



House of Commons  
Foreign Affairs Committee

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**Stolen years:  
combatting state  
hostage diplomacy:  
Government Response  
to the Committee's  
Sixth Report**

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**Sixth Special Report of Session  
2022–23**

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## Foreign Affairs Committee

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### Contacts

All correspondence should be addressed to the Clerk of the Foreign Affairs Committee, House of Commons, London SW1A 0AA. The telephone number for general enquiries is 020 7219 6106; the Committee's email address is [fac@parliament.uk](mailto:fac@parliament.uk).

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# Sixth Special Report

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The Foreign Affairs Committee published its Sixth Report of Session 2022–23, [Stolen years: combatting state hostage diplomacy](#) (HC 166) on 4 April 2022. The Government Response was received on 12 June 2023 and is appended below.

## Appendix: Government Response

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### Introduction

1. The Government is grateful to the Foreign Affairs Committee for its report, “Stolen Years: Combatting State Hostage Diplomacy” published on 4 April 2023, and has considered its recommendations in detail.

2. The Government is committed to acting on feedback and is grateful to all those who provided evidence to the Committee. We acknowledge the bravery of those who have been arbitrarily detained for diplomatic leverage, and that of their families. The Government has worked tirelessly to secure the release of British nationals arbitrarily detained for diplomatic leverage in Iran and elsewhere. The Government remains committed to learning from those detentions, from the experiences of the victims of those detentions, and from the experience of other countries. Our thoughts remain with those still enduring this unacceptable ordeal.

3. The Government’s position is clear: the UK does not, and will never, accept our nationals being used as diplomatic leverage. The Government is determined to deter and combat this practice, and the Government agrees that any such detention is a matter of the greatest concern and priority. That is why, in February 2021, the UK joined 56 other States (now 72 States plus the European Union) in endorsing the Declaration Against Arbitrary Detention in State-to-State Relations. This recognises that foreign nationals can be at risk of arbitrary arrest, detention, or sentencing by governments seeking to compel action from other States. It also recognises that this practice is contrary to international law, undermines international relations, and has a negative impact on foreign nationals travelling, working, and living abroad.

4. The Government urges any country engaging in such behaviour to release those affected immediately. We will continue to work in support of victims, alongside families until they are released, and with international partners to call out States who engage in the abhorrent practice.

5. As set out in oral evidence by the FCDO’s Parliamentary Under Secretary of State, David Rutley MP, the Government uses the term ‘arbitrary detention for diplomatic leverage’, rather than ‘state hostage-taking’, to describe the detention or use of individuals to exert leverage over the UK. That reflects the degree of international consensus around that term and the international condemnation which the UK has worked to reinforce.

6. This paper sets out the Government’s response to each of the Committee’s specific conclusions and recommendations. The Committee’s text is in bold and the Government’s response is below. Paragraph numbers in bold relate to the Committee’s report.

## How the UK Government has approached the resolution of State hostage situations

Conclusions and Recommendations paragraph 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)

Conclusions and Recommendations paragraph 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)

7. The Government is clear that any detention for diplomatic leverage is unacceptable no matter how large or small the number of people involved. The Government also agrees that there is increasing international concern about, and condemnation of, this practice. In the case of British nationals detained overseas, the evidence of increasing risk is less clear. The number of cases where the Government judge British nationals are detained arbitrarily overseas for diplomatic leverage remains limited. Not all detentions even in countries of concern are intended to exert diplomatic leverage. The behaviour of the small number of States that have been accused of engaging in such practices can be unpredictable and volatile, and the motivations of detaining authorities are rarely clear or consistent. Even when arbitrary detention for diplomatic leverage is a suspected motivation, avoiding politicisation can be the best route to de-escalation and release.

8. The Government does not agree that it should formulate and publish criteria for determining whether a detainee may be at risk of being used for diplomatic leverage. The FCDO already adopts a multi-disciplinary task force approach to complex consular cases, including the detention of British nationals, bringing together political, consular, legal, and human-rights expertise, to inform and develop our approach on a case-by-case basis. This ensures we identify quickly any potential examples of arbitrary detention for diplomatic leverage. That means that while the Government does not conduct routine assessments regarding diplomatic leverage, we would expect the Task Force approach to ensure any attempt to exert diplomatic leverage was identified. The Government's approach is not limited to specific countries or characteristics. Ministers are regularly updated and consulted; all complex consular cases, including detentions, are reviewed weekly by the Consular Director. Consular staff review the progress of all detention cases regularly and discuss developments and our approach with the families of those detained, not least where we do not have direct consular access

Conclusions and Recommendations paragraph 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)**

Conclusions and Recommendations paragraph 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)**

9. International law prohibits unlawful interference in the domestic affairs of another state. The Vienna Convention on Consular Relations 1963 (VCCR) provides the legal framework for consular functions between States. The VCCR sets out overarching rules on how states provide consular assistance to their nationals in other States. It provides Contracting Parties (i.e., the relevant States) with certain rights, but also responsibilities. It is a fundamental principle that consular officers operate within, and must respect, the law of the receiving State, and Article 55 includes a clear obligation not to interfere in the internal affairs of that State.

10. In line with the Government's commitment to strengthening the Rules Based International System, the Government encourages all States to abide by their obligations under international law. The UK has always been, and will remain, a strong advocate for the UN's human rights fora and fully supports the Human Rights Council and the tools and mechanisms at its disposal. The Government values the important work of the UN Working Group on Arbitrary Detention (UNWGAD) and co-sponsors its mandate, most recently in October 2022. Individual opinions by the UNWGAD are based on the information available to them. They are not legally binding, and their recommendations are rightly for the detaining State to address. As a general principle, the Government may disagree with an individual Opinion while supporting the UNWGAD's role and work.

11. There is a difference between interfering in a judicial system and intervening where a British citizen is unjustly detained. As a matter of existing published consular policy, where there are concerns that a detainee is not being treated in line with international standards the FCDO can, with the consent of the individual, raise these with the relevant authorities, including at the highest levels of government. Where the UNWGAD has adopted an Opinion that a British national is arbitrarily detained, we take this very seriously. Ministers are informed and we consider the UNWGAD Opinion alongside all other relevant reporting and information available to us to inform our approach. Our overarching consular policy is to act in the best interests of the individual: our actions (or sometimes intentional inaction) are focused on the need to consider, on a case-by-case basis, the best interests of the detained individual and what we judge to be the most effective approach. That the detaining authority retains jurisdiction and ultimately control over nationals in its custody is a political and legal reality which we need to bear in mind when taking a view on the best interests of an individual.

**The Committee’s letter of 22 May 2023 to David Rutley MP: [Attending trial/court hearings] is an important and powerful diplomatic tool that could be used more strategically and in a broader range of situations. Its reservation for “exceptional circumstances” may be unduly restrictive, for example in the cases of UK nationals in Iran. Inconsistent use may convey an unhelpful ambiguity to detaining authorities and families as to the importance the UK Government places on the release of particular individuals...It would be helpful to have an assessment of whether this tool could be better utilised in situations where there are concerns over legal process or where conditions fail to meet international standards, and in situations of potential or likely arbitrary detention.**

12. The Government agrees that consular or diplomatic attendance at trial proceedings or court hearings can be an important tool to demonstrate the strength of the UK’s interest in a case, particularly where there are concerns over legal process. This could include cases where arbitrary detention for diplomatic leverage is suspected. Although consular staff are not legally trained, and cannot comment on proceedings, FCDO officials have regularly attended hearings in some complex cases where we have welfare or fair trial concerns. FCDO officials have also attempted but been refused from attending others.

13. In some circumstances attendance may not always be in the best interests of the detained individual, where the presence of UK diplomatic or consular staff in court may adversely raise the profile of the detainee or be seen as politicisation that could risk unhelpful escalation; where possible we would discuss attending with the local lawyer.

14. UK officials’ access to court proceedings overseas is ultimately at the discretion of the local authorities. In countries, or proceedings, where court attendance may not be permitted, we would seek alternative ways to demonstrate the Government’s interest in a case. Even in countries where UK officials are not routinely prevented from attending court hearings, logistical or security concerns can severely constrain officials’ movements. Staff safety will always be a consideration. Decisions on court attendance are made on a case-by-case basis in consultation with senior officials in the UK, and based on our assessment of the most effective approach, including the likely risks and benefits.

**Conclusions and Recommendations paragraph 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)

15. The UNWGAD is comprised of five independent experts, each from a different geographical region, who serve in a personal capacity and not as a representative of a State. The recruitment process is independent, competitive and transparent: membership of the Human Rights Council does not give the UK any opportunity to influence the process.

**Conclusions and Recommendations paragraph 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)

Conclusions and Recommendations paragraph 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)

16. The Government has looked closely at other models. The Government believes that our current approach, led by Ministers, and supported by Ambassadors and senior officials who hold the necessary political and geographic expertise, is the best route to securing the release of those who have been arbitrarily detained for diplomatic leverage. It is Ministers, Ambassadors and senior officials who hold the necessary relationships to intervene decisively with a detaining State. In practice, this generally results in a lead point of contact at senior official level (e.g., Ambassador or Envoy), with the Foreign Secretary holding ultimate accountability as the Secretary of State responsible for consular affairs and bilateral relations. Our task force approach ensures that they are supported by the full range of consular, political and geographic expertise.

17. The Government already considers the widest possible range of options and levers when considering what action to take, and is not limited to a narrow toolbox, or constrained by bilateral matters. Ministers frequently have prioritised consular equities, despite competing bilateral arguments. In every case, the Government seeks to work with the specific context of an individual detention, assessing the actions and likely motivations of the detaining State. Our decisions and actions necessarily have to consider the prevailing situation. This includes how, and with whom, the detaining state is prepared to engage.

Conclusions and Recommendations paragraph 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)

Conclusions and Recommendation paragraph 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)

18. The Government agrees the importance of continuous improvement and proactive case management and has systems and practices in place to support this. This includes a central database for recording and managing consular casework globally, and thorough briefings for incoming staff or Ministers. With cases of Arbitrary Detention for diplomatic leverage, the FCDO will also maintain detailed records of similar instances and key timelines. The FCDO has a range of ways of learning from previous cases, including

individual case-reviews and feedback received on the support offered. We seek to incorporate lessons learned both into our policy and guidance but also into our training and knowledge retention packages.

19. The strategy for resolving any individual and ongoing detention is subject to continual review through regular task force meetings in concert with geographical, political, legal, consular, human rights and communications colleagues. We will seek and take account of input and challenge from family members and external partner organisations. Ministers oversee complex cases within their geographic area of responsibility, providing direction and taking decisions, including for example where bilateral relations are involved, or where there are exceptional circumstances. The Director for Consular Services reviews complex cases weekly. The Minister for Consular Policy reviews the most complex cases globally with the Director for Consular Services monthly, with all lead ministers receiving real time updates on significant developments.

20. The Government does not accept that changes in responsible Ministers or senior officials have affected the pace of resolution of cases of arbitrary detention for diplomatic leverage. Incoming Ministers are briefed within days of arrival, with complex cases prioritised.

Recommendations and Conclusions paragraph 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)

21. The Government agrees that we should work with close partners to discuss approaches, and exchange experience and best practice, while respecting obligations to protect individuals’ personal data. There is already regular (at least biennial) communication amongst diplomatic and consular colleagues from ‘Five Eyes’ countries between our respective capitals. Such exchanges also take place with other like-minded partners, and between our respective Embassies and High Commissions overseas in countries where those partners also have diplomatic representation.

Recommendations and Conclusions paragraph 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)

22. The Government accepts the fundamental importance of early identification and escalation of complex detentions, including arbitrary detention for diplomatic leverage. That is why the FCDO has adopted the task force approach recommended in the Macgregor review to harness the widest possible range of knowledge, experience, and expertise, and why we work with a range of external partners and specialist support organisations. Senior diplomatic staff based overseas and in geographic directorates in the FCDO participate in task force meetings in a wide range of cases to help ensure case strategies are tailored to the specific circumstances and context, and that the fullest possible range of levers and options are identified.

23. The FCDO already trains its staff to reassess complex consular cases systematically and regularly, and to escalate them to more senior staff without delay as we recognise that



the situation can change without notice and that this needs to be an ongoing process. This allows us to consider the most appropriate type of support for that situation and how best to use the range of diplomatic tools available. Ministers are regularly updated on complex consular cases, including at the early stages. We recognise the value of having a global network where many of our staff are recruited for their local expertise and through their knowledge of local systems and processes can identify issues early, including concerns about human rights and due process.

**Recommendations and Conclusions paragraph 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)

24. The Government is determined to deter and combat the practice of arbitrary detention for the purpose of diplomatic leverage. Such detentions generally occur in countries where human rights standards and the rule of law are poor, and/or where there is a challenging bilateral relationship. We believe not making substantive concessions is an important part of discouraging and deterring the practice of detaining foreign nationals for diplomatic leverage. HMG has maintained a consistent policy of not entering into prisoner exchanges involving British nationals detained overseas, for example, and has a well-known and long-standing policy of no concessions in terrorist kidnaps which we believe has ultimately worked to protect British nationals from hostage-taking.

25. Our actions are always carefully calibrated to prioritise the best interests of the individual, while also being mindful of the risk of creating perverse incentives, and the potential risk of harm, whether to the individual or others. In diplomatic leverage cases we consider the range of available tools and levers, including creative or novel options, and both bilateral and multilateral engagement or via a third party. This is done through adopting a task force approach which allows us to consider the range of levers and political tools with input from relevant experts across the FCDO in the UK and overseas, and ensuring Ministers and senior political leads, including Ambassadors and Geographical Directors are brought in early.

**Recommendations and Conclusions paragraph 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)

26. The Government does not agree that we should establish a separate post of Director for Arbitrary and Complex Detentions. Our approach reflects the Foreign Secretary’s

primacy within Cabinet as the Secretary of State responsible for foreign affairs, including consular affairs, with direct access to the Prime Minister. Our approach to the governance and leadership of complex cases also reflects the dual premium we place on country specific expertise and consular best practice. Relevant senior geographic leads (Minister, Geographic Director, and Head of Mission) may lead our diplomatic response to complex detentions such as those in Iran, working with the Director for Consular Services who is responsible for consistency of consular approach. We regularly compare this approach with best practice in other countries.

27. Ministers and senior officials will engage with families at different stages of the case, but we seek to give families continuity with a named case officer. We engage closely with families, where appropriate offering support including specialist support from external partners. We have a 24/7 operation that can respond quickly out of hours if necessary. Ministers are regularly briefed on complex consular cases and take a close interest in them. The FCDO's consistent interdisciplinary task force approach to complex consular cases also means that we are able to allocate cases across the Consular Assistance Department according to country expertise and capacity. Where necessary, we will create a bespoke team, as was the case for last year's detentions in Ukraine.

**Recommendations and Conclusions paragraph 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)**

28. The task force approach to complex consular cases, and process of informing and accounting to Ministers described to the Committee in our written and oral evidence, and in paragraph 16, is designed to ensure prompt identification of complex detentions. That includes any possible use of a detained British national for diplomatic leverage. Ministers will be informed at the earliest possible opportunity and regularly updated on case strategies and developments.

29. Where there are concerns that a detention may be arbitrary, it may not be immediately clear whether a person is being held with the intention of asserting diplomatic leverage or not. Our response is therefore calibrated to ensure Government action does not unintentionally crystallise or increase the value of the detainee in the eyes of those holding them, potentially causing them to be detained for longer or put at other risk of harm.

30. The Government is committed to considering all requests for consular assistance, and to providing effective, tailored, support where it is safe and appropriate to do so. Where appropriate, we would consider using third parties, including NGOs, as interlocutors.

Where we judge it appropriate for the purposes of supporting a British national, the FCDO does engage pragmatically with actors with whom we would not ordinarily have a relationship, or sometimes through a partner or international organisation.

31. The FCDO is proud of our reputation for diplomatic trade-craft including negotiation, networking, and building influence. Ambassadors and Heads of Mission overseas represent the whole of HMG harnessing defence, development, diplomacy, security, consular and other interests and capabilities. The FCDO also works with a range of external organisations who can provide specific support or onward referrals to further sources of support. In this context, organisations include Prisoners Abroad, Reprieve and the Death Penalty Project (where potential charges could carry a death sentence), Hostage International, and Victim Support services.

32. While families do sometimes engage third parties to provide them with additional advice, the FCDO is not generally in a position to recommend third-party organisations, or to dictate how they should operate. Where we can, we will share with families FCDO assessments on the effectiveness of different strategies. This can include any potential risks or benefits around making a case public, which parts of the detaining State's system we deem most appropriate for us to engage with, and the risks of opening multiple channels of engagement with the detaining country. We aim to engage with families, and their representatives, in as open and constructive a way as possible.

**Recommendation and Conclusions paragraph 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)

**Recommendation and Conclusions paragraph 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)

33. The decision to exercise diplomatic protection formally raised Mrs Zaghari-Ratcliffe's case to a state-to-state level. This was implemented in good faith having listened to the wishes of her family, and to the fullest extent possible but did not assist efforts to secure her release as Iran refused to recognise Mrs Zaghari-Ratcliffe's British nationality. This was, and is, the reality for those unfairly detained in Iran, or where dual nationality is not recognised or permitted under local laws. Exercising diplomatic protection demonstrated to both Mrs Zaghari-Ratcliffe's family and Iran how seriously we treated her detention but gave no additional political or legal tools in helping to secure her release. At all times, the FCDO took decisions in line with what it believed would produce the best outcome for Mrs Zaghari-Ratcliffe.

34. The Government only considers exercising diplomatic protection in truly exceptional circumstances. Diplomatic protection of a British national in relation to a consular case

can only be considered if requested by the individual, or those representing the individual. There are a number of internationally recognised criteria that must be met before the exercise of diplomatic protection is considered. Other than proof of British nationality, (and ‘predominant British nationality’ where someone is a dual national), these include evidence of an internationally wrongful act, and that all local legal procedures and diplomatic representations have been exhausted. The Foreign Secretary also considers any legal, human rights, economic, foreign, defence, security, reputational and political risks have been considered through wider consultation within HMG. Ultimately, the decision whether or not to exercise diplomatic protection in any individual case, is for the Foreign Secretary.

**Recommendation and Conclusions paragraph 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)

**Recommendation and Conclusions paragraph 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)

35. The Government recognises the importance of a constructive relationship between Parliament and the FCDO, the vital work that MPs carry out to support their constituents, and the important role of the Committee in providing scrutiny. Consular and Crisis Directorate engages with Parliament across a range of issues including proactively briefing MPs and their staff about our consular strategy and support for British people abroad. The FCDO welcomes the support Parliamentarians can offer in support of efforts to deter and combat the practice of arbitrarily detaining British nationals for diplomatic leverage.

36. However, given the limited number of cases of arbitrary detention for diplomatic leverage, and the need to protect personal data and sensitive information, the Government does not agree to provide an annual report on the progress of such cases. The Government already publishes extensive consular transparency data to support public and parliamentary scrutiny of consular services, including detailed monthly reporting on assistance provided to British nationals around the world. The Government also publishes an Annual Human Rights and Democracy report which includes government action to promote and defend human rights globally.

**Recommendation and Conclusions paragraph 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)

37. The Government agrees that States who routinely target foreign nationals, and manipulate their judicial systems, should be left in no doubt about the political and diplomatic price they pay for their actions. The Government robustly challenges the

practice of using detained foreign nationals to seek political leverage. Alongside our partners in multilateral fora and groupings including the G7, the UN, and the Canadian Initiative on Arbitrary detention in State-to-State relations, we call out the countries responsible for this cruel and cynical infringement on individuals' rights.

38. With regard to individual detentions, our guiding principle is to act in the best interests of that individual. This is why we weigh the potential risk and benefit of high profile interventions carefully and take decisions on a case-by-case basis having consulted the individual and/or their family. Where we see that there may be risk in making a case public, we will share that assessment with the family so that they can take it into account as they decide how to proceed. It is not the case that we always judge there are risks in taking a public approach to a detention case.

39. Acting in the best interests of individuals by lowering their profile does not mean we cannot at the same time hold the States responsible to account. We recognise that the decision to make a detention public is ultimately one for families themselves to take, if they perceive that to be the best route for them. While we do share any assessment of the risks in doing so, including the irreversible nature of making a detention public, we would not seek to stop them, nor would it change our support to them. Equally, where a family does not wish to have a public profile, we respect this. This does not mean that we would not raise concerns vigorously with the relevant authorities, but that we would not ourselves put a detention into the public domain and would ensure any public statement does not include content which might identify the individual or family.

**Recommendation and conclusions paragraph 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)

**Recommendation and conclusions paragraph 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)

40. The Iranian Government has put detained British nationals and their loved ones through unimaginably difficult ordeals. Iran was in no doubt that its unfair detention of British nationals was a priority for this government and a major block to achieving a better bilateral relationship. Our commitment to securing their release was demonstrated to their families by regular meetings with consular officials, frequent Ministerial contact with those families, led by the Foreign Secretary and including the Prime Minister, and countless public statements from Ministers condemning Iran's actions and calling for release.

41. The Government agrees with this recommendation and already seeks to support and advise any family that wishes to proceed publicly with a case. The Government assesses options and levers on a case-by-case basis. Where we see that there may be risk in making a case public, we will share that assessment with the family so that they can take it into account as they decide how to proceed, but it is not the case that we always judge there are risks in taking a public approach to a detention case. We recognise that the decision to make a case public, and whether and how to campaign, is ultimately one for families themselves to take if they perceive that to be the best route for them. We would not seek to stop them, nor would it change our support to them, although it may on occasion limit the detail of information, not in the public domain, that the FCDO is able to share. We treat all cases of those detained in Iran with the utmost seriousness as reflects the risk to those detained, and with equal effort irrespective of public awareness. The FCDO media office can provide some advice to the families of those detained on engaging and responding to the media.

Recommendation and Conclusions paragraph 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)

42. The Government has been consistently clear that we do not tolerate our nationals being used for diplomatic leverage. It was always within Iran's gift to end the ordeal of those it held, and still holds. When it is in their best interests to do so, we do make clear the British nationality of detainees both in private and—when we have consent from the detainee or their family to release information about them—in public and in Parliament. There may be cases where we judge it is not in a detainee's best interests for their British nationality to be publicised or attention drawn to it, for example if this might increase their value in the eyes of the detaining State. We will not do so if a detainee or their family ask us not to make a detainee's British nationality public.

43. FCDO officials and Ministers meet regularly with families to share information and discuss our approach. This includes discussing the merits and risk of public and private approaches, and engagement in multilateral as well as bilateral fora. The FCDO media office can also provide some advice and support to families on managing media interest. The FCDO would not exclude the option of looking at 'publicity' options, if we thought this would advance resolution of a case and a detainee, or their family agreed.

## Consular support

Recommendation and Conclusions paragraph 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)

**Recommendation and Conclusions paragraph 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)

44. Supporting British nationals overseas is the FCDO's primary public-facing service. We do, and will continue to, seek consular access under Article 36 of the Vienna Convention on Consular Relations when a British national is detained. Where we have significant human rights or humanitarian concerns, we also seek access to British dual nationals in their country of second nationality. What we cannot enforce, is recognition of dual nationality by that detaining country. Enshrining the right to consular assistance in British law would not alter that, as countries with enshrined rights have experienced.

45. Any government's ability to deliver consular services in a particular country is constrained by the laws, regulations and practices of that country. It is also dependent on any practical or security concerns constraining consular operations. These factors are often pivotal when managing our most complex cases including detention cases where we have concerns regarding due process.

46. In the case of Iran, we have been clear that it was always within Iran's gift to release those that it held, or holds, arbitrarily. The Government repeatedly requested consular access to dual nationals detained in Iran, but the Iranian Government does not recognise those individuals as British nationals and therefore does not allow consular access.

47. While the Government seeks to assist all those in Iran who request consular assistance, ultimately, Iran is able to determine whether other states are permitted consular access to dual-nationals within its jurisdiction.

48. While the Government continues to assess whether various political or bilateral options might be used to more effectively secure consular access in Iran or elsewhere, we are always careful to consider whether doing so would conflate consular and bilateral matters and a way that is unhelpful to the resolution of a particular case. This does not stop Ministers and officials vigorously pursuing efforts to secure access where appropriate and considering all options and levers available to us to do so, including under the VCCR. In all cases, we consider what is in the best interests of the individual, including the likely risks, benefits, and effectiveness of different options.

49. While there is no legal obligation in international or domestic law to provide consular assistance, we consider all requests for consular assistance in line with published policy and in compliance with the principles of public law.

Recommendation and Conclusions paragraph 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)

Recommendation and Conclusions paragraph 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)

50. The Government recognises the ordeal faced by families and friends of those detained for diplomatic leverage. Families are both victims and valuable partners. Where families have deep links with the detaining country, they may have access to information that the Government does not. We listen carefully to their views, particularly where there is a risk that Government involvement may increase the value of a detainee or deepen suspicion as to their activities. We always seek to give families involved in a complex consular case continuity with a named case officer. We also have a 24/7 operation that can respond quickly out of hours if necessary. During complex detentions, engagement with families, and their representatives including MPs, can be extensive including regular meetings with senior officials and Ministers. We are led by families as to the frequency of those meetings. We discuss case strategies with families, including seeking their views. We may not share all details of our proposed action if we judge it could harm the interests of the detained person or others (for example if multiple British nationals are affected or where it might compromise ongoing bilateral discussions). We recognise the frustration and concern that can cause the family of a detainee and will look wherever possible to build and maintain relationships of trust.

51. As a general principle, FCDO consular staff undertake training to reinforce the importance of communicating with empathy. This is prioritised as a key element both in self-guided learning, and within a four-day introductory course. Consular staff also engage with specialist teams, and where appropriate with peer support organisations and specialist organisations such as Hostage International, to hear about the unique strains on those detained in such circumstances, and the importance of reflecting this in our support for them and their families. Continuous professional development for consular



staff prioritises further learning on empathetic communication through the bespoke consular communications learning programme, and as a core element of our training on using a task-force approach to support complex detentions.

Recommendation and Conclusions paragraph 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)

Recommendation and Conclusions paragraph 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)

52. The Government welcomes the Committee's recognition of the value of the FCDO's funded partnerships with NGOs and organisations who can provide specialist support and advice. These include Prisoners Abroad, Hostage International, Reprieve and the Death Penalty Project. These partnerships are in place because we recognise that individuals or their families may have needs that the FCDO is not best placed to provide. We are committed to regularly reviewing the partnerships we have to consider feedback, adapt to changing requirements, and explore whether and how access to support services can be improved.

53. The FCDO's focus is on providing the best possible consular support to British nationals overseas. The Government recognises however, that in some circumstances, individuals and their families may need additional support on their immediate return to the UK to help transition from life in detention. We have, for example, accompanied returning terrorism kidnap hostages or detainees held for diplomatic leverage on their return journeys to the UK, and provided them with a space to decompress for a few days. In high profile cases we will seek to identify private space away from the media for a family reunion on arrival at the airport. We also help connect individuals, and their families, to other sources of support, including the NHS and Government departments responsible for access to housing, employment, and benefits, and to advocate on their behalf with those other government services.

54. Following the publication of the Committee's report, and having consulted external trauma experts, we have formalised our arrangement with Hostage International to ensure that ongoing psycho-social support, where appropriate, will be available to those we refer to them. Our grant agreement with Hostage International, for example, now enables it to provide tailored ongoing and long-term welfare support to individuals and their families.

This includes psychological support, help to access the NHS, financial advice, and access to pro bono legal advice if required. We are working with Hostage International to ensure that families are better able to understand and access the support that they can offer. We also fund Prisoners Abroad who have a resettlement service which can offer their clients a range of practical support including advice on accommodation or accessing the benefits system, as well as work preparation courses.

55. We have also carefully considered the Committee's recommendation to develop a programme of follow-up meetings at regular intervals, and have consulted organisations and individuals which provide psycho-social support. We recognise that some families would welcome a time-limited programme of regular check-ins and would find this beneficial. We will therefore ensure that all future returning detainees held for diplomatic leverage are offered an opportunity, at a point of their choosing within six months of return, to share their reflections and feedback with the FCDO, including on the support provided via our funded partners and UK domestic agencies. While the expert advice we have received suggests that seeking to maintain an ongoing relationship as the FCDO may not aid individual recovery, we will ensure that returning detainees have a named point of contact on return to the UK. If requested by the returning detainee, this could be used to ensure they are connected with the right part of government, or other governmental organisation, and where necessary or appropriate, provide a formal FCDO referral to support them.

## International Military Services Debt

Recommendation and conclusions paragraph 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)

56. The existence of a debt that the UK owed to Iran, and which the UK was legally obliged to settle created a unique set of circumstances in the bilateral relationship. The nature and resolution of the debt was complex, and it took a long period of time for domestic and international litigation relating to the debt to conclude. It would not have been appropriate for the Government to pay a debt still under consideration by a court. Successive Ministers and officials worked at pace to seek to discharge the debt at the earliest opportunity. However, the technical complexity involved in doing so legally, and in a sanctions-compliant manner, lengthened this process.

Recommendation and conclusions paragraph 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)

57. The IMS debt was discharged in full compliance with UK and international sanctions and global counter-terrorism financing and anti-money laundering regulations. As set out

in paragraph 54, the debt was subject to litigation and discharging it in a legal, sanctions-compliant manner was complicated by a range of technical factors and required extensive negotiation with Iran. Successive Ministers and officials worked at pace to achieve this at the earliest opportunity.

58. The characterisation of UK-US relations in this context is inaccurate: following the payment of the debt, we have continued to work as closely as ever with our US partners to challenge and constrain Iran's malign actions.

## Prevention and Deterrence

Recommendation and conclusions paragraph 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)

Recommendation and Conclusions paragraph 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)

59. FCDO travel advice provides information to help British nationals make informed decisions about foreign travel. Travel Advice remains under constant review to ensure it reflects our latest assessment of risks to British nationals. The safety of British nationals is our overriding concern when determining our travel advice. We advise against travel when we consider the risks to British nationals to be unacceptably high, including where we judge there to be a serious risk of arbitrary detention. Travel advice is advisory. It is for individuals to decide whether they feel it is safe for them to travel to a particular country taking into account their particular circumstances.

60. Giving tailored advice, or advice that goes beyond our Travel Advice, to individuals or organisations, including those travelling against FCDO advice, would breach our parliamentary commitment to have no 'double standards' in the provision of FCDO Travel Advice. The advice we provide British nationals orally and in writing must always be consistent with our Travel Advice. Through our Travel Aware campaign, and via travel industry stakeholders, we consistently push messaging to raise awareness of Travel Advice. We recommend travellers sign up to email alerts for their destination country so they can be notified of any changes.

61. FCDO advises against all travel to Iran due to the significantly high risk that British and British-Iranian dual nationals could be arbitrarily detained in Iran, among other risks. This is clearly stated in our current Iran travel advice. We follow the same approach for other high risk states. We have to consider how to represent this risk in travel advice alongside all other risks to British nationals so that we set out all the relevant risks, including that of arbitrary detention, proportionally. Through our Travel Advice, we will continue to ensure we are providing robust and timely information to British nationals about the risks of foreign travel.

**Recommendation and Conclusions paragraph 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)**

**Recommendation and Conclusions paragraph 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)**

**Recommendation and Conclusions paragraph 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)**

**Recommendation and Conclusions paragraph 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)

62. The Government agrees that it must combat the use of arbitrary detention for diplomatic leverage on a macro level as well as specific instances involving British nationals. The Government agrees that international solidarity is key to combatting the abhorrent practice of arbitrary detention for diplomatic leverage. Canada led the way on international action, with support from the UK including through the UK's 2021 G7 Presidency. We are pleased that since the launch of the Canadian initiative in February 2021, a further 15 countries have signed the declaration, to bring the total to 72, plus the European Union. We also work with other groups of affected countries on specific areas of concern.

63. In line with the Partnership Action Plan, announced at the G7 Foreign and Development Ministers' Meeting in London during the UK's G7 Presidency, the UK has advocated and raised awareness of the declaration through existing regional and international mechanisms. Notably, we co-sponsor a resolution at the Human Rights Council on Arbitrary Detention, most recently in 2022. And at the September 2020 Human Rights Council we joined a statement on the politically motivated detention of foreign nationals. The Government commits to continuing to engage with others to share information and experience, raise awareness, and to strengthen collaboration with a view to enhancing collective response.

64. Any arbitrary detention of a foreign national for diplomatic leverage is unlawful and a grave abuse of human rights. The Government keeps all options under review to try and prevent or end arbitrary detention for diplomatic leverage, including legal options where appropriate. In deciding whether to take legal action, the overriding consideration will be the best interests of the individual concerned, as well as the best interests of other British nationals detained in that country.

65. The Government works closely with other states and international organisations, including the International Law Commission, on a number of areas of international law, including the VCCR.

66. Our broader strategy remains to deter the arbitrary detention of British nationals—and others—globally by not making substantive concessions, alerting British nationals to the risk by using tools such as Travel Advice, working bilaterally and multilaterally with others to understand specific instances of arbitrary detention for diplomatic leverage and maintaining an international coalition of likeminded international partners, including with G7 partners. It is essential that states who routinely target foreign nationals are left in no doubt about the political and diplomatic price they pay for their actions.

67. The Government continues to keep under review the role of sanctions tools to address serious human rights violations and abuse, and the role of sanctions alongside other tools for taking action against countries that arbitrarily detain UK nationals for diplomatic leverage. The UK's Global Human Rights Sanctions regime targets activities which amount to a serious violation of an individual's right to life; right not to be subjected to torture, or

cruel, inhuman or degrading treatment; or right to be free from slavery. These regulations have been a huge step forward, but we will continue to explore whether we should build on them in the future. While Arbitrary Detention for diplomatic leverage is not a specified ground in the Global Human Rights Sanctions regime, it is a serious violation of human rights, and the treatment of those so detained may still amount to activities targeted by this regime, especially if subject to torture or mistreatment while detained.