

REDRESS

Ending torture, seeking justice for survivors

SUBMISSION TO THE UN SPECIAL RAPPORTEUR ON TORTURE

Hostage-Taking as Torture: Legal frameworks, supporting victims and families, and strengthening global response

December 2024

ABOUT REDRESS

1. [REDRESS](#) is an international human rights organisation that delivers justice and reparation for survivors of torture, challenges impunity for perpetrators, and advocates for legal and policy reforms to combat torture and provide effective reparations. As part of its work, REDRESS is a member of the [United Against Torture Consortium](#) (UATC), a coalition of six leading anti-torture organisations.
2. REDRESS has legally represented individuals impacted by arbitrary detention and State hostage-taking. REDRESS has represented Nazanin Zaghari-Ratcliffe,¹ a British-Iranian charity worker who was arbitrarily detained and tortured in Iran from 3 April 2016 until 16 March 2022, and her husband Richard Ratcliffe. REDRESS has also submitted evidence to sanctions authorities in the UK, US, EU, Canada and Australia to establish the human rights abuses committed by individual perpetrators of Iran's State hostage-taking.² Additionally, REDRESS submitted evidence to two inquiries by the UK Parliament's Foreign Affairs Committee (FAC), one on Iran³ and one on the UK's handling of State level hostage situations,⁴ and to the recent Australian Senate Inquiry hearing into State hostage-taking.⁵ Finally, REDRESS has a long history of advocacy to the Foreign, Commonwealth, and Development Office (FCDO) in the UK for a legal right to consular assistance for British nationals who have suffered (or are at risk of) torture and ill-treatment in detention overseas.⁶

SUMMARY

3. This submission highlights the relationship between State hostage-taking and torture, demonstrating its severe impact on survivors and their families. Drawing on international standards and trends, it explores legal and practical measures to address this practice,

¹ REDRESS, [Nazanin Zaghari Ratcliffe](#).

² REDRESS, [The Free Nazanin Campaign and REDRESS Call for Magnitsky Sanctions on Perpetrators of Iran's Hostage-taking](#), 19 September 2021.

³ REDRESS, [Evidence Submitted by REDRESS to UK Foreign Affairs Committee Inquiry](#), 30 April 2020, which led to their concluding report: *No prosperity without justice: the UK's relationship with Iran*, 16 December 2020.

⁴ REDRESS, [Evidence submitted by REDRESS to the Foreign Affairs Select Committee inquiry into the handling of state level hostage situations](#), 13 May 2022, which led to their concluding report: *Stolen years: combatting state hostage diplomacy*, 4 April 2023.

⁵ REDRESS, [Evidence submitted by REDRESS to the Senate Foreign Affairs, Defence and Trade References Committee Inquiry into the Wrongful detention of Australian citizens overseas](#), 30 August 2024, which led to their concluding report: [Report of Inquiry into the Wrongful Detention of Australian Citizens Overseas](#), 28 November 2024.

⁶ See e.g. REDRESS, [Beyond Discretion: The protection of British nationals abroad from torture and ill-treatment](#), January 2018; REDRESS and the Free Nazanin Campaign, [The Bars of the Prison Grew Around Us: The systematic human rights violations of Iran's hostage-taking practice](#), 2022; [Protecting British nationals abroad from human rights violations: Principles for a legal right to consular assistance](#), January 2024; [Protecting British Nationals Taken Hostage](#), May 2024; [Consular Assistance in Domestic Legal Frameworks](#), April 2024.

hold perpetrators accountable, and secure redress for survivors. While focusing on the UK context, the submission offers insights and recommendations relevant to all States.

HOSTAGE-TAKING AND TORTURE

State hostage-taking in international law

4. State hostage-taking is the practice of States arbitrarily detaining foreign and dual nationals for diplomatic leverage. In accordance with the definitions of hostage-taking under Article 1 of the UN International Convention against the Taking of Hostages 1979 (Hostages Convention)⁷ and Section 1 of the UK Taking of Hostages Act 1982 (UK Hostages Act),⁸ hostage-taking is a situation in which:
 - a) a person,
 - b) detains (or seizes) another person (the hostage), and
 - c) threatens to kill, injure, or continue to detain the hostage,
 - d) 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).
5. “Hostage-taking”, as defined under national and international law, would clearly also include States’ use of arbitrary detention for diplomatic leverage.
6. Element (a) 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, are captured by Article 1(b) of the Hostages Convention, which includes those who “participate as an accomplice”. Such perpetrators would also be covered by forms of secondary liability under UK common law, applicable to the UK Hostages Act.⁹
7. Element (b) applies to victims who are arbitrarily detained in another State, while element (c) is relevant in cases where victims face explicit or implicit threats of prolonged, indefinite detention and the resulting psychological and physical harm. The situation of a “hostage” is exacerbated by the complete absence of the rule of law in some of the countries which commonly perpetrate such practices (such as Iran), where indefinite detention is facilitated by the prosecution and conviction of victims without evidence, making their release contingent on international politics rather than law. Lastly, element (d) is evident in the circumstances surrounding the arbitrary detention and release of victims. In the case of Iran, for example, the release of foreign and dual nationals in publicly known cases has almost always been linked to some benefit to Iran, usually in the form of a prisoner swap or a financial gain.¹⁰

⁷ [International Convention against the Taking of Hostages](#), 17 December 1979.

⁸ UK, [Taking of Hostages Act](#), 1982.

⁹ See e.g. Section 8 of the [Accessories and Abettors Act](#) 1861.

¹⁰ See e.g. The Guardian, [Iran sets trial dates for dual nationals before nuclear deal talks in Vienna](#), 21 April 2021; The Sydney Morning Herald, [How Australia negotiated the release of Kylie Moore-Gilbert from Iran](#), 28 November 2020; BBC News, [Majid Taheri: US releases Iranian doctor in prisoner swap](#), 8 June 2020; The Guardian, [Iran ‘frees French researcher under prisoner exchange deal](#), 21 March 2020.

8. Article 13 of the Hostages Convention states that the Convention does not apply when the offence is committed within a single State.¹¹ However, in cases of arbitrary detention involving foreign nationals, dual-nationals or individuals with permanent residency in another State, we would argue that the act is not “purely domestic”, but rather has a “transnational element”, and therefore falls within the scope of the Hostages Convention.
9. Finally, UK law is clear that hostage-taking is an offence that can be committed by a State actor, and not just by a private (non-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, thereby applying to both the Hostages Convention and the UK Hostages Act.¹²
10. Therefore, State hostage-taking clearly satisfies all the defining elements of hostage-taking under national and international law, thereby constituting a serious breach of States’ international obligation to prevent, investigate and prosecute those responsible for such acts.¹³

The relationship between hostage-taking and torture and ill-treatment

11. State hostage-taking constitutes cruel, inhuman or degrading treatment or punishment (ill-treatment) and in severe cases torture, due to the significant and long-lasting suffering it causes. Conditions of detention for those taken hostage are frequently poor and can amount to ill-treatment, for instance in Russia¹⁴ and Iran.
12. For example, victims of Iran's State hostage-taking have consistently reported severe physical and psychological suffering resulting from their treatment, which meets the threshold for torture as defined by the UN Convention against Torture (UNCAT).¹⁵ Detainees are frequently held in prolonged solitary confinement without access to medical care, legal representation, or communication with family. This isolation is compounded by coercive interrogations, including forced confessions, mock executions, and threats to the detainees and their families.¹⁶ Such practices are designed to break victims' resistance and have been widely recognised as forms of torture and ill-treatment

¹¹ 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.

¹² *Bartle and the Commissioner of Police for the Metropolis and Others, Ex Parte Pinochet, R v. Bartle* [1998] UKHL 41, per Lord Nicholls: “[...] 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 [...].”

¹³ Hostages Convention, Art.2 and 3.

¹⁴ See e.g. BBC, [Russian dissident tells BBC he thought he would die in 'Putin's prison](#), 5 August 2024; ABC, [Life inside Russia's penal colonies for Vladimir Putin's political prisoners](#), 29 February 2024.

¹⁵ REDRESS and the Free Nazanin Campaign, [The Bars of the Prison Grew Around Us: The systematic human rights violations of Iran’s hostage-taking practice](#), pp. 36-44.

¹⁶ REDRESS and the Free Nazanin Campaign, [The Bars of the Prison Grew Around Us: The systematic human rights violations of Iran’s hostage-taking practice](#), p. 21

under the Nelson Mandela Rules¹⁷ and UNCAT. Adding to this, conditions of detention are poor, including small cells, lack of sunlight, overcrowding, lack of bedding and hygiene issues.¹⁸

13. State hostage-taking involves five distinct elements that differentiate the abuse experienced from other forms of torture: First, there is the intentional abuse of an individual for leverage, making their ill-treatment appear senseless when viewed in isolation but strategic as a message directed at an audience. Second, a detainee's basic rights, such as access to healthcare and family, are either denied or selectively granted as leverage in prolonged hostage situations, furthering their suffering. Third, the calculated provision of rights, whether as a tool for negotiation or as a reward, is essential in these cases but often overlooked in human rights analysis, which tends to focus narrowly on abuse and neglects the psychological effects of the manipulation of rights. Fourth, families are systematically manipulated with their trauma becoming an essential tool in the negotiation process. Finally, the collective dynamic in hostage situations, where hostages deemed "lower-value" by their captors, are used to leverage the release or safety of "higher-value" individuals, creates an unpredictable and capricious experience with profound psychological consequences, further exacerbating the harm done to the victims.
14. High-profile cases, such as that of Nazanin Zaghari-Ratcliffe, highlight the discriminatory targeting of dual and foreign nationals as a key feature of Iran's State hostage-taking. Public officials deliberately inflict suffering to exert diplomatic leverage over the detainees' home States, demonstrating a clear purpose to coerce or intimidate, meeting the purpose requirement under Article 1 of UNCAT. This systematic abuse has led to findings by UN special mechanisms and bodies, and national courts, including in the United States, recognising Iran's State hostage-taking as constituting both torture and hostage-taking under international law.¹⁹ In addition, 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 ill-treatment.²⁰ Additionally, when arbitrary detention is used institutionally to inflict severe mental pain or suffering on powerless persons, it can constitute or contribute to psychological torture.²¹
15. State hostage-taking further creates a context of extreme powerlessness by depriving detainees of control over their situation, turning their detention into a tool for political leverage.²² We have heard from survivors that a detainee's treatment may vary depending on developments in the case and negotiations between the States involved.

¹⁷ UN, [Standard Minimum Rules for the Treatment of Prisoners \(the Nelson Mandela Rules\)](#), 2015.

¹⁸ REDRESS, [The Bars of the Prison Grew Around Us](#), 2022, pp.26-29.

¹⁹ See e.g. UNGA, [Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran](#), A/HRC/55/62, 9 February 2024; UN HRC, [Opinion No. 37/2023 concerning Olivier Vandecasteele \(Islamic Republic of Iran\)](#), A/HRC/WGAD/2023/37, 2 October 2023; [Rezaian v. Islamic Republic of Iran](#), 422 F. Supp. 3d 164 (D.D.C. 2019); [Levinson v. Islamic Republic of Iran](#), 443 F. Supp. 3d 158 (D.D.C. 2020).

²⁰ 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.

²¹ 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.

²² Carla Ferstman, [Conceptualizing Arbitrary Detention – Power, Punishment and Control](#), Bristol University Press, 2024, p. 63.

For instance, the provision of medical care and its subsequent withdrawal can act as an additional form of psychological manipulation. The pervasive sense of powerlessness is also exacerbated by the hostage dynamic, where survivors are acutely aware that their fate is tied to broader geopolitical negotiations, whilst removing any possibility that their good behaviour (or any other action on their part) will influence their treatment. This can result in profound psychological distress. Adding to this, other detainees might be released while they remain detained, leaving them feeling helpless with little agency over their circumstances. This purposeful deprivation of autonomy intensifies the inhumanity of the treatment, increasing the likelihood of meeting the threshold for torture under UNCAT.

16. In addition, State hostage-taking and the impunity around it breach States' obligation under international law to prevent, investigate (promptly and impartially), and criminalise/prosecute torture, to hold perpetrators accountable, and to ensure remedies for victims, including rehabilitation, restitution, and guarantees of non-repetition. These obligations go beyond addressing individual acts of torture to encompass the broader pattern of abuse, such as the combinations of arbitrary detention, ill-treatment and torture which are inherent in State hostage-taking. States failing to meet these obligations not only perpetuate impunity but also normalise hostage-taking as a tool of diplomacy.
17. REDRESS has observed that in the cases of British nationals detained abroad, the UK Government has often been reluctant to act, thus missing an opportunity to prevent torture or seek accountability where torture occurs. For instance, when Nazanin Zaghari-Ratcliffe was detained in Iran, her family first raised allegations of torture with the FCDO in 2017. However, it was not until May 2021, following REDRESS' submission to the FCDO of a medical report as evidence of her severe suffering, that the then Foreign Secretary acknowledged that she had been a victim of torture.

TRENDS AND DEVELOPMENTS

Rising cases of State hostage-taking

18. State hostage-taking is on the rise globally, with authoritarian regimes particularly prone to leveraging citizens as bargaining chips in geopolitical disputes.²³ This disturbing trend is evident in the growing number of wrongful detentions, including high-profile cases from countries such as Iran, Russia, and China. The number of US nationals wrongfully detained abroad surged by 175% between the decades of 2001 to 2011 and 2012 to 2022, to an average of 11 nationals wrongfully detained each year.²⁴
19. However, the overall scale of the problem remains unclear, due to limited data on State hostage-taking. Notably, despite significant international attention, States, including the UK, have been reluctant to publicly disclose the number of nationals detained abroad for such purposes. Suppression of data or lack of data collection regarding these cases hinders access to justice, as States are often unwilling to acknowledge such detentions as wrongful, closing off pathways to accountability or redress.

Escalation of human rights violations

20. There is growing evidence that suggests States are escalating their actions from hostage-taking for diplomatic leverage to committing increasingly severe human rights abuses,

²³ UK Foreign Affairs Committee, [Stolen years: combatting state hostage diplomacy](#), 28 March 2023, p. 6.

²⁴ James W. Foley Legacy Foundation, [Bringing Americans Home: A Non-Governmental Assessment of U.S. Hostage Policy and Family Engagement](#), 2022, p. 3.

with Iran serving as a prominent example. Since 2023, Iran has begun executing, or credibly threatening to execute, dual nationals, thereby significantly heightening the risks faced by victims.²⁵ While there are other countries commonly engaging in State hostage-taking as a tool of foreign policy, including Russia, China, North Korea and Venezuela,²⁶ none of them have begun deliberately executing foreign and dual nationals arbitrarily detained for diplomatic leverage. The Iranian regime is therefore setting a precedent, that, if successful in securing concessions and other benefits from foreign States, could be replicated across the world.

21. For example, in January 2023, Iran executed British-Iranian national, Alireza Akbari on spying charges which he denied – the first execution of a dual national since the 1980s.²⁷ Only four months later, in May 2023, the Iranian authorities executed a second dual national, Swedish-Iranian Habib Chaab. Chaab had been held in Iran since October 2020 after he vanished during a visit to Turkey before going on trial in Tehran where he was convicted of “corruption on earth” and sentenced to death for heading a separatist group.²⁸ In October 2024, Iran executed a third dual national, German-Iranian Jamshid Sharmahd, for national security-related charges, which his family have vehemently rejected.²⁹
22. In March 2023, Iran’s Supreme Court upheld the death sentence against Swedish-Iranian Amadreja Djalali, for espionage charges which he denied, signalling that he may be executed soon.³⁰ Djalali’s death sentence and Chaab’s execution as well as the detention of Swedish citizen Johan Floderus³¹ have all been described as acts of retaliation by the Iranian regime after a Swedish court in July 2022 sentenced a former Iranian judiciary official, Hamid Nouri, to life imprisonment for participating in the executions of political prisoners in 1998.⁴⁰ Floderus was released in June 2024 after spending over two years in Iranian captivity, as part of a prisoner exchange involving Nouri.³² Nouri’s release has been seen as emboldening Iranian authorities to continue using hostage-taking to pressure the international community into freeing high profile human rights abusers (as discussed further below at paragraph 49) .³³

THE IMPACT ON SURVIVORS AND THEIR FAMILIES

Psychological, physical and socio-economic impacts

23. The consequences of State hostage-taking on survivors and their families are profound and long-lasting, with survivors bearing the physical, psychological, and socio-economic toll of their captivity. Physical health impacts from detention often include significant weight loss, gastrointestinal issues, skin conditions, and chronic pain. The mental health

²⁵ The Guardian, [UN inquiry into rights in Iran urged to look at detention of dual nationals](#), 20 September 2024.

²⁶ Foreign Affairs Committee, [Stolen years: combatting state hostage diplomacy](#), 28 March 2023, pp. 31, 43.

²⁷ The Times, [Execution casts doubt on British support for Iran nuclear deal](#), 16 January 2023.

²⁸ France 24, [Iranian hardliners urge revenge on UK after Alireza Akbari’s execution](#), 15 January 2023; BBC News, [Habib Chaab: Iran executes Swedish-Iranian for alleged terrorism](#), 6 May 2023.

²⁹ Deutsche Welle, [German Foreign Ministry calls on citizens to leave Iran](#), 11 March 2023.

³⁰ Al Jazeera, [Iran court upholds death sentence of Iranian-Swedish dissident](#), 12 March 2023.

³¹ New York Times, [E.U. Officials from Sweden Imprisoned in Iran for Over 500 Days](#), 4 September 2023.

³² Politico, [EU diplomat Johan Floderus freed by Iran in prisoner exchange](#), 15 June 2024.

³³ Amnesty International, [Iran/Sweden: Staggering blow to justice for 1988 prison massacres in Iran amid long overdue release of Swedish nationals](#), 18 June 2024.

toll can also be severe. Survivors frequently develop PTSD, depression, anxiety, and insomnia, with some even experiencing suicidal ideation. Survivors' families also endure significant psychological distress, often facing vicarious trauma as they fight for their loved ones' release.³⁴

24. Beyond physical and mental health impacts, as with other forms of torture and arbitrary detention, the socio-economic consequences on survivors can be significant. For example, REDRESS research with 21 UK-based survivors of torture³⁵ – including those who had experienced State hostage-taking, arbitrary detention, and abduction – showed that many struggle with reintegration into society, including in the UK, where they often face isolation, financial hardship, and difficulties accessing necessary medical care and rehabilitation. Many survivors face challenges relating to family life, where displaced survivors or those who are still arbitrarily detained are unable to reunite with family members and loved ones, or where those left behind are at risk of torture or reprisals. An additional harm is disruption to survivors' life ambitions, as many lose the jobs they held prior to their arrest, or face consequences of their torture and detention such as the inability to have children.
25. Many survivors of torture live in poverty having escaped persecution abroad and left their possessions and assets behind. Financial challenges are compounded by difficulties integrating into society, where language barriers or stigmatization may prevent survivors from gaining meaningful employment. Refugees and asylum seekers, many of whom are survivors, are left with inadequate support systems and barriers to securing stable housing, employment, and legal status. These challenges are compounded by the social stigma survivors face.³⁶

Perceptions of justice by survivors

26. For many survivors of torture, justice is not only about accountability but also about the recognition and acknowledgment of their suffering. This includes meaningful apologies, transparent investigations into the circumstances of their detention, and access to rehabilitation. While some survivors see rehabilitation as a necessary part of rebuilding their lives, many feel that true justice lies in a broader societal and legal recognition of the wrongs they have suffered, and that the States responsible must be held accountable.³⁷
27. The challenges faced by survivors of torture more generally (as described above) are equally applicable to survivors of State hostage-taking, given the overlapping nature of their experiences. However, survivors of hostage-taking are more likely to face post-return victim-blaming, which can range from accusations of foolishness in low-profile cases to more widespread expressions of anger and resentment in high-profile ones, particularly when a ransom or political concessions has been involved. This blaming is especially intense when hostages are released in exchange for terrorists, creating complex dynamics between the hostages, their captors, and the victims of the terrorists.

³⁴ See e.g. REDRESS, [The Bars of the Prison Grew Around Us](#), 2022, p. 25; i, [From Evin prison to Oxford University: how one British woman escaped the death penalty and rebuilt her life](#), 26 June 2021.

³⁵ REDRESS, [Whose Justice? Reflections from UK-based survivors of torture](#), 2022, pp. 33-34.

³⁶ *Ibid*, p. 7.

³⁷ *Ibid*, pp. 6-7. 11-25

ACCOUNTABILITY AND PREVENTION TOOLS

Recognition of hostage-taking

28. Recognition by States of State hostage-taking as a systemic human rights issue, rather than isolated incidents, is crucial for an effective response. Calling out State hostage-taking for what it is has a number of benefits. Firstly, it sends a clear message that such practices are unacceptable and diplomatic formalities will not be placed above upholding the human rights of State nationals. It better equips the State to effectively manage the situation and keep families well-informed. Hostage cases should be treated differently from other consular cases, since the release of a hostage is more likely to depend on high-level negotiations between the involved States (including at the political level), whereas consular cases would normally be managed by lower-level officials.
29. Secondly, recognising State hostage-taking empowers States to hold the perpetrators responsible for their actions, including by bringing universal jurisdiction cases and imposing Magnitsky sanctions when appropriate. In this sense, recognition is essential for accountability efforts and a lack of recognition could therefore obstruct the pursuit of redress. It also allows the development of specific legislative and policy frameworks. For instance, the United States, which formally recognises State hostage-taking, has enacted the Robert Levinson Hostage Recovery and Hostage-Taking Accountability Act. This legislation empowers the federal Government to challenge the unlawful detention of its nationals and has established specialised governmental entities, such as the Special Presidential Envoy for Hostage Affairs (SPEHA), to streamline coordination across governmental sectors. Other States could benefit from exploring such legislative measures, with the aim of strengthening their framework for responding to State hostage-taking.
30. The UK's FAC, in its inquiry into Iran, concluded that calling out State hostage-taking and leading a united international response would provide the UK with additional tools to counter Iran's malign activities.³⁸ Similarly, in its inquiry into State hostage-taking, the FAC recommended that the UK Government use the strongest possible language to call out situations of State hostage-taking as soon as it becomes clear a particular detention is being used for leverage because "[s]ilence abets State hostage-taking."³⁹ REDRESS supports these conclusions.
31. The forthcoming report by the Special Rapporteur on Torture on this topic is an important opportunity to highlight the heinous and destructive nature of State-hostage-taking and related violations. UN bodies have generally failed to recognise the targeting of foreign and dual nationals for diplomatic leverage as State hostage-taking, classifying it instead as arbitrary detention. This label fails to reflect the systematic nature of the practice, the severe suffering engendered, the degree of State involvement, and the leverage dimension, where victims are turned into bargaining chips.⁴⁰ It also does not reflect the fact that hostage diplomacy is developing, and might continue develop, into a practice of executing foreign and dual nationals for diplomatic leverage, as discussed above (in paragraphs 20-22).

³⁸ UK Foreign Affairs Committee, [No prosperity without justice: the UK's relationship with Iran](#), 16 December 2020, p. 24.

³⁹ UK Foreign Affairs Committee, [Stolen years: combatting state hostage diplomacy](#), p. 25.

⁴⁰ 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*, March 2022).

32. States and the international community as a whole must recognise State hostage-taking for what it is to ensure that the phenomenon is addressed with appropriate seriousness.

Consular assistance

33. Despite the considerable potential of consular assistance to protect the rights and wellbeing of British nationals detained abroad, its provision by the UK Government, and in some other countries, remains discretionary.⁴¹ This discretionary approach does not ensure certainty for victims and their families and could lead to different approaches and shortcomings in the protection of nationals from human rights violations. This is even though the provision of consular assistance by a State to its national is a crucial – and sometimes the only – link between the person and the outside world, and is a vital safeguard against human rights violations, including arbitrary detention and torture. Considering the rights inherent in citizenship, consular assistance is a logical extension of the State’s responsibility to protect its citizens.
34. From an international law perspective, in cases where there have been serious human rights violations (or where there is a risk of them occurring), States have an obligation to provide consular assistance to prevent and protect against such violations.⁴²
35. International law recognises that, in some circumstances, States can raise an individual’s dispute with another State to the level of a formal legal dispute – known as “diplomatic protection”. For example, this could enable an individual’s claim about State hostage-taking to be pursued by their “home” State in an international court or other complaints mechanism.⁴³
36. Ensuring that consular assistance is a legal right for nationals, and making diplomatic protection obligatory in certain circumstances, would ensure more robust safeguards for States’ nationals at risk of human rights abuses abroad. It could also play a role in mitigating the psychological impact of detention. By providing assurance that the State’s consular officials are aware of the survivor’s location and are working on their behalf, consular support can help counter the isolation and hopelessness that often accompanies torture.

Structured response to State hostage-taking

37. A comprehensive strategy to ensure the safe return of hostages is vital. Without it, States may engage in ad hoc efforts that fail to acknowledge the systemic nature of the issue and deliver inconsistent outcomes. A structured approach to State hostage-taking is needed to prevent citizens being instrumentalised by States as part of a practice where they are at risk of torture and other violations.
38. One possible model is the creation of a dedicated team at the national level to handle cases of State hostage-taking. This could consist of an accountable State focal point with the requisite policy framework and resources to lead the State’s diplomatic response, while treating families as trusted partners. This kind of model was established by the United States Government in 2015, as discussed above at paragraph 29. While attracting

⁴¹ REDRESS, [Consular assistance in domestic legal frameworks](#), April 2024.

⁴² United Nations General Assembly, [Report of the Special Rapporteur of the Human Rights Council on extrajudicial, summary or arbitrary executions \(A/74/318\)](#), 20 August 2019, paras. 31, 33.

⁴³ REDRESS, [Evidence submitted by REDRESS to the Foreign Affairs Select Committee inquiry into the handling of state level hostage situations](#), 13 May 2022, pp. 3-4.

some criticism,⁴⁴ the SPEHA has largely received praise for contributing to improvements in family support, in communication between State agencies and in international collaboration.⁴⁵

39. If States are to adopt such measures, it is important that families are viewed as trusted partners in the resolution of cases. We have heard from victims and their family members in cases of British nationals detained abroad that the FCDO often fails to properly inform and consult families and keeps them in the dark as to what measures they are taking to secure the release of their loved ones. This is despite the fact that partnering with families can have practical benefits, particularly when it comes to gathering information about the details of the detainee's situation.

Accountability tools

40. Tools such as targeted Magnitsky sanctions or universal jurisdiction should be adopted by States to deter and bring accountability for perpetrators of State hostage-taking. Detering State hostage-taking effectively requires robust multilateral efforts in collaboration with international partners.
41. Magnitsky sanctions are a critical tool to ensure that there is a cost to State hostage-taking and send a strong message that it will not be tolerated as a means of diplomatic leverage. As a mechanism in a State's foreign policy toolkit, Magnitsky sanctions have the potential to:
42. Identify specific individuals or entities which should be held accountable for specific actions – making it more difficult to ignore involvement in conduct contrary to international law.
- a) Be reinforced by other States who have similar targeted sanctions legislation, demonstrating a collective condemnation of the act which the designation seeks to address.
 - b) Be visible to external stakeholders, therefore increasing public scrutiny of the designee's actions.
 - c) Increase national and international public attention to the conduct allegedly perpetrated by the designated person.
 - d) Provide a deterrent and trigger behavioural change in the perpetrator.
43. Provide a measure of accountability by keeping perpetrators and their ill-gotten wealth out of key financial markets.
44. While sanctions alone cannot ensure full accountability, when coupled with other tools and collective international action, their impact can be enhanced. In hostile States such as Iran, evidence shows that sanctions have a powerful public accountability impact through the identification of the alleged perpetrators and acknowledgment by the international community of abuses committed by the Iranian regime. For survivors, the

⁴⁴ See e.g. Center for Strategic & International Studies, [Just Call Them Hostages](#), by Danny Sharp and Jason Rezaian, 20 July 2023; Atlantic Council, [The Levinson Act means all Americans must return home—not just citizens](#), by Celeste Kmiotek, 17 August 2023; The Atlantic, [I Was a Hostage in Iran. The Deals Are Part of the Problem](#), by Kylie Moore-Gilbert, 25 August 2023.

⁴⁵ UK Foreign Affairs Committee, [Stolen years: combatting state hostage diplomacy](#), p. 11

knowledge that their suffering is recognised by the sanctioning Government can provide relief and hope for justice.⁴⁶

45. The Canada Declaration Against Arbitrary Detention in State-to-State Relations,⁴⁷ adopted in February 2021 and now endorsed by 79 States, is a mechanism that allows States to show their commitment to addressing the issue of arbitrary detention, particularly when used as a tool for political leverage. This declaration aims to combat State hostage-taking and the abuse of detention for diplomatic purposes. The accompanying Partnership Action Plan outlines a framework for collective action for States, including coordinated diplomatic efforts, targeted sanctions, and support for victims and their families. By following its principles, countries can collectively exert pressure on offending States, uphold human rights standards, and reinforce global norms against the misuse of detention.
46. Another mechanism for addressing international crimes is universal jurisdiction, a principle that allows States to claim jurisdiction over serious crimes, including those often involved in State hostage-taking, such as torture, regardless of where the crime occurred or the nationality of the perpetrators or victims. By employing universal jurisdiction, States can hold individuals accountable even when the crimes were committed outside their own borders, thereby reinforcing the international rule of law and deterring future violations.
47. Universal jurisdiction could be particularly effective in cases of hostage-taking as it often allows countries to prosecute individuals accused of international crimes connected with hostage-taking even if they are located in, or protected by, States that are unwilling or unable to prosecute. Universal jurisdiction often allows the investigation and prosecution of a variety of perpetrators, from public officials intellectually responsible for violations, to prison guards or members of the judiciary, who are materially responsible, some of whom will have international ties and may be more likely to travel or be subject to asset freezes.
48. Evidence of State hostage-taking is already being collated, for example by UN bodies including the UN Working Group on Arbitrary Detention (WGAD) and UN Independent International Fact-Finding Mission on the Islamic Republic of Iran.⁴⁸ The engagement of survivors of State hostage-taking with these initiatives demonstrates the appetite that exists for such international accountability.⁴⁹
49. Sweden's release of former Iranian prison official Hamid Nouri in exchange of Johan Floderus, and other prisoner swaps that have involved the release of foreign and dual nationals in exchange for Iranians detained on terrorist charges abroad,⁵⁰ highlight the threat which State hostage-taking poses to broader accountability efforts for systematic human rights abuses. To mitigate these risks, States must investigate incidents of State hostage-taking of dual or foreign nationals to determine whether they amount to torture

⁴⁶ REDRESS, [Evaluating Targeted Sanctions: A Flexible Framework for Impact Analysis](#), November 2023, pp. 15-22

⁴⁷ [Canada Declaration](#), 15 February 2021.

⁴⁸ The Guardian, [UN inquiry into rights in Iran urged to look at detention of dual nationals](#), 20 September 2023.

⁴⁹ See, for example: The Guardian, [UN inquiry into rights in Iran urged to look at detention of dual nationals](#), 20 September 2024.

⁵⁰ See e.g., The Guardian, [Belgium aid worker freed in prisoner swap with Iranian diplomat jailed for bomb plot](#), 26 May 2023.

or other international crimes, and promote accountability through both public statements and the investigation and prosecution of suspected perpetrators.⁵¹ This could include exercising universal jurisdiction with respect to hostage-taking and other crimes under international law without procedural limitations and exploring transformative reparations for victims, including through including through restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.

RECOMMENDATIONS

50. The Special Rapporteur on Torture could clearly define the obligations of States to prevent State hostage-taking, in alignment with their existing duty to prevent torture, and specify the appropriate tools and preventative actions that States may reasonably implement, building upon established measures expected to prevent other forms of torture.
51. In particular, the Special Rapporteur on Torture could recommend that States adopt the following measures to enhance protections, ensure accountability, and support survivors:
 - a) States should assess the effectiveness of their policies and practices in protecting nationals and dual nationals overseas from torture and ill-treatment, including State hostage-taking. Such reviews should include meaningful consultation with survivors and their families to inform necessary reforms in law and policy.
 - b) States should explicitly recognise arbitrary detention for diplomatic leverage as a form of State hostage-taking and condemn such practices in the strongest terms, in accordance with their international legal obligations.
 - c) States should adopt a structured and consistent approach to addressing State hostage-taking, including establishing dedicated teams or units responsible for managing cases of nationals subjected to State hostage-taking. These teams should collaborate closely with families, treating them as trusted partners in efforts to secure the release of their loved ones.
 - d) States should ensure their domestic legal frameworks provide mechanisms to hold perpetrators of crimes associated with State hostage-taking accountable. This includes pursuing universal jurisdiction cases where appropriate and taking steps to investigate and prosecute such crimes effectively. Additionally,
 - e) States should promote and participate in multilateral responses to combat State hostage-taking, including through the coordinated use of targeted sanctions regimes, such as Magnitsky sanctions, and by advancing cooperative measures like Canada's Declaration Against Arbitrary Detention in State-to-State Relations.
 - f) States should explore strengthening the rights of nationals and dual nationals at risk of human rights violations abroad. Measures could include introducing a legal right to consular assistance.

⁵¹ Amnesty International, [Iran/Sweden: Staggering blow to justice for 1988 prison massacres in Iran amid long overdue release of Swedish nationals](#), 18 June 2024.