



House of Commons
Foreign Affairs Committee

Stolen years: combating state hostage diplomacy

Sixth Report of Session 2022–23

*Report, together with formal minutes relating
to the report*

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Foreign Affairs Committee

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Summary

State hostage taking, also known as Arbitrary Detention in State-to-State Relations, is not only a humanitarian outrage, but an attempt to undermine the Rules-Based International Order (RBIO). As a country committed to protecting the RBIO and to standing up for the rule of law and the protection of human rights, it is incumbent on the Government to hold other states to their commitments—particularly in respect to UK nationals. Hostage taking represents both a growing threat to UK nationals and a significant challenge to Government in terms of how it coordinates an effective response in individual cases, adequately supports hostages and their families, and works with allies both to resolve individual cases and strengthen deterrence.

We recommend that the Government take bold and prompt steps to clarify criteria for deciding whether a UK national being held by a foreign state is considered arbitrarily detained and at risk of being used in hostage diplomacy. We were concerned to hear directly from the families involved about the way in which the FCDO liaised with them on efforts to secure the release of loved ones. There are lessons to be learnt from previous cases and from the experiences of other countries. We call for the establishment of a position of Director for Arbitrary and Complex Detentions (DACD) in order to deliver consistency, improved partnerships with families, better coordination across Whitehall, and greater authority and flexibility in managing the Government's approach.

In addition, we recommend a number of detailed measures to improve both engagement with families and Parliament's ability to scrutinise the Government's approach to arbitrary detentions.

1 Introduction

1. In April 2022, following the release of two UK-Iranian dual nationals from Iran, we launched our inquiry into the Foreign Commonwealth and Development Office’s (FCDO’s) approach to state level hostage taking. Using Iran and other countries as case studies we have scrutinised the approach the FCDO takes to state hostage situations and state arbitrary detentions where there is a risk that a detainee may be used for political leverage. We sought to learn from the successes and failures of policy to date, in the UK and elsewhere, in order to inform recommendations to Government.¹

2. We assert from the outset that the illegal and abhorrent actions of the Iranian Government against UK citizens, and indeed against citizens of any country, are morally and legally unacceptable. The offending regime, and it alone, is responsible for the suffering caused to detainees and for the decision not to release them. Notwithstanding this, there are lessons for the FCDO, and the UK Government more broadly, that could strengthen the deterrent effect, maximise the safety and health of detainees, promote an expeditious end to imprisonment and better support the families concerned. The future of the UK’s relationship with Iran is important and has relevance to this inquiry in terms of diplomatic tools that could be used to deter hostage taking. However, this inquiry did not pursue individual cases or go into detail on wider geopolitical issues such as regional relationships or the Joint Comprehensive Plan of Action (JCPOA)—it is not an update to our 2020 report “*No Prosperity Without Justice*”.² Equally, this report references, but does not specifically seek to update, a former Committee’s report “*Support for British nationals abroad: The Consular Service*”.³

3. With regard to terminology around the status of nationals, our view is that Iranian-UK dual nationals, ordinarily resident in the UK, carry the UK as their effective nationality.⁴ Whilst we refer to them as dual nationals, where relevant to a distinction made by others, our overriding view is that dual nationality should have no bearing on their status under Article 36 of the Vienna Convention on Consular Relations⁵ or the way in which the UK Government responds and refers to their cases. Therefore the Government should recognise the importance of leverage and refer only to such persons as British nationals. In cases where UK residents are detained, we encourage collaboration between the UK Government and the country of nationality but understand that the extent of support the UK Government is able to offer directly is limited.

1 We published the following questions in our [terms of reference](#):

- What were the merits and mistakes made in the approach of the FCDO to the handling of the Iranian hostage situation and any other similar situations in recent years?
- Does the Government’s approach provide an effective deterrent to state-based hostage situations?
- What efforts is the Government taking, or should take, to secure international agreement on deterring and handling state-based hostage taking?

2 Foreign Affairs Committee, Fifth Report of Session 2019–21, [A brave new Britain? The future of the UK’s international policy](#). HC415

3 Foreign Affairs Committee, Fifth Report of Session 2014–15, [Support for British nationals abroad: The Consular Service](#). HC516

4 We use the term “UK national” as this includes the status of British citizen, British overseas territory citizen, British overseas citizen, British subject, British national (overseas), and British protected person.

5 Which does not draw a distinction between nationals and dual nationals.

4. We published 32 submissions of evidence and received several more which submitters requested to be kept private and confidential. These consisted of submissions from journalists, Members of Parliament, families of detainees, former detainees, former diplomats, human rights organisations, NGOs, and both legal and academic experts. We held four oral evidence sessions in which we heard from former UK foreign ministers and international experts. We held a private evidence session with a former Canadian Ambassador to China, Dominic Barton, and Vina Nadjibulla, who is both a security expert and the wife of a former Canadian hostage. We held an engagement event with families of detainees and former detainees with experience of the UK's consular support system as well as those of other countries. We are grateful to all those who contributed to our inquiry.

5. We have endeavoured to formulate recommendations that are directly applicable to 'state hostages' and are using the definition given by the UN International Convention Against the Taking of Hostages:

Box 1: UN definition of hostage taking

[a]ny person who seizes or detains and threatens to kill, to injure or to continue to detain another person (hereinafter referred to as the "hostage") in order to compel a third party, namely, a State, an international intergovernmental organization, a natural or juridical person, or a group of persons, to do or abstain from doing any act as an explicit or implicit condition for the release of the hostage commits the offence of taking of hostages ("hostage-taking") within the meaning of this Convention.

Source: [International Convention against the taking of hostages](#). No. 2193. UN. Accessed 7th March 2023

Given that UK citizens are not always arbitrarily detained for leverage, such as political or commercial leverage, many of these recommendations could be applied in cases of arbitrary detention where conditions of their release are yet to be articulated or even implied by the offending Government.⁶ As the UK Government does not use the term "state hostage" or appear to have criteria to identify a detainee abroad as such, we expect these recommendations to be considered regardless of the term the FCDO may use in public to describe these sorts of cases.

Box 2: International Covenant on Civil and Political Rights

Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

Source: [International human rights instruments: International Covenant on Civil and Political Rights](#), UN Office on Drugs and Crime, Accessed 20 March 2023

6. The MacGregor review of 2019 was commissioned by Foreign Secretary Jeremy Hunt and made important and far-reaching recommendations as to how the FCDO should manage complex consular cases. We have commented on various aspects of this review in the body of the report and have included a more in-depth scrutiny table in Annex 2.⁷

6 James Foley Legacy Foundation (SLH0027) para 17

7 [Review of Complex Consular Cases](#), Dame Judith MacGregor, 6 June 2019

2 How the UK Government has approached the resolution of state hostage situations

Even though we are all delighted that Nazanin and Anoosheh are home, I don't think the British state can look on the totality of what happened with any pride at all. We weren't responsible for the wrong that was committed; that was wholly Iran's fault. However, we—including myself as Foreign Secretary—have to be honest that it took far too long to resolve this situation.⁸
 - Rt Hon Jeremy Hunt MP

Scale of the problem

7. The use of state hostage taking internationally is on the increase.⁹ Data for the number of UK citizens held hostage or arbitrarily detained is unavailable publicly. From 2012 to 2022, an average of 11 U.S. nationals were wrongfully detained each year according to the criteria of the Levinson Act.¹⁰ This number represents a 175% increase from the average number of four U.S. nationals detained each year from 2001 to 2011. Since 2012, the number of U.S. nationals detained each year has varied between 7 and 17.^{11 12} In respect of arbitrary detentions, the UN Working Group on Arbitrary Detention has a growing backlog of cases and continues to make record numbers of opinions that cases constitute arbitrary detention.¹³

8. Unlike the United States Government (see Annex 1) the UK Government does not discuss the number of UK citizens detained overseas; the details Ministers are prepared to provide in public are very limited.^{14 15} This is symptomatic of an over-cautious approach but also arises from the absence of a consistent international classification framework governing data availability from governments. This makes it very difficult for the scale of the problem, or multilateral efforts on the issue, to be assessed and for academic studies to

8 [Q23](#) [Jeremy Hunt]

9 Rachel Briggs ([SLH0016](#)); [Q112](#) [Rachel Briggs] and [Q114](#) [Brian Jenkins]; Atlantic Council ([SLH0011](#)); Leanne McKay ([SLH0008](#))

10 [The Levinson Act](#) lists 12 criteria by which the US Government will legally determine a person to be wrongfully detained (see Annex 1 for more details).

11 It should be noted that a more rigorous evaluation of cases may make the number go down.

12 James W. Foley Legacy Foundation ([SLH0027](#)) para 20 and [2022 Annual Report](#), James W. Foley Legacy Foundation

13 Eline Steinerte ([SLH0041](#))

14 Contributors highlighted the difficulties with identifying cases of state hostage taking as offending states rarely explicitly communicate demands (see, for example Dr Danielle Gilbert ([SLH0020](#)) and Frédéric Mégret ([SLH0014](#))). Frédéric Mégret give some suggestions of indica for identifying states where the judicial system maybe failing a detainee in a way that could amount to judicial hostage taking. ([SLH0014](#)) para 8

15 We questioned the then Foreign Secretary, Liz Truss and the Permanent Under Secretary, Sir Philip Barton, on this issue. They refused to publicly share the numbers of UK nationals held abroad in public on the basis that it “would not be helpful”. Qs [95](#), [96](#), [97](#), [101](#) [Liz Truss and Philip Barton]

take place.¹⁶ Given the trends experienced by the USA and the UK's European neighbours, it would be reasonable to assume that state hostage taking will be a problem the UK is likely to face again.¹⁷

9. We heard evidence of the inhumane treatment endured by state hostages: detainees being drugged to the point they developed an addiction; spending months on end in solitary confinement; suffering various forms of psychological and physical torture; denial of access to medical attention; poor quality diet leading to malnutrition; and being denied access to consular visits.¹⁸

Classification of consular cases

10. Cases in which there are elements of state leverage, or the potential for it, are notoriously difficult to identify. Early classification, whilst allowing for a more appropriate Government response and analysis of the effectiveness of responses, could have the downside of mis-categorisation and referral to the wrong team.¹⁹ There are varying opinions on whether the term 'state hostage taking' is important or useful in the public classification of cases. Brian Jenkins, of the Rand Corporation, resisted using it on the grounds that the US Government has policies that limit its ability to negotiate with captors if a situation has been designated a "hostage situation".²⁰ Others are concerned that the use of the term in particular cases runs the risk of becoming a "self-fulfilling prophecy" in the motivation of detaining states.²¹

11. The FCDO is equally wary of using the term, arguing that the Hostage Convention refers to individual, rather than state, liability.²² The department was categorical in the case of Nazanin Zaghari-Ratcliffe:

This Government was clear with the family that we deemed there was a significant risk of making Mrs Zaghari-Ratcliffe's situation worse by referring to her as a hostage of Iran.²³

However, the FCDO is not consistent in its terminology. Whilst the FCDO is at pains to remain impartial on a foreign country's judicial system, it is nonetheless prepared to warn UK travellers of the risks of "arbitrary detention" on travel advice pages. Then-Foreign

16 James W. Foley Legacy Foundation ([SLH0027](#)) para 24; [Q112](#) [Rachel Briggs]; Rachel Briggs ([SLH0016](#)); Leanne McKay ([SLH0008](#)) para 14;

17 For example, Security Minister Tom Tugendhat told Parliament in February 2023 that: "As of last week, we had responded to 15 credible threats to kill or kidnap British or UK-based individuals by the Iranian regime since the start of 2022." He also described the regime as engaging in "hostage" taking. (HC Deb, Monday 20 February 2023, [Col 49](#) [Commons Chamber])

18 See, for example, Satar Rahmani ([SLH0009](#)); APPG on Deaths Abroad etc. ([SLH0015](#)); Amnesty International UK ([SLH0031](#))

19 Mickey Bergman, in reference to the US approach, told us that: "(...) 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." ([Q201](#)). The FCDO identified the risk to cases which fall outside the definitions: "That is why we take a complex case approach and why we draw a broader circle, looking at those where there might be human rights or arbitrary detention concerns, or where there is some other form of political or diplomatic involvement that is important in the resolution of a case." ([Q225](#) [Jennifer Anderson])

20 [Q125](#) [Brian Jenkins]

21 See, for example, Kamran Foroughi, son of a former detainee in Iran ([SLH0034](#)) para 2.3.1

22 The wording of the Hostage Conventions refers to an 'individual' rather than a 'state' as the perpetrator of hostage taking

23 FCDO ([SLH0021](#)) para 20

Secretary Liz Truss MP referred to such cases as “unfairly detained” people. Similarly, in media communication there are significant inconsistencies (see Chapter 3). The FCDO has used the terms “complex cases” and “vulnerable cases”; however, these terms cover a broad range of detentions and are descriptions rather than classifications, making use in data-sets problematic. The FCDO’s preferred description is “arbitrary detention for state leverage”; however, officials argue that there were very few detentions to which they felt this category applied. Ministers and officials did not clarify how they concluded whether or not a case of arbitrary detention was being used for state leverage. Such confusion over terminology, and the difficulties in identifying cases of leverage, make meaningful analysis of the issue difficult.²⁴

12. This incoherence appears to be prevalent within the FCDO. We identified an aversion to referring to any situation as state hostage taking, both internally and externally.²⁵ Whilst we can understand a desire to refrain from using the term in public, unwillingness to accept the reality of the nature of a detention with the family of the detainee is unnecessary and hurtful.

13. The limited data available indicates that state hostage taking is an increasing problem globally. Arbitrary detention is also a growing phenomenon, increasing the likelihood of citizens in this position becoming pawns in state-to-state relations. All arbitrary detentions are illegal and unacceptable. The UK Government should be working toward their immediate resolution. Given that states rarely make explicit their demands for release, or intended area of leverage, this zero-tolerance approach is all the more important.

14. We recommend that within the next 12 months the Government formalises and publishes guidance outlining criteria for determining whether the detention of a UK national by a foreign state is considered arbitrary and at risk of being used for state leverage. Subsequently a review should be carried out of all UK nationals detained overseas according to the established criteria. The conclusions on the nature of the detention should be used to classify the case internally, in discussions with the family and, where appropriate, publicly. Where not deemed to meet the criteria, cases should be subject to ongoing assessment with the involvement of families.

24 See James Foley Legacy Foundation ([SLH0027](#)) para 17

25 Richard Ratcliffe described the FCDO’s communication with him as “gaslighting” (APPG on Death Abroad etc. ([SLH0015](#)) para 2); the Government never acknowledged Nazanin as a hostage, Richard was promised by then-Foreign Secretary Dominic Raab that he would recognise publicly that Nazanin was held hostage but did not explicitly do so whilst in office. (Tulip Siddiq ([SLH0023](#)) para 20)

UN Working Group on Arbitrary Detention

Box 3: United Nations Working Group on Arbitrary Detention (UN WGAD)

The Working Group has the mandate to investigate cases of deprivation of liberty imposed arbitrarily or inconsistently with the international standards set forth in the Universal Declaration of Human Rights, or the international legal instruments accepted by the States concerned. The WGAD is the only mechanism established by the Human Rights Council which is mandated to consider individual allegations of arbitrary deprivation of liberty worldwide.²⁶

The Working Group investigates alleged cases of arbitrary detention by sending urgent appeals and communications to concerned governments to clarify and/or bring their attention to these cases. The Working Group also considers individual complaints under its regular communications procedure, leading to the adoption of opinions as to the arbitrariness of the detention. In addition, the Working Group conducts country visits to assess the situation of deprivation of liberty in the country.

The mandate of the Working Group on Arbitrary Detention was most recently extended by Human Rights Council resolution 42/22 in September 2019 for a further three-year period.²⁷ The Atlantic Council points out that there is not a guidance category for state hostage taking within the five WGAD categories.²⁸ The group is made up of five independent experts of “balanced geographic representation” appointed by the UN Human Rights Council.²⁹

15. Despite confirming the UK Government’s support of the work of the group by Lord Ahmad, Minister for the Middle East and North Africa,³⁰ the UN WGAD opinions are an underutilised resource in the UK Government’s efforts to secure the early release of state hostages and those at risk of being used as political leverage.³¹ Eline Steinerte, former member of the working group, described prohibition of arbitrary deprivation of liberty in international law as “absolute” and highlighted that the universality of the group means that it can receive allegations of arbitrary deprivation of liberty from states which are not parties to other core international human rights instruments.³² It also allows governments to waive neutrality over another’s judicial process as it is based on a third party examination of the case. However, despite these opportunities, and the Government’s rhetorical support of the work of the group,³³ UN WGAD opinions are rarely, if ever cited

26 Eline Steinerte (SLH0041)

27 [Working Group on Arbitrary Detention](#), UNOHCHR, Accessed 20 March 2023

28 Atlantic Council (SLH0011) para 16

29 [Working Group on Arbitrary Detention](#), UNOHCHR, Accessed 20 March 2023

30 Lord Ahmad told us “(...) we work very closely with and follow what happens at the UN. The UN working group on arbitrary detention provides a broad definition and parameter to which we will work.” [Q215](#)

31 For example, in 2022 the Working Group concluded that the arrest of UK citizen Nnamdi Kanu in Kenya and his subsequent ongoing detention in Nigeria constitutes arbitrary detention under 4 of the 5 categories they use. To date the UK Government has not issued a comment on this ruling (see Mr Kingsley Kanu and Mrs Uchechi Okwu-Kanu (SLH0045)).

32 Eline Steinerte (SLH0041)

33 FCDO (SLH0021) para 28

to assert the illegal nature of detentions.³⁴ We are aware that British national Jimmy Lai is being held in China and has had his case raised with the UN WGAD which is yet to issue a response. We are not aware that he is being used as diplomatic leverage at this time.

16. The FCDO has a policy of not commenting on, or interfering with, a foreign state's legal system. Evidence suggests that the existence of an opinion from the UN Working Group on Arbitrary Detention that a British national is illegally detained makes little or no tangible difference to the way the FCDO approaches resolving that case. This is counterproductive and risks undermining an important tool, as well as the Government's commitment to a Rules-Based International Order solution for ending this practice.

17. We recommend that when there is a UN Working Group on Arbitrary Detention opinion that a detention of a UK citizen is illegal, the FCDO assumes that the case will not be judged in line with international standards and should respond accordingly. The Government should as a matter of practice promote public acceptance of the opinion of the working group and consider promoting the concept of an additional category of "state sponsored hostage taking" to the criteria.

18. We also recommend that the Government uses its presence on the UN Human Rights Council to work to safeguard the Rules Bases International System by working to prevent countries which use hostage taking as a tool of diplomacy gaining influence in the UN Working Group on Arbitrary Detention.

How governments respond when citizens are taken hostage

19. Identifying situations in which detainees are being used as leverage is far from straightforward, as is identifying demands and formulating a plan for securing their release.³⁵ The release of Mrs Zaghari-Ratcliffe and Mr Ashoori was a significant achievement for the Government, yet there is legitimate criticism that it took too long.

20. During our inquiry we gathered information on the approach of other states to state hostage taking and arbitrary detentions. The United States Government addresses the issue through legal and administrative structures which treat hostage diplomacy as a matter of national security. A key aspect of this approach is the position of Special Presidential Envoy for Hostage Affairs (SPEHA) and the specialist team of around 20 people who support their work (see Annex 1 for detailed description of the approach).

34 Despite an opinion in 2016 the Nazanin Zaghari-Ratcliffe was arbitrarily detained, there was no public acknowledgement of Nazanin's innocence until Autumn 2018. It was not until March 2019 that there was any acknowledgement that the detention was contrary to international law (Tulip Siddiq [SLH0023](#)). In May 2022 WGAD concluded that the detention of a British man, Jagtar Singh Johal, in India was arbitrary. In June the BBC reported that Boris Johnson had described Mr Johal as having been arbitrarily detained. Subsequent answers in Parliament from ministers have described the Government as taking the ruling "seriously" but emphasizing their role in advocating for improved conditions for Mr Johal and support of his family (See, [PM says Jagtar Singh Johal's detention in India is 'arbitrary'](#) (30th June 2022), BBC News, Accessed 19th June 2023 and HC Deb, Thursday 19 January 2023, [Col 583](#) [Commons Chamber]). His family told us that nothing discernible has changed in the Government's response to Jagtar's detention since the acknowledgement of this ruling)

35 See, for example, Frédéric Mégret ([SLH0014](#)) para 2; Danielle Gilbert ([SLH0020](#)) para 5

Box 4: Advantages and disadvantage of the US Levinson Act and the Special Presidential Envoy for Hostage Affairs approach

Advantages of the SPEHA approach mentioned in evidence and conversations with families include:

- The ability to elevate a Wrongful Detention beyond that of a standard consular case which allows for negotiation, and concession options, less constrained by State Department bilateral goals and relationships with the offending country;³⁶
- The legislative mechanisms to facilitate a whole-of-Government approach to resolving the issue,³⁷ including a direct line to the National Security Advisor to enable rapid decision making and information sharing;
- A clear set of criteria to allow State Department officials to identify cases which may be at risk of politicisation or use in leverage;³⁸
- The sending of a clear message that the US recognises a victim's effective nationality as United States, or as being under US protection, without the confusing use of dual-national rhetoric;³⁹
- A personal connection for families with a key decision maker/advisor in their loved one's case and ongoing direct contact with a designated case worker;
- The recognition that their loved one has been wrongfully detained is important for families and to prevent fractures between Government and families;
- Advice and collaboration on publicity around the case.⁴⁰

Mickey Bergman, of the Bill Richardson Center, observed the following failings of the US law and system:

- Despite the intention of the Levinson Act that SPEHA would take the lead in resolving cases of Wrongful Detention, he rarely gets put in the lead—"he gets a little bit folded under either ambassadors or regional policy people". However, the success rate when he took the lead (e.g. with those wrongfully detained in Venezuela) has been very high.
- Those who did not receive the designation of Wrongfully Detained may not receive a consular approach guided by a commitment to secure their release.
- There are still questions around the role of Congressional oversight. Getting answers to questions around timescales for designation, reasoning and processes continues to be difficult.
- 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 those foreign countries that hold these people do not believe those people are hostages or wrongfully detained.⁴¹ Nevertheless, it has not prevented him achieving releases in a number of situations.

36 See, for example, [Q197](#) [Mickey Bergman]

37 See, for example, [Q130](#) [Brian Jenkins]

38 Danielle Gilbert ([SLH0022](#)) paras 8-10; James Foley Legacy Foundation ([SLH0027](#)) para 19

39 For example, in the case of Paul Rusesabagina, a US Green Card holder and Rwandan national, who is designated as Wrongfully Detained by the US Government in Rwanda.

40 [Q197](#) [Mickey Bergman]

41 [Q201](#) [Mickey Bergman]

21. The Canadian Government, which it is understood takes a ‘complex cases’ approach to such detentions, is generally comparable to the UK.⁴² However, Dominic Barton, former Canadian Ambassador to China during the detention of Michael Spavor and Michael Kovrig, described to us the radical approach Prime Minister Trudeau took in that case. Barton, a businessman with extensive experience in China, was appointed directly by Mr Trudeau despite not having a background in the diplomatic service. He was appointed with an overriding policy objective of reopening communications with the Chinese Government to negotiate the release of ‘the two Michaels’. Dominic Barton and Vina Nadjibulla, security specialist and wife of Michael Kovrig, identified the following advantages of this approach:

- a) Barton was a specialist on China and understood the “opaque system” of relationships and the importance of making sure the correct people were communicated with.
- b) It allowed a person with strong problem-solving skills and flexibility to coordinate that element of the response.
- c) Reporting directly to the Prime Minister allowed him to progress a plan, at times, against the advice of other parts of the Government.
- d) Demonstrated the importance of key decision maker communication with families.⁴³ Barton’s personal and direct approach was encouraging to families but also allowed them to be considered “part of the team” of solving the issue. It facilitated, for example, the incorporating of Vina’s expertise into the discussions around plans for engagement.

Vina Nadjibulla told the Committee that whilst the approach the Canadian Government took in this case was a positive one, as was the public recognition that the case constituted an “arbitrary detention”, it came about because of public pressure. She does not believe that Global Affairs Canada would be prepared to launch a similar approach should another comparable situation emerge.

22. As explored in chapter three, the UK Government structure lacks the mechanism required to respond in such coordinated ways.⁴⁴ We have heard examples of Foreign Secretaries adopting more of a direct approach along the lines of SPEHA.⁴⁵ The Government has outlined some of the efforts the Consular and Crisis Directorate has made to adopt recommendations in the MacGregor review around a task force approach to complex cases.^{46 47} Nevertheless, there are still systemic challenges around the clarity

42 Cases are dealt with by the consular section throughout their progress with other parts of Government and Ministers being brought in as necessary. Quiet diplomacy is prioritised and public classification of cases is avoided.

43 Vina Nadjibulla described how Dominic Barton would always carry out consular visits in person and phone her and other family members straight after. It was not standard consular practice to do this and sent strong messages to the families as well as to the Chinese authorities.

44 Ruper Skilbeck, of REDRESS, told us that in the case of Nazanin Zaghari-Ratcliffe: “It was also fairly clear that there wasn’t an obvious plan of action for how to escalate matters and how to take it forward, setting out the different opportunities and angles that could be observed.” (Q138)

45 For example, as Foreign Secretary, Jeremy Hunt gave his contact details to family members (see Kamran Foroughi (SLH0034))

46 See FCDO (SLH0021) para 18

47 For a more detailed presentation of the MacGregor review and progress toward its recommendations see Annex 2

with which these cases are handled. For example, we question the logic of complex cases being escalated in the first instance to ministers based on their geographic responsibilities rather than to the Foreign Secretary or the minister responsible for consular affairs. We have seen that this can lead to the Minister for consular policy not being fully briefed on significant individuals.⁴⁸

23. Rachel Briggs, of the Clarity Factory, emphasised the importance of families being treated as partners rather than being “handled” and argued that the US Government has been able to bring about a “cultural change” through SPEHA.⁴⁹ The redesignation of these cases to SPEHA away from consular services has been seen to be an important component of this approach.⁵⁰ Families the Committee has heard from have praised the SPEHA Ambassador, Roger Carstens, for his commitment to personal contact with families and to giving as much information as he can to them. One family called him “Captain America” after the famous US comic book superhero.

24. **Experience elsewhere would suggest that having a single point of contact who has a key decision-making, or high-level advisory, role outside consular services has the potential to improve the Government’s approach to responding to arbitrary detentions as well as its coordinating efforts in deterring this practice multilaterally. It is also likely such a high-level influencing role would attract high calibre staff with relevant experience.**

25. **By identifying and articulating the nature of detentions, the Government would have the option to put arbitrary detentions on a lane of engagement distinct to other diplomatic priorities with the detaining country. This could allow for creative solutions unconstrained by other bilateral objectives and expand the limited toolbox available to the consular directorate. It would allow the case to be segregated from wider geopolitics and bilateral negotiations, something the aggressor may not welcome.**

Collaboration with other governments

26. The mobilising of international support for Canada’s campaign to release the two Michaels is an approach we are not aware of the UK attempting. Whilst their eventual release appeared closely tied to the release of Meng Wanzhou, the Chief Financial Officer of Huawei, the Canadian Government and its allies brought considerable pressure to bear on the Chinese Government. This multilateral approach may not only increase the chances of resolution, but also act as a deterrent for those who may consider using hostage diplomacy.⁵¹

48 See [Q220](#) [David Rutley]

49 [Q129](#) [Rachel Briggs]

50 [2022 Bringing Americans Home](#), James W. Foley Legacy Foundation, p6 para 11

51 Just before Christmas in 2018, Canada’s then-foreign minister, Chrystia Freeland, announced in a telephone call with reporters that Canada had begun to “work with a broad group of allies to raise this issue” and that Canada’s envoys would be taking their plight to “governments around the world.” In practice this involved convening states for signing for the Declaration against Arbitrary detention in state-to-state relations, a show of diplomatic support with the gathering of diplomats outside courts where trials were taking place. In the case of Michael Kovrig diplomats from twenty-six nations assembled outside Beijing’s Second Intermediate People’s Court on Monday, March 22, 2021. ([How the Free World Helped Free Two Canadians: Diplomacy and the Two Michaels](#), by Mike Blanchfield and Fen Osler Hampson, Policy Magazine, Accessed 19th June 2023)

27. The FCDO noted that in 2020 the E3⁵² summoned the Iranian ambassadors in their respective countries to protest against the “arbitrary detention” of dual nationals in Iran.⁵³ Communiqués from meetings under the UK’s G7 presidency in 2021–2022 made specific mention of Iran’s actions against UK citizens. Ultimately the UK worked with Oman to achieve the final deal in which Mrs Zaghari-Ratcliffe and Mr Ashoori were released. However, we heard that there has been no sign of German and UK authorities working together on the cases of Mehran Raoof and Nahid Taghavi, Iranian dual nationals still held in Iran, both of whom were arrested at the same time.⁵⁴ We believe that the UK Government could have learnt from Canada’s approach and made more of multilateral relationships to bring pressure on Iran. However, the effectiveness of public multilateral action at this stage should not be overstated. Dominic Barton (former Canadian Ambassador to China) and Vina Nadjibulla (security expert and wife of Michael Kovrig) confirmed that whilst this international pressuring of China was “good” it was not sufficient to secure the release of the two Michaels on its own.⁵⁵ Lord Ahmad, Minister for the Middle East and North Africa, suggested to us that the safety of diplomatic staff can be a consideration in making such decisions.⁵⁶

28. Hostage negotiators Phil Harper and Mickey Bergman stressed the importance of information sharing between allies on individual cases at the micro level and acknowledged that this can work quite well at “Five Eyes” level.⁵⁷ However, they also noted that ultimately there is always a degree of self-interest as states take all necessary actions to secure the release of their citizens, regardless of what they may have agreed with allies.⁵⁸

Continuity in decision making, institutional learning and training

29. We recognise the efforts the FCDO has made in increasing staff training on complex consular cases and in reviewing their internal guidance. We acknowledge that these efforts have contributed to a number of positive and speedy outcomes.⁵⁹ We are also encouraged to hear of efforts to learn from the US SPEHA office as well as “Closed Case Reviews” carried out by the FCDO to support lessons learning.⁶⁰ However, we are not convinced that the FCDO has given adequate time to learning lessons from Canada’s experience resolving the case of the two Michaels.⁶¹ We believe that the FCDO still has progress to make in terms of improving institutional learning.

30. The FCDO strongly emphasised the role of the Foreign Secretary in the decision-making process on consular cases.⁶² As Table 1 demonstrates, there has been considerable ministerial transience over the past seven years. We have looked particularly at detentions

52 UK, Germany and France

53 FCDO (SLH0021); and HC Deb Wednesday 4 November 2020, [Col 713](#), [Lords Chamber]

54 Amnesty International (SLH0031) para 3.1

55 Evidence given in private to the Committee

56 [Q246](#) [Tariq Ahmad]

57 [Q206](#)

58 Philip Hammond recognised this as potential flaw to the suggestion of a collaborative deterrence approach. See [Q108](#) and Chapter 6.

59 [Q228](#) [David Rutley and Jennifer Anderson]; FCDO (SLH0021); we were told that core learning on complex cases is included for all staff and that there are new online and four day in-person learning modules on complex casework (Correspondence with Foreign Secretary, [21 March 2023](#)).

60 Correspondence with Foreign Secretary, [21 March 2023](#)

61 [Q231](#) [Jennifer Anderson]

62 FCDO (SLH0021) para 10

in Iran, although it is likely other cases would have been affected by the lack of ministerial continuity. Ministers made much of the importance of personal relationships in finding a solution. Lord Ahmad, Minister for Middle East and North Africa told us:

Sometimes it is personal. All those who serve as Ministers will testify that the more you invest in a relationship, the easier it becomes to leverage a particular outcome in the most difficult situations.⁶³

Whilst strong personal relationships will not always be enough to bear fruit in cases of arbitrary detentions,⁶⁴ their frequently long-term nature warrants an approach that can effectively mitigate against the impact of the transient nature of ministerial and ambassadorial appointments.^{65 66}

Table 1: Foreign Secretary appointments between 2016 and 2022

Year	Foreign Secretary	UK detainees
2016	Boris Johnson becomes Foreign Secretary	Kamal Foroughi already detained since 2011
		Nazanin Zaghari-Ratcliffe detained
2017		Anoosheh Ashoori detained
2018	Jeremy Hunt becomes Foreign Minister	Morad Tahbaz detained Kamal Foroughi released
2019	Dominic Raab becomes Foreign Minister	
2020		Mehran Raouf detained
2021	Liz Truss takes becomes Foreign Secretary	
2022	James Cleverly becomes Foreign Secretary	Anoosheh Ashoori and Nazanin Zaghari-Ratcliffe released

31. A number of contributors drew attention to the frequent turnover of ministers as being a problem in terms of the formulation and testing of various diplomatic strategies for release.⁶⁷ Rachel Briggs of the Clarity Factory told us:

In a press conference after her release, Nazanin asked why it had taken five foreign secretaries over six years to bring her home. Each one starting almost from scratch. Add to this the turnover of officials working these cases within the FCDO and security services and the fact that cases are dealt

63 [Q228](#) [Tariq Ahmad]

64 There are arbitrarily detained UK nationals in India, Egypt and Nigeria for whom personal relationships at ministerial level have not been sufficient to negotiate a resolution to their cases. (see, for example, Mr Kingsley Kanu and Mrs Uchechi Okwu-Kanu ([SLH0045](#)) and Mr James Lynch and Mr Omar Robert Hamilton ([SLH0043](#)))

65 Philip Hammond ([Q55](#)) and Alistair Burt ([Q3](#)) both highlighted the challenges faced that those making decisions UK nationals detained in Iran were not the interlocutors they had relationship with.

66 Lord Ahmad explained the continuity in case understanding lies primarily at the ambassador level, someone likely to be in post for 3-4 years. ([Q237](#))

67 Tulip Siddiq told us: "This practice of repeatedly resetting the UK's position with the arrival of new Ministers had negative consequences for the credibility of the UK's deterrence, as Iran could wait them out and rely on unwillingness by the Government to act. This allowed Iran to periodically escalate Nazanin's situation for political purposes without fear of genuine reprisals." ([SLH0023](#)) para 16; see also Janet Daby MP ([SLH0010](#)) para 3.16

with by geographic desks rather than a centralized department focused on state hostage taking that could compare approaches across countries. We are squandering vital know-how and expertise.⁶⁸

The Foreign Secretary told us that “at no stage were [Civil Servants and Ministers] efforts delayed by changes in Minister or Secretary of State]” as they worked “tirelessly” to secure the release of British “dual-nationals detained in Iran”.⁶⁹

32. Ministerial and official turnover (covered in chapter 4) also had an impact on families. The Ashoori family, who experienced four Foreign Secretaries during Anoosheh’s detention, shared with us that “with each change we had to relive every torturous step and redo all our hard work to create new relationships and tread on eggshells when it came to building trust and respect.”⁷⁰ The Foreign Secretary told us that ministers receive “Day One” and “Week One” briefings from officials to cover issues relating to complex detentions. He described how these briefings include the approach taken to keeping ministers informed of developments.⁷¹

33. Learning from previous cases needs to be central to the formulation of a coherent and flexible approach to securing the release of detainees. Given the high turnover of ministers and civil servants, we have seen insufficient evidence to indicate that any arrangements for institutional learning by the FCDO have been effective. This contributes to inconsistency of approach and increases the risks of missing opportunities, not least when dealing with autocratic states with greater ministerial security of tenure.

34. Starting immediately, we recommend a central repository be created for information on cases of arbitrary detention and hostage taking, both active and closed, detailing processes followed and learning gained. There should be a systematic approach applied to all cases, not simply a sample. The Minister for Consular Policy should have an up-to-date knowledge of all open arbitrarily detained and ‘complex’ cases.

35. We recommend biennial meetings of Ambassadors and Deputy Heads of Mission of ‘Five Eyes’ countries in states with a record of state hostage taking to discuss live cases and lessons learnt, and to disseminate best practice.

Creative negotiation options

36. As discussed earlier, there is relatively little data available from the UK and its allies on state hostage cases.⁷² This makes formulating conclusions and recommendations on various policies of the UK Government difficult. The UK Government described to us their policy on negotiating with hostage takers:

(...) it is HMG policy not to make substantive concessions to hostage takers. Substantive concessions could include paying a ransom, changing government policy, or releasing prisoners.⁷³

68 Rachel Briggs (SLH0016) para 32

69 Correspondence with Foreign Secretary [21 March 2023](#)

70 Ashoori (SLH0039) para 66

71 Correspondence with Foreign Secretary [21 March 2023](#)

72 James W. Foley Legacy Foundation (SLH0027) para 24; [Q112](#) [Rachel Briggs]; Rachel Briggs (SLH0016); Leanne McKay (SLH0008) para 14

73 FCDO (SLH0021) para 8

37. We welcome the Government's willingness to consult third-party groups, such as REDRESS and family members, on possible approaches to secure release but are disappointed with the Government's failure to have been able to articulate a plan for Government engagement.⁷⁴ Some contributors to the inquiry insisted that the involvement of third party experts and creative negotiation should play a part in strategies for securing the release of detainees.⁷⁵ ⁷⁶ Dr Danielle Gilbert of the US Airforce Academy told us:

The record suggests that negotiations provide many benefits for hostage recovery, including: (1) intelligence and information gathering, useful in other avenues of recovery; (2) an opportunity to learn about hostage takers' interests beyond their stated demands; (3) an opportunity to discuss creative solutions, which do not resemble "concessions" but may be effective to bring a hostage home. Governments should not confuse negotiations with concessions.⁷⁷

Such negotiations could include incentives that do not expressly meet the offending nation's demands but allow them to save face. Brian Jenkins of the Rand Corporation described this as a "quid pro quo" that is inevitable in all such negotiations.⁷⁸ We note that changes in the law were required to allow for the totality of the SPEHA approach. Prisoner swaps have been a prominent solution to detentions in cases involving US citizens, yet this option may not be open to the UK Government in the same way.⁷⁹ Nevertheless, we heard strong arguments that flexibility in state hostage cases is important and that creative diplomacy, short of acquiescing to specific demands, may be an important option for incentivising release.

38. Witnesses described a whole-of-government approach in the US, enabled through the Levinson Act, as being essential for an effective approach to the release of hostages and the deterrence of future cases (see previous section).⁸⁰ We welcome the renewed emphasis on formalising the Task Force Approach⁸¹ since the MacGregor review and that it has the potential to enable a better informed and more coherent response.⁸² ⁸³ Rather than relying on the specific consular team to manage detention cases at the basic level of assistance provision, the Task Force approach is designed to convene a wider pool of stakeholders within Government to coordinate a more complex and tailored response. It is important

74 Rupert Skilbeck of REDRESS, with reference to Nazanin Zaghari-Ratcliffe's case, told us: "On several occasions when we had meetings either with Foreign Office legal advisers, or indeed with the Foreign Secretary, we were asked what we thought should be done. We had a long list of things that could be done, but it was never very clear whether any of them were being taken forward. It was rather disappointing that there did not appear to be a clear, planned-out course of action." (Q138)

75 Q125 [Brian Jenkins]; Leanne McKay (SLH0008)

76 Q113 [Rachel Briggs]

77 Danielle Gilbert (SLH0020), para 18

78 Brian Jenkins was wary of any designation of a case that would preclude such "creative diplomacy" (Q125)

79 Q226 [David Rutley]

80 Q130 [Brian Jenkins]

81 The MacGregor review described the task force approach: "(...) a Task Force approach, led by the geographical directorate, bringing in as required relevant other Government departments and UK interests. The Task Force should establish a plan of action: including case objectives, a timetable for Ministerial escalation, a tailored strategy for family engagement, and communications together with an analysis of all potential levers for action - with the recognition and challenge that these could be different from that for other similar cases, in different countries - and defended as such." (Review of Complex Consular Cases, Dame Judith MacGregor, 6 June 2019, p6)

82 See, for example, Q228 [David Rutley] and Q231 [Tariq Ahmad]

83 For a more detailed presentation of the recommendations in the MacGregor Review and progress towards them please see Annex 2

that these Task Forces have the ability to involve a range of experts including third-party organisations. Such groups can be a useful tool for governments negotiating solutions for arbitrary detentions. For example, SPEHA has worked with the Bill Richardson Center for Global Engagement in the US to conduct negotiations for detainees when it would have been difficult for the Government to do so directly.⁸⁴ The UK has a number of highly experienced hostage negotiators whose skills are applicable in state detentions. Rachel Briggs of The Clarity Factory told us:

In some cases, the solution to state hostage taking lies outside the reach of states (...) The UK could learn a lot from this approach; with a problem this complex, we need all and every talent around the table.⁸⁵

39. In cases we have examined, the FCDO has been too slow to identify detentions of concern and to escalate these cases within the department. Any system of rapidly identifying such cases needs to be able to harness the extensive knowledge of the environment held at Post with guidance based on the breadth of experience of the FCDO and external expertise.

40. It is important that the “no concessions” policy, and the limited toolbox of standard diplomatic responses, should not preclude creative negotiations and conversations within the confines of UK and international law; or limit the effectiveness of points of leverage the UK Government may be able to realise and apply.

Appointment of a single lead on cases of arbitrary detention

41. To summarise, we see considerable benefits to having a single lead official on matters relating to cases of arbitrary detention and state hostage taking. These, covered in more detail earlier, include:

- a) Providing better continuity and more credible engagement with families;⁸⁶
- b) Better continuity of case management;
- c) The ability to recruit with specific expertise and experience;
- d) A direct line of communication to the highest level of decision making and freedom to initiate plans within their remit that may be beyond the standard diplomatic toolbox;
- e) The ability for the Government to work on solutions in a distinct lane of engagement with the detaining state or state organisation separate from bilateral interests.

We accept that there are limited data on the effectiveness of this approach in securing early releases. We also recognise the limited number of cases of UK citizens that clearly fall within these categories; the risks that escalation to such an office may draw increased attention to the case in the detaining state; and the potential for relevant cases to be missed.

84 [Q134](#) [Rachel Briggs]

85 Rachel Briggs ([SLH0016](#)) para 36

86 The MacGregor review recommended the appointments of a Senior Officers for Family Engagement to work with and support teams handling Complex detentions. We are unsure whether such a post exists.

42. On balance, we believe that the MacGregor review’s recommendations do not go far enough and the interests of the affected families and those of the FCDO in securing detainee releases are best served by concentrating responsibility for handling these cases in a single senior position. *We recommend that over the next 12 months the Government undertake appropriate consultation to establish the position of Director for Arbitrary and Complex Detentions (DACD). This post should be specifically recruited on a renewable five-year term with a mandate that includes coordinating the response to certain cases, providing a point of contact for families, convening a cross-government response, and coordinating the UK’s response to the multilateral efforts to address state hostage taking and arbitrary detention with a relentless focus on them. The postholder should have a direct line to the Prime Minister. If the Government refuses to implement this recommendation the lead for all state hostage cases should sit with the Foreign Secretary.*

43. *All cases of arbitrary detention should be pursued at speed from as early as possible with a full mobilisation response before the person is formally charged. We recommend that appropriate consultation take place to establish a clear system for quickly identifying cases that fall under the criteria to be handled by the Director of Arbitrary and Complex Detentions and escalating them to that unit. The FCDO should ensure that it has the in-house capacity and expert capability to negotiate. We recommend that the FCDO prepares advice for families and organisations on the options for engaging a third-party negotiator where the FCDO is unable or unwilling to negotiate with captors, does not recognise the legitimacy of the detaining government, or does not recognise a detention as state hostage taking. The FCDO should constructively work with specialist third-party negotiators and other experts from a very early stage, sharing with affected families as much information as possible.*

Diplomatic protection

(...) for almost five years, we always felt unimportant, neglected, and not British enough⁸⁷ - the family of Annosheh Ashoori

Box 5: Background to Diplomatic Protection

On 7 March 2019, then Foreign Secretary Jeremy Hunt granted Mrs Zaghari-Ratcliffe diplomatic protection. REDRESS explains: “Diplomatic protection deems that an injury to Mrs Zaghari-Ratcliffe is an injury to the UK itself, recognizes her predominant nationality as British, and provides an umbrella under which the government is empowered to take action to protect her.”⁸⁸

Professor Carla Ferstman and Dr Marina Sharpe, experts in international law surrounding hostage diplomacy, told us: “The decision to exercise diplomatic protection essentially constitutes recognition that there is a dispute between the UK Government and the detaining state as a result of the commission of an internationally wrongful act against the UK and for which domestic remedies have been exhausted. Any case involving hostage-taking and/or serious deprivation of human rights involving a UK national (including dual nationals) will involve the commission of an internationally wrongful act against the UK.”⁸⁹—to put it crudely: the case has been elevated to a state-to-state issue.

87 Ashoori (SLH0039) para 84

88 REDRESS (SLH0024) para 9

89 Ferstman and Sharpe (SLH0018) para 15

44. Former Foreign Secretary Jeremy Hunt told us that the primary aim of extending diplomatic protection to Mrs Zaghari-Ratcliffe was to “annoy” the Iranian regime—something which he believes was achieved.⁹⁰ Whilst much of the evidence was supportive of the Government’s decision to use this tool, we heard a number of criticisms of the way this approach was implemented:

- It was treated as a “largely symbolic measure”⁹¹ by the UK Government with doubts from the beginning as to whether it would yield any success;
- It was applied inconsistently. We heard that a number of families specifically requested diplomatic protection for their loved ones⁹² but were not granted it despite no obvious differences in the particulars of their cases;⁹³
- It took too long to decide to extend it to Mrs Zaghari-Ratcliffe. Dr Tatyana Eatwell, of Doughty Street Chambers, told us it took two and half years after making initial submissions to the Government on behalf of Nazanin Zaghari-Ratcliffe;⁹⁴
- The way the measure was announced in the initial statement from then Foreign Secretary Jeremy Hunt was undermined by its lack of forceful language,⁹⁵ stating that it “is unlikely to be a magic wand that leads to an overnight result”.⁹⁶ It also appeared to be undermined by Ministers consistently referring to Mrs Zaghari-Ratcliffe as a dual national rather than emphasising her effective nationality as a British citizen (a position the Government affirmed in the affording of diplomatic protection)⁹⁷ whilst at the same time asserting that this was being used as an excuse by Iran for not releasing her;⁹⁸
- The mechanism was underutilised and undermined, which could erode its effectiveness in any future use.⁹⁹

90 [Q31](#) [Jeremy Hunt]

91 [Q31](#) [Jeremy Hunt]

92 See, for example, Janet Daby MP for the Ashoori family ([SLH0010](#) para 3.11); “Despite indications from the Foreign Secretary and FCDO that the submissions on the severe violations of Mr Ashoori’s rights were accepted, the Foreign Secretary indicated to the family of Mr Ashoori and their legal counsel, that the Foreign Secretary [then Dominic Raab] was minded to not diplomatically protect Mr Ashoori as a matter of discretion.” Ashoori ([SLH0039](#))

93 The Ashooris, for example, stated “Foreign Secretary and FCDO displayed clear hesitation in utilising this tool, imparting a distinct feeling that a decision not to diplomatically protect Mr Ashoori was predetermined and would not be utilised, no matter how vulnerable his situation, or how ineffective the UK’s ability to protect him or provide consular support might be.” Ashoori ([SLH0039](#)) para 83

94 [Q137](#) [Tatyana Eatwell]

95 [Q141](#) [Tatyana Eatwell]

96 Foreign and Commonwealth Office, [Press release] [Foreign Secretary affords Nazanin Zaghari Ratcliffe diplomatic protection](#), 7 March 2019

97 See, for example HL Deb, 24 March 2021, [Col 824](#) [Lords Chamber]; HC Deb, 25 October 2021 Volume 702, [Col 62](#) during which the Minister failed to answer a question about how diplomatic protection had been applied

98 See, for example, HC Deb, 16 November 2021, [Col 213](#); REDRESS affirmed that the only reference Iran made to the diplomatic protection was to discount it based on Mrs Zaghari-Ratcliffe citizenship ([SLH0036](#))

99 See, for example, REDRESS ([SLH0024](#)) para 11; Tulip Siddiq told us: “The failure to utilise diplomatic protection meant that Iran faced limited consequences or disincentives for the abuse that Nazanin was subjected to during her six years of detention.” ([SLH0023](#)) para 2

45. The evidence would suggest that the Government's use of diplomatic protection in cases of arbitrary detention was badly handled. It was ill thought through and poorly implemented. It is likely that this was due to officials' discomfort with this approach and a failure to implement it fully. This episode serves to illustrate an inconsistent and, at times, clumsy approach by Government.

46. *We recommend that in the next six months the Government learns lessons from the extending of Diplomatic Protection to Nazanin Zaghari-Ratcliffe and draws up clear guidelines on situations where diplomatic protection could be considered and how it might be employed. If this mechanism is to be used again, we recommend that the Government outlines to the family and this Committee from the outset the rationale for its use and means of enforcement.*

Parliamentary engagement

Without a shadow of a doubt the support of Parliament was crucial in ensuring the debt was paid and Nazanin was freed. So every minute an MP spent (...) I think it made a huge difference.¹⁰⁰ - Tulip Siddiq MP

47. Parliamentary scrutiny is important in cases of state hostage taking.¹⁰¹ On one level, the cases we have considered demonstrated parliamentary processes working as they should. Constituency MPs raised matters pertaining to their constituents, making use of the various opportunities in the House. We heard of assiduous commitment by these MPs in accompanying families to meetings with the Government and in campaigning activities.¹⁰² On occasion members have been given private briefings by Foreign Office ministers on individual cases. This Committee has also been involved, scrutinising the FCDO's overall approach through the tracking of particular cases. However, there is scope for improvement:

- a) Due to the sensitivity the FCDO ascribes to many of these cases, there is not a Parliamentary process that allows rigorous scrutiny of their approach either at the granular case by case level, nor more broadly at a regional or global level,¹⁰³
- b) The raising of individual cases by constituency MPs does not necessarily provide the broader scrutiny of the UK Government's approach;

100 Tulip Siddiq MP, Committee Corridor, 21 July 2022, [State Hostage Taking: Can Parliament help?](#) 25:50

101 Prof Carla Ferstman and Dr Marina Sharpe, legal experts in state hostage taking, told us: "There should be transparency and oversight of the exercise of the Government's discretion. (...) Additionally, Parliament's role is crucial. There should be a way for Parliament to provide real-time oversight of cases involving hostage-taking and/or serious deprivation of human rights. Periodic, post facto reviews are important but are inadequate to address the needs for timely and ongoing oversight." (SLH0018)

102 Richard Ratcliffe, speaking on the podcast Committee Corridor, told us of the importance of having Tulip Siddiq MP as their voice in Parliament rallying pressure to compel the Government to act. He also described Parliament initially being a "sight of diplomacy" where Ministers were overly cautious of how the proceeding would be interpreted in Tehran which rendered them anaemic. (Committee Corridor, 21 July 2022, [State Hostage Taking: Can Parliament help?](#) 15:30)

103 For example, for the conditions pertaining to a deal whereby UK nationals were released whilst £393.8 million of UK taxpayers' money was being transferred to their captors to receive no scrutiny is regrettable. See Chapter 5.

- c) As discussed in chapter 3, there is inconsistency, including inaccurate information being shared on the progress of cases and names of those being held, in the Government's responses to Parliamentary questions and the accounts of the families in terms of permissions given.

48. There should be a more constructive relationship between Parliament and the FCDO in support of efforts to bring home UK nationals arbitrarily detained abroad and also to further long-term international efforts to deter the practice. Parliamentarians can also assist by providing a broader form of diplomacy.

49. We recommend that the FCDO demonstrates meaningful engagement and provides the Committee with an annual private report on the progress of UK nationals arbitrarily detained abroad, with follow-up briefing at the Foreign Office if required, to enable the work of Parliament and Government to better serve UK interests.

3 How the UK Government has communicated to Parliament and the public about cases

Over time the Government was gradually more honest about our situation (...) I am not sure whether we moved the dial fundamentally (...) if someone was taken tomorrow, would the experience be so different to ours? I think we made ourselves a big enough political issue that we got solved.¹⁰⁴ - Richard Ratcliffe

Quiet Diplomacy and the merits and drawbacks of ‘Going Public’

50. Whilst the FCDO recognises that at the macro level it will engage in ‘noisy diplomacy’, the FCDO’s over-riding preference is to address such disputes through the use of “quiet diplomacy”.¹⁰⁵ This involves making appeals on humanitarian grounds¹⁰⁶ and steadily increasing diplomatic objections where there are concerns over human rights abuses and fairness of the trial process;¹⁰⁷ or calling upon the regime to honour its own legal code.¹⁰⁸ The UK Government is reluctant to make judgements on another country’s judicial system and is bound by the Vienna Convention on Consular Relations not to intervene in individual cases.¹⁰⁹ Opinions are divided over the Government’s policy of “quiet diplomacy”—a policy which implicitly precludes stakeholders from “going public” about individual cases.

51. Arguments for quiet diplomacy ran as follows:

- a) It is more effective albeit not always quick.¹¹⁰ In answer to a question about the effectiveness of quiet diplomacy, then Foreign Secretary Liz Truss told us that:

(...) the way that we secured Nazanin’s release and Anoosheh’s release was through a lot of quite low-key work to get it done. Sometimes publicity does not help;¹¹¹

104 Richard Ratcliffe, Committee Corridor, 21 July 2022, [State Hostage Taking: Can Parliament help?](#) 13:15

105 The FCDO explained: “We have consistently advised that, based on past experience, public discourse around cases can make it more difficult to engage effectively with the Iranian system. We recognise that not all families agree with this premise, and we respect the right of families to make their own decisions in this regard.” ([SLH0021](#) para 11); see also [Q240](#) [Tariq Ahmad]

106 [Q58](#) [Philip Hammond]

107 See, for example, [Q29](#) [Jeremy Hunt]

108 [Q1](#) [Alistair Burt]

109 [Q58](#) [Philip Hammond]; the FCDO state that the Vienna Convention prevents staff from interfering in the internal affairs of the host country when providing consular assistance (Foreign Commonwealth and Development Office, [Guidance] [Consular assistance: how the Foreign, Commonwealth & Development Office provides support](#), 31 August 2022)

110 Philip Hammond told us: “The regular course of consular diplomacy involves constant engagement with countries, making an appropriate case to get an outcome that is satisfactory. Very often, that is not done by grandstanding. It is done by quiet diplomacy.” ([Q97](#)) Then-Foreign Secretary Liz Truss had similar sentiments: “There are different cases, and different governments are influenced in different ways. Where we feel it is helpful, we will take that approach. For example, securing the release of detainees from Afghanistan was done in a very quiet fashion and was successful. I think we have to be careful not to give publicity to some of these cases where the malign regime wants the publicity. That is the issue we face.” ([Q99](#))

111 [Q97](#)

- b) Greater publicity might reinforce, or be used to reinforce, the offending regime's propaganda that the detainee is a person of significance;¹¹²
 - c) There could be implications for the welfare of the detainee.¹¹³
52. We identified a number of objectives of "going public":
- a) To turn media attention onto the offending state with the goal of making the hostage safer through greater international scrutiny;¹¹⁴
 - b) To enable governments to create negative publicity for the offending state thereby creating their own leverage to catalyse release of a detainee;¹¹⁵
 - c) To enable families to gain more momentum and action by the UK Government in their cases via Parliament or by direct appeal to ministers. (see next section);¹¹⁶
 - d) To prevent hostage takers silencing the UK, leading to an underground form of diplomacy.¹¹⁷
53. The quiet diplomacy policy has involved advising families of detainees that they should remain quiet about the detention of their loved one and, in some cases, to avoid speaking to others with more vocal campaigns.¹¹⁸ The impression this policy of quiet diplomacy made on detainees and their families was that it allowed inaction, or low-level action, by the Government and avoided scrutiny, leaving the family feeling that the FCDO considered them less important:

It has led the family to believe that this advice and strategy was pushed onto the family by the FCDO without the best interest of the British national detained and his British family in mind, but rather with focus on self-preservation by the FCDO. Indeed, the family have voiced an understanding that this position was "pursued by the FCDO to reduce scrutiny from the families as a united front."¹¹⁹

112 [Q98](#) [Philip Hammond]

113 The FCDO told us: "We seek to act in a way that we judge is most likely to be in the best interests of British nationals detained in Iran, and to avoid taking action that could harm either their immediate welfare or the prospects of achieving a satisfactory outcome in their case." ([SLH0021](#)) para 11

114 Hostage International observed that: "We have noted a difference between kidnap cases, where the safety of a hostage could be jeopardised if media is involved, and illegal detention cases where the prison conditions or welfare of some detainees have arguably been improved or maintained through media publicity." ([SLH0022](#)) Richard Ratcliffe told us that "generally the more public we were, the safer we were." (Committee Corridor, 21 July 2022, [State Hostage Taking: Can Parliament help?](#) 14:40)

115 Dr Hans-Jakob Schindler of the Counter Extremism Project told the Committee: "Publicity elevates the case politically within the Iranian system and the role of the Iranian foreign ministry in the negotiations concerning the case diminishes accordingly. Therefore, it is in the interest of the Iranian foreign ministry to avoid publicity for as long as possible (...) Enhancing national and international media attention concerning the case. In my experience, the Iranian system is not insensitive to reputational concerns." ([SLH0033](#))

116 See, for example, Janet Daby ([SLH0010](#)) para 3.9; APPG on deaths abroad etc. ([SLH0015](#)) para 5.6

117 See, for example, Ashooris ([SLH0039](#)) para 43

118 Lawyers for Mr Ashoori stated: Mr Ashoori's wife recalled how her family was "always pointedly kept away from others, including Richard Ratcliffe, as the government knew that there was strength in numbers." She described how she was "warned about listening to Richard [Ratcliffe] and becoming involved in their 'baggage.'" ([SLH0039](#)) para 44. The family also felt very isolated without the support network that they could have accessed, particularly being the primary source of information for the UK Government of the status of Mr Ashoori (para 48)

119 Ashooris ([SLH0039](#)) para 46

54. We heard that consideration of timescales regarding publicity is vital. Experts spoke of windows or stages during the detention where release and quiet diplomacy is more likely to work. They described a time early on in the detention where the focus should be on identifying the reason for arrest (often a minor infraction of a local law) and settling it immediately and quietly before more senior authorities realise the opportunity to exploit the detention or it becomes politicised.¹²⁰ Most commentators suggested that this is normally a period of between one and two months, and before the person is formally charged.¹²¹

55. **The presumption that “quiet diplomacy” and family silence is always appropriate throughout cases of state detentions and state hostage taking is a false one, other than in the initial phases. Silence abets state hostage taking. We recommend the Government uses the strongest possible language to call out situations of state hostage taking as soon as it becomes clear detentions are being used for leverage.**

The role of publicity in compelling Government action and communicating injustice

56. It is the view of many families of detainees, and of the former Foreign Secretary Jeremy Hunt, that cases are generally treated as just one in a long list of priorities for the Government’s diplomatic agenda with the offending country, and were afforded diplomatic capital according to the priorities each of the five Foreign Secretaries decided to give it.¹²² Jeremy Hunt told the Committee that he believed the Government were “getting it wrong” and that failure to see hostage taking as a red line is unacceptable:

My feeling was that if we believe that Britain’s role in the world is to stand up for democracy, liberal values and human rights, this is actually an incredibly important thing to sort out, because it demonstrates our belief, and our values, that every single citizen matters.

We are not the kind of country that says it’s okay to accept that some citizens will be imprisoned or killed because that’s a sort of collateral damage. That’s the way people like Putin think about their own citizens; we don’t.¹²³

57. In a 2014 report from one of our predecessor Committees it was noted that the response by the Foreign Office in such cases should be based on the needs of each case rather than the levels of media attention:

Press interest should not affect the FCO’s decision making, but we have repeatedly been informed that media interest generates a more active response from the FCO. If true, this is unacceptable (...) If the FCO has

120 [Q184](#) (Phil Harper); [Q167](#) (Hans-Jakob Schindler); see also [Q185](#) (Mickey Bergman)

121 See, for example, Richard Ratcliffe, Committee Corridor, 21 July 2022, [State Hostage Taking: Can Parliament help?](#) 16:48

122 [Q24](#) [Jeremy Hunt]; Kamran Foroughi identifies out the FCDO’s upgrading of Iran to full Ambassador level in September 2016 without the release of any of the arbitrarily detained citizens held at the time as a mistake ([SLH0034](#) para 3.1.2)

123 [Q24](#) [Jeremy Hunt]

in fact been working behind closed doors on the national's behalf, it must improve its communication with the prisoner and their family to make them aware of this.¹²⁴

Little appears to have changed. Minister for Consular Policy, David Rutley, was unaware of the situation regarding highly significant cases when questioned about them by the Committee.¹²⁵ Anoosheh Ashoori and his family regretted that they waited so long to go public with his case and that it was only this publicity which persuaded the Government to elevate the priority of his case in negotiations with Iran. Had they remained quiet he may not have been included in the March 2022 deal under which he was released.¹²⁶ Richard Ratcliffe felt compelled to go on hunger strike to protest at the Government's lack of activity. Daniela Tejada, wife of Matthew Hedges, a UK academic detained in the United Arab Emirates, maintains that she was certain the only reason her husband's case received the attention it did from the FCDO was her choice to go public.¹²⁷ There was a strong feeling amongst many we spoke to that Nazanin Zaghari-Ratcliffe's case received more attention from the Government because she had a more prominent public profile as a result of the attention the media gave to her family's campaign.¹²⁸ Indeed, Lord Hammond, Foreign Secretary at the time of her arrest, suggested he did not become aware of her case until it was raised in a Parliamentary debate over a month after her arrest.¹²⁹ Janet Daby MP, representing the Ashoori family in Parliament, told the Committee:

By publicly raising Anoosheh's case along with Nazanin Zaghari-Ratcliffe, this created the political pressure and political climate for the Government to spend £400 million of taxpayers' money to secure the release of the detainees. This could have been harder to achieve if both Nazanin's and Anoosheh's were kept from the media attention.¹³⁰

Some families felt that the reference to "Nazanin and others" in Parliamentary statements, even after express permission had been given by the families to mention the cases in public, was both hurtful and confusing.^{131 132}

58. We recognise the need to explain the challenges regarding consular access in certain countries.¹³³ Nevertheless, the failure of ministers to stress the British nationality of detainees in Parliament, even in situations where the UN Working Group on Arbitrary Detention has advised that nationality is a primary motivation for detention, may not

124 Foreign Affairs Committee, Fifth Report of session 2014–15, [Support for British nationals abroad: The Consular Service, HC 516](#), para 93

125 Private evidence; [Q247](#) [David Rutley]

126 Ashoori ([SLH0039](#)) Para 47; also Shahrzad Izadi Benam (wife of Mr Ashoori) told us: "By urging us to remain quiet and away from publicity, they were protecting their own interests and keeping themselves immune from public and media scrutiny. Advocacy for silence was the worst possible option as it was later proven that publicity leading to parliamentary and public pressure compelled the government to pay its debt." ([SLH0039](#)) personal statement para 3

127 APPG on deaths abroad etc. ([SLH0015](#)) para 4

128 For example, Dr Kylie Moore-Gilbert suggested to us: "One might conclude that the UK government prioritised the rights of those dual citizens who had the loudest campaigns and the greatest public name recognition, at the expense of others whose families followed the FCDO's advice in staying out of the public eye and letting 'quiet diplomacy' take its course." ([SLH0003](#)) para 14

129 [Q92](#) [Philip Hammond]

130 Janet Daby ([SLH0010](#)) para 3.9

131 There were at least three occasions between July 2019 and November 2021 where ministers referred to "Nazanin and others".

132 See Ashooris ([SLH0039](#)) para 77

133 See, for example, FCDO ([SLH0021](#)) para 12

harm attempts to resolve cases but can be deeply hurtful for the detainee and their family.¹³⁴ It also reduces the Government's ability to advocate by reinforcing the detaining country's position.¹³⁵

59. The Government and its allies have missed key opportunities to publicly demonstrate the importance placed on the release of UK nationals, both privately and in public. The decision of Richard Ratcliffe to begin a hunger strike is perhaps the starkest example of this failure. The onus should be on FCDO officials and ministers to demonstrate to the detaining state and to the families of state hostages that they consider the detention of those concerned as both unjust and an issue that is considered distinct from other diplomatic priorities. Families should never be left to feel that the only way the Government will prioritise their case is by acting against advice and, in some cases, their better judgement, by going to the media and to Parliament.

60. We recommend that if a family believes their case would be best served by going public, the Government should have frank, detailed and regular conversations with them on the likely impacts of their decision and advise on how to proceed in the safest way possible and support them as they pursue that decision.

Accuracy and consistency of communication

61. Despite the departmental culture of extreme caution in the sharing of information on politically sensitive detentions, ministerial communication has been plagued by inconsistency and clumsiness.¹³⁶

134 Ashooris ([SLH0039](#)) paras 73,

135 See, for example, Tulip Siddiq ([SLH0023](#)) 2.d.

136 In addition to the examples below, the Diamond family told us how communication over UK residents (those ordinarily resident but without full citizenship status), particularly in Parliament, was inconsistent and incoherent with what the families were being told. ([SLH0004](#))

Box 6: Evidence of failures in Government communications on politically sensitive detentions**(1) Then-Foreign Secretary Boris Johnson in evidence to the Foreign Affairs Committee relating to Nazanin Zaghari-Ratcliffe**

On 1 November 2017 (19 months after Nazanin’s detention), Foreign Secretary Boris Johnson appeared before the Foreign Affairs Committee and was asked a series of questions about Iran and the detainees at the time. In answer to a question from Ann Clwyd he replied:

Obviously, we will have to be very careful about this, because we want them to be released. (...) When we look at what Nazanin Zaghari-Ratcliffe was doing, she was simply teaching people journalism, as I understand it, at the very limit.¹³⁷

This comment subsequently came under sustained criticism from Nazanin’s family and the media who insisted that such information was untrue and likely to make the situation worse.¹³⁸ Richard Ratcliffe told us that this statement was used in evidence against her at a subsequent trial and in Iranian propaganda.¹³⁹

Then-Foreign Secretary Liz Truss and communication over the inclusion of Morad Tahbaz in the release of prisoners in March 2022

Evidence from the family and private conversations with US officials indicated that then-Foreign Secretary Liz Truss had agreed with the Americans that any deal for the release of detainees in March 2022 would include Morad Tahbaz (a UK-US-Iranian tri-national) in return for their help brokering a deal. However, Liz Truss did not stand by this arrangement and failed to let either the family or US officials know that Morad was not to be released with Nazanin Zaghari-Ratcliffe and Anoosheh Ashoori. Instead of being informed by the FCDO or the Foreign Secretary, the Tahbaz family learnt about Nazanin’s and Anoosheh’s releases on the news. It was, instead, left to senior US State Department officials to formally notify them that Morad had not been released. Liz Truss eventually called the family to say that “Morad is now a US problem”, implying that she

137 Oral evidence taken on 1 November 2017, HC (2017-19) 583, [Q73](#) [Boris Johnson]

138 See, for example, Tulip Siddiq ([SLH0023](#)) section 1c), and [Boris Johnson is supposed to be getting Nazanin Ratcliffe out of an Iranian prison but his comments endanger her further](#), Peyvand Khorsandi, The Independent, 2 November 2017, Accessed 23 March 2023

139 Committee Corridor, 21 July 2022, [State Hostage Taking: Can Parliament help?](#) 11:13

would not put further effort into his release, and she did not have time to speak to them further. She also gave inaccurate descriptions to Parliament over her communications with Morad himself, which she subsequently corrected.^{140 141} Morad remains a hostage of Iran.

(2) Communication about Matthew Hedges, detained in the United Arab Emirates

Allegations were made by the family of Matthew Hedges, a UK national held in the United Arab Emirates on espionage charges, that the FCDO intervened to prevent a newspaper publishing a story about his case which contained a comment by his wife, Ms Tejada. When she disagreed with the FCDO's advice not to go public, the FCDO phoned the editors of The Times and The Sunday Times, "behind [her] back and against [her] will" to say that she was going public against advice and had changed her mind about doing so.¹⁴²

62. UK nationals have been let down by the information shared by Ministers—actions which were counterproductive and may have contributed to less favourable conditions for an earlier release. Coherence and accuracy are vital not only in fairness to the families involved, but also to send the message to countries that may consider using detainees as leverage, that the UK will not tolerate this form of statecraft involving any of its nationals. Additionally, care should be taken to ensure that the British nationality of the detainee be stressed in communications. *We recommend that a publicity plan be created with families from the early stages and is adjusted in collaboration with them as the case progresses.*

140 Then-Foreign Secretary Liz Truss claimed in a debate on 18th March 2022 that she had spoken directly with Morad: "On the subject of Morad Tahbaz, who I spoke to at the end of last year when he was in prison, we have secured his release on furlough." The family told us that this was completely untrue. The record was later [corrected](#) to say: "On the subject of Morad Tahbaz, we have secured his release on furlough. He is now at home. That was an important point that we pressed with the Iranian Government. (...) of course we will continue to get him home, as well as other detainees who do not want their names released in public." The Tahbaz family confirmed that as part of the UK deal the Foreign Secretary claimed that she had secured an indefinite furlough for Morad and also his wife Vida's travel ban would be removed and she will be free to leave the country. Ultimately, Morad was just released for 24 hours until the plane carrying Nazanin and Anoosheh took off and Vida's travel ban remained in place. Morad was later released on furlough for three months from July 26 to Oct. 26, 2022. This was, the family argue, only achieved through the pressure and hard work of Oman and USA governments.

141 In a letter to the Chair from Liz Truss on 12 August 2022 the Foreign Secretary described "frequent contact" between the department and family during the period concerned, that it "was not possible to secure his immediate release due to his dual nationality" and that they "continue to work closely with the United States to secure Mr Tahbaz's permanent release." (Correspondence with the Foreign Secretary, dated [12 August 2022](#))

142 APPG on Deaths Abroad etc. (SLH0015) Para 4

4 Consular support

Consular support for detainees

63. There are differing expectations surrounding the obligations of the UK Government when a British national is arrested abroad. For the sake of this inquiry we have used the FCDO's own guidance ([Arrested or Detained Abroad](#)) as a benchmark.¹⁴³ Professor Frédéric Mégret of McGill University explained that the Vienna Convention on Consular Relations, of which Iran is a signatory, requires consular access to detainees by their national authorities and failure to honour it may be an indicator that a detainee will be used as leverage.¹⁴⁴

The FCDO's moral and legal obligations

64. The FCDO is clear that it is not legally obliged to provide consular assistance to UK nationals abroad.¹⁴⁵ However, the Foreign Secretary, Rt Hon James Cleverly MP, told us that the FCDO will provide consular support where possible in situations where a British national (or dual national) is vulnerable or where they have humanitarian or human rights concerns.¹⁴⁶ We heard that the FCDO has failed to provide the services it offers in a number of cases of state hostage taking and arbitrary detention both in Iran and elsewhere, even after it has assured families that they are working for the release of their loved ones. Some witnesses argued that there should be a legal requirement for the UK Government to provide consular assistance in order to maximise accountability and improve quality of service.¹⁴⁷

65. The FCDO explained that Iranian law precludes them from providing consular assistance to Iranian-UK dual nationals.¹⁴⁸ There is strong evidence to suggest that the FCDO does not always pursue every possible approach to providing the consular support options which may have been open to them. For example:

- a) there were no UK Embassy officials either present at, or standing outside of, Nazanin Zaghari-Ratcliffe's trial in March 2021¹⁴⁹—presence of officials would have sent a message to the court that the UK Government was concerned with ensuring “international standards” were maintained in accordance with their guidance as German officials have done in the case of one of their dual nationals

143 This advice was updated in August 2022 (see previous advice [here](#)) and includes a number of new forms of assistance which may be available, which we welcome. We note, however, that the option of consular in-person visits has been placed further down the list alongside telephone and letter communication.

144 [Vienna Convention on Consular Relations](#), UN, Article 36, p15; Prof Frédéric Mégret ([SLH0014](#)); see also Amnesty ([SLH0031](#)) para 2.4

145 Foreign Commonwealth and Development Office, [Support for British nationals abroad](#), 31 August 2022, Access 20 March 2023, p4

146 Correspondence [21 March 2023](#); the only reasons given as to why the FCDO might withdraw consular support to an individual in these circumstances is where an individual may be abusive toward staff, or where it is clear that there is no more they can do help.

147 See, for example, Darren Nair ([SLH0013](#)) para 1; Ferstman and Sharpe discussed a victims code of conduct with enhanced rights in such cases ([SLH0018](#)) para 18.

148 British Embassy Tehran, [Information Pack for British Prisoners in Iran](#), August 2020, Accessed 19 June 2023

149 Amnesty International UK ([SLH0031](#)) para 3.1

in Iran.¹⁵⁰ We have seen this approach in the case of UK national Vladimir Kara-Murza, detained in Russia.¹⁵¹ Multiple representatives may have sent an even stronger message as seen in the “two Michaels case” in China (see chapter 2). Lord Ahmad suggested that in Iran the safety of diplomats may have been a consideration.¹⁵² We do not accept this.

- b) REDRESS claims that whilst the UK Government requested consular access in the case of Nazanin Zaghari-Ratcliffe, it did not assert rights to it under international law.¹⁵³ Officials failed to assert their right to communicate with or visit her in prison, or even when she was under house arrest and living with her parents.¹⁵⁴
- c) Before leaving the country, Mrs Zaghari-Ratcliffe was taken to an IRGC office to sign a confession. We were told she was driven there by the UK Ambassador and allowed to go in by herself whilst he waited. A second document was signed at the airport before she was allowed to leave the country.¹⁵⁵ Despite insistence from the Government that she was not forced to sign these confessions,¹⁵⁶ the very fact that the FCDO facilitated such a demand against a UK citizen with diplomatic protection is difficult to countenance. This is particularly significant in light of the heavy reliance on confessions in establishing guilt in the Iranian legal system, a point made in the FCDO’s Prisoner Pack for Iran.¹⁵⁷
- d) In Dr Kylie Moore-Gilbert’s case, she did not receive any communication from the consular sections of either the British or Australian governments until after her fourth month of interrogation.¹⁵⁸

150 The FCDO, in their “Prisoners Pack” for Iran state: “If however you are not treated in line with internationally accepted standards we will consider approaching local authorities on your behalf. This may include if your trial does not follow internationally recognised standards for a fair trial or is unreasonably delayed compared to local cases.” (British Embassy Tehran, [Information Pack for British Prisoners in Iran](#), August 2020, Accessed 19 June 2023)

151 See PQ, [HL3490](#), [on Vladimir Kara-Murza], 17 November 2022. Although we are not aware that Vladimir Kara-Murza is being used in hostage diplomacy he is being detained in Russia.

152 [Q246](#) [Tariq Ahmad]

153 REDRESS ([SLH0024](#)) para 3; see also Tulip Siddiq MP ([SLH0023](#)) para 2

154 REDRESS ([SLH0036](#))

155 According to REDRESS who acted as legal counsel for the Ratcliffe family: “On 14 March 2022, Mrs Zaghari-Ratcliffe was summoned by Iranian officials. When she refused to go, the British Ambassador insisted she should, drove her to the Iranian Revolutionary Guard (IRGC) offices and waited outside for several hours while IRGC officials pressured her to sign a false confession, which included blank sections where additional charges could be added, as well as undertakings not to criticise Iran. On 16 April 2022, Mrs Zaghari-Ratcliffe was again presented with a false confession to sign at Tehran airport in the presence of her interrogator from her early days in prison. When she refused to sign it, she was told by an FCDO representative that she had to sign it to be allowed to leave the country. This forced confession was filmed by the Iranians.” ([SLH0024](#)) para 24

156 Lord Ahmad answered an urgent question on behalf of the Government: “A UK official was present to help facilitate the departure of both Nazanin and Anoosheh Ashoori, and passed on the message from the Islamic Revolutionary Guard Corps that she needed to sign a confession. Given the situation Iran put Nazanin in at the airport, she took the decision to sign the document. No UK official forced Nazanin to do so. Iran has a practice of insisting that detainees sign documents before they are released.” (HC Deb, Tuesday 24 May 2022, [Col 832](#); [Lords Chamber])

157 British Embassy Tehran, [Information Pack for British Prisoners in Iran](#), August 2020, Accessed 19 June 2023

158 Dr Kylie Moore-Gilbert ([SLH0003](#)) para 1; whilst there is an onus on detainees contacting their embassy in the event of an arrest, there is also an obligation under international law for the detaining state to facilitate this communication and to communicate with the relevant consular authority.

66. These examples are not confined to Iran. REDRESS highlights the case of Nicholas Tuffney’s detention in Panama in 2013 and 2014 where the conduct of the Foreign Office was deemed by the Parliamentary Ombudsman to be “not consistent with the relevant guidance; and that that was maladministration.”¹⁵⁹ Gregg Fryett, detained in Cambodia, claims that he (and other UK nationals detained there) were exposed to corrupt legal proceedings and were severely mistreated. Despite this, he describes how a UK Government delegation sent to discuss his case with Cambodian authorities failed to publicly call for any improvement to the standards of his detention which his description would suggest as being below internationally recognised standards.¹⁶⁰ Kevin Brennan MP told us of the systematic failure of the FCDO to provide consular support to his constituent Luke Symons and his family, whilst he was detained in Yemen, as they sought to secure his release.¹⁶¹

67. Contributors have made the case that the FCDO has an ongoing responsibility to support victims and their families, both during detention and on release, and to take on board feedback.¹⁶² David Rutley, Minister for consular policy, confirmed that there are feedback mechanisms both via direct contact with former detainees and via third party support organisations.¹⁶³ Nazanin Zaghari-Ratcliffe and her family told us that they appreciated the support given at the retreat which was provided by the FCDO on their release. The family found it remarkable that there was not a debriefing or lessons learnt meeting with them and there has not been any formal post-release care since the retreat.¹⁶⁴

68. The UK Government is judged on how it cares for its citizens at home and overseas. In Iran, the Government failed to assert and secure its rights under the Vienna Convention to provide consular assistance to UK nationals held in Iran. Moreover, the FCDO has been inconsistent in meeting its own commitments to supporting those arrested abroad. This failing, whilst not universal, is not confined to prisoners in Iran. If the recommendations in this report, and those of the MacGregor review, are implemented effectively, it should not be necessary to establish consular assistance as a legal right. However, if the situation does not improve, a legislative solution may be needed.

69. The UK Government, working with allies where possible, must use every means at its disposal to secure the basic level of consular access it commits to provide for its nationals and that it is entitled to under international law—regardless of the perceived legitimacy of the charges or rigour of the legal system. This could include imposing a political cost (such as delaying negotiation on other bilateral issues), walking out of speeches given by offending countries, or exploring legal options through the various international treaty mechanisms. In its annual report to this Committee on cases of arbitrary detention and state hostage taking, the Government should demonstrate how it has fulfilled these minimum standards of service.

159 Parliamentary and Health Service Ombudsman, Case ref [C2036447](#), in [SLH0024](#)

160 Greg Fryett ([SLH0007](#)) para 9

161 Kevin Brennan ([SLH0017](#))

162 Ashoori ([SLH0039](#)) para 88; para 93

163 [Q242](#) [David Rutley]

164 The Diamond family, British residents held in Iran, encouraged the creation of a hostage support fund ([SLH0004](#))

Consular support for families

*Our case worker was the one person whom I felt had a humanity about him and truly felt what we went through.*¹⁶⁵ — Elika Ashoori

70. Support for the families of those held hostage is absolutely key. Not only does appropriate support demonstrate that the Government is taking an active interest in the wellbeing of those who are experiencing trauma, but invests in a relationship of trust which will be vital as the two parties work together to bring the hostage home.¹⁶⁶ It also helps equip families with the information and advice they need to respond to the media, understand their legal options and engage with international NGOs.¹⁶⁷ Dr Tatyana Eatwell, of Doughty Street Chambers, told us:

Certainly speaking on behalf of the family here, they have the utmost respect for the consular officers here in London and what they did on a staff level, on a day-to-day basis.¹⁶⁸

There appear to be misunderstandings of the roles of the various teams which make up the consular assistance section at the FCDO. We heard that the time taken for cases to be elevated to “special consular” status took too long.¹⁶⁹ There was a perception from some families and experts that there was a specialist team that dealt with such complex cases. Upon allocation to this team, understood to be the Special Consular Cases team, engagement with families was considered to have improved dramatically.¹⁷⁰ However, our visit to the FCDO did not suggest that the decision concerning which team would engage with the case should, in theory, constitute a significantly different engagement. Regardless of the team assigned to the case, or the fact the communication in some cases was regular,¹⁷¹ and despite reassurances that other experts are routinely brought into such conversations, the majority of families we spoke to felt communication from FCDO was inadequate. Lawyers for the Ashoori family describe a “consistent feeling of a lack of transparency which impacts both Mr Ashoori and his family”, despite multiple requests for greater transparency. They described the administration as “chaotic” and responses to their questions as “robotic”.¹⁷² ¹⁷³ We heard of already difficult situations being made

165 Ashooris ([SLH0039](#)) Elika Ashoori personal statement para 3

166 Brian Jenkins, of the Rand Corporation, told the Committee: “I spent something like 5% of my time dealing with issues of the actual kidnapping and 95% of my time dealing with the families. That is a critical issue, in terms of keeping them on board and not having them go off in a different direction that may be counterproductive.” ([Q130](#))

167 See, for example, Leanne McKay ([SLH0008](#)) para 26

168 [Q144](#) [Tatyana Eatwell]

169 APPG on Deaths Abroad etc. ([SLH0015](#)); [Q144](#) [Tatyana Eatwell]; see earlier section [here](#)

170 See, for example, [Q118](#) [Rachel Briggs]; Kamran Foroughi told us: “I note that my father’s case passed from FCO [standard] Consular to FCO Special Cases Consular in late 2016. I do not think this led to any change in the FCO strategy in its attempts to release my father, nor would I have wanted it to. It was noticeable though that there were more resources within this team to provide more support for suffering families, which I welcome.” Kamran Foroughi ([SLH0034](#)) para 3.2

171 See, for example, Roxanne Tahbaz ([SLH0029](#))

172 The family maintained that most communications were repetitions of the point: “We continue to strongly urge the Iranian government to release Mr. Ashoori.” Ashoori ([SLH0039](#)) paras 50-52; Mr Ashoori’s daughter described FCDO responses: “At times it felt condescending, insulting and made me feel insignificant.” Elika Ashoori personal statement para 3

173 More recently this is experience echoed by the family of Nnamdi Kanu, a UK citizen arbitrarily detained in Nigeria. See, Mr Kingsley Kanu and Mrs Uchechi Okwu-Kanu ([SLH0045](#)) para 35

worse by the Government attempting to remove family members. For example, the family of UK citizen Jagtar Singh Johal, held arbitrarily in India, felt aggrieved by the multiple attempts to remove his wife from the UK since his detention.

71. Rachel Briggs observed that the consular teams, as the primary point of contact with families, are “subject to their political masters and in many instances find themselves the messengers of unwelcome and difficult messages”.¹⁷⁴ A particular frustration articulated by families was being told by the FCDO that it is taking substantive action when it is not¹⁷⁵ or when little additional detail is shared. In the Iran cases, making representations with the Ministry of Foreign Affairs at a ministerial level, and with the President, was considered substantive action by the FCDO.¹⁷⁶ In the case of Matthew Hedges, the APPG on Deaths Abroad, Consular Services and Assistance reported that the FCDO made no representations on his case despite indications that he was being held in solitary confinement and was being tortured.¹⁷⁷

72. The FCDO is at pains to point out in their evidence:

The provision of consular assistance remains within the discretion of the Foreign Secretary. It is for the Foreign Secretary to decide if and how to provide consular support, and which specific diplomatic tools to use at any particular point in time, weighing the risks and the potential benefits.¹⁷⁸

In contrast we have heard that in the US the Special Presidential Envoy for Hostage Affairs is likely to visit a family within hours of them being designated Wrongfully Detained.

Seeing families as partners

73. An alternative understanding of the role of families as partners was presented to us. The MacGregor Review made recommendations (see Annex 2 for more in-depth scrutiny of progress on recommendations in the review):

[the FCDO should] Seek to instil a greater sense of partnership: with the aim of sharing as much information as possible and in real time; explaining clearly and carefully when this was not possible and why: especially to clarify the difference between non-interference and permissible interventions. Ensure that records of meetings at which families are present are shared with them, so that misunderstandings or differences over interpretation are avoided.
(...)

174 [Q118](#) [Rachel Briggs]; this was supported by Mr Ashoori’s son who told us: “(...) our immediate points of contact at the FCDO, namely the civil servants acting as case workers, as well as successive UK ambassadors to Iran were there to respond to our queries and support when we requested. When they failed to meet our demands or answer our questions, it did not seem like that they were at fault as they were simply ‘messengers’.” ([SLH0039](#)) personal statement of Aryan Ashoori para 6

175 See, for example, APPG on Death Abroad etc. ([SLH0015](#)) para 3 and 4

176 The FCDO told us: “Foreign Secretaries have worked tirelessly in resolving this issue and persuading Iran to take the long-overdue decision to release them between them raising the issue thirty times with their counterparts, while Prime Ministers have raised their cases with the Iranian President seven times. Official engagement with the Iranian system is carried out regularly and at every level.” ([SLH0021](#)) para 9; this was supported by the accounts of discussion by Alistair Burt ([Q1](#))

177 APPG on Death Abroad etc. ([SLH0015](#)) para 3 and 4

178 FCDO ([SLH0021](#)) para 10

Change ‘Family Handling’ in FCO working parlance to ‘Family Engagement’ and avoid standardised phraseology: ‘We are doing all we can.’ ...¹⁷⁹

Consular Minister David Rutley explained that the FCDO is “improving” and that although “there have to be moments of trust where we might know some things that it would not be appropriate to pass on to the family (...) we realise that we have to be as open as we can.”¹⁸⁰

74. Dominic Barton, former Canadian ambassador to China during the resolution of the detention of the two Michaels, placed huge importance on partnership with the families:

The other part is that Vina [Michael Kovrig’s wife] was part of a team. It was not like, “We have got to manage the family.” There is that, but she was part of the brain power, if I can call it that.¹⁸¹

Similarly, we heard directly from Ambassador Carstens (SPEHA) the lengths he and his team go to in order to work as closely as possible with families. This involves direct communication between family members and him and his staff at any time of day or night, updates from relevant government departments (including intelligence agencies), advice and support on engaging with the media (more detail on the advantage of the SPEHA approach for families can be found in Chapter 2).

75. Despite the MacGregor Review recommendations, the approach FCDO takes in terms of communication is still frequently unsatisfactory for families. We heard from a number of families in private that there was a significant trust deficit between them and the Government, primarily brought about through poor communication and lack of transparency on the part of the Government. The family of a UK citizen arbitrarily detained in Nigeria felt that although they had regular communication with the FCDO this might not have been forthcoming had their legal representation not requested it.¹⁸² Minister Rutley admitted that the Government needed to “get better (...) at explaining what we can and cannot do, and at managing expectations”.¹⁸³

76. The working assumption should be that families are partners who have the potential to be instrumental in the attempts to resolve the detentions. Despite Government assurances, we do not believe that sufficient progress has been made in improving communication with families. Families are frequently assured by officials and ministers that they are “doing all they can” to secure the release of their detained family members. This is an inadequate response. To communicate standard diplomatic representations as substantive actions to families of detainees with little or no further detail is not conducive to a constructive and supportive working partnership.

77. We recommend that unless the detainee expressly withholds consent to do so, the families of any vulnerable or arbitrary detainee receiving consular assistance be provided by a senior manager or minister in the FCDO at the soonest possible time with a clear description of the Government’s plan of engagement. Briefings should be

179 [Review of Complex Consular Cases](#), Dame Judith MacGregor, 6 June 2019

180 [Q242](#) [David Rutley]

181 Mickey Bergman of the Richardson Center shared similar sentiments: “[families] often know much more about the nuances, and who is taking and dealing with their loved ones than the official who is speaking to them.” [\(Q197\)](#)

182 Mr Kingsley Kanu and Mrs Uchechi Okwu-Kanu [\(SLH0045\)](#) para 37

183 [Q242](#) [David Rutley]

frequent and include as much detail as possible. It should be clearly explained that some information will be classified but that the aim will be for maximum transparency. The relevant official or minister should be prepared to give private briefings to the relevant constituency Member of Parliament if requested by the family. This requires a significant step-change in the Government's approach, which reinforces the need for a Director for Arbitrary and Complex Detentions.

Signposting to support for families and detainees

78. The FCDO signposts families to certain organisations depending on their circumstances. Many of these receive funding on a contractual basis from the Government.¹⁸⁴ Organisations which specialise in the emotional and practical support of those illegally detained, such as Hostage International, are not systematically linked to families in this situation.¹⁸⁵

79. We welcome the willingness of the FCDO to refer detainees and families of detainees to organisations such as Hostage International, Reprieve, Fair Trials and Prisoners Abroad who are able to offer assistance and counsel. We believe this is a highly appropriate approach to supporting families but could go further.

80. *We recommend a plan be prepared by the FCDO for providing material support for long-term arbitrarily detained persons on their release as well as support during detention for families especially where the detainee is the primary earner. In this context the FCDO should:*

- *Continue to resource organisations who provide psychological support beyond release and physical rehabilitation such as drug addiction support;*
- *Develop a programme of scheduled follow-up meetings at regular intervals for, say, the first three years post-release where requested;*
- *Improve coordination with the Home Office and other Government Departments to ensure families are well supported throughout their ordeal.*

184 Those facing the death penalty are signposted to Reprieve or The Death Penalty Project. All detainees are offered to be linked to Prisoners Abroad who aim to help with practical considerations such as organising power of attorney and the delivery of books and newspapers. (Foreign Commonwealth and Development Office, [Guidance: Arrested or Detained Abroad](#), 31 August 2022, Access 20 March 2023). Kidnap victims are routinely signposted to Hostage International ([SLH0022](#), para 2.5)

185 Hostage International ([SLH0022](#)) para 2.4

5 International Military Services Debt

Box 7: Background to the IMS Debt

In 1976, the UK Government agreed to supply the Shah of Iran with 1,500 Chieftain tanks and 250 repair vehicles through International Military Service Plc. for which the Shah paid £650 million up front.¹⁸⁶ Following the Islamic Revolution of 1979, the UK suspended diplomatic relations with Iran having only provided 185 tanks, and the new regime under Ayatollah Khomeini requested a refund of £450 million (see Annex 3 for more information).¹⁸⁷

Why did it take so long to repay the debt?

81. We could not identify a single clear reason for the delay in repaying the debt. Five overarching rationales were suggested in evidence:

- a) Constant prevarication and shifts in UK Government policy (at the MoD, Treasury and Foreign Office) toward initially supplying the hardware and later the repayment of the debt;¹⁸⁸
- b) Despite the MoD being a majority shareholder, IMS, as a limited company, was able to obscure the Government's responsibility for repaying the debt restricting the scrutiny Parliament was able to conduct on the issue;¹⁸⁹
- c) The Iranian regime postponed court hearings, which slowed the process;¹⁹⁰
- d) The position of the US Administration and the rigour of US sanctions regimes, particularly under President Trump, was a significant obstacle to repayment of the debt. It deterred banks which might handle the money and would require the UK Government to go against an important and longstanding ally;¹⁹¹
- e) Strongly connected to point d) was the concern that EU sanctions against Iran prevented the debt being paid both in cash and in kind.¹⁹² We heard differing

186 [Why Britain owes Iran £450m - and why it might finally pay it back](#), iNews, Karl McDonald, 6 September 2019

187 [The MoD, the arms deal and a 30-year-old bill for £400m](#), The Independent, Cahal Milmo and Nick Dowson, 24 April 2010

188 Shadow World Investigations ([SLH0028](#))

189 Shadow World Investigations pointed out that: In 2014 a defence minister claimed in relation to the debt that "all the negotiations that have taken place on this matter have been conducted by employees of IMS on a confidential basis." It was also stated in answer to a PQ that the case was solely a matter for the company. (HC Deb 3 February 2-14 c91W in [SLH0028](#))

190 [Q102](#) [Philip Hammond]; [Q20](#) [Alistair Burt]

191 Alistair Burt told us: (...) it was not unnatural that they [the US Government] would have regarded the payment (...) as something that would undermine their position. (...) but it was nothing to do with them—not least because the Americans also pay ransoms. ([Q15](#) and [Q16](#)); see also [Q104](#) [Philip Hammond]

192 In 2019, the then Foreign Secretary Dominic Raab explained in a letter to Alistair Burt that: "(...) MODSAF remains subject to EU sanctions, and we cannot make payments - or provide 'goods in kind' - to sanctioned entities. Until such a time as a sanctions compliant payment route can be identified and licensed by HMT, it will not be possible to settle the matter." ([SLH0037](#))

views on the extent to which this was a blockage to repaying the debt. Ultimately it was one that was overcome in 2022 without any obvious changes to the EU sanctions regime.¹⁹³

What impact did the repayment make on prospects for UK citizens detained in Iran?

82. Whilst the UK and Iranian Governments publicly deny a link between the release of hostages and the repayment of the debt, FCDO ministers, members of the Iranian Supreme Security Council and officials involved in the detention of UK nationals were aware that one could not happen without the other.¹⁹⁴ Foreign Secretary Liz Truss denied the link, preferring to describe “parallel negotiations”.¹⁹⁵ Former Foreign Secretary Jeremy Hunt was more candid:

(...) I concluded that it was not a ransom payment; it was a debt that we owed. Nonetheless, it was totally outrageous for Iran to link a debt that we owed to the fate of innocent individuals.¹⁹⁶

I was never against the debt being repaid, but I tried every other avenue. I think that after about nine months of trying every other avenue I concluded that this was the only thing that was going to break the log jam and so I started pushing harder in my internal Government discussions.¹⁹⁷

83. Whilst not making specific reference to the IMS Debt, in December 2018, Jeremy Hunt told the Today programme that Nazanin was being held as a “pawn of diplomatic leverage” and described her continued detention as “monstrous” and “unjust”.¹⁹⁸ On 16 March 2022 Foreign Minister Hossein Amir-Abdollahian confirmed that the repayment of the debt had taken place but announced that the detainees were released on “humanitarian grounds” and that any link between the two was “wrong”.¹⁹⁹ Alistair Burt, whilst a Minister and thereafter, strongly recommended the repayment of the debt at the soonest possible time.²⁰⁰

84. We concur with the bulk of the evidence that the repayment of the IMS Debt did not amount to a ransom as it was an internationally recognised debt.²⁰¹ Nevertheless, we conclude that hostage diplomacy was used to secure payment, and there is a compelling

193 Alistair Burt argued that as far back as 2017 the Iranians had acknowledged that the money was eligible to be paid to the Central Bank of Iran, which had been removed from the sanctions list in 2016 (see Shadow World Investigations ([SLH0028](#)) para 26), rather than MODSAF ([Q8](#)).

194 In 2021 Dominic Raab, when Foreign Secretary, agreed that the term ‘hostage’ was appropriate ([Raab admits Nazanin Zaghari-Ratcliffe is Iranian ‘hostage’](#), Evening Standard, Tammy Hughes, 2 May 2021, Accessed 20 March 2023), the first time for a serving Foreign Secretary. Alistair Burt, whilst defending the moral and legal imperative to repay the debt, described how there would public and private statements made between him and his opposite number in Iran asserting no link but that the two issues also came up together in bilateral discussions. ([Q10](#))

195 [Q87](#) [Liz Truss]

196 [Q23](#) [Jeremy Hunt]

197 [Q35](#) [Jeremy Hunt]

198 [Iran jailed Nazanin Zaghari-Ratcliffe for diplomatic leverage, says Hunt](#), The Guardian, Aamna Mohdin, 28 December 2018, Accessed 20 March 2022

199 [Briefing: Iran takes high moral ground after releasing Zaghari-Ratcliffe](#), BBC Monitoring [Accessed 15th September 2020]

200 Alistair Burt ([SLH0037](#))

201 [Q8](#) [Alistair Burt]; [Q23](#) [Jeremy Hunt]

argument that the parallel settlement of the debt will have allowed the IRGC a propaganda victory which may make UK nationals who are still detained less safe. Dr Kylie Moore-Gilbert, a British-Australian national and former state hostage in Iran, told the Committee:

Any transfer of cash to Iran, regardless of whatever assurances were provided by the Iranian government, would have been perceived of as a total victory by the IRGC, who view this cash as their exclusive property, ‘won’ directly as a result of their successful hostage taking of British citizens.²⁰²

Dr Danielle Gilbert of the US Airforce Academy expressed similar sentiments describing the transactional approach as one which undermined the UK Government’s “deterrence by denial” approach:^{203 204}

The UK government appears to have made an expensive concession, which puts a target on the backs of future British citizens abroad.²⁰⁵

85. The impact of the denial of the link on the families of detainees was significant. The Ashoori family felt lied to when the FCDO denied any link,²⁰⁶ and Richard Rattcliffe described this as the Government’s “biggest failing”.²⁰⁷

86. The Committee heard that Iranian Foreign Minister Zarif had, in November 2017, indicated that the debt could be repaid in the form of medical supplies although this was never followed through. Former Foreign Secretary Truss told the Committee that the remaining requirement from the Treasury was to be able to have adequate assurances that the funds would be used for humanitarian purposes and that this was met.²⁰⁸ Regrettably, the Government has been unable to provide evidence to reassure us that the necessary safeguards are in place to ensure that this is how the money will be spent—or point to consequences for any failings in this respect.²⁰⁹ Moreover, when Iran’s Foreign Minister Saeed Khatibzadeh confirmed to reporters that the money was now with the state treasury he reiterated that Iran alone would decide what to do with it.²¹⁰ It is difficult to see the incentives for the regime in this situation to keep to their agreement.²¹¹

202 Kylie Moore-Gilbert ([SLH0003](#)) para 10

203 This denies the offending state the concession they are requesting.

204 This is also supported by accounts of hard-line Iranian media outlets such as the Far News Agency which linked the paying of the debt to the release of a national and Javan which claimed the willingness of the UK Government to repay the debt for Nazanin Zaghari-Ratcliffe’s release added weight to the allegations against her (see [News Alert](#), BBC Monitoring [Accessed 15th September 2022])

205 Danielle Gilbert ([SLH0020](#)) para 13

206 Ashoori ([SLH0039](#)) Shahrzad Izadi Benam statement para 2

207 APPG on deaths abroad etc. ([SLH0015](#)) para 2, p1

208 [Q82](#) [Liz Truss]

209 We were told by officials and ministers that it would not be possible for the FCDO to discuss the terms and conditions of the March 2022 deal — even in private. Liz Truss told us: “One of the issues is that I am not able to tell the Committee, because it is confidential, about the precise route that we used. (...) but what I can tell you is that the assurances we received about the route were enough to reassure the Treasury (...)” ([Q84](#)) In a letter to the Committee on 28 November 2022 the Chancellor of the Exchequer, Jeremy Hunt, was unwilling to make the five preconditions of repayment public but reiterated that not only was the Treasury satisfied that these had been met but that stringent oversight of the spending of the money was in place to ensure it was used for humanitarian purposes.

210 See [Report](#), BBC Monitoring, 17 March 2022, [Accessed 15th September 2022]

211 Correspondence with the Foreign Secretary, dated [12 August 2022](#)

87. There is compelling evidence that the repayment of the IMS debt became a precondition for the release of UK nationals from Iran. The failure to pay it sooner was highly regrettable and almost certainly adversely affected the length of detentions by limiting diplomatic options for negotiating an earlier release and brought significant suffering.

88. The Government took longer to repay the IMS Debt than it needed to and the eventual circumstances under which it was paid were unsatisfactory. We conclude that the only factors which changed and therefore allowed repayment in March 2022 were the interpretation of the terms of the sanctions, and the political will to risk upsetting the US Administration. It would appear, from the limited information available, that the Government has no way of ensuring Iran abides by the conditions governing the spending of UK taxpayers' money, nor is there any avenue for parliamentary scrutiny.

6 Prevention and deterrence

Travel advice and prevention

89. We recognise the efforts taken by the FCDO to increase the reach of travel advice over the past few years.²¹² Nevertheless we heard criticism of the consistency and relevance of the FCDO's travel advice regarding arbitrary detention. As indicated in Annex 4, the FCDO changed travel advice for Iran in 2015, removing warnings over arbitrary detention, and did not correct it until 2018. During those years a number of dual nationals were arbitrarily detained in Iran. The implications of terms such as "arbitrary detention" on a public facing website are not immediately clear to the reader. The US State Department has a user-friendly interface on their website that allows for quick and easy identification of countries where there is risk of wrongful detention of US citizens.²¹³ Whilst the UK does not have the same publicly available designation of cases, we believe that a clearer alert would be useful.²¹⁴

90. There may also be more the FCDO can do to prepare organisations and individuals before they visit a country in which arbitrary detention or state hostage taking may be likely. Phil Harper, independent negotiator at Sheep 100, believes the FCDO could support pre-departure briefing with practical information about how to reduce the risk of arrest and how to respond in a situation where an arrest might take place.²¹⁵

91. The FCDO's failure to have maintained robust travel advice on the front page of the website for Iran between 2016 and 2018 is a significant error which may have made UK nationals less safe in Iran and likely other countries too. We welcome the renewed commitment in the "Consular and Crisis Strategy" to making travel advice readily available and renewed campaigns to make travellers aware of it. However, there is more the FCDO could do, either directly or via third-party experts, to ensure organisations and individuals operating in high-risk countries are aware of times of particular vulnerability, steps to take to prevent arrests for minor infringements escalating and how to keep safe.

92. We recommend that a list is prepared of countries where UK nationals face an increased risk of arbitrary detention and being taken hostage. This should inform decisions around the escalation of cases as well as the outward facing travel advice. We recommend that updated FCDO travel advice includes clear criteria, with accompanying explanation, to support an obvious and user-friendly category of "Risk of arbitrary detention". Moreover, the FCDO should actively brief organisations, businesses and individuals on the risks they face in travelling to these countries and on sensible precautions they can take to mitigate them.

212 The FCDO's consular strategy points out that Travel Aware, an initiative to extend the reach of FCDO advice, generates over 3 million page views with 65% of viewers taking action such as visiting the travel pages for their destination. (Foreign Commonwealth and Development Office, [Policy paper] [Consular and Crisis Strategy 2022](#), 25 August 2022, Accessed 20 March 2023)

213 See, for example, US Department of State, [Iran Travel Advice](#), 26 January 2023, Accessed 20 March 2023

214 REDRESS suggested adopting a much clearer and more specific indicator on the website for cases where there is a designation at the top of the page making it clear the advice on travel and why [Q149](#) and [SLH0024](#); also Kamran Foroughi ([SLH0034](#))

215 [Q205](#) [Phil Harper]

Deterrence

93. We have been able to identify very few consequences for countries which use hostage diplomacy. The FCDO describes the consequence of Iran’s behaviour as “a barrier to improvements in bilateral relations” and highlights the negative implications of the advice against all travel to Iran.²¹⁶ Lord Ahmad highlighted the extensive sanctions against Iran. However, none of these consequences were explicitly in response to the detention of UK dual nationals, except in the case of a state murder.²¹⁷ In general the UK Government has taken a passive and reactive approach in such situations rather than a proactive one. Danielle Gilbert of the US Airforce Academy describes it as “deterrence by denial” rather than “deterrence by punishment”.²¹⁸ The former relies on the offending country being denied something, normally their demands, whereas the latter relies on consequences coming into play if a state is unprepared to agree to the release of a hostage. A number of contributors expressed the opinion that if there are no proactive consequences for such countries for their actions, the practice will continue.²¹⁹ The apparent connection between the release of UK nationals and the repayment of the IMS Debt suggests an inconsistency in its no concessions policy and a consequent undermining of the “deterrence by denial” doctrine. We heard strong arguments that the UK Government should adopt a “deterrence by punishment” approach which proactively creates such a severe regime of consequences to any offender that it deters the action taking place.²²⁰

94. It is important not to conflate responses in individual ongoing cases with broader measures to deter state hostage taking. Micky Bergman of the Richardson Center for Global Engagement stressed the importance of decoupling efforts to release individuals with attempts to deter future activities:

(...) holding deals to bring(...) our hostages back in the name of future deterrence is as if we are holding them hostage to our own policies and that is morally bankrupt.²²¹

There is a risk that applying measures to deter future hostage taking by a particular regime whilst there are still hostages held in that country may disrupt efforts to secure their release. Brian Jenkins of the Rand Cooperation notes that since May 2011 there has always been at least one UK national detained in Iran and described this as a “kind of bank account” to keep the option for leverage.²²²

216 FCDO (SLH0021) para 22

217 Q228 [Tariq Ahmad]. The Foreign Secretary made it clear that the sanctioning of Iran’s prosecutor general was a direct consequence of the execution of a British national Alireza Akbari (Foreign Commonwealth and Development Office, [Press release] UK sanctions Iranian Prosecutor General following execution of Alireza Akbari, 14 January 2023, Accessed 20 March 2023)

218 Danielle Gilbert (SLH0020) paras 14 and 19

219 Darren Nair (SLH0013) para 1.1.1; Tulip Siddiq (SLH0023) para 4

220 Danielle Gilbert (SLH0020) para 19

221 Bringing Americans Home 2022 - Assessing Hostage and Detainee Policy Reforms, New America, YouTube, 1:01:23, Accessed 20 March 2023; see also Q204 [Mickey Bergman]

222 Q114 [Brian Jenkins]

Box 8: Global Human Rights Sanctions Regime (Magnitsky-style sanctions)

In 2020 the UK Parliament amended the 1998 Sanctions and Anti-Money Laundering Act to include sanctions options for human rights abuses. Specifically:

(2) An activity falls within this paragraph if it is an activity which, if carried out by or on behalf of a State within the territory of that State, would amount to a serious violation by that State of an individual’s—

- (a) right to life,
- (b) right not to be subjected to torture or cruel, inhuman or degrading treatment or punishment, or
- (c) right to be free from slavery, not to be held in servitude or required to perform forced or compulsory labour,²²³

It gives the Government “powers to stop those involved in serious human rights abuses and violations from entering the country, channelling money through UK banks, or profiting from our economy.”²²⁴

95. The deterrent most frequently supported in evidence to us was Magnitsky-style sanctions, applied to key individuals involved in detentions.²²⁵ These sanctions are justified where the relevant legal tests are met and can also then be used as leverage, if necessary, in future negotiation. However, others observe that very often those countries most prevalent in hostage diplomacy (such as Iran and Venezuela) are likely to already be subject to extensive sanctions and additional sanctions on individuals and organisations would be unlikely to have a significant impact on behaviour because they tend to operate entirely in-country.²²⁶

96. Some other proposals to improve deterrence included:

- a) Extradition proceedings against individuals responsible for the detention of UK nationals with the aim of extradition to stand trial in the UK by exercising the UK’s universal jurisdiction over the crime of torture.²²⁷
- b) The bringing of cases before the International Court of Justice. The denial of the UK Government’s consular rights by other states, as set out in the Vienna Convention on Consular Relations is an admissible complaint to the ICJ.²²⁸ Similarly, there may be scope to refer a case to the International Criminal Court, where it has jurisdiction.²²⁹

223 [The Global Human Rights Sanctions Regulations 2020](#), [No. 680], Purposes, Para 4

224 Foreign Commonwealth and Development Office, [News story: UK announces first sanctions under new global human rights regime](#), 6 July 2020, Accessed 20 March 2023

225 Tulip Siddiq (SLH0023) para 4; Q161 [Rupert Skillbeck]

226 [Bringing Americans Home 2022 - Assessing Hostage and Detainee Policy Reforms](#), New America, YouTube, 1:02:19, Accessed 20 March 2023; Q114 [Brian Jenkins]

227 Amnesty International UK (SLH0031) para 4.2; there is precedent where public servants have contravened international law for the UK to bring charges under the domestic criminal code allowing for extradition and INTERPOL Red Notices to be issued.

228 See [Chapter 3](#); see also Amnesty International UK (SLH0031); Atlantic Council (SLH0011)

229 Atlantic Council (SLH0011) para 14

- c) Agreement of statements and resolutions by the UK and its allies at multilateral organisations such as the OSCE,²³⁰ UN bodies including the UN High Commissioner for Human Rights, UN Secretary General, and UN Human Rights Council.²³¹
- d) Diplomatic consequences, including the delay or cancellation of state or official visits and the suspension of negotiations around trade deals.²³² These might also include the suspension of bilateral negotiations on other topics or voting against bids by those countries to take up positions in multilateral bodies, walking out of speeches made by offending states. We do not feel these mechanisms are used enough.

International collaboration for deterrence

97. The above measures rely in part for their effectiveness on a good degree of international cooperation.²³³ Whilst evidence we took was supportive of such cooperation, we understand the scepticism of several witnesses about the likelihood of states prioritising their commitments to allies when faced with hard choices around securing the release of their own nationals.²³⁴

98. In February 2021 58 countries signed a non-binding “Declaration Against Arbitrary Detention in State-to-State Relations” (now nearly 70 countries²³⁵) initiated by Canada. The declaration reasserted that:

The arbitrary arrest or detention of foreign nationals to compel action or to exercise leverage over a foreign government is contrary to international law, undermines international relations, and has a negative impact on foreign nationals traveling, working and living abroad.²³⁶

230 Atlantic Council ([SLH0011](#)) para 18

231 Working Draft/Proposal to U.S. Government: [Joint Declaration on Ending Hostage-Taking of Foreign Nationals](#), [Jared Genser](#), Twitter, Accessed 20 March 2023, p3

232 Working Draft/Proposal to US Government: [Joint Declaration on Ending Hostage-Taking of Foreign Nationals](#), [Jared Genser](#), Twitter, Accessed 20 March 2023, p3

233 See, for example: [Q51-52](#) [Jeremy Hunt]; [Q53](#) [Philip Hammond]; Kylie Moore-Gilbert ([SLH0003](#)) para 54; Janet Daby ([SLH0010](#)) para 1.12; Atlantic Council ([SLH0011](#))

234 See, for example, [Q108](#) [Philip Hammond]; [Q206](#) [Phil Harper and Mickey Bergman]

235 Leanne McKay ([SLH0008](#)) para 19

236 Global Affairs Canada, [Declaration against Arbitrary Detention in State-to-State Relations](#), Accessed 20 March 2023

A further commitment of participants at this meeting was to work toward a Partnership Action Plan with voluntary measures States could adopt to deter arbitrary detentions.²³⁷ The UK Government is yet to publicly report on progress toward a voluntary work area in the Partnership Action Plan, although has asserted its support for the initiative on a number of occasions, including in evidence to us.²³⁸ Undermining this effort, as covered in chapter 2, is the distinct lack of data on state hostage taking amongst the UK's international partners. The formulation of effective strategies to both respond to and deter state hostage taking depends on adequate data.²³⁹

99. The arbitrary detention of UK nationals and their subsequent use in hostage diplomacy is a growing threat not only to the safety of individuals but also UK national security. A robust response and deterrence need to be developed to counter this. It is important that attempts to deter this practice in the future are decoupled from efforts to resolve current individual detentions. Although there may be a case for varying approaches to communication in individual cases, if the normalising of this tactic as a form of diplomacy is to be avoided the Government must be ready to use the strongest possible language to call-out serial abusers at a macro level, as they have done since 2019 with Iran.

100. We welcome the UK Government's continuing commitment to the Canadian-led initiative to address arbitrary detention in state-to-state relations. There needs to be a clear response to such behaviour at a national, and where possible, a multilateral level, to achieve effective deterrence. We recognise the challenges around securing a multilateral consensus and respecting the right of individual countries to act independently. However, the UK has the experience as well as the diplomatic networks and acumen required to be a thought leader in this area and to do the diplomatic heavy lifting required for meaningful action.

101. State hostage taking is not only a humanitarian outrage, but an attempt to undermine the Rules Based International Order. As a country that has committed to protect the RBIO, standing up for the rule of law and the protection of human rights, it is incumbent on the Government to hold other states to their commitments—

237 Work areas of the Partnership Action Plan:

- Advocate and raise awareness of the Declaration and its principles through existing regional and international mechanisms.
- Advance research and analysis on the prevalence of cases and use of arbitrary detention in state-to-state relations (including cases pertaining to dual citizens) to track and monitor the issue systematically.
- Voluntarily share information on cases of arbitrary detention in state-to-state relations, with a view to raise awareness of the circumstances of cases of this nature, and explore lessons learned in the management and resolution of cases with a view to enhance responses.
- Engage civil society, academics, think tanks and other organisations with relevant expertise, on the issues of arrest and detention, case management, international human rights law and international law more generally, to strengthen policy responses and collaboration, and to raise international awareness.
- Support targeted and effective media and social media campaigns, where appropriate, to strengthen international awareness to stop arbitrary detention in state-to-state relations.
- Meet periodically to consider issues pertaining to the Partnership Action Plan, assess its effectiveness and advance practical proposals. (Global Affairs Canada, [Arbitrary detention in state-to-state relations - Partnership Action Plan](#), Accessed 20 March 2023)

238 Minister David Rutley reasserted this commitment on 13 March 2023 despite no reference to the declaration in the Integrated Review refresh published earlier that day. Minister Rutley told us: "Personally, I am very committed to doing everything I can in my role to work with the Canadians in each of the steps going forward and in their plan of action that links in (...) I think that is the best approach going forward." ([Q227](#))

239 Rachel Briggs ([SLH0016](#))

particularly when it applies to UK nationals. It is important that the Government makes clear that state hostage taking is a humanitarian offence and does not shy away from public statements to this effect on specific cases.

102. We recommend that within the next six months the Government outline the measures, including Magnitsky-style sanctions and legal proceedings both domestically and at the International Court of Justice, it is prepared to take against countries that might arbitrarily detain UK nationals for diplomatic leverage. It should work with international partners through the Canadian-led Declaration on Arbitrary Detention in State-to-State Relations to work with international partners multilaterally wherever possible and appropriate. Specifically:

- the Government should identify one or more of the voluntary work areas listed in the Partnership Action Plan which it will commit to;*
- the Government should continue to explore opportunities through the International Law Commission to bring clarity to other international conventions including the Hostage Convention and Vienna Convention on Consular Relations, to provide further legal protection for individuals.*

Conclusions and recommendations

How the UK Government has approached the resolution of state hostage situations

1. The limited data available indicates that state hostage taking is an increasing problem globally. Arbitrary detention is also a growing phenomenon, increasing the likelihood of citizens in this position becoming pawns in state-to-state relations. All arbitrary detentions are illegal and unacceptable. The UK Government should be working toward their immediate resolution. Given that states rarely make explicit their demands for release, or intended area of leverage, this zero-tolerance approach is all the more important. (Paragraph 13)
2. *We recommend that within the next 12 months the Government formalises and publishes guidance outlining criteria for determining whether the detention of a UK national by a foreign state is considered arbitrary and at risk of being used for state leverage. Subsequently a review should be carried out of all UK nationals detained overseas according to the established criteria. The conclusions on the nature of the detention should be used to classify the case internally, in discussions with the family and, where appropriate, publicly. Where not deemed to meet the criteria, cases should be subject to ongoing assessment with the involvement of families.* (Paragraph 14)
3. The FCDO has a policy of not commenting on, or interfering with, a foreign state's legal system. Evidence suggests that the existence of an opinion from the UN Working Group on Arbitrary Detention that a British national is illegally detained makes little or no tangible difference to the way the FCDO approaches resolving that case. This is counterproductive and risks undermining an important tool, as well as the Government's commitment to a Rules-Based International Order based solution for ending this practice. (Paragraph 16)
4. *We recommend that when there is a UN Working Group on Arbitrary Detention opinion that a detention of a UK citizen is illegal, the FCDO assumes that the case will not be judged in line with international standards and should respond accordingly. The Government should as a matter of practice promote public acceptance of the opinion of the working group and consider promoting the concept of an additional category of "state sponsored hostage taking" to the criteria.* (Paragraph 17)
5. *We also recommend that the Government uses its presence on the UN Human Rights Council to work to safeguard the Rules Bases International System by working to prevent countries which use hostage taking as a tool of diplomacy gaining influence in the UN Working Group on Arbitrary Detention.* (Paragraph 18)
6. Experience elsewhere would suggest that having a single point of contact who has a key decision-making, or high-level advisory, role outside consular services has the potential to improve the Government's approach to responding to arbitrary detentions as well as its coordinating efforts in deterring this practice multilaterally. It is also likely such a high-level influencing role would attract high calibre staff with relevant experience. (Paragraph 24)

7. By identifying and articulating the nature of detentions, the Government would have the option to put arbitrary detentions on a lane of engagement distinct to other diplomatic priorities with the detaining country. This could allow for creative solutions unconstrained by other bilateral objectives and expand the limited toolbox available to the consular directorate. It would allow the case to be segregated from wider geopolitics and bilateral negotiations, something the aggressor may not welcome. (Paragraph 25)
8. Learning from previous cases needs to be central to the formulation of a coherent and flexible approach to securing the release of detainees. Given the high turnover of ministers and civil servants, we have seen insufficient evidence to indicate that any arrangements for institutional learning by the FCDO have been effective. This contributes to inconsistency of approach and increases the risks of missing opportunities, not least when dealing with autocratic states with greater ministerial security of tenure. (Paragraph 33)
9. *Starting immediately, we recommend a central repository be created for information on cases of arbitrary detention and hostage taking, both active and closed, detailing processes followed and learning gained. There should be a systematic approach applied to all cases, not simply a sample. The Minister for Consular Policy should have an up-to-date knowledge of all open arbitrarily detained and 'complex' cases.* (Paragraph 34)
10. *We recommend biennial meetings of Ambassadors and Deputy Heads of Mission of 'Five Eyes' countries in states with a record of state hostage taking to discuss live cases and lessons learnt, and to disseminate best practice.* (Paragraph 35)
11. In cases we have examined, the FCDO has been too slow to identify detentions of concern and to escalate these cases within the department. Any system of rapidly identifying such cases needs to be able to harness the extensive knowledge of the environment held at Post with guidance based on the breadth of experience of the FCDO and external expertise. (Paragraph 39)
12. It is important that the "no concessions" policy, and the limited toolbox of standard diplomatic responses, should not preclude creative negotiations and conversations within the confines of UK and international law; or limit the effectiveness of points of leverage the UK Government may be able to realise and apply. (Paragraph 40)
13. On balance, we believe that the MacGregor review's recommendations do not go far enough and the interests of the affected families and those of the FCDO in securing detainee releases are best served by concentrating responsibility for handling these cases in a single senior position. *We recommend that over the next 12 months the Government undertake appropriate consultation to establish the position of Director for Arbitrary and Complex Detentions (DACD). This post should be specifically recruited on a renewable five-year term with a mandate that includes coordinating the response to certain cases, providing a point of contact for families, convening a cross-government response, and coordinating the UK's response to the multilateral efforts to address state hostage taking and arbitrary detention with a relentless focus on them. The postholder should have a direct line to the Prime Minister. If the Government refuses to implement this recommendation the lead for all state hostage cases should sit with the Foreign Secretary.* (Paragraph 42)

14. *All cases of arbitrary detention should be pursued at speed from as early as possible with a full mobilisation response before the person is formally charged. We recommend that appropriate consultation take place to establish a clear system for quickly identifying cases that fall under the criteria to be handled by the Director of Arbitrary and Complex Detentions and escalating them to that unit. The FCDO should ensure that it has the in-house capacity and expert capability to negotiate. We recommend that the FCDO prepares advice for families and organisations on the options for engaging a third-party negotiator where the FCDO is unable or unwilling to negotiate with captors, does not recognise the legitimacy of the detaining government, or does not recognise a detention as state hostage taking. The FCDO should constructively work with specialist third-party negotiators and other experts from a very early stage, sharing with affected families as much information as possible. (Paragraph 43)*
15. The evidence would suggest that the Government's use of diplomatic protection in cases of arbitrary detention was badly handled. It was ill thought through and poorly implemented. It is likely that this was due to officials' discomfort with this approach and a failure to implement it fully. This episode serves to illustrate an inconsistent and, at times, clumsy approach by Government. (Paragraph 45)
16. *We recommend that in the next six months the Government learns lessons from the extending of Diplomatic Protection to Nazanin Zaghari-Ratcliffe and draws up clear guidelines on situations where diplomatic protection could be considered and how it might be employed. If this mechanism is to be used again, we recommend that the Government outlines to the family and this Committee from the outset the rationale for its use and means of enforcement. (Paragraph 46)*
17. There should be a more constructive relationship between Parliament and the FCDO in support of efforts to bring home UK nationals arbitrarily detained abroad and also to further long-term international efforts to deter the practice. Parliamentarians can also assist by providing a broader form of diplomacy. (Paragraph 48)
18. *We recommend that the FCDO demonstrates meaningful engagement and provides the Committee with an annual private report on the progress of UK nationals arbitrarily detained abroad, with follow-up briefing at the Foreign Office if required, to enable the work of Parliament and Government to better serve UK interests. (Paragraph 49)*

How the UK Government has communicated to Parliament and the public about cases

19. The presumption that "quiet diplomacy" and family silence is always appropriate throughout cases of state detentions and state hostage taking is a false one, other than in the initial phases. Silence abets state hostage taking. *We recommend the Government uses the strongest possible language to call out situations of state hostage taking as soon as it becomes clear detentions are being used for leverage. (Paragraph 55)*
20. The Government and its allies have missed key opportunities to publicly demonstrate the importance placed on the release of UK nationals, both privately and in public. The decision of Richard Ratcliffe to begin a hunger strike is perhaps the starkest example of this failure. The onus should be on FCDO officials and ministers to demonstrate to the detaining state and to the families of state hostages that they

consider the detention of those concerned as both unjust and an issue that is considered distinct from other diplomatic priorities. Families should never be left to feel that the only way the Government will prioritise their case is by acting against advice and, in some cases, their better judgement, by going to the media and to Parliament. (Paragraph 59)

21. *We recommend that if a family believes their case would be best served by going public, the Government should have frank, detailed and regular conversations with them on the likely impacts of their decision and advise on how to proceed in the safest way possible and support them as they pursue that decision.* (Paragraph 60)
22. UK nationals have been let down by the information shared by Ministers—actions which were counterproductive and may have contributed to less favourable conditions for an earlier release. Coherence and accuracy are vital not only in fairness to the families involved, but also to send the message to countries that may consider using detainees as leverage, that the UK will not tolerate this form of statecraft involving any of its nationals. Additionally, care should be taken to ensure that the British nationality of the detainee be stressed in communications. *We recommend that a publicity plan be created with families from the early stages and is adjusted in collaboration with them as the case progresses.* (Paragraph 62)

Consular support

23. The UK Government is judged on how it cares for its citizens at home and overseas. In Iran, the Government failed to assert and secure its rights under the Vienna Convention to provide consular assistance to UK nationals held in Iran. Moreover, the FCDO has been inconsistent in meeting its own commitments to supporting those arrested abroad. This failing, whilst not universal, is not confined to prisoners in Iran. If the recommendations in this report, and those of the MacGregor review, are implemented effectively, it should not be necessary to establish consular assistance as a legal right. However, if the situation does not improve, a legislative solution may be needed. (Paragraph 68)
24. *The UK Government, working with allies where possible, must use every means at its disposal to secure the basic level of consular access it commits to provide for its nationals and that it is entitled to under international law—regardless of the perceived legitimacy of the charges or rigour of the legal system. This could include imposing a political cost (such as delaying negotiation on other bilateral issues), walking out of speeches given by offending countries, or exploring legal options through the various international treaty mechanisms. In its annual report to this Committee on cases of arbitrary detention and state hostage taking, the Government should demonstrate how it has fulfilled these minimum standards of service.* (Paragraph 69)
25. The working assumption should be that families are partners who have the potential to be instrumental in the attempts to resolve the detentions. Despite Government assurances, we do not believe that sufficient progress has been made in improving communication with families. Families are frequently assured by officials and ministers that they are “doing all they can” to secure the release of their detained family members. This is an inadequate response. To communicate standard

diplomatic representations as substantive actions to families of detainees with little or no further detail is not conducive to a constructive and supportive working partnership. (Paragraph 76)

26. *We recommend that unless the detainee expressly withholds consent to do so, the families of any vulnerable or arbitrary detainee receiving consular assistance be provided by a senior manager or minister in the FCDO at the soonest possible time with a clear description of the Government's plan of engagement. Briefings should be frequent and include as much detail as possible. It should be clearly explained that some information will be classified but that the aim will be for maximum transparency. The relevant official or minister should be prepared to give private briefings to the relevant constituency Member of Parliament if requested by the family. This requires a significant step-change in the Government's approach, which reinforces the need for a Director for Arbitrary and Complex Detentions.* (Paragraph 77)
27. We welcome the willingness of the FCDO to refer detainees and families of detainees to organisations such as Hostage International, Reprieve, Fair Trials and Prisoners Abroad who are able to offer assistance and counsel. We believe this is a highly appropriate approach to supporting families but could go further. (Paragraph 79)
28. *We recommend a plan be prepared by the FCDO for providing material support for long-term arbitrarily detained persons on their release as well as support during detention for families especially where the detainee is the primary earner. In this context the FCDO should:*
 - *Continue to resource organisations who provide psychological support beyond release and physical rehabilitation such as drug addiction support;*
 - *Develop a programme of scheduled follow-up meetings at regular intervals for, say, the first three years post-release where requested;*
 - *Improve coordination with the Home Office and other Government Departments to ensure families are well supported throughout their ordeal.* (Paragraph 80)

International Military Services Debt

29. There is compelling evidence that the repayment of the IMS debt became a precondition for the release of UK nationals from Iran. The failure to pay it sooner was highly regrettable and almost certainly adversely affected the length of detentions by limiting diplomatic options for negotiating an earlier release and brought significant suffering. (Paragraph 87)
30. The Government took longer to repay the IMS Debt than it needed to and the eventual circumstances under which it was paid were unsatisfactory. We conclude that the only factors which changed and therefore allowed repayment in March 2022 were the interpretation of the terms of the sanctions, and the political will to risk upsetting the US Administration. It would appear, from the limited information available, that the Government has no way of ensuring Iran abides by the conditions governing the spending of UK taxpayers' money, nor is there any avenue for parliamentary scrutiny. (Paragraph 88)

Prevention and deterrence

31. The FCDO's failure to have maintained robust travel advice on the front page of the website for Iran between 2016 and 2018 is a significant error which may have made UK nationals less safe in Iran and likely other countries too. We welcome the renewed commitment in the "Consular and Crisis Strategy" to making travel advice readily available and renewed campaigns to make travellers aware of it. However, there is more the FCDO could do, either directly or via third-party experts, to ensure organisations and individuals operating in high-risk countries are aware of times of particular vulnerability, steps to take to prevent arrests for minor infringements escalating and how to keep safe. (Paragraph 91)
32. *We recommend that a list is prepared of countries where UK nationals face an increased risk of arbitrary detention and being taken hostage. This should inform decisions around the escalation of cases as well as the outward facing travel advice. We recommend that updated FCDO travel advice includes clear criteria, with accompanying explanation, to support an obvious and user-friendly category of "Risk of arbitrary detention". Moreover, the FCDO should actively brief organisations, businesses and individuals on the risks they face in travelling to these countries and on sensible precautions they can take to mitigate them.* (Paragraph 92)
33. The arbitrary detention of UK nationals and their subsequent use in hostage diplomacy is a growing threat not only to the safety of individuals but also UK national security. A robust response and deterrence need to be developed to counter this. It is important that attempts to deter this practice in the future are decoupled from efforts to resolve current individual detentions. Although there may be a case for varying approaches to communication in individual cases, if the normalising of this tactic as a form of diplomacy is to be avoided the Government must be ready to use the strongest possible language to call-out serial abusers at a macro level, as they have done since 2019 with Iran. (Paragraph 99)
34. We welcome the UK Government's continuing commitment to the Canadian-led initiative to address arbitrary detention in state-to-state relations. There needs to be a clear response to such behaviour at a national, and where possible, a multilateral level, to achieve effective deterrence. We recognise the challenges around securing a multilateral consensus and respecting the right of individual countries to act independently. However, the UK has the experience as well as the diplomatic networks and acumen required to be a thought leader in this area and to do the diplomatic heavy lifting required for meaningful action. (Paragraph 100)
35. State hostage taking is not only a humanitarian outrage, but an attempt to undermine the Rules Based International Order. As a country that has committed to protect the RBIO, standing up for the rule of law and the protection of human rights, it is incumbent on the Government to hold other states to their commitments—particularly when it applies to UK nationals. It is important that the Government makes clear that state hostage taking is a humanitarian offence and does not shy away from public statements to this effect on specific cases. (Paragraph 101)
36. *We recommend that within the next six months the Government outline the measures, including Magnitsky-style sanctions and legal proceedings both domestically and*

at the International Court of Justice, it is prepared to take against countries that might arbitrarily detain UK nationals for diplomatic leverage. It should work with international partners through the Canadian-led Declaration on Arbitrary Detention in State-to-State Relations to work with international partners multilaterally wherever possible and appropriate. Specifically:

- *the Government should identify one or more of the voluntary work areas listed in the Partnership Action Plan which it will commit to;*
- *the Government should continue to explore opportunities through the International Law Commission to bring clarity to other international conventions including the Hostage Convention and Vienna Convention on Consular Relations, to provide further legal protection for individuals. (Paragraph 102)*

Annex 1: The Levinson Act and the US Approach to State Hostage Situations

In revising their approach to negotiating the release of hostages, the US conducted an internal policy review on its approach to hostage rescue in 2015, which resulted in Presidential Policy Direction 30 (PPD-30) and Executive Order 13698. In accordance with this order, a number of interagency bodies were created to focus specifically on hostage rescuing:

- Special Presidential Envoy for Hostage Affairs (SPEHA) deals solely with recovery of those arbitrarily detained and should a direct point of contact to the President of the United States. SPEHA has the mandate to negotiate with governments in a hostile state. SPEHA has a secretariat of around 21 permanent members of staff (State Dept) and 5 designated posts from other departments as well as bringing in private sector organisations and NGOs in the pursuit of securing releases.
- Hostage Recovery Fusion cell, embedded in the Federal Bureau of Investigation, primarily tasked with resolving terrorist hostage taking and works up a military or police response.²⁴⁰
- Hostage Recovery Group sits under the National Security Advisor and brings together the above two bodies and senior members at the Pentagon to allow for escalation to cases to the President.
- Following Executive Order 13698, in 2020 the US Levinson Act was passed.
- “The law serves three central purposes:
- It outlines the criteria that qualify an international detention as “unlawful or wrongful,” thereby referring the case to the SPEHA;
- codifies PPD-30 and EO 13698; and
- establishes new sanctions to punish hostage-taking individuals and organizations”

It also required that data on U.S. nationals held hostage be collected annually and made publicly available. The UK government does not have a parallel obligation.²⁴¹ The U.S. has also adopted “exceptions to state immunity for hostage-taking and other serious international crimes through an amendment to the State Immunity Act 1978 so that proceedings can be brought directly against the responsible states”.²⁴²

A new [US executive order](#) was introduced in July 2022. Key elements of this highlighted by REDRESS included:²⁴³

- (b) An explicit cross-government approach, to ensure that such cases are managed in a coherent manner, and do not fall between departments.

240 [Q130](#) [Brian Jenkins]

241 Rachel Briggs ([SLH0016](#))

242 Atlantic Council ([SLH0011](#))

243 REDRESS ([SLH0036](#))

- (c) The use of Magnitsky sanctions and other forms of deterrence and accountability for hostage takers.
- (d) The sharing of consistent and accurate information, intelligence, and strategies with families of detainees. This would reduce the opaqueness of the FCDO and ensure that families are given a realistic understanding of the system and that their expectations are managed appropriately, rather than being left in the dark and misled as to the true nature of the situation.
- (e) Enhanced travel warnings of the risks of hostage taking and torture in countries which engage in this practice.
- (f) The development of policies, strategies and procedures specifically for the recovery of hostages and managing cases with a high risk of torture.

Annex 2: Progress measured against the recommendations of the MacGregor Review

The MacGregor review of 2019 sought to look into the policy of handling of complex consular cases with particular reference to:

- a) the way in which FCO balances the needs of the individual consular customer with the broader bilateral relationship; and
- b) the steps taken to keep families informed of its actions to support their relatives, while protecting sensitive information
- c) whether there were cultural issues affecting the handling of these two areas or processes which hampered communication with the families affected, and to make recommendations.

The definition of complex detentions used in the report: [cases] requiring significant political engagement to move forward: where British citizens had been detained for unclear reasons and where there were failures in the subsequent legal process. They were also cases where consular access by our staff had been withheld or delayed by the other State on various grounds, including that of dual nationality.²⁴⁴

Table 2: Scrutiny of progress toward recommendations of the 2019 MacGregor Review

Recommendation from the review	Response from FCDO (SLH0021)	Other evidence of progress
<p>The FCO should train all HoMs (Heads of Missions) so that they see preparation for and handling of complex cases as being on a par with their Crisis Management responsibilities and other areas of work where the active and visible leadership of the HoM is mandatory.</p>	<p>The key tenets of the review and its recommendations have been integrated into pre-posting training for Heads and Deputy Heads of Mission as well as consular staff.²⁴⁵</p> <p>Minister Rutley: "It was quite compelling to see how much training was going on not just within the teams in London; colleagues were brought over from different posts to get trained on some really complicated issues (...)The training, guidance, and commitment to the taskforce approach was again put into place when we saw British nationals come back from Ukraine recently (...).²⁴⁶</p>	<p>Nothing specific as internal, however limited anecdotal evidence would suggest HoM are aware of the definitions of complex cases and guidance although primarily rely on intuition.</p>

244 [Review of Complex Consular Cases](#), Dame Judith MacGregor, 6 June 2019

245 FCDO (SLH0021)

246 [Q228](#) [David Rutley]

Recommendation from the review	Response from FCDO (SLH0021)	Other evidence of progress
Renewed attempts should be made to devise more effective guidance to staff on when and how to escalate cases with the support of senior staff at Post.	Staff around the global network now have access to resources covering their local legal system, allowing them to better recognise and escalate cases which may not meet local or international standards of due process. ²⁴⁷ See above	Evidence on escalation was primarily referring to events pre-review.
The FCO should ensure its internal narrative underlines clearly to its staff the importance of consular work, especially giving due priority to cases of extreme complexity and the interconnection with its rule of law/human rights promotion.	Staff around the global network now have access to resources covering their local legal system, allowing them to better recognise and escalate cases which may not meet local or international standards of due process. ²⁴⁸	We do not have evidence of the impact of this action on the ground.
Once complex cases are escalated to London and to different specialist teams, there should be a further check and early move to handle the most sensitive cases through a Task Force approach, led by the geographical directorate, bringing in as required relevant OGDs and UK interests.	Hybrid 'taskforce' teams comprising geographic and consular staff, plus cross-HMG colleagues where appropriate, are used to ensure a holistic approach to the most complex cases. ²⁴⁹ (...) our consular approach, certainly since the revisions we instituted after the MacGregor review, is focused on a more cross-Government approach and a broader international approach ²⁵⁰	It is uncertain the impact these are having, the extent to which this represents a new way of working or simply formalising of existing best practice, or whether their organisation is appropriate. Certainly our conversations with families do not suggest that there has been a discernible improvement in the quality of information shared with families on the cases.

247 FCDO ([SLH0021](#))248 FCDO ([SLH0021](#))249 FCDO ([SLH0021](#))250 [Q226](#) [David Rutley]

Recommendation from the review	Response from FCDO (SLH0021)	Other evidence of progress
<p>Restyle the FCO's approach to families in Complex Cases and appoint a Senior Officer for Family Engagement to work with and support teams.</p> <p>Seek to instil a greater sense of partnership: with the aim of sharing as much information as possible and in real time; explaining clearly and carefully when this was not possible and why especially to clarify the difference between non-interference and permissible interventions. Ensure that records of meetings at which families are present are shared with them, so that misunderstandings or differences over interpretation are avoided.</p>	<p>Senior consular staffing capacity has been increased to provide more support to consular officers working with particularly complex cases²⁵¹</p> <p>Of course, there have to be moments of trust, where we might know some things that it would not be appropriate to pass on to the family at that particular moment in time. But that trust has to be deserved both ways; we realise that we have to be as open as we can.²⁵²</p>	<p>We heard that calls between consular officials are happening regularly - once a week in some cases. However, the level of information sharing is still minimal. Stock phrases are still being used. We are uncertain whether there is a Senior Officer for Family Engagement.²⁵³</p>
<p>Change 'Family Handling' in FCO working parlance to 'Family Engagement' and avoid standardised phraseology: 'We are doing all we can.' ...</p>	<p>Not covered</p>	<p>Such stock phrases, we heard, are still being used.</p>
<p>Consideration to be given to devising a new communication and soft power strategy to set out more openly the FCO's work on consular cases : building on recent interest in its forced marriage work, so that the work undertaken to support families can be seen more readily by the public and the FCO's role in supporting British nationals understood better</p>	<p>Not covered but the revised consular strategy may be, in part, a response to this.</p>	<p>No mention of this in evidence.</p>

251 FCDO ([SLH0021](#))

252 [Q242](#) [David Rutley]

253 See, for example, the Government communication over Alaa Abd el-Fattah. Lynch and Hamilton ([SLH0043](#)) para 7

Recommendation from the review	Response from FCDO (SLH0021)	Other evidence of progress
<p>Every case is different but collectively they will continue to grow and there are common elements. Obtaining and systematising more and clearer data on what worked well to handle or resolve a difficult case in different countries would be useful—however demanding to determine.</p>	<p>No specifically mentioned.</p> <p>Lord Ahmad suggested that the primary element of continuity in complex cases was the head of mission at Post:²⁵⁴ “ (...) our ambassadors do have consistency in post—duration in post is defined for a period of time, which could be three to four years, and that allows arrangements to be built up domestically—irrespective of political change, which does occur.”</p>	<p>Sustained criticism that the FCDO is not learning from past experiences, ministerial and senior official churn leads to the repetition of ineffective strategies, and it is unclear how data is gathered on such situations.²⁵⁵ As this could happen in multiple countries centralised lesson learning is key.</p>
<p>Strengthen the current practice of reviewing complex cases to improve handling. But set a clearer template for such reviews, involving the widest participation and with a built in challenge mechanism.</p>	<p>The FCDO looks to learn from previous cases and has an ongoing programme of research from those we have supported as well as conducting a variety of other research projects looking at topics such as child welfare, the needs of older British citizens, hospitalisation and improving content on GOV.UK. We also ensure that we record and act upon lessons learned from our formal complaints process.²⁵⁶</p> <p>We have quite an important feedback loop and an in-site team working with us on broader consular issues. In these circumstances, this is obviously not about scores out of 100 or whatever—this is much more sensitive than that—but we do seek feedback from the families. We also seek feedback from organisations (...) which have had to deal with very difficult cases, to see what we can do better (...)²⁵⁷</p>	<p>It is unclear whether there is a formalised lessons learning exercise across the totality of the FCDO’s response as suggested in the recommendation.</p>

254 [Q237](#) [Tariq Ahmad]

255 See, for example, Rachel Briggs ([SLH0016](#)) para 32

256 FCDO ([SLH0021](#))

257 [Q242](#) [David Rutley]

Annex 3: Background to the International Military Services debt

1) In 1976, the UK agreed to supply the Shah of Iran with 1,500 Chieftain tanks and 250 repair vehicles for which the Shah paid £650 million up front.²⁵⁸ Following the Islamic Revolution of 1979, the UK suspended diplomatic relations with Iran, having only provided 185 tanks, and the new regime under Ayatollah Khomeini requested a refund of £450 million. This was refused by the UK, and, under the auspices of a bulk sale to Jordan, some of the tanks were sold to Saddam Hussein, which further damaged UK-Iran relations.²⁵⁹

2) The dispute is between International Military Services (IMS), a state-owned branch of the MOD which negotiated the initial agreement, and the Iranian Ministry of Defence and Support for Armed Forces Logistics (MODSAF). A series of cases throughout the 1990s made little progress in settling the dispute, although IMS made provision for most of the outstanding debt to be held by the High Court in anticipation of a defeat.²⁶⁰

3) The principle over repayment was settled by a trade court in the Netherlands which ruled in 2009 that the UK should repay the nearly £400 million owed, including interest accrued between 1979 and 2009. However, by 2009 MODSAF was subject to EU sanctions. As any payment made by IMS would be in breach of such sanctions, the payment remained unmade. A further legal challenge by MODSAF asserting that IMS should pay the additional interest compounded since 2009 was rejected in 2019 on the grounds that interest was not chargeable by a sanctioned entity.²⁶¹ Iran announced its appeal of this judgment; the result has not been announced, but had been expected in January 2020.²⁶² While the UK Government has accepted its responsibility to repay the debt in principle, concerns have been raised that the sum could eventually be used by the IRGC to support its funding of regional proxies. The Guardian reported that Defence Secretaries Sir Michael Fallon and Gavin Williamson rejected calls from the FCO to release the payment on these grounds.²⁶³

258 [Why Britain owes Iran £450m - and why it might finally pay it back](#), iNews, Karl McDonald, 6 September 2019

259 [The MoD, the arms deal and a 30-year-old bill for £400m](#), The Independent, Cahal Milmo and Nick Dowson, 24 April 2010

260 [The MoD, the arms deal and a 30-year-old bill for £400m](#), The Independent, Cahal Milmo and Nick Dowson, 24 April 2010

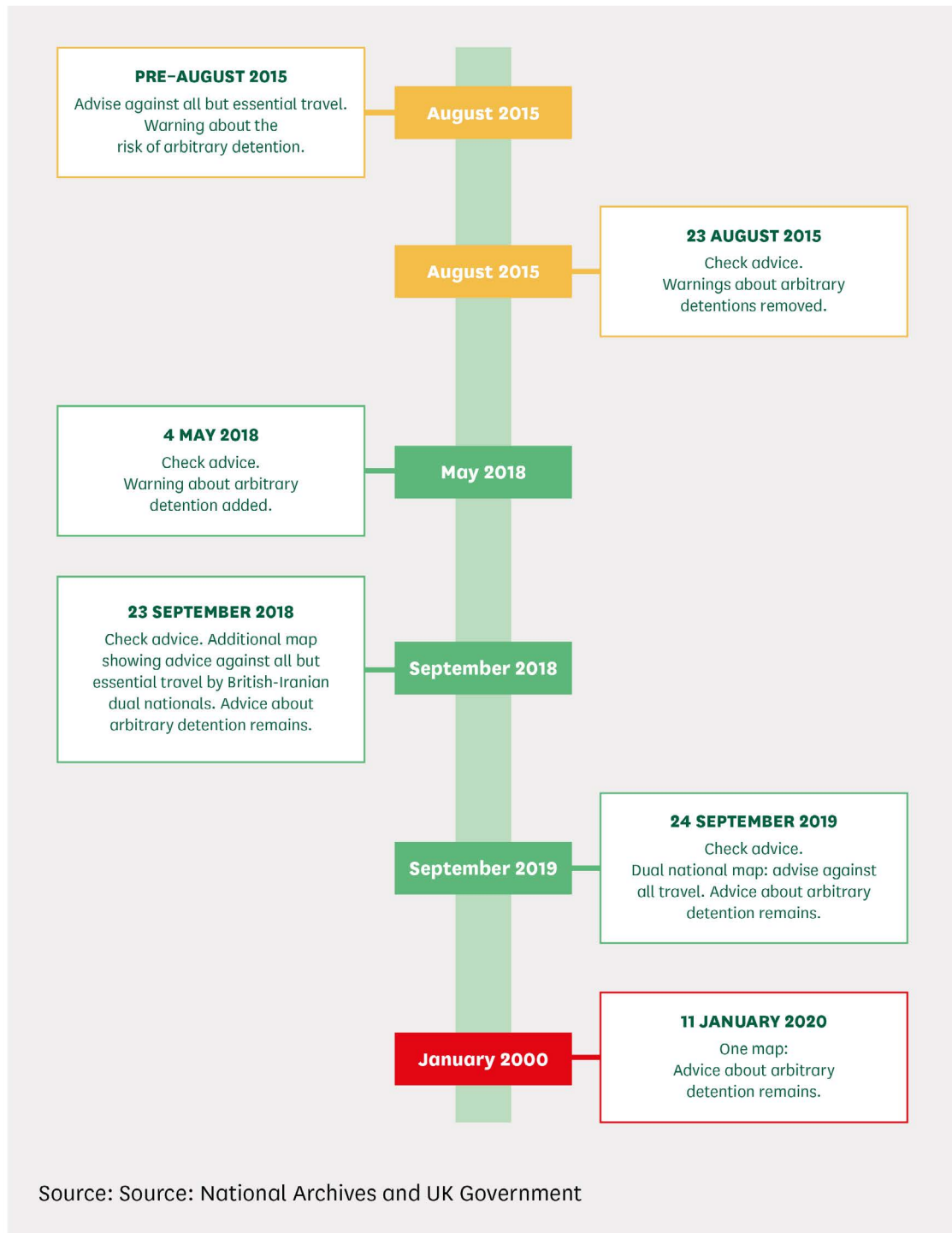
261 [Ministry of Defence & Support for Armed Forces of the Islamic Republic of Iran v International Military Services Ltd \[2019\] EWHC 1994](#), 24 July 2019

262 [Iran to Take Legal Action against UK Ruling on Old Defense Deals: Envoy](#), Tasnim News Agency, 27 July 2019

263 [MoD and Foreign Office clash over £400m debt linked to Zaghari-Ratcliffe release](#), The Guardian, 28 May 2019

Annex 4: Travel advice on Iran

Changes to Foreign Office travel advice to Iran regarding possible detention on summary page of website: 2015–2022



Formal minutes

Tuesday 28 March 2023

Members present:

Alicia Kearns

Sir Chris Bryant

Rt Hon Liam Byrne

Neil Coyle

Drew Hendry

Mr Bob Seely

Henry Smith

Royston Smith

Graham Stringer

Draft Report (*Stolen years: combatting hostage diplomacy*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 102 read and agreed to.

Summary agreed to.

Annexes agreed to.

Resolved, That the Report be the Sixth Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No.134.

Adjournment

Adjourned till Tuesday 18 April at 2.00 pm.

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

Tuesday 17 May 2022

Rt Hon Alistair Burt, Minister of State at the Department for International Development from June 2017 to March 2019, Former Minister of State for the Middle East, Foreign and Commonwealth Office [Q1–22](#)

Rt Hon Jeremy Hunt MP [Q23–52](#)

Tuesday 24 May 2022

The Rt Hon. the Lord Hammond of Runnymede [Q53–110](#)

Rachel Briggs, Chief Executive Officer, The Clarity Factory; **Brian Jenkins**, Senior Advisor, Rand Corporation [Q111–135](#)

Tuesday 19 July 2022

Rupert Skilbeck, Director, REDRESS; **Dr Tatyana Eatwell**, Barrister, Doughty Street Chambers [Q136–166](#)

Hans-Jakob Schindler, Senior Director, Counter Extremism Project (CEP) [Q166–180](#)

Tuesday 07 February 2023

Phil Harper QPM, CEO and Founder, Sheep One Hundred; **Mickey Bergman**, Vice-President and Executive Director, Governor Richardson Center for Global Engagement [Q181–206](#)

Monday 13 March 2023

The Lord Ahmad of Wimbledon, Minister of State (Middle East, North Africa, South Asia and United Nations), Foreign, Commonwealth & Development Office; **David Rutley MP**, Parliamentary Under-Secretary of State (Americas and Caribbean), Foreign, Commonwealth & Development Office; **Jennifer Anderson**, Director for Consular Affairs, Foreign, Commonwealth & Development Office [Q207–248](#)

Published written evidence

The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website.

SLH numbers are generated by the evidence processing system and so may not be complete.

- 1 Abroad, APPG on Deaths (MP and Chair of APPG on Deaths Abroad, Consular Services and Assistance, Parliament) ([SLH0015](#))
- 2 Amnesty International UK ([SLH0031](#))
- 3 Atlantic Council ([SLH0011](#))
- 4 Brennan, Mr Kevin (Member of Parliament for Cardiff West, Member of Parliament for Cardiff West) ([SLH0017](#))
- 5 Burt, Rt Hon Alistair ([SLH0037](#))
- 6 Crimes, State Level Hostage ([SLH0007](#))
- 7 Daby, Janet (Member of Parliament for Lewisham East, House of Commons) ([SLH0010](#))
- 8 Diamond, Ms Anna/Ana (Clarendon Scholar, University of Oxford); Diamond, Dr Aebraham; and Abbot-Diamond, Dr Eleanor ([SLH0004](#))
- 9 Kanu, Mr Kingsley; and Okwu-Kanu, Mrs Uchechi ([SLH0045](#))
- 10 FCDO ([SLH0021](#))
- 11 Ferstman, Professor Carla (Professor, University of Essex School of Law); and Sharpe, Dr Marina (Assistant Professor of International Law, Royal Military College Saint-Jean, Canada) ([SLH0018](#))
- 12 Foroughi, Mr Kamran ([SLH0034](#))
- 13 Gilbert, Dr. Danielle (Assistant Professor, United States Air Force Academy) ([SLH0020](#))
- 14 Hong Kong Watch ([SLH0046](#))
- 15 Hostage International ([SLH0022](#))
- 16 James W. Foley Legacy Foundation ([SLH0027](#))
- 17 Lynch, Mr James (Director, FairSquare); and Hamilton, Mr Omar Robert (Family member, Family of Alaa Abd el-Fattah) ([SLH0043](#))
- 18 McKay, Ms Leanne ([SLH0008](#))
- 19 Mégret, Professor Frédéric (Professor, Faculty of Law, McGill University) ([SLH0014](#))
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- 26 Schindler, Dr. Hans Jakob (Senior Director, Counter Extremism Project) ([SLH0033](#))
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- 28 Siddiq, Mrs Tulip (Member of Parliament for Hampstead and Kilburn, House of Commons) ([SLH0023](#))
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