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‘Civis Romanus Sum’ and the Legal Protection of Nationals Abroad

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Positive Obligations

- Diplomatic Protection
- Consular Assistance
Positive Obligations

**United Kingdom**
- No legal right to consular assistance or diplomatic protection.
- Assistance is provided at the discretion of the State.
- Enforceable only through principles of judicial review.

**Canada**
- Also no legal right to consular assistance or diplomatic protection.
- Assistance is provided at the discretion of the State.
- Enforceable only through principles of judicial review.

**USA**
- A legal right extended to the bearer of a US passport.
- A codified legal obligation.
- Very rarely litigated.
Negative Obligations

• Here we consider the extent to which a state is prohibited from harming citizens.
Negative Obligations

United Kingdom
- Human rights owed to anyone within a state’s ‘jurisdiction’.
- Neither regional nor domestic judges award added protection to citizens.

Canada
- Guided by Canadian Charter of Rights and Freedoms.
- Citizenship also not a relevant factor.
- Interpretation instead concerned with principles of public international law and international human rights law.

USA
- Guided by Constitutional Protection.
- Citizenship as a shield, a ‘high privilege and ‘priceless treasure’.
- Legal protection for the citizen ‘against the arbitrary action of their own government’.
- DoJ White Paper – Lawfulness of Lethal Operation Directed Against US citizens
Potential Explanations for Differing Approaches

• Financial explanations
• Historical distinctions in approach to citizenship
• Synergy with international law