

# GNSI DECISION BRIEF

## Repression Without Borders: How Nations Silence Critics Abroad

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### Introduction

Transnational Repression (TNR) – the act of a government, or authorized group, coercing, repressing, or retaliating against individuals outside its sovereign territory – has significantly increased in recent years. Transnational repression often targets human rights defenders, activists, critics, journalists, and political opponents. Despite its insidious spread, the international community continues to grapple with applying a standard definition, as well as accountability and enforcement.

Transnational repression knows no borders. TNR can take many forms ranging from physical attacks such as the brazen murder of American citizen and journalist Jamal Khashoggi, coercion by proxy (e.g., the threatening of family members) to the use of technology to monitor and harass. Governments who engage in transnational repression to silence those who speak against its policies do so with impunity under current international law. Their disregard for international norms and human rights fosters fear in ethnic and marginalized communities around the world.

Furthermore, studies have shown repression, both domestic and abroad, is an essential tool for the longevity of authoritarian regimes.<sup>i</sup> A 2023 study conducted by Dukalskis, Furstenberg et. al, states the “interaction between domestic repression and diplomatic representation is positive and statistically significant. Domestic repression is more likely to translate into TR [transnational repression] if a state is well represented abroad, granting it the logistical means to execute TR.”<sup>ii</sup>

### Threat to U.S. National Security

Governments engaging in TNR exercise “state power over nationals outside the territorial boundaries of the country of origin and within the territory of another state, the host state.”<sup>iii</sup> For example, authoritarian governments including China, Iran, Rwanda, Russia, Saudi Arabia, and others are “increasingly and more aggressively disregard[ing] U.S. laws to threaten, harass, surveil, stalk, and even plot to physically harm,” U.S. citizens, permanent residents, and asylum seekers.<sup>iv</sup> This flaunting of sovereignty has severe repercussions for the future. While the United States recognizes these actions as violations of its sovereignty, there are no specific U.S. laws criminalizing transnational repression. This coupled with a lack of standardized methods to track TNR within U.S. borders, has resulted in a patchwork approach by federal agencies to address the issue.<sup>v</sup>

New reporting tools through the Department of Justice (DOJ) and the FBI substantiate an uptick in criminal indictments despite disjointed federal regulation and laws.<sup>vi</sup> This demonstrates the seriousness with which the U.S. government is beginning to take transnational repression. For example, in April 2023 the

DOJ charged two individuals with establishing and “operating an illegal overseas police station, located in lower Manhattan, New York, for a provincial branch of the Ministry of Public Security (MPS) of the People’s Republic of China (PRC)” with the intent to monitor and intimidate Chinese dissidents.<sup>vii</sup> In its official statement, the DOJ stated the “activity [of transnational repression] is antithetical to fundamental American values, and we will not tolerate it when it violates U.S. law... We will not allow any foreign government to impede their freedom of speech, to deny them the protection of our laws or to threaten their safety or the safety of their families.”<sup>viii</sup>

Law enforcement officers are often the first call individuals experiencing TNR in the U.S. make, but standardized training is needed for law enforcement to recognize the signs of, and protect against, transnational repression.<sup>ix</sup> Nonetheless, holding perpetrators of transnational repression accountable remains elusive due to the fact perpetrators are typically not physically in a host nation, but coerce from afar through digital means.

### Globalization and Digitalization of Repression

Privacy, free speech, and movement of targeted individuals are being violated through cyber stalking, hacking, and monitoring of communications among other tools of repression. “Practices of digital transnational repression include surveillance and hacking attacks, online harassment, and disinformation campaigns against migrants with ties to authoritarian countries.”<sup>x</sup> The expansion of digital surveillance has allowed repressive regimes myriad effective low cost, low risk methods to execute TNR. Although governments using digital TNR do not physically enter the territory where the crimes are being committed, these acts still constitute a violation of national sovereignty, which threatens national security.

Digital TNR paired with physical methods of transnational repression “increases the effects of digital threats so that they often succeed in fostering uncertainty, fear, and mistrust within diaspora communities, [and] reinforcing dynamics of self-censorship.”<sup>xi</sup> This has negative effects on vital advocacy work, not to mention the physical, emotional, and mental toll being inflicted upon individuals within these communities, such as the Uyghur diaspora.

### The PRC’s Weaponization of Transnational Repression

The PRC is the world’s most egregious perpetrator of transnational repression. Freedom House, a U.S.-based non-profit that tracks threats to democracy and freedoms around the world, collected data on 854 reported incidents of TNR between 2014-2021, of which the Peoples Republic of China (PRC) was

responsible for 30% of incidents worldwide.<sup>xiii</sup> As noted by the Select Committee on the CCP's Chair, Rep. Mike Gallagher, in December 2023, "The CCP seeks to surveil, influence, punish, and coerce people all around the world. They want to silence their critics, control politics, and police thought far beyond China's borders."<sup>xiii</sup>

Utilizing its vast arsenal of surveillance tools, as well as mobilizing its diplomatic posts around the world to instigate, the PRC targets former citizens including Tibetan and Uyghur exiles, human rights activists, Hong Kong dissidents, and even American citizens. It is not uncommon for the PRC to use a family member in China to commit TNR against their own loved ones.<sup>xiv</sup> By its nature this repression tactic may indicate the figures are far higher than reported as many victims may remain silent out of fear for the safety of their relatives. Furthermore, the CCP's troll army on social media has perfected cyber bullying and the spread of disinformation in a thinly veiled attempt to distort the CCP abuses taking place in Tibet, Xinjiang, Hong Kong, and elsewhere.

The CCP has also taken a page from the Ayatollahs' playbook and has placed bounties on several U.S. citizens and permanent residents. Similar to the 1989 fatwa placed on author and Iranian dissident Salman Rushdie, bounties are rarely rescinded and enable would-be fanatics and zealots hoping to curry favor with authoritarian regimes.

The PRC effectively uses its digital tools to repress its citizens at home and abroad as part of their geopolitical strategy, and they are also heavily investing in artificial intelligence technology. "AI systems are showing their potential for abetting repressive regimes and upending the relationship between citizen and state, thereby accelerating a global resurgence of authoritarianism."<sup>xv</sup> While it remains unclear what the long-term effect of AI will have on TNR, U.S. policymakers need to consider AI as a tactic of repression when developing AI governance. The use of AI powered technologies in transnational repression could be devastating to millions. In such a world, no one would be immune from China's tentacles.

### U.S. Government Responses

Addressing TNR is now a priority across the U.S. government and is broadly acknowledged as a bipartisan issue. The Government Accountability Office (GAO) in October 2023, went so far as to recommend Congress amend the reporting requirement of Section 6 of the Armed Export Control Act, which "prohibits arms transfers to any country determined to be engaged in a consistent pattern of acts of intimidation or harassment against individuals in the U.S."<sup>xvi</sup> The GAO, however, states Section 6 of the AECA has not been invoked since its passing in 1981.

In March and May 2023, two separate, but related bills were introduced in the Senate and the House seeking to constrain TNR by requiring the President to implement sanctions on

individuals engaging in TNR and recommending the Department of State "develop a strategy to promote initiatives that (1) enhance international awareness of transnational repression; (2) address transnational repression, including by raising the costs of perpetrating repressive activities and by protecting targeted individuals and groups; and (3) conduct outreach to those targeted by foreign governments."<sup>xvii</sup> Both pieces of legislation are pending in their respective Committees awaiting action.

Another area requiring federal action is the targeting of law enforcement as a means to inflict TNR. FBI Assistant Director Robert J. Contee warned that law enforcement officers are also at risk of being used by foreign entities to unwittingly aid in acts of transnational repression as they constitute the first line of defense. He gave an examples of foreign intelligence services using U.S. based persons and federal employees to collect information on and even forcibly repatriating targeted individuals.<sup>xviii</sup> Any federal legislation must address these concerns as well.

The Department of State is also acting through its Bureau of Democracy, Human Rights, and Labor (DRL). In a recent funding notice, DRL announced a grant for organizations interested in combatting governments engaged in TNR and recommendations to mitigate the impact of TNR within diaspora communities. U.S. government agencies have started to raise awareness of transnational repression; however, gaps remain in legal protection and penalties.

### Conclusion

Acts of transnational repression are not new; however, with the increase of digital interconnectedness, the tools of TNR allow authoritarian states a broader reach to threaten, harass, and act violently towards exiles and others. As authoritarian regimes struggle to hold onto power, TNR will most likely increase. TNR's many methods and complexity require a multi-faceted and collaborative approach to effectively address the threat of transnational repression.<sup>xix</sup>

### Decision Points

First and foremost, TNR is a sovereignty issue. The United States, therefore, must take the lead in formalizing a standard definition of Transnational Repression and subsequent actions to combat these over border incursions. With countries struggling to enforce TNR, a common framework widely recognized by nation states would give authorities the ability to hold perpetrators accountable. Furthermore, with U.S. support, ensuring international bodies, such as the United Nations, follow the U.S.'s lead would thwart authoritarian governments looking to exploit loopholes.

- The pillars of national security and human rights, as demonstrated by transnational repression, are no longer exclusive. Policymakers must recognize the direct threat to not only territorial integrity, but also to citizens in developing policy to combat TNR. These protections must take place not only at the federal level, but in state legislatures around the country as they also have a vital role to play in protecting citizens.
- Additional training is needed for law enforcement to adequately safeguard those being persecuted by external regimes. This includes recognizing the many tactics of transnational repression and when necessary, utilizing international mechanisms to police transgressions. In addition, law enforcement must offer viable, standardized reporting for victims of TNR, including multilingual reporting, confidentiality, and a hotline and/or website that ensures coordination between the various agencies involved.
- The U.S. must demonstrate global leadership in recognizing transnational repression as a human rights crime. TNR has been specifically highlighted in the Department of State's Country Reports on Human Rights Practices, but the State Department must do more to shine an unrelenting light on repression wherever it occurs, without caveats, as any semblance of hypocrisy between transgressions only serves to dull the world's attention and undermines deterrence.

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