

Assange's Thirteenth Day at the Old Bailey: Mental Health, Managed Risk and Publication Chronologies

September 24. Central Criminal Court, London.

By [Dr. Binoy Kampmark](#)

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Region: [Europe](#), [USA](#)

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The lion's share of today's Old Bailey proceedings in Julian Assange's extradition trial was spent on battles over mental health and dire risk. The prosecution continued its attempt to minimise the dangers facing Assange were he to be extradited to the United States for 17 charges under the US Espionage Act and one under the Computer Fraud and Abuse Act. While the defence has its case on Assange's fragile mental health well plotted, the prosecution is hoping that witnesses such as Dr Nigel Blackwood, consultant psychiatrist with the National Health Service, will punch holes in the argument. They will certainly hope for better efforts than those made by their own witnesses, Seena Fazel, a psychiatry professor who seemed too professionally tentative to land firm blows against Assange's diagnosis for Asperger's syndrome, or dismiss the health risks facing him in the US prisons system.

Blackwood and managed risk

Blackwood had conducted his own psychiatric evaluation of Assange's condition via phone in July 2020. What [he gave the court](#) was a show of qualified hypotheticals. He found the publisher to be "moderately depressed"; there was undoubtedly "some risk of suicide attempt in the event of extradition". He did not feel this risk to be a "high" one. It [had been](#) "carefully managed in Belmarsh and the risk factors are modifiable." Assange "engages with treatments to manage that risk."

Reliance was placed upon the capacity for self-control in the face of such risk. If the person facing extradition could self-manage or be "capable of controlling" their own risk of suicide, the extradition should be made. Blackwood was excruciatingly selective, finding Assange "resourceful" and "very resilient". He [believed](#) Assange "retains the capacity to resist suicide."

An unstinting faith in the prison authorities was shown by the witness. They would have sent Assange for outside treatment had he suffered from severe depression. The release of a video of Assange in prison, made public in June 2019, prompted the authorities to send him to the medical ward. Edward Fitzgerald QC for the defence was unimpressed by Blackwood's reading of this incident: confining Assange to the medical ward had been for reasons of "reputational damage" to prison officials. A prison document of that day's incident noted that Assange had been sent to the ward for being at risk of self-harm. Why had Blackwood [failed to mention](#) it in his report? The prosecution witness was moved to admit that, while multiple factors were present in the decision to send Assange to the medical ward, Assange's considerations of self-harm was one of them. This was a fact

Blackwood omitted.

The defence turned on the issue of whether prison conditions Assange would face in the US would be broadly on par with those in the United Kingdom. The point is significant as previous legal authority – notably the UK High Court [decision](#) in the Lauri Love case – found much to be worried about in the assurances made by the US Bureau of Prisons, notably on their poor provision of mental health facilities and safeguards against suicide. Blackwood [conceded](#) that his assessment drew heavily upon US Assistant Attorney Gordon Kromberg’s affidavit, which claimed that there was no “solitary confinement” in the Alexandria Detention Center (ADC), where Assange will be initially held. “I relied on Kromberg and the academic literature on what happens in US prisons. There may be stuff that isn’t covered, but there is broad equivalence.”

An all too confident assessment, given the revelations of Eric Lewis, board president of Reprieve, who had previously testified to the court about his own clients’ experiences of solitary confinement and Special Administrative Measures (SAMs) deployed at ADC. They were not findings Blackwood had cared to consult. When Fitzgerald [asked](#) Lewis, in re-direct examination, whether Kromberg was “more qualified than you are on prison conditions”, the defence witness suggested that the assistant attorney would rarely have stepped into a prison. Lewis, in contrast, was well acquainted with a range of prison conditions ranging from Guantánamo to the United Kingdom.

Blackwood was also [taken to task](#) by the defence for being green about the US prison system: he had never visited the ADC or any US federal facility. His modest haul included visits to a state prison in Connecticut, and a Newport, Rhode Island jail.

The prosecution witness was duly attacked for his presumptuousness in a report marked by vital subtractions and unnecessary additions. Having failed to note the presence of solitary confinement in the ADC, he had also concluded that it would not be unjust to extradite Assange, given his mental health condition. The defence proved stormy on this point. “It’s not your business to decide that, whether extradition is just or unjust, that is up to the judge.” This was a point Blackwood was left to accept.

Crosby and very high risks

Testimony for the defence was then provided by Dr Sondra Crosby of Boston University, an authority on the physical and psychological effects of torture. Crosby’s expertise in the area is extensive: as of March 2019, [she had evaluated](#) a touch under 1,000 survivors of torture. She runs a clinic specialising in the care of refugees and asylum seekers, “most of whom have experienced torture.”

She had visited Assange in the London Ecuadorean embassy in October 2017 after an American doctor (left unnamed) [organised](#) an “academic evaluation of the effects of living in the embassy”. Assange then described “symptoms of depression, symptoms of post-traumatic disorder.” While capable of conversation and not seemingly in a “horrible state”, his physical symptoms were “worrisome”. But mental decline was evident, marked by an inability to concentrate, depression, nightmares, disturbances to sleep.

Thoughts of suicide were first described to Crosby in 2018. The [dramatic suicide](#) of the convicted Bosnian Croatian general Slobodan Praljak by potassium cyanide, drunk before the judges of the International Criminal Tribunal for the former Yugoslavia, left a deep

impression.

In her February 23, 2019 session with Assange, her notes evaluating his state [were taken from her](#) by embassy staff, thereby violating doctor-patient confidentiality. She noted the presence of cameras. A copy of her medical license was demanded. Her credentials had to be verified by an embassy security guard. The incident might have formed part of the defence testimony on showing the operation of a US-backed surveillance operation, but did not.

She was [also alarmed](#) during that visit by Assange's marked deterioration, physically and psychologically. "I was very concerned about a very advanced tooth infection that was causing him excruciating pain, requiring him to take narcotics."

Visits to Assange at Belmarsh in October 2019 and January 2020 were also made. Crosby's December 2019 report [was even more unequivocal](#). Assange had "met all the criteria for major depression"; he was "essentially dead", "tearful", pleading. He had called the anonymous suicide hotline Samaritans. She also found physical symptoms indicative of anxiety or cardiac arrest, and the possibility of chronic respiratory infection. Assange, [she concluded](#), was "at high risk of completing suicide if he were to be extradited."

The risk was compounded by an incomplete picture on Assange's intentions. He had concealed the "full extent of his depression and suicide plans" in meetings with mental health specialists and prison doctors. He feared being subjected to "more surveillance" or further isolation if he confessed to the full scope of his "suicidal ideations".

In cross-examination, Lewis dished up some common, misguided fare. Any assessment of Assange's health would surely have to be qualified by the fact that he could leave the embassy at any time. Such a question, [replied](#) Crosby, was "complex"; Assange found himself in a position similar to one "who is being chased with an axe or a gun and locks himself in a room for safety." What faced Assange, were he to leave the embassy environs, were the arms of the police and the prospects of extradition, made concrete by the current proceedings.

Lewis also returned to what is becoming a favourite animus of his: the United Nations Special Rapporteur on Torture, Nils Melzer, whose [widely publicised views](#) of Assange's treatment are known. "You rely on your report [to the court] on Nils Melzer," he coldly observed. "I think you got him involved." He also posed a rhetorical question verging on the inane: "Are you aware that no one ever extradited to the US from the UK has committed suicide?" A man of true venal faith.

Cryptome: published and unpunished

The last instalment of the day came with the reading out by the defence of a [witness statement](#) by John Young, host of [cryptome.org](#). The role of this testimony goes to corroborating other accounts on the chronology of publication. Cryptome, which Young founded in 1996, published the entire set of unredacted US State Department cables on September 1, 2011. WikiLeaks followed suit the next day.

The publication, Young's statement reads, "remains available at present." Since "publication on Cryptome.org of the unredacted diplomatic cables, no US law enforcement authority has notified me that this publication of the cables is illegal, consists or contributes

to a crime in any way, nor have they asked for them to be removed.”

Other sites, and their operators, have also been spared the stern and intrusive gaze of the US Justice Department. Assange’s defence [had at hand](#) a statement from Christopher Butler of the [Internet Archive](#). Butler confirmed that, to this day, the Internet Archive still hosts records of WikiLeaks’ publications. Both he and his data have been left undisturbed. Yet another instance showing this prosecution effort to be political, singular and selective.

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Dr. Binoy Kampmark was a Commonwealth Scholar at Selwyn College, Cambridge. He lectures at RMIT University, Melbourne. He is a frequent contributor to Global Research and Asia-Pacific Research. Email: bkampmark@gmail.com

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Kampmark](#)

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