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Living with the Dragon: What does a coherent UK policy towards China look like?



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First published: **October 2024**

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ISBN 978-1-912581-58-0

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Designed by Rubber Duckiee

Printed in Great Britain

by 4edge Limited, Essex

Tackling transnational repression in the UK

Andrew Chubb

Introduction

The Chinese Communist Party (CCP) is almost certainly the most impactful perpetrator of transnational repression (TNR) – cross-border interference with the exercise of basic rights – in the UK. Using techniques ranging from direct personal violence and crude bounties designed to inspire intimidation and harassment, through to pressure on targets’ relatives, and subtler techniques of outsourced platform censorship and the threat of digital surveillance, the party-state possesses unparalleled ability to impose costs on an expanding array of individuals beyond its borders for exercising their fundamental political rights in the UK. The CCP is by no means the only perpetrator of TNR: the issue affects an expanding array of groups, including various diaspora communities, journalists, academics and legal professionals.

Defending democracy in the UK requires the establishment of an independent, statutory Transnational Rights Protection Office (TRIPO) as part of the UK’s national human rights protection institutions. This establishment of a TRIPO will provide, first and foremost, a central, accessible, trusted point of contact for targets of TNR to report cases and obtain support. Mirroring the functions of the Equality and Human Rights Commission (EHRC), which focuses on domestic sources of human rights violations, the new office should monitor the situation of TNR in the UK, advising government and non-government stakeholders to develop independent policy proposals and mechanisms to penalise perpetrators and enable access to redress for targets. Establishing such an institution will make the UK a world leader in ensuring democratic resilience against the cross-border political and technological challenges of the 21st Century’s contested world, and stands to deliver significant benefits to UK national security.

Transnational repression in the UK

The CCP’s documented techniques for interfering with the exercise of basic rights in the UK range from direct personal violence and crude bounties designed to inspire intimidation and harassment, through to pressure on targets’ relatives, and subtler techniques of outsourced platform censorship and the threat of digital surveillance. With its combination of advanced capabilities and institutionalised Leninist systems of overseas political work, the party-state possesses unparalleled ability to impose costs on UK individuals and groups for exercising their fundamental political rights.

Yet the PRC’s targets are not facing this problem alone. The emergence of new digital communications technologies and rising authoritarian power has enabled an expanding array of perpetrators to engage in TNR. The NGO, Freedom House has documented instances of TNR by more than 40 states targeting émigrés.²⁸⁰ Nor is the issue limited to diasporas: mainstream journalists, activists, academics and even lawyers have increasingly been targeted, including pro-democracy Hong Kong tycoon Jimmy Lai’s international legal team.²⁸¹ A diverse and expanding array of groups and individuals now face intensifying infringements on their exercise of basic rights — and even professional functions — due to TNR.

Security agencies in several countries have shown an interest in TNR as an aspect of ‘foreign interference.’ But rolled together with election security, espionage, cyber infiltration, covert lobbying and foreign-sourced political corruption, TNR has often fallen to the bottom of the priority list. The problem is not that national security

280 Freedom House. *Transnational Repression*. Available at: freedomhouse.org/report/transnational-repression (Accessed: 2 September 2024).

281 UN Human Rights Council (2023) *Cooperation with the United Nations, its representatives and mechanisms in the field of human rights - Report of the Secretary-General (A/HRC/54/61) [EN/AR/RU/ZH]*. Available at: reliefweb.int/report/world/cooperation-united-nations-its-representatives-and-mechanisms-field-human-rights-report-secretary-general-ahrc5461-enaruzh (Accessed: 2 September 2024).

agencies have neglected most forms of TNR; this much is understandable, as TNR issues extend far beyond the relatively narrow intersections with national security. Rather, the real problem is that the UK's human rights protection institutions have not been equipped to exercise their functions of monitoring, reporting, advising government, and enabling redress for rights violations that originate beyond the UK's borders.

Existing policy responses

The UK's limited existing policy responses to TNR have been merged into broader categories of countering foreign interference and defending democracy. Foreign interference is a broad concept that also includes electoral interference, espionage, improper lobbying, elite co-optation, cyber intrusions and various other national security threats. In the UK, as elsewhere, this aggregated approach has limited the focus to the narrower national security dimensions of TNR — most obviously, the risk that individuals might be coerced into cooperation with PRC intelligence agencies.²⁸² Such a framing recasts targets of TNR as potential national security threat vectors, and is a partial and potentially discriminatory characterisation of the problem as a whole.

The Defending Democracy Taskforce (DDT) is reportedly performing important outreach functions among law enforcement and with civil society. But while law enforcement is a necessary step, the Taskforce's activities do not address most acts of transnational repression, as most TNR takes effect through offshore and mediated techniques, without any crime being committed on the physical territory in which the target is located.

Rights protection: The blind spot

The UK, and most other liberal democracies, have clear obligations under international human rights law to ensure, within the territory under its jurisdiction, the conditions for the exercise of the fundamental freedoms of speech, association and assembly. Specifically, under the International Covenant on Civil and Political Rights (ICCPR), states have the obligation to 'ensure within its territory' the rights in the Covenant, and 'ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy.' The International Covenant on Economic, Social and Cultural Rights (ICESCR), meanwhile, requires states to ensure the 'conditions safeguarding fundamental political and economic freedoms to the individual' and 'to guarantee that the rights enunciated... will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion.'

These obligations are currently going unmet, as far as TNR is concerned.

The independent statutory body responsible for ensuring the exercise of human rights in the UK, the EHRC, has been absent from discussions on the TNR and transnational human rights violations. At one level, this absence may be the practical result of resource constraints, but it likely also reflects the fundamental differences between domestic and international threats to the exercise of human rights in the UK. Tackling the technological, political and cultural complexities of transnational rights protection will require specialised focus and expertise.

The UK has the opportunity to lead the democratic world in updating its rights protection institutions to account for this reality.

282 Chubb, A. (2021) *PRC Overseas Political Activities*. Available at: eprints.lancs.ac.uk/id/eprint/159969/3/Chubb_2021_PRC_Overseas_Political_Activities_RUSI_compiled.pdf (Accessed: 2 September 2024).

Impact of the TRIPO

Defending democracy in the UK requires supporting the targets of TNR — which include Chinese dissidents, Uyghur exiles, Hong Kongers, and the expanding range of other communities, groups and individuals targeted — to exercise their rightful freedoms in the United Kingdom. To fulfil its obligations under international human right law, the UK government should establish an independent statutory Transnational Rights Protection Office (TRIPO) as part of the UK’s national human rights protection institutions.

Its core functions should include:

- Providing a central, accessible, trusted point of contact for targets of transnational human rights violations to report and obtain direct support;
- Monitoring and reporting upon the situation of transnational human rights violations in the UK;
- Advising government and non-government stakeholders to prevent the abuse of bureaucratic processes for TNR (for example, INTERPOL red notices);
- Developing policy proposals and mechanisms to penalise perpetrators of TNR;
- Engaging in collective advocacy internationally via membership of the inter-governmental Global Alliance of National Human Rights Institutions (GANHRI).

Establishing such an institution will make the UK a world leader in ensuring democratic resilience against the cross-border political and technological challenges of the 21st Century’s contested world.²⁸³

National security and national interest benefits

Taking TNR seriously as an encroachment on human rights in the UK means delivering significant benefits to UK national security.²⁸⁴ First, by providing a more accessible point of contact for the CCP’s targets and other communities facing TNR, it will collect data that enhances visibility on foreign state behaviour inside the UK. Second, it will improve confidence in the UK government among vulnerable groups, and enhance social cohesion. Third, it will generate evidence-based policy measures and sanctioning mechanisms at arm’s length from parliamentary politics.

The TRIPO could also offer a mechanism by which to impose sanction on human rights perpetrators in a principled manner at arm’s length from government policy. As an independent, statutory agency, the TRIPO’s database of reports would provide an evidentiary base with which to inform diplomatic representations, and other forms of government-to-government engagement. Cross-checking of the database could also be made part of other government departments’ processes on visas, entry, investment and other prerogatives, thereby integrating sanctions against TNR perpetrators into routine bureaucratic decision-making. In this way, the TRIPO could offer a mechanism to push back from a principled, rights-protection angle that is at arm’s length from political decision-making, and thus unlikely to attract retaliation.

Conclusion

The UK currently lacks a dedicated body to handle the specific types of challenges that transnational repression creates, and ensures that the UK meets its human rights obligations. TRIPO would provide a focal point for monitoring the issues, delivering direct support, and closing the blind-spot of transnational human rights violations in the UK. Doing so offers the opportunity to make the UK a world leader in ensuring democratic resilience against the cross-border political and technological challenges of the 21st Century’s contested world.

283 Chubb, A. (2023) *Meeting the Challenge of Transnational Human Rights Violations in the UK: The case for a Transnational Rights Protection Office*. Available at: fpc.org.uk/meeting-the-challenge-of-transnational-human-rights-violations-in-the-uk-the-case-for-a-transnational-rights-protection-office (Accessed: 2 September 2024).

284 Chubb, A. (20242) *Written evidence submitted by Andrew Chubb, Senior Lecturer in Chinese Politics and International Relations, Lancaster University*. Available at: committees.parliament.uk/writtenevidence/128865/html (Accessed: 2 September 2024).