months over “jigsaw identification”*, 30 July 2021, at: <https://rsf.org/en/uk-blogger-craig-murray-jailed-eight-months-over-jigsaw-identification>

<sup>10</sup> Scottish PEN, Tweet, 30 July 2021, at: <https://twitter.com/ScottishPEN/status/1421088360798560257?s=20>

mechanism where a case falls within the statutory definition of SLAPPs as determined by the court.

Despite that the UK government claims that it is taking action to support freedom of expression and to safeguard the work of journalists holding the powerful to account,<sup>11</sup> it is crucial to acknowledge that cases similar to that of Mr. Murray would fall outside the scope of these new protections. The government intends to offer protection to journalists in 70 percent of SLAPP cases, which are predominantly connected to financial crime and corruption. This means that cases not directly related to economic crimes, or where the SLAPP is brought by public bodies, would not be covered by these new provisions. A similarly limited approach has been taken by the EU.

This is particularly concerning in instances like Mr. Murray's, where the law on contempt of court was misused to silence his reporting on matters of public interest related to alleged abuses of power at the highest levels of the Scottish political establishment. The case of Mr. Murray underscores the need for comprehensive protections for journalists and whistleblowers, beyond those that are directly related to economic crimes, or actions by private individuals. It highlights the potential for misuse of laws, and in particular the UK Contempt of Court Act 1981, by public authorities, to silence critical reporting and suppress freedom of expression.

Similar issues relating to abusive use of the law of contempt have recently arisen in the context of trials against environmental activists. Like Craig Murray, the trial court barred them from explaining the motives for their actions – and when they nevertheless told the jury about those motives, several were imprisoned for contempt for several weeks.<sup>12</sup> In another case, a protestor who held up a banner outside a court saying “Jurors: you have an absolute right to acquit a defendant according to your conscience.” was committed to the Old Bailey for contempt of court proceedings for trying to influence the jury – even though principle that she stated is basic to English criminal cases tried before a jury and is actually set out on a plaque on the wall of the Old Bailey.<sup>13</sup>

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<sup>11</sup> HM Treasury's Office for Financial Sanctions Implementation (OFSI) is responsible for implementing the UK's financial sanctions regulations. Their approach to the licensing of legal expenses to date reflects the fact that the right to legal representation is a fundamental one and it is therefore important that Designated Persons are still able to access legal representation. However, in this context, it is the government's view that in most cases, the use of frozen funds for payment of legal professional fees for defamation cases is not an appropriate use of funds, and in many cases will be against the public interest. Whilst still reviewing each individual application on a case-by-case basis, OFSI will, in the future, take a presumption that legal fees relating to defamation and similar cases will be rejected. The Russian and Belarussian Legal Services General Licence has also been amended so that it no longer authorizes legal fees for defamation and similar cases.

<sup>12</sup> *Charge us with contempt too, say 40 people, if climate activist prosecuted*, Guardian, 17 August 2023: <https://www.theguardian.com/uk-news/2023/aug/17/charge-us-with-contempt-too-say-40-people-if-climate-activist-trudi-warner-prosecuted>

<sup>13</sup> *Idem*. See also: *Contempt threat against climate activist may undermine trial by jury, lawyers say*, Guardian, 26 July 2023: <https://www.theguardian.com/uk-news/2023/jul/26/contempt-threat-against-climate-activist-may-undermine-trial-by-jury-lawyers-say>

Mr. Murray's case and these recent incidents reflect a broader and alarming trend of using contempt of court as a Strategic Lawsuit Against Public Participation (SLAPP) to stifle freedom of expression and peaceful assembly. The misuse of legal proceedings to silence criticism and dissent threatens the very foundations of democracy in the UK, underscoring the urgent need for safeguards to protect these fundamental rights.

Therefore, while the UK government's initiative to combat SLAPPs is a significant development, the scope of these protections must be broadened to cover all cases of SLAPPs, not just those related to economic crimes or brought by private individuals. This would ensure that journalists like Mr. Murray are not left vulnerable to legal actions designed to silence their reporting on matters of public interest.

**End of the report**