

Submission
To the inquiry into the wrongful detention of Australians overseas

Mr Jebeli was wrongfully detained by the Iranians on the 30th of January 2020. Shokrollah Issa Jebeli was an Australian citizen. He was 80 when he was detained, and held in Evin Prison in Iran for 2 years and 2 months until he died as a result of his imprisonment and ill treatment by Iranian authorities on 20 March 2022.

Mr Jebeli migrated to Australia in 1976 bringing his family here the following year. He was a loving father to his three children. He chose Sydney as the place where he and his family would live and his children would attend school.

After Mr Jebeli was imprisoned overseas, His son contacted DFAT for help. The initial phone call set the tone for what would be an at arms length interaction with DFAT and the embassy in Iran. The DFAT staff member who took that initial inquiry only showed genuine concern when his son told him his father's name, Issa. He said, "Is he Christian, Issa means Jesus?" The implication being, that if he is Christian, the kind of assistance would be more involved. This is the impression he got from that question. Of course, it should not make a difference what he is. An Australian citizen has been detained without charge and we do not know what is going on over there. The family is worried sick in Sydney. That first call should be outlining what the Australian government will do, the first steps. Find out where he is, what his condition is. Advise their intention to meet with his father to their Iranian counterparts and to keep the family updated.

Instead, his son received a generic email with a short list of suggested lawyers. He was told that Iran does not recognise his Australian citizenship and therefore Australia cannot get consular access to Mr Jebeli. This was the tone of emails and phone calls up until Mr Jebeli died.

The entire time Mr Jebeli was in Evin prison, DFAT showed no urgency to find a route to save his life. It is reasonable to say that they knew it was a matter of life and death, since they knew Mr Jebeli was an elderly man with multiple health conditions. That his imprisonment in one of the harshest prisons in the world would impact his health so severely that it could kill him. To any reasonable person it is a valid conclusion one could reach.

We do not believe Mr Jebeli's being a dual citizen should have any bearing on what the Australian government should or could do. Iran does not decide who is a citizen of Australia,

Australia does. For example, he could have renounced his Iranian citizenship; What then? What would DFAT say was preventing them from giving him consular assistance and meeting him face to face to help him?

There is the case of Kylie Moore Gilbert. She was, for the most part of her first year, in an Iranian prison unbeknownst to most Australians. However, she did have consular assistance, and when the matter entered an urgent phase, the Australian government took a very unorthodox action. A prisoner exchange via a proxy, third-party government (Thailand) that had three Iranian prisoners. This could not have been an easy task and possibly required multiple agencies within the government to facilitate and negotiate the outcome.

Yet Mr Jebeli, who similarly reached a point of urgency, was left to die in custody. No plan was devised to negotiate his release and effectively, save his life. What is clear from the prisoner exchange example, is that despite there being policy and procedure, the Australia government can employ non procedural methods or quiet diplomacy to obtain positive outcomes for Australians wrongfully detained abroad. The same can be said for Julian Assange who gained freedom from prison with the direct assistance of the prime minister Anthony Albanese contacting the President of the United States to advocate for his release back to Australia and his family.

- a) how Australia can improve its policy framework to deter the practice of arbitrary detention for diplomatic leverage ('hostage diplomacy') and increase transparency and public awareness of the regimes which engage in the practice;
- b) Australia's foreign policy responses to regimes that wrongfully detain Australian citizens;

Firstly, Australia can acknowledge the Australians and their families that have been affected by arbitrary detention overseas. No member of parliament raised his case in the public arena. Taking Mr Jebeli's case as a case study of how not to handle cases like this; Australia can build resources that deliver a clear set of principles and protocols outlining Australia's response mechanism to cases of wrongful detention of Australians overseas. Explore the creation of and implementation of a dedicated and specialised team or agency to deal with these cases and to liaise with victim's families based on those principles and protocols. Implement and enforce effective sanctions against the perpetrators of arbitrary detention and extrajudicial execution of Australians abroad. Mr Jebeli's imprisonment and death was a serious violation of his human rights. Deaths in custody resulting from the deliberate denial of healthcare amount to arbitrary deprivation of life which is a serious violation of international human rights. It would also constitute an extrajudicial execution where there is intent to kill. This is a crime under international law.

- c) Australia's current processes for categorising and declaring cases of wrongful detention;
- d) the management of cases of wrongful detention by the Department of Foreign Affairs and Trade;
- e) communications with and support for families of Australians being wrongfully detained overseas;

I'm not aware of any current process for categorising and declaring cases of wrongful detention. Not a single MP or the FM, or PM spoke about Mr Jebeli in parliament yet they spoke about the Iranian woman Mahsa Amini, who was not an Australian citizen but received more attention than Mr Jebeli who was a citizen of this country.

In 2021 Mr Jebeli recorded an audio message addressed to the prime minister. His son asked DFAT to forward his message but was refused. Staff told him they are not a messaging service and to go to the public website for submitting requests to the PM. After following the link provided, he landed on a page that was not working, with no timetable of when it would be operational again. Should there be better communication skills and a caring approach toward Australians wrongfully detained? Was this an appropriate process for dealing with a citizen in imminent risk of death? What would have happened if a specially skilled agency or department were handling these cases. I'm sure Mr Jebeli's plea would have reached the PM. It may have changed the course of events and brought about a path to real help for him.

Despite the optics, the support he was given was surface level. There was no urgency, no quiet diplomacy and no alternative steps taken to prevent Mr Jebeli's death which was, as outlined above, to any reasonable person, a clear and apparent danger.

After Mr Jebeli died in custody (effectively murdered by extrajudicial execution), the foreign minister went on the ABC. She said about his family, "we will support them in any way we can". His son asked the government for three things:

An inquiry into Mr Jebeli's death in Iran. The people involved, from judges, doctors, prison wardens, staff, nurses, guards, government officials etc and the circumstances leading to his death.

Help with getting Mr Jebeli's body repatriated to Australia to be buried near his family as per his wishes to them before he died.

Written acknowledgement that Mr Jebeli's treatment and eventual death resulting from that treatment was wrong and should never have happened. That it was preventable and should have been prevented.

The only thing Government did was deliver a small bag of his personal possessions, family photos etc from Iran to his family.

His son will continue to wait on his requests for the inquiry / investigation / report into his father's death in custody and the letter stating that it was wrong what Iranian authorities did and that it was completely preventable.

Thank you for your time in this inquiry. We genuinely hope it brings real and necessary change to how victims of wrongful detention overseas and their families are dealt with. We also hope that the family's requests are met with.

Yours faithfully,

12 August 2024