

Transnational Human Rights Violations: Addressing the Evolution of Globalised Repression through National Human Rights Institutions

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Transnational Human Rights Violations (THRUV) are infringements of individual rights that originate outside the jurisdiction in which they take effect. Ranging from overtly violent and criminal forms of transnational repression through to coercion against targets' family members abroad, and more or less subtle techniques of digital surveillance, legal intimidation and threats against livelihoods, THRUVs today generate widespread and systemic constraints on the exercise of human rights. Once regarded as an issue facing human rights defenders and dissident political exiles, THRUVs' repressive effects are increasingly manifest throughout large diaspora communities and among journalists, researchers, legal professionals and activists in wider society. At present, however, targets of THRUV have few avenues of assistance, and no institutional channels through which to seek redress. This article proposes a new domestic institutional response mechanism to directly address this situation. We first review the key challenges presented by the evolving and mutually reinforcing effects of transnational surveillance, coercion and censorship that enable perpetrators to impinge on the rights of a wide array of individuals across borders. We then identify relevant human rights standards showing state responsibilities to ensure protection against THRUVs within their territory, and a growing recognition of the additive, systemic effects of THRUV on broad populations. The third section critically examines existing policy responses to THRUV issues in the United States, Australia and the United Kingdom, along with those of international organisations, noting that none has adequately addressed the contemporary nature, scope, and evolution of THRUV. The fourth section argues that to fulfil currently unmet obligations to enable the exercise of human rights within their territory states should establish Transnational Rights Protection Offices, broadly designed to fulfil five interlocking functions: contact point; research and monitoring; government advisory; policy development; and international liaison, and lay out the rationale for their institutional location within National Human Rights Institutions (NHRIs).

Practitioner points

- New communications technologies and the global rise in authoritarianism have given rise to new modes of surveillance, coercion and censorship across borders.
- Understanding such issues as Transnational Human Rights Violations (THRUVs) engages the obligations of states in which they take effect to take positive measures to monitor their occurrence, support targets to freely exercise their rights, and enable access to legal redress where possible.
- States should establish Transnational Rights Protection Offices (TRIPOs) to fulfil these currently unmet obligations; these could be located in existing National Human Rights Institutions.

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1. Introduction

It has long been recognised that states and non-state actors may reach across borders to commit human rights violations. Killings, kidnappings, harassment and intimidation of exiled dissidents, political opponents, and human rights defenders were well-documented through the Twentieth Century. Today, new techniques such as coordinated online harassment, malicious legal proceedings, digital surveillance and platform censorship have expanded the tactics available to actors seeking to remotely constrain the exercise of basic rights (Safeguard Defenders 2023; The Rights Practice 2023a; Council of Europe 2023; Gorokhovskaia and Linzer 2022; Gorokhovskaia, Schenckan and Vaughan 2022). These challenges have been understood under a variety of labels including transnational repression (TNR), foreign interference, extraterritorial censorship and strategic lawsuits against public participation (SLAPPs), but share a common central feature: the violation of rights of individuals taking effect in one country, but originating in another. This article defines these issues as Transnational Human Rights Violations (THRUV), and demonstrates the positive state obligations and practical policy implications that arise from such an understanding.

THRUVs are infringements of individual rights that originate outside the jurisdiction in which they take effect. As such, they engage the human rights obligations and responsibilities of both the perpetrator and the state in which the target is located. The most common targets of THRUVs are regime opponents, political activists and human rights defenders (HRDs) in exile, however, THRUVs' constraining effects increasingly manifest more broadly across diaspora communities, journalists, researchers, academics and legal professionals (Coughtrie 2023; Butler 2022). But a lack of systematic monitoring and data collection has hindered the development of evidence-based policy responses (Dukalskis et al. 2022). The best available data concern transnational repression—a subset of THRUVs perpetrated by authoritarian regimes against overseas diasporas—and indicate the issue is widespread and growing, affecting large and diverse groups of people (Dukalskis et al. 2023). As Gorokhovskaia and Linzer (2022) note, “transnational repression remains a global threat to human rights and democratic values because few tools exist to protect its intended targets.” Situating such issues within the broader concept of THRUV, the present article proposes necessary institutional arrangements to address this need—and fulfil currently unmet state obligations to do so.

Despite increasing research and documentation, targets of THRUV often find no suitable domestic avenues for help (Tobin & Elima 2023). Government bureaucracies may lack capacity and understanding of state responsibilities in addressing human rights violations, and frontline authorities including police are often unfamiliar with the complex situations faced by targeted groups and individuals (Index on Censorship 2022: 13-14). Many modern forms of THRUV take effect without any specific crime being committed in the jurisdiction where the targets are located. While a number of governments have recently expressed concern about transnational repression, THRUV issues remain a major blind spot in most countries' human rights protection arrangements (Chubb 2023b), including those centered on National Human Rights Institutions (NHRI) established under the UN Paris Principles (General Assembly 1993). By leaving a wide array of individuals and groups vulnerable to rights violations, the failure to tackle the issue of THRUV puts states in violation of their obligations under international human rights law to protect and enable the exercise of rights by all individuals in their territory (The Rights Practice 2023a: 4; Anstis and Barnett 2022). This article's proposal focuses on addressing the unmet obligations of the state in which the violation takes effect – usually the state in which the targeted individual resides,¹ which we refer to as the *duty-bearing state*, while also opening up the potential for new mechanisms of accountability for state and non-state perpetrators.²

¹ 'Resides' refers to the country in which the targeted individual is present, this can be because they are in exile, have immigrated, or because they hold citizenship.

² While acknowledging the utility of terms such as 'host state' and 'origin country' in the literature on transnational repression, this article uses the broader, actor-agnostic 'perpetrators' to account for the fact that targets of THRUV are not necessarily migrants, and perpetrators are not exclusively states.

State policy responses to THRVs have focused on national security implications of authoritarian states' transnational repression practices rather than states' obligations under human rights law. Such approaches have been supported by a significant body of media, public commentary and academic research (e.g. Fitzgerald 2022; Garnaut 2018; Hamilton 2018; see also Chubb 2023). Intersections exist between THRV and national security: as early as 2006 Australia's domestic security agency was concerned about "threats...against individuals' relatives and associates in their home country should they not cooperate with a foreign police or intelligence service" (ASIO 2006-07: 26). Yet as the literature on transnational repression makes clear, the problem is far broader than this specific concern—and the national security angle has the unfortunate effect of recasting *targets* of THRV as potential national security threat vectors. More recently, arguments have emerged for transnational repression to be examined as a violation of state sovereignty (Michaelsen and Thumfart 2023). But there are clear limitations to characterizations of THRVs in these terms also, for sovereignty generally concerns the scope of the state's exclusive and legitimate authority, whereas repression of rights is not among those state prerogatives (Pils 2023). Not surprisingly, as we show later, security and sovereignty-oriented policy responses have fallen well short of fulfilling the state's obligations to protect residents from external repression.

To meet their obligations, we argue, duty-bearing states must recognise their responsibilities to those targeted by THRVs on their territory by establishing specialised offices tasked with monitoring the situation of THRVs taking effect within their territorial jurisdiction, providing support to affected individuals and communities, advising and coordinating across government departments, and developing policy solutions. The office should form part of the duty-bearing state's NHRI. The article proceeds in three steps. First, we review the rapidly changing shape of THRV in the context of global mobility and instantaneous digital communications, highlighting the impact of evolving forms of surveillance, coercion and censorship. Second, we identify the duty-bearing state's obligations in respect of THRVs, highlighting the positive requirement for states to maintain a domestic environment that protects the exercise of basic rights within their territory (cf. Anstis & Barnett 2022) along with the growing recognition—particularly since the advent of digital surveillance—that THRVs are not merely targeted incidents, but systemic constraints on the exercise of rights by significant sections of society. Third, we examine the policy responses to THRV issues from the United States, Australia and the United Kingdom, along with the responses of international organisations, showing how none adequately addresses the nature and evolution of THRV. Fourth, we present the Transnational Rights Protection Office proposal, focusing on five interlocking and mutually reinforcing functions, and the strong rationales for its institutional location within NHRIs.

2. *Evolving Forms of Transnational Human Rights Violations*

Many of the issues included in the broad concept of THRVs are not a new phenomena (Garvey 1980; Lessa 2019). However, a weight of evidence suggests that they are growing both in scale and severity, in line with the rise of authoritarianism internally in many states (Dukalskis et al. 2023: 12). Lemon et al's *China's Transnational Repression of Uyghurs Dataset* logged 238 incidents from 1997 to 2013, but has logged 6,868 events since 2014, across at least 44 countries (Lemon et al. 2023: 574). In 2022, the Parliamentary Assembly of the Council of Europe (PACE), citing data from Freedom House, reported that "the number of incidents of physical transnational repression committed since 2014 had reached 854 by the end of 2022. These acts were committed by 38 governments in 91 countries around the world." It continued "The most prolific perpetrators of transnational repression are, according to the non-governmental organisation Freedom House, the Governments of China, Türkiye, the Russian Federation, Egypt and Tajikistan." (PACE 2022: para 2). Many international organisations, such as the Council of Europe, and EU Agency for Fundamental Rights, as well as national governments including the United States, have recently expressed deep concern over this trend, emphasising the need to hold governments accountable for such actions. NGOs leading this discussion, in particular Freedom House, as well as Amnesty International and Human Rights Watch have recorded the extent and impact of transnational repression by authoritarian governments, particularly THRV against human rights activists and political dissidents, around the world.

In contrast to transnational repression, the concept of THRVs operationalized in this article is agnostic as to the type of actor that perpetrated the action, directing focus to the obligations of the duty-bearing state. In practical terms, repressive actions are much more likely to originate from authoritarian regimes (deMeritt 2016), Research on extraterritorial authoritarian practices has illuminated repressive state policies towards not only political exiles but diaspora populations more broadly (Conduit 2015; Moss 2016; Glasius 2018; Tsourapas 2020; Furstenberg, Lemon and Heathershaw 2021), but the recent allegations of Indian government involvement in the June 2023 murder of Hardeep Singh Nijjar in Canada, and the attempted assassination of another Sikh activist in the United States, have underscored that THRVs are not unique to authoritarian regimes (Norman 2023). The perpetrators of THRVs may not even be states at all: political movements, corporations and even powerful individuals are capable of reaching across borders to coerce and punish the exercise of human rights. The concept of THRVs thus draws attention to the effects of the rights-violating practices, and the existence of legal obligations of duty-bearing states to monitor and counter their effects on their territory, facilitate access to legal redress, provide support to those targeted regardless of whether a domestic law has been broken.

Responding to THRV has proved particularly challenging where the perpetrators' practices occur remotely, beyond the territory of the duty-bearing state, and where new technologies have enabled rapidly evolving tactics and techniques. As the sections below indicate, this has been particularly apparent in three broad interlocking mechanisms of THRV: surveillance, coercion and censorship. These three examples illustrate the breadth of the problem, the broad range of individuals affected and, perhaps most importantly, the additive effects of different techniques of THRV that generate systemic constraints on the exercise of human rights. **Appendix 1** provides an overview of specific human rights that may have been violated based on events described in the literature. The list is long, but not exhaustive; it focuses on the key rights under the International Bill of Human Rights (comprising the Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, ICCPR, and International Covenant on Economic, Social and Cultural Rights, ICESCR). These widely ratified international human rights instruments, which form the basis of the modern understanding of human rights, underscore the significant and so far unmet responsibilities on states in respect of THRV.

2.1 Surveillance

Autocrats have long sought to surveil overseas targets, both to obtain information on perceived threats, and to forestall them by generating fear among target populations, but the problem has broadened and evolved with the development of communications technologies. The 20th Century's authoritarian regimes often sent state security officers to conduct risky covert operations overseas, or counted on allies and informants within diaspora communities to pass on information about dissenters and activists (Garvey 1980). Today, digital communications often render physical presence unnecessary. Bahraini activists allege the Bahraini government infected their laptop computers with spyware to monitor their communications from 2011 onwards (OHCHR 2023b). Cambodian dissidents in Australia have complained of ongoing surveillance by agents or supporters of Hun Sen's government. Mainland Chinese and Hong Kongers alike have complained of constraints on their speech in Britain resulting from pervasive surveillance by authorities. The problem has appeared to dramatically worsen in recent years, particularly since 2016, when commercial software exploiting smartphone vulnerabilities began offering convenient access to devices, including both data and microphones.

Digital surveillance has affected both activists and broader diaspora populations targeted (Al Jizawi et al. 2022: 10-11). But the practices are not exclusive to authoritarian polities, and the effects are not limited to dissidents and diasporas. Dozens of foreign journalists have allegedly been surveilled via the Pegasus spyware systems that can be installed on a target's smartphone entirely without their knowledge (Marczak et al. 2020). A European Parliament report on the use of the software found multiple EU member states, most likely including Hungary and Poland, had misused the package to spy on political opponents (European Parliament 2023). The software is retailed by its creator, Israel-based NSO Group, as a solution to terrorism and crime, while India, the world's largest electoral democracy, has been actively seeking new covert surveillance solutions to rival Pegasus (Srivastava and Wiggins 2023). The deployment of such tools is a clear breach of the rights to privacy and freedom of expression (see Appendix). But a key problem frustrating policy responses is that users often cannot obtain evidence to establish which actor has violated their rights, rendering domestic legal avenues of redress

unavailable. Surveillance software can now be planted with no knowledge of the target, via a simple missed call, meaning surveillance may have concluded before it is noticed (Marczak et al. 2023). In some cases targets may not even know their rights have been violated.

The extraterritorial surveillance problem not only results in violations of the right to privacy. Further THRVs follow from the *possibility* of surveillance, which generates fear that constrains freedom of expression on a wide scale within target communities (Al Jizawa et al. 2022). In the UK, the international legal team of detained Hong Kong media tycoon Jimmy Lai has reportedly faced online surveillance and intimidation, while numerous Hong Kong migrants, including both activists and artists, have spoken of their ongoing fear of Beijing's surveillance (Levitt and James 2023; OHCHR 2023b: 25). Besides the sense of danger and pervasive extraterritorial reach, the recruitment of human informants—often themselves subject to coercion, as detailed below—can have severe effects on social trust within targeted communities. Chinese democracy and human rights campaigners have faced surveillance and infiltration, severely undermining intra-community trust (Chen 2019: 58-60), while interviews with Uyghurs in Turkey similarly noted a palpable “atmosphere of distrust with many saying they will simply avoid all Uyghurs” (Tobin and Elima 2023: 59). As shown below, coupled with coercive mechanisms, pervasive surveillance not only violates the right to privacy, it also has a compound effect in constraining the exercise of freedom of expression, and potentially violating other basic rights such as the right to family life.

2.2 Coercion

Coercion refers to the threat or imposition of punishment aimed at forcing the target to alter their behaviour. Authoritarian actors' ability to make threats and punishments across borders lies at the core of THRV. This can result straightforwardly from the possibility of employing brute force overseas, with cases of physical harm and violence having a demonstrative effect on other members of targeted communities. But those who exit the territory of one state very often leave behind family that perpetrators can leverage to constrain the exercise of their basic rights abroad. Such “coercion-by-proxy”—the threat or use of punishments against family members of targets abroad—has been observed around the world in recent years (Adamson and Tsourapas 2020). Modern online communications technologies have intensified this trend, while also giving rise to new techniques of coercion such as cyber attacks and coordinated online harassment.

Coercion-by-proxy has been a particularly effective form of THRV, restricting the exercise of fundamental freedoms. Many Rwandan government critics have seen family members arrested over their political activities on foreign soil, with emigres describing a sense of “psychological torture” as a result (Human Rights Watch 2016; Al Jizawi 2022). Families of Ethiopian diaspora members have similarly experienced intimidation after their relatives participated in protests (Greenbank 2019). The UN Human Rights Committee has expressed deep concern about Turkmenistan's reportedly “widespread practice of persecution of civil society representatives and their relatives” (UN Human Rights Committee 2023). Families of dissidents from Egypt, UAE, Syria and Libya have encountered proxy punishment through the targeting of family members (Moss, Michaelsen and Kennedy 2022; Human Rights Watch 2019a; Human Rights Watch 2019b). This often generates agonising choices for citizens abroad: constrain their freedom of expression, or cut ties with their family in their origin country. Glasius describes the situation faced by Syrian and Iranian activists: “either they had to stop their online activism, or they had to repudiate – or be repudiated by – and break off all contact with their relatives.” (Glasius 2018: 191) North Korea sends workers abroad to earn hard currency, preventing defection “by effectively holding their families hostage,” and Eritrea has taken coercion-by-proxy in an economic direction by imposing a 2% income tax on Eritreans abroad, and threatening the family of those who refuse to pay (Adamson and Tsourapas 2020; APPG Eritrea 2022).

The emergence of ubiquitous digital communications channels means today's authoritarian states have the ability not only to surveil opponents and dissenters' activities, but also to identify points of leverage in their important family connections, and to transmit threats effectively in real-time (Al Jizawi 2022: 12). China is one of the most adept exponents of such mediated digital coercion. As a Chinese activist has noted, collective punishment of accused criminals' families has a long history in China, and “with technological advances, guilt by association practices are even more diversified, more deceptive and more covert” (Safeguard Defenders 2023). Uyghurs and other persecuted ethnic groups

have faced widespread technology-enabled intimidation by PRC security services after fleeing repression, particularly using instant-messaging apps through which transnationally distributed families stay connected (Tobin and Elima 2023; Rajagopalan 2018). An overseas student in Australia documented video calls she received from an officer sitting in her parents' home, explicitly telling the student "although you are overseas, you are still governed by the law of China."³ Modern digital platforms thus facilitate remote, direct and often instantaneous access to targets in duty-bearing countries.

Like digital surveillance, the scope of modern transnational coercion is not limited to diaspora communities. Individuals with no family connection to a perpetrating state can be subject to politicised coercion via coordinated online harassment, hacking attacks, and strategic lawsuits against public participation (SLAPPs). The far-right Hindutva movement has become known for its ferocious coordinated social media harassment of critics of India's BJP government, particularly scholars and journalists (South Asia Scholar Activist Collective 2021). In addition to such violations of the right to security of person, targets of many such campaigns have experienced cyber attacks and character smears that have violated the right to reputation. UK-based human rights lawyers have reported being subject to coordinated online harassment, hacking attacks and death and rape threats over their advocacy for Jimmy Lai (UHCHR 2023b: 25), and SLAPPs have threatened to bankrupt UK journalists and media investigating wealthy kleptocrats in Russia, Kazakhstan, Malaysia and elsewhere (Coughtrie 2023). A report by the Coalition against SLAPPs in Europe recorded 570 SLAPP cases filed between 2010 and 2021 in more than 30 jurisdictions (CASE 2022). Perpetrators have included oligarchs as well as authoritarian states. Morocco, for example, filed apparently vexatious lawsuits against French and Spanish NGOs and journalists over reports that it used the Pegasus spyware to surveil and suppress critics (Keeley 2023). Australian academic Clive Hamilton had a polemical book on PRC influence in Australia spiked by Allen and Unwin over fears of defamation by "Beijing's agents of influence" according to a leaked email from the publisher's chief executive (Brull 2018).

The long and expanding set of coercive tools available to THRV perpetrators extends in several other directions. Governments often refuse entry and deport overseas critics who attempt to visit their homeland, violating the rights of return and family life, as well as freedom of expression (e.g. Munro 2018; Doherty and Touma 2023).⁴ A diametrically opposed transnational threat to overseas dissidents' is involuntary rendition (Safeguard Defenders 2022). A related technique has been the abuse of international law enforcement mechanisms such as INTERPOL red notices by states including Turkey, China, Russia and Iran to bring about the detention of political targets (Gorokhovskaia and Linzer 2022). These varieties of political coercion violate the rights to security of person and a fair trial, as well as potentially the right to life and prohibition of torture, in addition to freedom of expression, on the territory of the duty bearing state. Livelihoods are another potential point of transnational coercive leverage: PRC agents, for example, have reportedly pressured businesses in overseas countries to withdraw advertising from media outlets that criticise CCP policy (Smith and Lim 2017), infringing not only on the right to free expression of those whose voices are suppressed, but also the broader community's rights to receive information. Such extraterritorial censorship practices are extensive and growing in the internet era, as the next section shows.

2.3 Censorship

Authoritarian states today are using digital platforms abroad to expand the reach of state information and shape information ecosystems overseas. The result can be a significant, intentional distortion of the supply of political information within targeted communities and beyond. As the European Commission (2022) noted, "In order to secure meaningful participation, citizens must be able to access reliable information, which enables them to form their own opinions and exercise their own judgement in a public space in which different views can be expressed freely." Autocracies have long sought to curb

³ The videos can be viewed at: https://twitter.com/Horror_Zoo/status/1268353070666092547

⁴ Yang Hengjun, a US-based academic of Chinese background, was detained upon arrival in 2019 and charged with "endangering national security" most likely over blog posts and political activism carried out in the United States. Other critical academics and commentators such as Sydney-based professor Feng Chongyi have been detained before being released, thereby conveying a warning to other academics intending to return to China.

dissent abroad, but contemporary China may be a uniquely impactful perpetrator of extraterritorial censorship due to its sophisticated mechanisms of information control and a globally influential tech sector.

Most conspicuously, the near-monopoly of the app WeChat for instant messaging with China-based family members has made the app a key site of communication and information sharing in Chinese diaspora communities around the world. The company is subject to Beijing's censorship instructions—and potentially those of local governments and various ministries—meaning accounts, posts, messages and topics can disappear without warning or explanation. Many digital news outlets serving overseas communities use the platform, and must carefully avoid falling foul of censors lest they lose access to the platform and their accumulated audiences. The overall effect is an external expansion of China's sophisticated, multi-level censorship system that produces a sanitized and partial information supply (Ruan et al. 2017). Foreign politicians using the platform to connect with voters have also experienced censorship where they touch on issues of concern to Beijing's authorities, not only infringing on freedom of expression but also generating incentives for self-censorship by public figures who have accumulated significant followings on the platform (Wang 2019)..

Traditional media serving diaspora communities are also increasingly vulnerable to censorship from abroad. Chinese-language local diaspora media outlets have become much less willing to criticise Beijing than previously (Sun 2016). This has resulted from a combination of positive inducements and negative punishments. As noted in section 2.2 above, coercion of media proprietors and the well-founded fears of costly, politically motivated lawsuits can produce self-censorship that violates the rights of audiences to receive information unfettered (see Chen 2019: 72-73). At the same time, PRC propaganda organs have pursued a long-term strategy of expanding the overseas reach of propaganda content by co-opting existing overseas diaspora media outlets—many formerly independent—by providing financial rewards and a pipeline of ready-made content. The strategy has been summarized by Chinese officials themselves as “borrowing a boat to go to sea” (Qing and Shiffman 2015). This has generated concentrated and systematic constraints on linguistically diverse communities' rights to receive reliable political information.

But authoritarian information control also extends to broader society if censorious authoritarian actors have the ability to exert influence over information platforms. One salient example is the co-production of film content, which has resulted in Chinese party-state propaganda being presented as documentary films (Bandurski 2019). Authoritarian actors can also pressure public and private institutions beyond their borders to deny platforms to political opponents, infringing on freedom of expression and the right to receive information among the broader community. In 2018, for example, PRC consular officials convinced a local council in Queensland, Australia, to erase a Taiwanese flag painted by a local school pupil from a piece of public artwork (Hooker 2018). Public venues in the UK and elsewhere have on occasions refused to host academic and artistic events on issues deemed ‘sensitive’ by Beijing (Quinn 2018; ArtForum 2019). New media platforms headquartered, owned or developed in authoritarian contexts also extend extraterritorial censorship beyond diaspora to general populations abroad. TikTok, for example, has suspended US accounts posting discussions of the PRC's mass internment of Uyghur Muslims, and of jailed Hong Kong media tycoon Jimmy Lai (Lee 2019; Editorial Board 2023). Tiktok's algorithms—a commercial secret—have been the subject of intense speculation over the potential that they could shape the general political content available to hundreds of millions users worldwide.

In summary, the above sections indicate how evolving, mutually reinforcing mechanisms of surveillance, coercion, and censorship have each been bolstered by emerging technology, developments that neither law enforcement nor human rights institutions have been able to keep pace with. At present, a wide range of individuals targeted by authoritarian actors—mostly but not exclusively authoritarian states—are subject to surveillance, coercion, censorship or some combination of the three. This includes diaspora, activists, human rights defenders, academics, journalists and legal professionals, as well as a broader range of non-activist individuals within targeted diaspora communities, including second- or even third-generation people who are citizens of the duty-bearing state. The question we turn to next is that of the obligations of the state in which the target of THRV is located: the duty-bearing states.

3. *State Obligations*

While the legal status of THRVs would benefit from elucidation and clarification at the international level, current human rights law is sufficient to account for states' responsibilities as part of their existing human rights obligations. The complexities of THRV set out above do not lessen states' human rights obligations, nor does the fact of a perpetrator being located beyond the territorial jurisdiction of the duty-bearing state (Anstis and Barnett 2022). In this section, we set out some of the most basic obligations of the duty-bearing state to those targeted by THRV. Importantly, the UN human rights system has also begun to recognise the systemic, additive effects described above, rather than viewing THRVs in terms of individual prominent incidents such as assassinations, disappearances and kidnappings.

It is an accepted feature of international human rights law that a state's human rights obligations attach to all individuals located on territory under its effective control (International Covenant on Civil and Political Rights (ICCPR) Article 2; Human Rights Committee 2004; Maastricht Principles 2011). This extends to those who flee another country, including dissidents and activists (e.g., Taylor 2020). Many of the obligations under the ICCPR are positive, and violations require specific measures by the state including the right to an effective remedy (ICCPR Article 2(3); UN Human Rights Committee 2004). The Committee's general comment No. 34 (2004) on the nature of the general legal obligation imposed on states parties to the Covenant, emphasises the positive obligations on States Parties to protect individuals against violations by third parties, noting that "there may be circumstances in which a failure to ensure Covenant rights as required by article 2 would give rise to violations by States Parties of those rights, as a result of States Parties' permitting or failing to take appropriate measures or to exercise due diligence to prevent, punish, investigate or redress the harm caused by such acts by private persons or entities." (UN Human Rights Committee 2004: 8).

Specific standards such as the Minnesota Protocol on the Investigation of Potentially Unlawful Death elaborate the preventative measures states are required to take. The Minnesota Protocol underscores that due diligence to prevent arbitrary deprivation of life is particularly required where state officials have specific information about "threats against one or more identified individuals; or where there is a pattern of killings where victims are linked by political affiliation, sex, sexual orientation or gender identity, religion, race or ethnicity, caste, or social status." (para 8) Similar obligations exist in relation to the right to liberty and security of person: under Article 9 of the ICCPR, states parties must "take appropriate measures" to protect against deprivations of liberty by third parties, including protecting individuals from abduction or detention by criminals and irregular groups, operating within their territory, and provide remedies for victims when arbitrary or unlawful detention does occur (UN Human Rights Committee 2014). The obligation under Article 9 also foresees that states are monitoring and responding to patterns of violence against categories of persons, including HRDs and journalists (UN Human Rights Committee 2014).

Many of the surveillance, coercion and censorship-based THRVs discussed above relate to freedom of expression and the right to seek and receive information under Article 19 ICCPR and the right to privacy under Article 17 ICCPR. These are closely interconnected, in the words of the UN Special Rapporteur on Freedom of Expression "Privacy and expression are intertwined in the digital age, with online privacy serving as a gateway to secure exercise of the freedom of opinion and expression" (UN Special Rapporteur 2019). There are a range of positive obligations required by states to support these rights, including for Article 19 that "States parties should put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression." (UN Human Rights Committee 2011). Permissible restrictions of Article 19 of the ICCPR cannot be used to justify silencing of advocacy for democracy, rule of law and human rights by dissidents or activists (UN Human Rights Committee 2011).

The UN human rights system has taken up concerns about extraterritorial surveillance as a human rights violation. The landmark 2013 General Assembly Resolution on the Right to Privacy in the Digital Age called on states to take measures to end violations of the rights under Article 12 UDHR and Article 17 ICCPR including because of extraterritorial and intercepted communications (UN General Assembly 2013). Subsequent follow-up annual resolutions have underscored these rights. The 2020 resolution particularly recognised the interconnectedness of the right to privacy with the exercise of other rights: "violations or abuses of the right to be free from unlawful or arbitrary interference with

the right to privacy might affect the enjoyment of other human rights, including the right to freedom of expression and to hold opinions without interference, and the right to peaceful assembly and freedom of association,” (UN General Assembly 2020). Where these issues of transnational repression and THRV have seen the most attention in the human rights framework is in relation to the activities of specific groups, notably, human rights defenders (HRD), journalists and academics. It is well recognized that “owing to the nature of their work, human rights defenders require special protection at the local, national and international levels, as their human rights work often exposes them to specific risks and makes them a target of abuse.” (Organization for Security and Cooperation in Europe 2015: para 62)

The UN has also addressed the broader impact of targeted surveillance that “creates incentives for self-censorship and directly undermines the ability of journalists and human rights defenders to conduct investigations and build and maintain relationships with sources of information” (UN Special Rapporteur 2019). Monitoring and surveillance is also a violation of freedom of association (UN Special Rapporteur 2018:16), a right that entails a duty on states to protect individuals from extraterritorial interference. The UN has also been clear about the need for states to establish procedural and institutional safeguards against violations of the right to privacy: “The ‘protection of the law’ [in Article 17(2) ICCPR] must be given life through effective procedural safeguards, including effective, adequately resourced institutional arrangements.” (OHCHR 2014).

In short, international human rights frameworks affirm that states have positive obligations to protect those on their territory from THRVs. These include not only violations against the right to life, security of person, freedom of expression and association, but also the right to privacy. Significantly, the UN has recognised the diffuse, systemic effects of THRVs, particularly the additive relationship between surveillance and coercion, with each enabling the other in important respects. Rather than a problem of individual events and incidents, THRVs are increasingly recognised as a growing challenge facing populations more generally—a recognition with important implications for the nature and scope of states’ relevant obligations. However, correspondingly comprehensive institutional action has so far been absent.

4. Domestic and International Responses

This section reviews domestic legislative and policy responses of the United States, Australia and United Kingdom to THRVs, before briefly considering international human rights institutions’ responses, which have mainly focused on protecting HRDs. Each of the three countries has declared an intent to tackle transnational repression, particularly against members of the Chinese diaspora communities. The United States has launched a law enforcement campaign against transnational repression led by the FBI, resulting in around two dozen prosecutions through 2023. Australia introduced sweeping new national security laws, along with a “Counter-Foreign Interference” campaign, but without so far producing any THRV-related prosecutions against perpetrators. The UK has set up a “Defending Democracy” taskforce whose mandate includes awareness-raising among police forces towards issues facing diaspora communities. However, as indicated below, each has left the bulk of THRV problems unaddressed.

4.1 United States

In the United States, the FBI has launched a series of criminal cases against alleged perpetrators of transnational repression since 2020, by applying pre-existing offences such as harassment and stalking. “When foreign governments stalk, intimidate, or assault people in the United States, it is considered transnational repression,” the Bureau’s website states. “It is illegal, and you can get help to stop it.” To underscore its intent, the site links to 17 press releases announcing charges against alleged agents and proxies of the PRC and Iran over transnational repression.⁵ The cases range from stalking and harassment to conspiracy charges over the establishment of an overseas police station in New York, a

⁵ <https://www.fbi.gov/investigate/counterintelligence/transnational-repression>

planned forcible repatriation, and the destruction of an anti-CCP dissident artwork in a Californian sculpture park.

One strong feature of the US approach is publicity, which has helped inform citizens, potential targets and the US government bureaucracy about specific tactics used by perpetrators of THRVs. In 2021, legislators passed the Transnational Repression Accountability and Prevention (TRAP) act mandating twice-yearly reports on the abuse of INTERPOL red notices. The FBI's transnational repression cases have also not been exclusively aimed at PRC perpetrators, helping convey that the application of legal standards rather than political motivations, lie behind the cases, thereby signalling that they will continue, regardless of the state of foreign relations between the USA and a perpetrator state. The cases also signal US authorities are willing to act against crimes on US territory that affect diverse individuals' rights against violations by foreign states.

However, while enforcement of existing laws is a necessary step where crimes are committed, the FBI's campaign does not approximate a systematic institutional response to THRVs. One major loophole is acts that occur outside US territory and take effect inside the US, such as digital surveillance and coercion of targets' family members. A second issue is the narrow focus on acts of repression where, many violations of human rights involve subtler techniques designed to generate fear, constrain individuals and communities' access to information, or destroy intra-community trust. A related limitation is the specific focus on foreign state perpetrators of rights violations; as noted above, rights may be violated across borders by actors other than states.

Most fundamentally, law enforcement is of little assistance where the ultimate source of repression is not clearly attributable—a key feature of many of today's THRVs, particularly digitally enabled forms. Thus, any comprehensive approach to addressing THRVs must contain a strong focus on enabling affected individuals to exercise their rights and obtain redress for violations where none is available under domestic laws. The FBI's scheme against transnational repression does not provide those affected by THRVs with easily accessible channels through which to seek direct assistance where a crime has not been committed on US territory. Criminal cases also take time to build, meaning complainants inevitably face long wait times for redress from the criminal justice system. As such, the US case demonstrates why law enforcement against THRVs is one of a state's human rights obligations, but is far from sufficient to claim compliance.

4.2 Australia

Following a series of media exposés on PRC political influence in mid-2017, Australia enacted a rapid legislative response centred on countering “foreign interference,” a category that encompasses some forms of THRV together with various national security threats including electoral manipulation, covert lobbying and cultivation of improper ties with politicians. Introduced by then-Prime Minister Malcolm Turnbull as a response to “disturbing reports of Chinese influence,” the Australian parliament passed three key pieces of legislation in 2018, including the *National Security Legislation Amendment (Espionage and Foreign Interference) Act* (hereafter EFI Law) which expanded the scope of espionage and secrecy offences, and introducing new criminal penalties for covert, deceptive or coercive interventions into political processes. The legislation outlawed various techniques deployed to suppress dissent, and signalled the Australian federal government's intention to no longer provide a permissive environment for THRVs.

To date, only two cases have been brought under the EFI law, and neither in relation to THRVs (Chubb 2021: 63-69). Like the US law enforcement campaign, Australia's legislative responses to THRVs are limited by their geographic applicability, as well as the need for clear attribution of perpetrators in order to pursue legal redress—conditions that often do not obtain in cases of THRV, where the perpetrator is often unknown or located abroad. Rights advocates have also raised concerns about the expansion of national security powers under the laws. In a 2018 joint submission to Australia's parliament, three UN Special Rapporteurs criticised the EFI legislation as inconsistent with Australia's obligations under international human rights law, including Article 19 of the ICCPR. “In particular,” they wrote, “we are gravely concerned that the Bill would impose draconian criminal penalties on expression and access to information that is central to public debate and accountability in a democratic society.” (UN Special Rapporteurs 2018).

The Australian response highlights some general drawbacks of national security-led approaches to THRV issues, as embodied in the concept of “foreign interference” (FI). The FI mission set combines espionage and other hostile national security activity with authoritarian transnational repression against members of diaspora communities. The Australian CFI approach led by domestic security agencies has generated limited direct support to targeted community members, some of whom are fearful to contact national security agencies given the risk of foreign surveillance (Chubb 2021: 64). The CFI taskforce’s webpage on “Countering foreign interference in communities” has lacked specific guidance or contact points for individuals who have been subject to or at risk of rights violation, besides the National Security Hotline.⁶ Although some proponents of Australia’s approach have cited “protect[ing] diaspora groups from coercion” as the impetus (Hunter 2019), the EFI Law passed in 2018 may actually have narrowed the scope of protections against such interference for many vulnerable individuals.⁷

Australia’s experience also indicates how applying a national security lens to issues of THRV can unintentionally recast the targets of THRV as potential threat vectors. This is illustrated in the “Foreign Interference” sections of the annual reports to Parliament of the Australian domestic security agency (ASIO), which have routinely flagged the national security threat arising from diaspora members who may have been coerced into acting as agents of foreign intelligence (E.g. ASIO 2006-07: 26; ASIO 2007–08: 6). This intersection with THRV appears a narrow and potentially counterproductive conceptual basis for addressing the issue of THRV as a whole (Chubb 2021: Ch. III).

4.3 United Kingdom

Much slower in its legislative responses than Australia, the UK has also based its response around the concept of “foreign interference” that aggregates THRVs with a range of national security concerns. The *National Security Act* introduced in 2021 and passed in 2023, mirrors the Australian legislation by introducing a crime of foreign interference and a Foreign Influence Registration Scheme (FIRS), along with new espionage offences, and broadened sabotage and government secrecy offences.⁸ Severe penalties are available to prosecutors for acts of interference against rights protected under the European Convention on Human Rights, though no charges have so far been brought under the new law.

A second key component of the UK’s response has been the Home Office’s Defending Democracy Taskforce (DDT), established in late 2022 and chaired by then-Security Minister Tom Tugendhat. The DDT has reportedly organized training for local police forces to raise awareness of law enforcement on issues of transnational repression—a necessary precondition for enforcement of existing laws that THRV may violate. But with the DDT’s primary focus on issues central to national security—electoral security, threats to politicians, improper foreign lobbying and the protection of sovereignty – the taskforce has so far offered little direct support to targeted communities and individuals. Indeed, while Australia’s CFI taskforce has set up a language website (albeit in English language only), the DDT appears to have no online presence at all as of January 2024. This observation underscores the mismatch between national security agencies’ largely non-public facing role and the need for accessible, diverse and public support to enable the exercise of rights within the UK’s territory.

4.4 International responses

International human rights organisations’ responses to transnational repression have primarily focussed on acts against specific individuals including HRDs, journalists, lawyers, academics and civil society.

⁶ <https://www.homeaffairs.gov.au/about-us/our-portfolios/national-security/countering-foreign-interference/in-communities>

⁷ An offence of interference against “any political right or duty” already existed in Australia under the *Crimes Act 1914*. The 2018 EFI Law replaced this with an offence for coercion (force, violence, intimidation, threats) that interferes with exercise of “Australian democratic or political right or duty,” with the Explanatory Memorandum repeatedly stating that the word “Australian” had been added to “limit the operation of this paragraph only to rights that arise because of a person’s status as Australian,” (Parliament of Australia 2021:92, 163, 169), language that would appear to exclude many of the groups most vulnerable to PRC transnational coercion, such as Uyghur refugees in Australia.

⁸ <https://www.gov.uk/government/publications/national-security-bill-factsheets/foreign-interference-national-security-bill-factsheet>

The UN's human rights mechanisms have also taken steps to advocate on behalf of targets who have faced reprisals over their engagements with the UN. However, current approaches suggest a lack of recognition of the widespread and systemic effects of THRV at the national level, particularly, there appears currently to be little recognition of the need for robust and systematic rights-protection responses at the country level.

Implementing guidelines and specific measures to protect HRDs have been adopted both internationally and regionally, including the EU-supported initiative ProtectDefenders.EU, which provides a contact point for urgent assistance, help with temporary relocation, as well as monitoring and reporting. Some states have introduced domestic level protection initiatives such as the Mexican National Protection Mechanism for Human Rights Defenders and Journalists (see generally, ISHR 2023). In 2023, Freedom House issued a report specifically focusing on the growing trend of transnational repression against journalists (White et al. 2023), and the Committee for the Protection of Journalists (CPJ) has long-running efforts to publicise attacks against media workers. Initiatives are also in place to protect at-risk scholars, both under the HRD framework and in the context of academic freedom such as via the NGO Scholars At Risk. The UN Special Rapporteur on Human Rights Defenders, as well as leading NGOs such as Amnesty International, Human rights Watch, and HRD-specialist NGOs such as Frontline Defenders also regularly document and publish on the situation of HRDs. Yet in the context of the evolution and intensification of THRVs in recent years, without strong countermeasures from the duty-bearing states on whose territory targeted individuals reside, reporting alone might risk inadvertently advancing the perpetrator's goals of instilling a sense of vulnerability and fear deters others from participation in activist politics.

Protection for those reporting THRV is also a significant concern for international organisations. The UN has made a range of efforts in this regard. The OHCHR presents annual reports on acts of intimidation and reprisal to the UN General Assembly, and has a dedicated website to help alleged victims in reporting. This initiative began as a result of instances of severe physical and legal acts of reprisal including killings, torture, threats and harassment (OHCHR 2024, 2023b). UN Treaty Bodies have a range of measures in place arising from the 2015 San José Guidelines, which introduced a procedure for addressing allegations (UN International Human Rights Instruments 2023, 2015). However, the primary focus of these initiatives has been direct engagement with national authorities in the alleged perpetrating state, with limited capacity to provide direct protection to those engaging with the UN system. The reports by the UN set out the severity of THRV against those who have engaged with the UN, including "coercion-by-proxy" through targeting of the family members of those in exile (UN International Human Rights Instruments 2023).

Recent efforts have also been made to promote more robust domestic responses. The Parliamentary Assembly of the Council of Europe's 2023 Resolution on transnational repression set out a series of requirements on member states, including carrying out investigation, ensuring "adequate reparation for the harm suffered, including rehabilitation and compensation" and reinforcing "oversight and accountability mechanisms of the actions and powers of intelligence agencies" (Council of Europe 2023). While an important statement attesting to the need for development of country-level approaches to this issue, the Resolution retains a focus on specific serious instances, largely overlooking the widespread subtle and systemic effects of THRV set out above.

5. Proposal: Transnational Rights Protection Office

The extent, complexity and rapidly evolving nature of THRVs require a comprehensive and dynamic response at the country level. The approaches reviewed above have primarily treated THRVs through national security frameworks, or as largely individualised problems affecting particular people. As we have seen, improved law enforcement is an essential component of any comprehensive approach, but many violations are not amenable to a police response, and security-focused responses can have counterproductive side-effects. An individualised human rights approach focused on dissidents and HRDs, meanwhile, risks missing broader systemic effects THRVs have on the environment inside duty-bearing states. Transparency measures, such as monitoring and publicising violations, if not accompanied by strong support mechanisms, perversely risk abetting THRV by accentuating the

capabilities of perpetrators and the sense of vulnerability among communities. We propose an institutional approach designed to address many of these dilemmas.

To fulfil their currently unmet legal obligations to protect individuals, vulnerable groups and citizens in general from THRVs, we argue states must establish a Transnational Rights Protection Office (TRPO). Addressing the human rights responsibility of the duty-bearing state in which the violation takes effect, TRPOs provide transparency and visibility on the occurrence and evolution of THRVs, facilitate enhanced law enforcement against crimes targeting human rights defenders, and actively seek to equalize the ability to exercise rights among targeted communities. Already present in more than half of the world's countries, National Human Rights Institutions (NHRIs) offer a natural location for such a country-level mechanism. This section first sets out the specific aims and functions of the TRPO, and then discusses why NHRIs are the ideal location for this office.

5.1 Structure and Functions of the Transnational Rights Protection Office

The basic operational goals of the TRPO are to protect and promote the rights of individuals affected by THRVs and mitigate their collective effects. Staffed with specialised personnel knowledgeable on the nature, manifestations and international context, the TRPO works towards these goals at the individual level by supporting targeted individuals; at the national level through monitoring THRVs in the national context, advising government and developing domestic policy and legislative proposals; and at the international level by reporting and coordinating to share best practices and improve international frameworks.

The TRPO thus serves five key functions: first, providing an accessible contact point for targets of THRV; second, conducting research and monitoring of THRV issues; third, advising and raising awareness among stakeholders inside and outside government; fourth, developing policy solutions to the challenges; and fifth, engaging in collective advocacy internationally. The following sections outline how each of these functions supports, enables and reinforces the others, indicating the positive additive effects from organisational integration of these functions. Mechanisms that integrate such functions therefore stand to generate effects in excess of the sum of their individual parts. Tightly aligned to the goals of protection and promotion of rights at the national level against THRV, these five mutually reinforcing functions could be taken as an indicative structure of the organisation.

5.1.1 Contact point

The TRPO first and foremost provides a clear, public-facing contact point for targets of THRVs to obtain support and advice. Many targets of THRVs, particularly in diverse diaspora communities, are unclear as to where or how to obtain assistance from state agencies. Existing government contact points provided to THRV targets are generally limited to law enforcement and national security agencies, but police may lack understanding of the complexities and specific forms of THRVs (see 5.1.3), and many THRVs do not involve any obvious crimes being committed within the police's jurisdiction. Meanwhile, contacting national security bureaucracies, as suggested by the Australian government's CFI website, could potentially be seen to bring even greater danger to THRV targets and their families, especially those who fear they may be under surveillance. As an independent human rights monitor, the TRPO—and the network of civil society organisations and legal professionals aligned with it—offers a qualitatively more accessible, lower-risk contact point.

The TRPO will also provide immediate advice and support to targets, based on its specialised knowledge of comparative examples of THRV issues from within and across communities, and around the world. In line with existing NHRIs (see 5.3), it will link THRV targets with relevant support mechanisms among civil society and the legal profession, make referrals to other agencies, notably immigration and law enforcement where applicable, and support targets to navigate bureaucratic processes and collect evidence necessary to pursue legal redress. Its online presence, meanwhile, will provide evidence-based training and information on practices to effectively thwart surveillance and coercion, and its openness and accessibility enables it to serve as a liaison between targeted individuals, community and civil society organisations, government agencies (5.1.3), and international bodies (5.1.5).

5.1.2 Monitoring and research

The TRPO's contact point function provides it with a unique overview of the situation of THRVs at the domestic level, and supporting its research and monitoring functions. Alongside the data collected from contacts from concerned community members and targets of THRv, the TRPO also conducts focused investigations and actively monitors the situation of THRVs within the country via liaison with other government agencies, communities and stakeholders. It monitors the government's responses to THRv issues, and its regular public reporting provides visibility and publicity to the issues. This raises awareness among targeted individuals and groups and society more broadly, while holding government in the duty-bearing state accountable, and increasing the reputational costs for perpetrators. Crucially, this reporting and publicity work is closely linked with the TRPO's provision of direct support and advice (5.1.2) and development of policy responses (5.1.4), mitigating the risk of inadvertently abetting the perpetrators' threats. TRPO's research and monitoring function also draws on international data and research on THRVs, and leverages the global network of NHRIs (see 5.3) to identify patterns across countries and gain early insight into emerging trends. This enables the TRPO to understand the situation of individuals at risk (5.1.1), while also making it well placed to identify trends and patterns, assess impact, advise government departments on THRv issues (5.1.3) and inform the development of policies to penalise perpetrators and expand access to legal remedies (5.1.4).

5.1.3 Advising stakeholders

The TRPO will provide a vital resource for government departments whose functions touch upon THRv issues. These range from law enforcement and national security agencies, as discussed above, to immigration decision makers, judicial review bodies, parliament, diplomats, higher education institutions and civil society organisations. The TRPO would be able to provide crucial specialist information to inform domestic legal processes regarding the risks of politicised trials, extradition requests, and to law enforcement agencies regarding international trends in the abuse and misuse of international legal mechanisms such as Red Notices (Lemon 2019). The office's research would also be useful in informing the duty-bearing country's foreign services to make diplomatic representations over particular cases of THRv taking effect inside the duty-bearing state's territory. Raising such cases through diplomatic channels, backed by solid evidence, establishes that the duty-bearing state is paying attention to the issues, provides an opportunity to communicate the costs perpetrators could face if the activities continue, and creates the possibility that, in some cases, central authorities in the perpetrating state may intervene to restrain undesired rights-violating behaviours of lower-level authorities. For universities and other research institutions, the TRPO could advise on the development of appropriate internal policies and guidelines to address THRv in the university context (Heathershaw et al. 2022). The TRPO will also be ideally placed to undertake proactive awareness-raising and training on THRv issues with stakeholders such as police services, government departments and community organisations.

5.1.4 Policy development

Linked directly to its research and monitoring functions (5.1.2), the TRPO will investigate and drive the development of specific policies to address the current lack of legal remedies for targets and accountability for perpetrators of THRVs. At present, legal remedies are unavailable to the targets of many kinds of THRv. For some, such as those involving harassment or physical coercion, the key problem may be lax enforcement. This aspect of the problem may be addressed through the above-mentioned awareness-raising, training and better information sharing among government bureaucracies, but other policy solutions may be identified by drawing on TRPO's linkages to civil society, local communities (5.1.1) parliament (5.1.3) and international networks (5.1.5). For many other forms of THRv, especially remote coercion via threats to family, digital surveillance and censorship, facilitating redress will require significant new policy frameworks and the development of new legal mechanisms. The TRPO will be ideally positioned to identify emerging policy options and best practices to advance policy, political and legal solutions within the national context.

5.1.5 International liaison

The TRPO will maintain institutional and research linkages into the global network of NHRIs and engage in collective advocacy for international-level measures. As detailed below, it will do so as part of an international network of similar institutions with a common status based on international human rights standards. Collective measures could include coordinated diplomatic sanctions against perpetrators, joint investigations, proposals and recommendations for reforms to international organisations and institutions, and joint reporting or publications on emerging issues. The international liaison function also facilitates information-sharing and identification and diffusion of best practices to support the other functions, particularly community contact and outreach (5.1.1), stakeholder advisory functions (5.1.3) and development of policy solutions at the national level (5.1.4).

The TRPO will require a set of core resources to enable its work. Its positioning within the NHRI is designed to build on the institutions' existing infrastructure and personnel, ensuring the expenditure needed by states is relatively modest. Beyond this, in view of the significant national security side-benefits the institution would provide, funding redirected from state security budgets to the NHRI's budget would offer a way to avoid the common pitfall of an expanded NHRI mandate without corresponding resources (Langtry and Roberts Lyer 2021:186). Aside from trained staff and researchers, it will require police and court liaison, an avenue for diplomatic engagement, and to build close ties with NGOs and community organisations, as well as other groups likely to be impacted such as journalists and scholars. Gathering large volumes of sensitive case data, the TRPO would be a major target for cyber attacks and in-person infiltration by powerful authoritarian actors, meaning cyber security, confidentiality and personnel vetting will require significant and ongoing attention. Other core functions such as contact channels and communications infrastructure will require initial investments to guarantee security and confidentiality. The specific attention to confidentiality and information security should be a feature of the TRPO's public messaging and outreach, helping to build trust and confidence with at-risk individuals and communities.

5.3 Institutional location within NHRIs

The TRPO should be established as a specialised unit that forms part of the formal mandate of each country's NHRI. As state-based independent institutions with a mandate to promote and protect human rights, multiple features of NHRIs make them particularly suitable to house the TRPO. In particular, their human rights expertise and mandate to monitor state implementation of its human rights obligations, their independence, and their connection to the national and international human rights infrastructure.

At time of writing, there are 120 NHRIs globally established broadly in compliance with the Paris Principles (OHCHR 2023). All NHRIs have a mandate to improve the domestic implementation of international human rights standards. Staffed by human rights experts, NHRIs also tend to undertake a broadly similar range of activities in relation to the law, policy, and practice of the state. These include inquiries and reports, legislative reviews, awareness raising and education. Their mandate and functions speaks to their value in the context of THRIV, which often require a nuanced understanding of the application of international standards at the national level. As state-established institutions, NHRIs' independence coupled with official status enables them to act as crucial intermediaries between the state, civil society, and international bodies. NHRIs are required under the Paris Principles to be highly accessible, and to actively engage with civil society and other non-state actors. Many NHRIs have NGO standing committees as part of their structure, and all NHRIs should regularly engage with NGOs and civil society in the country. At the national level, NHRIs can and should also work closely with national parliaments, exchanging information, and providing expert advice (UN Human Rights Council 2012: 19 - Belgrade Principles).

The independence of NHRIs from state interference is another key aspect of their suitability as the institutional location for the TRPO. Detailed requirements in relation to enabling legislation, the selection, appointment and dismissal of leadership, funding, and staffing are intended to preserve the independence of the institution (Langtry and Roberts Lyer 2021). A unique feature of NHRIs' networks

is the peer-review assessment undertaken to determine their compliance with the Paris Principles (Langtry and Roberts Lyer 2021). This peer review, which is primarily concerned with the independence of the institution, is recognized by the UN system, and states themselves, as an internationally recognised status.

NHRIs also have a direct, independent path into the international system individually and through their networks that generates a multiplying effect from their national work. Further, there is strong inter-NHRI cooperation that allows them to engage with other national institutions across state boundaries. This positioning is particularly relevant to their value in addressing transnational human rights issues, where their expertise and access can significantly influence both national and global responses.

The proposal to establish the TRPO within an NHRI also fits with current international human rights treaty approaches of creating national implementation mechanisms within the NHRI. Two particular models support this concept: the establishment of National Preventative Mechanisms (NPM) under the Optional Protocol to the Convention Against Torture, and the establishment of National Monitoring Mechanisms (NMM) under the Convention of the Rights of Persons with Disabilities. One of the recommended approaches for states in establishing NPM and NMM is to place them within the existing NHRI.

Recalling that many THRV are against civil society actors, international recommendations on the role of NHRIs also suggest they are the appropriate location for TRPOs. For example, Council of Europe Committee of Ministers Recommendation 2018(11) on the need to strengthen the protection and promotion of civil society space in Europe recommends to member states to

consider giving, or where appropriate strengthening, the competence and capacity of independent NHRIs to effectively carry out their role to protect civil society space through their monitoring, investigation, reporting and complaints handling functions (Council of Europe 2018: Appendix).

The 2018 GANHRI Marrakech Declaration and Global Action Plan also sets out NHRIs' own commitment to HRDs and civic space more broadly (GANHRI 2018, 2022a). These commitments include the establishment of early warning mechanisms, focal points within NHRIs, the establishment of national protection systems, and monitoring and reporting on civil space including collecting and analysing data and statistics on attacks against human rights defenders. In short, NHRIs' experience in working with HRD protection regimes could be usefully extended to the broader situation of those targeted by THRV.

6. Conclusion

Given today's powerful techniques of transnational violence, coercion-by-proxy and digital repression, it would appear that few if any state parties to the ICCPR, ICESCR, and other international legal treaties are fulfilling their obligations to enable the exercise of core human rights on their territory. THRV are widespread and increasing in number and scope, yet domestic policy responses remain absent. Surveillance is unprecedentedly powerful, and capabilities for engaging in it are unprecedentedly widely available, lowering the thresholds of entry for would-be perpetrators of THRV. Coercion, especially family-focused coercion-by-proxy, continues to pose effective threats to political activists and diaspora communities more broadly. Extraterritorial censorship disproportionately impoverishes the information supply of vulnerable communities, while coercion, harassment, legal intimidation and other coercion targeting journalists and researchers risks impinging on the wider society's right to information. Yet targets who seek help from government agencies often find them at a loss for policy solutions and legal remedies.

Addressing THRVs and fulfilling unmet state obligations to provide an environment in which every individual can freely exercise their rights will require both new mechanisms and extra funding. One possibility is the simple expansion of NHRI budgets and mandates to encompass both domestic and international sources of threat to the exercise of human rights. The TRPO could also be funded via money redirected from national security budgets, which are growing in most jurisdictions. There are, as we have seen, significant interconnections between human rights violations and national (in)security.

Although designed in part to avoid the drawbacks of securitization of human rights issues, the proposal is nonetheless closely aligned with national security goals, offering other government agencies better data, diplomatic leverage, enhanced visibility on foreign state behaviour, improved government-community relations, and community cohesion.

Appendix 1 - Table of Transnational Human Rights Violations

Notes: We have compiled this table from publications on this topic listed in the references, as well as those on human rights defenders, and from the empirical research on violations, in particular, a number of useful databases that identify instances of transnational repression:

- Central Asia Political Exiles Database ((Heathershaw et al. 2021)
- Transnational Repression Database, (Gorokhovskaia and Linzer 2022)
- Authoritarian Actions Abroad Database (AAAD) (Dukalskis 2021)
- China’s Transnational Repression of Uyghurs Dataset (Lemon et al. 2023)

While these databases are not comprehensive—generally covering only publicly known examples—and are subject to methodological limitations (see Dukalskis et al. 2022), their cases provide an excellent illustrations of the wide range of human rights violations against individuals.

Action	International Human Rights Law Likely to be Involved
Extrajudicial killing (assassination)	Right to life (UDHR Art. 3, ICCPR Art. 6); Prohibition of torture (UDHR Art. 5, ICCPR Art. 7); Prohibition of arbitrary killing (ICCPR Art. 6)
Attack	Right to life (UDHR Art. 3, ICCPR Art. 6), Prohibition of torture (UDHR Art. 5, ICCPR Art. 7), Right to liberty and security of person (ICCPR, Art. 9)
Deportation	Right to fair trial (UDHR Art. 10, ICCPR Art. 14), Right to life (UDHR Art. 3, ICCPR Art. 6), Prohibition of torture (UDHR Art. 5, ICCPR Art. 7), Right against arbitrary expulsion (ICCPR Art. 13).
Threats of deportation	Right to freedom of movement (UDHR Art. 13, ICCPR Art. 12), Right to liberty and security of person (ICCPR, Art. 9).
Rendition	Prohibition of arbitrary detention (UDHR Art. 9, ICCPR Art. 9), Right to fair trial (UDHR Art. 10, ICCPR Art. 14), Right to liberty and security of person (ICCPR, Art. 9).
Disappearance (enforced disappearance)	Right to life (UDHR Art. 3, ICCPR Art. 6), Prohibition of torture (UDHR Art. 5, ICCPR Art. 7), Right to fair trial (UDHR Art. 10, ICCPR Art. 14), Right to recognition as a person before the law (UDHR Art. 6, ICCPR Art. 16).
Surveillance	Right to privacy (UDHR Art. 12, ICCPR Art. 17).
Facilitating arrest/detention*	Prohibition of arbitrary detention (UDHR Art. 9, ICCPR Art. 9), Right to fair trial (ICCPR Art. 14), Prohibition of torture (UDHR Art. 5, ICCPR Art. 7), Right to liberty and security of person (ICCPR, Article 9).
Forced return	Right to asylum (UDHR Art. 14), Right to fair trial (UDHR Art. 10, ICCPR Art. 14), Right to life (UDHR Art. 3, ICCPR Art. 6), Prohibition of torture (UDHR Art. 5, ICCPR Art. 7).
Harassment	Right to security of person (UDHR Art. 3), Freedom of expression (UDHR Art. 19, ICCPR Art. 19).

Threats of harm	Right to life (UDHR Art. 3, ICCPR Art. 6), Prohibition of torture (UDHR Art. 5, ICCPR Art. 7), Right to liberty and security of person (ICCPR, Art. 9).
Threats against relatives	Right to protection of the family (UDHR Art. 16, ICESCR Art. 10, ICCPR Art. 23), Right to liberty and security of person (ICCPR, Art. 9), Freedom of Expression (ICCPR, Art. 19).
Preventing return home	Right to freedom of movement, Right to return to one's country (UDHR Art. 13(2), ICCPR Art. 12).
Disrupting communications	Freedom of Expression (ICCPR, Art. 19), Right to privacy (UDHR Art. 12, ICCPR Art. 17), Right to participate in public affairs (ICCPR Art. 25).
Removal of Citizenship	Right to a nationality (UDHR Art. 15, ICCPR Art. 24).
Smear campaigns	Right to reputation (UDHR Art. 12), Freedom of expression (ICCPR Art 19); Right to protection of the family (UDHR Art. 16, ICESCR Art. 10, ICCPR Art. 23), right to participate in public affairs (ICCPR Art. 25).
Cutting off family ties	Right to protection of the family (UDHR Art. 16, ICESCR Art. 10, ICCPR Art. 23).
Mobility restrictions, including visa denials	Right to freedom of movement, Right to choose residence (ICCPR Art. 12), Right to Education (ICESCR Art. 13) [student visa denials]
Suing critics abroad	Right to freedom of expression (ICCPR Art. 19), Right to fair trial (ICCPR Art. 14), right to participate in public affairs (ICCPR Art. 25).
Trial in absentia	Right to fair trial - Right to be present at trial (ICCPR Art. 14(3)(d)).
Interference with peaceful protests	Freedom of Assembly (UDHR Art. 20, ICCPR Art. 21), Freedom of Expression, Right to liberty and security of person (ICCPR, Article 9).
Disinformation	Freedom of Expression (right to receive and impart information (ICCPR Art 19), Right to Participation in Public Affairs (Art. 25).
Media interference	Freedom of Expression (right to receive and impart information (ICCPR Art 19); right to participate in public affairs (Art. 25).
Interference with civil society	Freedom of association (ICCPR Art. 17), freedom of expression (ICCPR Art. 19), right to participate in public affairs (ICCPR Art. 25).

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