

**Written evidence submitted by the Foreign, Commonwealth & Development  
Office (SLH0021)**

**HOUSE OF COMMONS SELECT COMMITTEE ON FOREIGN AFFAIRS**

**Inquiry into the handling of state level hostage situations announced by  
Foreign Affairs Committee**

Introduction

1. The Government welcomes the opportunity to submit written evidence to the Foreign Affairs Committee's inquiry.
2. It shares the views of the Committee on the importance of international coordination and continues to focus on broader international efforts as the most effective means of tackling the arbitrary detention of our nationals abroad. In 2021, we made tackling arbitrary detention a priority for our G7 presidency. We used our presidency to reach agreement for firm, coordinated action to deter the practice of arbitrary detention in state-to-state relations, calling it out when it happens and ensuring that the cost to countries who participate in the practice is increased.
3. The UK was a leading proponent of the discussions which resulted in the agreement and launch of Canada's Declaration Against Arbitrary Detention in State-to-State Relations, in February 2021. We are continuing to work with Canada and likeminded partners to mainstream this issue in multilateral meetings, attract new endorsing states to the declaration and support coordinated action where appropriate - will consider all options on the international stage to bring this cruel practice to an end.
4. This Government is delighted that, after years of unfair detention, Nazanin Zaghari-Ratcliffe and Anoosheh Ashoori are safely home and have been reunited with their families and loved ones. Although their release has always been entirely within Iran's gift, this Government was committed to securing their release as soon as was reasonably possible and this was achieved on 16 March 2022.
5. We urge the Government of Iran to stop its practice of unfairly detaining British and other foreign nationals, and we will continue to work with like-minded partners to that end. The UK Government does not, and never will, accept our nationals being used as diplomatic leverage. Arbitrary detention under any circumstance is a violation of a state's human rights obligations.
6. FCDO officials remain ready to, and continues to, provide consular support for British nationals detained in Iran. It is important that we act in the way that we judge is most likely to be in the best interests of each of the British detainees in Iran. We are not able to discuss the details of individual cases without the express consent of the individual. The nature of consular support offered by the FCDO varies depending on individual circumstances. It is important that we take into account a range of factors, including the express wishes of the individual themselves (where it is possible to communicate with them directly), or their family (when it is not possible to communicate with them directly)

alongside the broader context and HMG's assessment of what is most likely to produce a positive outcome and least likely to put the individual at risk.

7. Whether those unfairly held in Iran could be characterised as hostages is not clear cut. There are a number of difficulties with contending that such detentions amounted to hostage taking under the 1979 Convention. The Convention is primarily concerned with individual criminal liability and, as such, an offence under the Taking of Hostages Act 1982 may only be committed by individuals, not states. The FCDO continues to provide consular support to the families of British nationals detained in Iran when they want our support, however their detention is characterised.
8. When a British national is kidnapped overseas by a terrorist or criminal group, we always try to do everything we reasonably can to make sure they are released safely, working with the local authorities. However, 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.

**1. 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?**

***Iran Cases:***

9. The UK Government was committed, from the Prime Minister down, to securing both Mrs Zaghari-Ratcliffe and Mr Ashoori's release as soon as possible and that is what we achieved. As the Foreign Secretary outlined to the House on 16 March, successive 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. We have also consistently called for the humanitarian treatment of detained British nationals and their welfare will continue to be a top priority.
10. Since the Islamic Republic revolution in 1979, Iran has had a strategy of arresting and detaining foreign nationals for political purposes. The UK works closely with international partners whose nationals are similarly targeted. Where possible we align our strategies and increase the cost to Iran for a practice that so flagrantly infringes upon the human rights of our citizens. Countries have taken different approaches on such cases but have not managed to put an end to the use of this strategy to date. The Government continues to call on Iran to stop this practice and abide by its international obligations. Iran bears full responsibility for this unacceptable and abhorrent policy that has reinforced Iran's continued isolation in the international community. 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. We also consider this to be the most effective way for HMG to act in each individual's best interests.
11. The FCDO's approach to British nationals overseas is set out in our guide to our services<sup>1</sup>. 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. We will always take into consideration the wishes of the individual concerned, as well as their family when the individual has chosen for them to be involved in a case. 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.

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<sup>1</sup> [Support for British nationals abroad: a guide - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guides/support-for-british-nationals-abroad)

12. Following requests from the families of detained British nationals, officials have raised with Iran concerns about their health and welfare, detention conditions and the judicial process where these have not met Iranian or minimum international standards. However, Iran does not recognise dual nationality nor grant the UK consular access to dual British national detainees. In these cases we are not granted consular access by the Iranian authorities, nor will they discuss the consular or legal aspects of dual British nationals' detentions with the UK Government. Given the risks to the individual of the UK becoming involved with dual national detention cases and, as a result, we will not raise cases without the express consent of the affected individual (if possible) or their representatives.

**Broader Approach:**

13. When providing the specific consular support to individuals in detention, our staff follow a globally consistent framework which prioritises the welfare of the individual.
14. Within this, we ask our staff to assess the British national's vulnerability and to offer support tailored to their specific needs based on the individual, where they are, and the situation they are facing. We consider that someone is vulnerable when they cannot protect themselves from significant physical or emotional harm, or be protected by others, and consequently we ask our staff to do more for those who are vulnerable.
15. The FCDO may intervene in a case with the local authorities where we have concerns for the health, welfare, or human rights of an individual. Tools available to staff include diplomatic lobbying and referrals to specialist partners or NGOs with whom we work and who have expertise in specific subject areas. All consular support is provided on a case-by-case basis and decisions about the most appropriate or effective approach to take looks to accommodate the individual needs, circumstances, and context of each case.
16. 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.
17. In 2019 the FCDO commissioned a retired former Head of Mission, Dame Judith Macgregor, to lead a review of our most complex cases. This found that the "FCO placed the interests and the welfare of the individual at the heart of its policy and practice" and did not prioritise, for example, trade over British nationals. The report also made some recommendations to improve the handling and communication of such cases which the FCDO accepted.
18. The FCDO is committed to implementing all the recommendations, with the vast majority of the recommendations on track to be in place by the end of 2022<sup>2</sup>. Changes we have already made include:

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<sup>2</sup> The FCDO is preparing a more detailed update for the FAC on our implementation of the Macgregor

- senior consular staffing capacity has been increased to provide more support to consular officers working with particularly complex cases;
- 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;
- 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;
- 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
- implementation of this review is ongoing and we expect to be able to update the Committee further as it progresses.

## **2. Does the Government's approach provide an effective deterrent to state-based hostage situations?**

19. When a British national is kidnapped overseas, we will not make substantive concessions to hostage takers. Substantive concessions could include paying a ransom, changing government policy, or releasing prisoners. The focus is on doing everything we can, working with the relevant local authorities, to make sure they are released safely and avoiding incentives for future hostage-taking.
20. In each case we seek to provide support relevant to the situation. For example, in a detention case, if the local lawyer sets out how the individual is unfairly detained, we will consider what that means for our support and how best to help them. When deciding what steps to take in all consular cases, including those detained in Iran, we seek to act in a way that we consider to be in the best interests of individual concerned. 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. We therefore sought to use diplomatic efforts to achieve her release.
21. The issue as to whether those unfairly held in Iran could be considered hostages is not clear cut. There are also a number of difficulties with contending that those detentions amount to hostage taking under the 1979 Convention. The Convention is primarily concerned with individual criminal liability and as such an offence under the 1982 Act may only be committed by individuals, not states.
22. Iran's actions have been a consistent barrier to improvements in our bilateral relations. The United Kingdom and like-minded partners have been clear consistently that there is a cost to Iran from its policy of unfair detention for political purposes. Our travel advice, as well as similar advice from our international partners, recommends against travel to Iran and is one more barrier to developing better commercial ties. This has undermined business confidence and continues to be another factor preventing Iran's economy to improving.
23. We keep our strategy towards unfairly detained British nationals in Iran under constant review. Every case is unique; what is helpful and in the best interests of one will not necessarily be appropriate for another. If the British national (or their family or legal representative) asks for assistance, we assess what we consider to be in their best interests. In some cases, we judge that a combination of public and private pressure is most appropriate. We work with international partners to publicly condemn Iran's actions and stop this unacceptable and self-defeating practice.

### **3. What efforts is the Government taking, or should take, to secure international agreement on deterring and handling state-based hostage taking?**

24. This Government shares the views of the Committee on the importance of international coordination and continues to focus on broader international efforts. Iranian Ambassadors were summoned in coordinated manner by the E3 in 2020, alongside the UK signing a joint statement at the HRC (Human Rights Council) at the UN (United Nations). We will continue to be clear that this practice is unacceptable and self-defeating.
25. In 2021, we made tackling arbitrary detention a priority for our G7 presidency. This was the first time the issue had been raised up the international agenda by including it as a discussion area for the G7. We used our presidency to press for and reach agreement on firm, coordinated action to deter the practice of arbitrary detention in state-to-state relations, calling it out when it happens and ensuring that the cost to countries who participate in the practice is increased
26. The UK was a leading proponent of the Declaration Against Arbitrary Detention in State-to-State Relations, which Canada launched on 15 February 2021. As of March 2022, there are now 69 signatory states from all continents, including all G7 states and the EU. The purpose of the Declaration is to enhance international cooperation and end the practice of arbitrary arrest, detention, or sentencing, to exercise leverage over foreign governments that engage in such behaviour. It unites a broad range of countries in stating that this practice is unacceptable. Countries that choose to detain a citizen of a partner country will face the collective response from a large group of countries standing in solidarity against this abhorrent practice. . We continue to work closely with our Canadian colleagues on the Declaration. This is an ongoing priority and remains a live discussion with international partners on what actions the group can agree to take together to respond to individual cases affecting our respective citizens. As the initiative is ongoing, we expect to be able to update the FAC further as the inquiry continues.
27. To turn our collective position into joint action, as part of our endorsement of the Declaration, we will assist Canada in the development and delivery of their Partnership Action Plan and further encourage likeminded states to work together against the practice of arbitrary arrest or detention in international relations. The Partnership Action Plan was announced on May 5, 2021, at the G7 Foreign and Development Ministers' Meeting in London, United Kingdom. It will serve as a road map for consistent and principled cooperation on this issue, now and in the future. The Plan outlines 6 areas of cooperation and engagement that states can support to deter arbitrary arrest, detention or sentencing in state-to-state relations and sustain momentum against those practices.

28. We also look to mainstream this issue in our human rights advocacy including the condemnation of the use of arbitrary detention in all circumstances as a breach of a state's human rights obligations. We will use relevant international instruments and fora to ensure that the objection to this action is understood and to counter this type of activity. This includes supporting engagement at the Human Rights Council, the High Commissioner for Human Rights and activity at a number of multilateral organisations in support of the initiative. We will continue to support the work of the UN Working Group on Arbitrary Detention and encourage others to do so as well.
29. In 2020, the UK, French and German Foreign Ministers signed a joint letter, addressed to the Iranian Foreign Minister expressing serious concern about Iran's grave human rights violations. This highlighted the plight of those unfairly detained in Iran, including Mrs Zaghari-Ratcliffe.
30. The UK takes a leading position in multilateral organisations against the use of arbitrary detention. We co-sponsor the UN Human Rights Council resolution on Arbitrary Detention and an annual resolution on the situation of human rights in Iran, most recently adopted at the 49<sup>th</sup> session in March 2022. The latter resolution renews the mandate of the Special Rapporteur on the human rights situation in Iran, which signals the international community's continued commitment to ensuring inalienable human rights are respected.

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