ARTICLE

INTERNATIONAL LAW AND THE DEFENSE OF POLITICAL PRISONERS AND PRISONERS OF CONSCIENCE

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I. INTRODUCTION 281
A. Defining Political Prisoners and Prisoners of Conscience 282

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B. Historical Perspectives on Political Imprisonment 284
C. Foundations of International Human Rights Law 289
II. ANALYSIS 292
A. Challenges Faced by Arbitrarily Detained Individuals for Political Reasons 292
B. Mechanisms for Redress 293
1. CSOs and NGOs 294
2. Consular Assistance 297
3. Special Procedures of the HRC 300
4. UPR of the HRC 304
5. Treaty Bodies 305
6. Adjudication in Regional Human Rights Courts 306
7. Adjudication in International Courts and Tribunals 307
8. Universal Jurisdiction 309
9. Evidence-Based Sanctions Recommendations 311
III. ADVOCACY PLAN FOR JUSTICE AND ACCOUNTABILITY 313
A. Legal Representation 313
B. Documentation, Evidence Gathering, and Petitioning 314
C. Involve Your Government and Diplomatic Channels 314
D. Engage Families of Political Prisoners 315
E. Name and Shame Detaining Country 315
F. Organize Public Advocacy Campaign 315
G. Mobilize and Leverage International Pressure 316
H. Build International Coalitions 316
I. Build a Critical Mass of Advocacy with Civil Society 316
IV. CASE STUDIES 317
A. Case of Dawit Isaak 317
1. Context 317
2. Fact Pattern 317
3. Domestic Advocacy 324

4. International Advocacy 326
B. Case of Ahmadreza Djalali 328
1. Context 328
2. Fact Pattern 329
3. International Advocacy 332
V. CONCLUSION 334

I. INTRODUCTION

The international community continues to witness a concerning trend of political repression and unjust incarceration of dissidents, including political opposition members, activists, intellectuals, academics, journalists, and human rights defenders. From authoritarian regimes to democratic nations, the suppression of dissenting voices has become prevalent. As fundamental rights and freedoms are increasingly violated, the strengthening and enforcement of international legal frameworks become even more essential to sustain the rules-based international order. Against the backdrop of geopolitical tensions, shifting power dynamics, and evolving interpretations of sovereignty, the examination of international legal instruments and mechanisms becomes not only a matter of scholarly inquiry but also a pressing imperative for upholding justice and accountability on a global scale. In this context, the following question will be explored: What legal avenues exist for the defense of political prisoners and prisoners of conscience, and what practices and reforms are most effective to enhance this advocacy work?

This Article will delve into the multifaceted dimensions of this inquiry, exploring the definition of political prisoners and prisoners of conscience; historical perspectives on political imprisonment; and the foundations of international human rights law. It will subsequently analyze the legal challenges faced by individuals arbitrarily detained and examine the mechanisms for redress through the role of civil society organizations ("CSOs") and non-governmental organizations ("NGOs"), the right to consular assistance, the Special Procedures of the United Nations Human Rights Council ("HRC"), the Universal Periodic Review ("UPR") of the HRC, treaty bodies, adjudication in regional human rights

courts and international courts and tribunals, universal jurisdiction, and evidence-based sanctions recommendations. The analysis will be underpinned by an investigative audit germane to the constraints and limitations of the mechanisms. It will conclude with a comprehensive and comprehensible advocacy plan for justice and accountability, exemplified through two emblematic case studies: Dawit Isaak – examining the global assault on media freedom, and Ahmadreza Djalali – analyzing the rise of hostage-taking.

A. Defining Political Prisoners and Prisoners of Conscience

A political prisoner:

> is a person who is imprisoned because that person's actions or beliefs are contrary to those of his or her government. This is the most general sense of a term that can be difficult to define. In practice, political prisoners often cannot be distinguished from other types of prisoners.[1]

At present, it is not possible to define the term political prisoner in a strictly legal sense. The difficulty stems from multiple factors, and in the absence of a standardized legal definition, the term has been applied in a wide range of contexts.

Despite the absence of a uniform definition, all interpretations of "political prisoner" recognize the central role of power relations—particularly those between dissenters and state authorities or ruling elites. Political prisoners symbolize challenges to the existing order. Regardless of whether those challenges arise from racial, economic, political, or religious contexts, any viable definition must distinguish political offenders from ordinary criminals. Historical and contemporary examples demonstrate that many people have been punished not for violating formal laws but for holding ideas that threaten established power structures[2].

Political prisoners are usually detained because they pose a perceived threat to the existing political regime. They are:

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1. Douglas J. Dallier, *Political Prisoner*, ENCYC. BRITANNICA, https://www.britannica.com/topic/political-prisoner [https://perma.cc/8X2X-93TM] (last visited Nov. 29, 2025).

2. *See* Christoph Valentin Steinert, *Who Is a Political Prisoner?*, 6 J. GLOB. SEC. STUD. 1, 13–14 (2021).

> individuals who have engaged in human rights defense and/or prodemocracy activism, and whose liberty has been restricted in an attempt to halt or hinder such work. Included in this category are human rights defenders, journalists, bloggers, and other media workers, as well as political activists advocating for democratic change.[3]

In many cases, the imprisonment of political prisoners arises from politically motivated charges or convictions, rather than legitimate criminal offenses with the underlying intent of criminalizing certain forms of political expression or association. Governments frequently invoke pretexts such as national security to justify detention, at times relying on unrelated or broadly framed laws to target individuals perceived as political threats.[4]

In 1961, Peter Benenson—whose letter helped spark the creation of Amnesty International—introduced the phrase "prisoner of conscience" to describe two Portuguese students sentenced to seven years in prison for raising a simple toast to freedom under António de Oliveira Salazar's dictatorship.[5] Since then, the terms "political prisoner" and "prisoner of conscience" have often been used interchangeably, though the latter generally refers specifically to dissidents who neither endorse nor engage in violence.[6]

Prisoners of conscience are individuals imprisoned solely for the peaceful expression of their political, religious, or other deeply held beliefs, or for their identity, even though they have neither used nor advocated violence[7]. Prisoners of conscience include artists, bloggers, community activists, dissidents, journalists, human rights defenders, lawyers, labor leaders, teachers, religious

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3. *About Our Political Prisoners Program*, FREEDOM HOUSE, https://freedomhouse.org/about-political-prisoners-initiative [https://perma.cc/76RD-LSGW] (last visited Nov. 24, 2025).

4. *See generally* NIGEL RODLEY & MATT POLLARD, THE TREATMENT OF PRISONERS UNDER INTERNATIONAL LAW (3d ed. 2009); *see also* David P. Forsythe, *Political Prisoners: The Law and Politics of Protection*, 9 VAND. J. TRANSNAT'L L. 295, 297–98 (1976).

5. Peter Benenson, *The Forgotten Prisoners*, THE OBSERVER (May 28, 1961), https://www.theguardian.com/uk/1961/may/28/fromthearchive.theguardian [https://perma.cc/CG4R-9UWF].

6. *See* Steinert, *supra* note 2, at 6–7.

7. *See Who Are Prisoners of Conscience?*, TOM LANTOS HUM. RTS. COMM'N, U.S. CONG., https://humanrightscommission.house.gov/DFP/who-are-prisoners-conscience [https://perma.cc/3B9M-YS5J] (last visited Nov. 20, 2025).

leaders, and members of religious communities—all individuals advocating for ideas or values peacefully.[8]

In many countries, governments imprison, torture, or even execute people simply because their views, identity, beliefs, or methods of expression are considered unacceptable.[9] The "crimes" for which prisoners of conscience are accused or convicted should not be crimes at all. By targeting these individuals, governments restrict the free flow of information, stifle independent civil society, limit the power of people to express themselves, and suppress challenges to authority.[10]

B. Historical Perspectives on Political Imprisonment

Over the course of history, political imprisonment has been used by rulers to maintain power, quash dissent, and deter resistance[11]. Political imprisonment dates from ancient civilizations, including Egypt, Mesopotamia, Greece, and Rome where political imprisonment was common as rulers sought to retain dominance by suppressing dissent and using imprisonment, exile, or execution to eradicate political rivals[12]. During the medieval and feudal periods in Europe, monarchs and feudal lords frequently imprisoned individuals who challenged their authority[13]. During the Inquisition, religious institutions such as the Catholic Church, also detained individuals deemed "heretical" or "subversive."[14]

During the Reformation and Enlightenment eras, the ascent of new ideas about individual rights and freedoms augmented challenges to state control.[15] As states developed centralized

8. *See* H.R. Res. 750, 115th Cong. (2018).

9. *See Who Are Prisoners of Conscience?*, *supra* note 7.

10. *See id.*

11. *See Visible and Invisible Bars: Political Imprisonment, Civil Death, and the Consequences of Democratic Erosion*, FREEDOM HOUSE (Jan. 2024), https://freedomhouse.org/report/free-them-all/2024/visible-and-invisible-bars [https://perma.cc/5RUA-K5WJ].

12. *See* M. Denis Szabo, *Political Crimes: A Historical Perspective*, 2 DENV. J. INT'L L & POLY 7, 10–11(1972).

13. WILLIAM CHESTER JORDAN, EUROPE IN THE HIGH MIDDLE AGES 45–46 (2001).

14. *See* Szabo, *supra* note 12, at 12–13.

15. *See What Was the Enlightenment, and How Did it Transform Politics?*, COUNCIL ON FOREIGN RELS., https://world101.cfr.org/contemporary-history/prelude-global-era/what-

bureaucracies and legal systems to exercise authority, political imprisonment became increasingly methodical.[16] Colonial powers used political imprisonment to clampdown on resistance movements in their colonies; and leaders, such as Mahatma Gandhi in India and Nelson Mandela in South Africa, were imprisoned for their activism.[17]

The 20th century encompassed a rise of totalitarian regimes such as Nazi Germany, Fascist Italy, and the Soviet Union, which systematically used political imprisonment as a tool of repression.[18] Millions of people were imprisoned, tortured, and executed for their political beliefs or affiliations under these regimes.[19] The Cold War era was marked by political imprisonment on both sides of the East-West divide.[20]

In response to the atrocities of World War II and other historical injustices, the seeds of international law and human rights were sown[21]. The establishment of the United Nations in 1945 marked a significant turning point, as member states committed to promoting and protecting human rights globally.[22] Core documents such as the Universal Declaration of Human

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enlightenment-and-how-did-it-transform-politics [https://perma.cc/X9SV-VA2G] (last updated Sep. 1, 2025).

16. *See State Formation and Centralization of Power*, SOC. SCIS. LIBRETEXTS, https://socialsci.libretexts.org/Courses/Solano_Community_College/SOC_002%3A_Social_Issues_and_Problems/15%3A_Government/15.02%3A_Government_and_the_State [https://perma.cc/R7YF-QADU] (last visited Mar. 29, 2026).

17. *See* ROBERT J. C. YOUNG, POSTCOLONIALISM: AN HISTORICAL INTRODUCTION 25–26 (2001).

18. *See* HANNAH ARENDT, THE ORIGINS OF TOTALITARIANISM 437–59 (1951) (describing the use of concentration camps and political detention as instruments of totalitarian control); ROBERT GELLATELY, BACKING HITLER: CONSENT AND COERCION IN NAZI GERMANY 52–78 (2001) (documenting the role of imprisonment and surveillance in enforcing Nazi rule).

19. *See* Timothy Snyder, BLOODLANDS: EUROPE BETWEEN HITLER AND STALIN 3–5 (2010).

20. *See* ANNE APPLEBAUM, GULAG: A HISTORY 101–150 (2003) (describing political imprisonment in the Soviet sphere during the early Cold War); ELLEN SCHRECKER, MANY ARE THE CRIMES: MCCARTHYISM IN AMERICA 45–70 (1998) (documenting political repression, blacklisting, and imprisonment in the US during the Cold War).

21. *See Human Rights, Prevention of Conflict or Crisis and Building Resilience*, OHCHR, https://www.ohchr.org/en/prevention-and-early-warning/human-rights-prevention-conflict-or-crisis-and-building-resilience [https://perma.cc/A5B6-LTJP] (last visited Nov. 24, 2024).

22. The United Nations was established in 1945 to promote international cooperation and respect for human rights, as articulated in Article 1, paragraph 3 of the U.N. Charter. U.N. Charter art. 1, ¶ 3 (1945).

Rights[23] ("UDHR") emerged, outlining fundamental principles that transcend national boundaries and affirming the inherent dignity and equal rights of all individuals.[24]

Near the end of World War II, Raphael Lemkin, a Polish-Jewish lawyer and scholar, began to articulate the need for legal protection against the crime of genocide.[25] Witnessing the systematic extermination of millions of Jews and other targeted groups by the Nazis, Lemkin recognized the urgent necessity for an international legal framework to prevent and punish such atrocities.[26] Lemkin's indefatigable advocacy culminated in the drafting and adoption of the Convention on the Prevention and Punishment of the Crime of Genocide[27] (Genocide Convention) by the United Nations General Assembly (UNGA) on December 9, 1948.[28]

The Genocide Convention defined genocide as "acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group,"[29] and it established genocide as a crime under international law. It represented a significant milestone in the development of international human rights law, embodying the collective commitment of the international community to prevent future atrocities and hold perpetrators accountable. The emergence of the Genocide Convention underscored the need to safeguard fundamental human rights on a global scale, and served as a guiding light amidst darkness, even amidst the onset of the Cold War.

The emergence of nation-states and the concept of national sovereignty also considerably influenced the landscape of

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23. *See* G.A. Res. 217 (III) A, Universal Declaration of Human Rights (Dec. 10, 1948) [hereinafter UDHR].

24. *See The Universal Declaration of Human Rights at 75: Our Shared Values and Path to Solutions*, UN CHRONICLE (Dec. 8, 2023), https://www.un.org/en/un-chronicle/universal-declaration-human-rights-75-our-shared-values-and-path-solutions [https://perma.cc/RRC6-J6BS].

25. *See* RAPHAEL LEMKIN, AXIS RULE IN OCCUPIED EUROPE 79–85 (1944).

26. *See* Leora Bilsky, *Cultural Genocide and Restitution: The Early Wave of Jewish Cultural Restitution in the Aftermath of World War II*, 27 INT'L J. CULTURAL PROP. 349, 349–51 (2020).

27. *See* Convention on the Prevention and Punishment of the Crime of Genocide, Dec. 9. 1948, 78 U.N.T.S. 277.

28. *See* LEMKIN, *supra* note 25.

29. *See* Convention on the Prevention and Punishment of the Crime of Genocide, *supra* note 27.

international human rights law.[30] As nation-states emerged and consolidated power, the principle of national sovereignty became a cornerstone of international relations, emphasizing each state's right to govern its territory without external interference. However, the tension between nation-state sovereignty and international human rights norms reflected the incorporation of transnational legal and moral standards into the modern state, where sovereign authority endures but is increasingly shaped and reconstituted by evolving human rights frameworks.[31] While states maintain authority within their borders, they are increasingly held accountable for their treatment of individuals, including political prisoners, under international law.[32]

Over the course of the last three decades, the political landscape has undergone significant transformation marked by a "democratic recession."[33] Authoritarian regimes like China and Russia openly challenge the Western liberal-democratic model, while populist movements within Western democracies question its efficacy. This democratic regression is not confined to peripheral nations but has also affected leading democratic nations like the United States and Britain.[34]

As a result of challenges emanating from within consolidated democracies, along with the rise of "sharp power"[35] deployed by authoritarian regimes to undermine liberal-democratic norms, political debates and divisions are increasingly shaped by identity-related issues such as race, ethnicity, gender, religion, and

30. *See* LOUIS HENKIN, THE AGE OF RIGHTS 30–32 (1990).

31. *See generally* DAN LEVY & NATAN SZNAIDER, *International Law and the Formation of Nation-States*, *in* HUMAN RIGHTS AND MEMORY 57 (2010) (examining the relationship between international human rights law and the development of modern nation-states).

32. *See* HENKIN, *supra* note 30, at 35–37; *Core Human Rights Instruments*, OHCHR, https://www.ohchr.org/en/professionalinterest/pages/coreinstruments.aspx [https://perma.cc/A63J-4WKV] (last visited Mar. 29, 2026).

33. Francis Fukuyama, *30 Years of World Politics: What Has Changed?*, 31 J. DEMOCRACY 11, 11 (2020).

34. *See* SARAH REPUCCI & AMY SLIPOWITZ, FREEDOM HOUSE FREEDOM IN THE WORLD 2021: DEMOCRACY UNDER SIEGE (2021), https://freedomhouse.org/report/freedom-world/2021/democracy-under-siege [https://perma.cc/484V-UMR8].

35. CHRISTOPHER WALKER & JESSICA LUDWIG, NAT'L ENDOWMENT FOR DEMOCRACY, SHARP POWER: RISING AUTHORITARIAN INFLUENCE 6 (2017), https://www.ned.org/wp-content/uploads/2017/12/Sharp-Power-Rising-Authoritarian-Influence-Full-Report.pdf [https://perma.cc/H2UQ-LDST].

nationality.[36] This reorientation has led to a fragmentation of societies into smaller identity groups, fueled by a demand for recognition and dignity, which motivates both populist movements and authoritarian regimes.[37] Despite these challenges, there remains hope for democracy, as evidenced by mass protests against authoritarianism. Navigating the current crisis requires rebuilding and reinforcing the legitimacy of liberal-democratic institutions while mitigating pressures that can drive authoritarian alternatives.[38]

While these "challenges within established democracies" and related damages to "the pillars of freedom" persist, political imprisonment is widely recognized as a core instrument of authoritarian regimes, which rely on repression strategically, adjusting its intensity based on institutional configurations and the level of organized opposition.[39] As a result, people around the world are pushing back against authoritarian rule and demanding democratic change.[40]

It is therefore important to contextualize the nature of the government and the circumstances surrounding the imprisonment of political prisoners, particularly in authoritarian regimes. In democratic countries, although political imprisonment may occur, it is often perceived as a departure from democratic norms, prompting public scrutiny, advocacy for the rule of law, and legal review.[41] In these contexts, the existence of political prisoners highlights failures within the system and underscores the importance of upholding fundamental civil rights, civil liberties, and human rights.[42]

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36. *See* PEW RSCH. CTR., THE PARTISAN DIVIDE ON POLITICAL VALUES GROWS EVEN WIDER (2017), https://www.pewresearch.org/politics/2017/10/05/the-partisan-divide-on-political-values-grows-even-wider/ [https://perma.cc/5TVM-93KE].

37. FRANCIS FUKUYAMA, IDENTITY: THE DEMAND FOR DIGNITY AND THE POLITICS OF RESENTMENT 6–9 (2018).

38. *See id.*

39. Rivera, Mauricio, *Authoritarian Institutions and State Repression: The Divergent Effects of Legislatures and Opposition Parties on Personal Integrity Rights*, 61 J. CONFLICT RESOL. 2183, 2193 (2017).

40. *See* REPUCCI & SLIPOWITZ, *supra* note 34, at 3.

41. TOM GINSBURG & AZIZ HUQ, HOW TO SAVE A CONSTITUTIONAL DEMOCRACY 5–10 (2018).

42. *See Visible and Invisible Bars: Political Imprisonment, Civil Death, and the Consequences of Democratic Erosion*, FREEDOM HOUSE (Jan. 2024), https://freedomhouse.org/report/free-them-all/2024/visible-and-invisible-bars [https://perma.cc/9SB3-GV4J].

In contrast, in authoritarian regimes, political imprisonment is systemic and serves as a means of quashing dissent, suppressing opposition, and consolidating power.[43] Political prisoners are frequently detained without due process, subjected to unfair trials, and often face severe human rights abuses, including torture and solitary confinement.[44] Understanding the authoritarian nature of these regimes is crucial as it portrays the systemic repression and lack of accountability inherent in such environments.

C. Foundations of International Human Rights Law

The foundations of international human rights law are integrated into several agreements, declarations, and treaties that outline the rights and freedoms to which all individuals are entitled. Against the backdrop of post-World War II geopolitics, there emerged a critical necessity for a universal framework of human rights to avert future atrocities.[45] Eleanor Roosevelt's pivotal leadership, as chair of the United Nations Human Rights Commission ("UNHRC") from 1946 to 1951, along with René Cassin and John Humphrey's instrumental involvement in the drafting process, underscored determined efforts to secure the adoption of the UDHR.[46]

Adopted by the UNGA in 1948, the UDHR is a landmark document that outlines a common standard of fundamental human rights for all people, "without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."[47] The UDHR includes

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43. *See* APPLEBAUM, *supra* note 20, at 50–60; HUM. RTS. WATCH, WORLD REPORT 2022: EVENTS OF 2021 (2022), https://www.hrw.org/world-report/2022 [https://perma.cc/J7FM-LCFV].

44. *See* APPLEBAUM, *supra* note 20, at 50–60, 100–110 (detailing systemic arrests without due process and harsh treatment in the Soviet Gulag); HUM. RTS. WATCH, *supra* note 43 (documenting contemporary political imprisonment and human rights abuses in authoritarian states, including China, Belarus, Myanmar, Venezuela, and Russia).

45. *See* MARY ANN GLENDON, A WORLD MADE NEW: ELEANOR ROOSEVELT AND THE UNIVERSAL DECLARATION OF HUMAN RIGHTS 19–40 (1st ed. 2001).

46. *See id.* (detailing Roosevelt's leadership of the UNHRC); JOHANNES MORSINK, THE UNIVERSAL DECLARATION OF HUMAN RIGHTS: ORIGINS, DRAFTING, AND INTENT 45–60 (1999) (describing René Cassin and John Humphrey's roles in drafting the UDHR); *Universal Declaration of Human Rights: History*, UNITED NATIONS, https://www.un.org/en/about-us/universal-declaration-of-human-rights [https://perma.cc/R7H2-VRMS] (last visited Mar. 29, 2026).

47. UDHR, *supra* note 23, art. 2.

rights such as the right to life, liberty, and security of person; freedom of speech, religion, and assembly; and the right to a fair trial and an adequate standard of living.[48] While not legally binding, the UDHR has been seminal in shaping both national laws within individual countries and international treaties on human rights, and is generally considered as customary international law.[49]

Adopted by the UNGA in 1966, the International Covenant on Civil and Political Rights ("ICCPR")[50] is a legally binding treaty that elaborates on many of the rights outlined in the UDHR. The ICCPR recognizes rights such as the right to self-determination, freedom of expression, freedom of assembly, and the right to a fair trial.[51] States that ratify the ICCPR are legally obligated to respect, protect, and fulfill the rights enshrined in the treaty, and they must submit periodic reports to the HRC on their implementation of the covenant.[52]

Both the UDHR and ICCPR guarantee fundamental rights and protections for all individuals, including detainees. These rights include the right to be informed of the charges against them, the right to a fair trial, the right to challenge the legality of their detention, and the right to freedom from torture and other cruel, inhuman or degrading treatment or punishment. Detainees have the right to legal representation, access to evidence, and the opportunity to present their case before an impartial tribunal.[53] However, both the UDHR and the ICCPR face limitations in enforcement, as compliance relies on voluntary state cooperation, and mechanisms for holding violators accountable are often

48. *See id.* arts. 3, 11, 18–20, 25.

49. *See* HENKIN, *supra* note 30, at 23–30 (noting the UDHR's foundational influence on national constitutions and legislation); PHILIP ALSTON & RYAN GOODMAN, INTERNATIONAL HUMAN RIGHTS 25–28 (2013) (describing the UDHR's role in shaping customary international law and human rights treaties).

50. *See generally* International Covenant on Civil and Political Rights arts. 1-31, *opened for signature* Dec. 16, 1966, 999 U.N.T.S. 171 [hereinafter ICCPR] (entered into force Mar. 23, 1976) (establishing internationally binding obligations on State Parties to respect and ensure fundamental civil and political rights, including protections against arbitrary detention and guarantees of a fair and impartial tribunal).

51. *See* UDHR, *supra* note 23, arts. 1, 14, 19, 21.

52. *See id.* art. 40.

53. *See* Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, G.A. Res. 43/173, U.N. Doc. A/RES/43/173, §§ 7, 36 (Dec. 9, 1988).

hindered by the sovereignty of states and political considerations.[54]

Moreover, many countries have enacted national laws, constitutions, and bills of rights that protect human rights at the national level. These national instruments are often drawn from international human rights standards, including the UDHR and ICCPR, and may provide additional protections or remedies tailored to the specific cultural and legal context of each country. Examples of national human rights instruments include the United States Bill of Rights, the Canadian Charter of Rights and Freedoms, the European Convention on Human Rights, and the South African Constitution.[55]

These foundational documents form the basis of international human rights law and provide a framework for promoting and protecting human rights at both the domestic and international levels. They reflect a commitment to the inherent dignity of every individual and serve as a guide for governments, CSOs, NGOs, and individuals striving to uphold human rights around the world.[56] International human rights law also "provides the foundation for the work of UN Human Rights and the mechanisms it supports."[57]

54. *See* Margaret E. McGuinness, *Exploring the Limits of International Human Rights Law*, 34 GA. J. INT'L & COMP. L. 393, 403 (2006).

55. *See* HENKIN, *supra* note 30, at 23–25 (noting that most states have incorporated human rights into their constitutions and legal systems); *see also* ALSTON & GOODMAN, *supra* note 49, at 25–28, 509–12 (explaining how international human rights instruments such as the UDHR and ICCPR influence domestic legal frameworks and are adapted within national contexts); *The Universal Declaration of Human Rights: A Living Document*, UNITED NATIONS, https://www.un.org/en/about-us/universal-declaration-of-human-rights [https://perma.cc/KW6Q-ZA6K] (last visited Mar. 29, 2026) (stating that the UDHR has inspired constitutions and national laws worldwide).

56. *See The Universal Declaration of Human Rights as the Foundation of International Human Rights Law*, UNITED NATIONS, https://www.un.org/en/about-us/udhr/foundation-of-international-human-rights-law [https://perma.cc/GV9B-W9B5] (last visited Nov. 24, 2025).

57. *See Instruments and Mechanisms*, OFF. HIGH COMM'R FOR HUM. RTS., https://www.ohchr.org/en/instruments-and-mechanisms [https://perma.cc/2RLQ-CVY5] (last visited Nov. 24, 2025).

II. ANALYSIS

A. Challenges Faced by Arbitrarily Detained Individuals for Political Reasons

As violations of international human rights law remain unabated, the challenges endured by arbitrarily detained individuals for political reasons are increasingly multifaceted and deepening in complexity. These challenges require rigorous and collaborative efforts by states, international organizations, and civil society actors to adhere to human rights principles, ensure accountability for violations, and promote compliance for international legal norms, including the rights of political prisoners. Authoritarian regimes persistently maintain their pervasive pattern of arbitrary detention for political reasons in the absence of due process rights such as the right to be informed of charges, access to legal representation, or the right to a fair trial. This practice violates fundamental human rights principles and undermines the rule of law.[58]

International humanitarian law, also known as the law of armed conflict, governs the conduct of parties in armed conflicts. While international humanitarian law primarily focuses on the protection of civilians and combatants during armed conflicts, it also provides certain protections for political prisoners who may be detained in the context of armed conflicts.[59] However, the application and enforcement of international humanitarian law in such situations can be challenging, particularly in conflicts where state actors or non-state armed groups disregard international legal norms.[60]

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58. *See* BUREAU OF DEMOCRACY, HUM. RTS., & LAB., U.S. DEP'T OF STATE, 2022 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES (2023), https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/ [https://perma.cc/8E37-KQ9T].

59. *See* Geneva Convention (III) Relative to the Treatment of Prisoners of War arts. 13–17, Aug. 12, 1949, 6 U.S.T. 3316, 75 U.N.T.S. 135 [hereinafter Geneva Convention (III)]; Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War arts. 27, 42–43, Aug. 12, 1949, 6 U.S.T. 3516, 75 U.N.T.S. 287 [hereinafter Geneva Convention (IV)]; JEAN-MARIE HENCKAERTS & LOUISE DOSWALD-BECK, CUSTOMARY INTERNATIONAL HUMANITARIAN LAW 299–305 (2005); *What Is International Humanitarian Law?*, INT'L COMM. OF THE RED CROSS, https://www.icrc.org/en/doc/assets/files/other/what_is_ihl.pdf [https://perma.cc/4TM7-FG6Y] (last visited Mar. 29, 2026).

60. *See What Is International Humanitarian Law?*, *supra* note 59.

Detainees in armed conflicts are especially vulnerable to human rights abuses, including arbitrary detention, ill-treatment, and torture.[61] International human rights law and international humanitarian law provide protections for detainees, including the prohibition of torture and "other cruel, inhuman or degrading treatment or punishment."[62] The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment[63] established by the United Nations, serves a crucial function in prohibiting and preventing such violations by setting standards for the humane treatment of individuals in custody and promoting accountability for perpetrators.[64] Concerted efforts by the international community, including advocacy for adherence to legal norms, monitoring mechanisms, and accountability measures are required to ensure the protection of detainees during armed conflict.[65]

B. Mechanisms for Redress

The "plight and pain"[66] of political prisoners and prisoners of conscience, and their related detention and imprisonment, are an important barometer for assessing the state of fundamental rights and freedoms and adherence to legal principles within a country. They also serve as a poignant reminder of the ongoing struggle for human rights and democracy in many parts of the world, highlighting both progress made and challenges that persist in ensuring the protection of the rule of law.

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61. INT'L COMM. OF THE RED CROSS, INTERNMENT IN ARMED CONFLICT: BASIC RULES AND CHALLENGES 7–10 (2014) (noting the particular vulnerability of detainees in armed conflict); Geneva Convention (III), *supra* note 59, art. 2 (prohibiting torture and ill-treatment); HUM. RTS. WATCH, *supra* note 43 (documenting arbitrary detention and abuse of detainees in contemporary armed conflicts).

62. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 16 ¶ 1, Feb. 4, 1985, 1465 U.N.T.S. 85 [hereinafter CAT].

63. *Id*.

64. *See id.*, arts. 2, 4, 12–13; *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, OFF. HIGH COMM'R FOR HUM. RTS., https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture [https://perma.cc/4LVD-7HJ8] (last visited Mar. 29, 2026).

65. *See* U.N. OFF. HIGH COMM'R FOR HUM. RTS., MANUAL ON HUMAN RIGHTS MONITORING ch. 5, at 11, U.N. Doc. HR/P/PT/7/Rev.1, U.N. Sales No. E.01.XIV.2 (2011).

66. Irwin Cotler, Founder, Raoul Wallenberg Ctr. for Hum. Rts., Address at the Geneva Summit for Hum. Rts. and Democracy (Feb. 21, 2017) (transcript available at https://genevasummit.org/speech/irwin-cotler-speaks-at-the-2017-geneva-summit [https://perma.cc/HN8V-3ETP]).

International law encompasses a series of avenues for seeking redress and holding governments accountable for the arbitrary detention of political prisoners and prisoners of conscience. These avenues include the active engagement of CSOs and NGOs; ensuring detainees have access to consular assistance; leveraging the mechanisms provided by the Special Procedures of the HRC; participating in the UPR process of the HRC; adherence to oversight by treaty bodies; pursuing adjudication through regional human rights courts and international courts and tribunals; universal jurisdiction; and evidence-based sanctions recommendations. An investigative audit will be integrated into each mechanism to assess and clarify its inherent constraints and limitations.

1. CSOs and NGOs

CSOs and NGOs are comprised of a panoply of groups, including human rights advocacy groups, grassroots organizations, community-based initiatives, and religious groups dedicated to advancing human rights principles and values.[67] Domestic and international CSOs and NGOs can be distinguished based on their operational scope and funding sources. National organizations operate within their own country, receiving funding from local sources such as government grants and private donations, and address local issues.[68] In contrast, international organizations operate across borders, receive funding from global donors, and tackle worldwide issues, frequently supporting grassroots initiatives around the world.[69]

67. *See* LESTER M. SALAMON ET AL., GLOBAL CIVIL SOCIETY: DIMENSIONS OF THE NONPROFIT SECTOR 3–8 (1999) (describing the diversity of NGOs and civil society actors); MICHAEL EDWARDS, CIVIL SOCIETY 1–5 (3d ed. 2014) (defining civil society as a pluralistic sphere of organizations); *Civil Society*, UNITED NATIONS, https://www.un.org/civilsociety [https://perma.cc/NT9Y-RE6U] (last visited Mar. 29, 2026) (identifying types of CSOs, including grassroots and faith-based groups); ORG. ECON. FOR COOP. & DEV., CIVIL SOCIETY AND AID EFFECTIVENESS (2009) (distinguishing domestic and international NGOs by scope and funding).

68. *See, e.g.*, *Civil Society*, *supra* note 67; CIVIL SOCIETY AND AID EFFECTIVENESS, *supra* note 67.

69. *See* Casey Jedele, *Domestic Restrictions on Non-Governmental Organizations and Potential Protections through Legal Personality: Time for a Change?*, 21 CHI. J. INT'L L. 118, 127 (2020).

CSOs and NGOs operate independently of government oversight and play a critical role in exposing, monitoring, and documenting human rights abuses. They can be catalysts for change by providing support to, and defending, political prisoners and prisoners of conscience through legal representation and international advocacy. They can exert significant influence through their multidimensional legal and political advocacy approach, international diplomacy, capacity building, and mobilization of international coalitions. By documenting abuses, raising awareness, providing legal support, and empowering grassroots movements, NGOs serve as vital actors in challenging authoritarian regimes, mustering public pressure, and demanding accountability for human rights violations.[70] Their concerted efforts amplify the voices of political prisoners, shine a spotlight on injustice, and help build a critical mass of advocacy for democratic governance and adherence to human rights.[71] By leveraging this mechanism, CSOs and NGOs can work collectively to pursue justice and accountability, and remedies for detainees and victims of human rights abuses while promoting and protecting human rights.[72]

However, CSOs and NGOs can face legal restrictions, limiting their ability to advocate effectively. The pressure on the "formal NGO model has also contributed to groups giving up formal registration altogether and operating instead as looser coalitions of activists and volunteers."[73] While the NGO model presents new challenges—complicating funding and state collaborations—it also offers protection from administrative and legal issues.

70. *See* COUNCIL OF EUR., WORKING WITH THE COUNCIL OF EUROPE: A PRACTICAL GUIDE FOR CIVIL SOCIETY 24 (2022), https://rm.coe.int/work-with-coe-guide-english-2022/1680a66592 [https://perma.cc/H6MV-RRTH]; U.N. OFF. HIGH COMM'R FOR HUM. RTS., UNIVERSAL PERIODIC REVIEW: A PRACTICAL GUIDE FOR CIVIL SOCIETY 5–6 (2022); MARGARET E. KECK & KATHRYN SIKKINK, ACTIVISTS BEYOND BORDERS: ADVOCACY NETWORKS IN INTERNATIONAL POLITICS 12–15, 199–205 (1998) (describing how NGOs mobilize transnational advocacy networks to exert pressure on governments and promote accountability).

71. *See* Vaibhav Goel & Manoj Kr. Tripathi, *The Role of NGOs in the Enforcement of Human Rights: An Overview*, 71 INDIAN J. POL. SCI. 769, 783 (2010).

72. *See, e.g.*, COUNCIL OF EUR., *supra* note 70, at 24; U.N. OFF. HIGH COMM'R FOR HUM. RTS., *supra* note 70, at 5–6.

73. SASKIA BRECHENMACHER, CARNEGIE ENDOWMENT FOR INT'L PEACE, CIVIL SOCIETY UNDER ASSAULT: REPRESSION AND RESPONSES IN RUSSIA, EGYPT, AND ETHIOPIA 100 (2017), https://carnegieendowment.org/research/2017/05/civil-society-under-assault-repression-and-responses-in-russia-egypt-and-ethiopia [https://perma.cc/2WWD-GAB6].

Firsthand reports also suggest "that shrinking civic space has contributed to the emergence of more sporadic and fluid protest movements focused on specific policy issues or local grievances—at times in relative isolation from established NGO actors."[74]

Authoritarian regimes employ tactics to suppress dissent and impede the activities of CSOs that could expose their abuses, such as restricting the ability of CSOs to organize and engage in political activities.[75] There has been a notable increase in state control over CSOs in recent years, with governments increasingly adopting legal and administrative restrictions on NGO activity. Populist regimes, in particular, often frame NGOs as foreign or elite actors and impose limits on their funding and advocacy to reject internationally promoted norms.[76]

Specifically, authoritarian efforts to curb civil society's ability to hold governments accountable involve policies that restrict international financial support for NGOs, particularly those focused on human rights.[77] This trend began with restrictions on foreign funding in China and Russia in the early 2000s, and has since spread to numerous countries, with many enacting restrictions or outright prohibitions on foreign funding for NGOs.[78]

Authoritarian governments are also restricting civil society activism under the guise of countering terrorism or safeguarding national sovereignty, and "they are erecting new barriers to the operations and funding of NGOs, harassing and discrediting civil society activists, and criminalizing dissent through expansive antiterrorism laws."[79] This trend is widespread and not limited to

74. *Id.* at 101.

75. *See id.* at 100; EDWARDS, *supra* note 67, at 1–5; SALAMONER M. SALAMON ET AL., GLOBAL CIVIL SOCIETY: DIMENSIONS OF THE NONPROFIT SECTOR 3–8 (1999).

76. *See* David K. Moore, *The Spreadstrictions*, 64 INT'L STUD. Q. 453 (2020); Silvia Steininger, *The Closing Space for Civil Society and the Rule of Law*, 11 LAWS 50 (2022).

77. *See* Stefan Toepler, Annette Zimmer, Christian Fröhlich & Katharina Obuch, *The Changing Space for NGOs: Civil Society in Authoritarian and Hybrid Regimes*, 31 VOLUNTAS 649, 653–55 (2020) (describing restrictions on foreign funding, including Russia and China, and their impact on advocacy NGOs); Zoe A. Christensen & Jeremy M. Weinstein, *Defunding Dissent: Restrictions on Aid to NGOs*, 24 J. DEMOCRACY 77, 80, 87 (2013) (documenting the global spread of laws restricting foreign funding for NGOs).

78. *See* Wayne Sandholtz, *Resurgent Authoritarianism and the International Rule of Law* 21–22 (Berlin Potsdam Rsch. Group Working Paper No. 38, 2019), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3444799 [https://perma.cc/RB6Z-LFVC].

79. BRECHENMACHER, *supra* note 73, at 5.

specific regions or political systems. Between 2014 and 2016, more than sixty countries imposed restrictions on public assembly and on funding for civil society organizations.[80] The reduction in civic space is now a prominent aspect of global politics.[81]

2. Consular Assistance

Access to consular assistance is imperative for safeguarding the rights of political prisoners and prisoners of conscience and ensuring that they are treated fairly, in accordance with international human rights standards.[82] They have the right to be protected from arbitrary detention, and access to consular assistance can help ensure that their detention is lawful and that their rights are respected. Article 36 of the Vienna Convention on Consular Relations ("VCCR")[83] stipulates the right for detained individuals to have access to consular assistance from their home country when they are arrested or detained in a foreign country and ensures that individuals receive appropriate support from their own government while facing legal proceedings abroad.[84]

Consular assistance is particularly important for individuals detained in foreign countries where they may face language barriers, unfamiliar legal systems, or discriminatory treatment.[85] One of the four major reports issued by the High Level Panel of Legal Experts on Media Freedom[86] proposes measures to reinforce accountability in consular support, both nationally and

80. Saskia Brechenmacher, *How State Restrictions Are Reshaping Civic Space Around the World*, IPI GLOB. OBSERVATORY (May 19, 2017), https://theglobalobservatory.org/2017/05/ethiopia-russia-egypt-civil%E2%80%91society/ [https://perma.cc/N5W9-W9XL].

81. *See* BRECHENMACHER, *supra note* 73, at 1.

82. Vienna Convention on Consular Relations art. 36, *opened for signature* Apr. 24, 1963, 21 U.S.T. 77, 596 U.N.T.S. 261 (requiring consular access for detained nationals as a safeguard for due process and humane treatment).

83. *See id.*

84. *See id.*

85. *See* Irwin Cotler, *A Pressing Concern: Protecting and Promoting Press Freedom by Strengthening Consular Support to Journalists at Risk*, INDEP. HIGH LEVEL PANEL OF LEGAL EXPERTS ON MEDIA FREEDOM, Nov. 16, 2020, at 51, https://mediafreedomcoalition.org/wp-content/uploads/2023/04/A-Pressing-Concern_Protecting-and-Promoting-Press-Freedom.pdf [https://perma.cc/XMV5-6UQD].

86. *See* INTERNATIONAL BAR ASSOCIATION, *Interview: Hina Jilani, Co-Chair of the IBA's Human Rights Institute* (Vimeo, Mar. 5, 2025, at 02:30), https://vimeo.com/1062861408 (on file with the Fordham International Law Journal).

internationally.[87] It emphasizes the importance of eliminating inconsistency and inequity pertaining to media freedom and effectively protects arbitrarily detained journalists who are political prisoners.[88]

The report recommends establishing a "Charter of Rights" for detained journalists, which establishes a framework of rights and obligations concerning the detention of journalists: 1) journalists should not be arbitrarily detained and should have the same rights as other detainees; 2) detained journalists are entitled to equal rights and protections as other detainees; 3) upon a journalist's detention, the host state must inform the journalist's home state consulate; 4) detained journalists have the right to meaningful consular assistance, including confidential contact with their home state consulate and representation during legal proceedings; 5) the journalist's home state must ensure the detention meets international standards and advocate for the journalist if needed; 6) the home state must advocate for the detained journalist's treatment consistent with domestic law; 7) if there is concern about the host state not protecting the journalist's rights, the home state should advocate for their return; 8) the host state must repatriate the journalist if it cannot guarantee their rights will be respected; 9) the home state must keep the journalist's designated contacts informed of material developments; 10) journalists have the right to confidential communication with their home state consular officials; 11) detained journalists have the right to publicize their detention; 12) reporting materials must be preserved upon detention, and an inventory provided to the journalist and home state consular officials; and 13) the host state must provide the home state with a copy of the journalist's reporting materials upon request or justify refusal under national laws, and the journalist should regain possession upon release.[89]

87. *See generally* IRWIN COTLER, INT'L BAR ASSOC., A PRESSING CONCERN: PROTECTING AND PROMOTING PRESS FREEDOM BY STRENGTHENING CONSULAR SUPPORT TO JOURNALISTS AT RISK (2020), https://www.ibanet.org/Consular-Support-report-launch-2020 [https://perma.cc/AED8-EC96] (outlining the risks faced by journalists, including arbitrary detention and harassment, documenting the lack of effective legal remedies in countries where state institutions fail to protect press freedom, and emphasizing the need for stronger institutional protections to safeguard fundamental rights).

88. *See id.*

89. *See* Cotler, *supra* note 66, at 37.

Even in authoritarian regimes, constitutional provisions, statutes, and regulations that outline legal rights and freedoms may include provisions protecting freedom of speech, assembly, association, and freedom of the press.[90] However, the mere existence of these laws does not necessarily guarantee their application or enforcement in practice. Although their legal frameworks may superficially guarantee certain freedoms, these laws are usually restrictive, with broad interpretations, like requirements for permits for public gatherings or state control of the media.[91] Authorities routinely invoke broad or vague legal provisions and selectively enforce or interpret them in ways that serve their interests to suppress dissent, target political opponents, or restrict the activities of independent media.[92]

Legal challenges to violations of consular rights and press freedoms are constrained by the instrumentalization of the judiciary, with courts kept dependent on the executive and limited in their ability to provide independent and impartial oversight.[93] Courts are usually subject to political influence or controlled by the ruling regime, making it difficult for individuals or groups to seek redress for violations, leading to biased rulings that favor the government's interests over the protection of individual rights.[94]

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90. *See* ZACHARY ELKINS & JAMES MELTON, THE CONTENT OF AUTHORITARIAN CONSTITUTIONS, IN CONSTITUTIONS IN AUTHORITARIAN REGIMES 141–64 (Tom Ginsburg & Alberto Simpser eds. 2014).

91. *See generally* Jennifer Dunham, *Press Freedom's Dark Horizon*, *in* FREEDOM OF THE PRESS 2017 3 (2017), https://freedomhouse.org/sites/default/files/2020-02/FOTP_2017_booklet_FINAL_April28_1.pdf [https://perma.cc/A5RY-ZE7C] (noting that in many countries restrictive legal environments undermine press freedom and contribute to overall declines in media independence).

92. *See generally* Sarah Repucci, *Media Freedom: A Downward Spiral* (June 2019), https://freedomhouse.org/report/freedom-and-media/2019/media-freedom-downward-spiral [https://perma.cc/7LE5-A6N7] (observing that authorities in some countries selectively enforce or interpret legal and regulatory tools to pressure independent outlets).

93. *See generally* TOM GINSBURG, RULE BY LAW: THE POLITICS OF COURTS IN AUTHORITARIAN REGIMES (2008) (describing regime manipulation of judicial independence and its effects on legal accountability).

94. *See generally* Tamir Moustafa, *Law and Courts in Authoritarian Regimes*, 10 ANN. REV. L. & SOC. SCI. 281 (2014) (describing how courts influence and are influenced by authoritarian regimes).

3. Special Procedures of the HRC

The Special Procedures of the HRC are mechanisms accessible for specific human rights issues.[95] The UN Working Group on Arbitrary Detention ("WGAD") is a quasi-judicial expert body of the HRC, with a crucial mandate "to investigate cases of deprivation of liberty imposed arbitrarily or inconsistently with the international standards set forth in the Universal Declaration of Human Rights, or the international legal instruments accepted by the States concerned."[96] The creation of the WGAD "represents a great leap forward in the Commission's protective work. Its mandate to 'investigate' gives it an unprecedented means of action, while the expansive term 'arbitrary' ensures that the group will have a heavy caseload."[97]

The WGAD is composed of five independent members with expertise in various human rights-related fields appointed by the HRC, and relies on a system of special procedures, including special rapporteurs, independent experts, and working groups.[98] Each special procedure focuses on a particular thematic or country-specific human rights issue.[99] It assesses "individual complaints"[100] pursuant to its "regular communications procedure"; makes

95. Surya P. Subedi, Steven Wheatley, Amrita Mukherjee & Sylvia Ngane, *The Role of the Special Rapporteurs of the United Nations Human Rights Council in the Development and Promotion of International Human Rights Norms*, 15 INT'L J. HUM. RTS. 155, 155 (2011).

96. *Working Group on Arbitrary Detention*, OHCHR, https://www.ohchr.org/en/special-procedures/wg-arbitrary-detention [https://perma.cc/G95M-XF6A] (last visited Nov. 26, 2025).

97. *See* Reed Brody, *The United Nations Creates a Working Group on Arbitrary Detention*, 85 AM. J. OF INT'L L. 709, 712 (1991).

98. *See* WORKING GRP. ON ARBITRARY DET., OFF. HIGH COMM'R FOR HUM. RTS., FACT SHEET NO. 2 GROUP ON ARBITRARY DETENTION, at 1–2, U.N. Doc. HR/PUB/12/1 (Rev.1) (2012), https://www.ohchr.org/sites/default/files/documents/publications/Fact-sheet-26-WGAD.pdf [https://perma.cc/7GK4-B8PN].

99. *See Special Procedures*, OFF. HIGH COMM'R FOR HUM. RTS., https://www.ohchr.org/en/hr-bodies/hrc/special-procedures [https://perma.cc/S8ZG-RKST] (last visited Nov. 26, 2025).

100. *See Complaints and Urgent Appeals: Working Group on Arbitrary Detention*, OFF. HIGH COMM'R FOR HUM. RTS., https://www.ohchr.org/en/special-procedures/wg-arbitrary-detention/complaints-and-urgent-appeals [https://perma.cc/4QUH-MZLR] (last visited Nov. 26, 2025).

important determinations regarding the "arbitrariness of the detention"; and renders final opinions.[101]

Although the WGAD's opinions are not legally binding, they carry significant legal and moral authority and have contributed to changes in detention practices, including the release of detainees."[102] While the WGAD plays a fundamental role in promoting and protecting human rights, particularly political prisoners and prisoners of conscience, upholding the rule of law, and safeguarding democracy, its mandate is inherently complex and not immune from procedural, structural, and substantive constraints and limitations.[103]

State-sanctioned repression, restricted access to information, censorship, and fear of reprisals in authoritarian regimes make it highly complex to document human rights abuses and retrieve indispensable evidence relating to political prisoner cases.[104] Patterns of repression may target specific groups or individuals, reinforcing the need to rigorously assess historical data and international responses to comprehend the prevalent political climate.[105] These hurdles can be illustrated within the context of the HRC, where China strategically aligns itself with a coalition known as the "Like-Minded Group" ("LMG"), including countries such as Algeria, Bangladesh, Belarus, Bhutan, China, Cuba, Egypt, India, Indonesia, Iran, Malaysia, Myanmar, Nepal, Pakistan, the Philippines, Russia, Sri Lanka, Sudan, Syria, Venezuela, Vietnam,

101. *See Working Group on Arbitrary Detention – Opinion Search*, OFF. HIGH COMM'R FOR HUM. RTS., https://wgad-opinions.ohchr.org/ [https://perma.cc/YEA3-P5E9] (last visited Mar. 31, 2026).

102. *See* INT'L SERV. FOR HUM. RTS., HANDBOOK ON UNITED NATIONS SPECIAL PROCEDURES 13–14 (2021), https://ishr.ch/wp-content/uploads/2021/10/20260219-O-ISHR-SpecialProceduresHandbook-2025-En.pdf [https://perma.cc/3KJA-CCZ7].

103. *See Working Group on Arbitrary Detention – Opinion Search*, *supra* note 101; OFF. HIGH COMM'R FOR HUM. RTS., FACT SHEET NO. 26: WORKING GROUP ON ARBITRARY DETENTION, https://digitallibrary.un.org/record/417239/files/FactSheet26en.pdf> [https://perma.cc/GP2J-2RX7].

104. *See* Harper Ellington, *The Challenges of Documenting Human Rights Violations in Authoritarian States*, IJCENTRAL.ORG (2025), https://ijcentral.org/the-challenges-of-documenting-human-rights-violations-in-authoritarian-states/ [https://perma.cc/E3EL-NSQX].

105. *See generally* CHRISTIAN DAVENPORT, STATE REPRESSION AND THE DOMESTIC DEMOCRATIC PEACE 1–32 (2007) (describing the concept and scope of state repression, including coercive actions directed at individuals and groups).

and Zimbabwe.[106] The LMG showcases a unified front in the HRC to undermine human rights standards, hinder the HRC's ability to implement country-specific approaches, and ultimately shield authoritarian regimes from accountability.[107] By leveraging the vocal stances of fellow LMG members, China skillfully maintains a subdued presence within the HRC, while endorsing LMG positions and allowing other nations to adopt more assertive positions.[108]

Authoritarian regimes also regularly leverage technology for surveillance and repression "to conduct transnational repression, reaching beyond their borders to try to control their expatriate and diaspora populations, and silence dissidents around the world," and "censorship, misinformation and disinformation, mass surveillance, and invasive spyware are the primary tools of digital repression."[109] During the last few years, governments—and certain backsliding democracies—"have become adept at using these tools to suppress public debate,"[110] and digital repression "has grown as governments have become more concerned about their publics' expanded access to information online that could threaten their power."[111] Cyberattacks targeting dissenting voices further exacerbate the challenges faced by human rights advocates.

To enable it to carry out its tasks, the WGAD adopted specific criteria (namely, five categories) applicable in the consideration of cases submitted to it.[112] Considering the expansion of Category II, to include AI-driven surveillance, would make the filing of complaints with the WGAD under this specific

106. *See* HUM. RTS. WATCH, THE COSTS OF INTERNATIONAL ADVOCACY: CHINA'S INTERFERENCE IN UNITED NATIONS HUMAN RIGHTS MECHANISMS 5–6 (2017), https://www.hrw.org/report/2017/09/05/costs-international-advocacy/chinas-interference-united-nations-human-rights [https://perma.cc/TPK6-KQZ4].

107. *See id.*

108. *See id.*

109. NAT'L INTEL. COUNCIL., DIGITAL REPRESSION GROWING GLOBALLY, THREATENING FREEDOMS 3, 5 (2023), https://www.dni.gov/files/ODNI/documents/assessments/NIC-Declassified-Assessment-Digital-Repression-Growing-April2023.pdf [https://perma.cc/J8GN-LFQA].

110. *Id.* at 1.

111. *Id.* at 2.

112. *See About arbitrary detention*, OFF. HIGH COMM'R FOR HUM. RTS., https://www.ohchr.org/en/about-arbitrary-detention [https://perma.cc/CJU6-D7H9] (last visited Nov. 26, 2025).

violation possible.[113] This would not only serve as a crucial avenue for seeking redress and accountability for victims of arbitrary detention resulting from the misuse of surveillance technologies but could also contribute to the broader conversation on the intersection of technology and human rights within the UN system, helping to shape policies and guidelines to prevent future AI-driven abuses.

The role of the Special Procedures is primarily persuasive, and they work best by drawing attention to human rights violations and engaging governments, civil society, and international actors. While the WGAD's findings can provide evidentiary support in legal proceedings concerning political prisoners, reforms to its investigative procedures should be considered to enhance the reliability and admissibility of its determinations in both domestic and international courts, some of which have already cited WGAD opinions in judgments concerning arbitrary detention.[114] Legal principles and standards related to arbitrary detention should also be clarified and reinforced to provide guidance for the WGAD's future decisions and establish new legal precedents for the interpretation of international human rights.

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113. *See Call for Inputs on Protection of Human Rights Defenders in the Digital Age*, OFF. HIGH COMM'R FOR HUM. RTS., https://www.ohchr.org/en/calls-for-input/2026/call-inputs-protection-human-rights-defenders-digital-age [https://perma.cc/T7ZN-PU8P] (last visited Nov. 26, 2025).

114. *See* Hum. Rts. Council, Working Grp. on Arbitrary Det. (WGAD), Mandate and Methods of Work, UN Doc. A/HRC/RES/36/38 (Sep. 28, 2017), https://docs.un.org/en/A/HRC/36/38 [https://perma.cc/HXD3-4DB8]; *see also Opinions adopted by the Working Group on Arbitrary Detention*, OFF. HIGH COMM'R FOR HUM. RTS., https://www.ohchr.org/en/special-procedures/wg-ad/opinions [https://perma.cc/7KDN-P4EQ] (last visited Nov. 26, 2025); *see, e.g.*, Case C-585/19, Cour de cassation [Cass.] [Supreme Court] France, ¶¶ 12–15 (2020) (referring to WGAD opinions on arbitrary detention as evidence). "In 1993 the UN General Assembly created the High Commissioner of Human Rights and the UN Human Rights Council (A/RES/60/251) was created in March 2006. They produced reports and promoted accountability through peer control and exposing the reputation of the states denounced." LUIS MORENO OCAMPO, *Preface* to WAR AND JUSTICE IN THE 21ST CENTURY: A CASE STUDY ON THE INTERNATIONAL CRIMINAL COURT AND ITS INTERACTION WITH THE WAR ON TERROR xvi, n.29 (2023). While the International Criminal Court's (ICC) mandate is "to investigate and prosecute genocide, crimes against humanity, and war crimes," the WGAD assesses "individual complaints" pursuant to its "regular communications procedure"; makes determinations regarding the "arbitrariness of the detention"; and renders final opinions." *Complaints and urgent Appeals*, *Working Group on Arbitrary Detention*, OFF. HIGH COMM'R FOR HUM. RTS., https://www.ohchr.org/en/special-procedures/wg-arbitrary-detention/complaints-and-urgent-appeals [https://perma.cc/6A7Q-QMZK] (last visited Nov. 26, 2025).

4. UPR of the HRC

The UPR process, conducted by the HRC, stands as a useful mechanism for shedding light on human rights violations, including arbitrary detention, and recommending reforms.[115] It may facilitate the release of political prisoners by subjecting member states' human rights records to international scrutiny and amplifying diplomatic pressure on governments to address abuses. Through the UPR process, participating states receive recommendations from other UN member states to improve their human rights practices, including measures aimed at preventing arbitrary detention and ensuring the release of political prisoners.[116] The UPR cultivates dialogue and engagement among member states and stakeholders, facilitating constructive discussions and raising awareness about human rights issues.[117]

While recommendations made during the process provide guidance, they lack binding force, leaving governments discretion to implement them. Compliance with recommendations is also not guaranteed in the absence of direct enforcement mechanisms.[118] The UPR's broad scope may limit the depth of examination into specific cases of arbitrary detention, potentially overlooking nuanced aspects of the issue, and the limited participation of CSOs and NGOs in some cases may obstruct the comprehensive scrutiny of arbitrary detention during the review process.[119]

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115. *Introduction to the mechanism*, UPR INFO., https://upr-info.org/en/upr-process/what-upr/introduction-brief-history [https://perma.cc/G9JX-GUET] (last visited Mar. 31, 2026); *Universal Periodic Review*, U.N. SUSTAINABLE DEV. GRP., https://unsdg.un.org/2030-agenda/strengthening-international-human-rights/universal-periodic-review [https://perma.cc/E5HX-9RSJ] (last visited Mar. 31, 2026).

116. *See Universal Periodic Review: How it Works*, OFF. HIGH COMM'R FOR HUM. RTS., https://www.ohchr.org/en/hr-bodies/upr/basic-facts [https://perma.cc/R7KX-JZ4U] (last visited Nov. 26, 2025).

117. *See* JOSÉ PARRA, UPR INFO, BEYOND THE PROCEDURE: THE UNIVERSAL PERIODIC REVIEW AS A CATALYST FOR PUBLIC DEBATE ON HUMAN RIGHTS (2016), https://upr-info.org/sites/default/files/documents/2017-09/beyond_the_procedure_the_universal_periodic_review_as_a_catalyst_for_public_debate_on_human_rights.pdf [https://perma.cc/9KJM-RV49].

118. *See* Valentina Carraro, *Promoting Compliance with Human Rights: The Performance of the United Nations' Universal Periodic Review and Treaty Bodies*, 63 INT'L STUD. Q. 1079, 1087–88 (2019) (noting that UPR recommendations are non-binding and enforcement mechanisms are absent).

119. *See* AMNESTY INT'L & UNITED NATIONS EDUC., SCI. CULTURAL ORG., THE UNIVERSAL PERIODIC REVIEW (UPR) AND ITS POTENTIAL TO FOSTER FREEDOM OF EXPRESSION, ACCESS TO INFORMATION AND SAFETY OF JOURNALISTS: GUIDELINES FOR CIVIL SOCIETY (2022).

5. Treaty Bodies

Treaty bodies play an important role in safeguarding the rights of political prisoners by overseeing the implementation of international human rights treaties ratified by states parties.[120] The HRC monitors adherence to the ICCPR, which explicitly prohibits arbitrary detention and ensures the right to a fair trial.[121] One significant benefit of treaty bodies is their capacity to hold governments accountable for their treaty obligations, including respecting the rights of political prisoners.[122] By conducting regular reviews and issuing recommendations, treaty bodies provide a platform for highlighting violations, urging corrective action, and promoting transparency.[123]

However, treaty bodies' recommendations are non-binding, relying on states' willingness to voluntarily comply. This lack of enforcement can limit their effectiveness, particularly in cases where governments are resistant to external scrutiny or prioritize other interests over human rights.[124] The periodic nature of treaty body reviews may result in gaps in monitoring and oversight, allowing violations to persist between review cycles, and resource constraints and the volume of state reports to be reviewed can pose challenges to conducting exhaustive assessments of political prisoners' cases. The politicization of treaty body processes and the varying levels of engagement from states parties may also affect the consistency and impact of their interventions.[125]

Notwithstanding the ratification of international treaties, authoritarian regimes often fail to align domestic laws and

120. *Treaty Bodies*, OHCHR, https://www.ohchr.org/en/treaty-bodies [https://perma.cc/E6A4-4JF5] (last visited Mar. 31, 2026).

121. *See* Carraro, *supra* note 118.

122. *See id.*

123. *See What the treaty bodies do*, OHCHR, https://www.ohchr.org/en/treaty-bodies/what-treaty-bodies-do [https://perma.cc/8N88-9QUR] (last visited Nov. 26, 2025).

124. *See* Carraro, *supra* note 118.

125. *See* Michael O'Flaherty, *Reform of UN Human Rights Treaty Monitoring Bodies: A Critique of the Concept Paper on the High Commissioner's Proposal for a Unified Standing Treaty Body*, 7 HUM. RTS. L. REV. 141, 145–48 (2007); Kate McInnes, *Multiple Submissions Before a Fractured Treaty Body System: Lessons in Advocacy from Validity International and Topház Special Home*, 17 J. HUM. RTS. PRACT. 2–5 (2025).

practices with their treaty obligations.[126] It has been reported that, "human rights treaties have their greatest effects where they are least needed, in countries where domestic policies and practices are already broadly consonant with international human rights principles."[127] Monitoring bodies and independent organizations may face obstruction or lack of cooperation, making it difficult to accurately assess compliance with treaty provisions. It should be underscored that, "monitoring raises the likelihood that treaty violations will be detected, thereby reducing states' incentives to defect from their commitments."[128]

6. Adjudication in Regional Human Rights Courts

Adjudication in regional human rights courts is a crucial mechanism for promoting human rights, holding states accountable for violations, and providing avenues for individuals and groups to seek justice at the regional level. Regional human rights courts such as the European Court of Human Rights ("ECHR"), Inter-American Court of Human Rights ("IACtHR"), and African Court on Human and Peoples' Rights ("AfCHPR") provide avenues for individuals and groups to seek redress for human rights violations.

While regional human rights courts can issue judgments against states for human rights violations, ensuring the implementation of judgments can be challenging.[129] Although their "decisions are legally binding, states have the practical freedom to defy them. Thus, the choice of whether to follow the law is not based on threat of material loss, but rather on more intangible motivations that cannot be reduced to the carrot or the stick."[130] Some states may be reluctant to comply fully with rulings, leading to delays or incomplete enforcement. A possible solution "might involve assessing when states comply and why in order to develop

126. See James R. Hollyer & B. Peter Rosendorff, *Why Do Authoritarian Regimes Sign the Convention Against Torture? Signaling, Domestic Politics, and Non-Compliance*, 6 Q.J. POL. SCI. 275 (2011).

127. Wade M. Cole, *Mind the Gap: State Capacity and the Implementation of Human Rights Treaties*, 69 INT'L ORG. 405, 409 (2015).

128. *Id.* at 423.

129. *Law Without Violence: Human Rights Adjudication as World Building*, 137 HARV. L. REV. 1403, 1408 (2024).

130. *Id.* at 1409.

strategies for nudging recalcitrant states in line."[131] A significant portion of scholarly work addressing the efficacy of international law and human rights has focused on these questions given that "the decentralized character of the global system precludes violent enforcement and, therefore, noncompliance is endemic to human rights courts."[132] Indeed, noncompliance is pervasive within these courts, and the "status quo" regarding compliance is inherently flawed.[133]

The jurisdiction of regional human rights courts is limited to the member states of the respective regional organizations,[134] as their authority derives from specific human rights conventions; consequently, individuals in non-party states lack access to these mechanisms for redress.[135]

Regional human rights courts may face backlogs of cases, resulting in delays in the adjudication process. Prolonged delays can undermine the effectiveness of the courts and deny justice to victims of human rights violations. They may also be subject to resource constraints, which can affect their ability to handle cases efficiently.

7. Adjudication in International Courts and Tribunals

Adjudication in international courts and tribunals provide avenues for individuals and groups to seek justice at the international level. International courts such as the International Criminal Court ("ICC") "investigates and, where warranted, tries individuals charged with the gravest crimes of concern to the international community: genocide, war crimes, crimes against

131. *Id.*

132. *Law Without Violence: Human Rights Adjudication as World Building*, *supra* note 129, at 1408–1409.

133. *See* RAMŪNĖ REMEZAITE, COMPLIANCE WITH JUDGMENTS OF THE EUROPEAN COURT OF HUMAN RIGHTS: STATES ON A SPECTRUM OF DEMOCRATISATION 143 (2021).

134. *See* THERESA SQUATRITO ET AL., THE PERFORMANCE OF INTERNATIONAL COURTS AND TRIBUNALS 118 (Cambridge Univ. Press 2018).

135. *See* DINAH SHELTON, REGIONAL PROTECTION OF HUMAN Rights 7–9 (2d ed. 2014); Celestine N. Ezennia, *Access to Justice Mechanisms for Individuals and Groups under the African Regional Human Rights System*: *An Appraisal*, 8 AFR. J. LEGAL STUD. 115, 118–20 (2015).

humanity and the crime of aggression."[136] International human rights law guarantees access to fair and independent legal systems to meet individuals' justice needs.[137] In authoritarian regimes, political interference in judicial processes undermines the fairness of trials, with judges susceptible to coercion or intimidation. Lack of accountability mechanisms further erodes trust in the judiciary, exacerbating concerns about the impartiality of legal proceedings.[138]

The Overseas Development Institute ("ODI") highlights the existence of a significant "justice gap", noting that billions of people globally are excluded from meaningful access to justice and legal remedies because formal systems are unable to meet individuals' justice needs, especially in lower-income countries.[139] Less than 10% of legal needs are met globally, with even lower rates in many lower-income countries, falling below 5%.[140] This highlights the significant "justice gap" between the assistance legal systems offer; the problems individuals face, with billions unable to resolve issues like reporting crimes or accessing basic legal documents; and where "253 million people experience extreme injustices like modern slavery, statelessness or armed conflict."[141] When these systems fail to curtail abuses and ensure equal access, leaving communities alienated and disenfranchised, systems are fundamentally flawed.

Judgments may also lack enforcement mechanisms,[142] limiting the practical impact of legal decisions on the actions of member states; political considerations and diplomatic pressures

136. *About the Court*, INT'L CRIM. CT., https://www.icc-cpi.int/about/the-court [https://perma.cc/YM7Z-NPAS] (last visited Nov. 26, 2025).

137. *See* UDHR, *supra* note 23, art. 10; ICCPR, *supra* note 50, art. 14(1).

138. *See* Margaret Satterthwaite (Special Rapporteur on the Independence of Judges and Lawyers), *The Promise of Legal Empowerment in Advancing Access to Justice for All*, at 2, U.N. Doc. A/78/171 (July 13, 2023).

139. CLARE MANUEL, MARCUS MANUEL & SAMUEL SHARP, FRONT-LINE JUSTICE SERVICES WITH THE POTENTIAL TO SCALE UP: EVIDENCE FROM LOW- AND MIDDLE-INCOME COUNTRIES (2025), https://media.odi.org/documents/front-line-justice-services-with-the-potential-to-scale-up-evidence-from-lmics.pdf [https://perma.cc/Q4MR-NR64].

140. CLARE MANUEL & MARCUS MANUEL, 'SMALL IS BEAUTIFUL, BUT SCALE IS NECESSARY': FRONT-LINE JUSTICE SERVICES IN LOWER-INCOME COUNTRIES WITH THE POTENTIAL TO SCALE-UP (2023).

141. *Id.* at 6.

142. *See Law Without Violence: Human Rights Adjudication as World Building*, *supra* note 129, at 1406.

may influence the adjudication process, compromising the independence and impartiality of legal decisions; the jurisdiction may be limited, preventing the adjudication of certain cases or addressing systemic issues;[143] states may elect not to comply with judgments; and legal proceedings can be resource-intensive and inexpedient.[144]

8. Universal Jurisdiction

Universal jurisdiction is an essential mechanism for the enforcement of international criminal law, acting as a safeguard against impunity when territorial or national jurisdictions are unwilling or unable to prosecute.[145] At its core, the doctrine permits a state to prosecute certain grave offenses—such as genocide, crimes against humanity, war crimes, torture, and piracy—regardless of where they were committed or the nationality of the accused or victims.[146] The rationale is that such crimes shock the conscience of humanity, offend the international community as a whole, and implicate obligations owed to all.[147] Treaty law reinforces this framework, obligating states either to prosecute or extradite alleged perpetrators found within their territory.[148] In this way, universal jurisdiction reflects a structural commitment within international law to prevent safe havens for those responsible for the gravest abuses.[149]

Systematic arbitrary detention may constitute a crime against humanity when it involves severe deprivation of liberty and is

143. *See* Yuval Shany, *Assessing the Effectiveness of International Courts: A Goal-Based Approach*, 106 AM. J. INT'L L. 225, 225 (2012).

144. *See* ANNA SPAIN, *International Dispute Resolution in an Era of Globalization*, *in* INTERNATIONAL LAW IN THE NEW AGE OF GLOBALIZATION 47 (2013).

145. PRINCETON PROJECT ON UNIVERSAL JURISDICTION, THE PRINCETON PRINCIPLES ON UNIVERSAL JURISDICTION 1 & cmt. (2001); ANTONIO CASSESE, INTERNATIONAL CRIMINAL LAW 281–82 (2d ed. 2008).

146. *See* RESTATEMENT (THIRD) OF THE FOREIGN RELATIONS LAW OF THE UNITED STATES § 404 (A.L.I. 1987).

147. *See* Barcelona Traction, Light & Power Co. (Belg. v. Spain), Judgment, 1970 I.C.J. 3, ¶ 33 (Feb. 5).

148. *See, e.g.*, Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War art. 146, Aug. 12, 1949, 75 U.N.T.S. 287; Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment art. 5(2), Dec. 10, 1984, 1465 U.N.T.S. 85.

149. *See* Fannie Lafontaine, *Universal Jurisdiction—The Realistic Utopia*, 10 J. INT'L CRIM. JUST. 1277, 1285–86 (2012).

carried out as part of a widespread or systematic attack directed against a civilian population. When such detention is accompanied by torture, enforced disappearance, or other serious abuses, it more clearly meets the legal threshold for crimes against humanity under international law.[150]

The Rome Statute expressly enumerates imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law, torture, and enforced disappearance as constituent acts of crimes against humanity.[151] International jurisprudence confirms that such conduct, when embedded in state or organizational policy, transcends ordinary human rights violations and enters the realm of international crimes.[152] Once arbitrary detention forms part of a widespread or systematic attack, it becomes subject not merely to human rights scrutiny but to the enforcement regime applicable to crimes against humanity—including universal jurisdiction.[153]

The jurisprudence of international tribunals has further clarified that crimes against humanity do not require an international armed conflict and may arise from sustained campaigns of political repression.[154] Patterns of politically motivated imprisonment, prolonged incommunicado detention, and coercive interrogation practices have been recognized as potential components of such attacks when directed against identifiable civilian groups.[155] By situating arbitrary detention within this doctrinal framework, international law underscores that certain detention practices are not isolated administrative irregularities but may constitute prosecutable international crimes. As such, they fall within the class of offenses for which

150. *See* M. CHERIF BASSIOUNI, CRIMES AGAINST HUMANITY: HISTORICAL EVOLUTION AND CONTEMPORARY APPLICATION 275–82 (2011).

151. *See* Rome Statute of the International Criminal Court art. 7(1)(e)–(i), July 17, 1998, 2187 U.N.T.S. 90.

152. *See* Prosecutor v. Kunarac et al., Case No. IT-96-23 & IT-96-23/1-A, Judgment, ¶¶ 85–99 (Int'l Crim. Trib. for the Former Yugoslavia June 12, 2002).

153. ANTONIO CASSESE, INTERNATIONAL CRIMINAL LAW 163–64 (2d ed. 2008).

154. *See* Prosecutor v. Tadić, Case No. IT-94-1-A, Judgment, ¶¶ 248–51 (Int'l Crim. Trib. for the Former Yugoslavia July 15, 1999).

155. *See Kunarac*, IT-96-23 & IT-96-23/1-A, ¶¶ 94–97; *see also* INT'L COMM'N OF JURISTS, INTERNATIONAL LAW AND THE FIGHT AGAINST IMPUNITY: ICJ PRACTITIONERS' GUIDE NO. 7 (2015), https://www.icj.org/wp-content/uploads/2015/12/Universal-Fight-against-impunity-PG-no7-comp-Publications-Practitioners-guide-series-2015-ENG.pdf [https://perma.cc/9BCD-D3JP].

universal jurisdiction has been asserted in both treaty and customary law.[156]

The role of universal jurisdiction is to fill accountability gaps, by providing an avenue for prosecuting serious international crimes that might otherwise remain unpunished and deny safe haven to perpetrators.[157] Human rights organizations and transitional justice scholars emphasize that universal jurisdiction can serve as a catalyst for domestic proceedings, empower victims through access to foreign courts, and reinforce the principle that accountability is not confined by borders.[158] At the same time, its invocation presents significant challenges, including evidentiary burdens, questions of immunities, diplomatic tensions, and concerns regarding selectivity and prosecutorial discretion.[159] The enduring task for states is therefore to balance the doctrine's accountability-enhancing function with the legal and political constraints that accompany its exercise.

9. Evidence-Based Sanctions Recommendations

Evidence-based sanctions recommendations target individuals, entities, or governments responsible for, or complicit in, serious human rights abuses, such as cases involving political prisoners and arbitrary detention, corruption, or other illegal activities. These recommendations are based on extensive evidence gathered through investigations, reports, or assessments conducted by governments, international organizations, CSOs, and NGOs.[160] Several international jurisdictions have already implemented legislation to this effect: Global Affairs Canada, pursuant to the Justice for Victims of Corrupt Foreign Officials Act;[161] the US Departments of State and Treasury, pursuant to the

156. RESTATEMENT (THIRD), *supra* note 146.

157. Fannie Lafontaine, *Universal Jurisdiction: The Realistic Utopia*, 10 J. INT'L CRIM. JUST. 1277, 1277 (2012).

158. *See id.*; HUM. RTS. WATCH, UNIVERSAL JURISDICTION IN EUROPE: THE STATE OF THE ART 1 (2006).

159. *See* Arrest Warrant of 11 April 2000 (Dem. Rep. Congo v. Belg.), Judgment, 2002 I.C.J. 3 (Feb. 14); Lafontaine, *supra* note 157; Devika Hovell & Mara Malagodi, *Universal Jurisdiction: Law Out of Context*, 87 MOD. L. REV. 1480, 1491 (2024).

160. *See* HUM. RTS. FIRST, EVALUATING TARGETED SANCTIONS: A FLEXIBLE FRAMEWORK FOR IMPACT ANALYSIS 35 (2023), https://humanrightsfirst.org/wp-content/uploads/2023/11/Evaluating-Targeted-Sanctions-v.4.pdf [https://perma.cc/A99E-X5VQ].

161. *See* Justice for Victims of Corrupt Foreign Officials Act, S.C. 2017, c. 21 (Can.).

Global Magnitsky Human Rights Accountability Act;[162] the UK Foreign, Commonwealth & Development Office, pursuant to the Global Human Rights Sanctions Regulations 2020;[163] and the European Union, pursuant to the EU Global Human Rights Sanctions Regime.[164] These sanctions empower governments to impose targeted sanctions, including asset freezes, travel bans, and other measures, against perpetrators of human rights abuses and those complicit and culpable in cases of arbitrary detention.[165]

While sanctions recommendations serve simultaneously to pressure government actors to alter behavior and to hold them accountable for gross human rights violations, combining diplomatic leverage with norm enforcement, their effectiveness is fraught with constraints and limitations.[166] Governments targeted by sanctions may respond with retaliatory measures, further escalating tensions and hampering diplomatic efforts, and sanctions may target entire economies, potentially causing collateral damage to innocent civilians and exacerbating humanitarian crises.[167] The effectiveness of sanctions relies heavily on international cooperation and consensus, which can be difficult to achieve, especially if states oppose or refuse to enforce them[168]. Sanctioned regimes may adapt by circumventing sanctions through illicit means, rendering them less impactful in achieving their intended objectives.[169]

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162. *See* Global Magnitsky Human Rights Accountability Act, S. 284, 114th Cong. § 3 (2015).

163. *See* Global Human Rights Sanctions Regulations 2020, SI 2020/680 (Eng.).

164. *See* European Parliament Resolution on the EU Global Human Rights Sanctions Regime (EU Magnitsky Act), 2022 O.J. (C 99) (July 8, 2021).

165. Global Magnitsky Human Rights Accountability Act, Pub. L. No. 114-328, §§ 1261–1265, 130 Stat. 2000 (2016); *see* Ornella Belfiori, *The (Global) Magnitsky Act(s): Has Combating Corruption and Human Rights Abuses Ever Been at the Forefront of the Sanctions Space?*, 9 E. EUR. J. TRANSNAT'L RELS. 25, 26 (2025).

166. *See* Belfiori, *supra* note 165, at 31; Anton Moiseienko, *Crime and Sanctions: Beyond Sanctions as a Foreign Policy Tool*, 25 German L.J. 17, 46 (2024).

167. DANIEL W. DREZNER, THE SANCTIONS PARADOX: ECONOMIC STATECRAFT AND INTERNATIONAL RELATIONS 80–83 (Cambridge Univ. Press 1999); MARGARET DOXEY, INTERNATIONAL SANCTIONS IN CONTEMPORARY PERSPECTIVE 29–31 (2d ed. 2003); MOHAMMAD REZA FARZANEGAN ET AL., SANCTIONS ARE NOT A HUMANE ALTERNATIVE TO WAR (2025) (examining sanctions' harmful impact on civilian health and welfare).

168. DANIEL W. DREZNER, THE SANCTIONS PARADOX: ECONOMIC STATECRAFT AND INTERNATIONAL RELATIONS 78–80 (Cambridge Univ. Press 1999).

169. REDRESS ET AL., EVALUATING TARGETED SANCTIONS: A FLEXIBLE FRAMEWORK FOR IMPACT ANALYSIS 12 (2023), https://www.padf.org/wp-content/uploads/2024/01/Evaluating-Targeted-Sanctions-Report-Nov-2023.pdf [https://perma.cc/FT8K-ZUJK].

III. ADVOCACY PLAN FOR JUSTICE AND ACCOUNTABILITY

What follows is a nine-point advocacy plan for justice and accountability on "how to stand with political prisoners."[170] The advocacy plan builds on extensive case studies, integrating lessons learned to strengthen the prospects of securing the release of political prisoners and prisoners of conscience. It presents evidence-based strategies while critically examining potential limitations and the nuanced complexities inherent in their implementation. By implementing this comprehensive and comprehensible advocacy plan of action, international human rights advocates can work collectively and in common cause to cast a spotlight on human rights abuses, mobilize support for victims, and bring about meaningful change in the detaining country.

The Honorable Irwin Cotler—international legal counsel to various political prisoners and prisoners of conscience—developed a prototypical advocacy model, which provides a framework on how to champion the cases and causes of political prisoners, mobilize shame against human rights violators, and stand in solidarity with them in their struggle for justice and freedom.[171]

A. Legal Representation

Identify and collaborate with local and international legal experts, human rights lawyers, and NGOs specialized in international justice and human rights. Provide legal assistance and representation to political prisoners, ensuring their rights are protected by advocating for fair treatment and due process. File legal briefs, petitions, and complaints with regional human rights courts, international courts and tribunals, and international bodies, such as the WGAD. Professor Cotler explains the importance of, "mak[ing] legal representations within the human rights violator country itself, because the violator regimes are

170. *How to Stand With Political Prisoners*, OTTAWA CITIZEN (Mar. 3, 2014), https://www.ottawacitizen.com/news/op-ed-how-to-stand-with-political-prisoners [https://perma.cc/L8VU-BXJT].

171. *See The Honourable Irwin Cotler*, PRIME MINISTER OF CAN. (Nov. 25, 2020), https://www.pm.gc.ca/en/news/backgrounders/2020/11/25/honourable-irwin-cotler [https://perma.cc/C7EK-MUSC].

themselves preoccupied with their legitimacy. And so one has to expose and unmask their human rights violations."[172]

B. Documentation, Evidence Gathering, and Petitioning

Establish mechanisms for documenting and verifying human rights abuses, including witness testimonies, photographic evidence, and medical reports. Compile comprehensive reports detailing the nature, scope, and perpetrators of human rights violations. Ensure the confidentiality and security of sensitive information, especially in contexts where activists and witnesses may face reprisals. Petition regional human rights courts, and international courts and tribunals, using well-supported and rigorously drafted legal briefs, "providing international resonance for the case and cause."[173]

C. Involve Your Government and Diplomatic Channels

As Professor Cotler explains, "get your own government involved actively in making representations on behalf of the political prisoner where that is possible."[174] He emphasizes that it "is very important to get parliaments involved" to sanction the rights-violating and detaining country.[175] Engage and lobby foreign governments, diplomatic missions, and international organizations to raise awareness of political prisoners and related human rights concerns in the detaining country. Advocate for diplomatic interventions, including démarches, public statements, and targeted sanctions against human rights violators. Promote support for resolutions and coordinated actions within multilateral forums, such as the UNGA and the HRC.

172. *How to Stand With Political Prisoners*, *supra* note 170.
173. *Id*.
174. *Id.*
175. *Id.*

D. Engage Families of Political Prisoners

Families play a central role in advocating for political prisoners.[176] They often become the public face of a prisoner's plight, spearheading campaigns for their release and representing their interests to the outside world, bringing personal involvement and human resonance to their cases and causes.[177] As Professor Cotler underscores, "Anatoly Sharansky's wife became the face of Sharansky while he was in prison, and through her, opened doors to meetings with governments, in the same way that Winnie Mandela became the face of Nelson Mandela when he was in prison."[178]

E. Name and Shame Detaining Country

Utilize social media platforms to raise awareness about human rights violations in the detaining country. Publicize cases of abuse, highlight individual stories, and amplify the voices of victims and their families. Name and shame the detaining country through public statements, press releases, and advocacy campaigns to hold authorities accountable for their actions.

F. Organize Public Advocacy Campaign

Organize rallies, protests, and public demonstrations to raise public awareness, generate media coverage, and pressure authorities to address human rights violations against political prisoners. Develop creative tactics, such as digital storytelling campaigns, photography exhibitions, community workshops, and social media campaigns to engage diverse audiences and amplify key messages. Highlight the specific human rights violations in the detaining country through the lens of an emblematic political prisoner case study.

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176. Jocelyn Viterna, *Advocacy from the Home Front: Families of Political Prisoners and Human Rights Campaigns*, 45 HUM. RTS. Q. 678, 680–82 (2023).

177. Irwin Cotler, Founder & Chair, Raoul Wallenberg Ctr. for Hum. Rts., Opening Speech: Political Prisoners and the Legacy of Nelson Mandela at the 6th Annual Geneva Summit for Human Rights and Democracy (Feb. 25, 2014) (transcript available at https://genevasummit.org/speech/opening-speech-political-prisoners-and-the-legacy-of-nelson-mandela/ [https://perma.cc/QYW2-DVAQ]).

178. *Id.*

G. Mobilize and Leverage International Pressure

Mobilize and leverage international pressure through advocacy efforts targeting governments, intergovernmental organizations, and multinational corporations. Coordinate with NGOs specialized in international justice and human rights, and related networks, to amplify the impact of advocacy campaigns. Invoke and utilize international mechanisms, such as the Special Procedures of the HRC, the WGAD, and the UPR, to unmask and expose the detaining country's arbitrary and illegal detentions and exert pressure for compliance with human rights obligations.

H. Build International Coalitions

Foster collaboration and coordination among governments, international organizations, CSOs, and NGOs committed to advancing human rights. Formulate joint statements, open letters, and petitions calling for action on specific human rights concerns. Participate in international conferences, forums, and working groups to share information, strategies, and best practices for advocacy.

I. Build a Critical Mass of Advocacy with Civil Society

Build solidarity and mobilize support for political prisoner cases through civil society advocacy, outreach campaigns, and community engagement. This includes groups such as "women, students, scientists, academics, trade unions, the legal community, and the like," each 'engaged and empowered "with their counterparts in the rights-violating country to create that critical mass of advocacy."[179] Cultivate strategic partnerships with stakeholders, including academics, public intellectuals, religious leaders, and celebrities to broaden the reach and impact of advocacy efforts.

To exemplify these principles in practice, this Part examines two emblematic case studies that highlight the global assault on media freedom and the growing phenomenon of hostage-taking, providing the foundation for a coherent advocacy plan for justice and accountability.

179. *How to Stand With Political Prisoners*, *supra* note 170.

IV. CASE STUDIES

A. Case of Dawit Isaak

1. Context

Eritrea has been under the authoritarian rule of President Isaias Afwerki since its independence in 1993.[180] President Afwerki holds absolute power, with control over the government, military, and security apparatus. There are no independent branches of government or political opposition allowed.[181] The regime is characterized by widespread oppression and repression, national service and forced labor, economic stagnation, gross and systematic human rights violations, and a mass exodus and refugee crisis.[182]

The "Eritrea Axis of Countries," which includes Ethiopia, Sudan, Djibouti, Somalia, and Yemen,[183] is a group of nations in the Horn of Africa region that have deep historical, political, and strategic ties with Eritrea, in addition to complex geopolitical interests and regional alliances that shape their relations.[184] While Eritrea has not been formally labeled as part of the "Axis of Evil," it may also be seen as a geopolitical player of the Iran, North Korea, and Syria network, and has diplomatic ties with the United Arab Emirates, Saudi Arabia, and Qatar.[185]

2. Fact Pattern

Dawit Isaak is an Eritrean-born playwright, author, and journalist. In 1987, he fled Eritrea and settled in Sweden where he

180. U.S. DEP'T OF STATE, 2022 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES: ERITREA (2022), https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/eritrea [https://perma.cc/EW79-25SF].

181. *Id.*

182. *See id.*

183. Suresh Kumar, *Current Geo-Politics in North-East Africa: Djibouti, Eritrea, Ethiopia, Somalia and Sudan*, AFR. INDIA, https://africaindia.org/current-geo-politics-in-north-east-africa-djibouti-eritrea-ethiopia-somalia-and-sudan/ [https://perma.cc/NM29-7J8S] (last visited Mar. 24, 2026).

184. Dan Connell, *Inside the EPLF: The Origins of the "People's Party" & Its Role in the Liberation of Eritrea*, 28 REV. AFR. POL. ECON. 345 (2001).

185. Ariel Farrar-Wellman, *Eritrea-Iran Foreign Relations*, CRITICAL THREATS PROJECT (Jan. 17, 2009), https://www.criticalthreats.org/analysis/eritrea-iran-foreign-relations [https://perma.cc/QDS9-FD3T].

obtained Swedish citizenship. After Eritrea gained independence in May 1993, Mr. Isaak returned to Eritrea to continue his work with theatre and literature. He subsequently worked for *Setit*, one of Eritrea's first independent newspapers.[186]

In 2000, Mr. Isaak, his wife, and three children left Eritrea due to the ongoing political turmoil. He subsequently returned to Eritrea in 2001 to continue his work as a journalist, advocating for the easing of restrictions on the press.[187]

On September 18, 2001, the Eritrean government shut down all independent media in the country.[188] On September 23, 2001, Mr. Isaak, and nine other independent journalists, were arbitrarily detained without charge or trial as part of a brutal crackdown on free speech.[189] His arrest and detention followed his criticism of Eritrean government policies and Setit's publication of an open letter signed by fifteen prominent members of the seventy-five-member People's Front for Democracy and Justice ("PFDJ") Central Council (the "G-15"). The signatories—including several current or former ministers (at least seven in total) and a former vice-president—denounced President Afwerki's actions as "illegal and unconstitutional." The G-15 letter demanded that President Afwerki convene the PFDJ's governing bodies, criticized the concentration of power, and called for democratic reform.[190]

186. *Dawit Isaak: a symbol of press freedom who must be freed*, UNESCO (July 19, 2017), https://courier.unesco.org/en/articles/dawit-isaak-symbol-press-freedom-who-must-be-freed [https://perma.cc/H9DU-GQE5] (describing Isaak's exile to Sweden, return after independence, and role with Setit); *Swedish-Eritrean Journalist, Dawit Isaak, Spends 5,000th Day in Prison*, C.R. DEFS. (June 2, 2015), https://crd.org/2015/06/02/swedish-eritrean-journalist-dawit-isaak-spends-5000th-day-in-prison/#:~:text=Today%2C%202%20June%20marks%20the,independent%20media%20in%20the%20country [https://perma.cc/2P3Z-TH8U] (noting Isaak worked for the newspaper Setit prior to its closure and his arrest).

187. *Dawit Isaak*, COMM. TO PROTECT JOURNALISTS, https://cpj.org/data/people/dawit-isaak/ [https://perma.cc/2XDT-PB5E] (last visited Mar. 24, 2026).

188. *Eritrea*, REPS. WITHOUT BORDERS (RSF), https://rsf.org/en/eritrea [https://perma.cc/KSB6-VYTB] (last visited Apr. 6, 2026); 2022 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES: ERITREA, *supra* note 180; *Eritrea*, COMM. TO PROTECT JOURNALISTS, https://cpj.org/africa/eritrea/ [https://perma.cc/3Q9G-JTBF] (last visited Apr. 6, 2026).

189. 2022 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES: ERITREA, *supra* note 180; *Eritrea*, *supra* note 188; *Dawit Isaak*, *supra* note 187.

190. Dan Connell, *From Resistance to Governance: Eritrea's Trouble with Transition*, 38 REV. AFR. POL. ECON. 419, 421–22 (2011) (describing how the G-15 open letter criticized the president's growing authoritarian rule and urged implementation of the constitution and democratic reforms).

Mr. Isaak was never brought before a judicial body. He is a political prisoner detained for expressing his views on the governance of Eritrea—in essence, expressing political demands in a peaceful manner.[191] Mr. Isaak was denied the right to legal counsel and consular protection, and was unauthorized to communicate with the outside world, including his family. He has been held incommunicado, unable to communicate with anyone outside of his confinement, for more than twenty-four years. Mr. Isaak and his colleagues are the longest detained journalists in the world.[192]

In October 2001, the Eritrean government denied the crackdown on free speech. It alleged that Mr. Isaak and the other independent journalists had been sent to carry out their national service, and that the closures and mass arrests were necessary for the sake of national unity and the newspapers' failure to comply with laws covering media licenses.[193]

In November 2001, Sweden's then honorary consul in Eritrea's capital, Asmara, Lis Truelsen, "caught a glimpse of him through the bars and had time to exchange a few words with him"[194] . . . "How are you, Dawit?", she asked. "I am fine", he replied, "but it's tough to sleep on the floor."[195] In April 2002, it was reported that Mr. Isaak had been taken to the hospital "for treatment of torture injuries" sustained in prison.[196] In April 2004, Mr. Isaak and other journalists were reportedly being held in secret security sections of the second and sixth police stations in

191. Working Grp. on Arbitrary Det., Opinion No. 10/2023 Concerning Dawit Isaak (Eritrea), U.N. Doc. A/HRC/WGAD/2023/10 (June 1, 2023).

192. *Id.*; David Kaye (Special Rapporteur on the Promotion & Prot. of the Right to Freedom of Opinion & Expression), *Rep. of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression*, ¶¶ 14–18, U.N. Doc. A/HRC/32/38 (May 11, 2016).

193. Working Grp. on Arbitrary Det., *supra* note 191.

194. EUR. PARL., COMM. ON FOREIGN AFFS., Notice to Members, Sakharov Prize for Freedom of Thought 2010, at 14 (Sep. 28, 2010), https://www.europarl.europa.eu/meetdocs/2009_2014/documents/afet/cm/832/832022/832022en.pdf [https://perma.cc/S4A7-5XSZ] [hereinafter Notice to Members].

195. JOHAN KARLSSON & RICKAR SJÖBERG, DAWIT OCH FRIHETEN – OM DEN SVENSKE SAMVETSFÅNGEN OCH ERITREAS INSTÄLLDA DEMOKRATISERING [DAWIT AND THE FREEDOM – ON THE SWEDISH PRISONER OF CONSCIENCE AND ERITREA'S CANCELED DEMOCRATISATION] (Silc Förlag 2004).

196. *See* COMM. TO PROTECT, JOURNALISTS IN PRISON, 2004, (2004), https://cpj.org/reports/2004/12/imprisoned-04/ [https://perma.cc/43BJ-27ST].

Asmara.[197] In the summer of 2004, Eritrea's ambassador in Stockholm, Araya Desta:

> told the Swedish national radio that Dawit Isaak was doing fine. But so far, neither his family nor Swedish authorities nor international human rights organizations have been allowed to visit him. The Eritrean authorities claim that Dawit Isaak is an Eritrean citizen only - not a Swedish citizen - and his case thus an internal affair.[198]

In November 2005, Eritrean authorities briefly released Mr. Isaak for three days, only to immediately detain him again, continue denying him contact with the outside world, and access to legal representation.[199]

Since 2005, Mr. Isaak has been held in indefinite solitary confinement— a form of psychological torture with measurable long-term physiological effects. It has been reported that the physical and psychological conditions of Mr. Isaak's solitary confinement have been harsh and inhumane, which would undoubtedly amount to torture.[200]

By December 2008, unconfirmed reports indicated that Mr. Isaak had been transferred to a maximum-security prison in Embatkala, approximately 35 km northeast of Asmara. He was reportedly in serious condition and was subsequently admitted to a hospital in Asmara. Mr. Isaak is likely being held in the Eiraeiro prison camp, one of a network of secret prisons where thousands

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197. *Id.*

198. *See* Notice to Members, *supra* note 194.

199. Amnesty Int'l, *Eritrea: Religious Persecution*, at 1–2, AI Index AFR 64/013/2005 (Dec. 2005), https://www.amnesty.org/en/wp-content/uploads/2023/06/AFR6401 32005ENGLISH.pdf [https://perma.cc/VB82-Y7GZ].

200. Working Grp. on Arbitrary Det., Opinion No. 10/2023 Concerning Dawit Isaak (Eritrea), U.N. Doc. A/HRC/WGAD/2023/10 (June 1, 2023), https://digitallibrary.un.org/record/4026683/files/A_HRC_WGAD_2023_10-EN.pdf [https://perma.cc/5YHN-FB94]; Amnesty Int'l, *Eritrea: 20 Years of Independence, But Still No Freedom*, at 8–9, 13, 19, AI Index AFR 04/001/2013 (May 2013), https://www.amnesty.org/fr/wp-content/uploads/2021/06/afr640012013en.pdf [https://perma.cc/9M42-NBN2]; Amnesty Int'l, *Eritrea: "You Have No Right to Ask" – Government Resists Scrutiny on Human Rights*, at 19, AI Index AFR 64/003/2004 (May 18, 2004), https://www.amnesty.org/fr/wp-content/uploads/2021/09/afr640032004en.pdf [https://perma.cc/9LJX-B6KN]; HUM. RTS. WATCH, SERVICE FOR LIFE: STATE REPRESSION IN ERITREA (2009), https://www.hrw.org/reports/eritrea0409web.pdf [https://perma.cc/6XWR-L43X]; AMNESTY INT'L, AMNESTY INTERNATIONAL ANNUAL REPORT 2011: ERITREA (2011), https://www.refworld.org/reference/annualreport/amnesty/2011/79372 [https://perma.cc/5U9M-QRKR].

of political prisoners are incarcerated, in what Amnesty International calls "unimaginably atrocious conditions."[201]

In January 2009, Mr. Isaak was allegedly transferred from prison to an Air Force hospital in Asmara because of serious illness, but was later returned to prison. Reports indicate that Mr. Isaak is being held at Eiraeiro prison camp, sixteen kilometers north of Asmara.[202]

As of January 2010, Mr. Isaak was being held in a tiny prison cell with no windows and was in very poor physical and mental condition. He, and the other inmates, were allegedly unauthorized to have contact with each other or the outside world.[203] In mid-April 2010, the Swedish Member of the European Parliament, Eva-Britt Svensson, stated that the Eritrean ambassador in Brussels, Girma Asmerom Tesfay, had informed her in a meeting that Mr. Isaak was to be formally charged with a crime and taken to court. However, this was denied by the Eritrean embassy in Brussels.[204]

In 2014, Eritrea ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.[205] In June 2016, Eritrea's Foreign Minister, Osman Saleh Mohammed, was interviewed on Radio France International I, where he indicated that Mr. Isaak was in the Eritrean authorities' custody and would be tried eventually.[206] In 2017, Mr. Isaak was awarded the UNESCO/Guillermo Cano World Press Freedom Prize, drawing

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201. *Eritrea: "10,000 Political Prisoners in Awful Conditions,"* BBC NEWS, (May 9, 2013), https://www.bbc.com/news/world-africa-22460836 [https://perma.cc/MKE3-HUKK].

202. ALICIA QUIÑONES ET AL., *Dawit Isaak*, *in* PEN INT'L CASE LIST 2020 26 (2020), https://danskpen.dk/wp-content/uploads/2025/03/2020_PEN_Case_List.pdf [https://perma.cc/862F-HPTD].

203. *See* COMM. TO PROTECT JOURNALISTS, ANNUAL PRISON CENSUS 2011—ERITREA (2011), https://www.refworld.org/reference/annualreport/cpj/2011/en/82998 [https://perma.cc/7J36-ULQY]; *Swedish-Eritrean Writer Marks 5,000 Days in Detention Without Trial*, PEN INT'L (June 2, 2015), https://ifex.org/swedish-eritrean-writer-marks-5000-days-in-detention-without-trial/ [https://perma.cc/MM8G-LKCX].

204. *Dawit Isaak ska få en rättegång* [*Dawit Isaak Will Get a Trial*], SVERIGES RADIO (Apr. 15, 2010), https://www.sverigesradio.se/artikel/3628432 [https://perma.cc/KTR3-BQSM]; *Isaak Promised a Trial in Eritrea*, SVERIGES RADIO (Apr. 15, 2010), https://www.sverigesradio.se/artikel/3629457 [https://perma.cc/T96K-3BHJ].

205. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dec. 10, 1984, 1465 U.N.T.S. 85.

206. *See Eritrea's Foreign Minister Claims 'The Political Prisoners Are All Alive and in Good Hands'*, RADIO FR. INT'L (June 20, 2016), https://asmarino.com/news/4665-rfi-eritrea-s-foreign-minister-claims-the-political-prisoners-are-all-alive-and-in-good-hands [https://perma.cc/2K5V-2AHQ].

renewed international attention to his case after nearly 16 years in detention.[207] In 2021, media coverage reiterated that Mr. Isaak remained detained without trial, considered a prisoner of conscience, and likely held incommunicado—reinforcing his status as one of the longest-detained journalists globally.[208] Mary Lawlor, the UN Special Rapporteur on the Situation of Human Rights Defenders, who monitors and reports on threats to individuals defending human rights worldwide, publicly condemned Mr. Isaak's prolonged detention without charge or access to legal counsel, noting that "to this day, Dawit Isaak has never been charged with a crime, spent a day in court or spoken to his lawyer.[209]" On September 23, 2024, on the 23rd anniversary of his arrest, a joint complaint was filed by Reporters Without Borders ("RSF") and its Swedish section to allege crimes against humanity by Eritrean leadership, including Mr. Isaak's indefinite detention without trial.[210]

In November 2024, Mr. Isaak was awarded the Edelstam Prize in recognition of his courage and long-standing commitment to freedom of expression, even though he remains unable to accept the award in person due to his detention.[211] On February 4, 2025, the National Press Club publicly called for Mr. Isaak's immediate release, reiterating that he has been imprisoned for twenty-three plus years without charge or trial and denounced his ongoing

207. *See Eritrean-Born Journalist Dawit Isaak Awarded UNESCO-Guillermo Cano World Press Freedom Prize 2017*, UNESCO (Mar. 30, 2017), https://www.unesco.org/en/articles/eritrean-born-journalist-dawit-isaak-awarded-unescoguillermo-cano-world-press-freedom-prize-2017 [https://perma.cc/BHA7-P8UQ].

208. *See* Judith Abitan, *What a Journalist Jailed For 20 Years Reveals About the Global Assault on Independent Media*, TIME (Nov. 11, 2021), https://time.com/6113402/dawit-isaak-eritrea/ [https://perma.cc/M3YY-LQUW].

209. Press Release, Off. of the High Comm'r for Hum. Rts., Eritrea: UN Experts Demand Release of Human Rights Defender Held 20 Years Without Charge (Aug. 18, 2021) (on file with author).

210. *See The case of Dawit Isaak: RSF international joins its Swedish section to file a complaint for crimes against humanity against Eritrea's president Isaias Afwerki*, REPS. WITHOUT BORDERS (Sep. 23, 2024), https://rsf.org/en/case-dawit-isaak-rsf-international-joins-its-swedish-section-file-complaint-crimes-against-humanity [https://perma.cc/6R9U-6X3N].

211. *See World's Longest Arbitrarily Detained Journalist Receives the Edelstam Prize*, EDELSTAM FOUND. (Nov. 11, 2024), https://www.edelstam.org/news/worlds-longest-arbitrarily-detained-journalist-receives-the-edelstam-prize/ [https://perma.cc/49SZ-XZ2L].

incommunicado detention.[212] On February 12, 2025, the Swedish government presented its Statement of Foreign Policy 2025, in which it reaffirmed its ongoing commitment "[t]he Government will continue its efforts to secure the release of journalist Dawit Isaak, publisher and poet Gui Minhai, and researcher Ahmadreza Djalali."[213]

On September 25, 2025, after a meeting with the Eritrean foreign minister, Osman Saleh Mohammed, Swedish foreign minister, Malmer Stenergard, said she demanded Mr. Isaak's release on humanitarian grounds.[214] On October 27, 2025, on his 61st birthday, human rights organizations and civil-society actors—including the Edelstam Foundation and the Raoul Wallenberg Centre for Human Rights ("RWCHR")—issued renewed appeals demanding that the Swedish government and international community secure Mr. Isaak's release and ensure accountability for his unlawful detention.[215]

Mr. Isaak has endured several medical ailments over the course of his imprisonment.[216] He has suffered with diabetes for years and was denied necessary medical care. There are grave and ongoing concerns about Mr. Isaak's health resulting from the inhumane conditions under which he has been detained. To this day, the Eritrean government continues to ignore and disregard

212. *See Eritrea Must Free Journalist Dawit Isaak Detained 23 Years*, NAT'L PRESS CLUB (Feb. 4, 2025), https://www.press.org/newsroom/eritrea-must-free-journalist-dawit-isaak-detained-23-years [https://perma.cc/6U6S-PH7Z].

213. *See* Maria Malmer Stenergard, Minister for Foreign Affs. of Swed., Statement of Foreign Policy 2025 (Feb. 12, 2025) (transcript available at https://www.government.se/speeches/2025/02/statement-of-foreign-policy-2025/ [https://perma.cc/4R6N-SRKG]).

214. *See Foreign Ministers Demand Release Dawit Isaak*, HOSTAGE AID WORLDWIDE (Sep. 25, 2025), https://hostageaid.org/foreign-ministers-demand-release-dawit-isaak/ [https://perma.cc/PS5A-Q8WU].

215. *See* Press Release, Edelstam Found., Raoul Wallenberg Ctr. for Hum. Rts., Dawit Isaak Turns 61 – Marking 25 Birthdays Behind Bars (Oct. 27, 2025), https://www.edelstam.org/news/dawit-isaak-turns-61-marking-25-birthdays-behind-bars/ [https://perma.cc/MMY6-78TD].

216. *Dawit Isaac, journalist and newspaper owner imprisoned solely for peacefully exercising his right to freedom of expression*, AMNESTY INT'L (Sep. 18, 2019), https://www.amnesty.org/en/latest/campaigns/2019/09/dawit-isaac-eritrea-hrds-arrested-never-seen-or-heard-from-again [https://perma.cc/XPM8-V5CS]; Mary Lawlor, *Eritrea: Little Cause for Celebration*, FRONT LINE DEFS. (May 27, 2016), https://www.frontlinedefenders.org/en/blog/post/eritrea-little-cause-celebration [https://perma.cc/Q5N6-D9HM].

every relevant domestic and international petition and decision demanding Mr. Isaak's immediate and unconditional release.

3. Domestic Advocacy

At the domestic level, Mr. Isaak's Swedish legal counsel filed a series of complaints and reviews with the Swedish Prosecution Authority ("SPA") documenting the Eritrean government's crimes against humanity, enforced disappearance, and torture in the case of Mr. Isaak, as perpetrated by President Afwerki and other senior Eritrean officials.[217] While the SPA has made the determination that crimes against humanity have been committed against Mr. Isaak, it has consistently rejected all requests to exercise universal jurisdiction and open a criminal investigation.[218] The RWCHR produced a detailed timeline discussing the SPA's refusal to investigate and prosecute the alleged perpetrators.[219]

At the international level, Mr. Isaak's Swedish legal counsel attempted to pursue legal recourse through multiple courts and international bodies, petitioning Eritrea's High Court, the UN Commission of Inquiry on Human Rights in Eritrea, the AfCHPR, and the European Union.[220] In 2011, Mr. Isaak's Swedish legal

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217. Press Release, Åklagarmyndigheten [Swedish Prosecution Auth.], Riksåklagarens hantering av ärendet om Dawit Isaak [The Prosecutor General's Handling of the Dawit Isaak Case] (Dec. 19, 2014) (Swed.), https://www.aklagare.se/for-media/pressmeddelanden/2014/december/riksaklagarens-hantering-av-arendet-om-dawit-isaak [https://perma.cc/2F5M-FMBD] [hereinafter Swedish Prosecution Auth.]; Press Release, Åklagarmyndigheten [Swedish Prosecution Auth.], Förundersökning inleds inte i ärende om Dawit Isaak [No Investigation Opened in the Dawit Isaak Case] (Jan. 12, 2021) (Swed.), https://www.aklagare.se/for-media/pressmeddelanden/2021/januari/forundersokning-inleds-inte-i-arende-om-dawit-isaak/ [https://perma.cc/EK8E-UZ3G]; Press Release, Åklagarmyndigheten [Swedish Prosecution Auth.], Ingen ändring av beslut i ärende om Dawit Isaak [No Change to Decision in the Dawit Isaak Case] (May 28, 2021) (Swed.), https://www.aklagare.se/for-media/pressmeddelanden/2021/maj/ingen-andring-av-beslut-i-arende-om-dawit-isaak [https://perma.cc/R5YR-RJHP]; *The Case of Dawit Isaak: RSF International Joins Its Swedish Section to File a Complaint for Crimes Against Humanity Against Eritrea's President Isaias Afwerki*, REPS. WITHOUT BORDERS (Sep. 18, 2024), https://rsf.org/en/case-dawit-isaak-rsf-international-joins-its-swedish-section-file-complaint-crimes-against-humanity [https://perma.cc/4USR-JMG7].

218. *See* Swedish Prosecution Auth., *supra* note 217; REPS. WITHOUT BORDERS, *supra* note 217.

219. *See Dawit Isaak*, RAOUL WALLENBERG CTR. FOR HUM. RTS., https://www.raoulwallenbergcentre.org/en/defending-political-prisoners/dawit-isaak [https://perma.cc/V6JF-9KWD].

220. *See, e.g.*, Exec. Order No. 13,818, 82 Fed. Reg. 60839 (Dec. 26, 2017); Afr. Comm'n on Hum. and Peoples' Rts. [ACHPR], *Dawit Isaak v. Republic of Eritrea*,

counsel filed a habeas corpus petition with Eritrea's High Court demanding the production of Mr. Isaak and requesting that the lawfulness of his detention be reviewed.[221] It was ignored without consequence by the Eritrean government.

In 2012, Mr. Isaak's Swedish legal counsel filed a complaint with the AfCHPR to inquire into his whereabouts, the circumstances of his detention, and to demand his release.[222] In 2018, the AfCHPR issued a final and binding judgment ordering the Eritrean authorities to either release or bring to a speedy and fair trial the eighteen journalists, including Mr. Isaak, detained since 2001.[223] This significant and legally binding decision was ignored without consequence by the Eritrean government.[224]

Mr. Isaak's Swedish legal counsel has advocated before the United Nations, which has continuously appealed to the Eritrean government for his release.[225] In 2016, the UN Commission of

Communication 428/12, at 1 (Apr. 27, 2018); Resolution on Eritrea, Notably the Case of Dawit Isaak, EUR. PARL. DOC. P9_TA(2020)0258 (Oct. 8, 2020); Press Release, Off. of the High Comm'r for Hum. Rts., Eritrea: UN Commission Has Urged Referral to the International Criminal Court (Oct. 28, 2016), https://www.ohchr.org/en/2016/10/eritrea-un-commission-has-urged-referral-international-criminal-court [https://perma.cc/26TD-H4EX]; Jesús Alcalá, Percy Bratt & Prisca Orsonneau, Petition for Writ of Habeas Corpus at 11 (Eritrean Special Ct. Dec. 21, 2011); PEN INT'L ET AL., JOINT SUBMISSION FOR THE UNIVERSAL PERIODIC REVIEW OF ERITREA (2018), https://www.pen-international.org/research/upr-of-eritrea-by-pen-international-pen-eritrea-in-exile-and-the-committee-to-protect-journalists-cpj [https://perma.cc/5JK8-DHA9]; *About Dawit*, FREE DAWIT ISAAK, https://freedawit.com/english/about-dawit/ [https://perma.cc/VK5Y-22JE] (last visited Apr. 6, 2026).

221. *See About Dawit*, *supra* note 220.

222. Dawit Isaak v. Republic of Eritrea, Communication 428/12, Complaint, African Commission on Human and Peoples' Rights [Afr. Comm'n H.P.R.] (Oct. 29, 2012), https://tanzlii.org/akn/aa-au/judgment/achpr/2018/135/eng%402018-04-27 [https://perma.cc/SE94-FJS9].

223. *See* Dawit Isaak v. Republic of Eritrea, Communication 428/12, Decision, African Commission on Human and Peoples' Rights [Afr. Comm'n H.P.R.] (Apr. 27, 2018), https://achpr.au.int/index.php/en/decisions-communications/42812-dawit-isaak-v-republic-eritrea [https://perma.cc/MLW2-YEAR].

224. *23 Years of Silence: Eritrean Authorities Must End Impunity and Release All Prisoners of Conscience*, HUM. RTS. CONCERN–ERITREA (HRCE) (Sep. 18, 2025), https://hrc-eritrea.org/23-years-of-silence-eritrean-authorities-must-end-impunity-and-release-all-prisoners-of-conscience/ [https://perma.cc/2YK8-XNVB].

225. *African Panel to Examine Case of Detained Swedish-Eritrean Journalist*, REPS. WITHOUT BORDERS (Mar. 13, 2013), https://rsf.org/en/african-panel-examine-case-detained-swedish-eritrean-journalist [https://perma.cc/DK78-7LBX]; Nathalie Rothschild, *Dawit Isaak: A Symbol of Press Freedom Who Must Be Freed*, UNESCO COURIER (July 19, 2017), https://courier.unesco.org/en/articles/dawit-isaak-symbol-press-freedom-who-must-be-freed [https://perma.cc/L4WS-6ZW5].

Inquiry on Human Rights in Eritrea urged the UNGA and the Security Council ("UNSC") to refer the situation in Eritrea to the ICC.[226] However, the UNSC has yet to refer the situation in Eritrea to the ICC—allowing the Eritrean government to continue perpetrating its gross human rights violations with impunity. In 2018, a joint submission to the UPR on Eritrea was made by PEN Eritrea, PEN International, and the Committee to Protect Journalists.[227] In 2020, the European Parliament condemned the Eritrean government's gross and systematic human rights violations and pleaded for Mr. Isaak's release from prison to no avail.[228]

4. International Advocacy

The case of Mr. Isaak is one of the RWCHR's emblematic case studies of the global assault on media freedom. To advance justice for Mr. Isaak, several domestic and international initiatives[229] have been undertaken—and supported by Dr. Mohamed Abdelsalam Babiker, UN Special Rapporteur for the Situation of Human Rights in Eritrea[230]—to build a critical mass of advocacy. The RWCHR spearheaded an international coalition of leading NGOs and human rights organizations, experts, advocates, and journalists to demand that the Eritrean government immediately and unconditionally release Mr. Isaak and his colleagues [231] and hold it accountable for

226. *See* Press Release, Off. of the High Comm'r for Hum. Rts., Eritrea: UN Commission Has Urged Referral to the International Criminal Court (Oct. 28, 2016), https://www.ohchr.org/en/2016/10/eritrea-un-commission-has-urged-referral-international-criminal-court [https://perma.cc/26TD-H4EX].

227. *See* PEN INT'L ET AL., *supra* note 220.

228. *See* Resolution on Eritrea, *supra* note 220, ¶¶ 1–2.

229. *See* Abitan, *supra* note 208.

230. Mohamed Abdelsalam Babiker (Special Rapporteur on the Situation of Hum. Rts. in Eritrea), *Rep. of the Special Rapporteur on the Situation of Human Rights in Eritrea*, U.N. Doc. A/HRC/59/24 (May 12, 2025) (reporting on the continued use of arbitrary detention, enforced disappearance, denial of due process, and systematic human rights violations in Eritrea).

231. Press Release, Raoul Wallenberg Ctr. For Hum. Rts., RWCHR Spearheads International Coalition Calling for Targeted Magnitsky Sanctions Against Senior Eritrean Officials Involved in Gross Human Rights Violations (Oct. 5, 2021), https://www.raoulwallenbergcentre.org/en/press-releases/2021-10-05 [https://perma.cc/F2M7-7JPZ].

its international human rights violations.[232] The RWCHR led several evidence-based sanctions recommendations—identifying and targeting the key perpetrators responsible for crimes against humanity committed against Mr. Isaak and his colleagues—to Global Affairs Canada, pursuant to the Justice for Victims of Corrupt Foreign Officials Act;[233] to the US Departments of State and Treasury, pursuant to the Global Magnitsky Human Rights Accountability Act;[234] to the UK Foreign, Commonwealth & Development Office, pursuant to the Global Human Rights Sanctions Regulations 2020;[235] and to the European Union, pursuant to the EU Global Human Rights Sanctions Regime.[236]

In July 2022, the RWCHR, RSF, and Mr. Isaak's Swedish legal counsel filed a complaint with the WGAD on behalf of Mr. Isaak and his colleagues.[237] The complaint was co-signed by the Committee to Protect Journalists, the International Bar Association's Human Rights Institute, Parliamentarians for Global Action, and Defend Defenders. In June 2023, an opinion[238] was rendered by the WGAD, which was unequivocally conclusive of a finding of arbitrary detention and made crucial determinations regarding the Eritrean government's gross and systematic human rights violations.[239] The WGAD also referred the case to the Working Group on Enforced and Involuntary Disappearances, the Special Rapporteur on torture and other cruel, inhuman, or degrading treatment or punishment, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and

232. *Multilateral Sanctions Filings in the Case of Dawit Isaak*, RAOUL WALLENBERG CTR. FOR HUM. RTS. (Mar. 13, 2024), https://www.raoulwallenbergcentre.org/en/news/2024-03-13 [https://perma.cc/PGK4-WBW5].

233. *See* Department of Justice Act, R.S.C. 1985, c. J-2 (Can.).

234. *See* S. 284, 114th Cong. (2015).

235. *See* Global Human Rights Sanctions Regulations 2020, SI 2020/680 (Eng.).

236. *See* Resolution on the EU Global Human Rights Sanctions Regime, EUR. PARL. DOC. P9_TA(2021)0349 (July 8, 2021).

237. Press Release, RWCHR Files Complaint to UN Working Group on Arbitrary Detention on Behalf of Dawit Isaak and His Colleagues (July 20, 2022), https://www.raoulwallenbergcentre.org/en/press-releases/2022-07-20 [https://perma.cc/Z39R-D8F6].

238. Working Grp. on Arbitrary Det., Opinion No. 10/2023 Concerning Dawit Isaak (Eritrea), U.N. Doc. A/HRC/WGAD/2023/10 (June 1, 2023), https://digitallibrary.un.org/record/4026683/files/A_HRC_WGAD_2023_10-EN.pdf [https://perma.cc/5YHN-FB94].

239. *Id.*

the Special Rapporteur on freedom of peaceful assembly and of association for appropriate action.[240]

On September 23, 2023, on the twenty-second anniversary of Mr. Isaak's imprisonment, the RWCHR launched a global advocacy campaign on behalf of the missing Eritrean journalists.[241] Four of the journalists' families came together on behalf of their loved ones to urge the Eritrean government and the international community to take action.[242] Several opinion editorials[243] were also published in international media to raise awareness about the case. Mr. Isaak's daughter, Betlehem Isaak, has also assumed a central advocacy role, emerging as the public face of his case and providing the personal dimension that has lent it significant human resonance.[244]

B. Case of Ahmadreza Djalali

1. Context

Over the past several years, the Islamic Republic of Iran has intensified systematic repression, marked by an escalation in arbitrary detentions, politically motivated prosecutions, and

240. *Id.*

241. *See* RAOUL WALLENBERG CTR. FOR HUM. RTS., *#HearTheirVoices Campaign on Behalf of Missing Eritrean Journalists* (YouTube, Sep. 22, 2023), https://www.youtube.com/watch?v=yIG4ikWWEJM (on file with the Fordham International Law Journal); *RWCHR Launches #HearTheirVoices Campaign on Behalf of Missing Eritrean Journalists*, RAOUL WALLENBERG CTR. FOR HUM. RTS. (Sep. 22, 2023), https://www.raoulwallenbergcentre.org/en/news/2023-09-22 [https://perma.cc/K89X-PDBQ].

242. *Id.*

243. *See, e.g.*, Judith Abitan & Irwin Cotler, *Dawit Isaak has been in prison longer than any other journalist in the world. Eritrea must let him go*, WASH. POST (July 12, 2021), https://www.washingtonpost.com/opinions/2021/07/12/eritrea-journalist-dawit-isaak-deserves-freedom/ [https://perma.cc/M8M5-U398]; Abitan, *supra* note 208; Judith Abitan, *Seeking Justice for Dawit Isaak*, PEN BLOG (Sep. 14, 2022), https://pencanada.ca/blog/seeking-justice-for-dawit-isaak/ [https://perma.cc/DT6N-9V4W]; Judith Abitan & Irwin Cotler, *Eritrea's egregious detention of Dawit Isaak reflects a global assault on media freedom*, GLOB. & MAIL (Sep. 22, 2023), https://www.theglobeandmail.com/opinion/article-eritreas-egregious-detention-of-dawit-isaak-reflects-a-global-assault/ [https://perma.cc/ZZU5-98FK].

244. *If My Father Is Alive, He Must Be Rescued Now" – Betlehem Isaak, Daughter of Swedish Journalist Dawit Isaak, Calls on Sweden and the International Community to Act Decisively to Secure His Release*, EDELSTAM FOUND. (Sep. 22, 2025), https://www.edelstam.org/news/if-my-father-is-alive-he-must-be-rescued-now/ [https://perma.cc/727N-FRCD].

hostage-taking targeting dual nationals, academics, and human rights defenders.[245] This reflects a broader pattern of the Republic weaponizing its judiciary, enforcing draconian restrictions on civil liberties, and employing executions and intimidation to suppress dissent.[246]

In 2023, Iranian authorities executed at least 853 people—the highest number since 2015—representing roughly seventy-four percent of all documented executions worldwide that year.[247] In 2024, the Republic's use of capital punishment intensified, accounting for sixty-four percent of all documented executions worldwide, with at least 972 people executed.[248] As of 2025, the upward trend continues: at least 1,000 executions have been carried out, the highest annual total recorded in recent years.[249]

2. Fact Pattern

Dr. Ahmadreza Djalali is a medical doctor and academic specializing in disaster medicine who held affiliations with European and international universities and research centers, including CRIMEDIM at the University of Piemonte Orientale and Karolinska Institut in Sweden.[250] On April 25, 2016, Dr. Djalali was arrested in Iran while traveling from Tehran to Karaj, shortly before he was scheduled to return to Sweden. His arrest allegedly

245. Alice Jill Edwards (Special Rapporteur on Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment), *Torture and other cruel, inhuman or degrading treatment or punishment: hostage-taking as torture*, U.N. Doc. A/HRC/58/55 (Feb. 6, 2025).

246. *See, e.g.*, U.S. DEP'T OF STATE, OFF. OF DEMOCRACY, HUM. RTS. AND LAB., 2024 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES: IRAN (2025), https://www.state.gov/reports/2024-country-reports-on-human-rights-practices/iran [https://perma.cc/5QMU-RUHD]; *How Imported Weapons Fuel State Violence in Iran*, IRANWIRE (Sep. 30, 2025), http://iranwire.com/en/special-features/145209-how-imported-weapons-fuel-state-violence-in-iran/ [https://perma.cc/WXG6-RGJE].

247. *Iran Accounts for 74% of Global Executions in 2023: Amnesty*, IRANWIRE (May 29, 2024), https://iranwire.com/en/news/130003-iran-accounts-for-74-of-global-executions-in-2023-amnesty/ [https://perma.cc/C37A-PLEU].

248. *Iran Responsible for 64% of Global Executions in 2024, Says Amnesty*, IRAN INT'L (Apr. 8, 2025), https://v1.iranintl.com/en/202504087060 [https://perma.cc/6YRW-68AF].

249. *Iran: Over 1,000 People Executed as Authorities Step Up Horrifying Assault on Right to Life*, AMNESTY INT'L (Sep. 26, 2025), https://www.amnesty.org/en/latest/news/2025/09/iran-over-1000-people-executed-as-authorities-step-up-horrifying-assault-on-right-to-life/ [https://perma.cc/49EB-QJ7D].

250. *Ahmadreza Djalali*, UPO CRIMEDIM, https://crimedim.uniupo.it/team/ahmadreza-djalali/ [https://perma.cc/E4RK-NJDY] (last visited Apr. 7, 2026).

stemmed from unsubstantiated suspicions of espionage related to his international academic contacts, although no evidence has been publicly disclosed by Iranian authorities.[251]

Following his arrest, Dr. Djalali was initially held in an undisclosed location for one week and then transferred to Section 209 of Evin Prison under the control of the Ministry of Intelligence.[252] During his detention, he endured seven months in near-total isolation, including three months in complete solitary confinement, with extremely limited access to family and no access to counsel of his choosing.[253] Over this period, he was repeatedly interrogated under emotional and psychological pressure, threatened with the death penalty, and warned that his family could face reprisals.[254]

His detention conditions, including lack of medical care, poor hygiene, and psychological pressure, constitute violations of Article 7 and 10 of the ICCPR and the UN Standard Minimum Rules for the Treatment of Prisoners ("Nelson Mandela Rules").[255] The prolonged denial of counsel, lack of formal charges, and repeated solitary confinement prompted Dr. Djalali to undertake multiple hunger strikes, beginning shortly after his detention.[256]

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251. *See* Working Grp. on Arbitrary Det., Opinion No. 92/2017, Concerning Ahmadreza Djalali (Iran), U.N. Doc. A/HRC/WGAD/2017/92 (Dec. 20, 2017); *see also Iran: Academic Ahmadreza Djalali Detained on Spurious Charges*, AMNESTY INT'L (Feb. 7, 2017), https://www.amnesty.org/ar/wp-content/uploads/2021/05/MDE1356322017ENGLISH.pdf [https://perma.cc/DBX3-A5AM].

252. *See* Opinion No. 92/2017, *supra* note 251; José Antonio Guevara Bermúdez (Vice Chair, Working Grp. on Arbitrary Det.), Nils Melzer (Special Rapporteur on Torture & Other Cruel, Inhuman or Degrading Treatment or Punishment) & Asma Jahangir (Special Rapporteur on the Situation of Hum. Rts. in the Islamic Rep. of Iran), Urgent Appeal to the Government of the Islamic Republic of Iran Concerning Dr. Ahmadreza Djalali, Ref. UA IRN 7/2017 (Feb. 10, 2017), https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=22984 [https://perma.cc/Q47L-V22R].

253. *See* Opinion No. 92/2017, *supra* note 251.

254. *See Iran: Help Stop the Imminent Execution of Swedish-Iranian Doctor Ahmadreza Djalali*, AMNESTY INT'L, https://www.amnesty.org.uk/get-involved/take-action/individuals-at-risk/help-stop-the-imminent-execution-of-swedish-iranian-doctor/ [https://perma.cc/4GGZ-LVBX] (last visited Apr. 7, 2026); *Ahmadreza Djalali's Forced Confessions Aired; Imminent Risk of Execution*, IRAN HUM. RTS. (May 22, 2020), https://www.iranhr.net/en/articles/5217/ [https://perma.cc/N8YQ-Z7EY].

255. *See* Working Grp. on Arbitrary Det., Opinions adopted by the Working Group on Arbitrary Detention at its eightieth session, 20–24 November 2017, U.N. Doc. A/HRC/WGAD/2017/92 (Dec. 20, 2017).

256. *Iran: Swedish-Iranian Doctor Ahmadreza Djalali on Hunger Strike*, AMNESTY INT'L (Feb. 7, 2017), https://www.amnesty.org/en/documents/mde13/5632/2017/en/ [https://perma.cc/R3HS-GKTX]; *Iran Human Rights, Detained Iranian-Born Swedish Resident*

In 2016 to 2017, notably, his fourth hunger strike lasted forty-nine days from December 26, 2016, to February 12, 2017, followed by a fifth strike starting February 15, 2017, highlighting the grave risk to his health and life. In 2017, he was formally charged for the first time on January 31, 2017, approximately nine months after his arrest, without access to legal counsel.[257] The Revolutionary Court in Tehran repeatedly refused his selected lawyers, citing Article 48 of the Code of Criminal Procedure of the Islamic Republic of Iran,[258] which restricts defendants in national-security cases to court-approved attorneys.[259] This systematic denial prevented him from preparing an adequate defense, reviewing evidence, or challenging the lawfulness of his detention, in violation of Articles 9 and 14 of the ICCPR. From 2016 to 2023, international human rights mechanisms have been invoked to address Dr. Djalali's situation.

In December 2024, an urgent appeal was submitted to the WGAD, the Special Rapporteur on Torture, and the Special Rapporteur on Human Rights in Iran, emphasizing both the arbitrary character of his detention and the imminent threat to his health.[260] This intervention sought immediate measures to ensure his right not to be arbitrarily detained, to access medical care and family contact, and to secure his release. Dr. Djalali's case exemplifies violations under multiple categories recognized by the WGAD: Category I, deprivation of liberty without legal basis, and Category III, violations of the right to a fair trial, including lack of

Jalali Starts Hunger Strike, CTR. FOR HUM. RTS. IRAN (Feb. 20, 2017), https://iranhumanrights.org/2017/02/detained-iranian-born-swedish-resident-jalali-starts-hunger-strike/ [https://perma.cc/GHM6-9TZ5].

257. *See* Opinion No. 92/2017, *supra* note 251.

258. *See* Aini Dadrassii Kaifari [Code of Criminal Procedure] 1392 [2013], art. 48 (Iran).

259. *See* Opinion No. 92/2017, *supra* note 251; *Criminalizing Defense: The Arrest of Lawyers Amid Iran's Nationwide Crackdown*, FEMENA (Feb. 17, 2026), https://femena.net/2026/02/17/criminalizing-defense-the-arrest-of-lawyers-amid-irans-nationwide-crackdown/ [https://perma.cc/SZ8B-FHKT].

260. *RWCHR Endorses UN Expert Group's Call on Iran to Urgently Release Dr. Ahmadreza Djalali*, RAOUL WALLENBERG CTR. FOR HUM. RTS. (June 5, 2025), https://www.raoulwallenbergcentre.org/en/news/2025-06-05 [https://perma.cc/MBL2-6WUU]; Amnesty Int'l, *Urgent Action: Forcibly Disappeared Swedish-Iranian at Risk of Execution*, AI Index MDE 13/0334/2025 (Sep. 24, 2025), https://www.amnesty.org/en/wp-content/uploads/2025/09/MDE1303342025ENGLISH.pdf [https://perma.cc/K9CR-D38K].

prompt notification of charges, absence of legal representation, and potential use of coerced confessions.[261]

The case raises serious concerns under international humanitarian law regarding the prohibition of torture or other cruel, inhuman or degrading treatment or punishment (ICCPR, Articles 7 and 10).[262] Chronologically, the sequence of events—the arrest in April 2016, prolonged isolation and denial of counsel, formal charging in January 2017, multiple hunger strikes, and continued detention under inhumane conditions—provides a clear illustration of systemic violations of both domestic procedural safeguards and international human rights standards. On February 12, 2025, the Swedish government presented its Statement of Foreign Policy 2025, in which it reaffirmed its ongoing commitment that, "[t]he Government will continue its efforts to secure the release of journalist Dawit Isaak, publisher and poet Gui Minhai, and researcher Ahmadreza Djalali."[263] In May 2025, Dr. Djalali suffered a heart attack while detained in Evin Prison. He was subsequently transferred to an undisclosed high-security facility before being returned to Evin Prison. He continues to experience severe physical and mental health challenges, raising grave concerns regarding the adequacy of medical care and the ongoing risk to his well-being.

3. International Advocacy

The case and cause of Dr. Djalali is another one of the RWCHR's emblematic case studies of hostage-taking,[264] and the Republic's weaponization of the judiciary, its systematic use of executions, and escalating gross human rights violations. To advance justice for Dr. Djalali, several international advocacy initiatives have been undertaken to secure his release and draw attention to the human rights violations involved. Efforts have included the filing of an urgent appeal with the WGAD and the UN Special Rapporteur on Torture, Dr. Alice Edwards, highlighting the arbitrary nature of his detention, the risks to his physical and

261. *See* Opinion No. 92/2017, *supra* note 251.
262. *See id.*
263. *See* Stenergard, *supra* note 213.
264. *See* Edwards, *supra* note 245.

psychological health, and the denial of due process. These interventions culminated in unanimous support from the UN Special Procedures, which collectively called upon the Islamic Republic of Iran to release Dr. Djalali immediately.[265] A series of direct representations have also been made to the Swedish Prime Minister and Foreign Minister.

The case carries significant implications for international human rights advocacy. Canada, through its Declaration Against Arbitrary Detention in State-to-State Relations,[266] has established a framework that underscores the illegality of detaining foreign nationals for political leverage and calls on states to refrain from using detention as a tool of coercion. The Declaration encourages the use of diplomatic engagement, multilateral pressure, and legal mechanisms to secure the release of arbitrarily detained individuals.[267] By underscoring state responsibility and promoting coordinated international responses, Canada's approach offers a potential model for other governments seeking to protect their citizens and advance accountability in cases of state-sponsored arbitrary detention.

As it happens, on May 16, 2025, France initiated legal action[268] against the Republic, before the International Court of Justice ("ICJ"), regarding the arbitrary detention of its citizens, Cécile Kohler and Jacques Paris.[269] On September 15, 2025, France discontinued its proceedings against the Republic at the ICJ, formally notifying the Court under Article 89 of the Rules of Court.[270] Subsequently, on November 4, 2025, the Republic released Cécile Kohler and Jacques Paris from prison and transferred them to the French Embassy in Tehran, ending their

265. *See* Press Release, Off. of the High Comm'r for Hum. Rts., Detention taking its toll on hostage Ahmadreza Djalali: UN experts call on Iran to release him without delay (June 5, 2025) (on file with author).

266. *See* Declaration Against the Use of Arbitrary Detention in State-to-State Relations, Canada, Feb. 15, 2021, https://www.international.gc.ca/news-nouvelles/assets/pdfs/arbitrary_detention-detention_arbitraire-declaration-en.pdf [https://perma.cc/9485-BN9T].

267. *See id.*

268. *See* Kohler and Paris (Fr. v. Iran), Application Instituting Proceedings, 2025 I.C.J. 199 (May 16).

269. Working Grp. on Arbitrary Det., Opinion No. 48/2025, Concerning Cécile Kohler and Jacques Paris (Iran), U.N. Doc. A/HRC/WGAD/2025/48 (Nov. 6, 2025).

270. Kohler and Paris (Fr. v. Iran), Discontinuance, Order, 2025 I.C.J. 199 (Sep. 19).

detention.[271] This exemplifies how pursuing legal avenues, even without immediate results, upholds a principled stance against systematic abuses, contributes to preventing impunity for arbitrary detention, and may have been a term of the negotiation between the two states to secure their release.

Advocacy has also extended to public awareness campaigns, including the publication of opinion editorials and advocacy pieces, aimed at mobilizing international opinion and reinforcing the legal and moral arguments for Dr. Djalali's immediate release.[272] Dr. Djalali's wife, Vida Mehrannia, has also played a pivotal role in advocacy, by serving as the public face of his case and adding a personal dimension that has given the broader campaign a profoundly human dimension.[273] Collectively, these measures reflect a coordinated approach combining diplomatic engagement, international legal pressure, and public advocacy to challenge the entrenched practice of politically motivated detention and hostage-taking.

V. CONCLUSION

This Article has examined the legal avenues that exist for the defense of political prisoners and prisoners of conscience, and what practices and reforms are most effective to enhance this

271. *French pair released after three years in Iran jail*, LE MONDE (Nov. 4, 2025), https://www.lemonde.fr/en/international/article/2025/11/04/two-french-prisoners-released-from-iran-macron-says_6747108_4.html [https://perma.cc/SES5-VR9K].

272. Irwin Cotler & Judith Abitan, *Diplomacy That Fails to Address Iran's Human-Rights Violations Is Hardly Diplomacy at All*, GLOB. & MAIL (June 6, 2025), https://www.theglobeandmail.com/opinion/article-diplomacy-fails-address-irans-human-rights-violations-hardly-diplomacy/ [https://perma.cc/5G5D-X3PM].

273. *Djalali drabbad av hjärtinfarkt i skräckfängelset: "Måste agera"* [*Djalali suffers heart attack in terror prison: "Must act"*], TV4 NYHETERNA (May 9, 2025), https://www.tv4.se/artikel/4KcXHPzggJMaFyoYFj6aQe/djalali-har-fatt-hjaertattack-om edelbar-livsfara [https://perma.cc/FC7A-8GP8]; *Fängslade svenska forskarens fru: Diskriminering* [Imprisoned Swedish researcher's wife: Discrimination], SVT NYHETER (June 15, 2024), https://www.svt.se/nyheter/inrikes/fangslade-svenska-forskarens-fru-diskriminering [https://perma.cc/J3YQ-QH4U]; *Ontmoeting met Mevrouw Vida Mehrannia* [*Meeting with Mrs. Vida Mehrannia*], DE BELGISCHE SENAAT [BELGIAN SENATE] (Sep. 16, 2025), https://www.senate.be/web/nl/article/1492/raw [https://perma.cc/K89F-FMF3]; *Vrouw van Djalali protesteert aan Iraanse ambassade: 'We willen bewijs dat hij nog leeft'* [*Djalali's wife protests at Iranian embassy: 'We want proof that he is still alive'*], BRUZZ (Sep. 18, 2025), https://www.bruzz.be/actua/samenleving/vrouw-van-djalali-protesteert-aan-iraanse-ambassade-we-willen-bewijs-dat-hij-nog [https://perma.cc/KA7J-AYKJ].

advocacy work by exploring the definition of political prisoners and prisoners of conscience; historical perspectives on political imprisonment; and the foundations of international human rights law. It subsequently analyzed the legal challenges faced by individuals arbitrarily detained; examined the mechanisms for redress, underpinned by an investigative audit germane to the constraints and limitations of the mechanisms. It concluded with a comprehensive and comprehensible advocacy plan for justice and accountability, exemplified through two emblematic case studies.

The analysis of emblematic case studies demonstrates how these legal and advocacy frameworks operate in practice, emphasizing the need for tailored approaches that consider the political, social, and legal realities of each detention scenario. Ultimately, this Article contends that the protection of political prisoners and prisoners of conscience requires not only strict adherence to universal human rights standards but also a detailed, case-specific understanding of local conditions, procedural constraints, and the mechanisms of state repression. These considerations underscore the necessity of adopting interdisciplinary approaches that integrate rigorous legal expertise with nuanced contextual and situational awareness, enabling advocates to more effectively advance justice, promote accountability, and safeguard the fundamental rights and freedoms of political prisoners and prisoners of conscience globally.