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9 July 2012

The Hon J. E. Gillard, MP
Prime Minister of Australia
PO Box 6022
Parliament House
CANBERRA ACT 2600

Dear Prime Minister,

Re: Consular Services and Appropriate Advocacy on behalf of Julian Assange

I write on behalf of Australian Lawyers for Human Rights to seek your assurances that the Australian government is undertaking appropriate advocacy on behalf of the Australian citizen, Julian Assange, whose safety and rights to due process have appeared to be in some jeopardy for a lengthy period. The way in which Swedish prosecutors have declined opportunities to question Mr. Assange in the United Kingdom has been one source of concern. Inflammatory statements by high ranking politicians in the United States have been another source of concern.

As you will be aware, Mr. Assange's concerns have led to his seeking asylum at the Ecuadorian embassy.

I would seek information concerning what efforts have been made by the Australian Government to ensure Mr Assange is being and will be accorded due process by the Governments of the United Kingdom, Sweden and the United States of America.

ALHR's concerns have been raised in recent weeks by reports of statements by Mr Assange himself that appropriate assistance has not been forthcoming. We are also aware of a letter in which Mr. Assange's solicitor, Ms. Gareth Peirce, has sought certain assurances of Australian action on behalf of Mr. Assange. The letter was dated 28 May 2012 and addressed to Ken Pascoe, Minister-Counselor (Management), Australian High Commission, via email (and copied to your office). ALHR understands that the letter has not been answered.

I have also viewed your undated letter (Ref: 11/28972) addressed to Ms Jennifer Robinson, solicitor for Mr Assange, in relation to your meeting with her on 2 May 2012. However, this letter does not address the specific concerns and requests outlined by Ms Peirce. I therefore seek your urgent confirmation that the letter of Ms Peirce dated 28 May 2012, if it has not already been given a substantive response, will receive such a response in the near future.

Ms Peirce's letter relates to the need for urgent contact between the Australian government and the governments of Sweden, the United States of America and the United Kingdom. The letter requests certain action by the Australian Government in relation to Mr Assange's welfare including seeking certain assurances and undertakings from the Swedish, American and UK governments in relation to Mr Assange's legal position in relation to those respective countries.

A copy of Ms Peirce's letter is annexed hereto.

I write to echo the concerns and requests outlined in Ms Peirce's letter and to inquire whether any of the assurances asked to be sought in Ms. Peirce's letter have been pursued by the Australian government and with what result.

Further ALHR requests information as follows:

- specific details as to what consular assistance is being and has been provided to Mr Assange since his arrest in Britain, including details of when Australian consular officials last met with him in person;
- specific details regarding what communications the Australian Government has made to the three governments seeking assurances that due process will be accorded to Mr Assange during all stages of his extradition to Sweden and, if it materialises, to the United States of America. Please provide the dates of the communications and a summary of their content.

Finally, ALHR requests that the Australian government makes appropriate enquiries with the Swedish Public Prosecutor to facilitate the questioning of Mr Assange whilst in the Ecuadorian embassy such that the issue of cross-border surrender to Sweden might be further clarified and possibly resolved.

We look forward to your prompt response.

Yours faithfully,

Stephen Keim SC
President, Australian Lawyers for Human Rights

----------ANNEXURE 1----------

To: ken.pascoe @ dfat.gov.au
Date: 28 May 2012

Dear Mr Pascoe

SUBJECT: Julian Assange

Thank you for your email of 25 May.

Mr Assange has indeed, a number of concerns which I relay to you. Through you perhaps, they might be relayed to the appropriate ministers in Australia. We feel sure that they would wish to be aware of those concerns that are of the highest importance.

A number relate to the need for urgent contact between the Australian government and the Swedish government, between the Australian government and the US government, and between the Australian government and the UK government.

We understand from Jennifer Robinson that at a recent meeting with the Attorney General in Melbourne, in April 2012, a number of these issues were discussed. (We send this email in parallel, therefore, to the Attorney General's Department).

1. Re Sweden: Mr Assange asks the Australian government to seek the following undertakings from Sweden:

(a) To seek an undertaking concerning extradition to the USA. It is Mr Assange's understanding as a result of Ms Robinson's recent meeting with the Attorney General, that the Australian government's position is it would prefer any extradition to happen from Australia than from a foreign jurisdiction. This being the case, it would of course be appropriate for the Australian government to be seeking relevant assurances and undertakings through diplomatic channels to ensure that possibility occurs should Mr Assange be extradited from the UK to Sweden.

(b) To enquire of Sweden if it has not already, why Sweden has not made use of customary mutual assistance provisions to interrogate Julian Assange from London or equivalent methods. We understand from Miss Robinson that the Attorney General considered it "odd" that Mr Assange had been held without charge for 18 months and that she found it difficult to understand how this could accord with principles of justice. (It may be that the Australian government has already raised this issue with Sweden, but if so, Mr Assange is not aware of such a request).

(c) To ask that Mr Assange be allowed to remain under similar conditions to those he has been in the UK (curfew), pending the resolution of his case if he is extradited. (He understands from his lawyers in Sweden that prosecutors there have refused to negotiate any alternative to custody, despite the fact that Mr Assange has complied with his bail conditions in England for nearly 18 months).

(d) To obtain undertakings concerning prison detention, for however short a period, including undertakings re access to visitors, computer etc.

(e) To seek an undertaking in relation to serving any potential sentence in Australia under normal prisoner treaty transfer arrangements.

(f) That the Australian government raises a complaint with the Swedish government as to continual adverse public comments from the most senior members of Swedish political and executive, including the Prime Minister, the Minister for Justice and the Foreign Minister, such as to potentially interfere with any chance of a fair trial of Mr Assange, such comments having implications not only for Sweden but thereafter in the USA were there to be an attempt by the US to place Mr Assange on trial there.

(g) That given the uncertain political relationships of intermediate countries Mr. Assange may have to travel through to return to Australia, that the Australian government provide safe passage to Australia for Mr Assange should he be in a position to leave Sweden.

2. Re United States: Mr Assange asks that Australia seek the following undertakings from the USA: -

(a) That the US will not prosecute Mr Assange. It appears to be common diplomatic practice - in particular the US government often seeks an assurance from foreign states not to prosecute its citizens and agents. Ms Robinson understood from the Attorney General that such an assurance can indeed be sought from the US government, and it is entirely appropriate in this case for Australia to do so; the case involves an Australian citizen in relation to matters which engage the First Amendment and free speech protections; it is recognised as being a case of the utmost importance, and one that could set disturbing precedents for the freedom of speech.

(b) An undertaking from the US that Mr Assange if extradited, be granted bail pending the resolution of his case for the same reasons as above in relation to Sweden; he has complied with bail conditions in England for nearly 18 months which should serve to demonstrate that he is not a flight risk. (The United Kingdom sought a similar assurance for the National Westminster Bank defendants of the United States which was granted).

(c) To ask that in the event of extradition trial and conviction in the USA, any sentence that might be imposed, be served in Australia under normal prisoner treaty transfer arrangements. (Again such an assurance in advance of extradition can be sought).

(d) That an undertaking be given that he not be placed under special administrative measures if in custody for however short a time, and be permitted free confidential access to his lawyers and visitors pending trial, as well as to a computer and necessary work/case requirements.

(e) That prejudicial statements by US officials about Mr. Assange (up to and including the Vice President) be retracted forthwith. Those statements already made seriously jeopardise any potential of a fair trial for Mr Assange.

(f) An undertaking that individuals associated with WikiLeaks or Mr Assange not be further targeted or harassed by FBI agents, including very recently individuals detained, interrogated and pressured to become informants by FBI officers.

3. Re UK:

(a) To seek undertakings from the UK that Mr Assange would not be surrendered to the US from the UK.

(b) To seek undertakings from the UK that if Mr. Assange is surrendered to any other country from the UK, the UK will gain diplomatic assurances that Mr. Assange will be returned to Australia from that country and not be surrendered to any other country.

(c) That given the uncertain relationships of intermediate countries Mr. Assange may have to travel through to return to Australia, that the UK government provide safe passage to Australia, should Mr. Assange be able to leave the United Kingdom.

The above represent ongoing concerns on the part of Mr Assange and we would be most grateful if you would ensure that they be passed on to the Minister for Foreign Affairs in Australia, as well as to other ministers appropriate to be informed.

Yours sincerely

Gareth Peirce