

# **Submission to the Inquiry into the wrongful detention of Australian citizens overseas to the Foreign Affairs, Defence and Trade Reference Committee**

I am writing this submission as an Australian citizen and sister of Mr Hasan Askree, a 54 year old dual Australian and Pakistani citizen. [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

This submission will highlight the grave inadequacies of DFAT's response to Hasan's case and pose recommendations to prevent future failure of the Australian government in protecting and supporting their overseas citizens enduring wrongful detention.

## **Background**

Hasan Askree immigrated to Australia in 2000 and returned to Islamabad, Pakistan in 2015 as the primary caretaker for after our elderly parents. [REDACTED]

[REDACTED]. Details of the case are presented in this Guardian Australia article: <https://www.theguardian.com/australia-news/2023/apr/11/australian-mans-jail-sentence-for-writing-critical-letter-to-pakistan-military-a-torment-for-family>.

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Over a year on since his release, Hasan is still barred from leaving Pakistan as his name is yet to be removed from exit and passport control lists. DFAT continues to fail its duty to protect Hasan as an Australian citizen in assisting his rightful return to Australia to reunite with his friends and family.

## **DFAT's response to Hasan Askree's Case**

In October 2020, I had no choice but to indefinitely leave my husband, children and work behind in Sydney to advocate for Hasan's release and adopt his role as the caretaker for our ill parents.

I immediately requested consular assistance from the Australian High Commission in Islamabad, Pakistan. I requested the High Commission to investigate his whereabouts and conduct a welfare check. Unaware of whether Hasan was even alive, we had to wait two months until DFAT officials met with Hasan. At this time, Hasan had faith that DFAT would ensure his release shortly. Yet following this visit, DFAT's communication and action to reverse Hasan's wrongful detention collapsed.

Between September 2021 to June 2023, I made multiple requests for DFAT to organise a consular visit to monitor Hasan's basic human rights as an Australian citizen and assign him a

case worker. Over this two-year period, DFAT failed to fulfil these basic requests. Despite deeming Hasan's case as high priority, we were not assigned a case worker and DFAT claimed delays in receiving permission for visitations. The Australian government had virtually abandoned me to fight for Hasan alone.

After two and a half years [REDACTED]

[REDACTED] my family and I decided to go public with the case in April 2023. The issue quickly caught the Australian media's attention including coverage on Channel 10's The Project as well as news media such as the Guardian Australia. This led to the matter being raised by Senator David Shoebridge in the Senate.

Within weeks of media and political attention, DFAT organised a consular visit and assigned us case workers on the 7th of June 2023. However, it should be noted that this assistance was finally offered just one week prior to Hasan's release - [REDACTED]  
[REDACTED]

It is appalling that DFAT's efforts towards our case were conditional on media and political pressure. It was too little and far too late.

### **Weaknesses of DFAT's response pertaining to the inquiry's Terms of Reference**

*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;*

- Australia does not have clear diplomatic guidelines and protocols to address or respond to cases of arbitrary detention.
- Pakistan and Australia are signatories of the Vienna Convention on Consular Relations and bound by the International Covenant on Civil and Political Rights. Australia failed to hold Pakistan accountable for the breach of the protection of its citizens as stipulated by the above international agreements and conventions.

*c) Australia's current processes for categorising and declaring cases of wrongful detention;*

- DFAT failed to declare Hasan's case as wrongful detention until after I publicised his case through international media two and a half years after his initial forced disappearance.

*d) The management of cases of wrongful detention by the Department of Foreign Affairs and Trade;*

- DFAT's management of Hassan's case was unacceptably inefficient -Hasan suffered for over two years before receiving a follow up consular visit and a caseworker.
- Evidently, DFAT lacks suitable/effective protocols/guidelines for assigning case workers to Australians enduring wrongful detention or their families.
- The current protocols fail to appropriately prioritise cases based on their urgency, and seem to instead be predicated on sufficient public and/or parliamentary pressure being applied to trigger a response in order to preserve the department's reputation

*e) communications with and support for families of Australians being wrongfully detained overseas;*

- Over the period of Hasan's wrongful detention DFAT's communication with Hasan and myself was consistently cold, discompassionate and impersonal.
- After going public to the media, my family and I received hostile threats in Pakistan. When I informed DFAT to seek protection, their only response was to advise me to return to Australia. This insensitive, futile response suggested I should abandon the fight for my brother's release as well as our ill parents who had been in Hasan's care, without offering any actual assistance, support or even basic compassion.
- DFAT failed to provide me access to a support network of contacts and resources to assist my family through this traumatic experience. This includes other Australian families with similar cases and international advocacy organisations.

*f) communications with and support for Australians who have been released from wrongful detention;*

- DFAT is currently failing to support Hasan's rightful return to Australia that is being barred by the Pakistani government. Since his release over a year ago, he has sought assistance from DFAT to reverse his unjust travel restriction. DFAT's communication has been poor, inconsistent, and vague, details provided to him regarding government actions being taken or when he might be able to return to his life and family in Australia.

## **Key recommendations**

### **1. Australia must uphold its responsibility to condemn violations of International law pertaining to wrongful detention**

i) Pakistan and Australia are signatories of the Vienna Convention on Consular Relations and bound by the International Covenant on Civil and Political Rights. Australia must uphold its duty to hold fellow signatories accountable for wrongful detention as a violation of international law and fundamental human rights.

ii) [REDACTED]

iii) Australia should initiate building an international coalition to hold such regimes accountable, per obligations under international law and international legitimacy

### **2. Australia must establish clear, detailed diplomatic guidelines and protocols to address cases of wrongful detention.**

i) Clear guidelines on what constitutes wrongful detention as per international law, and clear detailed guidelines and protocols for responding to cases of wrongful detention must be established formally in the Australian context

ii) DFAT must prioritise and respond to those cases appropriately and effectively according to their assessment based on these established guidelines and protocols.

iii) These guidelines and protocols should be made accessible to citizens and clearly outline how the government will respond to such incidents. This is crucial information for the persons involved, including the detainee and the people responsible for the wellbeing of the detainee, such as their family.

iii) These guidelines must also include how the incident will be communicated to the Australian public, Australian parliament and the international community.

**3. Australia must establish swift assessment mechanisms to review cases of wrongful detention and expedite their case management and resolution**

i) There must be mechanisms for citizens to log wrongful detentions against set criteria via a website or accessible communication channel.

ii) These cases must be made public so that key institutions such as the media and the public can hold DFAT accountable for their management and response

iii) DFAT should provide consistent, regular updates to the family and the public on the development of the case. The onus to seek updates of DFAT's actions should not be on the affected citizens or their families.

iv) Case workers should be assigned as soon as practicable once DFAT is informed of an Australian's wrongful detention. Ensuring access to a case worker is essential to humanise DFAT's engagement with families of those wrongfully detained. A continual familiar point of contact with a case worker is essential to provide affected families with a sense of dignity and agency whilst navigating the traumatic situation at hand.

**4. DFAT must direct affected persons of wrongful detention to an established support network joining together families who are enduring or have endured similar experiences**

i) Australian citizens should have government-backed support services made available for persons involved and affected by wrongful detention. The Australian government must provide connections and initiate contact with international multilateral organisations, non-governmental organisations and human rights groups that advocate against wrongful detention, such as the United Nations High Commissioner for Refugees (UNHCR) and Amnesty Australia, rather than citizens having to navigate this situation and access support on their own.

**5. DFAT must ensure an empathetic, sensitive approach to engaging with those wrongfully detained and their affected family.**

i) The experience of a wrongful detention, an abhorrent violation of one's fundamental human rights, may be one of the most distressing situations a person can endure. The distress caused is not only on the detainees but the persons responsible for the detainee's well-being, such as their family and friends.

ii) DFAT must recognise the compassion required for the handling of cases of wrongful detentions. Compassion that is commensurate to the seriousness of the situation must be maintained. Australia has shown such compassion towards addressing issues of national interest

including suicide prevention and supporting victims of domestic violence -such an approach is also imperative for persons dealing with wrongful detention.

**6. The government must ensure that the resolution of wrongful detention includes the safe return of its citizens to Australia.**

- i) Within the protocols of managing wrongful detention, Australia must ensure that a case is only considered resolved upon the safe return of its citizens to Australia
- ii) This must include guidelines on communicating and negotiating the release of the detainees not only from the prison system but also facilitating their travel home to Australia.

**Conclusion**

Hasan suffered for almost three years [REDACTED]

[REDACTED] Our family suffered alongside him. The Australian government failed its duty to protect Hasan as an Australian citizen as DFAT neglected his case of wrongful detention for two and half years. The Australian government likewise failed its duty to support me as an Australian citizen in advocating for his release.

DFAT must act immediately to facilitate Hasan Askree's rightful return to Australia, and implement the recommendations posed in this submission to rectify the inadequacy of DFAT's responses to the wrongful detention of Australians overseas.

Thank you for your consideration.

Kind Regards

Zehra Mehdi