

Written evidence submitted by the APPG on Deaths Abroad, Consular Services and Assistance (“the APPG”) (SLH0015)

Summary

- **Part of the evidence provided below is not yet within the public domain. The APPG respectfully requests that the Committee refrains from publishing this response until 1 June by which time, it is hoped, the information should be publicly available.**
- The APPG took evidence from Richard Ratcliffe in relation to Nazanin Zaghari-Ratcliffe’s detention in Iran and from Daniela Tajeda regarding Matthew Hedges’s detention in the United Arab Emirates. This is the focus of the evidence below.
- It also took evidence from the family of Jagtar Singh Johal and of Albert Douglas’s family. Whilst not discussed in the same detail here, those families had similar experiences to the ones described below.
- The overarching theme is of a government that finds it inconvenient to hear about the abuse of its citizens. Traumatized families should not have to spell things out to a government with its fingers in its ears. It wastes crucial time, particularly when the beginning period is the most dangerous.
- The reluctance to act even in the most complex and specialist of cases is problematic. It sends the message to the rest of the world that the UK will remain silent and to its citizens, that they are disposable as collateral damage.

The APPG’s interest

The APPG is interested in this inquiry having taken evidence from families throughout the UK about their experience when seeking consular assistance in out of the ordinary but extremely serious circumstances. Its experience is derived from learning from those with lived experience and from related stakeholders about how the government could make improvements. As a result, the APPG produced a report in 2019¹ and recommended a legal right to consular assistance, among other related recommendations.²

To Question 1.

Merits

1. From the evidence the APPG has heard, it is hard to find merits in the FCDO’s approach. That is not to say that there aren’t any merits, but we have no knowledge of them from the cases we have seen.

Mistakes

2. There is a consistent theme among the cases the APPG has hear about that, initially, **the FCDO denied the reality** of the hostage-situations and either did not acknowledge the situation, or worse, acknowledged it and then tried to turn a blind eye. For Richard Ratcliffe, he has been clear with the APPG that what looks like the

¹ <http://hannahbardellmp.scot/wp-content/uploads/2019/11/The-All-Party-Parliamentary-Group-on-Deaths-Abroad-Consular-Services-and-Assistance-Report-2019.pdf> (See recommendations 3a. – 3i. on consular assistance)

² As above, see chapter 3 and recommendations 3a. – 3i. on consular assistance.

FCDO's adopted **policy of gaslighting** i.e. denying reality was and is the government's biggest failing.

3. For Daniela Tejada and others, their experience speaks to a **second type of gaslighting by the FCDO** i.e. communicating to families that they are advocating on their behalf whilst simultaneously taking no such action. The APPG is aware from other cases (unrelated to hostage taking) that the FCDO generally adopts this approach of denying reality, or saying it is helping when it is not, whenever any type of consular assistance is sought. And due to the **lack of transparency where the FCDO refuses to reveal what is or is not being done**, when the truth inevitably and invariably comes out, it is a catalyst for mistrust and causes great bitterness. As a result of what then often becomes a very light-touch PR approach, it has negative consequences and alienating results for the families who sought the assistance in the first place.
4. Moreover, when families approach the FCDO about what they can do instead, i.e. often the suggestion is made to go public due to government inaction, they are met with **the government's standard policy of suppression**. This policy is always at the expense of the welfare of British citizens and is not something Parliament should accept. This happened when Ms Tejada learned that despite assurances to the contrary, no representations had in fact been made by the FCDO in attempting to have Matthew Hedges released from solitary confinement in the UAE, not even from prison *per se*, but from solitary confinement where he was being tortured. When she eventually decided to go public in October 2019, Ms Tejada said the Foreign Office tried to stop her, threatening her that any disclosure of this would compromise her husband's chances of release. When Ms Tejada disagreed, the FCDO even phoned the editors of The Times and The Sunday Times, "*behind my back and against my will*" to say she was going public against advice and had changed her mind about publishing. Yet, Ms Tejada is certain that it was only because of the public attention her husband's case then received that action was taken by the FCDO. This is a significant mistake in policy and ought to be addressed by Parliament.
5. There is always a **structural conflict of interests** where the Embassy's job is to maintain good relations with the other country, and so it has an incentive to downplay the abuse, and counsel quiescence. The conflict of interest was particularly strong in Mr Hedges' case where on the one hand the FCDO was acting behind Ms Tejada's back to prevent public knowledge of Mr Hedges' detainment in the UAE, accused of being a British spy, whilst simultaneously, a foreign Minister was on an all-expenses paid for trip to the UAE "*signing an MoU with the government of Dubai to share best practice, expertise and techniques on government communications and development of communications teams*"³. Even in Mrs Zaghari-Ratcliffe's case, the FCDO diplomatic strategy in 2016 was to be friendly to Iran and allow them to release her on their own terms, and in 2022 it was still exactly the same (with the money grudgingly paid). Such conflict of interests means that FCDO

³ APPG on Deaths Abroad, Consular Services and Assistance Report 2019: 'Why Families in the UK Deserve Better and What Can Be Done', page 49.

advice to families is inevitably self-serving and cynical and this is something the APPG has heard time and again over the last four years.

6. The FCDO's next mistake is in its **failure to have in place a mechanism for cases that are out of the ordinary** and to recognise that whilst not every consular case ought to be treated in a "gold-plated" way with care and diligence, some do.
7. As Ms Tejada told the APPG in response to her husband's imprisonment in the UAE, where he was held in solitary confinement for five months accused of being a British spy: *"there were massive gaps in communication"*. She described the assistance from the FCO as: *"Very poor. Availability is not the only need that should be attended to. In spite of the gravity of the case, I was assigned to a very junior caseworker throughout. **"We both want for the FCO to really reassess their handling of consular cases particularly when it comes to out of the ordinary cases."**"*
8. Similarly, Mr Ratcliffe told the APPG after his wife's release that *"all the breaks Nazanin got was from the Minister"*. Indeed, **slow recognition of being a "special case" was a mistake** in this case. It first took six months to be moved from a consular casework team and classed as a "special case" of kidnapping. It took Mr Ratcliffe 18 months to secure a meeting with the Foreign Secretary and then several months each time there was a change of Minister after that to secure a meeting. It took more than two years for any acknowledgement of innocence and three years for the acknowledgement that Nazanin's detention was arbitrary. Slow recognition is a real problem, also highlighted in the MacGregor Review.
9. A related mistake and problem is that it is **unclear whether civil servants have a good understanding** of the issues in these types of cases. Mr Ratcliffe had meetings with FCDO officials prior to meeting the Foreign Secretary but fundamentally, it seems there is a feedback loop problem or a problem with the government's ability to hear, empirically, how things are. In his experience, the teams dealing with "special cases" have a better understanding than the country casework teams but it is clear from Daniela Tejada's evidence and that of others that there is no system in place for escalating these cases. There is no guarantee that such cases will be treated with the seriousness required.
10. Fundamentally, there is a **conflict of interests between trade relations and the protection of citizens**, where it would appear other strategic considerations have more purchase than protecting British citizens' human rights, even where serious human rights violations are acknowledged. Even in the rare circumstances that the FCDO acknowledged Mrs Zaghari-Ratcliffe had been tortured, the £400m debt remained unpaid until such time as Russia invaded Ukraine and the FCDO perhaps saw a reason to act. It seems the UK was keen to leverage its Iran policy to stand with the US and did not settle under President Trump, and only settled in a way the US was comfortable with under President Biden. A mistake of the UK then, was prioritising its trade interests with the US over the safety of citizens. It sent the message that citizens are collateral damage and the question in government is presumably what level of damage is politically tolerable. That is normally not made

too clear to families though the task for them is to change that political calculation, which has the knock-on effect of incentivising families to disrupt UK diplomatic agendas in order to be taken care of, which seems pyrrhic. The danger is also that now the UK will be viewed as softer on the international stage, opening the door to potential further power plays, sending the message to Iran and others that it is tolerable for them to use whatever local law enforcement measures to settle scores related to business interests with the UK.

11. There was a common theme which emerged from the APPG's evidence sessions. Everyone believed that their British passport meant that if the worst happened overseas, they would be protected, that their country would assist them. What each of them realised to their detriment was that this is not actually the case. A further mistake therefore is **the way in which the government pretends that citizens are its top priority, when the evidence is to the contrary**. This begs the question of what the government's ideology is. In other words, does the Government think it is its job to protect people? The FCDO is the smallest of the government's departments. The staff tasked with consular assistance are not well-paid and are in junior positions for the most-part. The UK was struggling in Nazanin's case to do the things that it *had* to do (as a result of the UK's acknowledgement of torture). If it will not act for citizens in the worst of cases, what "service", if any, can others truly expect?
12. One final but significant mistake that all families have told the APPG is that if **families were treated with compassion, it would have made a difference**. This is not to say that the FCDO ought to befriend or somehow nurture people in a way that would be unreasonable for a government to do. Rather, it is to make the point reflected in the MacGregor Review recommendation that the FCDO stop referring to the caseworker role as "managing the families". Whilst honest, it talks to the problem of the FCDO's approach. The family is not the problem to manage. The abuse is. Citizens ought to be able to expect some basic level of protection and information. They should not be left in limbo with the pretence of being assisted when the opposite is true. Mr Ratcliffe believes that his family was treated with compassion "*towards the end*" but only after they had made themselves politically significant. That is a tall order for any family and especially one that already finds themselves in a life-changing traumatic situation.

To Question 2.

13. In a word, no. The FCDO acknowledged rarely and publicly that Mrs Zaghari-Ratcliffe had been tortured in Iran. It also denied for most of the six years that she was detained that the debt was related to her detention. However, when being released, FCDO officials accompanied Mrs Zaghari-Ratcliffe to sign a confession that was inaccurate before they got on a plane back to the UK, despite agreeing to pay the £400m debt. One might expect that the signature could be dispensed with. By any standards, that speaks to poor negotiation and weakness in what will be tolerated as a nation. The FCDO adopted the path of least resistance. The forced confession was not a red line but something the UK demanded Mrs Zaghari-Ratcliffe go along with. It displayed no boundaries. The FCDO requiring that she sign a forced confession and

appeal for clemency in order to get on the plane was, arguably, actively complicit in Iran's abuse. It is welcome that the debt was paid as it had the impact of having Ms Zaghari-Ratcliffe and Mr Ashoori released from prison and ill-treatment. However, for an acknowledged victim of torture, where the UK has invoked diplomatic protection, and where it is paying £400m to Iran, the fact that the UK went along with this (and in subsequent PQs from the MP for Hampstead and Kilburn declined to denounce the legal status of Mrs Zaghari-Ratcliffe's convictions by the Revolutionary Court) is extraordinary, and sends an ominous message to the UK about the credibility of the UK's protections. Mr Ratcliffe has been clear with the APPG that, in his view, there is a direct line between the weakness of this position and the subsequent liberties the IRGC took in renegeing on the deal for other UK citizens, safe in the knowledge that criticism from the UK would be muted. The FCDO may say they delivered a favourable outcome in the end, but the way in which it was delivered is deeply problematic in the context of gross human rights injustices.

14. Matthew Hedges has not and does not work for the British government but rather than confirm that, the FCDO hid. As a result, Mr Hedges is still classed as spy and will endure a longer-term journey fighting to clear his name. The point about the legal status of foreign convictions (even ones recognised as arbitrary) is a broader one. The recent response to the PQs asked by the MP for Hampstead and Kilburn in Ms Zaghari-Ratcliffe's case highlight that the government is indifferent to returning criminal-records and makes no effort to help victims of arbitrary detention clear their name.⁴
15. The failure to protect has knock on consequences and those involve the world becoming a more dangerous place. As Mr Ratcliffe highlighted to the APPG, unlike the UK, Germany each month visited its nationals who were in Evin Prison who were better treated as a result. Paying attention to what is happening on the ground sends the message to state-hostage-takers that the home nation is serious about its place at the negotiating table in any scenario. It also acts as a deterrent because it equips them with information, which is key to adequately negotiate and identify underlying issues and weaknesses. Instead, the government's approach has been woefully lacking and its negotiating position presumably undermined by its own indifference. Why else would Ms Zaghari-Ratcliffe still have had to sign a confession?

To Question 3.

16. Eight years ago, the FAC noted, *"We are deeply concerned about the allegations we have received that the FCO has in some instances not responded adequately to protect and support those who said that they had been the victim of torture or ill-treatment. Any failure to support vulnerable nationals in such circumstances is deplorable."*⁵ Since 2014, evidence of this deplorable approach has only increased.

⁴ See (legal status): <https://questions-statements.parliament.uk/written-questions/detail/2022-04-21/157462>
See (FCDO challenge of legality): <https://questions-statements.parliament.uk/written-questions/detail/2022-04-21/157463>

⁵ House of Commons Foreign Affairs Committee (2014). Support for British nationals abroad: The Consular

We have also seen a rise in case numbers of those being held in arbitrary detention in the UAE. There is no policy (or at least nothing transparent) on diplomatic protection. The government does not have to do anything even when it is forced to recognise a problem. Several reports⁶, reviews⁷ and recommendations have been produced in recent years, which if adopted, would provide a necessary strong foundation that would allow state-based hostage taking to be more effectively addressed.

17. The 'No prosperity without justice: the UK's relationship with Iran'⁸ Report states *"Iran will choose to uphold those parts of international law which suit the tenets or strategic goals of the Islamic Republic while disregarding the remainder, often at the expense of the Iranian people."* However, it has been said recently by a prominent international lawyer that, for the first time since inception of the UN Security Council in 1945, we have seen the UK turn its back on international law.⁹ This stance will be recognised by countries that are not traditionally aligned or known for their human rights records therefore, and a renewed commitment to international law is imperative if the UK is to avoid being drawn into undemocratic power struggles where the rules are blurred and the rule of law is seen as something that can be disregarded as circumstances suit.
18. The UK has an opportunity to lead the way and it is recommended that it does so by:
 - assessing what other countries do better and learning from different, tougher stances
 - recruiting proper negotiators or training FDCO staff in negotiation
 - increasing transparency by publishing internal consular guidance
 - increasing briefing of Ministers about complex and sensitive cases
 - keeping a database of countries and cases of state-based hostage taking and publishing numbers for the sake of full disclosure and transparency
 - employing stakeholders and mediators who can advise on strategy for negotiation
 - hosting a summit of other nations to agree ways to approach certain countries known for state-based hostage taking

Service. Fifth Report of Session 2014-15. Available at:

<https://publications.parliament.uk/pa/cm201415/cmselect/cmcaff/516/516.pdf>

⁶ The APPG's Report recommended the government clarifies the guidance around consular assistance; enshrines in UK law the right to consular assistance for all British nationals and creates a separate department or agency for protection of British citizens, distinct from that which currently works on diplomacy and trade relations.

Redress also produced a report on consular protection in 2018, 'Beyond Discretion'⁶ that made a series of recommendations to improve the way that the UK Government can protect and defend the rights and welfare of citizens imprisoned overseas from torture.

⁷ The "Review of Complex Consular Cases" prepared by Dame Judith MacGregor in June 2019 made recommendations which the APPG understands have not yet been implemented.

http://data.parliament.uk/DepositedPapers/Files/DEP20200750/Macgregor_review_of_complex_consular_cases.pdf

⁸ <https://publications.parliament.uk/pa/cm5801/cmselect/cmcaff/415/41508.htm>

⁹ The Henry Jackson Society talk by Professor Philippe Sands, 'The International Rule of Law: The New Battleground'. 20th September 2021.

- learning from those with lived experiences and using that information to inform future decision-making
- escalating sensitive consular cases quickly
- treating citizens with dignity and compassion
- consulting with academics and international lawyers and other states about a right to consular assistance
- establishing special departments or 'task forces' for complex cases
- In the same way that extra money laundering checks are put in place for countries that are deemed to be of higher risk, a similar model could be used at the FCDO for consular protection from the risks of abuse, which would keep any additional measures reasonable and targeted to where they were most needed.

May 2022