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My name is Robert Pether. I am an Australian citizen, and a well respected professional Engineer who works in the construction sector. My specialty is the construction management of highly advanced mega projects such as hospitals, laboratories, museums, a space centre and a central bank. I have worked in the international arena since 2011, predominantly in the UAE and Bahrain, where I have been instrumental in the design and delivery of five major hospital construction projects.

I was unlawfully arrested and detained in Iraq on 7 April 2021. I remain incarcerated in Iraq under wrongful detention to the present time. As of the date of writing this response I have been detained for 1,208 days, with still no end in sight.

***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;***

It is my belief that Australia needs to create a body independent of DFAT to manage cases of unlawful detention. This should be based upon the models incorporated by the USA and Canada. This unit needs to be a governmental unit, but should operate independently of DFAT.

Consideration should be given to adjusting the smart traveller website to indicate when countries have engaged in wrongful detention activities, especially if these actions relate to business activities. Smart Traveller appears to be largely aimed at infrequent travellers, predominantly tourists, in its current format, rather than expatriate and business travellers that have extended experience in regions outside of Australia. Business travellers are more likely to take note of an item such as "There have been cases of unlawful detention in this country. These cases were linked to business activities, etc."

Adding a section to the smart traveller website that indicates whether a nation has previously taken foreign nationals into arbitrary detention, and a time line as to when this occurred, along with a date of successful resolution (or otherwise) would help. Ideally this would be aligned with a risk matrix to determine the likelihood of an event occurring (e.g. the probability of an event with Iran would most likely be higher than the probability of an event occurring in Mongolia). This will provide additional information for Australians to base their decision to travel upon, but cannot be considered to be a failsafe.

When an Australian citizen has been wrongfully detained, it is essential that DFAT identify this as quickly as possible and start taking relevant actions. There appears to be a window of opportunity of less than two weeks where a release can be quickly obtained if appropriate representation is made immediately. If this window is ignored the reality is that the situation is likely to intensify and drag on for years, as by this time the detainee has been absorbed by the judicial system of the regime country and a release cannot be as readily achieved.

***b) Australia's foreign policy responses to regimes that wrongfully detain Australian citizens;***

There are a number of options that should be considered as a response to this. In order of preference and sequence these would be:

1. Negotiation for release, nominally allow a three-month period for this option; if there is no movement by the regime holding the prisoner in this period of time, then it is not going to work.
2. Engage with any nation that Australia has good relations with who may be able to offer any help in resolving the situation. In particular this step should include the USA and the UK, as Australia has a strong relationship with both, and both have significantly more influence than Australia in the international arena. (Say from 3 months after arrest onwards)
3. Raise Magnitsky sanctions against the key people involved in the detention case in the foreign regime (particularly in cases where the prisoner is found to be in arbitrary detention by the UN). (Start this action 6 months after the arrest)
4. Put a pause on any trade deals currently underway (or proposed) between Australia and the foreign regime. (Start this action 6 months after the arrest)
5. Pause any community aid or foreign aid being provided to the foreign regime by Australia (Start this action 6 months after the arrest).
6. Freeze postal/ courier/ banking transfer services between Australia and the regime nation. (Start this action 6 months after the arrest)
7. Raise international sanctions against the regime nation in the UN. (Start this process 12 months after the arrest)

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

DFAT does not appear to have a clear process to categorise a hostage situation or arbitrary detention (the categorisation utilised by DFAT should align with the categorisation criteria used by the United Nations), nor do they have a clear process for handling these types of case. DFAT needs to develop both a valid criterion for assessment and a protocol for handling these types of cases. Currently DFAT appears exceedingly reluctant to take any form of proactive or meaningful action in this type of case, and certainly does not have a plan to address these types of case. The level of secrecy that they maintain means that the left hand does not know what the right hand is doing, and as such DFAT is missing many opportunities that would allow a case of wrongful detention to be resolved expeditiously.

In addition, when a case has been determined to be arbitrary detention by an external party such as the United Nations, DFAT should accept this and work with it, rather than spending years arguing that this is an opinion by the UN and does not mean that the person is in wrongful detention.

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

The current management of wrongful detention cases by DFAT is significantly lacking. There appears to be an absence of any solid plan to address a case of wrongful detention. Similarly, the secrecy that DFAT operates under means that they are missing multiple opportunities to resolve these cases in a far more expeditious manner.

The approach DFAT currently employs is closer to complacency, which is effectively complicity with the actions of the regime who has undertaken the wrongful detention. A complacent response encourages the regime to keep going with their current actions, as they are not meeting any resistance from Australia, ergo the regime sees their actions as effectively being endorsed by Australia, given that there is no effective response.

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

DFAT appears to studiously avoid engaging with the families of Australians who have been wrongfully detained. By not engaging with the families of the detainees, DFAT is ignoring an additional, valuable resource which would assist in resolving these situations. Similarly, DFAT does not provide any guidance to the families of the detainee, leaving them to try and blunder their way through a completely unfamiliar situation with little or no resource, which also poses the risk of further complicating or unintentionally inflaming the situation further.

Added to this, DFAT does not provide any form of support to the families and the manner in which they currently conduct themselves actually puts more pressure onto the families – above and beyond the pressures they are already experiencing due to the situation that their loved ones have been trapped in. There is no compassion, counselling or any other form of guidance or assistance to the family's forthcoming from DFAT. The families have to spend most of their time fighting DFAT for information or updates rather than being able to work with DFAT and focus on finding a solution to the situation, which should be the common goal for both parties.

Similarly, DFAT does not provide any form of emotional or trauma support to the detainees themselves. The consular staff that visit the detainees frequently say that they have received training from Life Line, however they excel at removing all hope from the detained and repeatedly leaving them in a very vulnerable psychological state. In my instance DFAT embassy representatives left me suicidal on multiple occasions through the manner in which they delivered updates to me while in prison. There appears to be no awareness that the victim of the wrongful detention is also blundering their way through an unfamiliar system, in an unfamiliar country with no accessible support network. The catch all of "Why don't you call Life Line when you are struggling?" shows that the lack of understanding of the realities of life in detention. Phones are not necessarily accessible. The detainee has to be psychologically self-reliant at all times.

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

I am still a wrongfully detained Australian in Iraq. I have been wrongfully detained since 7 April, 2021. Beneath these short answers is a more detailed response and outline of the situation that I found myself in.