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# Hostage Diplomacy as Coercion?

## The 2024 Prisoner Swap between Sweden and Iran as a Case in Point

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Over the past decades, hostage diplomacy has emerged as [a growing threat](#) to international security. In particular, states such as China, Iran, Russia, Turkey, and Venezuela have increasingly employed this practice as [a tool of foreign policy](#). Though not a legal term of art, “hostage diplomacy” commonly refers to the practice whereby states arbitrarily detain foreign nationals in order to influence another state’s domestic or foreign policy (see [Lau](#) at 345). As a matter of course, the detaining state conditions the detainee’s release on the home state’s agreement to take, or refrain from taking, specific actions.

While hostage diplomacy generally [violates the human rights](#) of the *individual victims* due to the arbitrary nature of their detention, it is less certain whether this practice also encroaches on the rights of the detainees’ *home states* under public international law. In a leading article on the subject, Beatrice Lau unequivocally asserts, without further explanation, that hostage diplomacy violates “the right of sovereign states to decide their affairs free from any coercive interference”, as protected by the principle of non-intervention (see [Lau](#) at 343). At a closer look, however, this conclusion is not as clear-cut as it may seem at first glance. Taking the 2024 prisoner swap between Sweden and Iran as a case in point, this post argues that hostage diplomacy does *not* necessarily constitute a breach of the principle of non-intervention under prevailing international law.

### The 2024 Iran-Sweden Prisoner Swap

The background to the prisoner swap between Sweden and Iran, which took place on 15 June 2024, is dramatic – well worthy of a cinematic production. In early November 2019, Hamid Nouri, a former Iranian prison official who played a major role in the 1988 mass executions of political prisoners in Iran, was lured to Sweden by human rights activists under the pretense of sightseeing, meeting women, and partying. Upon his arrival, Nouri was immediately [arrested](#) on Swedish soil. It was later revealed that the Swedish Police Authority had been [tipped off](#) by the activists through the intermediation of a renowned British law firm.

On 14 July 2022, following an extensive pre-trial investigation and a 92-day long trial, Nouri was sentenced to life imprisonment by the [Stockholm District Court](#) for his involvement in two waves of extrajudicial executions of numerous political prisoners in Iran during 1988. The Court classified the first wave as a serious crime against international law and the second as murder. On 19 December 2023, the [Svea Court of Appeal](#) upheld the conviction.

However, during the course of the trial, two Swedish nationals, [Johan Floderus](#) and [Saeed Azizi](#), were arrested in Iran, accused of espionage, and imprisoned, facing the risk of the death penalty. The [Swedish Government](#), the [European Union](#), and various [human rights organizations](#) emphatically condemned the charges as fabricated and politically motivated. Following extensive negotiations, the Swedish

government [announced](#) on 15 June 2024 that both men had been released by Iranian authorities as part of a prisoner swap that included the pardon and repatriation of Nouri. Amnesty International denounced the deal as a “[staggering blow to justice](#)”.

From an international perspective, this case is not unique, as Iran has [systematically detained](#) foreign nationals for political leverage since 1979. From a Swedish standpoint, however, it is [unprecedented](#), marking the first time Sweden has ever been subjected to this kind of extortion by a foreign state. This raises the question of whether Iran’s conduct violated Sweden’s right to be free from external intervention under international law.

## The Principle of Non-Intervention

The principle of non-intervention is widely recognized as a cardinal rule of customary international law. In [the Nicaragua case](#) (1986), the ICJ affirmed that this principle “forbids all States or groups of States to intervene directly or indirectly in internal or external affairs of other States”. The Court further held that “intervention is wrongful when it uses methods of coercion in regard to [these affairs]” (para 205). This formulation of the rule has been generally accepted as canonical.

The prohibition of intervention thus comprises two cumulative elements: (1) the *object* of intervention – a state’s “internal or external affairs”; (2) the *instrument* of intervention – the “methods of coercion”. In *Nicaragua*, the ICJ succinctly delineated the first element, explaining that the internal or external affairs of a state encompass those “matters in which each State is permitted, by the principle of State sovereignty, to decide freely”. This reserved domain includes, *inter alia*, “the choice of a political, economic, social and cultural system, and the formulation of foreign policy” (see [Nicaragua](#) at para 205).

By contrast, the element of coercion was left undefined in *Nicaragua* and has not been clarified in subsequent case law. A frequently cited definition of coercion, however, can be found in the [Friendly Relations Declaration](#) – adopted by consensus by the UN General Assembly on 24 October 1970 – which provides that “[n]o state may use or encourage the use of economic, political or any other type of measures to coerce another state in order to obtain from it the subordination of the exercise of its sovereign rights and to secure from it advantages of any kind”. This formulation indicates that coercion extends beyond the use of force. There is support for this broader understanding in both jurisprudence (see [Nicaragua](#) at para 205 and [Armed Activities](#) at para 164) and legal scholarship (see [Kohen](#) at 161, [Helal](#) at 47–48 and [Milanovic](#) at 603).

In its case law, the ICJ has so far identified three methods of coercion: (1) the use of force; (2) the threat of force; (3) the provision of support such as funding or intelligence to non-state armed groups operating on the territory of another state (see [Nicaragua](#) at para 205 and [Armed Activities](#) at para 164). These methods are widely recognized as impermissible. Beyond these specific instances, however, it is contested whether and to what extent other forms of intervention are prohibited. There is no uniform *opinio juris* among states on this issue, and scholarly opinion remains divided. Claims that measures such as unilateral sanctions, cyber operations, propaganda, disinformation, electoral interference, recognition of non-effective governments, or support for peaceful opposition groups could violate the principle of non-intervention have not yet gained universal acceptance (see [Kriener](#) at 27-45).

There is thus a significant grey area in the law, which calls for analytical caution when determining the scope of prohibited intervention. Such caution is further warranted, as international lawyers generally agree that the threshold for coercion is high: to qualify as coercive, the intervention in question must exert pressure of sufficient intensity. This is commonly captured by the standard that the pressure exerted by the intervening state must be such that it “cannot reasonably be resisted” by the target state (see [Kriener](#) at 20). It follows that only exceptionally will external pressure cross the coercion threshold.

## Hostage Diplomacy on the Edge of Coercion?

Based on the foregoing, the issue to be determined is whether Iran's conduct satisfies the two elements of prohibited intervention. As neither the Swedish nor the Iranian government has disclosed detailed information about the negotiations leading to the prisoner exchange, the following analysis remains necessarily tentative. For analytical purposes, this post proceeds on the assumption that Iran used the detention of Floderus and Azizi to pressure Sweden into releasing Nouri. This tactic bears all the hallmarks of hostage diplomacy, insofar as its apparent aim was to influence Sweden's judicial policy.

With respect to the first element, it is submitted that Iran's demand for the release of Nouri in exchange for the freedom of the two Swedish nationals constituted an *intervention* in Sweden's internal affairs. While this demand did not directly relate to any of the policy choices cited by the ICJ in the *Nicaragua* case, it is generally accepted that criminal justice matters essentially fall within the reserved domain of states (see [Milanovic](#) at 612). Accordingly, decisions relating to the prosecution, sentencing, and extradition of Nouri were matters over which Sweden had the right to decide freely, without interference from Iran or any other state.

Turning to the second element, it must be assessed whether Iran's actions involved *methods of coercion* that could not reasonably be resisted by Sweden within the meaning of the principle of non-intervention. On this point, it is submitted that there are compelling reasons for skepticism.

Firstly, there are no indications that Iran's conduct amounted to any of the three forms of coercion recognized in the jurisprudence of the ICJ. While these categories are not necessarily exhaustive, the emerging consensus that certain other forms of pressure may constitute coercive intervention does not appear to extend to the practice of hostage diplomacy. As Marko Milanovic observes, there is as yet no "consistent answer as to whether such hostage-taking can amount to coercion of the state of nationality" (see [Milanovic](#) at 633). The existence of convincing policy arguments for encompassing hostage diplomacy under the prohibited forms of intervention cannot compensate for the lack of consistent state practice and *opinio juris* on this issue. It is notable in this regard that states and other international actors only rarely, if ever, expressly invoke the principle of non-intervention when condemning hostage diplomacy. Instead, such condemnations are usually framed in the language of human rights. [The Declaration Against Arbitrary Detention in State-to-State Relations](#) – a non-binding declaration signed by 58 countries on 15 February 2021 – is illustrative of this tendency.

Secondly, while the risk of prolonged detention and potential capital punishment for the Swedish nationals undoubtedly placed considerable pressure on the Swedish government to acquiesce to the prisoner exchange, it must still be shown that Iran's conduct during the negotiations exerted pressure of an irresistible degree. However, what exactly constitutes pressure that cannot reasonably be resisted by a state remains far from clear. This is a rather vague criterion that can be interpreted broadly or narrowly depending on the perspective of the interpreter. While scholarly opinions diverge on this issue, the majority view seems to be that coercion not involving the use or threat of force will only in exceptional circumstances surpass the coercion threshold (see [Kriener](#) at 20). It is therefore at the very least arguable that even if Iran's conduct amounted to a recognized form of coercion, the pressure exerted was not of sufficient intensity.

Against this background, while Iran clearly intervened in Sweden's internal affairs by pressuring it to release Nouri, it cannot be conclusively established that this intervention was coercive and thus constituted a breach of the principle of non-intervention under prevailing international law.

## Toward a New Concept of Coercion?

The 2024 Iran-Sweden prisoner swap aptly illustrates the legal ambiguity surrounding the scope of the principle of non-intervention. This ambiguity largely stems from the fact that the coercion criterion, which constitutes the “very essence” of prohibited intervention (see [Nicaragua](#) at para 205), can be difficult to apply. Hostage difficulty exemplifies this difficulty: while this practice exerts significant political and moral pressure on the target state, there is currently no clear customary law basis for considering it a method of coercion under the principle of non-intervention.

This state of affairs exposes a potential normative gap in the international legal framework, exacerbated by the [controversy](#) over whether [the 1979 International Convention Against the Taking of Hostages](#) is applicable in the context of hostage diplomacy. While that discussion lies beyond the scope of this post, the key point here is that it is pertinent to find an adequate legal response to the proliferation of hostage diplomacy in international relations.

To be sure, the principle of non-intervention could well provide a viable legal basis for challenging hostage diplomacy. However, as the preceding analysis has shown, this would require a more nuanced and inclusive conception of coercion that clearly encompasses this practice. In this regard, Milanovic’s distinction between coercion-as-extortion and coercion-as-control offers a valuable analytical framework that could resolve many of the difficulties surrounding the notion of coercion (see [Milanovic](#) at 626-648). Within this framework, hostage diplomacy can be readily conceptualized as [a form of coercion through extortion](#).

From a policy perspective, it would therefore be advisable for states and other international actors to clearly express their *opinio juris* on the illegality of hostage diplomacy by characterizing it as a violation of the principle of non-intervention under the extortion model. Such a development could help close the normative gap that persists in public international law regarding this mockery of diplomacy.

Cite as

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