



**Universal Periodic Review: Submission concerning the Islamic Republic of Iran**  
JOINT SUBMISSION MADE BY THE FAMILY MEMBERS OF ARBITRARILY DETAINED  
FOREIGN AND DUAL NATIONALS

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SUBMITTED BY

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The Center for Supporters of Human Rights is a non-governmental organisation established in the UK in 2013. Dr. Shirin Ebadi, Nobel Peace Prize Laureate, is the founder and the chair of the Centre. The objectives of the Centre are:

- Advancement of education and increased awareness of human rights in Middle East, in particular in Iran
- Reporting on the condition of human rights, in particular on the situation of human rights in Iran
- Holding training sessions on human rights and the status and precedents of the International Court of Justice, either through classes and in person or via internet
- Holding seminars and meetings of experts to formulate a strategy to advance human rights, especially in Iran;
- Focusing on improvement of women's rights in Muslim countries, especially in Iran
- Supporting roles of women in promoting democracy in the world especially in Iran;
- Providing solutions to advance human rights in Islamic countries, especially Iran;
- Providing relief and support to families and others in need.

The Iran Human Rights Documentation Center is an independent non-profit organization that was founded in 2004 by human rights scholars and lawyers. The mission of the Center is to:

- Establish a comprehensive and objective historical record of the human rights situation in Iran, and on the basis of this record, establish responsibility for patterns of human rights abuses;
- Make the record available in an archive that is accessible to the public for research and educational purposes;
- Promote accountability, respect for human rights and the rule of law in Iran; and
- Encourage an informed dialogue on the human rights situation in Iran among scholars and the general public in Iran and abroad.

## INTRODUCTION

1. This submission is made by family members of foreign and dual nationals arbitrarily detained in the Islamic Republic of Iran (“Iran”): the families of Ahmadreza Djalali; Robert Levinson; Saeed Malekpour; Baquer and Siamak Namazi; Nazanin Zaghari-Ratcliffe; and Nizar Zakka. Centre for Supporters of Human Rights and Iran Human Rights Documentation Center submit this text on their behalf. Beyond those who are named specifically, several additional families have been consulted and have provided input into this submission. This submission has been prepared with the support of the University of Essex Human Rights Centre Clinic.
2. The submission is comprised of i) information supplied by detainees or their family members; and ii) information contained in public reports.
3. The submission is limited to the human rights issues that concern detained foreign and dual nationals in Iran. It does not set out to engage with, or comment upon, the overall human rights situation in Iran.
4. In summary, detainees’ fundamental human rights are being violated as part of a concerted effort by Iran to use them as diplomatic leverage. They have been targeted and arbitrarily detained because of their links outside the country. They have been subjected to sham trials which have failed to meet basic fair trial standards and convicted of offences on the basis of fabricated evidence or, in some cases, no evidence at all. Some detainees have been coerced to confess to crimes they did not commit. Fabrications and forced confessions were broadcast on State television in advance of trials, violating the presumption of innocence. Any semblance of lawfulness has been removed by the conduct of the Islamic Revolutionary Guard Corps (IRGC) and/or the Ministry of Intelligence (MoI) in these cases. Authorities have provided limited and selective disclosure of information, given repeated promises of release later reneged, ‘bargained’ and made threats over access to basic necessities such as doctors, family contacts and lawyers. The continued arbitrary and unlawful detention of the persons considered herein is a constant cruelty to them and their families.
5. These are not isolated cases. There are approximately thirty known cases of foreign or dual nationals detained in Iran since 2014,<sup>1</sup> however the number is believed to be much higher given that many families choose not to make the detentions public for fear of reprisal or in the hope that their silence might expedite release.
6. Taken together, these cases evince a systemic practice of arbitrary detention of dual and foreign nationals. Dual and foreign nationals (and certain Iranian nationals living outside of Iran) that are ‘perceived as having links with Western academic, economic, and cultural institutions’,<sup>2</sup> are being targeted as ‘infiltrators’ by Iran for diplomatic or other leverage. This is a form of hostage-taking. The persons targeted are academics, scientists, IT experts, journalists, businesspersons, charity workers, artists and environmentalists. They are men and women of all ages, from young adults to very elderly persons. They tend to be charged with nebulous offences against national security, to be subjected to ill treatment, and to be denied the most basic and fundamental guarantees to a fair trial.
7. The detainees and their families call upon the UPR Working Group to recognise these patterns and to engage effectively with Iran so that it commits to the urgent release of all arbitrarily and unlawfully detained dual and foreign nationals, and to returning their passports and allowing them to return home. Furthermore, Iran must urgently commit to providing adequate and appropriate health care to all detained dual and foreign nationals.

## DEVELOPMENTS SINCE THE 2014 UPR

8. The UN Working Group on Arbitrary Detention (WGAD) has engaged extensively with cases concerning Iran, and progressively identified a pattern involving the arbitrary deprivation of liberty of dual and foreign nationals,<sup>3</sup> including targeting on the basis of ‘national or social origin’ as dual nationals. Between June 2015 and January 2019, the WGAD released 15 opinions on Iran, seven of which involved the detention of foreign or dual nationals.
9. The plight of detained dual nationals has also been taken up in the 2014,<sup>4</sup> 2017,<sup>5</sup> 2018<sup>6</sup> and 2019<sup>7</sup> reports of the Special Rapporteur on Iran. The Rapporteur noted that such detentions ‘represent[s] an ongoing pattern of deep concern and emblematic examples of due process failings.’<sup>8</sup>
10. The Special Rapporteurs on Torture, Violence against Women, the Independence of Judges and Lawyers, the Situation of Human Rights Defenders, the Rights to Freedom of Peaceful Assembly and Association, and on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health have joined calls on Iran to immediately and unconditionally release certain detainees<sup>9</sup> and to ‘urge the Government [of Iran] to immediately and unconditionally provide ... access to the appropriate treatment and care they have repeatedly requested in light of their serious health concerns.’<sup>10</sup>
11. The plight of arbitrarily detained dual and foreign nationals has also been the subject of research reports produced by policy institutes,<sup>11</sup> international<sup>12</sup> and Iran-focused NGOs.<sup>13</sup>
12. On 2 December 2018, six families issued an Open Letter<sup>14</sup> calling on governments and others to ‘acknowledge this hostage taking crisis immediately and to take concrete steps that would help resolve these cases. Do what is in your power to help secure the release of our loved ones and their safe return home by ensuring that their cases are at the top of the agenda of any dialogue with the Iranian authorities.’

## HUMAN RIGHTS VIOLATIONS

13. In addition to the violation of detainees’ rights to liberty and security of the person, other human rights obligations have been violated by Iran.

### Breach of consular access

14. Dual nationals are consistently denied consular access. They are targeted *because* of their foreign links yet those links are ignored when considering consular access.
15. Consular assistance is crucial to ‘protecting detainees from torture and ill-treatment, in particular in a context where foreign nationals are being suspected of and being detained for alleged crimes against the State, such as terrorism, espionage or treason.’<sup>15</sup> Iran consistently states it does not recognise dual nationality, and consequently it refrains from notifying the States of second nationality when dual nationals whose ‘real and effective nationality’<sup>16</sup> is the second State have been detained, nor has it allowed officials of the State of second nationality to visit their nationals in detention, contrary to Article 36(1)(b) and (1)(c) of the Vienna Convention on Consular Relations.
16. Foreign nationals have had only limited access to consular support. For instance, since his arrest in September 2015, *Nizar Zakka* has had only four consular visits, the first only 16 months’ after his arrest. *Xiyue Wang* has had only five consular visits in over two years; he was not granted permission for such a visit for over two weeks after his arrest.<sup>17</sup>

### Solitary confinement and incommunicado detention

17. Solitary confinement and incommunicado detention are contrary to Iran’s obligations under Articles 7, 9 and 10 of the ICCPR.<sup>18</sup>

18. There is a clear pattern to the solitary confinement and incommunicado detention. During an initial investigation phase, detainees are deliberately kept alone, without access to lawyers and family, and kept disoriented. During this period, detainees are generally only able to meet their interrogators. Detainees are required to hand over all personal email and social media passwords. Their accounts are scrutinised in order to locate data for interrogations which is used to fit the detainees within a pre-existing narrative of guilt. Detainees are threatened that their family will be harmed, that they will never see their family again, and that they will die in prison. At the same time, family members are pressured to keep quiet or the situation will be made worse.
19. Prolonged solitary confinement, which the UN Human Rights Committee has held may amount to torture or other ill-treatment,<sup>19</sup> is a regular feature of the detention of dual and foreign nationals. **Nizar Zakka** (Lebanon national - USA permanent resident) was arrested in September 2015 while in Iran to speak at a conference at the Iranian Government's invitation. Nizar's family did not hear anything about him or his location until at least three weeks after his arrest. He was held in solitary confinement for three months. Nizar was later returned to solitary confinement in April 2016, for four months, and in December 2018 for 40 days. **Ahmadreza Djalali** (Iranian –Swedish national) was first held at an undisclosed location for a week following his arrest – his family did not know where he was being held.<sup>20</sup> He was then transferred to Evin Prison, where he spent three months in solitary confinement and four months in partial isolation.<sup>21</sup> **Robert Levinson** (USA) was detained in March 2007 and has been held incommunicado at an unknown location, ever since. A proof of life video was received in November 2010, and in April 2011, the family received several pictures of him wearing an orange jumpsuit holding up messages in each photo. The family has not received any additional information since. **Kamran Ghaderi** (Iranian–Austrian national),<sup>22</sup> was not allowed to see anyone or call anyone. After 4-5 months' detention he was allowed to call his mother once a week; only after 2 years of detention was he allowed to call his wife in Austria. **Siamak and Baquer Namazi** (Iranian–USA nationals) were subjected to extended periods of solitary confinement; **Baquer**, aged 80, was placed in solitary confinement for weeks in spite of poor health.. **Siamak** was held in solitary confinement for approximately 12 months. **Saeed Malekpour** (Iranian national and Canadian permanent resident) spent well over a year in solitary confinement (various periods from 2008 to 2014). Also subjected to solitary confinement were **Homa Hoodfar** (Iranian–Canadian national), **Kavous Seyed Emami** (Iranian–Canadian national) – who died in solitary confinement on 9 February 2018,<sup>23</sup> **Nazanin Zaghari-Ratcliffe** (Iranian–United Kingdom national)<sup>24</sup> and **Xiyue Wang** (USA national).<sup>25</sup>
20. Incommunicado detention is often used to elicit forced confessions.<sup>26</sup> **Ahmadreza Djalali** was forced to confess while being held incommunicado, a *prima facie* breach of the presumption of innocence.<sup>27</sup> **Siamak Namazi** was placed under intense pressure to confess, including through the use of tasers, beatings, and threat of electric shock to private parts (wires were attached). He was told that family members and loved ones would be arrested; his father ultimately was. **Baquer Namazi** was denied medical care and threatened with execution. **Saeed Malekpour** was held incommunicado and tortured to confess. It was two weeks before his family knew of his arrest: 'During those two weeks, neither we nor any other friends and family could contact him, and we received no notification from the police or any other authority. It was a further four months before we were allowed to visit him.'
21. Iran's practice of subjecting foreign and dual nationals to prolonged incommunicado detention raises concerns under the UN General Assembly's Declaration on the Protection of All Persons from Enforced Disappearance.<sup>28</sup> **Robert Levinson's** case has been recognised *prima facie* as an enforced disappearance by WGAD<sup>29</sup> for which the Iranian authorities are responsible: 'This violation is further aggravated by the time elapsed — almost 10 years — and the lack of due diligence by the authorities.'<sup>30</sup>

### **Breach of fair trial rights**

22. Although the Iranian Constitution recognises fair trial rights, the rule of law is absent<sup>31</sup> and due process is ‘violated arbitrarily and despite the law’.<sup>32</sup> Law enforcement authorities, including the Judiciary, fail to implement Iran’s legal code fairly or to respect the independent role of lawyers,<sup>33</sup> particularly before the Revolutionary Courts which have jurisdiction over security-related offences.
23. According to the revised Iranian criminal procedure law (2015), security detainees may have their access to a lawyer delayed for up to one week and counsel must be selected from a pool of government-vetted lawyers. This pool is a small, restricted list; lawyers from the list are not always available or willing to take on a case and when they do, the fees they command are exorbitant. This list was only approved in 2018.<sup>34</sup>
24. The WGAD found serious breaches of fair trial rights in *Ahmadreza Djalali*’s case, due to his inability to choose his own lawyer. The authorities rejected his first two choices. The third lawyer - not chosen by Mr. Djalali - was approved but nevertheless barred from freely communicating with Djalali.<sup>35</sup> Lawyers have been harassed and sometimes imprisoned. One of *Nazanin Zaghari-Ratcliffe*’s lawyers had a case opened against him based on representations he made on her behalf in appeal documents.
25. The right to be promptly informed about the nature of the charges is not respected,<sup>36</sup> contrary to Articles 9(2) and 14(3)(a) ICCPR and despite Article 190 of the Iranian Code of Criminal Procedure. This right applies not only to ordinary criminal prosecutions but also to military prosecutions and other special regimes directed at criminal punishment.<sup>37</sup> Lawyers face difficulties in accessing information; ‘lawyers not only do not have access to the entirety of the documents, but they also cannot make copies.’<sup>38</sup> *Ahmadreza Djalali* was arrested without a warrant and did not learn the charges against him until two weeks later when he deduced them from the contents of a letter he was shown informally. The only formal notification of the charges appears to have taken place more than nine months after Mr. Djalali’s arrest.<sup>39</sup> *Saeed Malekpour* was abducted by plainclothes IRGC forces without a warrant and without being informed of the charges against him until after he was tortured to confess.
26. Detainees’ ability to discuss the charges with their lawyers is thwarted by the lack of privacy in lawyer-client communications, intimidation of detainees prior to meeting their lawyers, and restricted time for client-lawyer meetings. *Nazanin Zaghari-Ratcliffe* was blindfolded and shouted at while interrogated about her defence, immediately before being allowed to see her lawyer to discuss it. The interrogator remained present throughout the interaction with the lawyer. *Baqer and Siamak Namazi* were only allowed to meet with their lawyer for thirty minutes, days before the hearing, despite numerous attempts to meet beforehand. The Namazi’s lawyers were only given access to court “files” and “evidence” a few days before the trials, making it impossible to prepare a meaningful defence. They were allowed to view the files but were unable to make copies. It is unknown whether such files were even complete. They were only made aware of some allegations at the trial. *Nizar Zakka* was not provided with a copy of his file. Nizar first learned of the charges against him on the date of his ‘trial’ though neither he nor his lawyer were provided with a written confirmation of the charges or the indictment upon which Nizar was tried. *Saeed Malekpour* had no access to his lawyer for the first two years of his arrest. He met his lawyer for the first time at his trial in 2010.
27. At trial, the role of the defence counsel is extremely limited. The defendant is often not allowed to speak. Detainees are not provided with paper and pen to set out their defence before trial. Defence counsel have limited access to evidence and are not given the opportunity to cross-examine false claims put forward by IRGC witnesses. According to some detainees, IRGC interrogators have posed as witnesses during the trial which the defence was powerless to challenge. In *Saeed Malekpour*’s second trial, the “experts” who corroborated the charges against him were IRGC agents posing as IT experts. The IRGC threatened to use fake witnesses

at *Nazanin Zaghari-Ratcliffe*'s trial –from fabricated journalism classes and persons who claimed falsely to have personally witnessed her at a demonstration in London in 2009. The MoI did not allow *Ahmadreza Djalali*'s lawyers to attend the trial. The trial was not public. Documents submitted by the defence were not considered. The Supreme Court affirmed the sentence, secretly, in a few days and without having Djalali's written petition. *Baquer and Siamak Namazi*'s trial hearings were extremely short and they were not allowed to present any evidence or call witnesses, denied the opportunity to meaningfully challenge any charges or evidence – despite the fact that the IRGC had been conducting relentless interrogations for months without allowing access to legal representation. A verdict was issued but “classified” and no copy was provided to them.

28. The organization of the trials and the verdicts is oriented to maximise detainees' stress. Trials are repeatedly postponed, then rescheduled with little advance notice, often coinciding with external political events. The trials are held in secret – neither the public nor detainees' families can attend; the detainees are often denied family visits and calls for a period preceding the trial. There is often a long gap between the trial and the announcement of the verdict and sentence, which are frequently disclosed through the media even before the detainee and families are told. For example, *Saeed Malekpour*'s “trial” in 2010 took only 5 minutes wherein he was told he was sentenced to death (which was eventually commuted to life imprisonment).

### **Iran Media, Propaganda and Impact on the Enjoyment of Human Rights**

29. Iranian state media has used slander and false claims to present the detainees as enemies of the state and to justify their continued detention.<sup>40</sup> Data from detainees' emails and social media is taken by IRGC and MoI interrogators. This is sometimes distorted and falsified, or simply fabricated and shared with state media who then broadcast it out of context. The tone of such broadcasts can be sensationalist and voyeuristic –aiming to instil fear in domestic and diaspora audiences and to assert the power of surveillance – with films of confessions, arrests, private documents and family photos (including without the veil, family photos on the beach), with the aim of painting the detainees as infiltrators who do not espouse Iranian values. The media often repeats and amplifies the fabricated stories about the detainees. Often smear campaigns are launched in the media in the wake of pressure calling for detainees' release.
30. *Kavous Seyed Emami*'s family has explained the many lies and baseless accusations against him and his organization, the Persian Wildlife Heritage Foundation. Pictures and videos of *Nizar Zakka*, sourced from his social media accounts, including a photo of Nizar in uniform at his former high school (a military academy) have been used to support a false narrative that Nizar is a US military intelligence officer.
31. The Islamic Republic News Agency, IRNA, controlled and operated by the Ministry of Culture and Islamic Guidance has sometimes been used to announce arrests, to set out allegations against detainees and to confirm court rulings and sentences. Judiciary affiliated media outlets such as Mizan released videos of the moment of arrest of *Siamak Namazi*, a day before his verdict and again in January 2019. Similarly, *Nazanin Zaghari-Ratcliffe*'s arrest in March 2016 at Tehran airport was broadcast in January 2019 as a form of intimidation. This practice violates detainees' dignity and privacy.
32. The public airing of falsehoods, forced confessions, private photos and other information amounts to psychological coercion and has been used as part of campaigns to torment detainees and to isolate and traumatise their families. The practice violates the detainees' presumption of innocence. *Saeed Malekpour*'s coerced confessions were aired repeatedly on state-run media before his first court hearing, in contravention of Iranian law. In December 2018, Iran's state broadcaster re-launched a documentary series called ‘Out of Sight’ (first aired in December 2017),<sup>41</sup> about dual national “enemies” of the country. It links several dual-national detainees, including *Nazanin Zaghari-Ratcliffe* and *Siamak and Baquer Namazi*, to conspiracies about their activities.<sup>42</sup> A 2019 episode elaborated the conspiracy theory that the UK is trying to

organise a soft overthrow of Iran through Persian language broadcasting and training journalists and makes false claims linking Zaghari-Ratcliffe as a leader of this conspiracy. Another episode included outrageous claims that the *Namazis* were responsible for all the UN and US sanctions against Iran. Similarly, in December 2017, a documentary was broadcast multiple times about *Ahmadreza Djalali*, which contained multiple lies and unsubstantiated allegations. It also included insults to Djalali's family and rumours that he had been hanged, which constituted a psychological torture for the family. The families are never afforded any right of reply.

### **Torture and other ill-treatment**

33. The prohibition of torture and other cruel, inhuman or degrading treatment or punishment is part of Iran law by virtue of Article 38 of the Constitution and Articles 7 and 10(1) ICCPR. According to Article 4(2) ICCPR, the prohibition of torture and other ill-treatment cannot be derogated from, under any circumstance.
34. The IRGC and MoI use torture and ill-treatment to pressurise detainees and family members to confess or to behave in a certain way. Torture and ill-treatment have also served as tools to elicit certain responses from foreign governments. Detainees have been subjected to threats of violence, withholding information and providing false information; denial of medical treatment; denial of access to family visits and inhuman detention conditions. In addition to these psychological tactics, some detainees have reported physical acts of violence.
35. Methods employed in attempts to secure confessions have involved psychological coercion and physical threats, as well as detention in inhuman prison conditions. *Nizar Zakka* is currently detained in an underground cell he shares with 17 detainees with no access to sunlight or fresh air. His cell smells of sewage and is infested with rats and cockroaches. He and fellow detainees sleep on triple bunk beds on mattresses infested with bed bugs. He has regularly been put under pressure to either sign documents in Farsi that he doesn't understand, or to make false video confessions confirming he is a spy. He was threatened with death and forced to stand in stress positions for prolonged periods. On several occasions Nizar lost consciousness. *Xiyue Wang* was surrounded by prison guards and faced enormous pressure to confess.<sup>43</sup> *Ahmadreza Djalali* was 'put under pressure, through psychological torture and threats to execute him and arrest his children, to "confess" to being a spy for a "hostile government".' His confession was broadcast on Iran media.<sup>44</sup> *Saeed Malekpour* was subjected to electric shocks and beatings, threatened with rape and told he would be killed:<sup>45</sup> 'I was promised – in the presence of the magistrate assigned to my case – that if I participated in their false televised confession, they would release me conditionally or on bail until the court date.'<sup>46</sup> Ultimately, Saeed signed the confession provided by the interrogators. *Baquer Namazi* was intentionally placed with unstable prisoners as a means of further pressure and threatened with execution. He was prevented from seeing his son Siamak for over a year, even though they were held in the same ward. *Siamak Namazi* was physically and psychologically tortured to confess.
36. Access to doctors and family visits is used as a bargaining tool to punish detainees and cause distress. Many have reported serious health concerns which have not been addressed by authorities. *Baquer Namazi* has had medical problems that have been regularly ignored resulting in serious harm to his heart and two heart-related emergency surgeries. *Saeed Malekpour* suffered a heart attack in September 2018 and had kidney stones, prostate issues and arthritis develop in Evin Prison. Access to specialists has so far been withheld. *Xiyue Wang*'s family reported that 'he is rapidly deteriorating mentally, emotionally and physically after over two years of detention. He has lost weight and suffers from chest pain, severe back pain, fever, rash, headaches, vomiting, stomach aches, severe tooth pain, foot injuries, arthritis, constipation, insomnia and diarrhoea.'<sup>47</sup> *Nizar Zakka* has severe back pain and has found blood in his stool. He has lost significant weight and become very weak. *Ahmadreza Djalali* was prevented from accessing adequate medical care for surgery indication, severe bone marrow suppression, anemia, gastro-intestinal disease and severe weight loss. In February 2019 authorities restricted *Nazanin Zaghari-Ratcliffe*'s weekly phone calls and reduced her food

rations after she went on hunger strike in response to the refusal to provide her access to medical care,<sup>48</sup> including for severe depression, treatment for neurological conditions and lumps in her breasts. *Kamran Ghaderi* has not received treatment for a tumour in his left leg in September 2017.<sup>49</sup> *Sabri Hassanpour* was denied open-heart surgery that was recommended after he suffered a heart attack on 15 November 2016.<sup>50</sup>

37. Family members in Iran have been threatened directly or via the detainees. Visits are made deliberately intimidating by prison guards. At times, families have seen their loved ones' blindfolded, or been blindfolded themselves. At times, visits are arbitrarily blocked at the last minute. Families have been threatened during visits, received private warnings, and subjected to physical searches. Threats have also been extended through the employers of family members, encouraging the family's isolation.
38. The detentions have also impacted families' well-being. *Nazanin Zaghari Ratcliffe*'s husband described his daughter Gabriella's suffering, 'she gets agitated and difficult when she feels her mother or grandmother upset... refusing to eat or sleep in her own kind of protest'.<sup>51</sup> *Xiyue Wang*'s wife spoke about the psychological impacts on their son, Shaofan, who 'asked about his father constantly. He pointed to airplanes he spotted in the sky and asked if his dad was aboard on his way home'.<sup>52</sup> *Ahmadreza Djalali*'s children are traumatised and are isolated at school. His wife is also depressed under the care of a psychologist. *Maryam Mombeini* (Iranian-Canada national), whose husband *Kavous Seyed Emami* died under mysterious circumstances in Evin prison on 8 February 2018, has been prevented from leaving Iran and has been interrogated numerous times by the IRGC. All her family members in Iran are under psychological and financial pressure. *Saeed Malekpour*'s confession aired the same day as his father's funeral. His mother suffered a heart attack upon viewing the confession. As a result of pressure placed on the family, Saeed's wife divorced him in 2010 and his sister was forced to leave Iran on 2012.
39. The deeds to *Maryam Mombeini*'s family assets in Tehran were confiscated. Similarly, *Nizar Zakka*'s power of attorney documents were seized in May 2018, in an attempt to obstruct the management of his business and personal affairs, including the distribution of his mother's estate following her death. The IRGC have had access to *Saeed Malekpour*'s PayPal and credit card accounts. They withdrew funds from the credit card on at least one occasion. The accounts are no longer accessible to Saeed or his family. Many personal items such as marriage certificates, university degrees, identity documents and family heirlooms were taken from the *Namazis*.

### Hostage-Taking

40. Iran has been associated with hostage-taking since the 1979 Revolution. The arbitrary detention of dual and foreign nationals was not initially understood in such terms, but we believe the term is accurate and appropriate in characterising the context in which dual and foreign nationals have been detained and used as diplomatic leverage. The term is increasingly being used by certain media outlets,<sup>53</sup> governments,<sup>54</sup> as well as the families of certain detainees, who note: '[t]he evidence is conclusive, and we should call this what it is: hostage taking'.<sup>55</sup>
41. A key feature of hostage-taking is making release contingent upon certain conditions to compel a third party to do or refrain from doing certain actions.<sup>56</sup> The concessions requested and granted in hostage cases can take many forms, including an agreement on a prisoner swap, the settlement of a bilateral dispute, and/or the extension of some other economic or political benefit.<sup>57</sup> The ongoing detention of dual nationals by Iran fulfils this condition.
42. There is ample evidence to demonstrate that the detainees were specifically targeted and, when there have been releases, this has indeed been associated with money, prisoner exchanges, lifting of sanctions, repayment of arms debts or other concessions.<sup>58</sup> Some detainees have been

told repeatedly that they will only be released upon certain political and financial concessions from their other country of nationality or residence.

### **Crimes Against Humanity**

- 43.** A crime against humanity requires that the conduct be committed as part of a widespread or systematic attack directed against any civilian population; the perpetrator(s) knew or intended the conduct to be part of the attack; and were aware that the conduct occurred as part of a pattern of similar conduct directed against that group. “Widespread” refers to the large-scale nature of the attack and number of victims,<sup>59</sup> whereas “systematic” refers to the organised nature of the acts and the improbability of their random occurrence.<sup>60</sup> An “attack” can be described as a course of conduct involving the commission of acts of violence,<sup>61</sup> or be non-violent in nature.<sup>62</sup> It need not be a military attack;<sup>63</sup> indeed, an “attack” may encompass any mistreatment of the civilian population.<sup>64</sup> An attack is ‘directed against’ a civilian population if the civilian population is the primary object of the attack.”<sup>65</sup>
- 44.** Arbitrary detention and the continued ill-treatment of dual and foreign nationals can constitute a crime against humanity. IRGC and MoI conduct in targeting this group is widespread, considering the large number of persons targeted. It is systematic, considering the State has developed a functioning system for targeting dual and foreign nationals and depriving them of fundamental rights, and unlikely to be a random occurrence. The attack on dual and foreign nationals is known and that the deprivation of each dual and foreign national’s rights is part of this attack. Perpetrators were aware that a severe deprivation of fundamental rights of one or more persons would occur in the ordinary course of events, and were aware that they were targeting the victims by reason of their identity.
- 45.** Three types of crimes against humanity are relevant:
- i) **Persecution** requires that the perpetrator severely deprived one or more persons of fundamental rights; the person/persons or group were targeted because of their collective identity; and such targeting was based on a discriminatory ground, namely, national, political, ethnic, racial or religious grounds.<sup>66</sup> Iranian authorities targeted dual nationals and foreigners on national grounds, because of their citizenship or residence status. The collective denial of due process rights can amount to persecution; for example, breaching the right to judicial process in conjunction with other fundamental rights breaches may constitute persecution.<sup>67</sup> In the context of Iran, the crime of persecution may be made out through the commission of torture and imprisonment as well as through the deprivation of fundamental due process rights in a discriminatory manner.
  - ii) **Torture** requires that the perpetrator inflicted severe physical or mental pain or suffering upon one or more persons; such person/persons were in the custody or control of the perpetrator; and the resulting pain or suffering did not only arise from lawful sanctions. Iranian State agents inflicted severe physical or mental pain or suffering upon dual and foreign nationals in the custody and control of the State.
  - iii) **Imprisonment or other severe deprivation of physical liberty** requires the deprivation of liberty of the individual without due process of law, as part of a widespread or systematic attack directed against a civilian population”<sup>68</sup> The WGAD has determined the detention of dual and foreign nationals to be arbitrary on multiple occasions.

### **CONCLUSIONS AND RECOMMENDATIONS**

- 46.** Iran’s practice of targeting dual and foreign nationals and using them for diplomatic leverage constitutes crimes of the most serious order including torture, enforced disappearances, hostage-taking and crimes against humanity.

47. This phenomenon, which has been practised systematically in Iran, breaches the fundamental rights of dual and foreign nationals with citizenship and residency ties to an array of countries worldwide. Targeting this group risks threatening international peace and security and requires the concerted attention of the international community.

***Recommendations for Iran:***

Commit to providing family members with information as to where their loved ones are being held and ensure regular family access.

In cases of suspected enforced disappearances, commit to informing families about the current whereabouts of missing persons. Where that is not known, carry out a full and effective investigation into the disappearances and communicate the results to families.

Comply fully with the *Vienna Convention on Consular Relations* 1963. Allow unrestricted consular visits for both dual and foreign nationals in accordance with Article 36.

Comply fully with the *International Convention Against the Taking of Hostages* 1979, and in particular, ensure that all hostage cases - regardless of the persons or entities alleged to be responsible are resolved quickly and that the persons responsible are prosecuted.

Ensure that everyone subject to its jurisdiction has the right to life, liberty and security of person, and freedom from torture and ill treatment, as set out in the *UDHR* and *ICCPR*.

Ensure that everyone subject to its jurisdiction has the right to a fair trial as guaranteed by the *ICCPR*.

Provide unobstructed access to independent legal counsel throughout all phases of criminal investigation, trial and appeal and give defendants and their lawyers unrestricted access to the case file and all evidence against the accused.

Comply fully with all Opinions of the WGAD concerning dual and foreign nationals. Allow the WGAD to visit Iran to discuss compliance.

Release all dual and foreign nationals that have been detained arbitrarily and return their passports.

Provide detained dual and foreign nationals with all needed medical attention and treatment.

Investigate and prosecute those responsible for the mistreatment of detained dual and foreign nationals and ensure that victims of such mistreatment have access to effective redress.

Ensure media outlets in Iran respect detainees' rights to privacy and the presumption of innocence, in accordance with Articles 14, 17 *ICCPR*. Ensure remedies are in place for unlawful interference with these rights.

## ANNEX 1: Implementation of UN WGAD Decisions

<b>Name</b>	<b>Publication of decision</b>	<b>Rulings of WGAD</b>	<b>Implementation status</b>
Nazanin Zaghari-Ratcliffe	Sept 2016	Immediate release Enforceable right to compensation Noted practice of targeting foreign and dual nationals	Not implemented
Robert Levinson	Jan 2017	Immediate release Enforceable right to compensation Classed case as enforced disappearance and referred on to WG on Enforced and Involuntary Disappearances	Not implemented
Siamak Namazi	Sept 2017	Immediate release Enforceable right to compensation Noted detention motivated by being dual national and links with outside organisations	Not implemented
Baquer Namazi	Sept 2017	Immediate release Enforceable right to compensation Noted detention motivated by being dual national and links with outside organisations	Not implemented
Ahmadreza Djalali	Dec 2017	Immediate release Enforceable right to compensation	Not implemented
Xiyue Wang	Sept 2018	Immediate release Enforceable right to compensation Noted detention because of status as a foreign national & Iran's practice of targeting foreign nationals	Not implemented

## ANNEX 2: Fair Trial Rights

Name	Time passed until first saw lawyer	How many times before trial	Lawyer refused / other pressures	Sentence received
Ahmadreza Djalali	7 months	1 (20 minutes)	First two lawyers chosen by family were refused and not allowed to attend trial Third lawyer appointed by the MoI and the Judge	Death penalty, verdict never disclosed
Kavous Seyed Emami	Never saw lawyer	N/A	Wife, Maryam Mombeini had security case opened against her, prevented from travelling over 1 year	Died in suspicious circumstances in prison No prosecution of prison authorities for his death
Kamran Ghaderi	6 months	1	Allowed to speak for few minutes	10 years, verdict never disclosed
Robert Levinson	Never saw lawyer	N/A	N/A	No court appearance ever
Saeed Malekpour	Over 2 years	0	No lawyer at trial	Initially death sentence, verdict never disclosed
Siamak Namazi	1 year	1	Multiple lawyers refused	10 years, verdict never disclosed
Baquer Namazi	7 months	1	Multiple lawyers refused	10 years, verdict never disclosed
Xiyue Wang	Over 1 month	unknown	unknown	10 years, verdict never disclosed
Nazanin Zaghari-Ratcliffe	4 months	1	1 <sup>st</sup> lawyer personally prosecuted & left case Second lawyer refused by court, not represented in 2 <sup>nd</sup> case	5 years, verdict never disclosed Second court case opened when eligible for parole This remains open
Nizar Zakka	3 months (1 <sup>st</sup> lawyer) 1 year (2 <sup>nd</sup> lawyer)	1	1 <sup>st</sup> lawyer refused to translate documents, clearly not acting in Mr Zakka's best interests.	10 years, verdict never disclosed

### ANNEX 3: Untreated Health Complaints in Prison

Name	Health Condition	Prison response
Ahmadreza Djalali	Tortured in prison to extract confession Severe depression Hunger strikes Extreme weight loss (more than 30kg) Had acute abdominal pain and was operated on, on an emergency basis. The surgery failed because he was forced to return to jail just one day after the operation. He requires additional surgery. Bone marrow suppression and very low blood cell count. Suspected to have a blood disease and requires admittance to hospital for evaluation by oncology-haematology specialists. Severe gastro-intestinal problems; cramps, bleeding and constipation.	Currently on 4 types of anti-depressants No hospital medical treatment currently allowed
Kavous Seyed Emami	Died in mysterious circumstances in Feb 2018 while under IRGC interrogation in Evin prison	No prosecution of prison authorities, claimed as suicide
Kamran Ghaderi	Physically tortured for 2 months Lost 16 kg of weight Very high blood pressure Very poor mental health conditions Slept on floor for 3 months, caused problems requiring operation on spine Has cancerous tumour	Medication for blood pressure and hypertension Operation on spine in February 2018: 2 discs were removed and a 30cm long platinum was attached to the spine. MRI in January 2017, which diagnosed growing tumour – no treatment since
Robert Levinson	Deep concerns over the health impact of 12 years of imprisonment Anecdotal evidence from those who say they have been in contact with Bob indicates he experienced torture, sleep deprivation, poor dietary conditions, among other concerns. His proof of life video stated that he is “not in very good health” and in need of medicine and support. He suffered from high blood pressure and diabetes, and noted in his ‘proof of life’ video that he is running quickly out of medication to treat these conditions.	Enforced disappearance – no known treatment
Saeed Malekpour	Heart attack September 2018. Kidney stones, prostate issues Arthritis developed during decade in Evin Prison.	Sent to hospital only following heart attack Needs access to specialists for arthritis and heart issues. So far withheld
Maryam Mombeini	Family home raided numerous times since Feb 2018, causing panic attacks and hospitalisation Threats (including to wider family) to stay quiet over husband’s death Severe depression, stress at harassment during grief	N/A – outside prison, prevented from travel
Siamak Namazi	No bed for over two years, slept on concrete floor Mistreated daily - physical abuse including use of taser, beatings and threat of electric shocks Serious weight loss Extreme depression, sense of hopelessness and abandonment Attempted number of hunger strikes	No access to doctor whilst in solitary IRGC ignored requests for medical attention
Baquer Namazi	Placed in solitary confinement for weeks in spite of poor health and being 80 years old Intentionally placed with unstable prisoners as means of further pressure Threatened with execution Severe weight loss Constant threats including against family members Extreme depression, sense of hopelessness and abandonment	Medical emergencies regularly ignored At least 8 emergency hospitalizations and only after severe escalation of medical condition Emergencies resulted in two heart related surgeries including installation of emergency pacemaker Promptly returned from hospital to prison Currently on restricted and temporary medical furlough with fear of being revoked/not renewed at any moment Health continues to rapidly decline

Xiyue Wang	Deterioration in physical and mental health after 2 years detention Lost weight, developed arthritis in his knees, suffered rashes and pains all over his body, Suffers from severe depression, and has expressed suicidal thoughts to his family Chest pains, severe back pain from sleeping on floor for many months, fever, rashes all over body, headaches, vomiting, stomach aches, severe tooth ache, foot injuries, arthritis, constipation, insomnia and diarrhoea. Underground cell - does not see any natural light for up to a week at a time. Following period in solitary confinement was kept with prisoners who threatened to kill him	No access to specialist outside medical treatment, despite court permission, despite Embassy and lawyer's requests Occasional visits from prison doctor No dentist since his arrest.
Nazanin Zaghari-Ratcliffe	Neurological complaints – severe pain in neck, unexplained numbness, incapacitated arms and legs, slept on floor for 8.5 months Concerns over drugged food in first 2 months of prison Periodically collapses in prison Diagnosed with severe depression, regular panic attacks Lumps in breasts Two hunger strikes in prison over lack of medical treatment & family access	No treatment for 9 months while in solitary Some treatment Spring 2017 – summer 2018, anti-depressants prescribed. All treatment suspended since Aug 2018 Recommended for assessment by Health Commission – blocked twice, initiated Feb 2019
Nizar Zakka	Kept in underground cell Concerns over drugged food Cancer concerns (colon cancer) Hunger strikes and health complications Periods of coughing up blood	Prison denied colonoscopy

<sup>1</sup> UN Special Rapporteur on Iran, UN Doc A/HRC/37/68, 5 March 2018, para. 57; Bozorgmehr Sharafedin, 'Exclusive: Iran's Revolutionary Guards arrest more dual nationals', Reuters, 8 November 2017

<sup>2</sup> Human Rights Watch, 'Iran: Targeting of Dual Citizens, Foreigners, Prolonged Detention, Absence of Due Process', 26 September 2018, at <https://www.hrw.org/news/2018/09/26/iran-targeting-dual-citizens-foreigners>

<sup>3</sup> This pattern is referred to in opinions concerning Nazanin Zaghari-Ratcliffe (28/2016, para. 48); Siamak Namazi and Mohammed Baquer Namazi (49/2017, para. 43) and Xiyue Wang (52/2018, para. 82).

<sup>4</sup> UN Special Rapporteur on Iran, UN Doc A/69/356, 27 August 2014, para. 27, referring to the detention of UK – Iran citizen Roya Nobakt.

<sup>5</sup> UN Special Rapporteur on Iran, UN Doc A/HRC/34/65, 17 March 2017, paras. 46, 47, 85 – 88.

<sup>6</sup> UN Special Rapporteur on Iran, UN Doc A/HRC/37/68, 5 March 2018, paras 51 – 57.

<sup>7</sup> UN Special Rapporteur on Iran, UN Doc A/HRC/40/24, 8 February 2019, paras. 11-13.

<sup>8</sup> UN Special Rapporteur on Iran, UN Doc A/HRC/37/68, 5 March 2018, para 57.

<sup>9</sup> OHCHR, 'Iran: UN rights expert calls for the immediate release of dual nationals', News, 7 October 2016.

<sup>10</sup> OHCHR, 'Iran: Prisoners Nazanin Zaghari-Ratcliffe and Narges Mohammadi need appropriate health care urgently' News, 16 January 2019.

<sup>11</sup> United States Institute of Peace, 'Dual Nationals and Foreigners Held in Iran', 25 July 2016; Mehdi Khalaji, 'Iran Intensifying Its Crackdown on Citizens Abroad', Washington Institute, 2 November 2019; Foundation of Defense for Democracies, 'Profiles of Iranian Repression', 29 October 2018; and Hadani Ditmars, 'The dangerous dance of the Iranian dual national', Middle East Institute, 13 March 2018, recounting the death in solitary confinement of 63 year old Kavous Seyed Emami, Iranian - Canadian founder of the Persian Wildlife Heritage Foundation.

<sup>12</sup> Human Rights Watch, 'Iran: Targeting of Dual Citizens, Foreigners, Prolonged Detention, Absence of Due Process', 26 September 2018, at <https://www.hrw.org/news/2018/09/26/iran-targeting-dual-citizens-foreigners>. See also, Thomson Reuters Foundation, 'Held Hostage? A Legal Report on Hostage-Taking by States in Peacetime and the Victim Protection Gap', October 2018, at <http://www.trust.org/publications/i/?id=33235268-ff46-4110-9c4d-ef7e129253a6> (referring to 31 individuals arrested by the IRGC in or since 2014).

<sup>13</sup> See, e.g., Center for Human Rights in Iran, 'Swedish-Iranian Scientist Denied Medical Treatment for Demanding to be Transported With Dignity', 8 February 2019, at <https://www.iranhumanrights.org/2019/02/swedish-iranian-scientist-denied-medical-treatment-for-demanding-to-be-transported-with-dignity/>

<sup>14</sup> Iran Human Rights Documentation Center, 'Open Letter by Six Families of Dual and Foreign Nationals Imprisoned in Iran', 4 December 2018, <https://iranhrdc.org/open-letter-by-six-families-of-dual-and-foreign-nationals-imprisoned-in-iran/>.

<sup>15</sup> WGAD, UN Doc. A/HRC/39/45 (2 July 2018), para. 53.

<sup>16</sup> Nottebohm Case (Second Phase) (Liechtenstein v Guatemala), 6 April 1955, ICJ Reports 1955, 4 at 22; Case No. A/18, *Iran-U.S. C.T.R.*, vol. 5 (1984), p. 263.

<sup>17</sup> UN WGAD, *Opinion No. 52/2018 concerning Xiyue Wang*, UN Doc. A/HRC/WGAD/2018/52 (21 September 2018), para. 23.

<sup>18</sup> Human Rights Committee, *Concluding Observations: Iran*, UN Doc. CCPR/C/IRN/CO/3 (29 November 2011) paras. 18-19.

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- <sup>19</sup> Human Rights Committee, General Comment No. 20, UN Doc A/44/40, 10 March 1992, para 6. See also, Human Rights Committee, Concluding Observations: Iran, UN Doc. CCPR/C/IRN/CO/3 (29 November 2011).
- <sup>20</sup> UN WGAD, Opinion No. 92/2017 concerning Ahmadreza Djalali, UN Doc. A/HRC/WGAD/2017/92 (20 December 2017), para. 8.
- <sup>21</sup> *Ibid.*, para. 9.
- <sup>22</sup> Centre for Human Rights in Iran, ‘Persecution of Dual Nationals: Businessman Serving 10-Year Prison Sentence After Coerced Confession’ (4 January 2017), at: <https://www.iranhumanrights.org/2017/01/kamran-ghaderi-prison/>; BBC, ‘Iran’s jailed dual nationals and their uncertain fate’ (13 November 2017), at <https://www.bbc.co.uk/news/uk-41974185>.
- <sup>23</sup> Article 19, ‘Iran: Cases of Zaghari-Ratcliffe and Seyed-Emami create dark precedent for privacy violations and unlawful detentions’ (15 March 2018), at <https://www.article19.org/resources/iran-cases-zaghari-ratcliffe-seyed-emami-create-dark-precedent-privacy-violations-unlawful-detentions/>.
- <sup>24</sup> UN WGAD, Opinion No. 28/2016 concerning Nazanin Zaghari-Ratcliffe, paras. 7-10.
- <sup>25</sup> UN WGAD, *Opinion No. 52/2018 concerning Xiyue Wang*, UN Doc. A/HRC/WGAD/2018/52 (21 September 2018), para. 12.
- <sup>26</sup> Tahirih Danesh and Mahmood Amiry-Moghaddam, ‘Introduction: Due Process and Rule of Law’ Iran Human Rights Review, (February 2017).
- <sup>27</sup> WGAD, ‘Opinion No. 92/2017 concerning Ahmadreza Djalali’ UN Doc A/HRC/WGAD/2017/92, (20 December 2017) para 55.
- <sup>28</sup> UNGA, Declaration on the Protection of all Persons from Enforced Disappearance, preamble (18 December 1992).
- <sup>29</sup> *Ibid.*, paras. 19, 24.
- <sup>30</sup> *Ibid.*, para. 19.
- <sup>31</sup> Reza Banakar and Keyvan Ziaee, ‘The Life of the Law in the Islamic Republic of Iran’ (2018) 51(5) Iranian Studies 717, 720.
- <sup>32</sup> Tahirih Danesh and Mahmood Amiry-Moghaddam, ‘Introduction: Due Process and Rule of Law’ Iran Human Rights Review, (February 2017). See also, Amnesty International, ‘Flawed Reforms: Iran’s New Code of Criminal Procedure’, (2016), pp. 12, 17 at <https://www.amnesty.org/en/documents/mde13/2708/2016/en/>
- <sup>33</sup> Reza Banakar and Keyvan Ziaee, ‘The Life of the Law in the Islamic Republic of Iran’ (2018) 51(5) Iranian Studies 717, 733.
- <sup>34</sup> Human Rights Watch, ‘Want to Choose Your Lawyer? Good Luck in Iran: Only 20 Lawyers to Defend People Accused of Political, Security Crimes in Tehran’ (5 June 2018).
- <sup>35</sup> WGAD, Opinion No. 92/2017 concerning Ahmadreza Djalali, (20 December 2017), para 54.
- <sup>36</sup> HRC, ‘Report of the Special Rapporteur on Iran’, UN Doc A/HRC/34/65 (17 March 2017) para 42.
- <sup>37</sup> WGAD, ‘Opinion No. 92/2017 concerning Ahmadreza Djalali’ (20 December 2017), para 49.
- <sup>38</sup> Iran Human Rights Documentation Center, ‘Practicing Law in Iran: Risks and Challenges’ (3 November 2018) at <https://iranhrdc.org/practicing-law-in-iran-risks-and-challenges/>.
- <sup>39</sup> WGAD, Opinion No. 92/2017 concerning Ahmadreza Djalali, (20 December 2017), para 48.
- <sup>40</sup> In HRW, Iran: Targeting of Dual Citizens, Foreigners. Prolonged Detention, Absence of Due Process. 26 September 2018, <https://www.hrw.org/news/2018/09/26/iran-targeting-dual-citizens-foreigners>
- <sup>41</sup> Iran Wire, ‘Iranian TV’s New Conspiracy Series’, 12 January 2019 <https://iranwire.com/en/features/5772>.
- <sup>42</sup> France 24, ‘Iran TV airs new footage of jailed UK-Iranian detainee’, 10 January 2019, <https://www.france24.com/en/20190110-iran-tv-airs-new-footage-jailed-uk-iranian-detainee>
- <sup>43</sup> WGAD, Opinion No. 52/2018 concerning Xiyue Wang, 21 September 2018, para. 24
- <sup>44</sup> BBC News, ‘Iran TV broadcasts jailed doctor ‘confessing to spying’,’ BBC, 17 December 2017
- <sup>45</sup> Amnesty International, *Appeal Case: Saeed Malekpour* (4 October 2016), at <https://www.amnesty.org/download/Documents/MDE1349322016ENGLISH.pdf>.
- <sup>46</sup> Nazila Nik, ‘Saeed Malekpour turns 43 behind bars, you are not forgotten’, 28 May 2018, at: <https://www.amnesty.ca/blog/saeed-malekpour-turns-43-behind-bars-you-are-not-forgotten-0>
- <sup>47</sup> WGAD, Opinion No. 52/2018 concerning Xiyue Wang, UN Doc A/HRC/WGAD/2018/52, 21 September 2018
- <sup>48</sup> Zamira Rahim, ‘Nazanin Zaghari-Ratcliffe: British mother ends hunger strike in Iranian prison’, The Independent, 16 January 2019
- <sup>49</sup> Centre for Human Rights in Iran, ‘Dual National Imprisoned in Iran, Kamran Ghaderi, Struggling to Access Medical Treatment for Untreated Tumor’ (20 December 2018), at <https://iranhumanrights.org/2018/12/dual-national-imprisoned-in-iran-kamran-ghaderi-struggling-to-access-medical-treatment/>.
- <sup>50</sup> Center for Human Rights in Iran, ‘Iranian-Dutch Dual National and Dissident Imprisoned in Tehran Denied Medical Care’ (1 February 2017), at <https://www.iranhumanrights.org/2017/02/sabri-hassanpour-tv-anchor-arrested-by-irgc/>.
- <sup>51</sup> *Ibid.*, para. 12
- <sup>52</sup> Jessica Schulberg, ‘Her Husband Was Detained In Iran. Now She’s Raising Their Child On Her Own’, HuffPost USA, 6 January 2019
- <sup>53</sup> 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
- <sup>54</sup> On the US Government’s ‘Virtual Embassy of Iran’, it has written that ‘Foreigners ... are frequent targets for the regime, who see them as opportunities to extract money or policy changes from governments.’ [<https://ir.usembassy.gov/hostages-as-bargaining-chips-an-iranian-tradition/>]. The UK Government has not used the term hostage, however has stated that persons have been taken as a pawn for diplomatic leverage. See, Aamna Mohdin, ‘Iran jailed Nazanin Zaghari-Ratcliffe for diplomatic leverage, says Hunt’, The Guardian, 28 December 2018.
- <sup>55</sup> Iran Human Rights Documentation Center, ‘Open Letter by Six Families of Dual and Foreign Nationals Imprisoned in Iran’, 4 December 2018
- <sup>56</sup> Art. 1(1) *International Convention Against the Taking of Hostages*, 1979
- <sup>57</sup> ‘Held Hostage? A Legal Report on Hostage-Taking By States in Peacetime and the Victim Protection Gap’, Thomson Reuters Foundation, 1 October 2018, at <http://www.trust.org/publications/i/?id=33235268-ff46-4110-9c4d-ef7e129253af>
- <sup>58</sup> Patrick Wintour and Saeed Kamalik Dehghan, ‘UK hopes to end long legal dispute with Iran over 1976 arms deal’, The Guardian, 16 November 2017
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- <sup>60</sup> *Akayesu*, 2 September 1998, para. 580; *Prosecutor v. Tadic* (ICTY) (7 May 1997) para. 648, citing from the ILC Draft Code of Crimes Against the Peace and Security of Mankind; *Prosecutor v. Kunarac* (ICTY), IT-96-23 & IT-96-23/1-A, Judgment (12 June 2002) para. 94.
- <sup>61</sup> *Prosecutor v. Kunarac*, IT-96-23 & IT-96-23/1-T, Judgment (22 February 2001), para. 415.
- <sup>62</sup> *Musema*, 27 January 2000, para. 205.
- <sup>63</sup> ICC Elements of Crimes, Article 7.
- <sup>64</sup> *Prosecutor v. Perišić* (ICTY) IT-04-81-T, Judgement (6 September 2011) para 82.
- <sup>65</sup> *Prosecutor v. Naletilić and Martinović* (ICTY), IT-98-34 Judgement, (March 31 2003), para. 235.

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<sup>66</sup> *Akayesu*, 2 September 1998, para. 578

<sup>67</sup> *Prosecutor v. Krajisnik* (ICTY) IT-00-39 Judgment (27 September 2006) para 740.

<sup>68</sup> *Prosecutor v. Kordic and Cerkez*, (ICTY), IT-95-14/2 Appeals Judgment, 17 December 2004, para. 116