

**Evidence submitted by REDRESS to the Foreign Affairs Select Committee inquiry into the handling  
of state level hostage situations  
13 May 2022**

**ABOUT REDRESS**

1. REDRESS is an NGO that pursues legal claims on behalf of survivors of torture in the UK and around the world to obtain justice and reparation for the violation of their human rights.
2. REDRESS has acted as legal representatives for Nazanin Zaghari-Ratcliffe and Richard Ratcliffe since 2016. REDRESS' work on the case has included:
  - a) Advocating on behalf of Mrs Zaghari-Ratcliffe to the United Nations (UN) Special Procedures, including securing a [ruling](#) from the UN Working Group on Arbitrary Detention that her detention in Iran was unlawful and that Iran must release her.
  - b) Supporting Mr Ratcliffe in his engagement with the UK Foreign Commonwealth & Development Office (FCDO), including securing the UK's grant of [diplomatic protection over](#) Mrs Zaghari-Ratcliffe in 2019.
  - c) Presenting evidence to the FCDO that Mrs Zaghari-Ratcliffe has been a [victim of torture](#) in Iran, which was accepted and publicly acknowledged by former Foreign Secretary Dominic Raab in 2021.
  - d) Compiling evidence from detainees in Iran and their families to establish the human rights abuses committed by individual perpetrators of Iran's State hostage-taking, and submitting this to the UK and allied governments seeking the imposition of [Magnitsky sanctions](#) on those responsible.
  - e) Submitting evidence to the Foreign Affairs Committee's inquiry on Iran, which was incorporated into the '[No prosperity without justice: the UK's relationship with Iran](#)' report ('Iran Inquiry').
3. REDRESS' work on the case has been supported by legal counsel John Dugard SC, Alison Macdonald QC, Tatyana Eatwell and Tayyiba Bajwa.

**SUBMISSION SUMMARY**

4. Reflecting on REDRESS' work on Nazanin's case, our submission focuses on the following topics:
  - a) Diplomatic protection
  - b) Hostage recognition
  - c) Torture
  - d) Magnitsky sanctions
  - e) Consular protection
5. We warmly welcome the opportunity to discuss the points raised with the Foreign Affairs Committee, including through the provision of oral evidence.

**Recommendations**

6. In response to the specific questions asked by the Foreign Affairs Committee, REDRESS submits that the UK government's response to Mrs Zaghari-Ratcliffe being held hostage by Iran was weak and reactive. It failed to deter and challenge State hostage taking, and protect Mrs Zaghari-Ratcliffe and other British citizens from abuse. This has set a worrying precedent that must be addressed. The government's mistakes on Mrs Zaghari-Ratcliffe's case included squandering diplomatic protection, failing to publicly recognise her as a hostage, failing to

robustly hold Iran accountable for torture, and failing to assert a right to consular access. FCDO advisers frequently adopted the most conservative and least-favourable interpretations of legal concepts such as diplomatic protection, hostage taking, and consular protection, which minimised the protections offered by international law. Addressing these failings will empower the government to take a more robust and proactive approach to State hostage taking, to deter this practice and better protect the UK's citizens abroad.

7. Moreover, the government should employ Magnitsky sanctions, the Declaration Against Arbitrary Detention in State-to-State Relations (**'Canada Declaration'**), and the Convention Against the Taking of Hostages 1979 (**'Hostage Convention'**), to undertake multilateral action to address State hostage taking.<sup>1</sup>
8. REDRESS recommends that:
  - a) The UK government should review and publish its policy for the grant of diplomatic protection and the exercise of such protection where it has been granted.
  - b) The UK government should call out State hostage taking for what it is.
  - c) The UK government should review and publish its internal policies on managing hostage cases and ensure they are applied in cases where individuals are detained by a State for diplomatic leverage.
  - d) The UK government should pass a law which establishes roles and procedures within the FCDO to address State hostage taking of UK nationals, similar to the Levinson Act in the US, including requiring transparent reporting to Parliament annually and establishing a Special Envoy for Hostage Affairs.
  - e) The UK government should lead a united international response to State hostage taking, including through:
    - Utilising the 'Partnership Action Plan' under the Canada Declaration;
    - Engaging the G7; and
    - The imposition of multilateral Magnitsky sanctions.
  - f) The UK government should review and publish its internal policies on protecting British nationals overseas from torture and ill-treatment, including ensuring the UK's international legal obligations are met.
  - g) There should be an independent external review of FCDO policies on protecting British nationals overseas from torture and ill-treatment and their effectiveness.
  - h) The UK government should be required to report to Parliament on the FCDO's handling of cases where a UK national is being or has been tortured overseas.
  - i) For countries where there is a risk of torture for British nationals, the UK government should explicitly refer to this risk in its travel advice.
  - j) The risk of torture of British citizens should be considered in FCDO assessments of human rights priority countries.
  - k) The UK government should impose Magnitsky sanctions to deter State hostage taking and hold perpetrators accountable. This should be done in coordination with allied States,

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<sup>1</sup> Available at: [https://www.international.gc.ca/world-monde/issues\\_developpement-enjeux\\_developpement/human\\_rights-droits\\_homme/arbitrary\\_detention-detention\\_arbitraire.aspx?lang=eng](https://www.international.gc.ca/world-monde/issues_developpement-enjeux_developpement/human_rights-droits_homme/arbitrary_detention-detention_arbitraire.aspx?lang=eng).

recognising that sanctions have greater impact when imposed multilaterally, and should form part of the 'Partnership Action Plan' under the Canada Declaration.

- l) The UK government should be more robust in its provision of consular protection to British nationals detained overseas who have suffered, or are at risk of suffering, serious human rights violations, including asserting a right to consular access for British dual nationals under international law.
- m) A right to consular protection should be introduced into UK law.

## DIPLOMATIC PROTECTION

9. On 7 March 2019, then Foreign Secretary Jeremy Hunt granted Mrs Zaghari-Ratcliffe diplomatic protection.<sup>2</sup> Diplomatic protection deems that an injury to Mrs Zaghari-Ratcliffe is an injury to the UK itself, recognizes her predominant nationality as British, and provides an umbrella under which the government is empowered to take action to protect her.<sup>3</sup> Some of the steps that can be taken under diplomatic protection were outlined in the evidence REDRESS submitted to the Foreign Affairs Committee's Iran Inquiry (**Annex A**).<sup>4</sup> Granting diplomatic protection was envisaged as an "important diplomatic step,"<sup>5</sup> and it was hoped that this would mark a government shift from rhetoric to action in the protection of Mrs Zaghari-Ratcliffe.
10. Despite the initial commitment from the government to utilise diplomatic protection, since the change in foreign secretary in July 2019 the government has not taken action to follow through on this. The government has been unwilling or unable to account for what it has done with diplomatic protection since it was invoked (**Annex B**). This is reflected in government statements, which consistently cited and emphasised Mrs Zaghari-Ratcliffe's dual Iranian nationality and did not refer to her diplomatic protection status or predominant British nationality (**Annex B**). It is of particular concern that the government has blamed its inaction on Iran not recognising dual nationality.<sup>6</sup> The grant of diplomatic protection is not in any way dependent on another State's recognition or acceptance of the person's British nationality: its exercise lies within the mandate of the UK government and is governed by international law. It cannot be legally circumscribed by another State which takes an erroneous view of the law.
11. Diplomatic protection will never yield results if the government chooses not to use it, and tries to walk away from the fact that it was invoked. For the tool to be effective, the UK government should implement an effective strategy to utilise diplomatic protection, once it has decided to intervene on its citizen's behalf. In cases involving dual British nationals, it is important that the government makes clear the victim's predominant British nationality, and the application of international law.

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<sup>2</sup> UK Government, 'Foreign Secretary affords Nazanin Zaghari Ratcliffe diplomatic protection', 7 March 2019, available at <https://www.gov.uk/government/news/foreign-secretary-affords-nazanin-zaghari-ratcliffe-diplomatic-protection>.

<sup>3</sup> 'Briefing: Diplomatic Protection of Nazanin Zaghari-Ratcliffe', March 2019, REDRESS, available at: <https://redress.org/wp-content/uploads/2019/03/2019.03.07-Briefing-Diplomatic-Protection-of-Nazanin-Zaghari-Ratcliffe.pdf>.

<sup>4</sup> Para. 13.

<sup>5</sup> 'Foreign Secretary affords Nazanin Zaghari Ratcliffe diplomatic protection', UK Government, 7 March 2019, available at: <https://www.gov.uk/government/news/foreign-secretary-affords-nazanin-zaghari-ratcliffe-diplomatic-protection>.

<sup>6</sup> See, e.g., Hansard, Westminster Hall: Nazanin Zaghari-Ratcliffe, Vol 203, 16 November 2021, at Col216WH, available at: <https://hansard.parliament.uk/commons/2021-11-16/debates/36FFA89D-A2F4-4E04-8185-1E167E0F489B/NazaninZaghari-Ratcliffe>.

12. The consequences of the government's failings on diplomatic protection in Mrs Zaghari-Ratcliffe's case have been put to the FCDO by Mr Ratcliffe and his legal team a number of times. They include:

- a) Undermining the recognition of Mrs Zaghari-Ratcliffe's predominant British nationality.
- b) Failing to protect Mrs Zaghari-Ratcliffe and others from further abuse.

More broadly:

- c) Undermining of the UK government's claims to protect its citizens.
- d) Hollowing-out and squandering of diplomatic protection as a tool of international diplomacy, undermining its future application.
- e) Emboldening Iran to continue its abuse, as the grant of diplomatic protection did not lead to more assertive action by the UK government or additional consequences for Iran.

**Recommendations:**

13. **The UK government should review and publish its policy for the grant of diplomatic protection and the exercise of such protection where it has been granted. Special attention should be paid to the protection of dual nationals contained in Articles 6 and 7 of the 2006 International Law Commission Draft Articles on Diplomatic Protection. In this respect, the government should accept the test of predominant nationality contained in Article 7 of these Draft Articles, a course followed by Foreign Secretary Jeremy Hunt in the present case. This policy statement should also provide guidelines relating to the measures that may be taken to implement diplomatic protection in accordance with international law.**

**HOSTAGE RECOGNITION**

14. Since 2018, Mrs Zaghari-Ratcliffe, Mr Ratcliffe, and their legal team consistently requested that the FCDO recognise that Mrs Zaghari-Ratcliffe and other British nationals arbitrarily detained for diplomatic leverage were (and in the case of others who remain in detention, still are) hostages. Doing so is critical to protecting the victims, holding Iran to account, and ensuring that the UK government is equipped to adequately support victims and their families.

15. REDRESS has commissioned legal opinions to establish that Mrs Zaghari-Ratcliffe, during her detention, fell within the definition of 'hostage' under the Hostages Convention and UK domestic law (**Annexes C and D**). Accordingly, it would be legally accurate to describe Mrs Zaghari-Ratcliffe as a hostage during her detention in Iran. We note that REDRESS and counsel do not agree with the FCDO's interpretation that State hostage taking falls outside the parameters of the Hostages Convention, as it was designed for individual hostage takers rather than State-backed actors.<sup>7</sup> As noted in the counsel Opinion, and as interpreted in US courts, the Convention applies to "any person" which refers to all persons, including State officials and persons acting on behalf of the State.<sup>8</sup>

16. Mr Ratcliffe and his legal team have reiterated to the FCDO the impacts of their failure to recognise Mrs Zaghari-Ratcliffe as a hostage (**Annex E**). These include:

- a) Failing to adequately support victims and their families. Failing to diagnose the situation as hostage-taking from the outset means that the FCDO is not equipped to manage the situation effectively. Moreover, treating hostage cases as regular consular cases misleads victims and their families, suggesting that they await the outcome of legal processes that

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<sup>7</sup> 'No prosperity without justice: the UK's relationship with Iran', FAC, 16 December 2020, para.59, available at: <https://publications.parliament.uk/pa/cm5801/cmselect/cmaff/415/41502.htm>.

<sup>8</sup> Annex C, para.12.

the UK government knows are spurious. This is cruel where, in reality, the victim's release is entirely contingent on negotiations between the involved States.

- b) Emboldening Iran's hostage taking practice. Declining to recognise that Mrs Zaghari-Ratcliffe was a hostage implied that the UK accepted the purported judicial and administrative decisions taken by Iranian authorities, effectively conferring legitimacy on fictitious legal proceedings. It suggested that the UK will prioritise diplomatic niceties over upholding international human rights and protecting its citizens. Moreover, recognising that Mrs Zaghari-Ratcliffe was held hostage by Iran because of her British nationality would have made it harder for Iran to maintain its position of denying her consular access as a dual national.
  - c) Enabling victim-blaming. Victims are tainted with the presumption, in both Iran and the UK, that they must have done something wrong in order to be detained, and have to campaign tirelessly for their innocence to be acknowledged in the political and public realms.<sup>9</sup> Referring to Mrs Zaghari-Ratcliffe and others as 'hostages' challenges Iran's false allegations, making it clear that the victims are innocent pawns of Iran's unlawful acts, and thereby guards against victim-blaming.
  - d) Undermining accountability for hostage taking. Declining to recognise Iran's acts as hostage taking means the UK cannot hold Iran to account for its obligations under the Hostages Convention,<sup>10</sup> thereby failing to deter hostage taking.
  - e) Limiting opportunities to address the issue through effective law and policy. For example, the US, which recognises such acts as State hostage-taking, has enacted the Robert Levinson Hostage Recovery and Hostage-Taking Accountability Act, which empowers the federal government to challenge the taking of its nationals hostage, and has appointed a Special Presidential Envoy on Hostage Affairs and a Hostage Fusion Cell for coordinating across government sectors. The UK does not have equivalent structures.
17. In its Iran Inquiry, the Foreign Affairs Committee came to the conclusion that:
- "Calling 'State Hostage Taking' out for what it is and taking the lead in shaping a united international response would help yield additional tools to counter this behaviour." REDRESS supports this position.

#### **Recommendations:**

- 18. **The UK government should call out State hostage taking for what it is.**
- 19. **The UK government should review and publish its internal policies on managing hostage cases and ensure they are applied in cases where individuals are detained by a State for diplomatic leverage.**
- 20. **The UK government should pass a law which establishes roles and procedures within the FCDO to address State hostage taking of UK nationals, similar to the Levinson Act in the US, including requiring transparent reporting to Parliament annually and establishing a Special Envoy for Hostage Affairs.**
- 21. **The UK government should lead a united international response to State hostage taking, including through:**

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<sup>9</sup> As occurred following the comments made by then Foreign Secretary Boris Johnson in Parliament in November 2017, see A. Bienkov, 'Iranian state TV welcomes Boris Johnson's 'unintended confession' over Nazanin Zaghari-Ratcliffe', Insider, 9 November 2017, available at: <https://www.businessinsider.com/iranian-state-television-boris-johnson-nazanin-zaghari-ratcliffe-2017-11?r=US&IR=T>.

<sup>10</sup> Iran acceded to the Hostages Convention on 20 November 2006.

- a) Utilising the ‘Partnership Action Plan’ under the Canada Declaration;
- b) Engaging the G7; and
- c) The imposition of multilateral Magnitsky sanctions.

## TORTURE

22. The absolute prohibition on torture has attained the status of *jus cogens* under international law, giving rise to an obligation for all States to take action against those who commit torture. The use of torture is integral to hostage situations, whereby severe suffering is inflicted on the victim by the host State in order to exert pressure on the home State. Accordingly, protection from torture is critical in State hostage situations. While she was detained in Iran, Mrs Zaghari-Ratcliffe was held in solitary confinement for more than eight months, kept in inhumane conditions of detention, subject to coercive interrogations, denied necessary medical treatment and denied contact with family members and British consular staff. The severe suffering inflicted on her by Iran to exercise diplomatic leverage over the UK clearly constitutes torture as defined by the Convention Against Torture. There is a concern that the UK government contributed to this suffering when it put pressure on Mrs Zaghari-Ratcliffe to sign a false confession before she was allowed to board the plane home to the UK in March 2022.
23. Mrs Zaghari-Ratcliffe’s family first raised allegations of torture with the FCDO in 2017. However, it was not until May 2021, following REDRESS’ submission to the FCDO of a medical report as evidence of Mrs Zaghari-Ratcliffe’s severe suffering, that the former Foreign Secretary Dominic Raab acknowledged that she had been a victim of torture.<sup>11</sup> It is concerning that the UK government’s acknowledgement that Mrs Zaghari-Ratcliffe was a victim of torture only took place after a significant amount of advocacy from Mrs Zaghari-Ratcliffe’s family and legal team. The Foreign Secretary’s statement has been the UK government’s only public acknowledgement of Iran’s torture of Mrs Zaghari-Ratcliffe. Since that time, the government has retreated from this position, referring in general to her ‘ordeal’ or ‘cruel and inhumane treatment,’ but has neglected to use the term ‘torture’.
24. Following the recognition of torture by the former Foreign Secretary, Mr Ratcliffe and his legal team consistently followed up with FCDO officials, asking what steps the government had taken to raise the allegation of torture with Iran to hold them to account in relation to their obligations under international law.<sup>12</sup> The government continued to stall on this point, initially saying that they were waiting on negotiations with Iran. After significant prompting by Mr Ratcliffe and his team, the government stated that it would need to confirm with Mrs Zaghari-Ratcliffe her consent to raise the matter with the Iranians. Following this, we were informed that they eventually raised it with Iran’s Ministry of Foreign Affairs and requested an investigation. The Iranians responded that it would be unhelpful for negotiations for them to ask the judiciary to investigate. The FCDO continued to express a reluctance to push for an investigation to avoid escalating the situation, and appeared to avoid making any plans for what steps would be taken if Iran did not respond to the request.
25. In other cases of British nationals arbitrarily detained overseas, families have had similar experiences of the UK government’s reluctance and failure to act to prevent and seek

<sup>11</sup> ‘Nazanin Zaghari-Ratcliffe: Iran treatment ‘amounts to torture’, says Dominic Raab’, 2 May 2021, BBC News, available at: <https://www.bbc.co.uk/news/uk-56963590>.

<sup>12</sup> Although Iran is not a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the absolute prohibition on torture is widely recognised as having attained *jus cogens* status, giving rise to an obligation for all States to take action against those who commit torture. Iran is also party to the International Covenant on Civil and Political Rights, which states that no one shall be subject to torture.

accountability for torture.<sup>13</sup> In the case of Jagtar Singh Johal, a British sole national tortured by police in India, FCDO officials would only raise the allegations of torture with Indian authorities once they had sought consent from him directly, which took two to three months. The government does not appear to have a strategy to address torture beyond this point, appearing to continue stalling and avoiding the matter, and it has not been able to obtain an independent medical examination despite requests from the family.

26. Not only did the government fail to protect Mrs Zaghari-Ratcliffe from torture and ill-treatment, there is a concern that it contributed to it. On 14 March 2022, Mrs Zaghari-Ratcliffe was summoned by Iranian officials. When she refused to go, the British Ambassador insisted she should, drove her to the Iranian Revolutionary Guard ('IRGC') offices and waited outside for several hours while IRGC officials pressured her to sign a false confession, which included blank sections where additional charges could be added, as well as undertakings not to criticise Iran. On 16 April 2022, Mrs Zaghari-Ratcliffe was again presented with a false confession to sign at Tehran airport in the presence of her interrogator from her early days in prison. When she refused to sign it, she was told by an FCDO representative that she had to sign it to be allowed to leave the country. This forced confession was filmed by the Iranians.
27. This process caused Mrs Zaghari-Ratcliffe further trauma, building on years of severe psychological harm inflicted on her by Iranian officials, including in the form of coercive interrogations, fictitious charges and propaganda, and false promises of release, as well as previous attempts by the Iranians to make her sign false confessions, which she had resisted up to this point. Forcing Mrs Zaghari-Ratcliffe to undertake an action under the threat of resumption of prior acts of torture (i.e. remaining trapped in Iran and the risk of returning to prison) can itself amount to an act of torture.<sup>14</sup> The false confession was designed to, and did, cause her severe trauma and anxiety. The UK government's involvement in the further infliction of mental harm is of grave concern. This should be taken into account in a review of government policy on protecting British nationals overseas to ensure this does not become part of UK practice and other victims are not put in the same position.
28. The UK government failing to properly acknowledge and challenge torture:
  - a) Has exposed Mrs Zaghari-Ratcliffe and other British citizens to further abuse.
  - b) Emboldens Iran to continue its abuse in the knowledge that there will be no real consequences. This was evident in Iran's treatment of Morad Tahbaz, who was returned to Evin Prison two days after the UK government reported that it had secured his release on furlough.<sup>15</sup>
  - c) Indicates that the UK government will not prioritise the protection of human rights over diplomacy, and undermines its 'force for good in the world' agenda.
  - d) Contradicts its own internal policies and guidelines, as well as international law (**Annex F**).<sup>16</sup>

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<sup>13</sup> See REDRESS case page on Jagtar Singh Johal, available at: <https://redress.org/casework/jagtar-singh-johal/>.

<sup>14</sup> European Court of Human Rights, Case of Husayn (Abu Zubaydah) v. Poland, Judgement, 24 July 2014, para. 511, available at: <http://hudoc.echr.coe.int/eng?i=001-146047>.

<sup>15</sup> 'Morad Tahbaz: Daughter of Iran detainee holds protest', BBC News, 13 April 2022, available at: <https://www.bbc.co.uk/news/uk-england-london-61099820>

<sup>16</sup> The latest versions of the FCDO's internal policies governing how its staff should respond to allegations of torture overseas are not publicly available. However, previous versions are available online, which we trust inform the current internal policy. See, e.g. <https://www.gov.uk/government/news/fco-publishes-guidance-on-reporting-torture-overseas>; [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/105139/1/FCDO\\_Support\\_for\\_British\\_Nationals\\_abroad\\_a\\_guide.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/105139/1/FCDO_Support_for_British_Nationals_abroad_a_guide.pdf);

#### Recommendations:

29. **The UK government should review and publish its internal policies on protecting British nationals overseas from torture and ill-treatment, including ensuring the UK's international legal obligations are met.**
30. **There should be an independent external review of FCDO torture policies on protecting British nationals overseas from torture and ill-treatment and their effectiveness. The UK government should be required to report to Parliament on the FCDO's handling of cases where a UK national is being or has been tortured overseas.**
31. **For countries where there is a risk of torture for British nationals, the UK government should explicitly refer to this risk in its travel advice.**
32. **The risk of torture of British citizens should be considered in FCDO assessments of human rights priority countries.**

#### MAGNITSKY SANCTIONS

33. In 2021, REDRESS and the Free Nazanin Campaign submitted a dossier of evidence to Foreign Secretary Liz Truss seeking the imposition of Magnitsky sanctions on ten Iranian officials involved in Iran's hostage taking.<sup>17</sup>
34. Targeted sanctions can be an effective deterrent and trigger behavioural change.<sup>18</sup> In the absence of other forms of accountability, they are also hugely important to victims and their families in the pursuit of justice. Imposing a personal cost on perpetrators would help to address the problem of impunity and directly challenge State hostage taking.
35. In the Foreign Affairs Committee's Iran Inquiry, it concluded that:

"The time has come for a more robust approach. For its next round of Magnitsky-style sanctions, we recommend that the FCDO prioritises building watertight cases against human rights abusers based in Iran or acting for it abroad, including those involved in the arbitrary detention of UK and dual nationals."
36. However, there is no indication from the FCDO that the government will act on the evidence presented by REDRESS and the Free Nazanin Campaign. This is despite former Foreign Secretary Dominic Raab stating to Mr Ratcliffe that he had asked his team to prepare options for sanctions and that he would welcome our file and be prepared to act on it. Following the rejection of Mrs Zaghari-Ratcliffe's appeal on the second case in October 2021, Mr Ratcliffe asked the Foreign Secretary to respond by imposing Magnitsky sanctions and recognising Mrs Zaghari-Ratcliffe as a hostage. When she declined to do so, Mr Ratcliffe went on hunger strike to protest the UK government's inaction and his wife's ongoing detention in Iran.

#### Recommendation:

37. **The UK government should impose Magnitsky sanctions to deter hostage taking and hold perpetrators accountable. This should be done in coordination with allied States, recognising that sanctions have greater impact when imposed multilaterally, and should form part of the 'Partnership Action Plan' under the Canada Declaration.**

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<https://www.gov.uk/government/publications/arrest-or-detention/arrested-abroad-advice-for-british-nationals>.

<sup>17</sup> 'The Free Nazanin Campaign and REDRESS Call for Magnitsky Sanctions on Perpetrators of Iran's Hostage-taking', REDRESS, 19 September 2021, available at: <https://redress.org/news/the-free-nazanin-campaign-and-redress-call-for-magnitsky-sanctions-on-perpetrators-of-irans-hostage-taking/>.

<sup>18</sup> Economist, "How sanctions really can improve respect for human rights", 29 January 2022, available at: <https://www.economist.com/asia/2022/01/29/how-sanctions-really-can-improve-respect-for-human-rights>



## CONSULAR PROTECTION

38. Consular protection is critical to protecting victims of arbitrary detention from further abuse by ensuring regular checks on their health and well-being, and conditions of detention. It also provides crucial practical and psychological assistance. Practical assistance may take the form of legal advice, funds to buy basic necessities in prison, and communication with the outside world. Psychologically, for victims, knowing that the UK government is nearby and is actively involved in their case and monitoring the situation gives them some hope that they are being protected and that their release is a priority.
39. According to the UK government, its provision of consular protection to British citizens overseas is a discretionary matter that does not attract any legal obligations, even where the detainee is a victim of or at risk of torture, is being held hostage, or has diplomatic protection.<sup>19</sup> REDRESS has advocated for current UK law to be amended to introduce a right to consular protection for all UK nationals.<sup>20</sup>
40. Dual nationals like Mrs Zaghari-Ratcliffe are particularly vulnerable. In Mrs Zaghari-Ratcliffe's case, Iran claimed not to recognise her British nationality, and purported to use this to deny the UK consular access to her. The irony is that in cases of State hostage taking, the victim's foreign nationality will often be the reason why they are detained in the first place.
41. In Mrs Zaghari-Ratcliffe's case, the UK government deferred to Iran's position on consular access. The UK government 'requested' consular access, but, despite repeated requests from Mr Ratcliffe and the legal team, they did not 'assert' to Iran a right to consular access under international law. In addition, Mr Ratcliffe and his team requested that UK government officials attend Mrs Zaghari-Ratcliffe's court hearings in person and ask to be allowed into the court room, and if not, to wait outside. Having UK representation waiting outside the courtroom during Mrs Zaghari-Ratcliffe's hearings would have brought her invaluable comfort, and would have sent a message to the Iranians that the UK was monitoring the situation and protecting her. However, the government declined to do this. By comparison, REDRESS understands that other States, such as Germany, have attended the trials in Iran of their nationals, including dual-national citizens.
42. Other British nationals detained overseas have reported similar concerns with British consular protection. In the case of Jagtar Singh Johal, despite there being no restrictions by India on the UK government's attendance, FCDO officials only attended his trials following requests from the family to do so. The family reports that, when it occurred, it was helpful to have FCDO representation at the hearings. In the case of Nicholas Tuffney, a British national who suffered cruel, inhuman and degrading treatment while detained in Panama, the Parliamentary and Health Service Ombudsman found that the FCDO's actions were not consistent with expectations of relevant guidance.<sup>21</sup>
43. REDRESS and the Ratcliffe family have been deeply concerned by the UK government's acquiescence to the Iranian position on consular access, their failure to proactively protect their citizen, and the impact this has on British hostages. The government's inaction is particularly concerning where the UK decided to exercise diplomatic protection on the victim's behalf, integral to which is recognition of the victims predominant British nationality.

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<sup>19</sup> Catherine Philip, 'Britons overseas have no right to our help, says Foreign Office', the Times, 28 December 2020, available at: <https://www.thetimes.co.uk/article/britons-overseas-have-no-right-to-our-help-says-foreign-office-99gscp5kt>.

<sup>20</sup> 'Beyond Discretion: The protection of British nationals abroad from torture and ill-treatment', REDRESS, January 2018, available at: [https://redress.org/wp-content/uploads/2018/01/3CADP-Report\\_FINAL.pdf](https://redress.org/wp-content/uploads/2018/01/3CADP-Report_FINAL.pdf).

<sup>21</sup> Report by the Parliamentary Ombudsman, 28 October 2019, available at: [https://redress.org/wp-content/uploads/2018/10/2019-10-28-Tuffney-PHSO-report\\_Redacted.pdf](https://redress.org/wp-content/uploads/2018/10/2019-10-28-Tuffney-PHSO-report_Redacted.pdf).

**Recommendations:**

44. **The UK government should be more robust in its provision of consular protection to British nationals detained overseas who have suffered, or are at risk of, serious human rights violations, including asserting a right to consular access for British dual nationals under international law.**
45. **A right to consular protection should be introduced into UK law.**

## LIST OF ANNEXES

46. **Annex A:** Evidence submitted by REDRESS to UK FAC inquiry into the UK's relationship with Iran, 20 April 2020.
47. **Annex B: (confidential)** Letter from REDRESS to the Minister for the Middle East and North Africa, 13 December 2021.
48. **Annex C: (confidential)** Counsel Opinion on hostage terminology, 18 November 2021.
49. **Annex D: (confidential)** Academic Opinion on hostage terminology, 7 March 2022.
50. **Annex E: (confidential)** Letter from REDRESS to the Foreign Secretary, 11 March 2022
51. **Annex F: (confidential)** Letter from REDRESS to the Foreign Secretary, May 2022 – to be forwarded to the FAC as soon as possible.