



**Jan Doerfel**

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Cc: [urgent-action@ohchr.org](mailto:urgent-action@ohchr.org)

27<sup>th</sup> August 2020

Dear Mr Diego Garcia-Sayan, dear Prof Gonzales Morales, dear Prof Melzer, dear Prof Lawlor,

**Subject: Urgent request for joint action regarding UK Home Office tweet**

I am writing to you in relation to a UK Home Office tweet below which (within the infographic) states as follows:

"We are working to remove migrants with no right to remain in the UK but current return regulations are rigid and open to **abuse** allowing **activist lawyers to delay and disrupt returns**. Soon we will no longer be bound by EU laws and can negotiate our own return arrangements."

The Tweet itself states:

**"Small boat crossings are totally unnecessary** and we continue to return migrants with no right to be in the UK. Another flight left today with more planned in the coming weeks."

<https://twitter.com/ukhomeoffice/status/1298674067323727872>

I have also reported this tweet as incorrect to Twitter: "Dear @Twitter @TwitterUK Content below contains statement which is untrue & poses a risk of representatives doing their jobs being targeted. Returns are decided by Courts not 'activist lawyers' - label of 'activist' is inaccurate/targeting.

Please take action to seek a correction <https://twitter.com/ChambersofJD/status/1298891814204735490?s=20>"

The Home Office tweet has prompted significant outrage amongst legal practitioners, the Law Society (<https://twitter.com/TheLawSociety/status/1298930658698559488>) and other organisations/human rights defenders. It also comes on a day when the Guardian reports an actual drop in asylum applications:

<https://www.theguardian.com/uk-news/2020/aug/27/asylum-applications-to-uk-down-by-half-in-second-quarter-of-2020>

My concerns about the Home Office tweet are as follows:

(1) first of all this tweet links lawyers upholding the rule of law with effectively "abusing" the system and accusing them of being activists (hence interfering with their work and identifying them with their clients' causes), hence acting in breach of paras.16 and 18 of the Basic Principles on the Role of Lawyers. It clearly exposes lawyers in this field and organisations supporting migrants as targets/scapegoats in an already very inflammatory immigration narrative that the Government is pursuing.

I have tweeted this (also copying in your mandates) at <https://twitter.com/ChambersofJD/status/1298935729276547073> and <https://twitter.com/ChambersofJD/status/1298900199503519749> stating:

"UK Govt acting in breach of basic principles on the role of lawyers para 16 & 18 <https://ohchr.org/EN/ProfessionalInterest/Pages/RoleOfLawyers.aspx>

and referring to my earlier tweet:

- "1. Judges are not enemies of the people if scrutinising Govt decisions
2. Govt decisions are not automatically lawful
3. Lawyers are not activists for doing their job
4. Lawyers don't stop returns/removals, Court orders do
5. Complying with a Court order isn't disruption or delay"

This Home Office tweet is not an isolated incident but has been featuring as an ongoing narrative against human rights/immigration lawyers which not only seeks to justify non-compliance with international human rights law but attempts to taint its very existence in the mind of the public. (And indication of this trend is also made clear in the Home Office infographic which suggests that EU laws - which of course include human rights related EU jurisprudence which is also informed by international instruments - stand in the way of the UK's sovereignty and "independence" by preventing removals.)

The Prime Minister's comment in a recent article also illustrates this trend:

"We need to look at the means by which they are coming here, we need to stop them, working with the French, we need to stop them from getting across the Channel," Boris Johnson said. "But number two we need to look at the legal framework that we have, all the panoply of laws that an illegal immigrant has at his or her disposal that allow them to stay here and we need to look at what we can do to change that."

<https://www.bbc.co.uk/news/uk-england-53719575>

Other incidents questioning the independence of the judiciary were statements in the media to judges as "enemies of the people" with Government ministers (such as Kwasi Kwarteng) referring to judges as being "biased" on the issue of Brexit and the justice minister Liz Truss (who is tasked with upholding the rule of law) failing to defend judges and lawyers against such accusations:

<https://www.theguardian.com/politics/2016/nov/04/enemies-of-the-people-british-newspapers-react-judges-brexit-ruling>

<https://www.ft.com/content/776a547e-0ef9-11e7-b030-768954394623>

<https://www.theguardian.com/politics/2017/mar/22/lord-chief-justice-castigates-liz-truss-for-failing-to-defend-judges>

<https://www.theguardian.com/politics/2019/sep/12/brexit-kwasi-kwarteng-criticised-for-biased-judges-comment>

(2) Secondly, the wording of the tweet ("Small boat crossings are totally unnecessary ...") also refers to small boat crossings by a relatively small number of migrants recently which has triggered an extremely concerning response by the UK Home Secretary, Priti Patel, who threatened to deploy navy boats to stop asylum seekers from entering the UK:

<https://www.theguardian.com/world/2020/aug/07/uk-plan-to-use-navy-to-stop-migrant-crossings-is-unlawful-lawyers-warn>

<https://www.bbc.co.uk/news/uk-england-53719575>

<https://www.independent.co.uk/news/uk/politics/migrant-channel-crossings-news-mayor-calais-navy-ships-war-a9667051.html>

<https://www.independent.co.uk/news/uk/home-news/channel-crossings-navy-ships-migrants-france-un-mod-a9672236.html>

Clearly, if employed, such attempts to push back dinghies in the channel would risk human lives as set out in a joint response by the UNHCR and IOM:

<https://news.un.org/en/story/2020/08/1070202>

<https://www.unhcr.org/uk/news/press/2020/8/5f3567a84/unhcr-iom-interception-sea-solution-channel-crossings.html>

It sounds as if such attempts to employ the navy may have been put on hold for now but the hostile rhetoric against asylum seekers/migrants and those defending the rights of migrants is certainly continuing as the latest Home Office tweet is indicating which blames "activist" refugee lawyers for standing in the way of the UK Government acting unlawfully to return migrants/asylum seekers to situations where they could risk serious human rights violations or be placed at risk as a result of the form of return (i.e. the pushing back of dinghies).

I would hence respectfully ask whether you could consider issuing a joint statement/tweet(s) and/or retweets and/or a joint public communication to the UK Government in order to avoid ongoing violations of the independence of judges and lawyers and human rights defenders and prevent violations of the rights of migrants (including the non-refoulement prohibition to torture, etc).

I would be extremely grateful if you could kindly confirm receipt. If I can assist in any shape or form, please do not hesitate to contact me on +44-75-32156249.

Just as personal background, I wish to point out that I was working as research assistant to the UN Special Rapporteur on torture (Sir Nigel Rodley and Theo van Boven) from 2000 to 2002 and have been working as an immigration/asylum barrister since 2003. (I have also made regular submissions to UN treaty bodies and Special Rapporteurs.)

Kind regards,

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