



HOUSE OF COMMONS

Foreign Affairs Committee

Oral evidence: The FCDO's approach to state level hostage situations, HC 166

Tuesday 7 February 2023

Ordered by the House of Commons to be published on 7 February 2023.

[Watch the meeting](#)

Members present: Alicia Kearns (Chair); Saqib Bhatti; Liam Byrne; Neil Coyle; Henry Smith; Royston Smith.

Questions 181-206

Witnesses

I: Phil Harper, QPMCEO and Founder at Sheep One Hundred; and Mickey Bergman, Vice President and Executive Director at Governor Richardson Center for Global Engagement.



Examination of witnesses

Witnesses: Phil Harper and Mickey Bergman.

Q181 **Chair:** Welcome to this session of the Foreign Affairs Committee on state hostage taking. We are delighted to have two fabulous guests before us today. Could you both briefly introduce yourselves?

Phil Harper: My name is Phil Harper. I am a time-served police officer, and during that time I was deployed by the Foreign and Commonwealth Office to help with the release of British hostages. I have continued that role post leaving the police force for humanitarian and faith-based aid agencies.

Mickey Bergman: My name is Mickey Bergman. I am the vice-president of the Richardson Center for Global Engagement, founded by former governor of New Mexico, Bill Richardson. We work on bringing back wrongful detainees and political prisoners and hostages from around the world on behalf of the families and at their request.

Q182 **Chair:** Brilliant. We are grateful to you both. We are very alert as a Committee to the risk of the industrialisation of hostage taking that seems to be taking place around the world. Although a number of ambassadors around the world have been keen to stress to me that they would never pursue such a policy, as you can see, it is of grave concern to us. Phil, it would be helpful if you could give us a picture of the early stages of a state detention, and do not feel limited to the term "state detention". At what point do you get the call? At what point do families and others realise that it is a state detention issue?

Phil Harper: One of the interesting things is that there is not really a definition of what state detention is. For example, if you are a tourist and you go abroad and shoplift and get arrested, are you state-detained, or is there just a legal process that is carried on? When do you get elevated to a status? Is it because the Government have got involved early and therefore raised the status of an individual, or is it because there was not a response from family or friends that normalised it, because people perhaps thought they might raise attention to other people in the country yet to be identified by the authorities of that country? It is a cliché to say that every case is taken on its own merits, and of course, every state or regime could have been stereotyped or considered to be an enemy.

It would be useful to understand what a state detention is, but in answer to your question, it tends to be reported by an organisation that an individual was employed by in-country, or more likely, the family and friends, because they have been on Facebook or similar social media platforms with a regular daily update, and they have not had the update that day, so they immediately raise the alarm. It tends to be at that point that Mickey and myself get involved, because people get in touch and say, "What does this mean?" We would potentially, depending on the circumstances, advise whether we would seek to deal with it, whether it is



HOUSE OF COMMONS

a localised issue or whether the Government should come in. My advice at that point would be that a localised consular of that citizen's nationality—in our case, British—perhaps get involved, but that is not necessarily the case, and we can go on to talk more about that. The early reporting tends to be through family or the organisation employing that individual.

Q183 Chair: It does not necessarily seem to me a natural step for someone to come to you in those early stages, and I am not sure family would always recognise the state hostage element of it, rather than someone just being falsely imprisoned or imprisoned in circumstances they do not understand. How often do you have families coming to you having googled you and found you very early doors? I assume that mostly, you are brought on through a Foreign Office suggestion or a specialist later in the process, when people are feeling frustrated that the system is not working.

Phil Harper: I may have trained an organisation and the family are aware of that, and it tends to be through that connection, rather than a google-type scenario. It is important to identify in individual cases what country this person is held in—is it a country where we would suggest that it could be state detention? It is obviously not for me to judge different countries, but for example—this is an open-source situation—in Afghanistan you now have to give notice of a town that you are visiting within 24 hours. If you do not give that notice, you will be arrested. Is that a detention because it is outside our norm and our understanding? There is a danger of stereotyping the regime of Afghanistan.

All those things play into families and friends coming to us and saying, "Look, this is the situation," but actually, you could argue that that person committed a rule break that is considered unlawful in that country. There is a difference: is it a lawful scenario for that country that we are suggesting is state detention, or does it only become state detention if a significant Government of a country starts using them as leverage to get something else from the citizen and the nationality of that citizen? As I say, we do not have any definition of it, and there is a danger of being stereotypical when actually it could have been a regular, straightforward breach of a regulation that can be resolved quietly at the local police station.

Q184 Chair: Looking at the early stages or warning, and the realisation of what has happened, obviously, every scenario is completely unique and different, and there is no such thing as cold laboratory testing where you have an ideal situation, but for you, what are the key steps at the earliest stage that you have seen to be most effective at getting an early, rapid release?

Phil Harper: There are some states where the crossing of your palm with a few shekels is how authorities work. You could have a very minor scenario where someone is in a police station for a minor offence, and even \$500 or \$1,000 will get them out. It is important to state here that the UK policy is not to pay, and I can say hand on heart that the UK does not pay or make substantive concessions. But the reality is that in a



HOUSE OF COMMONS

country, the local police can ask you for your taxi fare from the airport and stop you on the way out. If they have detained you in a police station, there is a response that they are expecting. If that response does not happen, it can begin to be elevated up. If consular then gets involved because the person is a British citizen, it begins to get elevated up. It may well be that, in the norm of a particular regime in a particular country, a few shekels could actually resolve it. It may not be comfortable with our own ethics and values, but that may be the way forward.

I want to make one further point. If we in this country had a relative who was arrested for drink-driving or shoplifting, what would our normal response be? We would go to the police station, we would get a lawyer, and we would see if we could help them. Often in countries that does not happen, and that is because there are other people in that country, perhaps helping from a humanitarian or faith-based organisation, who, if they went to the police station, would identify themselves as being attached to that individual. There is a period of silence, and when silence is not the norm of that country that suddenly brings suspicion on that individual and immediately raises status. I keep using that term, because we need to be careful that we do not elevate the status of a normal prisoner for a breach of a local rule, suddenly making them precious or valuable to that regime.

Q185 Chair: Mickey, how often do you find that people who you have engaged with have been taken specifically for hostage holding purposes, versus a breach of local rules, whereby it then becomes escalatory, and a nation state sees the opportunity to turn it into a hostage situation? I am trying to understand the rationale of some hostile states. Again, you cannot put them all in one box, and not all of those that hold hostages are necessarily hostile to us in all theatres.

I would be interested in unpacking the early stages of when you recognise that something is a state detention, and the intent behind the taking of the majority of the people you have helped. Were they taken for that purpose explicitly, or was it just an advantageous opportunity to escalate something?

Mickey Bergman: Thank you. I think Phil is exactly right. You have to look at these cases individually. But you can still make broad assumptions, even if they are not always accurate, depending on what country is taking the prisoner or detainee. If it is one of the serial offenders that we know about, you can assume that this will be escalated.

I have been doing this with Governor Richardson for about 17 years now, and in our experience most of the cases are actually not intentional when they start. It is a small infringement or incident that ends up with the foreign citizen being arrested, and then it escalates once the word is out that there is somebody in the system that did something wrong locally. But, again, if it is a serial offender—and we all know who these countries are—then it is more likely that it is by design, from our experience.



HOUSE OF COMMONS

Look at the example of Danny Fenster, an American journalist who was taken in Myanmar in Burma almost two years ago after the military Government took over there. We heard about and were approached by the family within two hours of his detainment. We break it down into two windows, when something like that happens—I wonder if Phil agrees. The first window is typically short-lived; in this window there is an opportunity to quietly get in touch with the captors and figure out how to resolve it with the assumption that the captor is actually better off without this being escalated. That window is short.

Unfortunately, Governments do not act as quickly, and by the time the Government makes the determination whether this is a wrongful or rightful detention, that window has passed. Typically, that window ends around the time that there is an indictment or charge, because at that point the captors are digging in.

That is when the second window opens, and it becomes a longer process. Again, if the family is quick and approaches consular affairs—not necessarily the Government, because they cannot always work that quickly, but sometimes consular affairs offices in that country can—then outside players can actually make contact quickly and try to figure out whether this is solvable before that first window ends.

Q186 Chair: That it is a really helpful way of setting it out for us. While you keep saying, “We all know”, it would be very helpful to understand which countries you see as the serial offenders. Feel free to compare and contrast with Phil. Forgive the slightly flat language, but I am going to ask what the growth industry nations are for state hostage taking?

Mickey Bergman: For me, I am trying to not give a judgment on this but talk about it in terms of data—at least in the American cases. Brian Jenkins spoke to the Committee before, and he is “Mr Data” on this—he collects a lot of the data. I believe Venezuela, China, Iran and Russia constitute about 30% to 35% of Americans being held wrongfully around the world.

Q187 Chair: Phil, did you want to change that or give a British angle on those?

Phil Harper: I agree with Mickey. I think the important thing to realise is, with advice and understanding, there are less opportunities to select British hostages—in our case, British citizens. If you were to go to Iran, for example, you would get a lot of advice as to whether you should be going to places like that. Then there are smaller and smaller numbers to target. That said, of course you are then more likely to be targeted if you are in a small cohort of people.

On visas and the need to say where you live, it is quite common for British citizens to not be overtly targeted, because they know that they are there on business or for a holiday and they know the duration of their time in country. Most takings are when people are about to leave the country. You will have somebody in a household or wherever they are staying say that they are leaving, and most of them are taken before they leave. That is an



HOUSE OF COMMONS

area of understanding that needs to be shared with people who are going to these potentially risky places.

Q188 Neil Coyle: Mickey, you were saying that there is this limited first window of opportunity. How short is that time span? In general, are you talking days, weeks or months? Does it vary greatly between countries?

Mickey Bergman: It does vary, but typically from our experience the first window is between two weeks to two months, but it is not necessarily the case. With Danny Fenster in Myanmar, who I mentioned before, it was about two months before his indictment or charges came through. Before that he was detained and we were trying to work really hard to get the result, hoping the local authorities would say, "Hey, we detained him. We questioned him and investigated and found out that there are no charges filed and no harm done" and he gets released. That did not happen. The window closed and he was charged.

In the case of Fernando Espinoza in Libya, it took three weeks to get him out, and he was out within the first window. Nothing escalated too much. He was detained on a visa infraction, and we got involved really quickly. The Libyan authorities that were in charge of where he was at realised very quickly that they were better off with him being released than this escalating into a bilateral issue.

Having said that, there are exceptions to the rule. Taylor Dudley, whose release from Russia we were able to secure three weeks ago, was released within this first window, but it was nine months in. He has not been charged, but that is because early on from his detention we got involved with our counterparts in Russia and they agreed that this should not be escalated, so they kept it at the first window, even though it took a long time bureaucratically for the judicial process to basically deport him from Russia. That is what happened three weeks ago. That is a long way of saying that mainly from our experience that window is two weeks to two months, but there are exceptions to that rule. It can be longer.

Q189 Neil Coyle: Is there an element of potluck to this and other events? Or could our missions or consulate support on the ground be improved to try to prevent escalation? Are there any simple steps that could be implemented in the highest-risk countries?

Mickey Bergman: Personally, I think there are, and those are when the crisis happens. I know Phil talks a lot about when a crisis happens that we are already in that process and it is about directing it, but there are steps that can be taken even with countries we have difficult ties with. We can talk pre-emptively about bilateral processes and protocols that can take place when somebody gets detained. It can actually be resolved a little bit. It does not solve the problem, but it mitigates it to some extent. It creates a mechanism for consular affairs to step in early, not to pound on the table and say, "You are taking our innocent citizens", because I can assure you that that will make them dig in.

We had incidents with Americans in Mexico, which is not a hostile state to the United States. It is an ally and friend, but when you pound on the



table—especially Government officials or Congress—it makes the local system dig in and say, “No, this is our judicial process. Let us run through it.” There is a gentler way to approach this, by saying, “Hey, we don’t want this to become a big issue. Let’s figure out a way to resolve it before it becomes one.”

Q190 **Neil Coyle:** For both of you—Phil, please do chip in—when it becomes clear that there is a bit of digging in, how does the role of the detainee’s home or domestic Government, in our case the UK Government, change? What is the gear shift?

Phil Harper: First of all, the key issue is the management of expectations for the family. We have spoken a lot about release, and you would assume that that was our No. 1 goal, but it actually might be our fourth or fifth goal. For example, I have been deployed before where the reputation of His Majesty’s Government is No. 1, diplomatic relations can be No. 2, compliance with policy can be No. 3, prevention of harm can be No. 4 and release is No. 5. There needs to be an understanding of what our strategy is before we go in. As Mickey says, if we start pounding the table when our strategy has been to prevent harm, we are not likely to get release either. Suggesting, “Our army is bigger than your army,” or, “We’re the bigger bully in the playground”—whatever your view is—is not the best way of going about it.

In answer to your question about change, there is a change from, “Can this be resolved almost within the first 24 hours, because it is the local police and a few shekels will resolve it?” to, as Mickey said, “Does it go through the judicial process, and that process finishes but they are still detained, which suggests that that is considered unlawful? At what point do we get involved?” There is a difference between a consular approach by the consulate already in country and what we would term a Government approach, which is back home. We need to be mindful of that.

We need to normalise that it would be the consul arriving from the local embassy, or the high commission if there was one—that is the norm. If we start talking about Governments—let’s be fair, we know there is a lot of danger in idle talk or talk that isn’t careful. We need to be sure that it is the local consulate that is going, and not talk about Government intervention. We need to be mindful of the use of language during these early stages. I come back to the issue that there isn’t a definition. Part of our goal within any definition is not to raise the status of the individual or individuals during the process.

Mickey Bergman: I agree. The way I look at it, there are three main buckets to the Government’s position or objective in this. This is in no certain order, but the first is bringing the victims home, the second is taking care of the families, and the third is mitigating the risk of further detainment. The key is that one cannot be done at the expense of the others.

To your question, when we move from the first window into the second window, to use my analogy from before, the role of advocacy does



change. The families get more involved and more vocal, whether that is with the representatives, the Executive branch or the media. Each case is very different. We try to advise families, but one of the things we try to tell them as we go at it and transition into that window is, "Look, there is nothing you as a family are going to be able to say publicly that will convince the captor to either release your loved one or detain them for more time. You as a family are expected to yell, scream and curse and do all those things—it is your loved one. That is not true about the Government. As a family, your reaction is not going to impact the captors, but it will impact your own Government." That is the target and objective. When it makes sense and you believe that your Government need to move in a certain way, that is when you use that voice. Distinguishing that from Government, whether it is Members of Parliament or the Executive—things that this Government say or do will impact the length of the detainment. Again, it is a very different approach once the second window is entered.

Q191 Neil Coyle: I think some specific questions about the interaction with family and communications are coming. This is a bit of a broad question, so feel free to keep it to a top three, but thinking specifically about FCDO, where is there room for improvement in the FCDO's approach to drawn-out, lengthier detentions?

Phil Harper: The top one is obviously communication. There has to be a move away from platitudes. Families do not want to hear, "The Government are doing everything they can. Your loved one is important, and we are pushing all the buttons." You might say that in the first two or three weeks, but if they keep hearing it month after month—these things can go on for years—that is difficult, so we have to move away from platitudes.

The other thing—I can't speak for the Foreign, Commonwealth and Development Office—is that we do not pay ransoms or substantive concessions, so the families will then say, "So what do you practise? What tactics do you then operate?" If they don't hear an alternative, they will say, "Well, how do you intend to get this person out, then? You say that you don't do this, but what do you do? When you do an exercise, what does it look like?" They are expecting those sorts of things. They want an alternative. If our policy says we don't do that, what do we do? That can again be a bit like a platitude: "Well, we're talking to a lot of people. We're talking to this country, this country, this country and so on."

To encourage the family, in order, perhaps, to maintain a bit of control of them so that they don't go off and make too many protests or—dare I say it?—start taking a satchel of money into the country themselves, the Government should lead at the point where it is a genuine state detention, communicate well with no platitudes, give an alternative strategy, and keep the family updated in a professional manner throughout.

Q192 Neil Coyle: Mickey, did you want to add anything to that?

Mickey Bergman: From the American perspective—I can't speak from a British perspective—since the establishment of the Special Presidential



HOUSE OF COMMONS

Envoy for Hostage Affairs in the United States several years back, great leaps have been made in engagement with the family, but, as Phil said, that engagement will only go as far as there are actual results. The initial part of the engagement and communication with the family actually got much, much better. Ambassador Roger Carstens, who I believe spoke to you, is a fantastic communicator. He built a shop that communicates very well with families, but families still get very frustrated very fast if they don't have results and don't hear strategies.

In the United States, we have moved away from, "We are doing everything we can," because they have learned that that doesn't work, to, "This is the highest priority." The families look at that and say, "The definition of highest is that there is no higher priority, but you are not behaving like that." Stop using words that don't matter, because families will get agitated.

I want to make a distinction. We have talked about the no-concession policy when it comes to paying ransoms for kidnapping by terrorist groups, but state detainments are different. We are not talking about paying millions of dollars and passing funds around as ransom. There are more deals that get done because of that. We have seen that in the United States repeatedly over the last year with the Biden Administration, but we also saw it during the Trump Administration and with Obama before. In Administration after Administration, we do make deals.

I would argue—we can talk about this a bit later—that we need to be careful about copying and pasting the no-concessions policy from terrorist hostage-taking situations to the practice for state detainments, because they are not similar. We do a disservice to the victims if we just copy and paste that policy.

Q193 **Neil Coyle:** Noted. I have just one further question. You have advocated the use of intermediary expert negotiators. Do you want to talk through that concept and explain why?

Phil Harper: I think it is not a case of a position that necessarily needs to be defensible by the Government. As we have been suggesting, some of these things can be resolved early doors, and some of them can be resolved through the use of consultants.

One thing that we could improve on is the liaison between Government and consultant, because you can very much be put at arm's length. They can say, "We're not sharing information and the intelligence that we have." There is a professional attitude to this. I have been fortunate to sit in the equivalents of COBR around the world. It is a great blessing when you can share what you know and what the Government knows, within certain restrictions. If we are going to resolve this at an early stage, it is going to be through a specialist negotiator consultant—somebody who has understanding, can liaise or has been in country, has worked with the organisations that the member has come from, and so on and so forth. Unless our consular officials are finding out who is the local police chief—who is invariably used to pay the odd thousand dollars to release



HOUSE OF COMMONS

somebody, whether that be on the oil fields in Nigeria, in Iraq or wherever—it will be down to somebody who can just give advice to the family.

I totally agree with Mickey: we are not funding a ground-to-air missile in these cases. This is not the accepted reason why we do not fund hostage taking or state detention—and I agree that there are differences. But in that early stage, if we are slow because we do not want to raise status or appear to be a Government acting, you will need an intermediary and a specialist. It has been helpful to me, having been deployed by the FCDO, to retain a certain level of confidence in that, but going forward I think there needs to be maybe even shared training, working with people who are regularly going abroad and so on, into this early opportunity. As Mickey says, once that has gone, a legal process is running, that comes to an end and they are still detained, opportunities will have been missed. Then we are into a possible period of silence—maybe even years—when we are suddenly nation against nation, as opposed to a specialist and the family talking to the local police.

Q194 **Neil Coyle:** But you have never been taken on by the FCDO to do that role.

Phil Harper: No.

Q195 **Neil Coyle:** Is that because the FCDO has a sort of romanticised notion of what the consulate is doing, and it thinks that there are people out there who have that—

Phil Harper: Quite possibly. We are blessed in the UK in having some real quality at consular level and, indeed, consular leads. It is not the negotiators of the hostage/crisis unit in New Scotland Yard who are leading on this; it is actually the consulate in country, so there perhaps needs to be greater training there. I have been to many situations—I am sure Mickey is the same—in which a country, such as Australia, Finland or whatever, has a very good Government but it has not had that experience. They get few and far between, and yet this is our role, and we would like to be considered as being helpful. It is not an income generator for either Mickey or I, unlike some organisations. It is, “How can we best help in partnership with the Government?”

Q196 **Neil Coyle:** Do you think it is an issue of awareness among the Governments concerned of the potential that you offer, rather than a risk-averse culture to taking someone on who is not a Government actor?

Phil Harper: I am sure there is going to be a level of vetting that is required, but it is very common for a Government to ring the UK FCDO and say, “Phil Harper is the consultant on this,” and they just say, “Yes, that’s fine.” We are known as people who would be helpful.

Neil Coyle: Thanks.

Q197 **Royston Smith:** I have another question on families before I ask a few more questions. Mickey, you said that for a family, going public does not affect the people who have captured their loved one—they do not really



HOUSE OF COMMONS

care about that—but it does perhaps shift the dial on what the Government here would do to try to release them. In the US, you have Ambassador Carstens—SPEHA—who has a different approach to families from that of the FCDO, certainly from my experience of talking to hostages. If we or the FCDO could communicate to families that going public is not going to make a difference to those who have taken their family members—changing the way the FCDO operates so that it is perhaps closer to the way SPEHA operates—is that an approach that we should adopt? What the Foreign Office says is, “Don’t go public,” and what you seem to be saying to us is that the only reason to go public is to get the Foreign Office to pull its finger out. If it pulled its finger out in the first place, perhaps going public would become irrelevant.

Mickey Bergman: In general, yes, your statement is correct. I can tell you that there are honest conversations between special envoy Carstens and families. At times, Carstens will say to a family, “Well, I am not going to stop you going public on this.” Why? Because he is very aware that sometimes pressure needs to be put on the Executive to get things done, whether that is through the media or through the oversight of Congress, or Parliament in the UK. Here’s the thing: it is not because people are lazy and don’t want to get results. As you know very well, it is an extremely complicated situation where the national interests and policy issues at play are different from the interests of the individual victim.

Inside Government discussions, an ambassador to a country that holds an American will have policy strategies that they work hard every day to try to implement on behalf of their country. This issue is a pain in their side. They would rather deal with it after achieving their next policy objective, but the role of the special envoy is to say, “You can’t. It is not your choice any more.” The captor makes that choice. It is an illusion to think that it is our choice as a Government whether we deal with a captive right now or wait until we have achieved some policy objectives. The captor makes the decision for us. They make it into an issue as it starts.

By the time we are dealing with your question about whether a family wants to go public, we are already in the second window. Trust me, the captors know exactly who they have. Raising the profile is not going to change the price of it. I know it is easy to say it is logical, but it is emotional. We need to get over that line because when families hear the automatic, default, “Oh, you don’t want to go public because it will raise the profile,” they will take that in. They don’t want to challenge the Government initially because they need them to get their loved ones home. They go back to the consultant and say, “What does that mean? Why would it raise the stakes? Why would it change anything? What is the risk in this?” They are right to ask those questions, but they don’t really get good answers from Government officials.

One mistake that we make—I have seen Government officials doing it—is assuming that the families are less sophisticated or less knowledgeable just because they don’t have access to classified information. We are forgetting that these families think, read and breathe this issue every day, every hour and every night as soon as their loved one is taken. They often



HOUSE OF COMMONS

know much more about the nuances, and who is taking and dealing with their loved ones than the official who is speaking to them.

Q198 **Royston Smith:** It is interesting that you say that, because one of the hostages' wives who I spoke to knew far more than the FCDO did because of her experience on the ground being a national herself.

Phil Harper: Could I just come in to follow up on that? I reiterate the point about the strategy. The family will have a strategy. What is the Government's strategy? We may not want to use that terminology with the family, but we need to express to them that release and the prevention of harm may for them come ahead of some of the Government strategies. Once we have got into the second or third window, we need to begin to be more honest about the Government's overarching strategy, how it aligns with the family's strategy and whose strategy is leading.

I have worked on cases where the strategy for the family was that the Lord Jesus be glorified. That was their No. 1: "We will not do anything. We will not pay or acquiesce to a regime, and so on and so forth." That may not sit well with us, but it helps to direct them. When we talk about publicity, as Mickey said, is it publicity that generates activity by the Government as opposed to a protest that might generate activity that causes release? I would agree that very few protests actually cause release. They may want face-saving ways of making a release, but the Government should not have to have a protest from the family to generate activity. We could learn a lesson to get ahead of that. If we accept what Mickey is saying, a protest from the family shouldn't be needed to generate activity from the Government. The Government should be ahead of that curve in the manner in which they go about it.

Q199 **Royston Smith:** I think that is what we are trying to tease out, because we are not entirely sure that the Government are ahead of it from some of the evidence that we have taken. Can I ask you about a specific case of someone who went very public: Nazanin Zaghari-Ratcliffe? The Government took the step of extending diplomatic protection to Nazanin. Do you think that that was a useful tool in that instance? Do you think that is a useful tool to use going forward?

Phil Harper: To be blunt, I don't think that is a useful tool at all. To do anything post the taking looks a bit like cart and horse. We need to remember that a lot of these regimes—in that case, Iran—and other countries are led by a single person. We talk about a Government, but there is invariably a single person with an ego that we are having to deal with.

It is important that we do not suddenly suggest that we are going to be a bit clever about this, when we are talking to perhaps the biggest playground bully. Because it is like, "You can do what you like, but I've still got your citizen, and I still want this." It looks a bit churlish. I'm not going to say it is amateurish, but you get the sense of what I'm saying. "We are going to do this and, therefore, you are going to have to comply with something." It's like, "Who do you think you're talking to"



Q200 **Royston Smith:** Or is it done for the domestic audience? Did the Foreign Secretary come to that conclusion, because it looked good for the domestic audience, rather than it would shift the dial?

Phil Harper: Well, there are optics in everything. We have recently had optics, I know, Mickey. We had somebody released for a relatively minor offence of cannabis oil for an arms dealer. Whatever else was happening around that, the optics were really poor. We have talked about protest. We know that Germany has a particular way of dealing with these things as a Government. They spend a little bit of time and then they suggest, "This is going to be bad for you."

That is because the German public don't actually want you to help somebody who should not have been a tourist in Mali or wherever. It's like, "Don't expend too much energy on them. From a common-sense point of view, they should not have been there in the first place." However, there is reverse psychology to helping or not helping, particularly if there is an election coming up in Germany, as the case may be.

Mickey Bergman: I just want to add something. I can't speak to that case specifically in the UK, but I do know that the President of Venezuela, Maduro, extended diplomatic protection to Alex Saab after he was captured in Cape Verde and then extradited to the United States. That also did not work for him. I just want to point out that it is a tool that can be used on both sides, and it seems not to have been effective, at least not in the Venezuela case.

Q201 **Royston Smith:** Could I ask one small question about the special envoy? We visited and met with Ambassador Carstens, and I was very impressed. That does not mean it is a perfect system. Are there any drawbacks to the way that is done?

Mickey Bergman: Yes, I believe there are. Let me start by saying that Ambassador Carstens is a very impressive guy. He is also a good friend. He is very committed to this, a fantastic communicator and a very good implementor. The challenge or drawbacks are not with him. He is fantastic for this job, which is why he has stayed through two Administrations now.

We have a problem with the implementation of the Levinson Act in the United States, which established the SPEHA office, Roger's office. That is, that the intention of the law was to ensure that, when a case is designated as wrongful detention, and therefore put under Ambassador Carstens' SPEHA office, they take the lead in resolving the case.

In reality, very rarely does Ambassador Carstens get put in the lead. He gets a little bit folded under either ambassadors or regional policy people. On the few occasions where Roger Carstens was actually put in the lead, most of those people are back home. I'm talking about the example of Venezuela. When there was a moment last year that Roger was given the lead to solve it, it brought back nine Americans back from Venezuela over 2022. But in other cases—Iran, Russia and some other countries—he continues to operate under the policy shop, under the ambassadors, which



HOUSE OF COMMONS

I do not believe is the intention of the law. I understand why they make those calculations in the Government, but that is not the intention of the law, so that is one challenge that we have.

The second challenge that we have is the importance that it puts on the designation itself, because in the United States, as long as somebody is not designated as wrongfully detained, consular affairs are the ones in charge of the case. Consular affairs' mandate is not to bring people home; their mandate is to take care of their wellbeing and see that they have due process, so you have families stuck under consular affairs saying, "But their mandate is not to actually work to bring our loved one home." In that battle internally in the Department of State between the SPEHA and consular affairs, the process is very opaque. The law defines it as the totality of issues, which gives them an absolute ability to make a determination without giving very much explanation of it.

The problem that we are having in the United States on that is congressional oversight: is there a time limit? Does Congress step in? It is very similar in the UK; it would be parliamentary oversight, and actually pushing and saying, "What is this process? Have you looked? Even if it is classified briefings to Members of Parliament, why was this determination done? Why are we in this situation?"

I will give you an example. In Venezuela, out of 14 Americans that have been held over there, two of them have not been determined wrongfully detained, and two others were determined wrongfully after the return of nine Americans back for no apparent reason that the family can understand or be sure of. So there is a problem with the process of determination, and SPEHA and Ambassador Carstens' office cannot do anything unless that determination puts that case squarely under their umbrella. There are other issues, I think, with communications and implementations when it comes to the SPEHA office, but I want to say that there are drawbacks but, again, the establishment of that office has been a leap forward. Things have been very different from what they were in 2014-15, before we had it.

I would argue, too, in consideration, the name—the Special presidential Envoy for Hostage Affairs—is a very strong name for a domestic audience. It is not necessarily useful if the ambassador in charge of that office goes to negotiate, because as you know, those foreign countries that hold these people do not believe those people are hostages or wrongfully detained. There are other examples: in Israel, for example, there is an office that is for hostages and missing Israelis. There is a way of talking about them as disputed prisoners—things that may not sound very strong for the domestic audience, but might be much more conducive for the negotiations and the prospects of bringing somebody home. If I may, I just wanted to say one more thing.

Chair: Forgive me, Mickey, but I need to get three more colleagues in before we wrap up at 25 past. Saqib, do you want to come in?

Q202 **Saqib Bhatti:** Thank you, Chair; I will be very quick. To both of you, is



HOUSE OF COMMONS

there any instance where going public has been beneficial, and following on from the conversation you have already had, is it your view that domestic Governments do not want families to go public because it increases accountability on them, so it is about managing their own reputation rather than putting pressure on the offending Governments?

Phil Harper: I think that when we call it an offending Government, we have to be very careful that any publicity looks at the risk of increased harm or entrenchment and suggests that if we almost protest in the media as a Government, that will cause release. Governments may want face-saving reasons: if you look at the Arctic 30, which was the Russians taking 30 people off Greenpeace, they did not actually want to keep the 30. They wanted to be able to give them back, and they looked for a face-saving way of dealing with it. If we then protested and caused an entrenched position, they may not have come back, so there is something important about that.

Just briefly, I agree on the name of the special envoy¹; I think it is not helpful, in a state detention, to turn up as “the special envoy for hostage taking”. I think that, again, we are looking to suggest a bloody nose for the people—the state—that has got them. I would change it to something else, as was alluded to, such as “special ambassador for British citizens held or missing abroad”, or something like that.

I have had experience in Mali, where Mr Carstens went for a US citizen, and the family that I was dealing with questioned, “Why don’t we have one?” It looks as though we are second best if we do not have such an individual. I would then separate them as being an intermediary between Government and themselves, rather than an “I am the Government”-type role. In terms of protesting, take each case on its merits; “Can we provide a face-saving reason for release, rather than protesting, which causes entrenchment?”

[Interruption.]

Q203 **Chair:** Please, go on, Mickey.

Mickey Bergman: I was going to say, very quickly, that, in terms of the intermediary role, regarding this pressure, I think there are three roles that the intermediaries serve, and one of them is with that pressure. The first one is in the case that our Government and the captors are not able to actually have constructive conversation—or any conversation at all—whether it is, for example, the US and Venezuela for a while, or the US and North Korea, Myanmar or Iran.

The second role for the intermediary is when the bilateral issues overwhelm the dialogue over the prisoners. That is when intermediaries can insulate the issue and experiment and test ideas, not on behalf of the Government, but just to test those, without Government liability, come up

¹ Note by witness: When saying “I agree on the name of the special envoy”, I misspoke. What I meant to say was: “I agree with need for a special envoy but would suggest a different title”.



HOUSE OF COMMONS

with something, and come back to their own Government and say, "Here's what we know that the other side will agree to." We have done that with the US and Russia—that is a great example.

Now, to answer your question on this, the third role is when our own Government are reluctant to take the necessary action. That may be because of policy considerations—again, not because they are bad people but because it is complicated, it doesn't look good, or that there are other political considerations around it. That is where a pressure on the Government actually can help.

We have the case of Trevor Reed in the United States, who was released from Russia. It was a lot of pressure from the family that forced a meeting with the President. The President was reluctant to make the deal, because of very valid considerations, but that media approach was very respectful of the President, but also very demanding and direct, and led the President to meet with the family, and, once he met with the family, he instructed his team to go and get the deal done.

Q204 Henry Smith: Mr Bergman, there appears to have been a situation of prisoner exchanges in some recent cases. What message do you think that sends to states that would engage, or are thinking about engaging, in kidnapping foreign nationals?

Mickey Bergman: Thank you for asking that question, because that is one of my biggest passions around this. The concept that prisoner swaps or deals like that, such as the US has been doing, are putting other citizens at risk in the future is not, I believe, backed by data. Brian Jenkins has collected data on this. It is not perfect data, but it has shown that there is no correlation. It is not positive or negative; there is no correlation between the way these cases are resolved and the number of cases that follow.

I would argue that hanging our hats on the claim that negotiating deals will risk other Americans is—I'm sorry for the strong words on this one—intellectually lazy and morally bankrupt. It is intellectually lazy because the data does not support the claim, and we should commission the collection of more data on this. It is morally bankrupt because it holds our own citizens hostage to our own deterrence policies. We are the ones then making them hostages because we cannot figure out other deterrence policies.

I would argue that the thing that increases the risks for other citizens following a deal is the lack of follow-up after a deal is done. Because we are lawful Governments and reasonable people, we believe that once we have struck a deal, the story is over, but we need to remember that the people we struck a deal with are not necessarily honourable people. We still can turn around and implement our deterrence policies after the fact.

Let me give a quick example. In the United States, when you have domestic kidnapping for ransom the FBI come in, and their first task is to help the family to figure out the ransom payment and whatever the



HOUSE OF COMMONS

demands are. Why? Because 95% of the time, that brings the victim back home safely. But when the victim is home, the FBI don't pack their bags and go home; they stay and they go after the captors—everybody involved gets brought to justice. That is where the deterrence comes. Whether you paid \$5 million or \$10 million in ransom in a domestic kidnapping is not what determines whether there will be any more. It is whether the people who are involved were put in jail.

I know hostage taking at state level is different, but there are more things, both positive and negative, that can be done after the deal is done. We cannot hold our own prisoners hostage for our policies.

Q205 Liam Byrne: Phil, just taking a step back, do you think there is anything Governments can actually do to reduce the risk of state hostage taking? What can be done to minimise the impact afterwards?

Phil Harper: There is probably a number of useful things that can be done. If we know that a small number of people are going to specific hostile environments, there is pre-briefing or meeting with the embassies in-country when they get there, and referral to specialist training with individuals—those sorts of things. We are not talking about the hundreds of tourists going to a particular country.

Certainly, that training is important. What does reception planning look like? What does it look like to receive a number of people out of a prison, out of detention? How do we get them home and so on? And there are family briefings. There are going to be periods of silence; how do they stay sane? As Mickey was saying, they are going to be thinking of this day and night.

In terms of reduction, that is going to come through increased awareness of risk, and pre-planning. Can you do your business in different ways? If you are visiting to see family, have an understanding of how people have been released in the past. Is it about small amounts of money that could be available? Are you aware that your trip to the airport when you are leaving may need to be brought forward, or you need to take a different route? It is those sorts of things. There are lots of practical things that can be done to try to reduce the risk.

I agree with what Mickey said about prisoner exchanges. There are things we can do that have nothing to do with this individual, but perhaps we did increase the risk because of prisoner exchanges and so on. I don't see the UK Government agreeing to that as a substantive concession, but some prisoners come out normally—they finish their term—and this may be a year or two years down the line. A choreographed release, maybe.

The other thing is that we don't need to put a different value on a citizen because they weren't a politician or something. You get a lot of diplomats and former presidents and what-have-you in countries, and Mali recently released over 200, a couple of years ago, for four hostages. The optics can be poor, if we are worried about what members of the public might think.



HOUSE OF COMMONS

But that sort of thing starts increasing risk, and the regular citizen is way down the agenda as a consequence.

Chair: I am really sorry; we are going to have skip on. Henry, if you ask your question, and I will ask a question at the same time. We will need very short answers.

Q206 **Henry Smith:** We have heard how there are different ways that different states are approaching state hostage taking. We have heard about the State Department model, and there is FCDO and others. Do you think it is achievable as a goal that western democracies work much more closely in concert to help each other, so that hostage-taking states cannot pick off one country's citizens against those of another?

Chair: You mentioned about Russia taking hostages. Since the renewed illegal invasion of Ukraine, have we seen any difference in the modus operandi of Russia when it comes to state hostage taking? Any points around that. Phil, do you want to start? Then we will go to Mickey, and we will wrap up.

Phil Harper: I would just make a couple of points. For years now, the UK has been trying to pull countries together so that they don't pay ransoms, but in my experience, they do—countries that we wouldn't ordinarily expect to often pay. That is then crossed over to state detention, where a degree of selfishness comes in. The Five Eyes, to use that vernacular, are different; they will come together—there is more co-operation, as you might expect. As for co-operating with countries, you will find that they become very selfish and self-centred. Trying to get a common policy may be a matter of "in words only".

On Russia and Ukraine, that has happened where Russia is taking people almost to convert them into becoming Russian, or to influence them. We have seen people who, sadly, have been taken to spend some weeks in a tent being interrogated and what have you. We get reports of family members who have tried to come out of Ukraine, but have gone on a bus in a different direction and are currently on the border with the Russian authorities, subject to abuses. That may come in, but trying to access those is extremely difficult at this time.

Mickey Bergman: I agree with Phil completely about the collaboration. We have been sitting with Five Eyes partners on some of those collaborations, in agreement on policies. But on the big powers, Phil is right: countries will do what they need to do for their own citizens at that point. That might appear selfish, but it is natural. The sharing of information is critical to helping each other. Sometimes, cases involve multinational releases and balances. If we are open to help each other on that, there are things that we can do and resolve. That is on your first question.

On your second question, on Russia, we have had an uptick in Russia taking Americans since the war in Ukraine started. Some of them include Americans who were volunteering in the fighting, but that is a different category. The motivation of Russia seems to have been a little different.



HOUSE OF COMMONS

The Russians arrested Paul Whelan years ago, and they had very clear demands on what they wanted in return for him, which was a Russian prisoner whom the US refused to release, so they took Trevor Reed, increasing the price. When that did not work, they took Britney Griner and, guess what, people were negotiating at that point. That was not necessarily the right lesson to learn—Trevor Reed would argue that the lack of negotiations was the reason why he ended up being detained.

Lastly—I cannot emphasise this enough—when we do these deals, as part of the deal, we should be able to negotiate with the captor Government a bilateral protocol agreed between the two countries to end such cases, even though that might not be perfect. So, when a new case comes, there is some sort of access to consular affairs or for Governments to talk to each other. It will not solve the problem, but it is another way of mitigating, even if only in a small way. It is something that is absolutely impossible between the US and Venezuela right now. It is a great example to do.

Chair: Brilliant. Thank you both ever so much. I am sorry we cannot continue, but thank you for your time and for all you do to help those taken hostage by people seeking to gain from doing that. We are grateful for those you have helped to release.