

# Meeting the Challenge of Transnational Human Rights Violations in the UK

Submission to

Shadow Report on The International Covenant on Economic, Social and Cultural Rights

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Today, authoritarian actors around the world, including powerful authoritarian states, have the ability to remotely surveil, harass and threaten individuals inside the UK. The result of a confluence of new communications channels, rising global authoritarianism – and, above all, an absence of UK institutions designed to meet the complex challenges these developments have raised – the problem of transnational human rights violations is a major blind spot in the UK's rights protection arrangements. It constitutes a dereliction of the UK's obligations under international human rights law, including the International Covenant on Economic, Social and Cultural Rights. To address these violations of the human rights of vulnerable communities in the UK, this submission proposes the establishment of a Transnational Rights Protection Office (TRIPO) within the Equality and Human Rights Commission (EHRC) to monitor the issues, provide low-risk points of contact and support to affected individuals, and explore future legal avenues of redress.

## Problem: the blind spot of transnational human rights violations

Today's authoritarian actors around the world, including powerful authoritarian states, have the ability to monitor, surveil, harass and threaten UK residents remotely from abroad.<sup>1</sup> Chinese democracy and human rights campaigners have faced well-documented surveillance and intimidation from the People's Republic of China (PRC).<sup>2</sup> Members of various other diaspora communities in the UK and elsewhere have faced similar encroachments from the governments of Cambodia, Ethiopia, Eritrea, Russia, Rwanda and Vietnam, which have all attempted to suppress critics abroad, sometimes using brute force, in recent years.<sup>3</sup> Overseas students, scholars and activists have been subject to technical surveillance of their communications, raising the risks of physical violence, extraterritorial censorship, employment discrimination and future criminal prosecution for the exercise of basic human

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<sup>1</sup> Marlies Glasius, 'Extraterritorial Authoritarian Practices: A Framework', *Globalizations* 15(2), 2018, pp. 179-197.

<sup>2</sup> Jie Chen, *The Overseas Chinese Democracy Movement* (Cheltenham: Edward Elgar, 2019), pp. 58-60.

<sup>3</sup> Ethiopian and Rwandan government critics have seen family members arrested over their participation in protests on Australian soil, and Cambodian dissidents have complained of threats and surveillance by agents or supporters of Hun Sen's government. Vietnamese agents abducted a businessman in Berlin in 2017, sparking fears among dissident exiles that have reverberated in Vietnamese communities elsewhere. Human Rights Watch, 'Australia: Protests Prompt Ethiopia Reprisals', 7 November 2016; Amy Greenbank, 'Refugees Living in Fear as Alleged Foreign Spy Network Infiltrates Australian Suburbs', *ABC News*, 25 August 2019; Stephen Dziedzic, 'Hun Sen: Calls for Cambodian Sanctions Intensify in Canberra Ahead of Key Julie Bishop Meeting', *ABC News*, 15 August 2018; Silke Ballweg, 'Berlin Bloggers Fear the Long Arm of Hanoi', *Deutsche Welle*, 15 January 2018; Madeline Chambers, 'Germany Charges Vietnamese Man in Ex-Oil Executive Kidnapping', *Reuters*, 7 March 2018; before Taiwan's democratisation, the ruling Kuomintang also engaged in intimidation and violence against its critics overseas, including the infamous murder of KMT critic Henry Liu in California in 1984.

rights in the UK.<sup>4</sup> Authoritarian governments have also sought the involuntary repatriation of individuals accused of crimes in their home countries using a variety of mechanisms including extradition requests, deportation via the host country's immigration system, and informal tactics of persuasion and coercion.<sup>5</sup>

Many of these practices constitute *transnational human rights violations*: infringements against human rights by one actor against a target located remotely across national borders, giving rise to host country duties to protect.<sup>6</sup> Under the International Covenant on Economic, Social and Cultural Rights (ICESCR), State Parties undertake to ensure “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.”<sup>7</sup> The UK's own legislation also obliges the government to ensure individuals can exercise their fundamental rights such as freedom of speech, association and protest.<sup>8</sup>

Transnational human rights violations that take effect inside the UK are a longstanding issue, but have been significantly exacerbated by globalization. Today's authoritarian governments have unprecedented abilities to reach beyond their own borders. New communications technologies, coupled with intensified cross-border linkages, have created new and effective modes of extra-territorial coercion and punishment to which liberal democracies have yet to develop meaningful responses. In the UK, members of some targeted communities have even reported being afraid to seek help from local UK authorities for fear that doing so would place family members – or themselves – at even greater risk.<sup>9</sup>

While direct harassment and intimidation on the basis of political or religious beliefs taking place in Britain is already illegal, numerous UK diaspora communities nonetheless face surveillance and repression implemented from overseas. The result is that many members of vulnerable communities cannot exercise fundamental human rights in the UK without fear of adverse consequences.<sup>10</sup> Often, such transnational repression is implemented via threats or harm to the target's family members located in another country.<sup>11</sup> Government must enable the UK's human rights institutions to provide meaningful support to diaspora communities facing issues of transnational coercion, and establish mechanisms by which transnational coercion against UK residents is no longer costless.

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<sup>4</sup> Joshua Rozenberg, ‘Saudi Spyware Claim Goes Ahead’, A Lawyer Writes, 19 August 2022, <https://rozenberg.substack.com/p/saudi-spyware-claim-goes-ahead>; Samantha Craggs, ‘McMaster Cuts Ties With Chinese Institute, Worried by Discrimination’, 11 February 2013, <https://www.cbc.ca/news/canada/hamilton/headlines/mcmaster-cuts-chinese-institute-worried-by-discrimination-1.1321862>

<sup>5</sup> Safeguard Defenders, *Involuntary Returns: China's Covert Operation to Force 'Fugitives'*, 2022, <https://safeguarddefenders.com/en/blog/involuntary-returns-report-exposes-long-arm-policing-overseas>; Lamia Estatie, ‘Saudi Woman Seeking Asylum “Forcibly” Returned Home’, BBC, 12 April 2017, <https://www.bbc.com/news/blogs-trending-39577932>

<sup>6</sup> ‘International Human Rights Law’, Office of the High Commissioner for Human Rights, n.d., <https://www.ohchr.org/en/instruments-and-mechanisms/international-human-rights-law>

<sup>7</sup> Article 2(2) and 6(2), *International Covenant on Economic, Social and Cultural Rights* 1966.

<sup>8</sup> Articles 9-11, *Human Rights Act* 1998.

<sup>9</sup> Index on Censorship, *China's Long Arm: How Uyghurs are being Silenced in Europe*, February 10, 2022; Sophia Yan, ‘Exclusive: China continues to harass exiles on British soil, claim victims,’ *Telegraph*, August 16, 2020.

<sup>10</sup> Yan, ‘Exclusive: China continues to harass exiles on British soil’; Index on Censorship, *China's Long Arm*.

<sup>11</sup> Safeguard Defenders, *Involuntary Returns*.

The Human Rights Act 1998 gives effect to the European Convention on Human Rights, which obligates the UK to “secure to everyone within their jurisdiction the rights and freedoms” defined in the Convention.<sup>12</sup> The Equality and Human Rights Commission (EHRC) has the task of promoting awareness, understanding and protection of human rights in the UK.<sup>13</sup> The Commission lists the strategic goal of “protecting people in the most vulnerable situations,” and one of its key tasks is working to “equip and support individuals to gain access to justice when they experience...a breach of their human rights.”<sup>14</sup> Yet the EHRC has not so far identified protection of targeted migrant and diaspora communities from coercion and harassment as a priority.

### **Proposal: EHRC Transnational Rights Protection Office**

Establishing a Transnational Rights Protection Office (TRIPO) within the EHRC would directly mitigate the human rights impact of foreign states’ interference. The new office should serve at least four key functions:

- Providing low-risk points of contact for individuals facing transnational threats to the exercise of their human rights to seek information, advice and support;<sup>15</sup>
- Collecting data and reporting on the prevalence and type of transnational infringements against UK residents’ political rights, as well as xenophobia, racism, discrimination and other issues currently affecting human rights in diaspora communities;
- Supporting individuals, communities and vulnerable family members to access legal assistance, humanitarian visas and potential avenues of redress;
- Investigating future legal avenues of redress against perpetrators of transnational human rights violations against UK residents.

These functions align closely with existing activities of the Commission and answer pressing needs. For example, no systematic data have yet been collected on the extent of transnational human rights violations experienced by particular groups in Britain. Uyghur exiles have been advised to report cases of PRC harassment and intimidation to police, but police services in the UK – as elsewhere in Europe – are currently ill-equipped to investigate such cases.<sup>16</sup>

In addition, many members of vulnerable communities fear that contacting police or national security agencies will bring further risks to their family and themselves. An EHRC Transnational Rights Protection Office — with a network of associated legal professionals — would offer points of contact that are both more capable of providing direct support, and less risky.

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<sup>12</sup> Article 1, ECHR.

<sup>13</sup> Section 3 and Section 9, *Equalities Act 2006*.

<sup>14</sup> *Strategic Plan 2019-2022*, Equality and Human Rights Commission, June 2019, p. 20.

<sup>15</sup> This could be coordinated through existing community organisations such as Citizens’ Advice and refugee support organisations.

<sup>16</sup> *China’s Long Arm*, pp. 13-14.