

2022

# The Bars of the Prison Grew Around Us:

The Systematic Human  
Rights Violations of Iran's  
Hostage-Taking Practice



**REDRESS**  
Ending torture, seeking justice for survivors





**The bars of the prison  
grew around us**

**So unjustly  
and fearlessly**

**And we left our  
dreams behind them**

**”**

Extract from the poem 'Autumn Light' by Nazanin Zaghari-Ratcliffe,  
hostage in Iran from 2016 – 2022. Full text available [here](#).

*Photo cover: Richard Ratcliffe, Nazanin Zaghari-Ratcliffe's husband, with their daughter Gabriella, at the site of his hunger strike outside the Foreign Office in November 2021 (© Free Nazanin Campaign).*

# Foreword

A few months ago, Nazanin's release made headlines around the world. She was one of a number of foreign citizens held by Iran for leverage. She was released in March 2022 when a debt dispute with the UK was finally settled. Iran has taken a number more foreign citizens since.

We still think of hostage taking as something ad hoc, done by gangs of racketeers. When Nazanin was first taken, I did not know anything about hostage diplomacy. I did not even realise that governments took hostages. Nor did I understand then the shortcomings of home states in failing to address it, or stem the culture of impunity and immunity that continues to corrode.



It is clear that governments do not yet know how to handle state hostage takers. The chimera of quiet diplomacy is just code for quiet accommodation, and for enabling this insidious abuse to continue to grow.

This report is the first attempt to set out the key components of hostage diplomacy or state hostage taking, and the whole network of those who collaborate to enact it.

Hostage taking is a business. All stages of its business model need to be disrupted. All stages identified in these pages play integral parts not just those who arrest or convict hostages, but also those who abuse for affect, those propagandists who profile this abuse and their victims as assets, and finally also those diplomats who market a deal.

I still remind the media that those 'convicted' as part of state hostage taking are practices not the criminals. The real criminals are the ones corrupting their judicial powers to hold people for leverage, and abusing them in order to get the attention of those watching on.

To make this report, we worked with many survivors and their families and reflected with them on all the key perpetrators in the hostage industry. I am grateful to REDRESS and the other NGO partners on the Steering Group for all their support and leadership on this, and of course to all the other survivors of Iran's hostage industry, for their insight and bravery.

## *Why this report matters?*

Hostage diplomacy has grown among certain states. Iran is by no means the only one. Iran is a market leader, but others are copying. Russia, China and others all hold citizens of other countries as leverage. It is a growing crime.

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Frustratingly, that is not currently how it is treated. Most diplomatic services still pretend the problem does not really exist, refuse to name it as hostage taking, and relegate it as a consular issue, or issue of overseas human rights. Contrary to preconceptions, it is not a disincentive to state hostage takers to wait them out. It just means countries abandoning their citizens for many years. It just puts the burden on the victims, while their government manages the optics in the media.

State hostage taking continues to grow if we continue to avoid recognising the problem, continue to fudge definitions and hide from calling it out as 'hostage taking'.

It grows because currently there is no accountability for state hostage takers, for those using state powers to perform criminal acts. What is to stop those who took Nazanin hostage from doing it again? We need to end the personal impunity for the abusers, and challenge the whole network of enablers.

The consequences of this impunity are corrosive. Hostage diplomacy is a corrosive practice for all sides. It subordinates judicial and diplomatic systems and privileges to the needs of racketeering. But it also encourages political leaders on all sides to engage in secret deals. That lack of transparency makes us all more vulnerable to private agendas.

*What should happen?*

We have to stop pretending that the problem doesn't exist. It should not fall on the shoulders of families to find the solution, or the consequences of the failure to do so.

We need our governments to understand the problem. Read the report. The insidious growth of hostage diplomacy is not going to be stopped through denial and deflection, but through clearly acknowledging the scope of the challenge ahead. The Canada Declaration in 2021 is a beginning to this journey, though there is much to do to turn that Declaration from rhetoric to substance, and to embed it within international human rights protections.

We need our governments to act. This has to start with going after the business model – seeing hostage diplomacy as a form of racketeering, combatted across the whole network of actors and enablers. Over the last 12 months we have sent to a number of governments a list of names calling for Magnitsky sanctions for those integral to Iran's hostage taking.

The call for sanctions for hostage taking is being picked up by some states, but still studiously avoided by others. There needs to be more bravery from our leaders, and less downplaying. Families should not have to camp on the streets or go on hunger strike to get their governments to act.

We need our governments to coordinate. The world needs to wake up and realise that state hostage taking is not the work of rogue individuals, but has the potential to overwhelm diplomatic norms. We all need airports to be safe. If people again become objects for horse-trading between states, we are all profoundly vulnerable.

Unless governments act on Iran and others, it is a dark path we are on.

**Richard Ratcliffe, November 2022**

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# Executive Summary

“ ***Injustice will not remain unaccounted. But it is love that kept us together in these most difficult times, and love will bring us together again.***”

Extract from a letter from Nazanin Zaghari-Ratcliffe to her daughter, 24 January 2017, 9 months after her arrest. Full text available at [change.org](https://www.change.org).

Since 1979, Iran’s arbitrary detention, torture and ill-treatment of foreign and dual nationals for diplomatic leverage over other states (**state hostage-taking**) has escalated, becoming an institutionalised part of its foreign policy. The exact numbers are not known, but it can be estimated that since 2015, there have been at least 50 cases of dual and foreign nationals being arbitrarily detained by Iran, with nine European nationals detained in the context of the 2022 protests.<sup>1</sup> Iran shows no signs of slowing down its hostage-taking system, and multilateral action from states is needed urgently to put an end to this abusive practice.

Evidenced by testimonies of victims and their family members, as well as open-source information, this report outlines the systematic human rights abuses of Iran’s hostages across five stages:

1. Initial detention and interrogation,
2. Court and judicial process,
3. Torture and ill-treatment in prison,
4. Propaganda by the Iranian government and state media, and
5. Marketing, including diplomatic demands for release of the hostages.

The report concludes that:

- a. Iran’s practice of arbitrarily detaining, torturing and mistreating foreign and dual nationals for diplomatic leverage over other states amounts to ‘state hostage-taking’, both in fact and in law; and
- b. Iran’s state hostage-taking practice breaches international human rights law, including:
  - i. The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment,
  - ii. The right to liberty and security, including not being subjected to arbitrary arrest and detention,
  - iii. The right to a fair trial,
  - iv. The right to human rights without discrimination, and
  - v. The right to life.

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1 [‘Iran says nine nationals of European countries detained for role in unrest’ \(Reuters, 30 September 2022\)](#).

# Recommendations

In light of the report's findings, governments around the world must:

- a. Recognise Iran's practice of arbitrarily detaining foreign and dual nationals for diplomatic leverage as state hostage-taking,
- b. Meaningfully challenge Iran's systematic breaches of international human rights law, and
- c. Collaborate to hold the state of Iran and individual perpetrators to account through:
  - i. The imposition of Magnitsky sanctions on individuals and entities responsible,
  - ii. Legal claims before the UN treaty bodies and special procedures,
  - iii. Developing concrete steps under the Partnership Action Plan of the Declaration Against Arbitrary Detention in State-to-State Relations, and
  - iv. Using other domestic and international legal avenues to hold the state of Iran and individual perpetrators to account and provide reparations to victims.

# Methodology

The evidence for this report was collected with the help of victims of arbitrary detention, torture and ill-treatment in Iran, including former detainees and the relatives or close acquaintances of those currently detained.

With the support of the Free Nazanin Campaign, REDRESS met virtually with victims or their family members to inform them about the evidence gathering process. Following this meeting, those who wished to do so (the **participants**) then filled in a comprehensive evidence form, detailing the abuses they or their family members have suffered. The completed evidence forms were returned to REDRESS. In total, REDRESS received evidence forms documenting the cases of 26 victims (the **documented cases**).

The documented cases include 17 people with dual Iranian nationality, five non-Iranian foreign nationals, one Iranian national with permanent residence in a foreign country, and three people with Iranian nationality only who suffered similar abuse to the hostages.

Through the evidence forms, participants identified the human rights abuses victims had suffered across five stages of Iran's hostage-taking practice:

1. Initial detention and interrogation,
2. Court and judicial processes,
3. Torture and ill-treatment in prison,
4. Propaganda by the Iranian government and state media, and
5. Marketing, including diplomatic demands for release of the hostages.

Some victims of Iran's state hostage-taking practice and their family members were hesitant to participate due to security concerns. Accordingly, not all known Iran hostage cases are reflected in the documented cases.

Where the information relied upon derives from publicly available information, the victim's name has been used. However, it should not be assumed that, where a victim is named based on a public source, they are also the subject of an evidence form.

To protect the victims and their families, no names or other identifying information is included in this report.

REDRESS and the Free Nazanin Campaign express deep gratitude to and admiration for all the participants for sharing their own or others' painful experiences.

## Definitions

**State hostage-taking:** When a state detains foreign or dual nationals in order to secure diplomatic leverage over another state. Also known as 'hostage diplomacy'.

**Victims:** People formerly or currently arbitrarily detained in Iran.

**Hostages:** Victims who are foreign (non-Iranian) nationals or Iranian dual nationals, or those with permanent residence outside Iran, arbitrarily detained by Iran for diplomatic leverage over another state.

**Participants:** Victims or their family members who completed an evidence form.

**Documented cases:** Victim cases that have been documented in an evidence form.

## Acknowledgements

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# Contextual Background



*ABC News coverage of the Iran Hostage Crisis in 1979, 19 days after the U.S. embassy in Iran was seized by militants who held 52 US citizens hostage for 444 days (© Anonym0n0us, CC BY-NC-CD 2.0).*

## Iran's State Hostage-Taking Practice

Following the seizure of the US embassy in Tehran on 4 November 1979, Iranian militants held 52 US citizens hostage for 444 days – only releasing them upon the US government agreeing to unfreeze Iranian assets.<sup>2</sup> The crisis demonstrated that using hostages as bargaining chips in international negotiations

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<sup>2</sup> [Algiers Accords](#) 19 January 1981.

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could be honed into a powerful political weapon,<sup>3</sup> and marked the beginning of Iran's policy of hostage diplomacy – a practice that has become institutionalised over the past forty years.<sup>4</sup> Since 1979, there have been dozens of known cases of foreign or dual nationals being arbitrarily detained in Iran for diplomatic leverage.<sup>5</sup> As other cases are often not made public, there are likely many more.

Iran's use of 'hostage diplomacy' has escalated in recent years following the agreement on the Joint Comprehensive Plan of Action (JCPOA) in July 2015.<sup>6</sup> In 2018, the United Nations (UN) Special Rapporteur on the Situation of Human Rights in Iran (Special Rapporteur on Iran) noted that there are approximately 30 known cases of foreign or dual nationals detained in Iran since 2015.<sup>7</sup> The UN Working Group on Arbitrary Detention (UNWGAD) has repeatedly recognised a practice in Iran of targeting foreign, dual or Iranian nationals with permanent residence in another country for prosecution,<sup>8</sup> recognising that this is nationality-based discrimination.<sup>9</sup> The UNWGAD has further noted that the pattern of arbitrary detentions in Iran "may constitute crimes against humanity."<sup>10</sup> The European Parliament recently referred to Iran's imprisonment of foreign nationals in order to "blackmail" foreign governments, noting that there are at least a dozen EU nationals currently being arbitrarily detained in Iran.<sup>11</sup> In September 2018, the US Government reported that the Iranian Revolutionary Guard Corps (IRGC) had arrested at least 30 dual nationals over the last two years, mostly on spying charges.<sup>12</sup> As of August 2021, the Center for Human Rights in Iran recorded 16 dual nationals and one foreign national

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3 Jason Rezaian, 'Iran's hostage factory' (*The Washington Post*, 4 November 2019).

4 Robin Wright, 'The Hostage Drama in Iran drags on – Forty years later' (*The New Yorker*, 4 November 2019).

5 The cases of Roxana Saberi, Shane Bauer and others reflect the escalation of this practice in the late-2000s. 'Roxana Saberi released from jail in Iran' (*Amnesty International*, 12 May 2009); 'Roxana Saberi released from prison in Iran' (*Iran Human Rights Documentation Center*, 11 May 2009); 'Freed American hikers arrive in Oman' (*CNN*, 22 September 2011); 'American Hikers leave Iran after Prison Release' (*The New York Times*, 22 September 2011).

6 'Held Hostage? A Legal Report on Hostage-Taking By States in Peacetime and the Victim Protection Gap' (*Thomson Reuters Foundation*, 1 October 2019) p.9; 'Iran: Targeting of Dual Citizens, Foreigners' (*Human Rights Watch*, 26 September 2018); 'Iran announces incarceration of Shahram Shirkhani and Masud Mosaheb in latest arrests of dual-nationals', (*International Observatory Human Rights*, 12 August 2020).

On 16 February 2016, the IRGC released a video lauding the role of hostage taking in unlocking the US arms debt that had been held under sanctions for decades: 'Jason Rezaian movie / exchange moment at Mehrabad airport' (*Magresh News*, 16 February 2016).

In January 2020, a senior Iranian Revolutionary Guard Corps (IRGC) political strategist Hassan Abbasi suggested that Iran should take Americans hostage because their lucrative ransoms would make up for sanctions on the country: 'Iranian IRGC officer suggests taking US hostages to make up for sanctions' (*Alarabyia News*, 23 January 2020).

7 UNHRC, 'Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran' (12 March 2018) UN Doc A/HRC/37/68, para 57.

8 E.g. UNHRC, 'Opinion No. 32/2019 concerning Saeed Malekpour (Islamic Republic of Iran)' (9 September 2019) UN Doc A/HRC/WGAD/2019/32, para 49, UNHRC, 'Opinion No. 85/2021 concerning Anoosheh Ashoori (Islamic Republic of Iran)' (14 February 2022) UN Doc A/HRC/WGAD/2021/85, para 96. In the case of Nizar Zakka, the UNWGAD noted that he had become "a target of official persecution because of its foreign nationality and residence in a foreign State": 'Opinion No. 51/2019 concerning Nizar Zakka (Islamic Republic of Iran)' (8 October 2019) UN Doc A/HRC/WGAD/2019/51, para 76.

9 E.g. UNHRC 'Opinion No. 52/2018 concerning Xiyue Wang (Islamic Republic of Iran)' (21 September 2018) UN Doc A/HRC/WGAD/2018/52, para. 82; UNHRC 'Opinion No. 28/2016 concerning Nazanin Zaghari-Ratcliffe (Islamic Republic of Iran)' (21 September 2016) UN Doc A/HRC/WGAD/2016/28, para 49; UNHRC 'Opinion No. 32/2019 concerning Saeed Malekpour (Islamic Republic of Iran)' (9 September 2019) UN Doc A/ HRC/WGAD/2019/32, para. 23; UNHRC 'Opinion No. 85/2021 concerning Anoosheh Ashoori (Islamic Republic of Iran)' (14 February 2022) UN Doc A/HRC/WGAD/2021/85, para. 96.

10 UNHRC 'Opinion No. 51/2019 concerning Nizar Zakka (Islamic Republic of Iran)' (8 October 2019) UN Doc A/HRC/WGAD/2019/51, para 79; UNHRC 'Opinion No. 28/2016 concerning Nazanin Zaghari-Ratcliffe (Islamic Republic of Iran)' (21 September 2016) UN Doc A/HRC/WGAD/2016/28, para 54; UNHRC, 'Opinion No. 85/2021 concerning Anoosheh Ashoori (Islamic Republic of Iran)' (14 February 2022) UN Doc A/HRC/WGAD/2021/85, para. 33.

11 European Parliament, 'European Parliament resolution on 8 July 2021 on the case of Ahmadrza Djalali in Iran' (8 July 2021) (2021/2785(RSP), para D.

12 'Hostages as bargaining chips: An Iranian tradition' (*US Virtual Embassy Iran*, 25 September 2018)'.

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known to be held in Iran.<sup>13</sup> Since 2014, Amnesty International has campaigned for at least 13 foreign or dual nationals arbitrarily detained in Iran.<sup>14</sup>

In recent times, Iran appears to be emboldened and has shown no sign of slowing down this practice. In 2020 and 2021 it abducted and kidnapped journalists and political dissidents residing overseas.<sup>15</sup> The crew of two Greek tankers we were caught up in Iran's seizure of two tankers in 2022.<sup>16</sup> It was reported that nine European nationals have been detained in Iran in the context of the 2022 protests,<sup>17</sup> and another Spanish national has since been detained.<sup>18</sup> France and the Netherlands have urged their citizens to leave Iran as soon as possible.<sup>19</sup> Despite releasing Nazanin Zaghari-Ratcliffe and Anoosheh Ashoori in March 2022 following the UK's payment to Iran of a £400 million debt,<sup>20</sup> Iran continues to detain British-Iranian national Morad Tahbaz.<sup>21</sup>

To secure the release of their arbitrarily detained citizens, states have been forced to engage in diplomatic deals with Iran. This is reflected in comments made by Iran's former Foreign Minister Mohammad Javad Zarif, that he only had standing to intervene in judicial cases of a foreigner accused of spying where there is a prisoner exchange,<sup>22</sup> and by the foreign ministry Spokesman, Saeed Khatibzadeh, that Iran was seeking an "all for all" prisoner exchange.<sup>23</sup> UK citizens Nazanin Zaghari-Ratcliffe and Anoosheh Ashoori were released upon the UK's payment of an historic £400 million debt it owed to Iran in March 2022.<sup>24</sup> Australia engaged in months of intense negotiations to develop a complex plan, which involved convincing Thailand and Israel to release three Iranians convicted over a bomb plot, in order to secure the release of its national, Kylie Moore-Gilbert, in 2020.<sup>25</sup> That same year, US citizen Michael White,<sup>26</sup>

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13 'Who are the Dual and Foreign Nationals Imprisoned in Iran?' (*Center for Human Rights in Iran*, 24 May 2018 (regularly updated)).

14 'German-Iranian dissident arbitrarily jailed: Jamshid Sharmahd' (*Amnesty International*, 15 April 2021); 'British-Iranian labour activist detained: Mehran Raoof' (*Amnesty International*, 23 February 2021); 'German-Iranian woman arbitrarily detained: Nahid Taghavi' (*Amnesty International*, 27 January 2021); 'Execution Risk For Iranian-Swedish Academic: Ahmadreza Djalali' (*Amnesty International*, 13 January 2021); 'Austrian-Iranian Prisoner at Risk: Massud Mossaheb' (*Amnesty International*, 5 November 2020); 'Jailed Dual National Denied Dental Care: Anoosheh Ashoori' (*Amnesty International*, 11 June 2020); 'Tortured Prisoner Needs Medical Care: Kamran Ghaderi' (*Amnesty International*, 16 September 2019); 'Elderly prisoner at risk of losing his eyesight: Kamal Foroughi' (*Amnesty International*, 13 September 2016); 'Canadian-Iranian professor detained in Tehran: Dr Homa Hoodfar' (*Amnesty International*, 14 June 2016); 'Businessman in long-term solitary confinement: Nizar Zakka' (*Amnesty International*, 23 May 2016); 'British-Iranian charity worker detained: Nazanin Zaghari Ratcliffe' (*Amnesty International*, 20 May 2016); 'Iranian-American detained for journalism' (*Amnesty International*, 9 December 2014); 'Jailed British-Iranian woman on hunger strike: Ghoncheh Ghavami' (*Amnesty International*, 8 October 2014);

15 'Masih Alinejad: Iranians 'plotted to kidnap US, Canada and UK targets'' (*BBC News*, 14 July 2021). French-Iranian Ruhollah Zam and American-Iranian Jamshid Sharmahd were abducted from Iraq and Dubai, respectively: Julian Borger, 'Iran 'spies' charged in plot to kidnap US journalist and speed her to Venezuela' (*The Guardian*, 14 July 2021); Niloufar Rostami, 'Iran's State TV Airs Forced Confessions of Journalist' (*BBC News*, 11 July 2020); 'Why Iran abducted and hanged Ruhollah Zam' (*The Economist*, 16 December 2020).

16 'Iran says crew of two seized Greek tankers not detained and are on board' (*Reuters*, 28 May 2022).

17 'Iran says nine nationals of European countries detained for role in unrest' (*Reuters*, 30 September 2022).

18 George Wright, 'Spanish fan detained in Iran while hiking to World Cup' (*BBC News*, 28 October 2022).

19 'France, Netherlands Urge Citizens to Leave Iran as Soon as Possible' (*Iran International*, 10 July 2022).

20 'Foreign Secretary statement on Iran: 16 March 2022' (*UK Government*, 16 March 2022).

21 'Morad Tahbaz: Lord Ahmad's statement, 26 October 2022' (*UK Government*, 26 October 2022).

22 Julian Borger and Patrick Wintour, 'Iran says it considered exchanging Zaghari-Ratcliffe for £400m owed by UK' (*The Guardian*, 23 September 2019).

23 Patrick Wintour, 'Iran sets trial dates for dual nationals before nuclear deal talks in Vienna' (*The Guardian*, 21 April 2021).

24 'Foreign Secretary Statement on Iran: 16 March 2022' (*UK Government*, 16 March 2022).

25 Anthony Galloway, 'How Australia negotiated the release of Kylie Moore-Gilbert from Iran' (*The Sydney Morning Herald*, 28 November 2020).

26 'Majid Taheri: US releases Iranian doctor in prisoner swap' (*BBC News*, 8 June 2020).

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French citizen Roland Marchal,<sup>27</sup> and a German citizen<sup>28</sup> were all released following prisoner exchanges. In 2019, Chinese-born American citizen Xiyue Wang and Australians Jolie King and Mark Firkin were released as part of prisoner swaps.<sup>29</sup> In 2016, US citizen Jason Rezaian was released along with three other US prisoners in Iran as part of a prisoner swap<sup>30</sup> and the subsequent release of \$400 million by the US to Iran.<sup>31</sup>

In recent times, affected states have begun to challenge the arbitrary detention of dual and foreign nationals for diplomatic leverage, most prominently in the Canadian-led Declaration Against Arbitrary Detention in State-to-State Relations, which refers to foreign nationals being detained arbitrarily to be used as bargaining chips in international relations.<sup>32</sup> In parallel, there has been increasing recognition that the practice constitutes state hostage-taking. Media outlets,<sup>33</sup> governments,<sup>34</sup> courts,<sup>35</sup> NGOs,<sup>36</sup> victims and their families<sup>37</sup> have increasingly used this term to describe Iran's detention of foreign or dual nationals for diplomatic leverage.

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- 27 Agence France-Press, 'Iran 'frees French researcher under prisoner exchange deal'' (*The Guardian*, 21 March 2020).
- 28 'Iran frees jailed Germany citizen in prisoner swap' (*AlJazeera*, 18 February 2020).
- 29 Patrick Wintour, 'US citizen Xiyue Wang released from Iranian jail in prisoner swap' (*The Guardian*, 7 December 2019); Ben Doherty, 'Australian travel bloggers released in Iran were freed in apparent prisoner swap' (*The Guardian*, 6 October 2019).
- 30 Saeed Kamali Deghan, 'Iran releases Washington Post journalist Jason Rezaian in prisoner swap with US' (*The Guardian*, 16 January 2016).
- 31 'U.S. says payment to Iran used as leverage for prisoners' release' (*Reuters*, 18 August 2016).
- 32 'Declaration Against Arbitrary Detention in State-to-State Relations', 15 February 2021. The former UK Foreign Secretary noted that the use of "arbitrary detention" as "means to influence others" was "cruel" and "wrong", and cited Iran as an example of States engaging in this practice: Roland Oliphant, 'Britain calls for release of Iranian hostages as it joins new initiative against "coercive diplomacy"' (*The Telegraph*, 25 February 2021); Harriet Line, 'Dominic Raab joins allies in condemning arbitrary detention' (*Yahoo! Finance*, 15 February 2021).
- 33 Yeganeh Torbati and Joel Schectman, 'Special Report - America's unending hostage crisis with Iran' (*Reuters*, 1 August 2018); Jason Rezaian, 'Families of Iran's hostages unite to pressure Tehran' (*The Washington Post*, 3 December 2018); 'Iran's hostage factory' (*The Washington Post*, 4 November 2019); Saphora Smith and Dan De Luce, 'Families of Europeans imprisoned in Iran accuse governments of kowtowing to Tehran' (*NBC News*, 30 April 2021).
- 34 In October 2022, the French Foreign Ministry referred to French citizens detained in Iran as "state hostages", 'France says Iran acting as "worst dictatorial regime" after citizen "confessions"', (*Reuters*, 6 October 2022); In 2020 the US approved the Robert Levinson Hostage Recovery and Hostage-Taking Accountability Act, which "bolsters U.S. government resources to bring back Americans held hostage or unlawfully detained abroad."; The US Virtual Embassy in Iran states: "Foreigners ... are frequent targets for the regime, who see them as opportunities to extract money or policy changes from governments": 'Hostages as bargaining chips: An Iranian tradition' (*US Virtual Embassy Iran*, 25 September 2018); Brian Hook, US Special Representative for Iran told the BBC's Panorama: "It's part of Iran's foreign policy to take people hostage who are innocent and then trade them later for some objective..." Panorama 'Hostage in Iran' (*BBC*, 24 August 2020); the US Department of Treasury has stated that the Iranian government "continues to take foreigners and dual-nationals hostage as political leverage": 'Treasury Sanctions Senior Iranian Intelligence Officers Involved in the Abduction and Detention of Robert Levinson' (*US Department of the Treasury*, 14 December 2020). The UK Government has recognised that its citizens are detained for diplomatic leverage. See, Aamna Mohdin, 'Iran jailed Nazanin Zaghari-Ratcliffe for diplomatic leverage, says Hunt' (*The Guardian*, 28 December 2018); the former UK Foreign Secretary Dominic Raab recently conceded during a televised interview that it was "very difficult to argue against" the characterisation that Nazanin Zaghari-Ratcliffe is a hostage: Tammy Hughes, 'Raab admits Nazanin Zaghari-Ratcliffe is Iranian 'hostage'' (*Evening Standard*, 2 May 2021). In December 2020, the UK's Foreign Affairs Committee urged the UK Government to "[call] 'State Hostage Taking' out for what it is": 'No prosperity without justice: the UK's relationship with Iran' (*UK Parliament Foreign Affairs Committee*, 16 December 2020) para 63.
- 35 *Rezaian v. Islamic Republic of Iran*, 422 F. Supp. 3d 164, 176-177 (D.D.C. 2019): the US District Court found that the case satisfied the International Convention Against Hostage Taking (para 176) and constituted torture (para 177); *Saberi v. Gov't of Islamic Republic of Iran*, No. 19-CV-1081 (DLF), 2021 WL 2117164, at \*6-7 (D.D.C. May 25, 2021): the court found that there was "uncontroverted evidence" that the plaintiff was held hostage in Evin (para 6).
- 36 'Iran: The crime of holding Nazanin Zaghari-Ratcliffe hostage must not go unpunished', (*Amnesty International*, 1 June 2022).
- 37 In December 2018, six families of foreign and dual nationals imprisoned in Iran issued an Open Letter calling on governments to acknowledge "this hostage taking crisis and take concrete that would help resolve their cases": 'Open Letter by Six Families of Dual and Foreign Nationals Imprisoned in Iran', (*Iran Human Rights Documentation Center*, 4 December 2018)

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For victims and their families, government acknowledgement that they are 'hostages' is critical.<sup>38</sup> Many victims charged with national security-related offences in Iran suffer from 'victim blaming' – being tainted with a 'no smoke without fire' perception that they could in fact be guilty, and have to campaign for their innocence to be accepted in the political and public realms.<sup>39</sup> Governments treating victims of state hostage-taking as regular consular cases risks lending credibility to the detentions and Iran's legal system, and thereby risks endorsing victim-blaming. Victims are ultimately left with trauma from the hostage-taking but are not granted the dignity of their governments identifying it as such. Being referred to as 'hostages' makes it clear that they are innocent pawns of Iran's unlawful acts, thereby greatly alleviating this burden that victims and their families suffer. Moreover, in the experience of victims, regular government consular assistance processes are largely ill-equipped to deal with hostage cases, as they do not seize quickly enough on the political sensitivity of these cases and respond accordingly.<sup>40</sup> Recognising victims as hostages will empower governments and victims' families to manage these cases more effectively from the outset.

### Hostage-Taking Legal Framework

Iran's practice of arbitrarily detaining foreign and dual nationals for diplomatic leverage over other states is correctly categorised as hostage-taking, both in fact and in law. The practice falls within UN International Convention against the Taking of Hostages 1979 (**Hostages Convention**)<sup>41</sup> and the UK Taking of Hostages Act 1982 (**Hostages Act**).<sup>42</sup>

In accordance with the definitions of hostage-taking under Article 1 of the Hostages Convention<sup>43</sup> and Section 1 of the Hostages Act,<sup>44</sup> the elements of hostage-taking include:

- i. Any person,
- ii. Who detains (or seizes) another person (the hostage), and
- iii. Threatens to kill, injure, or continue to detain the hostage,
- iv. In order to compel a state, international governmental organisation, person or group of persons, to do or abstain from doing any act (as an implicit or explicit condition of release)

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38 'Open Letter by Six Families of Dual and Foreign Nationals Imprisoned in Iran', (*Iran Human Rights Documentation Center*, 4 December 2018); 'Families of Europeans imprisoned in Iran accuse governments of kowtowing to Tehran' (*NBC News*, 30 April 2021).

39 For example, after her release, Sky News asked British-Australian Kylie Moore-Gilbert whether she was a spy. Subsequently, Kylie's interviewer was asked by a colleague whether she believed the answer, and whether there was anything Kylie could have done to get through the Iranian system faster: Sky News Australia, 'Nothing was off limits' in exclusive Kylie Moore-Gilbert interview' (*Youtube*, 1 March 2021) at 4:59.

40 Dame Judith Macgregor, 'Review of Complex Consular Cases' (*UK Parliament*, 6 June 2019).

41 International Convention against the Taking of Hostages, 17 November 1979, No. 2193. Iran became a party in 2006.

42 Taking of Hostages Act 1982

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

44 "A person, whatever his nationality, who, in the United Kingdom or elsewhere, (a) detains any other person ("the hostage"), and (b) in order to compel a State, international governmental organisation or person to do or abstain from doing any act, threatens to kill, injure or continue to detain the hostage."

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The factual circumstances surrounding Iran's arbitrary detention of foreign and dual nationals for diplomatic leverage clearly meet the elements of 'hostage-taking', as defined under national and international law. This is supported by US court judgements which have recognised these circumstances as amounting to hostage-taking under Article 1 of the Hostages Convention, as implemented through the Foreign Sovereign Immunities Act.<sup>45</sup> Amnesty International also recognised Nazanin Zaghari-Ratcliffe's detention in Iran as hostage taking in accordance with the Hostages Convention, and recognised that "the circumstances of Anoosheh Ashoori's release also strongly suggest that he was held in Iran as a hostage."<sup>46</sup> It has also determined that Swedish-Iranian detainee Ahmadreza Dijali's detention in Iran is arbitrary and that "ongoing threats to execute him constitute the crime of hostage-taking."<sup>47</sup>

Element (i) encompasses perpetrators directly responsible for the arbitrary detentions, including decision-makers and prison authorities. Perpetrators who are indirectly involved in, but support and play a key role in the hostage-taking process, including those responsible for the propaganda and marketing of detainees, are captured by Article 1(b) of the Hostages Convention, which includes those who "participate as an accomplice". They are further covered by forms of secondary liability under UK common law, applicable to the Hostages Act.<sup>48</sup>

It is evident that element (ii) applies to the victims who are imprisoned in Iran.<sup>49</sup> Five of the documented cases reported victims being subjected to forms of restricted movement outside of prison, such as house arrest, conditional release, including conditional furlough, and travel bans. In addition to 'detention', the Hostages Convention also refers to persons who are 'seized.' Domestic courts in the US have held that 'seizure' under the Hostages Convention does not require physical force to restrain the hostage, so long as the hostage was threatened, frightened, deceived, or coerced such as to remain under the hostage-taker's control.<sup>50</sup> Accordingly, in addition to applying to those imprisoned, this element also applies to those who are detained under some form of house arrest in Iran, including with restricted

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45 See, e.g., *Rezaian v. Islamic Republic of Iran*, 422 F. Supp. 3d 164, 176-177 (D.D.C. 2019). The US District Court found that the case satisfied the International Convention Against Hostage Taking, at 176 and constituted torture, at 177. It found Rezaian's testimony that he was seized and threatened with death and maiming, in conjunction with the IRGC explaining to Rezaian's mother that they took Rezaian with the intention of brokering a prisoner trade with the US, was sufficient to establish each element under the Hostages Convention, at 176. See also: *Saberi v. Gov't of Islamic Republic of Iran*, No. 19-CV-1081 (DLF), 2021 WL 2117164, at \*6-7 (D.D.C. May 25, 2021) (the court found that there was "uncontroverted evidence" that the plaintiff was held hostage in Evin, at 6); *Hekmati v. Islamic Republic of Iran*, 278 F. Supp. 3d 145, 159-163 (D.D.C. 2017) (the court found detention, threats, intention to broker a deal, and release in a prisoner exchange were sufficient to meet the definition of hostage-taking under the Hostages Convention, at 161-162); *Khosravi v. Gov't of Islamic Republic of Iran*, No. 1:16-CV-02066-TSC, 2020 WL 4923495, at \*4-6 (D.D.C. Aug. 21, 2020) (the court found that, "Because Khosravi's release was conditioned on the United States' release of Iranian prisoners, his detention constitutes hostage taking," at \*5); *Abedini v. Gov't of Islamic Republic of Iran*, 422 F. Supp. 3d 118, 129 (D.D.C. 2019) (the court found that, given that the Iran "did, in fact, leverage Abedini's captivity to compel American action that there was intent, and "as Abedini's release was explicitly conditional, he was a hostage under the FSIA definition," at 130-131). For how the act implements the Article 1 definition of hostage-taking, see, Terrorism exception to the jurisdictional immunity of a foreign state, 28 USC § 1605A (2011).

46 'Iran: The crime of holding Nazanin Zaghari-Ratcliffe hostage must not go unpunished' (*Amnesty International*, 1 June 2022).

47 'Iran: Swedish-Iranian Doctor Held Hostage and at Risk of Retaliatory Execution', (*Amnesty International*, 19 May 2022).

48 See e.g. Section 8 of the Accessories and Abettors Act 1861.

49 All subjects of documented cases were imprisoned in Iran at some point.

50 See, e.g., *Vine v. Republic of Iraq*, 459 F.Supp.2d 10, 17-19 (DDC 2006) (holding that parties in private residences and safehouses were deprived of freedom 'against their will', even when not under Iraq's direct control, such to be considered hostages under the Convention). International courts, while using the Geneva Conventions definition of hostage-taking, have also highlighted that the manner of detention is a 'secondary feature' of the offence as compared to threats and power over the hostage. *Prosecutor v. Sesay, Kallon and Gbao (RUF Case)* (Appeals Chamber Judgment) SCSL-04-15-A, (26 October 2009), paras 14, 598; *Prosecutor v. Blaskic* (Appeals Chamber Judgment) IT-95-14-A (29 July 2004), paras 638, 639.

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movement such as an ankle tag, as well as those on some form of conditional release,<sup>51</sup> particularly where Iranian officials threatened the safety of the victim and their family during the release.<sup>52</sup> Victims in the documented cases who were subjected to travel bans also spent time in prison and under other forms of conditional release. Although a travel ban may not constitute hostage-taking in and of itself,<sup>53</sup> the travel bans imposed in the documented cases were not used in isolation, but were additional to periods of imprisonment and other forms of detention. Accordingly, travel bans form part of a wider matrix of abuses against the victim, prolonging uncertainty and acting as a deliberate form of leverage in Iran's hostage-taking process.<sup>54</sup>

In relation to element (iii), dual and foreign nationals arbitrarily detained in Iran are explicitly and implicitly threatened with continued, indefinite detention and the psychological and physical suffering this causes. This is facilitated by the complete absence of the rule of law in Iran, which enables indefinite detention through the prosecution and conviction of victims without evidence, making their release dependent on international politics rather than the law. The case of Nazanin Zaghari-Ratcliffe exemplifies this situation, as she was prosecuted on unsubstantiated charges a second time following the completion of her first five-year sentence, which enabled her continued detention for ongoing diplomatic leverage over the UK.<sup>55</sup> Moreover, hostages are subjected to threats of torture and ill-treatment, threats of death, through the imposition of death sentences and mock executions, and threats to the safety of themselves and their loved ones.

Element (iv) is evident in the circumstances surrounding the arbitrary detention and release of foreign and dual nationals in Iran, as well as explicit statements made directly to detainees by Iranian officials and publicly. Official public statements in Iran generally claim that the victims are detained on the basis of national security-related charges. However, these charges are vaguely characterised and not supported by evidence or a fair trial. Accordingly, this purported legal basis acts a front for the reality

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51 Under certain conditions, house arrest has been found to meet the criteria for 'detention'. In sum, these conditions look to limitations on physical movements and on communications (including receiving visitors). 'Detentions' have typically included the inability to leave some sort of closed premises through security measures such as constant police monitoring or at risk of human rights abuses. See, e.g., Optional Protocol to the Convention Against Torture (adopted 9 January 2003, entered into force 22 June 2006) UNGA Res 57/199 (OPCAT) art 4(2); UNCHR 'Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment' (23 November 2018) UN Doc A/HRC/37/50, 26 February 2018, para 17; UNCHR 'Torture and other cruel, inhuman or degrading treatment or punishment: Report of the Special Rapporteur' (20 March 2020) UN Doc A/HRC/43/49, para 65; UNCHR 'Report of the Working Group on Arbitrary Detention' (12 January 1993) UN Doc E/CN.4/1993/24, Deliberation 01. See also, UNCHR 'Opinions adopted by the Working Group on Arbitrary Detention' (11 December 2001) UN Doc E/CN.4/2002/77/Add.1, Opinion No. 11/2201 (Viet Nam), para 12; UNHRC 'Opinion No. 37/2018 concerning a minor whose name is known by the Working Group (Malaysia)' (24 May 2018) UN Doc A/HRC/WGAD/2018/37, 24 May 2018, para 25.

52 For example, while on temporary furlough from prison Nazanin Zaghari-Ratcliffe and her family were threatened: "Commenting on her first period of furlough, Nazanin said that she was the subject of harassment by the authorities via threatening calls by Islamic Revolutionary Guard Corps (IRGC) interrogators, including warnings that she was being watched, warnings not to visit certain shops because the food might be poisoned, warning her father that there was a risk of a road accident if he did not keep an eye on her, and that she was safer in prison.": 'Written evidence submitted by Tulip Siddiq MP' (UKI0032), para 27; Patrick Wintour, 'Hopes fade that Nazanin Zaghari-Ratcliffe could leave prison temporarily' (*The Guardian*, 3 March 2020).

53 *Mohammadi v. Islamic Republic of Iran*, 782 F.3d 9, 16 (D.C. Cir. 2015) ("a prohibition on international travel of the kind alleged by plaintiffs would not constitute "hostage taking"...Courts thus have found "hostage taking" in cases involving physical capture and confinement, not restrictions on international travel"). See also *Radmanesh v. Islamic Republic of Iran*, 6 F.4th 1338, 1342 (D.C. Cir. 2021) (rejecting Radmanesh's argument that his travel ban fell under hostage-taking by noting he made no attempt to distinguish *Mohammadi*).

54 Nazanin Zaghari-Ratcliffe's husband Richard Ratcliffe explains that: "uncertainty is "inherent to hostage diplomacy. The aim is to keep everyone guessing – in a paralysis of hope and fear": Richard Ratcliffe, 'Hostage diplomacy: Call out the kidnapper states' (*Chatham House*, 1 August 2021).

55 Patrick Wintour, 'Iran sentences Nazanin Zaghari-Ratcliffe to further one-year jail term,' (*The Guardian*, 26 April 2021.)

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that victims are held for diplomatic leverage, i.e., in order to compel another state to do or abstain from doing an act. In many cases, victims have been told explicitly by Iranian officials that their release is contingent upon their country of nationality negotiating a deal with the Iranian government, in others, this is implicit. In recent years, the release of foreign and dual nationals in cases that have been made public have largely, if not all, been contingent on some benefit to Iran, usually in the form of prisoner swaps or other financial benefit. US courts have held that political leverage is a “*sufficiently coercive purpose to establish hostage-taking*”,<sup>56</sup> although the law does not require the hostage-taker to communicate its intended purpose to the outside world.<sup>57</sup>

Article 13 of the Hostages Convention states that the Convention shall not apply where the offence is committed within a single state.<sup>58</sup> This has been interpreted as meaning that the Hostage Convention only applies to hostage-taking which has a transnational element,<sup>59</sup> prompting the question of whether it applies to victims with Iranian nationality detained in Iran. Several US court judgements have deemed detentions of US-Iranian dual nationals, and Iranian nationals with US residency, to amount to hostage-taking in accordance with the Hostages Convention.<sup>60</sup> In addition, there are three reasons why, in cases of Iranian dual-nationals or those with permanent residency abroad, the act is not ‘purely domestic’ and has a ‘transnational element’, and is therefore included in the Hostages Convention:<sup>61</sup>

1. First, for the victims in question, their foreign nationality is generally their ‘dominant’ or ‘effective’ nationality.<sup>62</sup> Given the strength of their ties to the foreign country, their “real and effective nationality” is of that country.

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56 “Iran unlawfully detained Saberi and repeatedly threatened to kill or extend her detention to increase its leverage in negotiations with the United States”: *Saberi v. Gov’t of Islamic Republic of Iran*, No. 19-CV-1081 (DLF), 2021 WL 2117164, at \*7 (D.D.C. May 25, 2021).

57 *Levinson et al. v the Islamic Republic of Iran*, No. 17-511, 2020, at \*4a.

58 Hostages Convention, Art. 13, 17 November 1979, No. 2193. The UK’s Hostages Act does not include this requirement. UK Courts have reflected that: “it would seem at least arguable that the Act, like the Convention, applies to what, as in this case, is a purely domestic, intra-familial, abduction, albeit to another country, even though it was designed to deal with international terrorism.” *PM v KH & Anor* [2010] EWHC 870 (Fam), [2010] 2 FLR 1057, [2010] 2 FCR 639, [2010] Fam Law 935; Taking of Hostages Act 1982.

59 Ben Saul, ‘International Convention Against the Taking of Hostages’ (2014) *United Nations Audiovisual Library of International Law, Historical Archives*, p.5.

60 *Hekmati v. Islamic Republic of Iran*, 278 F. Supp. 3d 145, 159-163 (D.D.C. 2017); *Khosravi v. Gov’t of Islamic Republic of Iran*, No. 1:16-CV-02066-TSC, 2020 WL 4923495, at \*4-6 (D.D.C. Aug. 21, 2020) (finding both torture and hostage-taking); *Abedini v. Gov’t of Islamic Republic of Iran*, 422 F. Supp. 3d 118, 129 (D.D.C. 2019); *Rezaian v. Islamic Republic of Iran*, 422 F. Supp. 3d 164, 176-177 (D.D.C. 2019).

61 Carla Ferstman and Marina Sharpe, ‘Iran’s Arbitrary Detention of Foreign and Dual Nationals as Hostage-taking and Crimes Against Humanity’ (*Journal of International Criminal Justice*, Vol 20, Issue 2, 2 May 2022), pp 417-419.

62 The concept of ‘effective nationality’ was established by the Nottebohm Case (Second Phase) (*Liechtenstein v Guatemala*), Judgment of 6 April 1955, ICJ Reports 1955, 4 at 22: “They have given their preference to the real and effective nationality, that which accorded with the facts, that based on stronger factual ties between the person concerned and one of the States whose nationality is involved. Different factors are taken into consideration, and their importance will vary from one case to the next: the habitual residence of the individual concerned is an important factor, but there are other factors such as the centre of his interests, his family ties, his participation in public life, attachment shown by him for a given country and inculcated in his children, etc.”

Notably, the Iran-US Claims Tribunal has adopted the principle of predominant nationality with regard to the question whether it may exercise jurisdiction over cases concerning claims of Iranian-US dual nationals. In such cases, the Tribunal has held that it has jurisdiction to decide claims brought by nationals of the US, who also hold Iranian citizenship, against Iran or Iranian organisations, in circumstances where the person’s US citizenship/nationality is dominant and effective: *Espahanian v Bank Tejarat, Iran-USCRT*, vol 2 (1983), 166; *Ataollah Golpira v Government of Islamic Republic of Iran, Iran-USCTR* vol 2 (1983) 174 and ILR vol 72, 493.

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2. Second, Iran strategically targets dual nationals precisely because they have strong ties to a foreign country in order to increase its diplomatic leverage.<sup>63</sup> Iran does not recognise dual nationality and uses this as a basis to deny other countries consular access to the victims.<sup>64</sup> Accordingly, the victim's Iranian nationality allows Iran to violate the human rights of detainees with impunity, which further strengthens its leverage. Meanwhile the victim's foreign nationality, which enables the diplomatic leverage, is precisely the reason why they are targeted, reinforcing the transnational element of its hostage-taking practice. This intent is evidenced by the negotiations themselves,<sup>65</sup> as well as statements from the Iranian Ministry of Foreign Affairs directly to the other states. Ultimately, the acts fall within the scope of the Convention because their purpose is to pressure another state.
  
3. Third, the detention of dual nationals is part of a wider practice of detaining foreign nationals. As stated by Lambert, for "*the offence to remain outside of the scope of the Hostages Convention, all the hostages and all the offenders must be nationals of the State in which the offence was committed.*"<sup>66</sup> The detentions of dual nationals are inextricable from the detentions of non-Iranian foreign nationals in the matrix of Iran's wider hostage-taking practice. Accordingly, Iran's practice of hostage-taking generally falls within the scope of the Convention.

Finally, while neither the Hostages Convention nor the Hostages Act define hostage-taking as an offence that can be committed by a state actor, in *R v Bartle Ex p. Pinochet Ugarte (No. 1)* (2000) 1 AC 61, the House of Lords suggested that such an interpretation could be inferred from the circumstances of the creation of the Hostage Convention's, thereby applying to both the Hostages Convention and the Hostages Act:

*"(...) it is really inconceivable that Parliament should be taken to have intended that [public] officials should be outside the reach of [an] offence [under section 1(1) of the Taking of Hostages Act]. The Taking of Hostages Act was enacted to implement the International Convention against the Taking of Hostages, and that convention described taking hostages as a manifestation of international terrorism. The convention was opened for signature in New York in December 1979, and its immediate historical background was a number of hostage-taking incidents in which states were involved or were suspected to have been involved. These include the hostage crisis at the United States embassy in Teheran earlier in that year (...)."*<sup>67</sup>

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63 The UNWGAD has recognised that dual nationals arbitrarily detained in Iran are targeted because of their foreign nationality and residence in a foreign state: see footnotes 58-60.

64 Civil Code of the Islamic Republic of Iran: Article 989; 'Foreign travel advice: Iran' (UK Government, accessed 26 August 2021): "*The Iranian authorities don't recognise dual nationality for Iranian citizens and therefore don't grant consular access for FCDO officials to visit them in detention.*"

65 See, e.g., *Abedini v. Gov't of Islamic Republic of Iran*, 422 F. Supp. 3d 118, 129 (D.D.C. 2019) ("*The Court need not dive too deep into Iran's original intent because it did, in fact, leverage Abedini's captivity to compel American action.*")

66 Joseph Lambert, *Terrorism and Hostages in International Law: A Commentary on the Hostages Convention 1979* (Grotius 1990), pp. 302-303.

67 *Bartle and the Commissioner of Police for the Metropolis and Others, Ex Parte Pinochet, R v.* [1998] UKHL 41; [2000] 1 AC 61; [1998] 4 All ER 897; [1998] 3 WLR 1456.

# Patterns of Human Rights Abuses



*British-Iranian hostages Nazanin Zaghari-Ratcliffe and Anoosheh Ashoori arrive at the British military airbase of Brize Norton in Oxfordshire on 17 March 2022 (© UK Government, CC BY-NC-ND 2.0).*

This section summarises victims' experiences of arbitrary detention, torture and ill-treatment in Iran. It focuses on the five stages of state hostage-taking in Iran, as outlined in the Methodology. The striking similarities between the victims' experiences and patterns of human rights abuses highlight the scale of Iran's hostage-taking strategy as a highly institutionalised practice involving all branches of its security, intelligence and propaganda apparatus.

## Stage 1: Initial detention and interrogation

In all documented cases, the victims were arrested, detained and interrogated by persons understood to be members of IRGC's Intelligence Organisation<sup>68</sup> or Iran's Ministry of Intelligence.<sup>69</sup>

All documented cases record that at the time of their arrests the victims were visiting or staying in Iran for legitimate personal or professional reasons. Likewise, as documented in the UNWGAD opinions on Iran, British-Iranian citizen Nazanin Zaghari-Ratcliffe travelled to Tehran with her 22-month-old daughter to visit her family;<sup>70</sup> Lebanese national and US permanent resident Nizar Zakka was invited by the Iranian government to attend a conference on Women and Sustainability;<sup>71</sup> Xiyue Wang returned to Iran to continue his language studies and collect archival materials for use in his dissertation;<sup>72</sup> Anoosheh Ashoori was visiting an elderly relative,<sup>73</sup> and Ahmadreza Djalali travelled to Iran to attend workshops on disaster medicine.<sup>74</sup> In each of these cases, the UNWGAD confirmed that the arrests were arbitrary, and that authorities had targeted the individuals purely based on their "*national or social origin*" as dual or foreign nationals.<sup>75</sup> Similarly, the Ceasefire Centre for Civilian Rights reported that Kylie Moore-Gilbert was arrested after attending an academic conference in Qom, while Jolie King and Mark Firkin were travel bloggers documenting an overland trip to Iran from Australia.<sup>76</sup> Despite the benign motives of their visits, Iranian intelligence officials arrested the victims on fabricated national security-related charges.<sup>77</sup>

In all the documented cases, victims were subjected to a consistent pattern of incommunicado detention, prolonged solitary confinement and coercive interrogations, following their arrest.<sup>78</sup>

*Incommunicado detention:* During the initial investigation phase, victims were held in undisclosed locations, without access to lawyers or family for a substantial period of time, ranging from two weeks to 11 months, whilst being repeatedly interrogated. Some participants reported that in the first few

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68 Over the past decade, the IRGC has established itself as Iran's leading security agency, repressing threats to the Iranian regime and targeting foreign or dual nationals, who Iran alleges to have links with Western academic, economic, and cultural institutions: 'Iran: Targeting Dual Citizens, Foreigners' (*Human Rights Watch*, 26 September 2018).

14 documented cases reported victims being arrested, detained and / or interrogated by IRGC Intelligence.

69 13 documented cases report victims being arrested, detained and/or interrogated by the Ministry of Intelligence.

70 UNHRC 'Opinion No. 28/2016 concerning Nazanin Zaghari-Ratcliffe (Islamic Republic of Iran)' (21 September 2016) UN Doc A/HRC/WGAD/2016/28, para 5.

71 UNHRC 'Opinion No. 51/2019 concerning Nizar Zakka (Islamic Republic of Iran)' (8 October 2019) UN Doc A/HRC/WGAD/2019/51, para 6.

72 UNHRC 'Opinion No. 52/2018 concerning Xiyue Wang (Islamic Republic of Iran)' (21 September 2018) UN Doc A/HRC/WGAD/2018/52, paras 5-10.

73 UNHRC 'Opinion No. 85/2021 concerning Anoosheh Ashoori (Islamic Republic of Iran)' (14 February 2022) UN Doc A/HRC/WGAD/2021/85, para 7.

74 UNHRC 'Opinion No. 92/2017 concerning Ahmadreza Djalali (Islamic Republic of Iran)' (20 December 2017) UN Doc A/HRC/WGAD/2017/92, paras 4-5.

75 UNHRC 'Opinion No. 28/2016 concerning Nazanin Zaghari-Ratcliffe (Islamic Republic of Iran)' (21 September 2016) UN Doc A/HRC/WGAD/2016/28, para 49.

76 'In the Name of Security: Human rights violations under Iran's national security laws' (*Ceasefire Centre for Civilian Rights*, June 2020), pp. 17-19.

77 'In the Name of Security: Human rights violations under Iran's national security laws' (*Ceasefire Centre for Civilian Rights*, June 2020), p. 17. See also, 'Iran: Targeting Dual Citizens, Foreigners' (*Human Rights Watch*, 26 September 2018).

78 Iran's broader practices of solitary confinement, incommunicado detention and torture and ill-treatment during interrogations have been reported on by Amnesty International in 2020; See, 'Trampling Humanity: Mass Arrests, Disappearances and Torture since Iran's November 2019 Protests' (*Amnesty International*, 1 September 2020), pp. 16-45.

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days or weeks of their detention, the victims were held in apartments belonging to the IRGC, hotels and in private homes. The UNWGAD has highlighted that Iran's continued use of incommunicado detention is motivated by a desire to extract false confessions and prevent victims from challenging the lawfulness of their detentions, raising serious concerns of breaches of the International Covenant on Civil and Political Rights (ICCPR),<sup>79</sup> to which Iran is a State Party.<sup>80</sup>

*Solitary confinement:* In all documented cases, victims spent prolonged periods of time in solitary cells pre-trial, without access to natural light or sanitation. On average, the victims spent over six months in solitary confinement before their trials. In two documented cases, the victims were held in solitary confinement for over a year. During this period of solitary confinement and incommunicado detention, all victims were subjected to intense interrogations by Iranian security intelligence officials. Similarly, the UNWGAD found that Saeed Malekpour was held in prolonged periods of solitary confinement and incommunicado from his arrest on 4 October 2008 until 16 August 2009, ahead of his trial commencing on 29 November 2010.<sup>81</sup>

*Coercive interrogations:* The documented cases reported victims being interrogated without sleep for periods from 36 hours up to five days,<sup>82</sup> whilst being subjected to torture or other forms of ill-treatment.<sup>83</sup> Reported methods of torture and ill-treatment included beatings; floggings; being forced into stress positions for prolonged periods, often while blindfolded; forced virginity tests; the denial of adequate food and medical treatment;<sup>84</sup> being subjected to electric shocks, constant lighting, extreme temperatures, nauseating smells, and the sound of executions; verbal insults; and threats of arrest, torture, death or otherwise harm to family members. Many were also pressured into signing self-incriminating statements (often written in Farsi and incomprehensible to some victims) or reciting a scripted 'confession' in front of a video camera (to be broadcast on state television).<sup>85</sup> In four documented cases, victims were threatened with execution or subjected to mock executions after

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79 UNHRC 'Opinion No. 32/2019 concerning Saeed Malekpour (Islamic Republic of Iran)' (9 September 2019) UN Doc A/HRC/WGAD/2019/32, paras 30, 39-40.

80 Status of Ratification Interactive Dashboard' (*United Nations Office of the High Commissioner of Human Rights*).

81 UNHRC 'Opinion No. 32/2019 concerning Saeed Malekpour (Islamic Republic of Iran)' (9 September 2019) UN Doc A/HRC/WGAD/2019/32, paras 30, 39. See also, UNHRC 'Opinion No. 44/2015 concerning Jason Rezaian (Islamic Republic of Iran)' (16 December 2015) UN Doc A/HRC/WGAD/2015, paras 9, 38; UNHRC 'Opinion No. 28/2016 concerning Nazanin Zaghari-Ratcliffe (Islamic Republic of Iran)' (21 September 2016) UN Doc A/HRC/WGAD/2016/28, para 23.

82 See also, 'Trampling Humanity: Mass Arrests, Disappearances and Torture since Iran's November 2019 Protests' (*Amnesty International*, 1 September 2020), p. 26.

83 Similarly, The UNWGAD noted that Anoosheh Ashoori was interrogated multiple times during 12 hour sessions during which he was blindfolded, held without hydration in extreme heat, threatened with death, transfer to units with members of ISIL or Somali pirates, and harm to his family UNHRC, 'Opinion No. 85/2021 concerning Anoosheh Ashoori (Islamic Republic of Iran)' (14 February 2022) UN Doc A/HRC/WGAD/2021/85, para 89.

84 The victim's testimonies are consistent with a report by Amnesty International in 2020 investigating Iran's treatment of individuals arrested in connection with the nationwide protests in November 2019, which noted that: "methods of physical torture used against those arrested in connection with the November 2019 protests included beatings, floggings, suspension, forcing detainees into stress positions for prolonged periods, often while blindfolded or having their head covered in a bag or sack, the use of solitary confinement for 24 hours a day for periods reaching months, and the denial of sufficient food, potable water and medical treatment including medication." 'Trampling Humanity: Mass Arrests, Disappearances and Torture since Iran's November 2019 Protests' (*Amnesty International*, 1 September 2020), pp. 33-34.

85 See 'Iran: Targeting Dual Citizens, Foreigners' (*Human Rights Watch*, 26 September 2018); Tony Dershowitz and Talia Katz, 'Torture TV: the Case for Sanction on the Islamic Republic of Iran's State-Run Media' (*Foundation for Defense of Democracies*, February 2020).

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refusing to make a confession.<sup>86</sup> The UNWGAD has also recounted several cases where hostages in Iran were forced to confess.<sup>87</sup> At least three dual nationals have died in mysterious circumstances during IRGC interrogations.<sup>88</sup> Similar abuses have also been publicly reported in the case of Nazanin Zaghari-Ratcliffe, who was interrogated for eight to nine hours, often blindfolded and handcuffed, whilst being told that her husband was a spy and being threatened with separation from her daughter.<sup>89</sup>

*Impact of abuse:* Inevitably, the violence victims were exposed to during the initial interrogation and detention stage has caused lasting damage to the victims and their families. In virtually all documented cases, victims and their family members reported suffering from one or more forms of severe trauma, post-traumatic stress disorder (PTSD), depression, anxiety, insomnia and nightmares, weight loss, gastrointestinal illnesses, skin problems, skeletal problems, and neurological, respiratory or heart problems as a result of the victims' torture and ill-treatment during interrogations. Similarly, in their medico-legal evaluation of Nazanin Zaghari-Ratcliffe, the International Rehabilitation Council for Torture Victims noted that she suffers from major depression, PTSD and chronic physical pain due to her mistreatment by Iranian security officials.<sup>90</sup>

## Stage 2: Courts and judiciary

In almost all documented cases, victims were tried in secret before a Revolutionary Court on vague charges related to national security. The Revolutionary Courts are a sub-set of Iran's criminal courts, responsible for trying security-related offences. They consistently fail to ensure fair trials, relying on confessions obtained through torture as evidence in court and handing down predetermined verdicts for political purposes.<sup>91</sup> As one documented case describes: *"The whole [court] process is like a farce and joke, no evidence, no defence, only lies and baseless assumptions. It was not a court of law, it is a circus, in which the defendants are just circus animals."*

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86 Corroborating the victims' reports, in his report of March 2014, the UN Special Rapporteur for the human rights situation in Iran stated: *"Interrogations allegedly lasted several hours, during which time interrogators usually attempted to coerce detainees to confess in writing to certain activities, and/or to sign other documents. In nearly all cases, former detainees reported having been subjected to torture or ill-treatment during interrogation and detention."*: UNHRC 'Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran' (14 March 2014) UN Doc A/HRC/25/61, paras 55-56.

87 See, e.g., UNHRC 'Opinion No. 32/2019 concerning Saeed Malekpour (Islamic Republic of Iran)' (9 September 2019) UN Doc A/HRC/WGAD/2019/32, para 40; UNHRC 'Opinion No. 51/2019 concerning Nizar Zakka (Islamic Republic of Iran)' (8 October 2019) UN Doc A/HRC/WGAD/2019/51, para 11; UNHRC 'Opinion No. 52/2018 concerning Xiyue Wang (Islamic Republic of Iran)' (21 September 2018) UN Doc A/HRC/WGAD/2018/52, para 79; UNHRC 'Opinion No. 92/2017 concerning Ahmadreza Djalali (Islamic Republic of Iran)' (20 December 2017) UN Doc A/HRC/WGAD/2017/92, para 32.

88 'In the Name of Security: Human rights violations under Iran's national security laws' (Ceasefire Centre for Civilian Rights, June 2020), pp. 18-19.

89 'After 5 Years' Imprisonment in Iran, Nazanin Zaghari-Ratcliffe must be reunited with family in UK to recover from torture and ill-treatment' (International Rehabilitation Council for Torture Victims, 12 March 2021).

90 Letter from the International Rehabilitation Council for Torture Victims (IRCT) to Leanna Burnard (REDRESS) (22 February 2021).

91 In its 2018 country report on Iran, Human Rights Watch noted that *"Iranian courts, and particularly the revolutionary courts, regularly fell short of providing fair trials and used confessions likely obtained under torture as evidence in court. Authorities routinely restrict detainees' access to legal counsel, particularly during the investigation period"*; see 'Iran: Events of 2018' (Human Rights Watch, 2019). Similarly in its '2020/21 Report on the State of the World' Human Rights', Amnesty International reported that: *"Fair trial rights were systematically violated in the criminal justice system (...) Revolutionary Court judges showed hostility towards defendants during court proceedings and treated the accusations of intelligence and security bodies as pre-established facts"*, p. 193.; also found at 'Iran 2020' (Amnesty International, 2021).

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The IRGC and Ministry of Intelligence determine many aspects of the Revolutionary Court proceedings, and most cases Iran deems politically important are referred to a small number of branches whose judges are not independent.<sup>92</sup> The majority of the documented cases reported being tried by Judge Abolqasem Salavati of Branch 15 of the Tehran Revolutionary Court, and Judge Mohammad Moghisseh in Branch 28 of the Tehran Revolutionary Court. Both Judges are currently on the UK, EU and US sanctions lists for having presided over “*show trials*” and issuing excessive sentences during unfair trials.<sup>93</sup>

*Unlawful arrests:* At the time of their arrests, none of the victims in the documented cases were presented with an arrest warrant or were informed of the charges brought against them. Similarly, none were brought before a judge within 48 hours of their arrest or afforded the right to challenge the lawfulness of their arrest. In three documented cases the victims were not made aware of their charges until shortly before their trials took place. In one case, the victim was notified of the charges through Iranian media reports.

*Denial of access to legal counsel:* In all documented cases, victims were denied their rights to proper legal assistance, including being denied access to a lawyer. Victims were required to select their lawyers from a small pool of government-vetted lawyers.<sup>94</sup> In two documented cases, the victims were not able to appoint a lawyer until just before their hearings, and in three other cases, they were denied access to a lawyer altogether. In one documented case the victim was mocked by prison officials when they demanded access to a lawyer. Likewise, in Ahmadreza Djalali's case, the UNWGAD found serious violations of fair trial rights because he was denied access to a lawyer for seven months and was repeatedly denied a lawyer of his own choosing.<sup>95</sup> Where victims were eventually able to choose their own lawyer, these lawyers could be subjected to threats and prosecution.<sup>96</sup>

Once their lawyers were appointed, victims reported only being allowed to meet their lawyers for 20 minutes or less a few days before or on the day of their hearings.<sup>97</sup> In four cases, lawyers were not

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92 '2020 Country Reports on Human Rights Practices: Islamic Republic of Iran' (*U.S. Department of State*, 30 March 2021) (expressly referring to Branches 2, 15, 26 and 28). Similarly, Amnesty International's research has consistently shown that Revolutionary Courts lack independence and operate under the influence of security and intelligence forces to convict defendants and impose harsh sentences. See, 'Trampling Humanity: Mass Arrests, Disappearances and Torture since Iran's November 2019 Protests' (*Amnesty International*, 1 September 2020), p. 56.

93 'Treasury Sanctions two judges who penalize Iranians for exercising freedoms of expression and assembly' (*U.S. Department of the Treasury*, 19 December 2019); 'Consolidated List of Financial Sanctions Targets in the UK – Iran (Human Rights) Regime' (Last updated 31/12/2020); Council Regulation (EU) 359/2011 of 12 April 2011 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Iran.

94 See 'Universal Periodic Review: Submission concerning the Islamic Republic of Iran – Joint submission made by the family members of arbitrarily detained foreign and dual nationals' (*Centre for Supporters of Human Rights and Iran Human Rights Documentation Center*, March 2019), para 23; 'Iran: Targeting of Dual Citizens, Foreigners' (*Human Rights Watch*, 26 September 2018); 'Trampling Humanity: Mass Arrests, Disappearances and Torture since Iran's November 2019 Protests' (*Amnesty International*, 1 September 2020), p. 48. In Anoosheh Ashoori's case, six lawyers of his choosing were rejected and the when he refused to be represented by a lawyer of the judge's choosing the judge made him sign a document stating that he had refused legal representation and would represent himself. See, UNHRC, 'Opinion No. 85/2021 concerning Anoosheh Ashoori (Islamic Republic of Iran)' (14 February 2022) UN Doc A/HRC/WGAD/2021/85, para 19.

95 UNHRC 'Opinion No. 92/2017 concerning Ahmadreza Djalali (Islamic Republic of Iran)' (20 December 2017) UN Doc A/HRC/WGAD/2017/92, para 18.

96 See 'Like Dead in their Coffins: Torture, Detention, and the Crushing of Dissent in Iran' (*Human Rights Watch*, June 2004), pp.44-45.

97 In three cases, the victims were only given access to a lawyer two and three days before their trials. In two cases, the victims were only given access to a lawyer on the day of the trial. In another case, the victim was only permitted a five-minute meeting with their lawyer.

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allowed to meet their clients in private or visit them altogether. Three documented cases reported that interrogators, or IRGC agents, were present during the victim's meetings with their lawyers. Similarly, the UNWGAD noted that Jason Rezaian's only interactions with his lawyer took place in the presence of the judge and government officials,<sup>98</sup> and Ahmadreza Djalai's in the presence of police officers.<sup>99</sup>

Lawyers in the documented cases were not informed of charges brought against their clients; not allowed to see the evidence against them; and had no or very limited access to their client's case file, including not being provided with access to their clients' court files until four days to one hour in advance of the trials, making it impossible to prepare a meaningful defence.<sup>100</sup> Likewise, in Ahmadreza Djalai's case, the UNWGAD noted that the prosecution service completely refused to share court files with his lawyers.<sup>101</sup>

*Denial of fair public trial:* In the documented cases, victims had to wait between four and 16 months before their cases were first heard in front of a judge. Similarly, the UNWGAD noted that Jason Rezaian's and Nizar Zakka's first court hearings took place 10 and 11 months respectively after their arrests.<sup>102</sup> The documented cases reported that court hearings were short and conducted in secret, with the prosecution refusing to disclose details of the charges levelled against the victims. In five documented cases victims were not permitted access to a lawyer during court hearings, including cases where the victims' lawyers were not permitted to attend court. In two documented cases, the victims were not allowed to speak or challenge the evidence during their trials. In one case, the victim was forced to write their defence on a napkin as no adequate materials were available to them. In six documented cases, the victims recalled that the Judge was hostile and biased against them, openly supporting the allegations of the intelligence and security officials. In one documented case, the Judge told the victim in advance of their trial that they should "*expect to be convicted.*" Another victim described the hearings as being an extended interrogation, with the presiding Judge pressuring them into confessing. One victim was beaten in front of the Judge.

*Unjustified verdicts and sentencing:* In 25 documented cases, victims received a verdict. All of these were guilty verdicts on charges purportedly related to national security, such as "*espionage*", "*spreading propaganda against the system*" and "*collaboration with a hostile government*" (in reference to their home countries), despite all of them maintaining their innocence and there being a lack of evidence

98 UNHRC 'Opinion No. 44/2015 concerning Jason Rezaian (Islamic Republic of Iran)' (16 December 2015) UN Doc A/HRC/WGAD/2015, para 17.

99 UNHRC 'Opinion No. 92/2017 concerning Ahmadreza Djalali (Islamic Republic of Iran)' (20 December 2017) UN Doc A/HRC/WGAD/2017/92, para 26.

100 See also, 'Universal Periodic Review: Submission concerning the Islamic Republic of Iran – Joint submission made by the family members of arbitrarily detained foreign and dual nationals' (Centre for Supporters of Human Rights and Iran Human Rights Documentation Center, March 2019), para 26; Amnesty International 'Trampling Humanity: Mass Arrests, Disappearances and Torture since Iran's November 2019 Protests' (Amnesty International, 1 September 2020), p. 48. At the appellate stage in Anoosheh Ashoori's case, his lawyer was granted access to the case files only one hour before the second and final appeal hearing. UNHRC, 'Opinion No. 85/2021 concerning Anoosheh Ashoori (Islamic Republic of Iran)' (14 February 2022) UN Doc A/HRC/WGAD/2021/85, para 53.

101 UNHRC 'Opinion No. 92/2017 concerning Ahmadreza Djalali (Islamic Republic of Iran)' (20 December 2017) UN Doc A/HRC/WGAD/2017/92, para 27.

102 UNHRC 'Opinion No. 44/2015 concerning Jason Rezaian (Islamic Republic of Iran)' (16 December 2015) UN Doc A/HRC/WGAD/2015, para 15; UNHRC 'Opinion No. 51/2019 concerning Nizar Zakka (Islamic Republic of Iran)' (8 October 2019) UN Doc A/HRC/WGAD/2019/51, para 22. Similarly, Anoosheh Ashoori's first appearance before a judge was 5 months after his arrest, and more than 11 months passed between when he was detained and when his trial began. UNHRC, 'Opinion No. 85/2021 concerning Anoosheh Ashoori (Islamic Republic of Iran)' (14 February 2022) UN Doc A/HRC/WGAD/2021/85, paras. 17, 54.

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in support of the verdicts. Participants recounted that the prosecution never presented reliable evidence substantiating the charges either before or during the trials. Two documented cases reported that, according to the victims' lawyers, their court files contained falsified information. Similarly, the UNWGAD has noted that the laws used to convict victims can be so ambiguous and overly broad that their convictions violate the principle of legality.<sup>103</sup> The Special Rapporteur on Iran, the UNWGAD and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (**Special Rapporteur on torture**) recently sent a Joint Communication to the Government of Iran, in which they expressed serious concerns that Nazanin Zaghari-Ratcliffe's arrest, trial and conviction fell short of human rights law, including through the use of overbroad and vague charges, the lack of evidence to substantiate the charges and violations of double jeopardy laws by basing subsequent convictions on the same facts.<sup>104</sup>

Further, in all documented cases where a sentence was imposed, the victims received extremely severe punishment, including up to 14 years imprisonment, lashes, and death. In four documented cases, the court based its verdict solely on coerced confessions. As noted by Human Rights Watch, in hearing cases where defendants had been subjected to torture or ill-treatment during the interrogation phase, the judiciary "*is directly sanctioning these [human rights] violations*".<sup>105</sup> Finally, most victims never received a written copy of the verdict and all attempts to appeal the decision were unsuccessful.<sup>106</sup> One victim described the appeal process as a "*hollow*" formality.

*Physical and psychological impact of Iran's due process violations:* The impact of being wrongfully accused, convicted and subjected to fundamental due process violations is vast, severe and long-lasting for the victims and their families. Victims reported experiencing trauma, anxiety and depression as a result of the blatantly unfair treatment they received from court officials and the continuing legal and judicial uncertainty surrounding their cases.<sup>107</sup> Moreover, many of the victims' family members were subjected to threats, intimidation and harassment by IRGC interrogators, judges, and prosecutors.<sup>108</sup>

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103 For example, in Saeed Malekpour's case, the UNWGAD found that Malekpour could not have foreseen that the publication of an open-source software program would amount to criminal conduct under Iran's criminal law prohibiting the spread of propaganda and corruption: UNHRC 'Opinion No. 32/2019 concerning Saeed Malekpour (Islamic Republic of Iran)' (9 September 2019) UN Doc A/HRC/WGAD/2019/32. See also UNHRC, 'Opinion No. 85/2021 concerning Anoosheh Ashoori (Islamic Republic of Iran)' (14 February 2022) UN Doc A/HRC/WGAD/2021/85, paras. 33,74.

104 UNCHR, *Communication to Iran* (18 March 2021) Reference AL IRN 11/2021.

105 'Like Dead in their Coffins: Torture, Detention, and the Crushing of Dissent in Iran' (*Human Rights Watch*, June 2004), p. 46.

106 Amnesty International has observed that the Court of Appeal was dismissing the appeals of those convicted and sentenced in connection with the November 2019 protests in a summary fashion and without providing any substantive or detailed reasons. Following instructions issued by the head of the judiciary in July 2019, appeal proceedings are allowed to take place without a hearing. 'Trampling Humanity: Mass Arrests, Disappearances and Torture since Iran's November 2019 Protests' (*Amnesty International*, 1 September 2020), p. 60. In May 2019, the Head of the Judiciary stated: "*We believe that in the investigation and prosecution of [matters related to] the fields of order and security, the courts and offices of the prosecutors should act as if an appeal process does not exist and there is just one stage of trial.*" See, رئیس قوه قضائیه: اصلاحات روند دادرسی بزودی به نتیجه می رسد (*Islamic Republic News Agency*, 18 May 2019) (translated in 'Trampling Humanity: Mass Arrests, Disappearances and Torture since Iran's November 2019 Protests' (*Amnesty International*, 1 September 2020), p. 60).

107 As noted by the International Rehabilitation Council for Torture Victims (IRCT) in their independent medico-legal evaluation of Nazanin Zaghari-Ratcliffe, Nazanin suffers from serious and chronic post-traumatic stress disorder, major depression and obsessive-compulsive disorder due to (inter alia) the continuing legal and judicial uncertainty she has experienced in Iran. Letter from the International Rehabilitation Council for Torture Victims (IRCT) to Leanna Burnard (REDRESS) (22 February 2021).

108 Anoosheh Ashoori's elderly relative was harassed at home by intelligence officers after his arrest. UNHRC, 'Opinion No. 85/2021 concerning Anoosheh Ashoori (Islamic Republic of Iran)' (14 February 2022) UN Doc A/HRC/WGAD/2021/85, para. 16.

## Stage 3: Torture and ill-treatment in prison

*Prison cells and hygiene:* Participants describe victims being detained in very small cells (for instance, 1m by 2m), often with no windows or access to sunlight. In one documented case the victim was held for three months in an isolated cubic container of 1.5 square metres with no windows, which they described as akin to a “grave”. Communal cells are overcrowded; one victim was held in a cell with 10 to 15 other prisoners, while another was held in a cell shared by 17 prisoners, who each had 2m by 1.5m of living space. The latter was described as being “little bigger than a coffin”. In four documented cases, victims described cells and/or mattresses being infested with bugs, cockroaches and rats.<sup>109</sup> Eight victims reported having no mattress, being forced to sleep on the floor, or use a blanket as a makeshift mattress and pillow. Similarly, the UNWGAD noted that, for six months, Xiyue Wang was forced to sleep on the floor of a 20 square metre cell with up to 25 other detainees.<sup>110</sup> In one documented case the victim described their cell as being very cold, and having access to only two blankets. Another described how their cell was “freezing” in winter and “suffocatingly hot” in summer months. The documented cases reported serious hygiene issues, such as having no access to a shower or toilet, no toilet paper, blankets being unwashed, being given only one set of clothes, and being given one sanitary pad per month. One victim recounted that they were only given a bucket of water and hand soap to clean themselves; they had to sit on the toilet in their cell and pour the water over their head. Another victim reported that they were only given one low-quality toothbrush every three months and very little toothpaste. Likewise, in American-Iranian Jason Rezaian’s case, the UNWGAD documented that, at various points during his detention, he was deprived of the most basic facilities, including access to a bathroom.<sup>111</sup> There were also no Covid-19 measures: one documented case described how guards did not wear gloves or masks and that there were Covid-19-related deaths on the wards.<sup>112</sup> In a 2016 report, the UK Home Office noted reports of serious overcrowding and especially unhygienic conditions in Evin Prison.<sup>113</sup> In an interview with Tortoise Media, former detainee at Evin Prison, Marziyeh Amirzadeh, recounted that more than 150 prisoners had to share only three bathrooms, and that they were given one to two minutes to wash themselves.<sup>114</sup> British/Finnish-Iranian Ana Diamond has described her cell as a “pure concrete box”, which was empty apart from a rug. The cell was “dirty and stained and dusty”; one stain “looked like vomit that had dried up”.<sup>115</sup>

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109 See also UNHRC, ‘Opinion No. 85/2021 concerning Anoosheh Ashoori (Islamic Republic of Iran)’ (14 February 2022) UN Doc A/HRC/WGAD/2021/85, para. 29.

110 UNHRC ‘Opinion No. 52/2018 concerning Xiyue Wang (Islamic Republic of Iran)’ (21 September 2018) UN Doc A/HRC/WGAD/2018/52, para 19.

111 UNHRC ‘Opinion No. 44/2015 concerning Jason Rezaian (Islamic Republic of Iran)’ (16 December 2015) UN Doc A/ HRC/ WGAD/2015, para 10. See also UNHRC, ‘Opinion No. 85/2021 concerning Anoosheh Ashoori (Islamic Republic of Iran)’ (14 February 2022) UN Doc A/HRC/WGAD/2021/85, para. 29.

112 The UNWGAD has also highlighted that in the case of Anoosheh Ashoori, who was showing COVID-19 symptoms while in detention, authorities at Evin prison failed to provide adequate testing and medical care. UNHRC, ‘Opinion No. 85/2021 concerning Anoosheh Ashoori (Islamic Republic of Iran)’ (14 February 2022) UN Doc A/HRC/WGAD/2021/85, para. 30.

113 ‘Country Information and Guidance: Iran: Prison Conditions’ (UK Government, Home Office, February 2016), para 7.2.1, citing, ‘Rights Disregarded: Prisons in the Islamic Republic of Iran’ (Iran Human Rights Documentation Centre, 18 March 2015).

114 ‘Evin Prison’ (Tortoise Media).

115 ‘From Evin prison to Oxford University: how one British woman escaped the death penalty and rebuilt her life’ (iNews, 26 June 2021).

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*Psychological pressure:* In several documented cases, victims reported being blindfolded when they were outside of their cell, and one reported being blindfolded while in their cell.<sup>116</sup> Four victims described how guards left the lights on in their cell throughout the night. Another's cell had no light. The UNWGAD noted that Xiyue Wang did not see any natural light for up to a week at a time.<sup>117</sup> In 11 documented cases victims reported being held in solitary confinement for extended periods, up to 18 months. The Home Office's 2016 report also noted accounts that solitary confinement cells in Evin Prison lack natural light, and artificial light is on 24 hours a day, exacerbating the psychological pressure of solitary confinement.<sup>118</sup> In 11 documented cases victims were denied access to the outdoors and sunlight, and 11 reported such access being very limited: for instance, for 15 or 30 minutes twice a day, for 10 minutes twice a week, or for 30 minutes every three to four days. Victims recounted how this access would be taken away from them on the days they had interrogations, or if they were deemed to have not been "behaving well". The outdoor spaces they were permitted to access were very small (for instance, 2m by 7m); areas were enclosed (i.e., with a plastic roof) and had very high walls, with no visibility of the surroundings, and very little sunlight. Victims in the documented cases reported being blindfolded and handcuffed when in the outdoor area. One victim reported being harassed by the head of Evin Prison, while two described being subjected to threats, insults, verbal abuse, blackmail and intimidation by prison guards and staff. Another was subjected to "abusive" behaviour from two other prisoners, such that the small outside yard was no longer safe. Another described being forced to share a cell with informers, tasked with trying to get information out of them and instructed to make their life as unpleasant as possible. Additionally, the UNWGAD highlighted that Jason Rezaian was frequently humiliated,<sup>119</sup> and Xiyue Wang was forced to share a cell with extremely hostile detainees.<sup>120</sup> Tortoise Media has reported that Hall 1 in Ward 7 is dedicated to prisoners with addictions and contagious diseases, and transfer to this ward is used as punishment; Ana Diamond's father was moved to this ward and beaten up by another prisoner, a Tehran gangster.<sup>121</sup>

*Food and water:* The documented cases reported that access to food in prison is limited: portions are small, and in some cases, prisoner rations have been reduced even further. Victims are often deprived of food, sometimes for the whole day; this is sometimes used as a form of punishment, for instance following interrogations. Food is of poor quality: consisting mostly of carbohydrates and low in protein, and meat, fruit and vegetables are rarely, if ever, available. Victims often have to buy their own food, which is expensive. Moreover, one victim reported that they were limited in how much, and what, they could buy, while a further two victims reported not being allowed to buy additional food. Two victims

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116 See also UNHRC, 'Opinion No. 85/2021 concerning Anoosheh Ashoori (Islamic Republic of Iran)' (14 February 2022) UN Doc A/HRC/WGAD/2021/85, para. 15, 29.

117 UNHRC 'Opinion No. 52/2018 concerning Xiyue Wang (Islamic Republic of Iran)' (21 September 2018) UN Doc A/HRC/WGAD/2018/52, para 19.

118 'Country Information and Guidance: Iran: Prison Conditions' (UK Government, Home Office, February 2016), para 7.2.1, citing, 'Rights Disregarded: Prisons in the Islamic Republic of Iran' (Iran Human Rights Documentation Centre, 18 March 2015); UNHRC, 'Opinion No. 85/2021 concerning Anoosheh Ashoori (Islamic Republic of Iran)' (14 February 2022) UN Doc A/HRC/WGAD/2021/85, para. 29.

119 UNHRC 'Opinion No. 44/2015 concerning Jason Rezaian (Islamic Republic of Iran)' (16 December 2015) UN Doc A/HRC/WGAD/2015, para 10.

120 UNHRC 'Opinion No. 52/2018 concerning Xiyue Wang (Islamic Republic of Iran)' (21 September 2018) UN Doc A/HRC/WGAD/2018/52, para 21.

121 'Evin Prison' (Tortoise Media).

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reported access to water being limited.<sup>122</sup> In an interview, Ana Diamond also recounted that she was often deprived of food and drink for whole days at a time, and that if she was being “difficult, by [the guard’s] standard”, she would be given “very nasty prison soup that is more like grey water”.<sup>123</sup>

*Denial of medical treatment:* Participants reported that, in their experience, the denial of medical treatment and its attendant cruelty is used by Iran as a specific tactic to intensify its leverage over the home state. At times, Iran has granted health care to the victim to signal to the home state that it will cooperate when the home state acts in its favour, and has taken away health care to increase pressure on the home state, with the victim paying the ultimate cost. In 16 documented cases victims were denied access to a doctor, medical treatment and medication for serious conditions, such as heart conditions, diabetes, thyroid conditions and life-threatening blood pressure elevations. In one documented case the victim was told that, in order to access medical treatment, they had to sign a form in Farsi, which they could not understand. Another was threatened with solitary confinement if they went to the medical ward again. Two documented cases reported victims receiving injections or medication without being told what these were.<sup>124</sup> One victim was chained to a bed in the psychological ward for 10 days. Two victims reported that IRGC guards were present during their medical appointments, including a gynaecological examination. Denial of medical care for prisoners in Iran, for both pre-existing conditions and injuries sustained during arrest and detention (for instance, from torture), has also been detailed and publicised by Amnesty International.<sup>125</sup> In hostage cases, the denial of medical treatment is used as a tool to increase pressure on the victim and their home state, conspicuously exacerbating the victim’s suffering in order to maximise diplomatic leverage.<sup>126</sup> The provision or removal of medical treatment is thereby used as a bargaining chip in diplomatic negotiations.

*Family and outside communication:* In nine documented cases, victims reported being denied access to their families (via both phone calls and visits) for several months. Nearly all participants recounted how victims were held incommunicado and their families did not know where they were and were unable to access information about them for long periods, both at the time of their initial detention and at various points throughout their detention; one victim’s family did not know where they were for more than six months. When detainees were permitted access to their families, this was severely limited; for instance, one victim was only allowed to phone their parent every eight weeks, another was allowed to call for one to three minutes every four, seven or 10 weeks, while at least two victims’ family visits were conducted with a window screen between them. Five victims described how calls and meetings with their family were monitored, and one recounted that they were restricted in what they could speak about. Nine victims recounted that they were denied access to telephones or outside communication, while another four described having very limited access. One victim recounted being threatened with

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122 Amnesty International has similarly reported a lack of food and water in Iranian prisons, and detainees being given meagre rations of poor-quality food: ‘Trampling Humanity: Mass Arrests, Disappearances and Torture since Iran’s November 2019 Protests’ (*Amnesty International*, 1 September 2020), p. 44.

123 ‘From Evin prison to Oxford University: how one British woman escaped the death penalty and rebuilt her life’ (*iNews*, 26 June 2021).

124 See Aida Ghajar, ‘Assistant Prosecutor is Accused of Killing Dervish Prisoner’ (*IranWire*, 23 February 2021).

125 ‘Trampling Humanity: Mass Arrests, Disappearances and Torture since Iran’s November 2019 Protests’ (*Amnesty International*, 1 September 2020), p. 43.

126 See, for example: ‘Iran: Prisoners Nazanin Zaghari-Ratcliffe and Narges Mohammadi need appropriate health care urgently – UN experts’ (*United Nations Human Rights Office of the High Commissioner*, 16 January 2019); HL Deb 23 January 2017, vol 778, col 515 on Iran: Human Rights: the former UK Defence Minister requested of Iran’s Deputy Foreign Minister that detainees receive appropriate medical treatment; Tortoise Media has reported that prisoners in Evin Prison have been denied cancer treatment: ‘Evin Prison’ (*Tortoise Media*).

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revocation of their phone privileges. Seven victims reported being denied access to their embassy. Fifteen victims reported being denied books or access to a library. At least three detainees were denied pens and paper. Similarly, it was reported to the UNWGAD that Ahmadreza Djalali was only able to call his family for two minutes every two weeks for seven months, while Nazanin Zaghari-Ratcliffe and the Namazis were granted very limited access to their families.<sup>127</sup>

*Physical health impact:* Many of the documented cases report that victims lost a significant amount of weight during their detention, up to 30kg. At least seven victims developed gastrointestinal conditions and/or digestion problems. Five documented cases reported that victims developed skin conditions, such as psoriasis, eczema and scabies. Victims also suffered hair loss, gum and tooth infections, anaemia, high blood pressure, and severe headaches that caused confusion and hallucinations. Eight victims described severe back, leg, neck and joint pain. Documented cases also detailed victims developing cardiac arrhythmia due to interrogations and respiratory issues. In its opinions on Iran, the UNWGAD has also documented the health impacts of detention conditions and torture and ill-treatment.<sup>128</sup>

*Mental health impact:* Documented cases reported victims developing severe depression, PTSD, anxiety and panic disorders, insomnia and nightmares, and claustrophobia, as a result of their detention in Iran. At least five victims reported suicidal ideations. Likewise, Ana Diamond has publicly reported her mental and physical ill-health following her detention in Evin Prison, including being diagnosed with PTSD and heart conditions.<sup>129</sup> An expert medical assessment for Nazanin Zaghari-Ratcliffe reported that she:

*“suffers from serious and chronic post-traumatic stress disorder (PTSD), major depression and obsessive-compulsive disorder due to her mistreatment during detention, present house arrest, and continuing legal and judicial uncertainty.”<sup>130</sup>*

## **Stage 4: State Media**

State-backed media plays a key role in Iran's hostage-taking process. According to a Human Rights Watch analysis of Iran's targeting of dual and foreign nationals:

*“Some Iranian media outlets close to the rights-abusing intelligence agencies, including the Islamic Republic of Iran Broadcasting (IRIB) news agency, play an important role in undermining fair trial rights and the presumption of innocence by shaping public opinion about detainees’*

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127 UNHRC ‘Opinion No. 92/2017 concerning Ahmadreza Djalali (Islamic Republic of Iran)’ (20 December 2017) UN Doc A/HRC/WGAD/2017/92, para 9; UNHRC ‘Opinion No. 28/2016 concerning Nazanin Zaghari-Ratcliffe (Islamic Republic of Iran)’ (21 September 2016) UN Doc A/HRC/WGAD/2016/28, paras 37, 51; UNHRC ‘Opinion No. 49/2017 concerning Siamak Namazi and Mohammed Baquer Namazi (Islamic Republic of Iran)’ (22 September 2017) UN Doc A/HRC/WGAD/2017/49, paras 32, 35, 46; UNHRC, ‘Opinion No. 85/2021 concerning Anoosheh Ashoori (Islamic Republic of Iran)’ (14 February 2022) UN Doc A/HRC/WGAD/2021/85, para. 56, 72.

128 For example: UNHRC ‘Opinion No. 44/2015 concerning Jason Rezaian (Islamic Republic of Iran)’ (16 December 2015) UN Doc A/HRC/WGAD/2015, para 18; UNHRC ‘Opinion No. 92/2017 concerning Ahmadreza Djalali (Islamic Republic of Iran)’ (20 December 2017) UN Doc A/HRC/WGAD/2017/92, para 38; UNHRC, ‘Opinion No. 85/2021 concerning Anoosheh Ashoori (Islamic Republic of Iran)’ (14 February 2022) UN Doc A/HRC/WGAD/2021/85, para. 31.

129 ‘From Evin prison to Oxford University: how one British woman escaped the death penalty and rebuilt her life’ (*iNews*, 26 June 2021).

130 Letter from the International Rehabilitation Council for Torture Victims (IRCT) to Leanna Burnard (REDRESS) (22 February 2021), pp. 1-2.

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*alleged offenses. The outlets broadcast smear-campaign "documentaries" claiming that the accused are part of Western attempts to "infiltrate" the country. Some of the broadcasts include film of the accused making apparently coerced confessions.*"<sup>131</sup>

In 20 documented cases, victims reported being the target of state-backed propaganda.<sup>132</sup> This propaganda fell into three categories: false reports about the victim in broadcast and print media; misrepresentation of the victim (either as a fictionalised character or through direct reference) in popular shows; and erroneous statements about the victim by leading officials in Iran.

*Iranian media:* Iranian media, which is controlled by the Iranian government,<sup>133</sup> reported false and defamatory information about 16 of the documented cases.<sup>134</sup> The media consisted of news reports such as those on nightly news shows,<sup>135</sup> news articles,<sup>136</sup> social media posts,<sup>137</sup> and feature-length broadcasts such as the 'Out of Sight' series, which were sometimes billed as documentaries.<sup>138</sup> For example, British-Australian hostage Kylie Moore-Gilbert was painted as a Zionist spy working for M16 in IRIB propaganda.<sup>139</sup> In four documented cases, the stories relied on misrepresented or doctored

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131 'Iran: Targeting of Dual Citizens, Foreigners' (*Human Rights Watch*, 26 September 2018)

132 See e.g., UNHRC 'Opinion No. 49/2017 concerning Siamak Namazi and Mohammed Baquer Namazi (Islamic Republic of Iran)' (22 September 2017) UN Doc A/HRC/WGAD/2017/49, paras 29, 43.

133 The Iranian media is constitutionally mandated to be controlled by the government, as per Article 44 of the Iranian Constitution. Islamic Republic of Iran Broadcasting (IRIB) is the head of the Iranian media, with channels such as PressTV falling under it. Its purpose is defined under the 1983 General Policies and Principles Governing IRIB Programmes Act. However, the Iran judiciary purportedly has its own news site, Mizan. 'Orwellian State: Islamic Republic of Iran's State Media as a Weapon of Mass Suppression' (*International Federation for Human Rights*, June 2020), pp. 14-15, 19-21, Annex 1; Open Source Center, 'Structure of Iran's State-Run TV IRIB', (*Federation of American Scientists*, 16 December 2009); UNHRC 'Opinion No. 52/2018 concerning Xiyue Wang (Islamic Republic of Iran)' (21 September 2018) UN Doc A/HRC/WGAD/2018/52, para 17.

134 See also UNHRC 'Opinion No. 51/2019 concerning Nizar Zakka (Islamic Republic of Iran)' (8 October 2019) UN Doc A/HRC/WGAD/2019/51, para 32; UNHRC 'Opinion No. 52/2018 concerning Xiyue Wang (Islamic Republic of Iran)' (21 September 2018) UN Doc A/HRC/WGAD/2018/52, paras 17, 24; UNHRC, 'Opinion No. 48/2017 concerning Narges Mohammadi (Islamic Republic of Iran)' (22 September 2017) UN Doc A/HRC/WGAD/2017/48, paras 10, 47; UNHRC 'Opinion No. 49/2017 concerning Siamak Namazi and Mohammed Baquer Namazi (Islamic Republic of Iran)' (22 September 2017) UN Doc A/HRC/WGAD/2017/49, paras 27, 29, 43; 'Iran: Targeting of Dual Citizens, Foreigners' (*Human Rights Watch*, 26 September 2018); 'Orwellian State: Islamic Republic of Iran's State Media as a Weapon of Mass Suppression' (*International Federation for Human Rights*, June 2020), pp. 40-47, 48; Tony Dershowitz and Talia Katz, 'Torture TV: the Case for Sanction on the Islamic Republic of Iran's State-Run Media' (*Foundation for Defense of Democracies - Center on Economic and Financial Power*, February 2020), pp. 15, 17-21.

135 See 'Iran: Targeting of Dual Citizens, Foreigners' (*Human Rights Watch*, 26 September 2018); 'Orwellian State: Islamic Republic of Iran's State Media as a Weapon of Mass Suppression' (*International Federation for Human Rights*, June 2020), p. 48; Tony Dershowitz and Talia Katz, 'Torture TV: the Case for Sanction on the Islamic Republic of Iran's State-Run Media' (*Foundation for Defense of Democracies - Center on Economic and Financial Power*, February 2020), pp. 17-21.

136 See 'Iran: Targeting of Dual Citizens, Foreigners' (*Human Rights Watch*, 26 September 2018); 'Orwellian State: Islamic Republic of Iran's State Media as a Weapon of Mass Suppression' (*International Federation for Human Rights*, June 2020), pp. 39, 42.

137 'Orwellian State: Islamic Republic of Iran's State Media as a Weapon of Mass Suppression' (*International Federation for Human Rights*, June 2020), p. 16.

138 See 'Iran: Targeting of Dual Citizens, Foreigners' (*Human Rights Watch*, 26 September 2018); 'Orwellian State: Islamic Republic of Iran's State Media as a Weapon of Mass Suppression' (*International Federation for Human Rights*, June 2020), p. 48; Tony Dershowitz and Talia Katz, 'Torture TV: the Case for Sanction on the Islamic Republic of Iran's State-Run Media' (*Foundation for Defense of Democracies - Center on Economic and Financial Power*, February 2020), pp. 17-21.

139 'ماجرای جاسوسی کابلی مور کیلبرت' (*Al-Abdal*, 1 October 2019); 'کابلی مور کیلبرت: کزینش در انگلیس، آموزش یر تل آویو، عملیات در تهران' از شخصیت‌های مقاومت (*IRIB News*, 2 December 2020).

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documents.<sup>140</sup> These documents were acquired through coordinated efforts with interrogators and security personnel, who forced the victims to disclose email and social media account information under duress, or seized photo albums, computers, and other property without a warrant. The officials then provided these documents to the media.

*Forced confessions:* Seven documented cases reported that the media relied on forced, false confessions of victims or their family members.<sup>141</sup> Swedish-Iranian hostage Ahmadreza Djalali's forced confession was aired on IRIB,<sup>142</sup> and Nazanin Zaghari-Ratcliffe was required to sign a force confession at the airport before she was allowed to leave Iran.<sup>143</sup> In 2022, two French citizens appeared in a video confessing to being members of the French intelligence service. This was categorically denied by the French government, which stated:

*"The staging of their alleged confessions is outrageous, appalling, unacceptable and contrary to international law. This masquerade reveals the contempt for human dignity that characterizes the Iranian authorities."*<sup>144</sup>

Iran's use of forced, false statements in the media is exemplified by the reports that the IRIB attempted to force the father of Mahsa Amini, the young woman whose death in custody sparked the 2022 protests in Iran, to do an interview in support of the government's version of how his daughter died.<sup>145</sup>

*Popular shows:* Five documented cases were depicted or referenced in popular television shows. One well-known example of such shows is 'Gando', an IRGC-funded television show aired on IRIB's Channel 3, featuring fictionalised representations of dual-national hostages including Jason Rezaian, painting

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140 See also UNHRC 'Opinion No. 49/2017 concerning Siamak Namazi and Mohammed Baquer Namazi (Islamic Republic of Iran)' (22 September 2017) UN Doc A/HRC/WGAD/2017/49, paras 17, 25, 43; 'Iran: Targeting of Dual Citizens, Foreigners' (*Human Rights Watch*, 26 September 2018); 'Orwellian State: Islamic Republic of Iran's State Media as a Weapon of Mass Suppression' (*International Federation for Human Rights*, June 2020), pp. 44, 46, 54; Daniel Keyvanfer, 'Iranian State TV Re-Airs Jailed Scientist's Forced Confession' (*Iranwire*, 26 July 2021).

141 See 'Iran's State TV: A Major Human Rights Violator, IRIB Briefing Paper' (*International Campaign for Human Rights in Iran*, June 2014), pp. 6-7; 'Iran: Targeting of Dual Citizens, Foreigners' (*Human Rights Watch*, 26 September 2018); 'Orwellian State: Islamic Republic of Iran's State Media as a Weapon of Mass Suppression' (*International Federation for Human Rights*, June 2020), pp. 9, 21, 24-40, 46, 48; Tony Dershowitz and Talia Katz, 'Torture TV: the Case for Sanction on the Islamic Republic of Iran's State-Run Media' (*Foundation for Defense of Democracies - Center on Economic and Financial Power*, February 2020), paras 17-21, 32-33; Daniel Keyvanfer, 'Iranian State TV Re-Airs Jailed Scientist's Forced Confession' (*Iranwire*, 26 July 2021).

142 Poyeshe safare amn, 'Tyshe Bar Rishe - Ahmadreza jalali spy Mossad - part 1' (*Youtube*, 20 December 2017), poyeshe safare amn, 'Tyshe Bar Rishe - Ahmadreza jalali spy Mossad - part 2' (*Youtube*, 20 December 2017); 'Death Sentence Against Swedish Resident Ahmadreza Djalali Under Review', (*Center for Human Rights in Iran*, 22 January 2018); UNHRC 'Opinion No. 92/2017 concerning Ahmadreza Djalali (Islamic Republic of Iran)' (20 December 2017) UN Doc A/HRC/WGAD/2017/92, p. 5, paras. 31-32; Tony Dershowitz and Talia Katz, 'Torture TV: the Case for Sanction on the Islamic Republic of Iran's State-Run Media' (*Foundation for Defense of Democracies - Center on Economic and Financial Power*, February 2020), pp. 19-21.

143 'Nazanin Zaghari-Ratcliffe reveals she was forced to sign 'false confession' before leaving Iran (*Sky News*, 23 May 2022); Joe Middleton, 'Nazanin Zaghari-Ratcliffe forced to sign false confession before being released' (*Independent*, 23 May 2022).

144 'France says Iran acting as "worst dictatorial regime" after citizen "confessions"' (*Reuters*, 6 October 2022).

145 'Mahsa Amini's Family Threatened by Iran's State Broadcaster' (*Iran International*, 20 October 2022); Hawari Yousefi, 'Exclusive: Mahsa Amini's Family Facing Pressure to Give Scripted TV Interview', (*IranWire*, 19 September 2022); 'Mahsa Amini's Father: "Everything They Have Said and Shown is Lies"' (*Center for Human Rights in Iran*, 20 September 2022).

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them as foreign espionage agents.<sup>146</sup> In season 2, the series focuses on the capture of British spies in disputes with the UK, and includes a character based on Nazanin Zaghari-Ratcliffe. It also includes scenes with a picture of her husband Richard Ratcliffe under IRGC surveillance, and discussions about how his occupation (auditor) is the most common cover story for agents of the UK's Security Intelligence Service (MI6).<sup>147</sup> In another example, 'Rokhdad', which is a current events quiz show on the Ofogh Network,<sup>148</sup> included a question on which 'spy' Boris Johnson demanded to be released, with the answer being Nazanin Zaghari-Ratcliffe.<sup>149</sup>

*Iranian officials:* Seven documented cases reported that Iranian authorities made public, untrue statements and accusations against the victim. These statements were made personally or through the media, and authorities included current and former IRGC leaders, ministers, members of parliament,<sup>150</sup> judiciary spokespeople,<sup>151</sup> prosecutors general, ambassadors, army officials, and religious leaders. Iranian news also reported victims' guilty verdicts, quoting the Iranian judiciary, even when there had not been a formal verdict.<sup>152</sup>

In 12 of the documented cases, it was reported that the victim was labelled by the media as dangerous in some way.<sup>153</sup> Frequently, the propaganda falsely reported the victim's political importance to their home country or another country,<sup>154</sup> or to opposition movements.<sup>155</sup> Victims were also portrayed as

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146 'Iran's Intelligence Establishment is Spreading Propaganda Through Films and TV' (*Center for Human Rights in Iran*, 31 March 2021); Jason Rezaian, 'Opinion: An Iranian TV show targeted me. Now it's attacking journalism — and it's not alone' (*The Washington Post*, 3 May 2021). There have now been two series. While the first focused on Jason Rezaian and the US, the second was focused on the UK. 'Failure of decades of wickedness' (*Tehran Times*, 3 April 2021).

147 Kargardan '01 سریال جدید ایرانی کاندو 2 قسمت | Gando2 E01' (*Youtube*, 24 July 2021).

148 Ofogh Network was at one time controlled by the IRGC, and remains connected with them: 'Orwellian State: Islamic Republic of Iran's State Media as a Weapon of Mass Suppression' (*International Federation for Human Rights*, June 2020), p. 22.

149 Borzou Daragahi, 'Iran game show asks contestants which "spy" Boris Johnson wants released', (*Independent*, 12 November 2020).

150 See also UNHRC, 'Opinion No. 48/2017 concerning Narges Mohammadi (Islamic Republic of Iran)' (22 September 2017) UN Doc A/HRC/WGAD/2017/48, para 10; 'Iran: Targeting of Dual Citizens, Foreigners' (*Human Rights Watch*, 26 September 2018).

151 See also UNHRC 'Opinion No. 51/2019 concerning Nizar Zakka (Islamic Republic of Iran)' (8 October 2019) UN Doc A/HRC/WGAD/2019/51, para 32; UNHRC 'Opinion No. 49/2017 concerning Siamak Namazi and Mohammed Baquer Namazi (Islamic Republic of Iran)' (22 September 2017) UN Doc A/HRC/WGAD/2017/49, paras 34, 49; 'Iran: Targeting of Dual Citizens, Foreigners' (*Human Rights Watch*, 26 September 2018).

152 See also UNHRC, 'Opinion No. 48/2017 concerning Narges Mohammadi (Islamic Republic of Iran)' (22 September 2017) UN Doc A/HRC/WGAD/2017/48, para 23; 'Iran: Targeting of Dual Citizens, Foreigners' (*Human Rights Watch*, 26 September 2018). The Judiciary is only permitted to make convictions public after the issuance of a final verdict. UNHRC 'Opinion No. 52/2018 concerning Xiyue Wang (Islamic Republic of Iran)' (21 September 2018) UN Doc A/HRC/WGAD/2018/52, para 50.

153 See also UNHRC 'Opinion No. 51/2019 concerning Nizar Zakka (Islamic Republic of Iran)' (8 October 2019) UN Doc A/HRC/WGAD/2019/51, para 32; UNHRC 'Opinion No. 52/2018 concerning Xiyue Wang (Islamic Republic of Iran)' (21 September 2018) UN Doc A/HRC/WGAD/2018/52, para 17; UNHRC, 'Opinion No. 48/2017 concerning Narges Mohammadi (Islamic Republic of Iran)' (22 September 2017) UN Doc A/HRC/WGAD/2017/48, para 10; UNHRC 'Opinion No. 28/2016 concerning Nazanin Zaghari-Ratcliffe (Islamic Republic of Iran)' (21 September 2016) UN Doc A/HRC/WGAD/2016/28, paras 18, 25, 47; 'Iran: Targeting of Dual Citizens, Foreigners' (*Human Rights Watch*, 26 September 2018); 'Orwellian State: Islamic Republic of Iran's State Media as a Weapon of Mass Suppression' (*International Federation for Human Rights*, June 2020), pp. 40-43.

154 See also UNHRC 'Opinion No. 28/2016 concerning Nazanin Zaghari-Ratcliffe (Islamic Republic of Iran)' (21 September 2016) UN Doc A/HRC/WGAD/2016/28, paras 18, 47; 'Iran: Targeting of Dual Citizens, Foreigners' (*Human Rights Watch*, 26 September 2018).

155 See also UNHRC 'Opinion No. 28/2016 concerning Nazanin Zaghari-Ratcliffe (Islamic Republic of Iran)' (21 September 2016) UN Doc A/HRC/WGAD/2016/28, paras 18, 25, 47.

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spies,<sup>156</sup> especially for the US Central Intelligence Agency (CIA), the UK's MI6, or Israel's Intelligence Agency Mossad;<sup>157</sup> of working against the regime, often with countries such as the US and Israel,<sup>158</sup> of being terrorists; and of being involved in crimes such as assassinations.

In 13 documented cases, it was reported that propaganda resulted in some measure of harm to the victim and their family.<sup>159</sup> Much of this was psychological pain, including the onset or exacerbation of conditions such as anxiety, depression, suicidal thoughts, and PTSD.<sup>160</sup> However, it also triggered physical reactions in the victim and the families. A family member of one victim had a heart attack upon viewing a news report, while the parent of another suffered a stroke. A third parent considered suicide after journalists interrogated them. In one documented case the victim reported vision problems resulting from exposure to propaganda about them. Additionally, because the propaganda painted the victims as guilty of the crimes, and often as 'bad' Muslims, spies, or traitors,<sup>161</sup> they suffered from the reactions of those who believed or were influenced by the propaganda. This included isolation, as friends and family were afraid to associate with them, and economic issues such as the loss of business or jobs. Finally, it exacerbated legal issues. For example, in one documented case the victim struggled to find human rights organisations willing to support their case due to the stigma the propaganda caused. For another, a judge issued a death penalty sentence because of propaganda,<sup>162</sup> and for a third, the propaganda against them included claims that would have resulted in the death penalty if raised in judicial processes.

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156 See 'Iran: Targeting of Dual Citizens, Foreigners' (*Human Rights Watch*, 26 September 2018); 'Orwellian State: Islamic Republic of Iran's State Media as a Weapon of Mass Suppression' (*International Federation for Human Rights*, June 2020), pp. 40-43.

157 See also 'Orwellian State: Islamic Republic of Iran's State Media as a Weapon of Mass Suppression' (*International Federation for Human Rights*, June 2020), pp. 22, 46.

158 See also UNHRC 'Opinion No. 51/2019 concerning Nizar Zakka (Islamic Republic of Iran)' (8 October 2019) UN Doc A/HRC/WGAD/2019/51, para 32; UNHRC 'Opinion No. 52/2018 concerning Xiyue Wang (Islamic Republic of Iran)' (21 September 2018) UN Doc A/HRC/WGAD/2018/52, paras 17, 24; UNHRC, 'Opinion No. 48/2017 concerning Narges Mohammadi (Islamic Republic of Iran)' (22 September 2017) UN Doc A/HRC/WGAD/2017/48, para 10; UNHRC 'Opinion No. 28/2016 concerning Nazanin Zaghari-Ratcliffe (Islamic Republic of Iran)' (21 September 2016) UN Doc A/HRC/WGAD/2016/28, paras 18, 25; UNHRC 'Opinion No. 49/2017 concerning Siamak Namazi and Mohammed Baquer Namazi (Islamic Republic of Iran)' (22 September 2017) UN Doc A/HRC/WGAD/2017/49, paras 25, 34, 43, 49; 'Iran: Targeting of Dual Citizens, Foreigners' (*Human Rights Watch*, 26 September 2018); 'Orwellian State: Islamic Republic of Iran's State Media as a Weapon of Mass Suppression' (*International Federation for Human Rights*, June 2020), pp. 44-46.

159 See 'Orwellian State: Islamic Republic of Iran's State Media as a Weapon of Mass Suppression' (*International Federation for Human Rights*, June 2020), pp. 49-52.

160 See 'Orwellian State: Islamic Republic of Iran's State Media as a Weapon of Mass Suppression' (*International Federation for Human Rights*, June 2020), pp. 51-52.

161 See UNHRC 'Opinion No. 52/2018 concerning Xiyue Wang (Islamic Republic of Iran)' (21 September 2018) UN Doc A/HRC/WGAD/2018/52, paras 17, 24; UNHRC, 'Opinion No. 48/2017 concerning Narges Mohammadi (Islamic Republic of Iran)' (22 September 2017) UN Doc A/HRC/WGAD/2017/48, para 10; UNHRC 'Opinion No. 28/2016 concerning Nazanin Zaghari-Ratcliffe (Islamic Republic of Iran)' (21 September 2016) UN Doc A/HRC/WGAD/2016/28, paras 18, 47; 'Iran: Targeting of Dual Citizens, Foreigners' (*Human Rights Watch*, 26 September 2018); 'Orwellian State: Islamic Republic of Iran's State Media as a Weapon of Mass Suppression' (*International Federation for Human Rights*, June 2020), pp. 40-47.

162 The contents of propaganda, and especially forced confessions (which are coordinated between the media and the government), are often used as key evidence in trials. 'Iran's State TV: A Major Human Rights Violator, IRIB Briefing Paper' (*International Campaign for Human Rights in Iran*, June 2014), pp. 6-7; 'Orwellian State: Islamic Republic of Iran's State Media as a Weapon of Mass Suppression' (*International Federation for Human Rights*, June 2020), pp. 5, 51.

## Stage 5: Marketing

14 documented cases reported that their case was marketed publicly in some manner by Iranian officials negotiating their release.<sup>163</sup> This marketing made clear that Iran required some benefit in exchange for the release of the victim. This manner of negotiation is increasingly referred to as 'hostage diplomacy', which is principally, though not exclusively, the role of Foreign Ministry officials. While these diplomatic 'solutions' have been negotiated privately at times, often through third parties, the Iranian Foreign Ministers and Ministry officials have repeatedly made public calls for these negotiations in recent years.<sup>164</sup>

Several participants reported that Iran sought a diplomatic solution, such as a prisoner exchange or the payment of a debt.<sup>165</sup> The details were not always made clear to the victim beyond the requirement that a 'deal' must be made.<sup>166</sup> In other instances, Iran sought money directly from the victim or their family.<sup>167</sup> Six of the documented cases reported that the victim was released after Iran obtained the advantage it sought.

Eight documented cases reported that the case was marketed directly to the relevant government or stakeholder. Another eight documented cases reported that the victims or their families were privately

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163 See 'Iran: Targeting of Dual Citizens, Foreigners' (*Human Rights Watch*, 26 September 2018) (noting that "since the prisoner exchange between Iran and the United States in 2016, there have been several indications that Iranian authorities might be willing to again release detained dual and foreign nationals in return for bilateral agreements with the detained people's countries"); 'Iran Hostage Diplomacy: What Next?' (*International Observatory Human Rights*, 28 October 2020), 9:50-11:02, 46:00-48:00 (discussing hostage diplomacy in Iran generally, and specifically that Iran is at times explicit in its demands and at other times is clear but not explicit so as to maintain the "fiction" of legitimate convictions).

164 See, e.g.: 'Iran Blames US For No Prisoner Swap While Many Call American Detainees 'Hostages'' (*Iran International*, 9 March 2021), 'Djalali case: Iran floats idea of prisoner exchange' (*The Brussels Times*, 4 December 2020); 'Iran suggests prisoner exchange for Ahmadreza Djalali' (*World Today News*, 3 December 2020); Patrick Wintour, 'Iran reprieves scientist facing execution for espionage' (*The Guardian*, 2 December 2020), 'Iran says it is ready to swap all prisoners with U.S.' (*Reuters*, 21 September 2020), Julian Borger and Patrick Wintour 'Iran says it considered exchanging Zaghari-Ratcliffe for £400m owed by the UK' (*The Guardian*, 23 September 2019), 'Hassan Rouhani 'Zarif: Iran fully ready for prisoner swap, ball in US court' (*Al Jazeera*, 9 December 2019), Zachary Shevin 'Iranian foreign minister discusses possibility of prisoner exchange involving Xiyue Wang' (*The Daily Princetonian*, 24 September 2019), 'Iran frees jailed German citizen in prisoner swap' (*Al Jazeera*, 18 February 2020), Patrick Wintour & Rowena Mason, 'Iranian minister drops offer to free Zaghari-Ratcliffe in swap' (*The Guardian*, 25 April 2019); Peter Stubley, 'Nazanin Zaghari-Ratcliffe: Iran backs away from prisoner swap deal to release British mother' (*The Independent*, 25 April 2019), 'Memo to Zarif: Stop Taking Dual Nationals as Hostages' (*Center for Human Rights in Iran*, 24 April 2019); Edith M. Lederer, 'Iranian minister makes public prisoner swap offer to US' (*AP News*, 24 April 2019); Helen Davidson, 'Iranian woman in Australian jail drawn into Zaghari-Ratcliffe diplomatic dispute' (*The Guardian*, 25 April 2019), Lesley Wroughton, Jonathan Landay, and Arshad Mohammed, 'Exclusive: Iran's release of Lebanese prisoner was failed overture to U.S.' (*Reuters*, 10 July 2019).

165 See 'Iran: Targeting of Dual Citizens, Foreigners' (*Human Rights Watch*, 26 September 2018); 'Orwellian State: Islamic Republic of Iran's State Media as a Weapon of Mass Suppression' (*International Federation for Human Rights*, June 2020), pp. 45-46.

166 See 'Iran Hostage Diplomacy: What Next?' (*International Observatory Human Rights*, 28 October 2020), at 32:00-33:19.

167 See 'Iran Hostage Diplomacy: What Next?' (*International Observatory Human Rights*, 28 October 2020), 26:00-31:45.

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informed that the case was being used as leverage.<sup>168</sup> These messages came from IRGC sources, members of the Judiciary,<sup>169</sup> the Ministry of Intelligence, lawyers, interrogators, translators, and others. Three documented cases reported that the case was marketed to the media in public statements linking the victim with the desired outcome.<sup>170</sup>

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168 In the UN Working Group on Arbitrary Detention opinion on Nizar Zakka's case, it notes that he was privately given a list of demands for his release, including a letter from a Lebanon Foreign Affairs minister requesting his release. UNHRC 'Opinion No. 51/2019 concerning Nizar Zakka (Islamic Republic of Iran)' (8 October 2019) UN Doc A/HRC/WGAD/2019/51, para 33. See also, 'Iran: Targeting of Dual Citizens, Foreigners' (*Human Rights Watch*, 26 September 2018); 'Orwellian State: Islamic Republic of Iran's State Media as a Weapon of Mass Suppression' (*International Federation for Human Rights*, June 2020), pp. 45-46; 'Iran Hostage Diplomacy: What Next?' (*International Observatory Human Rights*, 28 October 2020), 20:00-21:35 (Xiyue Wang discussing his experience and being told of the hostage diplomacy around his release), 26:00-31:45 (Ana Diamond discussing her experience, and how Iranian officials attempt to either get money from governments or directly from individuals), 32:00-33:19 (Ahmadreza Djalalali discussing being told, during a trip to the Prosecutor's Office, that the problem of the death penalty would be solved if the Swedish government decided to "practically" help him).

169 See 'Iran: Targeting of Dual Citizens, Foreigners' (*Human Rights Watch*, 26 September 2018).

170 See 'Iran: Targeting of Dual Citizens, Foreigners' (*Human Rights Watch*, 26 September 2018); 'Orwellian State: Islamic Republic of Iran's State Media as a Weapon of Mass Suppression' (*International Federation for Human Rights*, June 2020), p. 18.

# Legal Analysis



Signs showing some of the key demands of the Free Nazanin Campaign at the site of the hunger strike that Richard Ratcliffe undertook for 21 days in 2021 (© Free Nazanin Campaign).

## Torture and Cruel, Inhuman or Degrading Treatment

State hostage-taking amounts to a serious violation of the victims' rights not to be subjected to torture or cruel, inhuman or degrading treatment or punishment (**CIDT**), protected in Article 7 of the ICCPR, to which Iran is a State Party,<sup>171</sup> and Article 5 of the Universal Declaration of Human Rights (**UDHR**).

According to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (**CAT**),<sup>172</sup> torture occurs when:

171 Status of Ratification Interactive Dashboard' (United Nations Office of the High Commissioner of Human Rights).

172 While Iran is not a party to the CAT, the prohibition of torture is considered to be *jus cogens*. For ratification statuses, see, 'Status of Ratification Interactive Dashboard' (United Nations Office of the High Commissioner of Human Rights). For the prohibition of torture as *jus cogens*, see, *Furundžija Case* (Judgment) IT-95-17/1-T (10 December 1998), paras 155-157.

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- i. severe physical or mental pain or suffering;
- ii. is intentionally inflicted;
- iii. for the purposes of obtaining information or a confession; punishing; or intimidating or coercing, or for any discriminatory reasons;
- iv. when inflicted by or with the consent of a public official.<sup>173</sup>

The distinction between torture and CIDT differs depending on the legal authority, but CIDT is frequently distinguished as not requiring the purpose element.<sup>174</sup> Some authorities have cited the intention and the powerlessness of the victim as impacting the distinction,<sup>175</sup> while others look to the severity of the treatment.<sup>176</sup>

### (i) Mental and physical suffering

The cumulative impact of the pattern of human rights abuses across the five stages of state hostage-taking constitutes CIDT, and in most cases amounts to 'severe suffering' constituting torture. In addition, specific abuses within the state hostage-taking process amount to torture or CIDT in and of themselves. As explained by the Special Rapporteur on torture:

*"a finding of torture may depend not only on the specific characteristics of particular techniques or circumstances, but also on their cumulative and/or prolonged effect, sometimes in conjunction with external stress factors or individual vulnerabilities that are not under the control of the torturer and may not even be consciously instrumentalized by him."*<sup>177</sup>

Similarly, the International Criminal Tribunal for the Former Yugoslavia (**ICTY**) has found that torture *"may be committed in one single act or can result from a combination or accumulation of several acts [...]. The period of time, the repetition and various forms of mistreatment and severity should be assessed as a whole."*<sup>178</sup>

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173 Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (adopted 10 December 1984, entered into force 26 June 1987) 1465 UNTS 85 art 1. See also, 'The right to be free from torture or cruel, inhuman or degrading treatment or punishment: for ombudsman schemes' (*Equality and Human Rights Commission*, 26 July 2019).

174 See also, 'The right to be free from torture or cruel, inhuman or degrading treatment or punishment: for ombudsman schemes' (*Equality and Human Rights Commission*, 26 July 2019).

175 UNCHR, 'Torture and other cruel, inhuman or degrading treatment or punishment: Report of the Special Rapporteur' (20 March 2020) UN Doc A/HRC/43/49, paras 52, 93–94; *Ireland v UK* App no 5310/71 (ECHR, 20 March 2018), para 132; UNCHR, 'Extra-custodial use of force and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment' (20 July 2017) UN Doc A/72/178, para 29.

176 See, e.g., 'Interpretation of torture in the Light of the Practice and Jurisprudence of International Bodies' (*United Nations Office of the High Commissioner of Human Rights*), p.2; *Saberi v. Gov't of Islamic Republic of Iran*, No. 19-CV-1081 (DLF), 2021 WL 2117164, at \*6-7 (D.D.C. May 25, 2021).

177 UNCHR, 'Torture and other cruel, inhuman or degrading treatment or punishment: Report of the Special Rapporteur' (20 March 2020) UN Doc A/HRC/43/49, paras 68-70; *R.R. v Hungary* App no 36037/17 (ECHR, 02 March 2021) para 48, citing *Khlaifia v Italy* App no 16483/12 (ECHR, 15 December 2016), paras 158–169; Inter-American Commission on Human Rights, *Report No. 29/20, Case 12.865: Merits Report (Publication)* (OEA/Ser.L/V/II Doc. 39, 22 April 2020), paras 140, 167.

178 *Krnjelac Case* (Judgment) IT-97-25-T (15 March 2002), para. 182. See also, *Ireland v UK* App no 5310/71 (ECHR, 20 March 2018), para. 168.

## Stage 1: Initial detention and interrogation

Victims were held incommunicado for periods ranging from two weeks to 11 months. Incommunicado detention includes depriving detainees of contact with the outside world, particularly with medical professionals, lawyers, and relatives.<sup>179</sup> It has 'repeatedly been recognised' as a form of torture.<sup>180</sup>

In all documented cases the victims spent prolonged periods in solitary confinement (defined as physical confinement to a cell for 22 to 24 hours per day<sup>181</sup>), averaging six months in pre-trial detention. 'Prolonged' solitary confinement is defined as being in excess of 15 days.<sup>182</sup> The United Nations Standard Minimum Rules for the Treatment of Prisoners (**Nelson Mandela Rules**) deem that solitary confinement can only be used in exceptional circumstances, and may be considered torture depending on, *inter alia*, the purpose, conditions, length, and effects of the detention.<sup>183</sup>

As detailed above, documented cases reported that victims were subjected to coercive interrogations, including forced confessions and attempted forced confessions. Interrogators used physical abuse, verbal insults, mock executions, threats to the victims and their family members, and a forced virginity test. The "*deliberate and purposeful infliction of fear*" is considered to be "*perhaps the most rudimentary*"

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179 UNCHR, 'Torture and other cruel, inhuman or degrading treatment or punishment: Report of the Special Rapporteur' (20 March 2020) UN Doc A/HRC/43/49, para 57.

180 UNCHR, 'Torture and other cruel, inhuman or degrading treatment or punishment: Report of the Special Rapporteur' (20 March 2020) UN Doc A/HRC/43/49, paras 57, 59 (citing UNCHR, 'Joint Study on Global Practices in Relation to Secret Detention in the Context of Countering Terrorism' (20 May 2010) UN Doc A/HRC/13/42, paras 28, 32; *Velásquez-Rodríguez Case* (Judgment, Merits) Inter-American Court of Human Rights Series C No 04 (29 July 1988), para 187; UNCHR 'Views: Communication No. 458/1991' (10 August 1994) UN Doc CCPR/C/51/D/458/1991, para 9.4; UNCHR, 'Views: Communication No. 577/1994' (9 January 1998) UN Doc CCPR/C/61/D/577/1994, para 8.4. See also, e.g., *Suárez-Rosero Case* (Judgment, Merits) Inter-American Court of Human Rights Series C No 34 (12 November 1997), paras 84–92.

181 UNCHR, 'Interim report of the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment' (5 August 2011) UN Doc A/66/268, para 26.

182 UNCHR, 'Interim report of the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment' (5 August 2011) UN Doc A/66/268, para 26.

183 United Nations Office on Drugs and Crime, *The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)*; UNCHR, 'Interim report of the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment' (5 August 2011) UN Doc A/66/268, para 71. However, the Special Rapporteur on Torture of the time included 'total isolation' on a 1985 list of possible psychological torture methods, and prolonged denial of sufficient hygiene and exposure to excessive light or noise as possible physical torture methods. UNESC, 'Report by the Special Rapporteur, Mr. P. Kooijmans, appointed pursuant to Commission on Human Rights resolution 1985/33' (19 February 1986) UN Doc E/CN.4/1986/15, paras 119. See also, UNESC, 'Question of the human rights of all persons subjected to any form of detention or imprisonment, in particular: torture and other cruel, inhuman or degrading treatment or punishment' (24 December 1997) UN Doc E/CN.4/1998/38, para 208. For court cases evaluating specific factors, see, *Rohde v Denmark* App no 69332/01 (ECHR, 21 July 2005), paras 93, 97; *Ramirez Sanchez v France* App no 59450/00 (ECHR, 4 July 2006), paras 126–130; *X v Turkey* App no 24626/09 (ECHR, 9 October 2012), paras 34–35, 43; *Husayn (Abu Zubaydah) v Poland* App no 7511/13 (ECHR, 24 July 2014), paras 504–511; Inter-American Commission on Human Rights, *Report on the Human Rights of Persons Deprived of Liberty in the Americas* (OEA/Ser.L/V/II. Doc. 64, 31 December 2011), p. 123, para 342 (citing Inter-American Commission on Human Rights, *Report on Terrorism and Human Rights* (OEA/Ser.L/V/II.116 Doc. 5 rev. 1 corr., 22 October 2002), para 162); *Delalić Case* (Judgement) IT-96-21-T (16 November 1998), para 467; *Velásquez-Rodríguez Case* (Judgment, Merits) Inter-American Court of Human Rights Series C No 04 (29 July 1988), para 156; Inter-American Commission on Human Rights, *Report No. 29/20, Case 12.865: Merits Report (Publication)* (OEA/Ser.L/V/II Doc. 39, 22 April 2020), paras 152, 177–181; *Loayza-Tamayo Case* (Judgment, Merits) Inter-American Court of Human Rights Series C No 33 (17 September 1997), para 58; *Cantoral-Benavides Case* (Judgment, Merits) Inter-American Court of Human Rights Series C No 69 (18 August 2000), paras 63k, 104.

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method of psychological torture.<sup>184</sup> This includes direct or indirect threats of abuse, including threats against other parties; withholding information about the fate of victims or their loved ones; mock executions; and inducing claustrophobia through, *inter alia*, mock burials or confinement in cramped spaces.<sup>185</sup> Virginity testing is also considered a form of discrimination and torture or ill-treatment.<sup>186</sup>

At least three dual-nationals have died under mysterious circumstances during interrogations. According to public reports, two Iranian-Canadians have died in Iranian state custody since 2003.<sup>187</sup> In cases of custodial deaths, the UN has held that there is a rebuttable presumption of state responsibility,<sup>188</sup> thus additionally implicating those involved in violations of the right to life.

## Stage 2: Court and judiciary

In all documented cases the victims were subjected to due process violations in contravention of international law. These included unlawful arrests; denial of access to a lawyer, denial of fair trial procedures; and convictions not supported by evidence. These violate Article 9 of the ICCPR,<sup>189</sup> to which Iran is party,<sup>190</sup> and Articles 9-11 of the Universal Declaration of Human Rights (UDHR).<sup>191</sup> As

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184 UNCHR, 'Torture and other cruel, inhuman or degrading treatment or punishment: Report of the Special Rapporteur' (20 March 2020) UN Doc A/HRC/43/49, para 46. In 2001, the Special Rapporteur on Torture at the time released a statement on intimidation as a form of torture. UNCHR, 'Report of the Special Rapporteur on the question of torture and other cruel, inhuman or degrading treatment or punishment' (3 July 2001) UN Doc A/56/156, paras 3-8. See also, *Tibi Case* (Judgment, Preliminary Objections, Merits, Reparations and Costs) Inter-American Court of Human Rights Series C No 114 (7 September 2004), paras 147, 149; *Lysias Fleury et al. Case* (Judgment, Merits and Reparations) Inter-American Court of Human Rights Series C No 236 (23 November 2011), para 73; *Gäfgen v Germany* App no 22978/05 (ECHR, 1 June 2010), para 108; *Baldeón-García Case* (Judgment, Merits, Reparations, and Costs) Inter-American Court of Human Rights Series C No 147 (6 April 2006), paras 119-120.

185 UNCHR, 'Torture and other cruel, inhuman or degrading treatment or punishment: Report of the Special Rapporteur' (20 March 2020) UN Doc A/HRC/43/49, paras 47-50; UNCHR, 'Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment' (5 August 2016) UN Doc A/71/298, para 45. For cases ruling that threats can amount to CIDT and torture, see *Tibi Case* (Judgment, Preliminary Objections, Merits, Reparations and Costs) Inter-American Court of Human Rights Series C No 114 (7 September 2004), paras 147, 149; *Lysias Fleury et al. Case* (Judgment, Merits and Reparations) Inter-American Court of Human Rights Series C No 236 (23 November 2011), para 73; *Gäfgen v Germany* App no 22978/05 (ECHR, 1 June 2010), para 108; *Baldeón-García Case* (Judgment, Merits, Reparations, and Costs) Inter-American Court of Human Rights Series C No 147 (6 April 2006), paras 119-120.

186 UNCHR, 'Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment' (5 January 2016) UN Doc A/HRC/31/57, para 46. See also, UNCHR, 'Torture and other cruel, inhuman or degrading treatment or punishment: Report of the Special Rapporteur' (20 March 2020) UN Doc A/HRC/43/49, para 51; 'Statement on Virginity Testing' (*Independent Expert Forensic Group*, 2015); the Inter-American Court of Human Rights has ruled that "the acts of sexual violence to which an inmate was submitted under an alleged finger vaginal 'examination' constituted sexual rape that due to its effects constituted torture.": *Miguel Castro-Castro Prison v. Peru*. (Judgment) Inter-American Court of Human Rights Series C No 160 (25 November), para. 312.

187 'Who are the Dual and Foreign Nationals Imprisoned in Iran?' (*Center for Human Rights in Iran*, 24 May 2018 (regularly updated)).

188 UNCHR, 'Extrajudicial, summary or arbitrary executions' (5 September 2006) UN Doc A/61/311, paras 49-54; UNHRC 'Report of the Human Rights Committee' (15 September 1983) UN Doc A/38/40, pp. 124-133.

189 International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 May 1976) 999 UNTS 171 (ICCPR).

The UNWGAD has observed an identical pattern in all of its opinions on Iran, holding (*inter alia*) that the Iranian authorities' failure to promptly notify detainees of the reasons for their arrests and their charges violated Articles 9(1) and 9(2) ICCPR. See for example, UNHRC 'Opinion No. 52/2018 concerning Xiyue Wang (Islamic Republic of Iran)' (21 September 2018) UN Doc A/HRC/WGAD/2018/52, para 69; UNHRC 'Opinion No. 7/2017 concerning Kamal Foroughi (Islamic Republic of Iran)' (30 May 2017) UN Doc A/HRC/WGAD/2017/7, para 35; UNHRC 'Opinion No. 28/2016 concerning Nazanin Zaghari-Ratcliffe (Islamic Republic of Iran)' (21 September 2016) UN Doc A/HRC/WGAD/2016/28, paras 44-45; UNHRC, 'Opinion No. 85/2021 concerning Anoosheh Ashoori (Islamic Republic of Iran)' (14 February 2022) UN Doc A/HRC/WGAD/2021/85, para 46.

190 Status of Ratification Interactive Dashboard' (*United Nations Office of the High Commissioner of Human Rights*).

191 UNGA, 'Universal Declaration of Human Rights' (10 December 1948) UN Doc A/Res/217(III).

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such, these violations fall under Categories I, II, III, and V of arbitrary detention.<sup>192</sup> In cases of 'fatally corrupted' administrative and judicial proceedings, whether both arbitrary detention and judicial or administrative arbitrariness amount to torture are determined by looking at factors such as constant exposure to uncertainty and judicial arbitrariness, and a lack of, restrained, or insufficient communication with lawyers, doctors, family, and friends.<sup>193</sup> Specifically, the combination of the arbitrary nature of a detention, its protracted and/or indefinite duration, the refusal to provide information and procedural rights, and 'difficult' detention conditions has been 'repeatedly' considered to amount to torture or CIDT.<sup>194</sup> Moreover, when institutional arbitrariness intentionally and purposefully inflicts severe mental pain or suffering on powerless persons, it can constitute or contribute to psychological torture.<sup>195</sup>

### Stage 3: Treatment in prison

Documented cases reported prison conditions that included denial of proper hygiene, sufficient food and water, and access to sunlight and time outdoors. Some also reported threats, insults, humiliation, and intimidation from both staff and other prisoners. These conditions are in breach of the Nelson Mandela Rules.<sup>196</sup> Such conditions, and particularly those which are "*characterized by structural deprivation and the non-fulfilment of rights necessary for a humane and dignified existence*", amount to CIDT and may amount to torture.<sup>197</sup>

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192 Category I refers to situations when it is 'clearly impossible to invoke any legal basis' for the deprivation of liberty. Category II refers to situations where there is 'total or partial non-observance' of the international fair trial norms set out in the UDHR and other relevant instruments. Category V refers to situations where the deprivation of liberty is based on discrimination. 'About Arbitrary Detention' (*United Nations Office of the High Commissioner of Human Rights*). For Category V, the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran has noted a pattern of arbitrary arrests of dual-national citizens in Iran. See, e.g., UNCHR, 'Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran' (14 August 2017) UN Doc A/72/322, para 43.

193 UNCHR, 'Torture and other cruel, inhuman or degrading treatment or punishment: Report of the Special Rapporteur' (20 March 2020) UN Doc A/HRC/43/49, paras 61-67. See also, UNCHR, *Communication to the United States of America* (1 November 2019) Reference AL USA 22/2019, pp. 1-2; UNCHR, *Communication to Great Britain* (27 May 2019) Reference UA GBR 3/2019, p. 6; UNCHR, *Communication to Great Britain* (29 October 2019) Reference UA GBR 6/2019, pp. 4-7.

194 UNCHR, 'Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Nils Melzer' (23 November 2018) UN Doc A/HRC/37/50, paras 25-28; UNCHR, 'Views adopted by the Committee under article 5(4) of the Optional Protocol, concerning communication No. 2233/2013' (2 May 2016) UN Doc CCPR/C/116/D/2233/2013, para 10.6, Human Rights Committee, 'Views adopted by the Committee at its 108<sup>th</sup> session' (28 October 2013) CCPR/08/D/2136/2012, para. 10.7.

195 UNCHR, 'Torture and other cruel, inhuman or degrading treatment or punishment: Report of the Special Rapporteur' (20 March 2020) UN Doc A/HRC/43/49, para 63.

196 For example, these violate Rules 18 (regarding hygiene), 22 (food and water), and 23 (exercise and sport, and time outdoors). United Nations Office on Drugs and Crime, *The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)*.

197 UNCHR, 'Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment' (9 August 2013) UN Doc A/68/296, para 45 (highlighting, *inter alia*, lack of ventilation, poor sanitary conditions, prolonged isolation, and incommunicado detention). See also, UNESCO, 'Civil and Political Rights, Including the Questions of Torture and Detention' (23 December 2003) UN Doc E/CN.4/2004/56, para 41; UNCHR, 'Study on the phenomena of torture, cruel, inhuman or degrading treatment or punishment in the world, including an assessment of conditions of detention' (5 February 2010) UN Doc A/HRC/13/39/Add.5, paras 229-237; *Husayn (Abu Zubaydah) v Poland* App no 7511/13 (ECHR, 24 July 2015) paras 504-511; UNCHR, 'Torture and other cruel, inhuman or degrading treatment or punishment: Report of the Special Rapporteur' (20 March 2020) UN Doc A/HRC/43/49, paras 53-55.

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Other mistreatment included denial of access to a doctor or medical professional for serious conditions. Such a denial is in breach of the Mandela Rules, and especially Rule 24,<sup>198</sup> and may constitute CIDT or torture.<sup>199</sup>

Other victims were prevented from communicating with their families. The Special Rapporteur on torture has referred to attacking a person's need for 'social and emotional' rapport, including through isolation and social exclusion, as a 'routine method' of psychological torture.<sup>200</sup>

### Stage 4: State Media

Documented cases reported victims being targeted by state media and officials. This included airing forced confessions; fabricating or manipulating information, including the victim's private information unlawfully acquired by officials, in order to make victim look guilty of the alleged crime; and otherwise portraying them as enemies of Iran. The Special Rapporteur on torture has included humiliation and breaches of privacy, as well as destroying emotional ties, as forms of psychological torture.<sup>201</sup>

### Stage 5: Marketing

Documented cases reported that the case was marketed in some way, either to the victim directly or to a third party, in order for Iran to secure a payment, prisoner exchange, or some other deal with another state in exchange for the victim's release. This indicated that the victim's release was reliant on such a deal, and not the Iranian legal system, making their detention effectively indefinite. Indefinite, or indeterminate, detention is known to have detrimental mental health consequences sufficient to reach the status of torture or ill-treatment.<sup>202</sup> Withholding or misrepresenting information about the fate of a victim or a loved one is also considered to be a method of psychological torture.<sup>203</sup>

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198 United Nations Office on Drugs and Crime, *The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)*.

199 See, e.g., 'Iran: Prisoners Nazanin Zaghari-Ratcliffe and Narges Mohammadi need appropriate health care urgently – UN experts' (*United Nations Human Rights, Office of the High Commissioner*, 16 January 2019); UNESCO, 'Report by the Special Rapporteur, Mr. P. Kooijmans, appointed pursuant to Commission on Human Rights resolution 1985/33' (19 February 1986) UN Doc E/CN.4/1986/15, para 119; UNCHR 'Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment' (9 August 2013) UN Doc A/68/295, para 50; UNCHR, Communication to the Government of Uzbekistan, (13 April 2016) Reference UA UZB 1/2016, pp. 2-3; UNCHR, Communication to the Government of Egypt (3 February 2020) Reference AL EGY 2/2020, pp. 4, 6; UNCHR, Communication to the Government of Romania (19 May 2020) Reference UA ROU 1/2020, p. 4.

200 UNCHR, 'Torture and other cruel, inhuman or degrading treatment or punishment: Report of the Special Rapporteur' (20 March 2020) UN Doc A/HRC/43/49, paras 56–60.

201 UNCHR, 'Torture and other cruel, inhuman or degrading treatment or punishment: Report of the Special Rapporteur' (20 March 2020) UN Doc A/HRC/43/49, paras 51–52. This includes, public shaming, vilification, exposure of intimate details of a person's private life, and dissemination of photographs or recordings showing a person in compromising situations. See also, *Maritza Urrutia Case* (Judgment, Merits, Reparations and Costs) Inter-American Court of Human Rights Series C No 103 (27 November 2003), paras 93-94.

202 *A v the United Kingdom* App no. 3455/05 (ECHR, 19 February 2009), paras 129-131. See also, *Husayn (Abu Zubaydah) v Poland* App no 7511/13 (ECHR, 24 July 2014), para 509.

203 UNCHR, 'Torture and other cruel, inhuman or degrading treatment or punishment: Report of the Special Rapporteur' (20 March 2020) UN Doc A/HRC/43/49, para 47, 61-67. See also, UNCHR, 'Communication No. 2136/2012: Views adopted by the Committee at its 108th session (8–26 July 2013)' (28 October 2013) UN Doc CCPR/C/108/D/2136/2012, para 10.7. See generally, *Immigration Detention and Psychological Torture and Ill-treatment (SOAS University of London and Freedom from Torture*, November 2019); UNCHR, 'Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Nils Melzer' (23 November 2018) UN Doc A/HRC/37/50, paras 25-28.

## Cumulative Impact

In determining whether the treatment meets the severity threshold for torture, the cumulative impact of the treatment (physically and mentally) is taken into account.<sup>204</sup> Victims reported both mental and physical impacts from the above-mentioned abuses. Physical effects included weight loss; chronic physical pain; gastrointestinal and digestive illnesses; skin conditions (such as psoriasis, eczema, and scabies); vision problems; hair loss; gum and tooth infections; anaemia; high blood pressure; severe headaches causing confusion and hallucinations; and neurological, respiratory, or heart problems. At least two dual-nationals died in custody under mysterious circumstances. Mental effects included depression, anxiety, panic disorders, insomnia and nightmares, claustrophobia, PTSD, and suicidal ideations.

Based on the evidence available, authorities have already concluded that the treatment of state hostage-taking victims as a whole rises to the level of torture. For example, the former UK Foreign Secretary Dominic Raab has said that Nazanin Zaghari-Ratcliffe's treatment amounts to torture.<sup>205</sup> Notably, US judges have repeatedly found Iran liable for both torture and hostage-taking under the terrorism exception to the Foreign Sovereign Immunities Act, for example finding that Jason Rezaian was subjected to torture.<sup>206</sup> In determining that Iran took Robert Levinson hostage and subjected him to torture, the judge found "*compelling evidence* that Iran routinely tortures its hostages."<sup>207</sup>

### (ii) Intentional infliction

As detailed in Section 5, the combined efforts of Iranian authorities in their implementation of each stage of the state hostage-taking process maximizes the conspicuous suffering of each detainee in order to increase Iran's diplomatic leverage. Under international law, 'intentional' tends to indicate severe pain and suffering inflicted for the purposes of the suffering, rather than as an incidental or expected side effect.<sup>208</sup> In the case of psychological torture, the fact that mental pain or suffering is "*reasonably foreseeable as a result, in the ordinary course of events*" may be sufficient.<sup>209</sup> The severe suffering of victims is intended as it plays a key role in Iran's hostage-taking system.

204 See, e.g., *Ireland v UK* App no 5310/71 (ECHR, 18 January 1978), para 162; UNCHR, 'Views of the Human Rights Committee under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political Rights -thirty fifth session concerning Communication No. 265/1987' (2 May 1989) UN Doc CCPR/C/35/D/265/1987, para 9.2.

205 'Nazanin Zaghari-Ratcliffe: Iran treatment 'amounts to torture, says Dominic Raab' (BBC, 2 May 2021).

206 Both judgments were default judgments. In Jason Rezaian's case, the judge compared it to other similar cases to find that the overall treatment, including, *inter alia*, the lack of due process, reached the severity for torture. *Rezaian v. Islamic Republic of Iran*, 422 F. Supp. 3d 164, 176-177 (D.D.C. 2019). In Roxana Saberi's case, the judge found that the 'abusive treatment' was 'without question cruel and inhumane', but declined to rule on torture given that the court's finding that there was hostage-taking satisfied the necessary criteria for jurisdiction. *Saberi v. Gov't of Islamic Republic of Iran*, No. 19-CV-1081 (DLF), 2021 WL 2117164, at \*5-7 (D.D.C. May 25, 2021). See also, *Hekmati v. Islamic Republic of Iran*, 278 F. Supp. 3d 145, 159-163 (D.D.C. 2017) (finding torture); *Moradi v. Islamic Republic of Iran*, 77 F. Supp. 3d 57, 66-69 (D.D.C. 2015) (finding torture, though hostage-taking was not raised); *Khosravi v. Gov't of Islamic Republic of Iran*, No. 1:16-CV-02066-TSC, 2020 WL 4923495, at \*4-6 (D.D.C. Aug. 21, 2020) (finding both torture and hostage-taking); *Abedini v. Gov't of Islamic Republic of Iran*, 422 F. Supp. 3d 118, 129 (D.D.C. 2019) (finding both torture and hostage-taking).

207 *Levinson v. Islamic Republic of Iran*, 443 F. Supp. 3d 158, 172-175 (D.D.C. 2020).

208 UNCHR, 'Extra-custodial use of force and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment' (20 July 2017) UN Doc A/72/178, para 32. Intentionality tends to be presupposed in caselaw, though a complete lack of intention may rule out a violation or render a violation CIDT rather than torture. *Nicolae Virgiliu Tănase v Romania* App no 41720/13 (ECHR, 25 June 2019), paras 115-124; CAT, 'Decision adopted by the Committee under article 22 of the Convention, concerning communication No. 654/2015' (3 October 2017) UN Doc CAT/C/61/D/654/2015, para 3.3; *Khlaifia v Italy* App no 16483/12 (ECHR, 15 December 2016).

209 UNCHR, 'Torture and other cruel, inhuman or degrading treatment or punishment: Report of the Special Rapporteur' (20 March 2020) UN Doc A/HRC/43/49, para 34.

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(iii) Purpose

In the context of state hostage-taking, severe suffering is inflicted on victims for several of the purposes identified in Article 1 CAT. Firstly, as explained in Section 4, the overarching purpose of state hostage-taking is to intimidate or coerce other states in order to extract some benefit for Iran, whether it be money, a prisoner exchange, or some other deal (i.e. diplomatic leverage). Accordingly, the purpose of state hostage-taking is to “intimidate or coerce...a third person”, i.e. the officials of another state.

Secondly, severe suffering is inflicted on hostages based on discrimination,<sup>210</sup> namely their dual or foreign nationality. As recognised by the Special Rapporteur on Iran, there has been a pattern of discriminatory targeting of dual-national citizens in Iran.<sup>211</sup> In June 2022, the Special Rapporteur noted that, “the arbitrary detention of dual and foreign nationals as a means to put pressure on foreign Governments remains of deep concern.”<sup>212</sup> Similarly, the UNWGAD has observed an emerging pattern of the arbitrary detention of dual and foreign nationals in Iran, stemming from a “systematic bias”.<sup>213</sup>

In addition to the broader purposes of diplomatic leverage and discrimination, severe suffering is intentionally inflicted on some hostages for the purposes of obtaining a false confession, or intimidating or coercing the victim into working for the Iranian intelligence authorities. These constitute distinct acts of torture within the wider practice of state hostage-taking, which itself amounts to torture.

(iv) Official Capacity

Iranian state hostage-taking is carried out by the state, or by those acting under the state's authority. Public officials and those acting in an official capacity are responsible for arrests (IRGC and Ministry of Intelligence), court processes (prosecutors and judiciary), treatment in prison (IRGC, judiciary and prison officials), propaganda (state officials, as well as the media which is constitutionally controlled

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210 Discrimination requires a discriminatory nexus, not a discriminatory purpose. UNCHR, ‘Torture and other cruel, inhuman or degrading treatment or punishment’ (20 March 2020) UN Doc A/HRC/43/49, para 36. For case law, see, e.g., UNCHR, Communication to Zambia (12 March 2020) Reference AL ZMB 1/2020, p. 2.

211 UNCHR, ‘Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran’ (14 August 2017) UN Doc A/72/322, para 43; UNHRC ‘Opinion No. 28/2016 concerning Nazanin Zaghari-Ratcliffe (Islamic Republic of Iran)’ (21 September 2016) UN Doc A/HRC/WGAD/2016/28, para 48; UNCHR, ‘Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, Javaid Rehman’ (21 July 2020) UN Doc A/75/213, paras 34-35; UNCHR, ‘Summary of Stakeholders’ submissions on the Islamic Republic of Iran’ (16 August 2019) UN Doc A/HRC/WG.6/34/IRN/3, para 18; UNCHR, ‘Compilation on the Islamic Republic of Iran’ (30 August 2019) UN Doc A/HRC/WG.6/34/IRN/2, para 27; UNCHR, ‘Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, Javaid Rehman’ (11 January 2021) UN Doc A/HRC/46/50, paras 12-13. For more examples of this pattern, see, ‘Iran’s jailed dual nationals and their uncertain fate’ (BBC, 3 February 2021); Hadi Ghaemi, ‘Biden Must Not Ignore Iran’s Human Rights Record’ (Foreign Policy, 10 February 2021); ‘Who Are the Dual and Foreign Nationals Imprisoned in Iran?’ (Center for Human Rights in Iran, 24 May 2018). For recent news stories exemplifying such pattern, see, Jason Rezaian, ‘Opinion: Iran has taken another American hostage. His ordeal strikes close to home’ (The Washington Post, 22 February 2021).

212 UNHRC, ‘Report of the Special Rapporteur on the Situation of human rights in the Islamic Republic of Iran, Javaid Rehman’ (13 January 2022) UN Doc A/HRC/49/75.

213 UNHRC ‘Opinion No. 51/2019 concerning Nizar Zakka (Islamic Republic of Iran)’ (8 October 2019) UN Doc A/HRC/WGAD/2019/51, para 79; UNHRC ‘Opinion No. 28/2016 concerning Nazanin Zaghari-Ratcliffe (Islamic Republic of Iran)’ (21 September 2016) UN Doc A/HRC/WGAD/2016/28, paras 47-48; UNHRC ‘Opinion No. 52/2018 concerning Xiyue Wang (Islamic Republic of Iran)’ (21 September 2018) UN Doc A/HRC/WGAD/2018/52, para 82; UNHRC ‘Opinion No. 49/2017 concerning Siamak Namazi and Mohammed Baquer Namazi (Islamic Republic of Iran)’ (22 September 2017) UN Doc A/HRC/WGAD/2017/49, para 43; UNHRC ‘Opinion No. 7/2017 concerning Kamal Foroughi (Islamic Republic of Iran)’ (30 May 2017) UN Doc A/HRC/WGAD/2017/7, para 39.

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by the government in Iran<sup>214</sup>), and marketing (IRGC, Ministry of Intelligence, Ministry of Foreign Affairs, and other state officials). In practice, the requirement under CAT that torture be by someone working in an official capacity is understood to be an analysis of the victim's 'powerlessness': that the victim "has effectively lost the capacity to resist or escape the infliction of pain or suffering."<sup>215</sup>

(v) Lawful Sanctions

Under the CAT, only lawful sanctions consistent with the Nelson Mandela Rules are not considered to be torture.<sup>216</sup> Because the arrests, trials, and treatment of victims are in breach of international law, including the Nelson Mandela Rules, they are not 'lawful sanctions'.

## The Right to Liberty and Security

Iran has also engaged in serious violations of the right to liberty and security, including refraining from the arbitrary arrest and detention of persons in Iran, as enshrined in Article 9 ICCPR and Article 9 UDHR.

- a. In all documented cases the victims were subjected to arbitrary arrest and detention in violation of Article 9(1) ICCPR. The UNWGAD has ruled individual cases to be arbitrary, and has noted Iran's pattern of such arbitrary detentions.
- b. In all documented cases the victims were arrested without an arrest warrant and without being informed at that time of the reasons for the arrest or of the charges brought against them, contrary to Article 9(2) ICCPR.
- c. None of the victims of the documented cases were brought promptly before a judge, as required by Article 9(3) ICCPR.
- d. None of victims of the documented cases have been able to legitimately challenge the lawfulness of their arrests and detention through a fair legal process, and as such none have received compensation from Iran for their unlawful arrests and detentions, in violation of Articles 9(4)-(5) ICCPR.

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214 'Orwellian State: Islamic Republic of Iran's State Media as a Weapon of Mass Suppression', (*International Federation for Human Rights*, June 2020), pp. 14-15, 19-21.

215 UNCHR, 'Study on the phenomena of torture, cruel, inhuman or degrading treatment or punishment in the world, including an assessment of conditions of detention' (5 February 2010) UN Doc A/HRC/13/39/Add.5, para 35; UNCHR, 'Torture and other cruel, inhuman or degrading treatment or punishment: Report of the Special Rapporteur' (20 March 2020) UN Doc A/HRC/43/49, paras 39-40. This includes detention, but could also include e.g., hospitalization, electronic devices, stripping someone of their legal capacity, or 'collective social contexts' such as state-sponsored persecution. UNCHR, 'Torture and other cruel, inhuman or degrading treatment or punishment: Report of the Special Rapporteur' (20 March 2020) UN Doc A/HRC/43/49, para 40; UNCHR, 'Extra-custodial use of force and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment' (20 July 2017) UN Doc A/72/178, para 51; UNCHR 'Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment' (28 July 2008) UN Doc A/63/175, para 50; UNCHR, 'Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez' (1 February 2013) UN Doc A/HRC/22/53, para 31. See also, *Bouyid v Belgium* App no 23380/09 (ECHR, 28 September 2015), paras 54, 106, 113.

216 The lawful sanctions prong is read in conjunction with the Mandela rules. This is true regardless domestic law (e.g., regardless if domestic law permits prolonged indefinite confinement). UNCHR, 'Torture and other cruel, inhuman or degrading treatment or punishment: Report of the Special Rapporteur' (20 March 2020) UN Doc A/HRC/43/49, para 41.

## The Right to a Fair Trial

In addition, Iran has engaged in serious violations of the right to a fair trial of hostages, enshrined in Article 14 ICCPR and Article 10 UDHR.

- a. Documented cases reported that judges were hostile and biased towards them, including pressuring them into confessing and telling them to expect to be convicted, in breach of the presumption of innocence required by Article 14(2) ICCPR.
- b. None of the victims in the documented cases were informed of the charges brought against them at the point of arrest, and some were not informed of the charges until shortly before the trials, in breach of the requirement to be informed promptly and in detail of the nature and cause of the charge against them in Article 14(3)(a) ICCPR.
- c. All documented cases reported that victims were denied their right to proper legal assistance, including: being required to select from a small pool of government-vetted lawyers; having their chosen lawyers subjected to threats and prosecution; not being able to appoint or meet with a lawyer until just before their hearings; not being allowed to meet with their lawyers, or only meeting them for a short time; and lawyers not being able to see the charges or evidence against their client in advance – in contravention of Article 14(3)(b) ICCPR, which requires adequate time and facilities for the preparation of one's defence and to communicate with counsel of one's own choosing.<sup>217</sup> Some victims were also not allowed to meet with their lawyer in private, in contravention of Principle 8 of the UN Basic Principles on the Role of Lawyers.<sup>218</sup>
- d. Victims in the documented cases had to wait for up to 16 months before their case was first heard in front of a judge, violating Article 14(3)(c) ICCPR, which requires trial without delay.
- e. Several victims were denied access to a lawyer altogether or during court hearings, in contravention of the right to defend oneself through legal assistance of one's own choosing in Article 14(3)(d) ICCPR.
- f. In all documented cases the trials were short and the prosecution did not disclose the details of the charges. Moreover, some victims were not allowed to speak or challenge the evidence during their trials, in contravention of Article 14(3)(e) ICCPR, which enshrines the right to examine the witnesses and obtain the attendance and examination of witnesses on the defendant's behalf.
- g. Finally, in some cases courts relied on forced confessions, violating the right not to be compelled to testify against oneself or to confess guilt in Article 14(3)(g) ICCPR.

## The Right to Life

In some cases, Iran's state hostage-taking also amounts to a serious violation of the right to life, as enshrined in Article 6 ICCPR and Article 3 UDHR.

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<sup>217</sup> As a minimum, "adequate facilities" must include access full disclosure of evidence and exculpatory material, *Harward v Norway*, CCPR/C/51/D/451/1991 (16 August 1994). The right to legal counsel is elaborated upon in Principle 7 of the UN Basic Principles on the Role of Lawyers, which provides: "Governments shall ... ensure that all persons arrested or detained, with or without criminal charge, shall have prompt access to a lawyer, and in any case not later than forty-eight hours from the time of arrest or detention."

<sup>218</sup> Principle 8 of the UN Basic Principles on the Role of Lawyers states:  
"All arrested, detained or imprisoned persons shall be provided with adequate opportunities, time and facilities to be visited by and to communicate and consult with a lawyer, without delay, interception or censorship and in full confidentiality. Such consultations may be within sight, but not within the hearing, of law enforcement officials."

# Conclusion

Iran uses hostage-taking as a weapon of international diplomacy, with devastating effects for victims and their families. Governments around the world owe it to the victims to hold Iran, and individual perpetrators, to account. Unless this practice is meaningfully challenged, Iran will continue to be emboldened, breaching international law and abusing human rights in order to gain greater leverage on the world stage. This practice must be stopped to protect the victims who are being used as pawns in this process, and to protect the interests of the international community as a whole.

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*Photo cover: Richard Ratcliffe, Nazanin Zaghari-Ratcliffe's husband, with their daughter Gabriella, at the site of his hunger strike outside the Foreign Office in November 2021 (© Free Nazanin Campaign).*

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