



# TRANSNATIONAL REPRESSION OF HUMAN RIGHTS DEFENDERS

*References, definitions and protections under International Human Rights Law*

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# CONTRIBUTORS

## Faculty:

### **Prof Nazila Ghanea**

Professor in International Human Rights Law  
University of Oxford

## Research co-ordinator:

### **Isabella Ruiz dos Santos Miguel**

MSc Candidate, University of Oxford

## Researchers:

### **Aarya Chaudhary**

MSc Candidate, University of Oxford

### **Deniz Yildiz**

MSc Candidate, University of Oxford

### **Isabella Ruiz dos Santos Miguel**

MSc Candidate, University of Oxford

### **Lincoln Booth**

MSc Candidate, University of Oxford

### **Luise Eder**

DPhil Candidate, University of Oxford

## Readers:

### **Advait Tambe**

DPhil Candidate, University of Oxford

### **Madeleine McGregor**

BCL Candidate, University of Oxford

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## TABLE OF ABBREVIATIONS

ACHPR	African Commission on Human and Peoples' Rights
ACHR	American Convention on Human Rights
ACtHPR	African Court on Human and Peoples' Rights
African Charter	African Charter on Human and Peoples' Rights
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CAT Committee	Committee against Torture
CCPR	Human Rights Committee
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CEDAW Committee	Committee on the Elimination of Discrimination against Women
CERD	Committee on the Elimination of Racial Discrimination
CESCR	Committee on Economic, Social and Cultural Rights
CMW	Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families
CO	Concluding Observations
CoE	Council of Europe
CPED	Convention for the Protection of All Persons from Enforced Disappearance
CRC Committee	Committee on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
CRPD Committee	Committee on the Rights of Persons with Disabilities
DROI Subcommittee	European Parliament Subcommittee on Human Rights
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EU	European Union
HRC	United Nations Human Rights Council

HRDs	Human Rights Defenders
IACHR	Inter-American Commission on Human Rights
IACtHR	Inter-American Court of Human Rights
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IHRL	International Human Rights Law
INTERPOL	The International Criminal Police Organization
ISHR	International Service for Human Rights
LATRINT	Lawyers Against Transnational Repression
NATO	The North Atlantic Treaty Organization
NGOs	Non-governmental Organisations
OAS	Organization of American States
OHCHR	Office of the United Nations High Commissioner for Human Rights
OPBP	Oxford Pro Bono Publico
PACE	Parliamentary Assembly of the Council of Europe
TNR	Transnational Repression
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNGA	United Nations General Assembly

# EXECUTIVE SUMMARY

## INTRODUCTION

1. The International Service for Human Rights (ISHR) sought assistance in developing a report on Transnational Repression (TNR) of Human Rights Defenders (HRDs) under International Human Rights Law (IHRL). The purpose of the project is to undertake comparative research mapping references and resources on TNR (and similar concepts, such as transnational or extraterritorial human rights violations against HRDs) in the United Nations (UN), Inter-American, African and European human rights systems. This comparative research seeks to assist ISHR in proposing a definition of TNR, identifying the legal protections and gaps under IHRL to combat TNR of HRDs, and ultimately improving an effective multilateral response to TNR.
2. According to the ISHR, acts of TNR ‘include extrajudicial execution and disappearance, torture and physical attack, abduction and illegal repatriation or refoulement, the misuse of international law enforcement systems [...], harassment and threats against family members and associates, digital surveillance and online harassment, and the refusal of access to consular services’.<sup>1</sup>
3. ISHR’s current working definition of TNR is

The measures taken by [s]tates, both within their territories and extraterritorially, to prevent, silence, or punish individuals who expose human rights violations or advocate for accountability from abroad. This repression targets individuals directly or indirectly and often aims at instilling a broader chilling effect on advocacy and dissent. It is the act’s intended impact, rather than the act itself, that is extraterritorial or transnational.

Also,

Transnational repression is action taken by a [s]tate, or its proxy, that is intended to deter, silence or punish those engaged in dissent, critique or human rights advocacy in relation to that [s]tate from abroad. It includes acts targeted directly against human rights defenders, journalists or activists, as well as acts targeting them indirectly by threatening their families, representatives or associates. Particularly vulnerable are nationals or former nationals, members of diaspora communities and those living in exile.<sup>2</sup>

4. Regarding HRDs, there is no single official definition of the term. The UN Declaration on HRDs refers to ‘individuals, groups and associations [...] contributing to [...] the effective elimination of

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<sup>1</sup> ISHR, ‘Considerations and recommendations for UN Human Rights Committee on the issue of “transnational repression”’, 2.

<sup>2</sup> ISHR, project proposal to OPBP.

all violations of human rights and fundamental freedoms of peoples and individuals’.<sup>3</sup> According to the Office of the UN High Commissioner for Human Rights (OHCHR), HRDs can be identified by what they do, both in terms of their actions or the context in which they work, but overall refer to ‘people who, individually or with others, act to promote or protect human rights in a peaceful manner’.<sup>4</sup> As a result, the concept of HRDs can be interpreted more narrowly (comprising people who work directly with the promotion of human rights, such as activists, public-interest journalists or people working at human rights organisations) or more broadly (including people who support the promotion of human rights indirectly or sporadically, such as protesters, separatists, minorities defending their rights, HRDs’ supporters, etc.). To maintain a manageable scope and ensure consistency across the analysed systems, OPBP focused on a narrow definition for the preparation of this report. However, acknowledging that there are different definitions, the report also includes examples encountered in our research involving people who could be classified as HRDs under the broader definition, as those examples may also contribute to ISHR’s understanding of TNR practices and patterns.

5. Within this context, this report explores how different human rights systems have addressed the topic of TNR. The scope was selected in conjunction with ISHR to compare definitions and responses to TNR (and similar concepts, such as transnational or extraterritorial human rights violations against HRDs) from different global and regional organisations and mechanisms. The systems explored in this report are the UN Human Rights System,<sup>5</sup> the Inter-American Human Rights System, the African Human Rights System, and the European Human Rights System.<sup>6</sup> The report is divided into four sections, one for each human rights system, and structured around the following research questions:

**Question 1:** What are the relevant documents and resources on TNR of HRDs? When relevant, please also identify resources on transnational/extraterritorial human rights violations against HRDs.

**Question 2:** Are there any references to a specific definition of TNR by bodies or mechanisms within this system? Please identify and compare key definitional elements.

**Question 3:** How do existing IHRL provisions protect HRDs from TNR in this system? What gaps exist, if any, in IHRL in the protection of HRDs from TNR?

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<sup>3</sup> Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, UNGA Res 53/144 (9 December 1998) UN Doc A/HRC/RES/53/144 (Declaration on HRDs), preamble.

<sup>4</sup> OHCHR, ‘About human rights defenders’ <<https://www.ohchr.org/en/special-procedures/sr-human-rights-defenders/about-human-rights-defenders#ftn1>> accessed 13 August 2015.

<sup>5</sup> Focusing on, but not limited to, HRC and UNGA Resolutions, UN Special Procedures reports, communications, opinions and press releases, OHCHR and High Commissioner reports and statements, and UN treaty bodies’ general comments and CO (with priority given to CO from the past 10 years on the periodic reviews from China, Russia, Venezuela, Nicaragua, Iran, Israel, Türkiye, Rwanda, Uzbekistan, and Saudi Arabia).

<sup>6</sup> Focusing on, but not limited to, resources from the CoE.

## SUMMARY

### QUESTION 1 – DOCUMENTS AND RESOURCES ON TNR OF HRDs

6. The research reveals notable variation in how different human rights systems have documented and addressed TNR of HRDs. The **UN system** has generated the most comprehensive body of work, transitioning from *ad hoc* responses to a more systematic engagement. Recent developments include the OHCHR's first guidance paper on TNR (2025),<sup>7</sup> explicit references to TNR in HRC Resolution 58/23 (2025),<sup>8</sup> and extensive documentation through Special Procedures reports and treaty body concluding observations.
7. The **European system** has produced notably substantial material, particularly through the Parliamentary Assembly of the Council of Europe (PACE)'s Resolution 2509 (2023) on 'Transnational Repression as a Growing Threat to the Rule of Law and Human Rights',<sup>9</sup> the European Union (EU)'s commitment to addressing TNR in its 2024 Council Conclusions on EU Priorities in UN Human Rights Fora<sup>10</sup> and the recent Study requested by the European Parliament Subcommittee on Human Rights (DROI Subcommittee) on Transnational Repression of HRDs (2025).<sup>11</sup>
8. The **Inter-American system** addresses TNR primarily through precautionary measures, and thematic and country reports, applying standards established in landmark jurisprudence such as *Velásquez Rodríguez v Honduras*,<sup>12</sup> though an official TNR framework has yet to be developed. Similarly, the **African system** shows emerging recognition through the African Commission on Human and Peoples' Rights (ACHPR)'s 2020 resolution mandating a study on HRDs in exile<sup>13</sup> and increasing references to TNR in session debates, although documentation remains the most limited among the four systems.

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<sup>7</sup> OHCHR, 'Transnational Repression: What is Transnational Repression?' (18 June 2025) <<https://www.ohchr.org/sites/default/files/documents/publications/transnational-repression-1-en.pdf>> accessed 13 August 2025 (OHCHR's Guidance Paper).

<sup>8</sup> HRC Res 58/23 (4 April 2025) UN Doc A/HRC/RES/58/23 (HRC Res 58/23).

<sup>9</sup> PACE Res 2509 (2023) (23 June 2023) <<https://pace.coe.int/en/files/32999/html>> accessed 18 June 2025 (PACE Resolution 2509 (2023)).

<sup>10</sup> Council of the European Union, 'Council conclusions on EU priorities in UN human rights fora in 2024' (22 January 2024) ST-5311/24 <<https://data.consilium.europa.eu/doc/document/ST-5311-2024-INIT/en/pdf>> accessed 9 July 2025.

<sup>11</sup> Saipira Furstenberg, Marcus Michaelsen and Siena Anstis, 'Transnational repression of human rights defenders: The impacts on civic space and the responsibility of host states' (Europe Parliament, June 2025) <[https://www.europarl.europa.eu/RegData/etudes/STUD/2025/754475/EXPO\\_STU\(2025\)754475\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2025/754475/EXPO_STU(2025)754475_EN.pdf)> accessed 3 September 2025.

<sup>12</sup> *Velásquez Rodríguez v Honduras* (Merits) IACtHR Series C No 4 (29 July 1988).

<sup>13</sup> ACHPR Res 439 (EXT.OS/XXVII) 2020 (24 March 2020) <<https://achpr.au.int/index.php/en/adopted-resolutions/439-resolution-need-prepare-study-situation-human-rights-defen>> accessed 28 August 2025.

## QUESTION 2 – TNR DEFINITIONS

9. The comparative analysis reveals a clear difference between systems that explicitly use the term ‘transnational repression’ and those that address the phenomenon implicitly or through other terminology. The **UN system** has developed the most explicit definition, with the OHCHR’s recent Guidance Paper (2025) defining TNR as ‘acts conducted or directed by a [s]tate, or its proxy, to deter, silence or punish dissent, criticism or human rights advocacy towards it, expressed from outside its territory’.<sup>14</sup> In its turn, while lacking a single binding definition, the **European system** has been expressly adopting the TNR terminology recently, with PACE’s 2023 Resolution outlining four main methods of TNR (direct attacks, co-opting foreign states, impediments to mobility, and remote threats)<sup>15</sup> and with the EU increasingly referencing TNR in policy documents.
10. In contrast, the **Inter-American and African systems** have traditionally addressed the TNR phenomenon through related concepts such as extraterritorial jurisdiction, cross-border repression, and reprisals against diaspora. However, the Inter-American system has recently begun adopting explicit TNR terminology in limited contexts.

System	Perpetrators	Victims	Intent	Geographic Scope	Nature of Acts
<b>UN</b>	State or its proxy	HRDs, whistle-blowers, journalists, and their families/associates who remained in the repressing state	Deter, silence or punish dissent, criticism or human rights advocacy expressed from outside its territory	Cross-border; extraterritorial (dissent expressed abroad, acts may occur anywhere)	Violence, intimidation, legal harassment, impediments to mobility, digital attacks, proxy punishment
<b>Inter-American</b>	State actors or state-affiliated proxies	Exiled HRDs, journalists, activists, and families	Silence, deter, and punish dissent and advocacy	Cross-border; extraterritorial (both acts and effects)	Killings, disappearances, intimidation, surveillance, criminalisation, legal and family harassment
<b>African</b>	State actors	Exiled HRDs, journalists, dissidents, families, networks	Silence, control, intimidate and deter	Cross-border; extraterritorial	Digital surveillance, violence, legal harassment, proxy repression
<b>European</b>	State, proxies and co-opted foreign governments	Exiled HRDs, journalists, political opponents, diaspora	Silence, punish, deter and control dissent abroad	Cross-border; extraterritorial	Violent attacks, legal tool misuse, mobility restrictions, and remote threats

<sup>14</sup> OHCHR’s Guidance Paper (n 7), 1.

<sup>15</sup> PACE Resolution 2509 (2023) (n 9).

### QUESTION 3 – LEGAL PROTECTION AND GAPS

11. All four systems provide legal frameworks that can protect HRDs from TNR, though with varying degrees of effectiveness and explicit recognition. The **UN system** provides the strongest normative framework through treaties such as the International Covenant on Civil and Political Rights (ICCPR), Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and International Convention for the Protection of All Persons from Enforced Disappearance (CPED), refugee law protections, and with treaty bodies adopting extraterritorial jurisdiction approaches beyond the traditional ‘effective control’, moving towards a ‘functional jurisdiction’ in some contexts. However, a critical ‘protection gap’<sup>16</sup> exists due to the lack of binding treaty norms explicitly prohibiting TNR and limited extraterritorial accountability mechanisms.
12. The **European system** provides relatively robust protection through the European Convention on Human Rights (ECHR)’s extraterritorial application, the EU’s political mechanisms (e.g. sanctions regime), and the European Court of Human Rights (ECtHR)’s jurisprudence on cases like *Carter v Russia*.<sup>17</sup> However, significant gaps exist regarding states that are not members of the Council of Europe (CoE), which are frequently associated with TNR (Belarus, Russia) and the predominantly soft-law character of many protective instruments.
13. The **Inter-American system** offers protection through the extraterritorial application of the American Convention on Human Rights (ACHR)’s provisions, with precautionary measures serving as the primary immediate response tool. The landmark *Velásquez Rodríguez v Honduras*<sup>18</sup> case established important standards for state responsibility for human rights violations under the ACHR, which were later extended to situations involving extraterritorial human rights violations. Key gaps include the lack of a systematic TNR doctrine, limited binding enforcement mechanisms, and inconsistent state compliance with Commission recommendations.
14. The **African system** provides protection through the African Charter on Human and Peoples’ Rights (African Charter)’s provisions, with the ACHPR showing flexibility in interpreting the extraterritorial applications of such rights. However, significant gaps persist, including the absence of a dedicated HRDs protection treaty, limited jurisdictional clarity for extraterritorial violations, weak enforcement mechanisms, and inadequate regulation of emerging digital TNR tactics.

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<sup>16</sup> HRC Res 56/53 (26 April 2025) UN Doc A/HRC/56/53 (HRC Res 56/53), [95].

<sup>17</sup> *Carter v Russia* App no 20914/07 (ECtHR, 21 September 2021).

<sup>18</sup> *Velásquez Rodríguez v Honduras* (n 12).

15. Despite existing legal frameworks, **common protection gaps** exist across all systems, including: (i) a lack of specific binding norms explicitly addressing TNR; (ii) challenges in consistently applying and enforcing extraterritorial jurisdiction and state responsibility;<sup>19</sup> (iii) enforcement limitations due to the weak compliance mechanisms and limited binding nature of many protective instruments; (iv) insufficient regulation of cyber-surveillance and online harassment across borders; (v) inadequate protection for families and indirect victims; and (vi) unclear responsibilities of states hosting exiled HRDs to protect them from third-party threats, including regarding their positive obligations to prevent acts of TNR.

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<sup>19</sup> Although all systems are flexible in recognising states' jurisdiction beyond their territories in specific circumstances (such as when they have effective control over persons or territories abroad), investigation tools and enforcement mechanisms to prove acts of TNR and hold states accountable are still very limited.

# UN HUMAN RIGHTS SYSTEM

## INTRODUCTION

16. The UN system has been addressing TNR cases sporadically and *ad hoc* for many years, through reports, resolutions, general comments/recommendations, and concluding observations. Until recently, this was done without express reference to the term ‘transnational repression’. In the last two years, however, the UN system has begun to address the issue more systematically, adopting the term ‘transnational repression’ in official UN documents and showing signs that a specific framework for TNR might be emerging.

## QUESTION 1 – DOCUMENTS AND RESOURCES

**What are the relevant documents and resources on TNR of HRDs? When relevant, please also identify resources on transnational/extraterritorial human rights violations against HRDs.**

### **a) UN Human Rights Council (HRC) and UN General Assembly (UNGA) Resolutions**

17. The UN system has several resources addressing the protection of HRDs in general. The primary resource relating to HRDs is the 1998 Declaration on HRDs.<sup>20</sup> The Declaration applies states’ existing obligations under the Universal Declaration of Human Rights (UDHR) and IHRL treaties (ICESCR and ICCPR) to HRDs. It holds that UN Member States must protect the right of everyone to promote, protect, or strive for the realisation of human rights through peaceful means. However, the Declaration refers to states’ duties regarding ‘all persons under its jurisdiction’<sup>21</sup> and ‘in any territory under its jurisdiction’,<sup>22</sup> and does not explicitly mention ‘transnational’, ‘extraterritorial’ or ‘cross-border’ forms of repression.
18. Since 2010, five resolutions focused on HRDs have been adopted at the HRC. The last one, Resolution 58/23 (2025), calls for the protection of HRDs in the digital age, in the context of new and emerging technologies. It references TNR practices, including ‘repressive activities conducted **abroad** by [s]tates **outside their own jurisdiction** to harm, silence and intimidate human rights defenders through digital, physical and other means’,<sup>23</sup> ‘extraterritorial surveillance and/or interception of communications’,<sup>24</sup> and ‘responsibility of all business enterprises [...] transnational

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<sup>20</sup> Declaration on HRDs (n 3).

<sup>21</sup> *ibid*, Article 2(1) and 14(1).

<sup>22</sup> *ibid*, Article 9(5) and 14(3).

<sup>23</sup> HRC Res 58/23 (n 8), 3 (emphasis added).

<sup>24</sup> *ibid*.

and others’.<sup>25</sup> The Resolution mentions risks regarding digital surveillance, interference with privacy, interception of communications, interference with privacy, hacking, and online violence and harassment,<sup>26</sup> and requires ‘safeguards to prevent misuse of digital tools to suppress dissent or target defenders’.<sup>27</sup>

19. Resolution 40/11 (2019) recognises the contribution of environmental HRDs. Although not referring to TNR practices expressly, it mentions ‘the responsibility of all business enterprises, both transnational and others [...] to respect human rights’<sup>28</sup> and expresses concerns regarding the repression of HRDs, including ‘the increasing rate of killings, violent acts, including gender-based violence, threats, harassment, intimidation, smear campaigns, criminalization, judicial harassment, forced eviction and displacement of environmental human rights defenders’.<sup>29</sup>
20. Resolution 31/32 (2016) protects HRDs working on economic, social, and cultural rights. It refers to repression practices, including ‘the practice of enforced disappearance [...] to repress and intimidate human rights defenders’,<sup>30</sup> preventing the realisation of economic, social, and cultural rights. It also condemns ‘the targeting, criminalization, intimidation, arbitrary detention, torture, disappearance and killing’ of HRDs.<sup>31</sup> This Resolution does not directly refer to TNR practices but also underscores the responsibility of transnational business enterprises to respect human rights.<sup>32</sup>
21. Resolution 22/6 (2013) references repression practices against HRDs, including ‘excessive or indiscriminate use of force, arbitrary arrest or detention, torture or other cruel, inhuman or degrading treatment or punishment, enforced disappearance, abuse of criminal and civil proceedings or threats of such acts’ against HRDs.<sup>33</sup> However, it does not mention transnational or extraterritorial practices in particular.
22. Resolution 13/13 (2010) calls for the protection of human rights and recognises the need to prevent ‘threats, harassment, violence, including gender-based violence, and attacks faced by many human rights defenders’,<sup>34</sup> without explicitly addressing transnational or extraterritorial practices.

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<sup>25</sup> *ibid*, 7

<sup>26</sup> *ibid*, 2.

<sup>27</sup> *ibid*, [9](f).

<sup>28</sup> HRC Res 40/11 (2019) (21 March 2019) UN Doc A/HRC/RES/40/11, [22].

<sup>29</sup> *ibid*, 2.

<sup>30</sup> HRC Res 31/32 (24 March 2016) UN Doc A/RES/HRC/31/32, 3.

<sup>31</sup> *ibid*, [5].

<sup>32</sup> *ibid*, [17].

<sup>33</sup> HRC Res 22/6 (12 April 2013) UN Doc A/HRC/RES/22/6, [6].

<sup>34</sup> HRC Res 13/13 (15 April 2010) UN Doc A/HRC/RES/13/13, 2.

23. At the UNGA, six resolutions have been adopted since 2010 that focus on HRDs. This includes Resolution 76/174 (2021)<sup>35</sup> on implementing the 1998 Declaration on HRDs in the context of the COVID-19 pandemic. It references both online and offline forms of repression against HRDs, including ‘acts of intimidation, such as smear campaigns, incitement to discrimination or violence, unlawful or arbitrary surveillance, attacks and killings; restrictions on access to resources; and restrictions on the rights of peaceful assembly, to freedom of association, and to freedom of expression’.<sup>36</sup> This Resolution does not expressly mention acts of TNR, but only refers to the responsibility of non-state actors, including transnational corporations, to respect human rights.<sup>37</sup>
24. Resolution 74/146 (2019)<sup>38</sup> focuses on implementing the 1998 Declaration on HRDs more generally. It does not directly refer to TNR, but addresses other acts of repression against HRDs, such as the misuse of security laws, including those related to national security, counterterrorism, and cybercrime, to target HRDs.<sup>39</sup> It also references practices such as ‘killing, kidnapping, enforced disappearance, arbitrary detention, torture and other harmful acts’.<sup>40</sup>
25. Resolution 72/247 (2017)<sup>41</sup> was adopted at the twentieth anniversary of the 1998 Declaration on HRDs. Similarly, it notes the use of national security and counter-terrorism legislation to target HRDs and references killings, ‘threat, harassment, violence, discrimination, racism and other violations and abuses’ against HRDs,<sup>42</sup> without expressly mentioning ‘transnational’, ‘extraterritorial’ or ‘cross-border’ forms of repression against HRDs.
26. Resolution 70/161 (2015) calls upon states to take measures necessary to ensure the rights and safety of all HRDs. It also references repression practices against HRDs, including violence, threats, harassment against HRDs, as well as ‘acts of intimidation and reprisal’.<sup>43</sup>
27. Resolution 66/164 (2011) focuses on promoting the 1998 Declaration on HRDs, emphasising the importance of a safe environment for HRDs. It references the misuse of security legislation to target HRDs, and violence, threats, and intimidation towards HRDs.<sup>44</sup>

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<sup>35</sup> HRC Res 76/174 (10 January 2021) UN Doc A/RES/76/174.

<sup>36</sup> *ibid*, 3.

<sup>37</sup> *ibid*, [24] and [26].

<sup>38</sup> UNGA Res 74/146 (18 December 2019) UN Doc A/RES/74/146.

<sup>39</sup> *ibid*, 3.

<sup>40</sup> *ibid*, [19].

<sup>41</sup> UNGA Res 72/247 (24 December 2017) UN Doc A/RES/72/247.

<sup>42</sup> *ibid*, 3.

<sup>43</sup> UNGA Res 70/161 (17 December 2015) UN Doc A/RES/70/161, 2.

<sup>44</sup> UNGA Res 66/164 (19 December 2011) UN Doc A/RES/66/164.

28. Finally, though not specifically focused on HRDs, the UNGA Resolution 78/213 (2023) notes the threat posed by the use of surveillance technology to those engaged in defending and promoting human rights.<sup>45</sup>
29. Except for Resolution 58/23 (2025), most of the UNGA and HRC Resolutions do not explicitly refer to ‘transnational’, ‘extraterritorial’ or ‘cross-border’ forms of repression against HRDs. However, this gap in explicit terminology does not necessarily limit their applicability to TNR cases. Depending on how a state’s jurisdiction is interpreted, particularly regarding extraterritorial obligations (see section ‘d(i)’ below on *Extraterritorial application of UN human rights treaties*), these resolutions could provide legal grounds for addressing some TNR cases.

## **b) UN Special Procedures**

30. TNR of HRDs has been more directly referenced in a number of recent statements and reports by UN Special Rapporteurs. For example, a press release on 8 January 2025 highlights the concern of a group of Special Rapporteurs and Working Groups of ‘a disturbing trend of transnational repression of exiled activists, journalists and human rights defenders by their home countries’<sup>46</sup> in efforts to silence dissent and limit freedom of expression.
31. In a report published on 26 April 2024, the Special Rapporteur on Freedom of Opinion and Expression outlined the meaning of TNR.<sup>47</sup> Additionally, in a press release in May 2024, the OHCHR noted concern over ‘[t]ransnational repression of journalists reporting on Iran’<sup>48</sup> – this concern was emphasised recently in another press release saying that ‘civic space in Iran is already severely limited, and transnational repression further impedes those seeking to expose human rights violations’.<sup>49</sup> Moreover, a Report of the Special Rapporteur on the situation of human rights in Eritrea on 7 May 2024 stated concern over ‘evolving patterns of transnational repression’ in Eritrea, highlighting the closure of civic space and ‘the repression of dissenting voices’.<sup>50</sup> In another

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<sup>45</sup> UNGA Res 78/213 (19 December 2023) UN Doc A/RES/78/213.

<sup>46</sup> OHCHR, ‘Lebanon must stop extradition of Abdulrahman Al-Qaradawi to the United Arab Emirates, experts say’ (Press Release, 8 January 2025) <<https://www.ohchr.org/en/press-releases/2025/01/lebanon-must-stop-extradition-abdulrahman-al-qaradawi-united-arab-emirates>> accessed 16 August 2025.

<sup>47</sup> HRC, ‘Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression’ (26 April 2024) UN Doc A/HRC/56/53.

<sup>48</sup> OHCHR ‘Violence and threats against journalists reporting on Iran from abroad must stop – UN experts’ (Press Release, 2 May 2024) <<https://www.ohchr.org/en/press-releases/2024/05/violence-and-threats-against-journalists-reporting-iran-abroad-must-stop>> accessed 13 July 2025.

<sup>49</sup> OHCHR, ‘Iran: UN experts alarmed by escalating threats against Iran International media workers and their families’ (Press Release, 21 August 2025) <<https://www.ohchr.org/en/press-releases/2025/08/iran-un-experts-alarmed-escalating-threats-against-iran-international-media>> accessed 22 August 2025.

<sup>50</sup> HRC ‘Report of the Special Rapporteur on the situation of human rights in Eritrea’ (07 May 2024) UN Doc A/HRC/56/24 (HRC, SR on Eritrea, 2024), [87].

press release from October 2024, UN independent human rights experts urged Thailand to protect Montagnard Indigenous peoples and religious minorities from Viet Nam ‘against transnational repression by foreign authorities’.<sup>51</sup> In June 2025, the UN Group of Human Rights Experts on Nicaragua noted ‘an escalation in the reach and severity of the transnational repression against Nicaraguan opponents’.<sup>52</sup>

32. Finally, concerns over TNR were also present in letters of allegation issued by different mandates of UN Special Procedures. For example, in October 2024, a joint letter addressed to the Turkish government reiterated concerns over ‘allegations of transnational repression’, including extraterritorial abductions and forced returns.<sup>53</sup> Five Special Rapporteurs expressed concerns over ‘a pattern of transnational repression of Sikh activists in multiple countries’ in a joint letter of allegation addressed to the government of India in November 2024.<sup>54</sup> Another letter issued in December 2024 mentioned allegations of ‘continued harassment and transnational repression suffered by [a] exiled Egyptian investigative journalist and human rights defender [...] in Germany, Switzerland and other countries’.<sup>55</sup> In February 2025, a letter addressed to the Democratic People's Republic of Korea referred to ‘alleged recurring patterns of transnational repression, including the abduction often followed by the enforced disappearance, of Japanese nationals by the Democratic People’s Republic of Korea since 1950’.<sup>56</sup>

### **c) Office of the High Commissioner for Human Rights (OHCHR)**

33. The OHCHR has also used the expression ‘transnational repression’ on many occasions, particularly in the last two years. In June 2025, the OHCHR issued its first guidance paper on TNR. It highlights prevalent forms of TNR, including acts of violence and intimidation outside of

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<sup>51</sup> OHCHR, ‘Thailand: Court ruling puts human rights defender in danger if extradited to Viet Nam, say experts’ (Press Release, 16 October 2024) <<https://www.ohchr.org/en/press-releases/2024/10/thailand-court-ruling-puts-human-rights-defender-danger-if-extradited-viet>> accessed 22 August 2025.

<sup>52</sup> OHCHR, ‘Nicaragua: UN Group of Experts condemns murder of prominent political opponent exiled in Costa Rica’ (Press Release, 24 June 2025) <<https://www.ohchr.org/en/press-releases/2025/06/nicaragua-un-group-experts-condemns-murder-prominent-political-opponent>> accessed 22 August 2025.

<sup>53</sup> HRC, ‘Joint letter of allegation addressed to Türkiye’ (7 October 2024) AL TUR 5/2024 <<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=29351>> accessed 22 August 2025.

<sup>54</sup> HRC, ‘Joint letter of allegation addressed to India’ (19 November 2024) AL IND 10/2024 <<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=29509>> accessed 22 August 2025.

<sup>55</sup> HRC, ‘Joint letter of allegation addressed to Egypt’ (23 December 2024) AL EGY 6/2024 <<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=29562>> accessed 22 August 2025.

<sup>56</sup> HRC, ‘Joint letter of allegation addressed to the Democratic People’s Republic of Korea’ (20 February 2025) AL PRK 1/2025 <<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=29704>> accessed 22 August 2025.

the country, impediments to mobility, harassment through extradition requests, unlawful arrests, or deportations, digital threats or attacks, abuses of security laws, and proxy punishment of in-country relatives or associates.<sup>57</sup>

34. Even before the guidance paper, many statements and speeches by the High Commissioner and OHCHR referenced TNR of HRDs, raising concern about this phenomenon and calling for greater protection by Member States. For instance, a statement on 13 January 2025 called upon states to prevent and ensure accountability for TNR of HRDs,<sup>58</sup> while another two statements on 13 July 2025 and 3 March 2025 raised concerns about the use of technology to track HRDs and to intimidate, silence, and even kill them.<sup>59</sup> A statement on 9 December 2024 raised concern about '[n]ew forms of repression', including the use of digital technology and online surveillance to target HRDs. It also referenced '[k]idnapping, detention, [and] legal harassment' as key forms of TNR.<sup>60</sup> Furthermore, a speech by the High Commissioner at the 13th UN Forum on Business and Human Rights on 25 November 2024 highlighted the increased threat to HRDs posed by the evolution of digital technologies, including 'digital attacks, online surveillance, and the tracking of people across borders'.<sup>61</sup> Another statement from the High Commissioner made on 23 October 2024 expressed 'the growing phenomenon of transnational repression that has evolved with digital technologies'.<sup>62</sup>
35. The OHCHR has also expressed concerns over practices of TNR in specific countries or regions. A speech at the 56th session of the Human Rights Council on 18 June 2024 references an 'emerging pattern of TNR in Southeast Asia, whereby human rights defenders seeking refuge in

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<sup>57</sup> OHCHR's Guidance Paper (n 7), 2.

<sup>58</sup> Volker Türk, 'HC Türk message on improving protection to human rights defenders' (OHCHR, 13 January 2025) <<https://www.ohchr.org/en/statements-and-speeches/2025/01/hc-turk-message-improving-protection-human-rights-defenders>> accessed 14 July 2025.

<sup>59</sup> Volker Türk, 'HC Türk to Symi Symposium: "Hope can find a steady anchor in human rights"' (OHCHR, 13 July 2025) <<https://www.ohchr.org/en/statements-and-speeches/2025/07/hc-turk-symi-symposium-hope-can-find-steady-anchor-human-rights>> accessed 22 August 2025; and Volker Türk, "'Turbulence and unpredictability" amid growing conflict and in divided societies, Türk tells Human Rights Council' (OHCHR, 03 March 2025) <<https://www.ohchr.org/en/statements-and-speeches/2025/03/turbulence-and-unpredictability-amid-growing-conflict-and-divided>> accessed 14 July 2025.

<sup>60</sup> Volker Türk, 'HC Türk "Voices of human rights defenders are crucial at this moment."' (OHCHR, 9 December 2024) <<https://www.ohchr.org/en/statements-and-speeches/2024/12/hc-turk-voices-human-rights-defenders-are-crucial-moment>> accessed 14 July 2025.

<sup>61</sup> Volker Türk, 'HC Türk to Forum on Business and Human Rights: "The world looks to business to play its part"' (OHCHR, 25 December 2024) <<https://www.ohchr.org/en/statements-and-speeches/2024/11/hc-turk-forum-business-and-human-rights-world-looks-business-play>> accessed 14 July 2025.

<sup>62</sup> Volker Türk, 'Human rights defenders are the oxygen of the human rights ecosystem' (OHCHR, 23 October 2024) <<https://www.ohchr.org/en/statements-and-speeches/2024/10/human-rights-defenders-are-oxygen-human-rights-ecosystem>> accessed 14 July 2025.

neighbouring countries have been subject to rendition and refoulement or disappeared and even killed'.<sup>63</sup> Other statements also referenced cases of TNR of HRD in Lao<sup>64</sup> and Myanmar.<sup>65</sup>

#### d) UN Treaty Bodies

36. Human rights treaty bodies have not yet followed the OHCHR in systematically adopting the 'transnational repression' language. However, it is possible to identify several occasions in which they address TNR practices, either through their position on the extraterritorial application of UN human rights treaties or by expressing concerns about TNR-related practices on their periodic reviews of states' reports.

##### *i. Extraterritorial application of UN human rights treaties*

37. UN treaty bodies interpret the application of their respective conventions beyond a strict territorial jurisdiction. Some documents still adopt the 'effective control' approach, according to which states' human rights obligations extend beyond their borders, to protect any individual under their effective control. The effective control approach focuses both on control over territory (as in military occupations) or control over persons by state agents abroad. More recently, however, it is possible to observe the emergence of an even broader concept, namely that of 'functional jurisdiction', which focuses on a state's capacity to affect rights more generally.<sup>66</sup> In any case, the extraterritorial application of the UN human rights treaties could be used to engage the international responsibility of both the state perpetrating acts of TNR and the host country in which the violations occur or manifest.<sup>67</sup>
38. The Human Rights Committee (CCPR)'s General Comment No. 31, for example, reinforces that states must ensure the ICCPR's rights to 'all persons subject to their jurisdiction', which means 'anyone within the **power of effective control** of that State Party, even if not situated within the

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<sup>63</sup> Volker Türk, "We must urgently find our way back to peace", says High Commissioner Volker Türk as he presents his global update to the 56th session of the Human Rights Council" (OHCHR, 18 June 2024) <<https://www.ohchr.org/en/statements-and-speeches/2024/06/we-must-urgently-find-our-way-back-peace-says-high-commissioner>> accessed 14 July 2025.

<sup>64</sup> Volker Türk, 'Press stakeout in Lao People's Democratic Republic by UN High Commissioner for Human Rights Volker Türk' (OHCHR, 7 June 2024) <<https://www.ohchr.org/en/statements-and-speeches/2024/06/press-stakeout-lao-peoples-democratic-republic-un-high-commissioner>> accessed 14 July 2025.

<sup>65</sup> Volker Türk, 'Myanmar: a breakneck speed "disintegration of human rights," says High Commissioner' (18 June 2024) <<https://www.ohchr.org/en/statements-and-speeches/2024/06/myanmar-breakneck-speed-disintegration-human-rights-says-high>> accessed 22 August 2025.

<sup>66</sup> Yuval Shany, 'Catching Up: The European Court of Human Rights Approximates its Approach to Extraterritorial Jurisdiction Over Digital Surveillance to That of the Human Rights Committee' (2024) 5(2) European Convention on Human Rights Law Review 182, 186.

<sup>67</sup> ISRH, Briefing Recommendation (n 1), 2.

territory of that State Party'.<sup>68</sup> The same 'effective control' approach to jurisdiction is present in CCPR's General Comment No. 35 on the right to liberty and security,<sup>69</sup> rights highly relevant to the context of TNR. Similarly, in its General Comment No. 2, the Committee against Torture (CAT Committee) also emphasises that CAT's provisions apply to 'any territory or facilities and must be applied to protect any person, citizen or non-citizen without discrimination subject to the de jure or de facto control of a State [P]arty' and to 'all persons who act, de jure or de facto, in the name of, in conjunction with, or at the behest of the State [P]arty'.<sup>70</sup>

39. CCPR's General Comment No. 36,<sup>71</sup> for many scholars, marked the shift towards a 'functional jurisdiction' approach.<sup>72</sup> It prescribes that states have international responsibility not only within their territory and for people under their power or effective control, but also 'persons located outside any territory effectively controlled by the [s]tate whose right to life is nonetheless affected by its military or **other activities** in a **direct and reasonably foreseeable manner**'.<sup>73</sup> CCPR's General Comment No. 36 also affirms that, under IHRL, states have obligations 'not to aid or assist activities undertaken by other [s]tates and non-[s]tate actors that violate the right to life'.<sup>74</sup> Consequently, states have the 'duty [...] to refrain from deporting, extraditing or otherwise transferring individuals to countries in which there are substantial grounds for believing that a real risk exists that their right to life would be violated'.<sup>75</sup>
40. In some Concluding Observations, CCPR still seems to adopt the 'effective control' approach to jurisdiction. For example, in the 8<sup>th</sup> periodic report of the Russian Federation, CCPR reinforced that the ICCPR applies 'with regard to all conduct by the State [P]arty's authorities or agents [...] including in connection with acts perpetrated by its agents and other affiliated actors in the areas where the State [P]arty exercises effective control'<sup>76</sup> to address situations of armed conflict in the North Caucasus federal area, in the Autonomous Republic of Crimea, and in Ukraine.

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<sup>68</sup> CCPR, 'General Comment No. 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant' (26 May 2004) UN Doc CCPR/C/21/Rev.1/Add. 13 (CCPR GC-31), [10] (emphasis added).

<sup>69</sup> CCPR, 'General Comment No. 35: Article 9 (Liberty and security of person)' (16 December 2014) UN Doc CCPR/C/GC/35 (CCPR CG-35), [63].

<sup>70</sup> CAT Committee, 'General Comment No. 2: Implementation of Article 2 by States parties' (24 January 2008) UN Doc CAT/C/GC/2 (CAT Committee GC-2), [7], [16].

<sup>71</sup> CCPR, 'General Comment No. 36: The Rights to Life' (30 October 2018) UN Doc CCPR/C/GC/36 (CCPR GC-36), [22], [30], [31], and [63] (emphasis added).

<sup>72</sup> Marko Milanovic, 'Drowning Migrants, the Human Rights Committee, and Extraterritorial Human Rights Obligations' (16 March 2021, EJIL:Talk!) <<https://www.ejiltalk.org/drowning-migrants-the-human-rights-committee-and-extraterritorial-human-rights-obligations/>> accessed 7 August 2025; Shany (n 66).

<sup>73</sup> CCPR, GC No. 36 (n 71), [63] (emphasis added).

<sup>74</sup> *ibid.*

<sup>75</sup> *ibid.*, [30].

<sup>76</sup> CCPR, 'Concluding observations on the eighth periodic report of the Russian Federation' (1 December 2022) UN Doc CCPR/C/RUS/CO/8, [7].

41. In other Concluding Observations, however, it is possible to identify the adoption of the ‘functional jurisdiction’ approach by CCPR.<sup>77</sup> For example, when addressing mass surveillance programs in the periodic review of the US and the UK, CCPR affirmed that surveillance activities, both within and outside the country, must conform to states’ obligations under the ICCPR, especially the right to privacy. States must ensure that ‘any interference with the right to privacy complies with the principles of legality, proportionality and necessity, regardless of the nationality or location of the individuals whose communications are under direct surveillance’.<sup>78</sup>
42. Other treaty bodies have also been expanding the concept of extraterritorial jurisdiction recently beyond the ‘effective control’ approach. For example, the Committee on the Elimination of Discrimination against Women (CEDAW Committee)’s General Comment No. 35 refers to ‘the evolving global context and the increasingly transnational nature of [violence against women], including in technology-mediated settings and other extraterritorial operations of domestic non-[s]tate actors’.<sup>79</sup> It highlights that states’ obligation to eliminate discrimination against women includes the duty to address ‘all forms of gender-based violence against women committed by [s]tate agents, whether on their territory or extraterritorially’.<sup>80</sup> State’s obligations also include the due diligence obligation to ‘prevent, as well as to investigate, prosecute, punish and provide reparations for, acts or omissions by non-[s]tate actors that result in gender-based violence against women, including actions taken by corporations operating extraterritorially’.<sup>81</sup>
43. Likewise, in one of its most recent General Comments on State Obligations in the Context of Business Activities, the Committee on Economic, Social and Cultural Rights (CESCR) affirmed that ‘extraterritorial obligations arise when a State [P]arty may **influence** situations located outside its territory, [...] by controlling the activities of corporations domiciled in its territory and/or under its jurisdiction’.<sup>82</sup>

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<sup>77</sup> Such a broad interpretation might be related to the recommendatory, non-binding nature of CO. However, it constitutes an authoritative interpretation of the application of ICCPR, and there are already indications of the ECtHR adopting a similar position. See Shany (n 66).

<sup>78</sup> CCPR, ‘Concluding observations on the fourth periodic report of the United States of America’ (23 April 2014) UN Doc CCPR/C/USA/CO/4, [22]; CCPR, ‘Concluding observations on the seventh periodic report of the United Kingdom of Great Britain and Northern Ireland’ (17 August 2015) UN Doc CCPR/C/GBR/CO/7, [24].

<sup>79</sup> CEDAW Committee, ‘General Comment No. 35 on gender based violence against women, updating general recommendation No. 19’ (26 July 2017) UN Doc CEDAW/C/GC/35 (CEDAW Committee GC-35), [35(a)].

<sup>80</sup> *ibid*, [22].

<sup>81</sup> *ibid*, [24].

<sup>82</sup> CESCR, ‘General Comment No. 24 on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities’ (10 August 2017) UN Doc E/C.12/GC/24, [28].

*ii) TNR acts in Treaty Bodies' Concluding Observations*<sup>83</sup>

44. In addition to adopting the concept of extraterritorial jurisdiction, many treaty bodies have, through their reporting review mechanism, expressed concerns about acts that could be classified as TNR or related to TNR, although not expressly using this nomenclature. This includes both situations where the countries are the perpetrators or potentially complicit or negligent with TNR acts perpetrated by other countries or actors, as exemplified below.
45. China, Hong Kong and Macau. In addition to serious concerns about the situation of HRDs within the country, treaty bodies have expressed concerns about: (i) the overly broad interpretation of the National Security Law and procedures in Hong Kong and Macau, its impact on the exercise of freedom of expression, the unclear criteria for its extraterritorial application, and the transfer of national security cases to the organs of the Central People's Government;<sup>84</sup> (ii) travel restrictions against human rights activists;<sup>85</sup> (iii) government persecution of families of human rights activists and dissidents advocating for children's rights;<sup>86</sup> (iv) individuals being forcibly returned or transferred to places where they face risks of torture or ill-treatment;<sup>87</sup> (v) agreements for the surrender of fugitive offenders and transfer of sentenced persons from Hong Kong and Macau to mainland China, which could expose individuals to the risk of torture or ill-treatment;<sup>88</sup> and (vi) widespread censorship of social media and messaging platforms, and content restrictions by service providers.<sup>89</sup>

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<sup>83</sup> As agreed with ISHR, we focused on CO from the following countries: China, Russia, Venezuela, Nicaragua, Iran, Israel, Turkey, Rwanda, Uzbekistan, and Saudi Arabia.

<sup>84</sup> CESCR, 'Concluding observations on the third periodic report of China, including Hong Kong, China, and Macao, China' (22 March 2023) UN Doc E/C.12/CHN/CO/3, [102];

CCPR, 'Concluding observations on the fourth periodic report of Hong Kong, China' (11 November 2022) UN Doc CCPR/C/CHN-HKG/CO/4, [13] and [41];

CCPR, 'Concluding observations on the second periodic report of Macao, China' (11 November 2022) UN Doc CCPR/C/CHN-MAC/CO/2 (CCPR, CO on Macau, 2022), [34];

CRPD Committee, 'Concluding observations on the combined second and third periodic reports of China' (10 October 2022) UN Doc CRPD/C/CHN/CO/2-3, [73]-[74];

CERD, 'Concluding observations on the combined fourteenth to seventeenth periodic reports of China' (19 September 2018) UN Doc CERD/C/CHN/CO/14-17 (CERD, CO on China, 2018), [36]-[37]; and

CAT Committee, 'Concluding observations on the fifth periodic report of China' (3 February 2016) UN Doc CAT/C/CHN/CO/5 (CAT Committee, CO on China, 2016), [36].

<sup>85</sup> CEDAW Committee, 'Concluding observations on the combined seventh and eighth periodic reports of China' (14 November 2014) UN Doc CEDAW/C/CHN/CO/7-8 (CEDAW Committee, CO on China, 2014), [32].

<sup>86</sup> CRC Committee, 'Concluding observations on the combined third and fourth periodic reports of China' (29 October 2013) UN Doc CRC/C/CHN/CO/3-4 (CRC Committee, CO on China, 2013), [21].

<sup>87</sup> CEDAW Committee, 'Concluding observations on the ninth periodic report of China' (31 May 2023) UN Doc CEDAW/C/CHN/CO/9, [29]; CERD, CO on China, 2018 (n 84), [40] and [51]; CAT Committee, CO on China, 2016 (n 84), [46]; and CRC Committee, CO on China, 2013 (n 86), [81].

<sup>88</sup> CCPR, CO on Macau, 2022 (n 84), [21].

<sup>89</sup> *ibid.*, [39].

46. Russia. In the case of Russia, treaty bodies expressed concerns over (i) the ‘foreign agent’ law, requiring non-commercial organisations receiving foreign funding to register as ‘foreign agents’, leading to restrictions or closures of **non-governmental organisations** (NGOs);<sup>90</sup> (ii) the ‘vague and open-ended definition of “extremist activity” or terrorism used to curtail freedom of expression and religion, and the application of the Criminal Code against critics;’<sup>91</sup> (iii) reports of harassment against media workers and journalists, including criminal prosecution, searches of their homes, physical attacks, and threats, including against their relatives;<sup>92</sup> (iv) reports that thousands of Internet sites and resources and a number of social media platforms (Twitter, Facebook, Instagram) have been blocked;<sup>93</sup> (v) abductions, arbitrary detentions, enforced disappearances, torture and ill-treatment, and the killing of journalists, dissidents, and HRDs in the North Caucasus, Crimea and Sevastopol, in the context of armed conflicts and military occupations;<sup>94</sup> (vi) reports of extraditions and expulsions of foreign persons to countries where they might be at risk of torture and other ill-treatment;<sup>95</sup> and (viii) the forcible transfer or deportation to the Russian Federation of inhabitants, particularly children, from areas where the State Party exercises effective control (such as Ukraine and Crimea).<sup>96</sup>
47. Venezuela. In the case of Venezuela, treaty bodies expressed concerns about (i) ‘disparaging statements about members of civil society organizations who have contributed to the work of the Committee’ and other HRDs;<sup>97</sup> (ii) detention at the immigration control of a Venezuelan national

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<sup>90</sup> CRC Committee, ‘Concluding observations on the combined sixth and seventh periodic reports of the Russian Federation’ (1 March 2024) UN Doc CRC/C/RUS/CO/6-7 (CRC Committee, CO on Russia, 2024), [14];

CERD, ‘Concluding observations on the combined twenty-fifth and twenty-sixth periodic reports of the Russian Federation’ (1 June 2023) UN Doc CERD/C/RUS/CO/25-26 (CERD, CO on Russia, 2023), [18];

CCPR, ‘Concluding observations on the eighth periodic report of the Russian Federation’ (1 December 2022) UN Doc CCPR/C/RUS/CO/8 (CCPR, CO on Russia, 2022), [34];

CEDAW Committee, ‘Concluding observations on the ninth periodic report of the Russian Federation’ (30 November 2021) UN Doc CEDAW/C/RUS/CO/9 (CEDAW Committee, CO on Russia, 2021), [18]; and

CAT Committee, ‘Concluding Observations on the sixth periodic report of the Russian Federation’ (28 August 2018) UN Doc CAT/C/RUS/CO/6 (CAT Committee, CO on Russia, 2018), [28],

<sup>91</sup> CCPR, CO on Russia, 2022 (n 90), [30]; CAT Committee, CO on Russia, 2018 (n 90), [34]; and CERD, CO on Russia, 2023 (n 90), [20].

<sup>92</sup> CRC Committee, CO on Russia, 2024 (n 90), [15]; CERD, CO on Russia, 2023 (n 90), [18]-[21]; CCPR, CO on Russia, 2022 (n 90), [28]; CAT Committee, CO on Russia, 2018 (n 90), [28].

<sup>93</sup> CCPR, CO on Russia, 2022 (n 90), [28].

<sup>94</sup> CERD, CO on Russia, 2023 (n 90), [23]; CCPR, CO on Russia, 2022 (n 90), [8] and [38]; CEDAW Committee, CO on Russia, 2021, [26]; CAT Committee, CO on Russia, 2018 (n 90), [46] and [48].

<sup>95</sup> CAT Committee, CO on Russia, 2018 (n 90), [42].

<sup>96</sup> CRC Committee, CO on Russia, 2024 (n 90), [45]; CERD, CO on Russia, 2023 (n 90), [4]; and CCPR, CO on Russia, 2022 (n 90), [38].

<sup>97</sup> CCPR, ‘Concluding observations on the fourth periodic report of the Bolivarian Republic of Venezuela’ (14 August 2015) UN Doc CCPR/C/VEN/CO/R.4, [18];

CEDAW Committee, ‘Concluding observations on the ninth periodic report of the Bolivarian Republic of Venezuela’ (31 May 2023) UN Doc CEDAW/C/VEN/CO/9, [31]; and

CAT Committee, ‘Concluding observations on the combined third and fourth periodic reports of the Bolivarian Republic of Venezuela’ (12 December 2014) UN Doc CAT/C/VEN/CO/3-4, [14].

travelling to Geneva for meetings with the Committee;<sup>98</sup> and (iii) cancellation of HRDs' passports to prevent them from travelling and operating internationally.<sup>99</sup>

48. *Nicaragua*. In Nicaragua's Concluding Observations, concerns involved: (i) the deprivation of nationality and the ensuing statelessness of women HRDs;<sup>100</sup> (ii) the 'deportation and forced exile of women human rights defenders, compounded by limited possibilities for family reunification due to the denial of passports and identification documents, and the confiscation of their property while in exile';<sup>101</sup> (iii) the cancellation of the legal status and forced closure of many CSOs based on the Act on the Regulation of Foreign Agents;<sup>102</sup> (iv) the vagueness of terrorism definitions, and the broad scope and arbitrary use of other laws 'to discourage protests or any form of opposition';<sup>103</sup> (v) reports of cases of aggression against women HRDs, including 'intimidation, harassment, reprisals, rape, personal injury to family members, damage to property and death threats';<sup>104</sup> (vi) threats against families of journalists, political opponents, HRDs and other persons critical of the Government;<sup>105</sup> and (vii) 'unlawful monitoring of Internet content and the interception of communications without judicial authorization by means of antennas capable of capturing telephone traffic'.<sup>106</sup>
49. *Iran*. Concerns about the situation in Iran involve: (i) reports of the imposition of arbitrary travel bans on lawyers, journalists, HRDs, dissidents, and their relatives;<sup>107</sup> (ii) extensive control over the Internet infrastructure, restrictions on foreign Internet services and websites, and facilitates surveillance and censorship, particularly towards HRDs, journalists and activists;<sup>108</sup> (iii) foreign and dual nationals being arbitrarily detained on national security charges, with some at risk of imminent execution, even when the facts are allegedly unrelated to national security;<sup>109</sup> (iv) reports of the

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<sup>98</sup> CERD, 'Concluding observations on the combined twenty-second to twenty-fourth periodic reports of the Bolivarian Republic of Venezuela' (18 September 2024) UN Doc CERD/C/VEN/CO/22-24, [6].

<sup>99</sup> *ibid.*

<sup>100</sup> CEDAW Committee, 'Concluding observations on the combined seventh to tenth periodic reports of Nicaragua' (14 February 2024) UN Doc CEDAW/C/NIC/CO/7-10 (CEDAW Committee, CO on Nicaragua, 2024), [33].

<sup>101</sup> *ibid.*, [11(e)].

<sup>102</sup> *ibid.*, [11(g)].

<sup>103</sup> CAT Committee, 'Concluding observations on the second periodic report of Nicaragua' (7 December 2022) UN Doc CAT/C/NIC/CO/2, [23].

CCPR, 'Concluding observations on the fourth periodic report of Nicaragua' (30 November 2022) UN Doc CCPR/C/NIC/CO/4 (CCPR, CO on Nicaragua, 2022), [15].

<sup>104</sup> CEDAW Committee, CO on Nicaragua, 2024 (n 100), [11].

<sup>105</sup> CCPR, CO on Nicaragua, 2022 (n 103), [32].

<sup>106</sup> *ibid.*, [31].

<sup>107</sup> CCPR, 'Concluding observations on the fourth periodic report of the Islamic Republic of Iran' (23 November 2023) UN Doc CCPR/C/IRN/CO/4 (CCPR, CO on Iran, 2023), [37].

<sup>108</sup> *ibid.*, [45]; CERD, 'Concluding observations on the combined twentieth to twenty-seventh periodic reports of the Islamic Republic of Iran' (19 September 2024) UN Doc CERD/C/IRN/CO/20-27, [28].

<sup>109</sup> CCPR, CO on Iran, 2023 (n 107), [31].

forcible deportation of a large number of Afghans since August 2021, without individual protection assessments, and by pushback operations characterised by excessive use of force.<sup>110</sup>

50. *Israel*. The main concerns about Israel were: (i) the vague and overbroad definitions of ‘terrorist organisation’ and ‘terrorist act’, which may be used to oppress and criminalise legitimate political or humanitarian acts,<sup>111</sup> and the use of other legislation restricting the activities of civil society organisations;<sup>112</sup> (ii) the amendment to the Entry into Israel Law (2018), which allows for the revocation of permanent residency on the vague ground of ‘breach of allegiance against the State of Israel’, which has been used to revoke the permanent residency of HRDs;<sup>113</sup> (iii) Sudanese and Eritrean refugees ‘relocated from Israel to undisclosed third countries, where they have been subjected to ill-treatment and human trafficking’;<sup>114</sup> (iv) Israel’s position that the human rights treaties it ratified do not apply outside of the country’s territory, such as the Occupied Palestinian Territory;<sup>115</sup> (v) ‘reports of the torture and ill-treatment of [...] children in the Occupied Palestinian Territory during arrest and in detention’ and the ‘recruitment of child detainees as informants for the security forces’;<sup>116</sup> and (vi) allegations of incidents where the ‘Israeli Defence Forces reportedly returned people to Egypt shortly after they crossed the border without conducting an interview’, raising concerns about *non-refoulement*.<sup>117</sup>
51. *Türkiye*. Treaty bodies have raised many concerns in the case of Turkey, including: (i) allegations regarding a systematic practice of state-sponsored extraterritorial abductions and forcible returns of individuals (including suspected Gülen movement affiliates, political opponents, or critical journalists), in coordination with authorities in various countries;<sup>118</sup> (ii) allegations of extraterritorial enforced disappearance and other serious human rights violations by Turkish officials, including in northern Syria;<sup>119</sup> (iii) ‘allegations of forced returns of those with temporary protection, including

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<sup>110</sup> *ibid*, [43].

<sup>111</sup> CCPR, ‘Concluding observations on the fifth periodic report of Israel’ (5 May 2022) UN Doc CCPR/C/ISR/CO/5 (CCPR, CO on Israel, 2022), [18].

<sup>112</sup> CRC Committee, ‘Concluding observations on the combined fifth and sixth periodic reports of Israel’ (16 October 2024) UN Doc CRC/C/ISR/CO/5-6 (CRC Committee, CO on Israel, 2024), [16].

<sup>113</sup> CCPR, CO on Israel, 2022 (n 113), [18].

<sup>114</sup> *ibid*, [40].

<sup>115</sup> *ibid*, [6];

CEDAW Committee, ‘Concluding observations on the sixth periodic report of Israel’ (17 November 2017) UN Doc CEDAW/C/ISR/CO/6, [14];

CAT Committee, ‘Concluding observations on the fifth periodic report of Israel’ (3 June 2016) UN Doc CAT/C/ISR/CO/5 (CAT Committee, CO on Israel, 2016), [46].

<sup>116</sup> CRC Committee, CO on Israel, 2024 (n 113), [29].

<sup>117</sup> CAT Committee, CO on Israel, 2016 (n 115), [46].

<sup>118</sup> CCPR, ‘Concluding observations on the second periodic report of Türkiye’ (28 November 2024) UN Doc CCPR/C/TUR/CO/2 (CCPR, CO on Türkiye, 2024), [25].

CAT Committee, ‘Concluding observations on the fifth periodic report of Türkiye’ (14 August 2024) UN Doc CAT/C/TUR/CO/5, [26].

<sup>119</sup> CCPR, CO on Türkiye, 2024 (n 118), [23].

those who sign voluntary return decisions’, and statistics on the collective expulsion of migrants (especially from Afghanistan and Syria) without due regard to their countries of origin’s situation;<sup>120</sup> (iv) the mass cancellation of passports, travel bans, and the obligation to request a permit to leave the territory for civil servants, academics, and students suspected of involvement in the 2016 coup attempt or alleged links to the Gülen movement;<sup>121</sup> (v) allegations of the misuse of International Criminal Police Organization (INTERPOL) Red Notices against political opponents, or journalists critical of the Government;<sup>122</sup> (vi) the broad definitions of ‘terrorism’ and ‘terrorist offender’, as well as other legislation used to silence dissent;<sup>123</sup> (vii) that the climate of intimidation and persecution faced by HRDs forced some of them to ‘resort to self-censorship and self-imposed exile’;<sup>124</sup> and (viii) the large-scale surveillance of mobile phone communications and Turkey’s requirement for mandatory SIM card registration, in the absence of adequate data protection legislation.<sup>125</sup>

52. Rwanda. Treaty bodies’ concerns regarding the situation in Rwanda include: (i) the relocation of Burundi refugees to third countries and the potential violation of *non-refoulement*;<sup>126</sup> (ii) the ‘vague definition of other related crimes, such as the crime of separatism, which makes them susceptible to abuse, and the chilling effect they may have on freedom of expression’;<sup>127</sup> (iii) disappearance of political figures and reports that political dissidents have disappeared and been killed in Rwanda and abroad;<sup>128</sup> and (iv) the ‘findings of the Group of Experts on the Democratic Republic of the Congo, which established that [...] Mouvement du 23 mars (M23) [...] received support from the Rwanda Defence Force and from individuals who recruited men and children in the State [P]arty for M23’.<sup>129</sup>
53. Uzbekistan. In the case of Uzbekistan, concerns include: (i) national security officers engaging in secret renditions from abroad, and many of the persons abducted or forcibly returned allegedly

<sup>120</sup> CWM, ‘Concluding observations on the second periodic report of Türkiye’ (11 July 2024) UN Doc CMW/C/TUR/CO/2, [19] and [37].

<sup>121</sup> CCPR, CO on Türkiye, 2024 (n 118), [35].

<sup>122</sup> *ibid*, [25]; CEDAW Committee, ‘Concluding observations on the eighth periodic report of Türkiye’ (12 July 2022) UN Doc CEDAW/C/TUR/CO/8, [41].

<sup>123</sup> CCPR, CO on Türkiye, 2024 (n 118), [17] and [43]; CRC Committee, ‘Concluding observations on the combined fourth and fifth periodic reports of Türkiye’ (21 June 2023) UN Doc CRC/C/TUR/CO/4-5, [24].

<sup>124</sup> CCPR, CO on Türkiye, 2024 (n 118), [53].

<sup>125</sup> *ibid*, [47].

<sup>126</sup> CCPR, ‘Concluding observations on the fourth periodic report of Rwanda’ (2 May 2016) UN Doc CCPR/C/RWA/CO/4 (CCPR, CO on Rwanda, 2016), [29].

<sup>127</sup> *ibid*, [39]; CAT Committee, ‘Concluding observations on the second periodic report of Rwanda’ (21 December 2017) UN Doc CAT/C/RWA/CO/2, [52].

<sup>128</sup> CCPR, CO on Rwanda, 2016 (n 126), [21].

<sup>129</sup> *ibid*, [25]; CESCR, ‘Concluding observations on the fifth periodic report of Rwanda’ (17 March 2025) UN Doc E/C.12/RWA/CO/5, [14].

being subjected to incommunicado detention, torture, and ill-treatment;<sup>130</sup> (ii) the State Party securing ‘the return of 542 individuals labelled as opponents [...] through extradition proceedings or otherwise, including the reported use of diplomatic assurances’;<sup>131</sup> (iii) that HRDs are allegedly subjected to ‘arbitrary detention, surveillance, harassment and other measures aimed at deterring them from carrying out their work’;<sup>132</sup> (iv) the ‘overly broad and vague definitions [...] in the Counter-Extremism Act [...] and [its] use to unduly restrict freedoms of religion, expression, assembly, and association’, specifically targeting political dissidents and unsanctioned religious groups;<sup>133</sup> (v) the fact that NGOs need to obtain de facto approval from the Ministry of Justice when travelling abroad or receiving foreign funds;<sup>134</sup> (vi) ‘reports that supporters or family members of exiled opposition figures have been persecuted and barred from participating in elections’;<sup>135</sup> (vii) the fact that persons complaining of torture were subjected to reprisals, and their family members were often intimidated and threatened to ensure that complaints were retracted;<sup>136</sup> (viii) reports that Uzbekistan delayed the issuance of travel visas to prevent HRDs, independent journalists or political opponents from travelling abroad;<sup>137</sup> (ix) websites providing controversial and politically sensitive information being blocked, and news agencies are forbidden to function;<sup>138</sup> (x) released prisoners convicted on politically motivated charges having reportedly been prevented from travelling abroad, including for urgent medical treatment.<sup>139</sup>

54. Saudi Arabia. Concerns about the situation in Saudi Arabia involve: (i) Saudi Arabia having not provided information on measures to ensure accountability for its nationals (specifically a diplomat) accused of committing violations of the CAT outside the territory of the State Party;<sup>140</sup> (ii) the fact that the domestic law uses an ‘extremely broad definition of terrorism that would enable the criminalization of acts of peaceful expression considered as endangering “national unity” or undermining “the reputation or position of the [s]tate”’, which has been used to imprison a journalist and a human rights association co-founder;<sup>141</sup> (iii) *non-refoulement* concerns due to the

<sup>130</sup> CAT Committee, ‘Concluding observations on the fifth periodic report of Uzbekistan’ (14 January 2020) UN Doc CAT/C/UZB/CO/5, [57].

<sup>131</sup> *ibid.*

<sup>132</sup> *ibid.*, [17].

<sup>133</sup> CCPR, ‘Concluding observations on the fifth periodic report of Uzbekistan’ (1 May 2020) UN Doc CCPR/C/UZB/CO/5 (CCPR, CO on Uzbekistan, 2020), [20].

<sup>134</sup> *ibid.*, [48].

<sup>135</sup> *ibid.*, [50].

<sup>136</sup> CCPR, ‘Concluding observations on the fourth periodic report of Uzbekistan’ (17 August 2015) UN Doc CCPR/C/UZB/CO/4, [14].

<sup>137</sup> *ibid.*, [20].

<sup>138</sup> *ibid.*, [23].

<sup>139</sup> CCPR, CO on Uzbekistan, 2020 (n 133), [36].

<sup>140</sup> CAT Committee, ‘Concluding observations on the second periodic report of Saudi Arabia’ (8 June 2016) UN Doc CAT/C/SAU/CO/2 (CAT Committee, CO on Saudi Arabia, 2016), [7].

<sup>141</sup> *ibid.*, [16];

‘absence of national legislation and procedures explicitly regulating expulsion, refoulement and extradition’;<sup>142</sup> and (iv) travel bans on women HRDs and activists as a tool of repression linked to the misuse of national security laws.<sup>143</sup>

55. *Other examples.* This report focuses on the countries above, as agreed with the ISHR. However, the treaty bodies have expressed similar concerns regarding other countries, such as in the CAT Committee’s concluding observation on Thailand, where the committee noted allegations of mass expulsion of Myanmar nationals and forced repatriation of a Vietnamese HRD.<sup>144</sup> In more recent concluding observations, the CCPR has explicitly used the terms ‘transnational repression’ or ‘extraterritorial repression’ in reviews of Vietnam and India, indicating that it might follow the trend of other bodies of the UN human rights system and start to use the terminology more systematically as well.<sup>145</sup>

## QUESTION 2 – TNR DEFINITION

**Are there any references to a specific definition of TNR by bodies or mechanisms within this system? Please identify and compare key definitional elements.**

56. The HRC and UN treaty bodies address TNR implicitly, speaking to key TNR practices such as extradition, family threats, and cross-border surveillance, without explicitly using the term ‘transnational repression’. For instance, while HRC Resolution 58/23 initially included a reference to TNR, this was removed in the final version.<sup>146</sup>
57. In April 2024, the report by the Special Rapporteur on Freedom of Opinion and Expression adopted a definition of TNR. According to the report, the term TNR has been used ‘to denote human rights violations committed by [s]tates outside their own territorial jurisdiction in order to intimidate and silence dissent among the diaspora and exiles’.<sup>147</sup> The main elements of this definition are:

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CERD, ‘Concluding observations on the combined tenth and eleventh periodic reports of Saudi Arabia’ (24 December 2024) UN Doc CERD/C/SAU/CO/10-11 (CERD, CO on Saudi Arabia, 2024), [27]; and

CEDAW Committee, ‘Concluding observations on the fifth periodic report of Saudi Arabia’ (30 October 2024) UN Doc CEDAW/C/SAU/CO/5 (CEDAW Committee, CO on Saudi Arabia, 2024), [17].

<sup>142</sup> CAT Committee, CO on Saudi Arabia, 2016 (n 140), [46]; CERD, CO on Saudi Arabia, 2024 (n 141), [47].

<sup>143</sup> CEDAW Committee, CO on Saudi Arabia, 2024 (n 141), [17].

<sup>144</sup> CAT Committee, ‘Concluding observations on the second periodic report of Thailand’ (9 December 2024) UN Doc CAT/C/THA/CO/2, [34].

<sup>145</sup> CCPR, ‘Concluding observations on the fourth periodic report of Viet Nam’ (12 August 2025) UN Doc CCPR/C/VNM/CO/4, [24];

CCPR, ‘Concluding observations on the fourth periodic report of India’ (2 September 2024) UN Doc CCPR/C/IND/CO/4, [51].

<sup>146</sup> HRC Res 58/23 (n 8).

<sup>147</sup> HRC Res 56/53 (n 16), [25].

- **Perpetrators:** states.
- **Victims:** include diaspora and exiles, especially exiled journalists and media outlets.
- **Intent:** to intimidate and silence dissent.
- **Geographic Scope:** outside a state's own territorial jurisdiction.
- **Nature of the acts:** 'includes physical, legal and digital threats, ranging from physical violence, murder, extradition, renditions and legal prosecution in absentia to online violence, digital surveillance, hacking or the blocking of websites and the disruption of Internet connections'.<sup>148</sup> The report also references 'repression by proxy', which basically consists of reprisals against family members, friends and sources.<sup>149</sup>

58. More recently, the OHCHR has provided an explicit definition of TNR, similar to the one used by the report of the Special Rapporteur, but expanding some of the elements, especially potential perpetrators, victims, and geographical scope. OHCHR's recent Guidance Paper defines TNR as 'acts conducted or directed by a [s]tate, or its proxy, to deter, silence or punish dissent, criticism or human rights advocacy towards it, expressed from outside its territory'.<sup>150</sup> The main elements of the definition are identified below:

- **Perpetrator:** a state or its proxy (private companies and technology firms, criminal networks, private militia or paramilitary groups, and media organisations can play an important role in TNR);
- **Victims:** individuals who express dissent and advocate for human rights, such as HRDs, journalists, and whistle-blowers, as well as their families or associates who remain in the repressing country;
- **Intent:** to deter, silence, or punish dissent, criticism or human rights advocacy towards it, expressed from outside its territory;
- **Geographic Scope:** it can involve acts perpetrated inside or outside a state's territorial jurisdiction – the extraterritorial element of the definition is with the 'dissent, criticism or human rights advocacy' that is expressed outside of a country's territory.
- **Nature of the acts:** includes acts of violence and intimidation outside the country; harassment through extradition requests, unlawful arrests or deportations; Abuses of

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<sup>148</sup> *ibid.*

<sup>149</sup> *ibid.*, [51].

<sup>150</sup> OHCHR's Guidance Paper (n 7), 1-2.

(security) laws with extra-territorial provisions; impediments to mobility; digital threats or attacks; and proxy punishment of in-country relatives or associates.

### QUESTION 3 – LEGAL PROTECTION AND GAPS

**How do existing IHRL provisions protect HRDs from TNR in this system? What gaps exist, if any, in IHRL in the protection of HRDs from TNR?**

59. IHRL and refugee law currently offer ‘a strong framework’ to protect HRDs, specifically journalists in exile,<sup>151</sup> as illustrated below. However, as the Special Rapporteur on Freedom of Opinion and Expression states, while ‘[t]here is no international legal gap’ relating to HRDs, ‘there is a dangerous protection gap’.<sup>152</sup>

#### **a) International human rights law (IHRL)**

60. Although IHRL does not explicitly prescribe protection specifically against TNR, existing legal frameworks can be applied to protect HRDs against those transnational acts. Most acts of TNR are directly connected to at least one of the many human rights protected by the UN human rights treaties and soft law instruments, such as the rights to life, physical integrity, liberty and security, privacy, freedom of movement, freedom of expression, freedom of religion or belief, minority rights, freedom from torture and ill-treatment, and freedom from enforced disappearances.
61. UDHR. The UDHR, for example, protects the rights to life, freedom from torture and other inhuman or degrading treatment or punishment, freedom from arbitrary arrest, detention or exile, fair trial, privacy, freedom of movement, seek and enjoy asylum, freedom of opinion, expression, association, and assembly.<sup>153</sup> According to its preamble, it prescribes common standards for all peoples and nations, and states should aim to secure the observance of those rights, ‘both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction’.<sup>154</sup>
62. ICCPR. The ICCPR also protects many rights that are essential for addressing TNR, such as the right to life, freedom from torture, liberty and security, freedom from arbitrary detention, freedom of movement, privacy, freedom of expression, peaceful assembly and freedom of association.<sup>155</sup>

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<sup>151</sup> HRC Res 56/53 (n 16), [95].

<sup>152</sup> *ibid*.

<sup>153</sup> Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 A(III) (UDHR), Articles 3, 5, 9, 11, 12, 13, 19, 20.

<sup>154</sup> *ibid*, preamble.

<sup>155</sup> International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR), Articles 6, 7, 9, 12, 17, 19, 21, 22.

These rights must be ensured to all individuals subjected to a state's jurisdiction.<sup>156</sup> As explained above, the CCPR interprets the concept of states' jurisdiction beyond a simple territorial jurisdiction, to also reach individuals under the effective control of a state or directly affected by states' actions.

63. Other Human Rights Treaties. All the other core IHRL instruments could also be used to address TNR against HRDs to some extent. Particularly relevant are CAT and CPED.

#### **b) Other International Treaties**

64. International Refugee Law. Under the Refugee Convention 1951, the persecution 'for reasons of race, religion, nationality, membership of a particular social group or political opinion'<sup>157</sup> is specifically stated as a ground for granting refugee status. It also prohibits the expulsion or return of an individual if there are reasons to believe a person's life or freedom would be threatened (*non-refoulement*).<sup>158</sup> By protecting 'freedom of expression in exile',<sup>159</sup> international refugee law implicitly protects HRDs.

#### **c) Protection gap**

65. Despite the existence of these provisions, key gaps remain in the protection of HRDs from TNR in the UN system. Firstly, a lack of a specific binding norm means that, despite the theoretical applicability of the existing legal provisions, TNR acts towards HRDs often remain unaddressed due to the challenges for investigation of extraterritorial actions and a lack of strong enforcement mechanisms. For example, the Declaration on HRDs 1998 is a normative document that lacks enforcement mechanisms. As noted in Resolution 56/53, HRDs 'remain highly vulnerable' as states use a range of methods, including extraterritorial attacks and prosecutions *in absentia*, to silence HRDs.<sup>160</sup> The report notes that, in contravention of international law, states often use laws related to protecting national security, public order, or public morals to stifle criticism of the government. Therefore, the lack of binding treaty norms explicitly prohibiting TNR of HRDs results in a 'dangerous protection gap'.<sup>161</sup>

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<sup>156</sup> *ibid*, Article 2(1).

<sup>157</sup> Convention Relating to the Status of Refugees (adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137 (Refugee Convention), Article 1A(2).

<sup>158</sup> *ibid*, Article 33.

<sup>159</sup> HRC Res 56/53 (n 16), [22].

<sup>160</sup> HRC Res 56/53 (n 16), [95].

<sup>161</sup> *ibid*.

66. Another key gap in the protection of HRDs is limited extraterritorial accountability. States are still the principal actors that can be held accountable under IHRL. However, TNR often falls outside of the state's direct or territorial jurisdiction, for instance, occurring through proxies, informal channels, and digital means. That makes it harder to identify the state's involvement and hold them accountable.<sup>162</sup>

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<sup>162</sup> HRC Res 58/23 (n 8).

# INTER-AMERICAN HUMAN RIGHTS SYSTEM

## INTRODUCTION

67. While the Inter-American Human Rights System does not have an official binding definition of ‘transnational repression’, it implicitly addresses the phenomenon through jurisprudence, precautionary measures, and thematic and state reports. The system recognises extraterritorial obligations by holding states accountable for cross-border threats and abuses targeting HRDs and journalists in exile, as demonstrated by reports and by precautionary measures informed by standards established by landmark cases such as *Velásquez Rodríguez v Honduras*.<sup>163</sup> Nevertheless, responses remain largely *ad hoc*, underscoring the need for a more structured and explicit framework to effectively address TNR across the Americas.

## QUESTION 1 – DOCUMENTS AND RESOURCES

**What are the relevant documents and resources on TNR of HRDs? When relevant, please also identify resources on transnational/extraterritorial human rights violations against HRDs.**

68. The Inter-American Human Rights System addresses TNR implicitly through various legal instruments, institutional outputs, jurisprudence, and protective measures. The system does not have an official definition of TNR, but it engages with this phenomenon by addressing extraterritorial violations of human rights, reprisals against diaspora, and cross-border repression.
69. The Inter-American Commission on Human Rights (IACHR) produced thematic reports relevant to understanding TNR. Notably, the reports titled ‘Situation of Human Rights Defenders in the Americas’ (2006)<sup>164</sup> and ‘Criminalization of Human Rights Defenders’ (2015)<sup>165</sup> highlight the threats and vulnerabilities faced by HRDs, explicitly including exiled individuals. Additionally, annual reports of the IACHR (e.g., 2023, 2024) consistently document patterns of regional threats against HRDs, addressing both domestic and extraterritorial contexts.

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<sup>163</sup> *Velásquez Rodríguez v Honduras* (n 12).

<sup>164</sup> IACHR, ‘Report on the Situation of Human Rights Defenders in the Americas’ (7 March 2006) OEA/Ser.L/V/II.124, Doc 5, rev 1 <<https://www.cidh.oas.org/countryrep/Defenders/DEFENDERS.ENGLISH.pdf>> accessed 28 August 2025 (2006 Report on the Situation of HRDs in Americas), [76] and [246].

<sup>165</sup> IACHR, ‘Criminalization of the Human Rights Defenders’ (31 December 2015) OEA/Ser L/V/II, Doc 49/15 <<https://www.oas.org/en/iachr/reports/pdfs/criminalization2016.pdf>> accessed 16 August 2025 (2015 Report on Criminalization of HRDs).

### a) Jurisprudence and Case Law

70. The landmark Inter-American Court of Human Rights (IACtHR) case, *Velásquez Rodríguez v Honduras*, established foundational jurisprudence on the scope of state obligations under Article 1(1) of the ACHR.<sup>166</sup> In this decision, the Court held that states are not only required to refrain from directly violating rights, but also bear positive duties to prevent, investigate, punish, and provide reparation for human rights violations within their jurisdiction.<sup>167</sup>
71. This doctrine became the cornerstone of Inter-American human rights protection, making clear that a state's responsibility arises not only from acts of its agents, but also from omissions, such as failing to investigate or tolerating impunity. Although *Velásquez Rodríguez* concerned violations within Honduran territory, subsequent jurisprudence and advisory opinions have extended this reasoning to situations involving extraterritorial state conduct, particularly where a state exercises authority or effective control over persons or territories beyond its borders. The IACHR, for example, has recognised the exercise of extraterritorial jurisdiction in cases involving military operations<sup>168</sup> and actions of a state's agents outside of its territory.<sup>169</sup>
72. More recently, the IACtHR has further expanded the Inter-American approach to determining jurisdiction by recognising a 'extraterritorial jurisdictional link based on **control over domestic activities with extraterritorial effect**'.<sup>170</sup> In its Advisory Opinion OC-23/17,<sup>171</sup> the IACtHR affirmed that the word 'jurisdiction' in Article 1(1) of the ACHR 'is not limited to the national territory of a [s]tate but contemplates circumstances in which the extraterritorial conduct of a [s]tate constitutes an exercise of its jurisdiction'.<sup>172</sup> This applies to the most typical cases where the state has effective control over a person or a territory abroad, but also 'when the [s]tate of origin exercises **effective control over the activities** that caused the damage and the consequent human

<sup>166</sup> *Velásquez Rodríguez v Honduras* (n 12), [161]-[167].

<sup>167</sup> *ibid*, [166]-[177].

<sup>168</sup> eg IACHR, *Coard at al v United States* (Merits Report) IACHR Report No. 109/99, Case 10.951 (29 September 1999), [37]; IACHR, *Djamel Ameziiane v United States* (Admissibility Report) Report No. 17/12, Petition P-900-08 (20 March 2012), [30]-[35].

<sup>169</sup> eg IACHR, *Armando Alejandro Jr and others v Cuba* (Merits Report) IACHR Report No. 89/99, Case 11.589 (29 September 1999), [24]; IACHR, *Franklin Guillermo Aisalla Molina (Ecuador v Colombia)* (Admissibility Report) IACHR Report No. 112/10, Inter-State Petition IP-02 (21 October 2010), [98].

<sup>170</sup> Antal Berkes, 'A New Extraterritorial Jurisdictional Link Recognised by the IACtHR' (EJIL:Talk!, 28 March 2018 <<https://www.ejiltalk.org/a-new-extraterritorial-jurisdictional-link-recognised-by-the-iacthr/#:~:text=The%20Inter%2DAmerican%20Court%20widens,between%20conducts%20performed%20in%20the>> accessed 3 September 2025 (emphasis added).

<sup>171</sup> Although the Advisory Opinion OC-23/17 concerns human rights and the environment, it provides important parameters of extraterritorial jurisdiction that could be applied to respond to cases of TNR.

<sup>172</sup> *The Environment and Human Rights*, Advisory Opinion OC-23/17, IACtHR Series A No 23 (15 November 2017), [78].

rights violation'.<sup>173</sup> By recognising the effective control over activities, the IACtHR arguably imposes at least an obligation of due diligence on states regarding the extraterritorial effects of their acts or omissions.

## **b) Precautionary Measures**

73. The IACHR actively employs precautionary measures as immediate protective responses to threats consistent with patterns of TNR. Under Article 25 of its Rules of Procedure,<sup>174</sup> the IACHR acts when circumstances present seriousness, urgency, and a risk of irreparable harm, irrespective of the beneficiary's geographical location. These measures extend not only to individuals in exile or diaspora, but also to their family members who remain within repressive states.
74. *Willih Narváez González & Alberto Miranda Herrera (Nicaragua, 2021)*.<sup>175</sup> In 2021, the IACHR granted precautionary measures to Nicaraguan journalists Willih Fernando Narváez González and Alberto José Miranda Herrera, who considered fleeing the country in response to sustained threats, harassment, surveillance, and criminalisation by state and para-state actors. The Commission determined that their situation met the threshold of seriousness, urgency, and risk of irreparable harm, and called on Nicaragua to adopt protective measures to safeguard their lives and personal integrity, including that of their family members, irrespective of their location.
75. *Katya Milady Reyes Ortiz (Nicaragua, 2022)*.<sup>176</sup> In 2022, the IACHR extended precautionary measures to Nicaraguan journalist Katya Milady Reyes Ortiz in recognition of the serious and urgent risks she faced as a result of her critical reporting. In its public statement, the IACHR cited ongoing stigmatisation, criminalisation, and threats by state authorities as grounds for the expanded protection, affirming the need to safeguard her life and personal integrity.
76. *Reinaldo Picado Miranda (Costa Rica, 2024)*.<sup>177</sup> In 2024, the IACHR has directly addressed the needs of exiled defenders by granting precautionary measures in cross-border contexts. In its decision, the IACHR granted a precautionary measure to Reinaldo Picado Miranda, and ordered Costa Rica

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<sup>173</sup> *ibid*, [104] (emphasis added).

<sup>174</sup> IACHR, 'Rules of Procedure of the Inter-American Commission on Human Rights' (OAS, last amendment 2 September 2011) <<https://www.oas.org/en/IACHR/jsForm/?File=/en/iachr/mandate/basics/rulesiachr.asp>> accessed 16 August 2025, Article 25.

<sup>175</sup> IACHR Res 52/2021 (Precautionary Measure No. 311-21 and 462-21) (11 July 2021) <[https://www.oas.org/en/iachr/decisions/mc/2021/res\\_52-21\\_mc\\_311-21%20and%20462-21\\_ni\\_en.pdf](https://www.oas.org/en/iachr/decisions/mc/2021/res_52-21_mc_311-21%20and%20462-21_ni_en.pdf)> accessed 11 June 2025.

<sup>176</sup> IACHR Res 64/2022 (Precautionary Measure No. 693-18) (14 November 2022) <[https://www.oas.org/en/iachr/decisions/mc/2022/res\\_64-22\\_mc\\_693-18\\_ni\\_en.pdf](https://www.oas.org/en/iachr/decisions/mc/2022/res_64-22_mc_693-18_ni_en.pdf)> accessed 11 June 2025.

<sup>177</sup> IACHR, Res 90/2024 (Precautionary Measure No. 330-24) (26 November 2024) OEA/Ser.L/V/II <[https://www.oas.org/en/iachr/decisions/mc/2024/res\\_90-2024\\_mc\\_330-24\\_cr\\_en.pdf](https://www.oas.org/en/iachr/decisions/mc/2024/res_90-2024_mc_330-24_cr_en.pdf)> accessed 2 September 2025, [43].

to refrain from deporting or extraditing the Nicaraguan national due to the risk of persecution. This illustrates the protective function of precautionary measures in an extraterritorial setting.

77. *Daniel García Morillo (Venezuela, February 2025)*.<sup>178</sup> In February 2025, the IACHR granted precautionary measures to Venezuelan HRD Daniel García Morillo in response to credible threats of retaliation linked to his activism. The Commission acknowledged the risk not only to his personal safety but also to his family members and his security while in transit, underscoring the urgency and gravity of the situation.
78. *Carlos Julio Rojas (Venezuela, January 2025)*.<sup>179</sup> In January 2025, the IACHR issued precautionary measures for Venezuelan journalist and social activist Carlos Julio Rojas, citing threats and risks arising from his professional activities and public advocacy. The Commission found that the situation warranted urgent protection to safeguard his life and personal integrity.
79. These precautionary measures demonstrate the IACHR's recognition of cross-border threats, extending protection not only to HRDs within their home states but also to those in exile and their families. In other words, precautionary measures criteria apply regardless of the beneficiary's location. In doing so, the Inter-American system implicitly addresses the phenomenon of TNR, using precautionary measures as a practical mechanism to respond to protection gaps left by ineffective or complicit domestic authorities.

### c) Country and Thematic Reports

80. Country-specific reports regularly issued by the IACHR, notably for Nicaragua (2022<sup>180</sup> and 2024)<sup>181</sup> and Venezuela (2023)<sup>182</sup>, explicitly document state-sponsored extraterritorial repression, including reprisals and threats against family members of exiled HRDs. These reports offer detailed analysis and monitoring of state conduct, which contributes directly to a broader understanding of TNR patterns within the region. The IACHR's most recent report on

<sup>178</sup> IACHR Res 15/2025 (Precautionary Measure No. 45-25) (18 February 2025)

<[https://www.oas.org/en/iachr/decisions/mc/2025/res\\_15-25\\_mc\\_45-25\\_ve\\_en.pdf](https://www.oas.org/en/iachr/decisions/mc/2025/res_15-25_mc_45-25_ve_en.pdf)> accessed 11 June 2025.

<sup>179</sup> IACHR Res 7/2025 (Precautionary Measure No. 205-24) (20 January 2025)

<[https://www.oas.org/en/iachr/decisions/mc/2025/res\\_7-25\\_mc\\_205-24\\_ve\\_en.pdf](https://www.oas.org/en/iachr/decisions/mc/2025/res_7-25_mc_205-24_ve_en.pdf)> accessed 11 June 2025.

<sup>180</sup> IACHR, 'Annual Report of the Inter-American Commission on Human Rights 2022: Chapter IV.B: Nicaragua' (1 April 2023) <[https://www.oas.org/en/iachr/docs/annual/2022/Chapters/8-IA2022\\_Cap\\_4B\\_NI\\_EN.pdf](https://www.oas.org/en/iachr/docs/annual/2022/Chapters/8-IA2022_Cap_4B_NI_EN.pdf)> accessed 16 August 2025, [4], [8-9], [12], [35], [48], [56], [79], [91], [122-125] and ft 310.

<sup>181</sup> IACHR, 'Annual Report of the Inter-American Commission on Human Rights 2024: Chapter IV.B: Nicaragua' (26 March 2025) <[https://scm.oas.org/pdfs/2025/CIDH/IA2024\\_4B\\_NIC\\_EN.pdf](https://scm.oas.org/pdfs/2025/CIDH/IA2024_4B_NIC_EN.pdf)> accessed 3 September 2025, [142].

<sup>182</sup> IACHR, 'Annual Report of the Inter-American Commission on Human Rights 2023, Chapter IV.B: Venezuela' (31 December 2023)

<[https://www.oas.org/en/iachr/docs/annual/2023/chapters/IA2023\\_Cap\\_4B\\_Venezuela\\_ENG.PDF](https://www.oas.org/en/iachr/docs/annual/2023/chapters/IA2023_Cap_4B_Venezuela_ENG.PDF)> accessed 16 August 2025, [33], [58], [76] and [91].

Nicaragua<sup>183</sup> and a recent report from the OAS Panel of Independent Experts on the Possible Commission of Crimes Against Humanity in Venezuela<sup>184</sup> are two of the rare occasions in which the Inter-American system has directly used the expression ‘transnational repression’. The latter report recommended that the OAS and the IACHR ‘[f]acilitate regional coordination to respond to Venezuela’s extraterritorial persecution and transnational repression’.<sup>185</sup>

81. Thematic Reports also help illustrate patterns of TNR in the region. For example, IACHR’s Report on the Situation of Human Rights Defenders in the Americas (2006) extensively documents threats, harassment, and reprisals faced by HRDs across the Americas. It explicitly recognises that defenders working both within and beyond national borders frequently experience state-sponsored intimidation and violence. Although the report does not explicitly use the term ‘transnational repression’, it provides detailed evidence of how HRDs face risks associated with cross-border advocacy and solidarity, underscoring the implicit recognition of extraterritorial obligations and responsibilities by states to protect defenders from threats irrespective of their geographic location.<sup>186</sup>
82. In its turn, the IACHR’s Report on the Criminalization of the Work of Human Rights Defenders (2016) critically addresses the phenomenon whereby states manipulate judicial systems to criminalise and silence HRDs. The relevance to TNR emerges implicitly, as the Commission identifies the misuse of criminal charges (including those filed in absentia) as a tool frequently employed by states to repress and punish defenders who have fled persecution and continue their advocacy abroad. Thus, this report provides crucial insight into how judicial harassment functions as a mechanism of TNR, undermining the safety and legitimacy of defenders in exile.<sup>187</sup>
83. The Annexe on Economic, Social, Cultural and Environmental Rights (REDESCA) of the 2023 Annual Report identifies systematic threats and violence against defenders advocating for economic, social, cultural, and environmental rights. It specifically emphasises that HRDs forced into exile due to persecution continue to face threats, surveillance, and reprisals affecting their ability to advocate effectively from abroad. By explicitly documenting these ongoing threats and their extraterritorial dimensions, this report indirectly highlights critical aspects of TNR,

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<sup>183</sup> IACHR, Annual Report on Nicaragua, 2024 (n 181), [142].

<sup>184</sup> OAS, ‘From Detention to Torture and Disappearance: the Consolidation of State Terror in Venezuela’ (May 2025) <[https://www.oas.org/fpdb/press/Report\\_2025.pdf](https://www.oas.org/fpdb/press/Report_2025.pdf)> accessed 3 September 2025, 59.

<sup>185</sup> *ibid.*

<sup>186</sup> IACHR, 2006 Report on the Situation of HRDs in Americas (n 164), [36], [102], [104], [141], [246].

<sup>187</sup> IACHR, 2015 Report on Criminalization of HRDs (n 165), [26], [133-135], [207] and p 27.

particularly the challenges faced by exiled HRDs working on contentious economic and environmental issues.<sup>188</sup>

84. The general IACHR's Annual Report of 2023 addresses the deteriorating situation of HRDs regionally, with explicit sections devoted to documenting instances of extraterritorial persecution, including threats to family members of defenders abroad. This report provides detailed country-specific examples demonstrating how authoritarian governments systematically target diaspora communities and exiled HRDs, implicitly addressing key dimensions of TNR, including cross-border harassment, intimidation, and the chilling effects of these actions on advocacy.<sup>189</sup>
85. Very recently, there were a few occasions in which bodies of the Inter-American system expressly used the 'transnational repression' language. In 2024, the IACHR issued a call for consultation for the preparation of a thematic report on the use of digital surveillance technologies in the Americas, and one of its aims was to explore what role digital surveillance technologies play in TNR.<sup>190</sup> In a report published in April 2025, the Special Rapporteur for Freedom of Opinion and Expression noted the 'intensification of transnational repression against exiled journalists'.<sup>191</sup> In a press release from July 2025, the IACHR condemned 'transnational repression' by the Nicaraguan regime.<sup>192</sup> The expression was also used by a representative of the Citizen Forum of the Americas during the 55<sup>th</sup> General Assembly of the OAS.<sup>193</sup>
86. In sum, the Inter-American system addresses TNR mostly implicitly and sparsely, yet meaningfully, through jurisprudence, thematic and country-specific reports, precautionary measures and press releases. Despite these efforts, the absence of a formally defined and systematic legal framework

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<sup>188</sup> IACHR, 'VII Annual Report of the Office of the Special Rapporteur on Economic, Social, Cultural and Environmental Rights (REDESCA) of the Interamerican Commission on Human Rights (IACHR), 2023' (29 December 2023) OEA/Ser.L/V/II. Doc. 180 <[https://www.oas.org/en/iachr/docs/annual/2023/docs/IA2023\\_Anexo\\_REDESCA-EN.pdf](https://www.oas.org/en/iachr/docs/annual/2023/docs/IA2023_Anexo_REDESCA-EN.pdf)> accessed 11 June 2025, [188-189], [521].

<sup>189</sup> IACHR, 'Annual Report of the Inter-American Commission on Human Rights 2023' (31 December 2023) OEA/Ser.L/V/II. Doc. 386 rev 1 <[https://www.oas.org/en/iachr/docs/annual/2023/IA2023\\_ENG.pdf](https://www.oas.org/en/iachr/docs/annual/2023/IA2023_ENG.pdf)> accessed 11 June 2025, 203 at [357-371], 645 at [78], 662 at [150], 705 at [128].

<sup>190</sup> IACHR, 'Consultation questionnaire on digital surveillance technologies and human rights for the preparation of a thematic report' (2024) <<https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/reports/questionnaires.asp&Q=58>> accessed 3 September 2025.

<sup>191</sup> IACHR, 'Exile of journalists and freedom of expression' (15 April 2025), OEA/Ser.L/V/II CIDH/RELE/INF.30/25 <<https://www.oas.org/en/iachr/expression/reports/exilioen.pdf>> accessed 3 September 2025, [99-103].

<sup>192</sup> IACHR, 'Nicaragua: IACHR condemns transnational repression' (Press Release, 14 July 2025) <[https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media\\_center/preleases/2025/140.asp&utm\\_content=country-nic&utm\\_term=class-mon](https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media_center/preleases/2025/140.asp&utm_content=country-nic&utm_term=class-mon)> accessed 3 September 2025.

<sup>193</sup> OAS, 'Summary of Presentations of Coalitions of Civil Society and Social Actors' (25 June 2025) <[https://scm.oas.org/pdfs/2025/aginf803\\_enga.pdf](https://scm.oas.org/pdfs/2025/aginf803_enga.pdf)> accessed 3 September 2025.

addressing TNR creates substantial enforcement gaps, underscoring the need for explicit recognition and structured responses to better address this evolving phenomenon.

## QUESTION 2 – TNR DEFINITION

**Are there any references to a specific definition of TNR by bodies or mechanisms within this system? Please identify and compare key definitional elements.**

87. The Inter-American Human Rights System currently lacks a formal definition of TNR. The only description of TNR can be found in the latest report of the Special Rapporteur for Freedom of Expression, according to which TNR, ‘also known as extraterritorial repression, refers to the extension of government persecution beyond its own territorial jurisdiction, with the aim of intimidating and silencing individuals who have fled the country for political reasons’.<sup>194</sup> The report lists, as forms of TNR:

a) coercive measures against family members who remain in the country of origin; b) confiscation of property and assets; c) imposition of financial obstacles, including restrictions on international banking transactions and closure of accounts; d) misuse of international cooperation mechanisms, such as INTERPOL notices and extradition requests; e) arbitrary stripping of nationality; and f) attacks in the digital environment through surveillance software, coordinated disinformation campaigns, and distributed denial of service (DDoS) attacks against news websites.<sup>195</sup>

88. However, as demonstrated above, the TNR phenomenon is implicitly recognised and described in cases or documents involving related concepts and practices, such as extraterritorial jurisdiction, cross-border repression, reprisals against exiled HRDs, and harassment of diaspora communities and their families. An analysis of various institutional outputs and jurisprudence reveals that, while a comprehensive and standardised definition has yet to be adopted by Inter-American bodies, the system consistently addresses acts that closely align with established international conceptions of TNR. Key definitional elements implicitly recognised by the Inter-American system can be distilled from thematic reports, precautionary measures, jurisprudence, and country-specific observations, as follows.

- **Perpetrators:** the acts of TNR documented by the IACHR frequently involve state actors or state-affiliated proxies, including intelligence agencies and paramilitary groups, who target individuals abroad.
- **Victims:** explicitly identified victims predominantly include exiled HRDs, journalists, political activists, and occasionally, their family members who remain in the home state or

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<sup>194</sup> IACHR, ‘Exile of journalists and freedom of expression’ (n 191), [99].

<sup>195</sup> *ibid.*

reside elsewhere. This victimology is evident in precautionary measures and reports concerning Nicaragua (Resolution 52/21) and Venezuela (precautionary measures for Daniel García Morillo, Carlos Julio Rojas).

- **Intent:** the system implicitly recognises the intent behind TNR as aiming to silence, deter, or punish dissent, advocacy, and criticism directed against the originating state. This is particularly underscored in precautionary measures issued for individuals explicitly targeted due to their activism or journalistic activities critical of repressive regimes.
- **Geographical Scope:** the concept of extraterritoriality is inherently recognised by the system. Acts documented include harassment, surveillance, threats, and attempted extraditions affecting individuals beyond the state's territorial boundaries. The system's precautionary measures frequently extend protective obligations to individuals irrespective of their geographic location, underscoring the recognition of cross-border implications.
- **Nature of Acts:** the Inter-American system identifies a variety of acts constituting TNR, including extrajudicial killings, enforced disappearances, abductions, unlawful surveillance, intimidation, threats, criminalisation through prosecution in absentia, and harassment against family members and associates.

89. Despite these implicit acknowledgements, gaps persist within the Inter-American framework. Primarily, there is a lack of an explicit legal doctrine or coherent strategy systematically addressing TNR. Institutional responses, such as precautionary measures by the IACHR, are generally *ad hoc*, highlighting an enforcement gap, particularly against powerful authoritarian regimes capable of disregarding international recommendations without consequence.
90. Consequently, for a robust protection framework, the Inter-American system would benefit from adopting a clearly articulated definition that incorporates explicit elements of intent, perpetrator identification, victimology, the nature of acts, and explicit geographic considerations. Such clarity would enhance legal predictability, strengthen advocacy efforts, and facilitate more effective state accountability mechanisms for addressing TNR.

### QUESTION 3 – LEGAL PROTECTION AND GAPS

**How do existing IHRL provisions protect HRDs from TNR in this system? What gaps exist, if any, in IHRL in the protection of HRDs from TNR?**

91. The Inter-American Human Rights System provides implicit protection against TNR through various human rights provisions, institutional practices, and protective mechanisms. This section

critically evaluates key provisions of the ACHR and additional mechanisms, examining how they protect HRDs from TNR and identifying existing enforcement and doctrinal gaps.

**a) American Convention on Human Rights (ACHR) Provisions<sup>196</sup>**

92. Article 1(1): Obligation to Respect Rights. Article 1(1) mandates states to respect and ensure human rights for all individuals within their jurisdiction, regardless of nationality or location. This provision implicitly extends protections extraterritorially, holding states accountable for cross-border actions targeting exiled HRDs. However, interpretations have been context-specific, resulting in inconsistent recognition of states' extraterritorial responsibilities. Explicit doctrinal clarity is lacking, leaving gaps in systematic enforcement.
93. Articles 8 and 25: Fair Trial, Due Process, and Judicial Protection. Articles 8 and 25 jointly ensure fair trials, due process, and access to judicial remedies. These provisions are particularly relevant for exiled HRDs facing criminal charges in absentia, often employed by authoritarian regimes as tools of TNR. While the Court has extensively affirmed these rights, the practical enforcement is weakened by states disregarding IACtHR judgments or IACHR recommendations, reflecting a crucial implementation gap.
94. Article 13: Freedom of Expression. Article 13 safeguards the freedom to seek, receive, and impart information, central to the work of HRDs advocating abroad. Although robust jurisprudence supports this right, TNR often involves surveillance, harassment, and intimidation to suppress expression transnationally. The ACHR's provisions inadequately address the extraterritorial dimension explicitly, relying instead on implicit interpretations, which reduces predictability and protective efficacy.
95. Article 22: Freedom of Movement and Residence. Article 22 establishes the right to freedom of movement, residence, and the right to seek asylum. Its relevance to TNR is significant, as exiled HRDs frequently face cross-border threats, forced returns, or unlawful extradition attempts. Despite strong normative foundations, enforcement challenges persist, particularly when states hosting HRDs fail to protect adequately against extraterritorial threats, highlighting critical accountability gaps within host-state obligations.

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<sup>196</sup> American Convention on Human Rights (Pact of San Jose) (entered into force 18 July 1978) OAS Treaty Series No 36 (1969) reprinted in Basic Documents Pertaining to Human Rights in the Inter-American System OEA/Ser.L.V/II.82 doc.6 rev.1 at 25 (1992) (ACHR).

## **b) Inter-American Convention on Forced Disappearance of Persons**

96. The Inter-American Convention on Forced Disappearance of Persons,<sup>197</sup> a binding regional treaty that classifies forced disappearance as a crime under international law, is also relevant to the context of TNR against HRDs. It obliges State Parties to investigate, prosecute, and punish those responsible for such acts, while also affirming the rights of victims and their families to truth, justice, and reparation. In line with broader human rights instruments in the region, the Convention reiterates the obligation of states to respect and ensure rights for all individuals subject to their jurisdiction, regardless of their physical location.

## **c) Additional Protection Mechanisms**

97. *Precautionary and Provisional Measures.* Precautionary and provisional measures are the primary tools used by the IACHR and IACtHR to rapidly respond to threats against HRDs, explicitly addressing cross-border risks. While effective in theory, these measures face practical limitations. Powerful authoritarian regimes frequently ignore such measures, illustrating a critical enforcement gap, thus limiting their protective potential in cases involving diaspora persecution.
98. *Public Statements, Resolutions, and Regional Coordination Efforts.* Public statements by the IACHR, its Rapporteurs, and resolutions from the OAS General Assembly have significant normative authority, raising international awareness and pressure. However, they lack binding enforcement mechanisms, limiting their practical impact on state behaviour. Regional cooperation initiatives have enhanced protective frameworks but remain inconsistent and under-resourced, failing to comprehensively address systematic transnational threats.
99. *Extraterritorial Responsibility and Host State Accountability.* The Inter-American system implicitly recognises state responsibility for transnational acts through precautionary measures, jurisprudence and Advisory Opinions. Yet, explicit doctrinal clarity on extraterritorial protections remains absent. Host states often evade accountability for failing to safeguard exiled HRDs, with no systematic enforcement mechanism compelling them to act, demonstrating a doctrinal and practical gap.

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<sup>197</sup> Inter-American Convention on Forced Disappearance of Persons (entered into force 28 March 1996) OAS Treaty Series No A-60 (1994).

#### **d) Gaps in Legal Doctrine and Recommendations**

100. Implementation and Enforcement Gaps. A fundamental gap is the limited binding nature and inconsistent enforcement of Commission recommendations, particularly against authoritarian states adept at resisting international pressure. This enforcement deficit undermines the effectiveness of precautionary measures, leaving HRDs vulnerable to continued threats despite Inter-American intervention.
101. Gaps in Legal Doctrine and Recommendations. The absence of an explicit extraterritorial protection doctrine weakens the Inter-American system's capacity to address TNR effectively. Adopting a clearly articulated legal framework recognising extraterritorial obligations, clearly defining TNR, strengthening enforcement mechanisms, and enhancing regional coordination are crucial steps toward robustly protecting HRDs from transnational threats.
102. In summary, apart from rare explicit mentions to 'transnational repression', the Inter-American Human Rights System does not have an official definition of TNR. Nevertheless, it implicitly acknowledges and addresses its core components through jurisprudence, thematic and country-specific reports, and precautionary measures. Many cases and documents recognised the extraterritorial jurisdiction regarding human rights obligations. This includes the state's duty to prevent, investigate, and punish enforced disappearances, even when these acts occur abroad. The IACHR's annual and thematic reports consistently document extraterritorial threats targeting exiled HRDs and their families. Precautionary measures have become the primary mechanism for immediate protection, frequently granted to defenders and their families, regardless of their location.
103. However, these responses remain mainly patchy, informal, and reactive rather than systematic. There is no explicit legal doctrine grounding extraterritorial protection of HRDs, no binding enforcement mechanism to compel compliance with IACHR's recommendations, and only limited jurisdictional clarity over host states' obligations toward exiled HRDs. These gaps hinder the system's capacity to safeguard HRDs at risk from transnational threats.

# AFRICAN HUMAN RIGHTS SYSTEM

## INTRODUCTION

104. TNR has become an increasingly visible threat to African HRDs, particularly through government practices projecting coercive power beyond their borders to silence critics who have fled abroad. From spyware attacks on exiled journalists to cross-border abductions and politicised extradition requests, states are demonstrating that distance is no longer a reliable shield for activists, whistle-blowers, or dissidents. Although the African human rights architecture was not designed with this phenomenon in mind, the ACHPR and a growing coalition of civil-society actors have begun to document, debate, and condemn these extraterritorial assaults on civic space. Yet, as of today, the system offers only piecemeal guidance: there is no authoritative definition of TNR, no dedicated treaty on the protection of HRDs, and enforcement of existing norms remains uneven.

## QUESTION 1 – DOCUMENTS AND RESOURCES

**What are the relevant documents and resources on TNR of HRDs? When relevant, please also identify resources on transnational/extraterritorial human rights violations against HRDs.**

### **a) ACHPR's Resolutions and Studies**

105. The ACHPR has increasingly acknowledged the issue of HRDs forced into exile and targeted across borders. Notably, in 2020, the Commission adopted a Resolution on the Need to Prepare a Study on the Situation of Human Rights Defenders in Exile in Africa (ACHPR/Res.439 (EXT.OS/XXVII) 2020).<sup>198</sup> This resolution recognised 'the increase in the number of defenders in exile as a result of threats, attacks, general insecurity and conflicts they are victims of because of their human rights activities' and mandated the ACHPR's Special Rapporteur on HRDs to conduct a continent-wide study on the realities faced by transnationally exiled defenders.
106. That study was developed with support from civil society networks (East and Horn of Africa Defenders Project and the Pan-African Human Rights Defenders Network) and, after a consultative process, was launched during the ACHPR's 73rd Ordinary Session in October 2022.<sup>199</sup>

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<sup>198</sup> ACHPR Res 439 (EXT.OS/XXVII) 2020 (n 13).

<sup>199</sup> ACHPR, 'Special Rapporteur on Human Rights Defenders and Focal Point on Reprisals against Human Rights Defenders in Africa – 73OS' (29 October 2022) <<https://achpr.au.int/index.php/en/intersession-activity-reports/special-rapporteur-human-rights-defenders-and-focal-point-reprisals-3>> accessed 11 July 2025 (ACHPR, SR on HRDs 73OS).

The study serves as a key resource in understanding patterns of transnational or extraterritorial repression affecting African HRDs. It highlights challenges that exiled defenders face in host countries and the precarious situation of both short-term and prolonged transnational exile, including the negative impact on their human rights work.

#### **b) ACHPR's Session Debates and Panel Discussions**

107. The Commission has used its Ordinary Sessions to draw attention to TNR. For example, at its 83rd Ordinary Session (May 2025), a high-level panel was dedicated to 'silencing violence against African defenders', explicitly discussing cross-border threats. During this session, the ACHPR's Chair and Special Rapporteur on HRDs, Commissioner Rémy Ngoy Lumbu, warned that '[s]tates no longer hesitate to use digital surveillance, disinformation, [and] cyber-attacks (...). States even cooperate to track HRDs in exile.'<sup>200</sup> The panellists – including the UN Special Rapporteur on HRDs and African National Human Rights Institution representatives – detailed the full spectrum of reprisals across borders, noting that defenders face 'intimidation, harassment either online or physically', as well as 'arrests, attacks, kidnappings and forced disappearance, transnational reprisals, and extrajudicial killings'. Crucially, these reprisals affect not only the exiled HRDs themselves but also 'people (family, friends, colleagues...) close to the targeted HRDs',<sup>201</sup> who may remain in the country of origin.
108. The Commission's *Final Communiqué* of the 83rd Session echoed these concerns, and the session concluded with specific calls on states to 'refrain from participating in transnational repression'<sup>202</sup> and to stop restricting civic space. Similarly, at the 83rd Session side events, NGOs like DefendDefenders and AfricanDefenders underscored the rise of TNR, including digital repression, targeting African HRDs in exile,<sup>203</sup> further feeding into the Commission's awareness.

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<sup>200</sup> Adélaïde Etong Kame, 'ACHPR83: Protecting Human Rights Defenders from Violence' (ISHR, May 6, 2025) <<https://ishr.ch/latest-updates/achpr83-silencing-violence-against-human-rights-defenders/>> accessed 29 August 2025.

<sup>201</sup> ACHPR, SR on HRDs 73OS (n 199).

<sup>202</sup> ACHPR, 'Final Communiqué of the 83rd Ordinary Session of the African Commission on Human and Peoples' Rights' (Press Release, 22 May 2025) <<https://achpr.au.int/en/news/press-releases/2025-05-22/final-communique-83rd-ordinary-session-african-commission-human>> accessed 21 August 2025.

<sup>203</sup> DefendDefenders, 'DefendDefenders and AfricanDefenders Statements at ACHPR83' (2 May 2025) <<https://defenddefenders.org/defenddefenders-and-africandefenders-statements-at-achpr83-2/>> accessed 29 August 2025.

### **c) Special Mechanism Reports and Communications**

109. The ACHPR's Special Rapporteur on HRDs (who also serves as Focal Point on Reprisals<sup>204</sup>) regularly reports on threats to defenders. In recent inter-session activity reports, the Special Rapporteur has highlighted the issue of reprisals against those who cooperate with international mechanisms and the plight of HRDs in exile, particularly in the aforementioned 2022 report documenting 'realities experienced by human rights defenders in exile in Africa'.<sup>205</sup> While many urgent communications by the Special Rapporteur address domestic harassment, some have involved cross-border instances.
110. In a more international case, for instance, Turkish businessman and Hizmet-movement supporter Tufan Feyzi Nizamoglu, a recognised refugee in Dakar, was arrested after Turkey asked Senegal to extradite him.<sup>206</sup> Senegal stripped him of refugee status and prepared the handover, effectively extending Ankara's crackdown on dissent across borders. The ACHPR's Urgent Letter of Appeal urged Senegal to halt the extradition, stressing that compliance would facilitate transnational persecution and violate the Charter's guarantees of dignity, liberty, free expression and non-refoulement (Articles 5, 6, 9 and 12(3)).<sup>207</sup> In August 2023, Senegal's Supreme Court annulled the extradition order, allowing Nizamoglu to stay.

### **d) Other African System Sources**

111. Beyond the Commission, other regional bodies have started to reference these issues in their official communications, which can serve as a resource for further investigation. The African Union's human rights discourse, such as the Grand Bay (1999)<sup>208</sup> and Kigali (2003)<sup>209</sup> Declarations, for instance, affirmed support for the UN Declaration on HRDs and called on states to implement it. Building on that, the Cotonou Declaration (2017)<sup>210</sup> – an outcome of an African HRDs colloquium endorsed by the ACHPR – identified emerging threats to defenders. It specifically

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<sup>204</sup> ACHPR Res 273(LV)2014 (12 May 2014) <<https://achpr.au.int/en/adopted-resolutions/273-resolution-extending-scope-mandate-special-rapporteur-hu>> accessed 29 August 2025.

<sup>205</sup> ACHPR, SR on HRDs 73OS (n 199).

<sup>206</sup> Madeleine Gueye, 'Le Sénégal refuse l'extradition d'un ressortissant turc : Cour supreme' (5 August 2023) <<https://sn.notrecontinent.com/2023/08/05/le-senegal-refuse-letradition-dun-ressortissant-turc-cour-supreme/>> accessed 11 July 2025.

<sup>207</sup> ACHPR, '52nd and 53rd Combined Activity Reports of the African Commission on Human and Peoples' Rights' (8 June 2023) <<https://achpr.au.int/sites/default/files/files/2023-06/eng-achpr-52nd-53rdactivity-report.pdf>> accessed 11 July 2025.

<sup>208</sup> Grand Bay (Mauritius) Declaration and Plan of Action (First OAU Ministerial Conference on Human Rights, 12-16 April 1999).

<sup>209</sup> Kigali Declaration (1st African Union (AU) Ministerial Conference on Human Rights, 8 May 2003).

<sup>210</sup> Cotonou Declaration on strengthening and expanding the protection of all Human Rights Defenders in Africa (2nd International Symposium on Human Rights Defenders in Africa, 27 March – 1 April 2017).

warned that counterterrorism and cybercrime laws were being misused to restrict civic space and noted the need to address new challenges faced by defenders.

112. African civil society organisations have also produced reports and statements on TNR. For example, a coalition of NGOs recently appealed to the ACHPR to press Egypt to end its harassment of exiled journalists abroad<sup>211</sup>, and to Eritrea to cease extraterritorial persecution of its diaspora.<sup>212</sup> These civil society inputs often feed into the ACHPR's own resolutions or state-review recommendations. Thus, within the African human rights system, there is a growing body of resolutions, session *communiqués*, panel discussions, and reports that recognise TNR as a serious threat to HRDs, even if much of the documentation is recent (post-2020) and still evolving.

## QUESTION 2 – TNR DEFINITION

**Are there any references to a specific definition of TNR by bodies or mechanisms within this system? Please identify and compare key definitional elements.**

113. Within the African human rights system, there is not yet a single, authoritative definition of TNR adopted in a treaty or general comment. Unlike some international forums, the ACHPR and related African mechanisms have used the term descriptively rather than formally defining it. However, various statements and documents by African bodies have characterised TNR by its key elements, which largely align with the term's global understanding.
114. *Perpetrators and Victims*. The ACHPR's discourse makes clear that the perpetrators of TNR are typically **state actors (often authoritarian governments)** targeting **HRDs, activists, journalists, or dissidents** who have fled or are operating outside the country. For example, the Commission's Special Rapporteur on HRDs has explicitly described state cooperation to hunt down 'HRDs in exile'.<sup>213</sup> The victims are thus those individuals who, due to their human rights work or opposition to the regime, continue to face threats even after leaving their home country. In African contexts, this often involves exiled democracy activists, journalists in the diaspora, or members of persecuted political groups abroad. A vivid illustration was provided in a civil society letter regarding Eritrea, noting that Eritrean authorities carry out 'extraterritorial attacks aimed at maintaining control, silencing dissent and discouraging criticism of the authorities' among diaspora

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<sup>211</sup> International Federation for Human Rights, 'Egypt: End transnational repression against exiled journalist Basma Mostafa' (24 June 2025) <<https://www.fidh.org/en/region/north-africa-middle-east/egypt/egypt-end-transnational-repression-against-exiled-journalist-basma>> accessed 17 July 2025.

<sup>212</sup> Selam Kidane, 'Research findings and the impact of transnational repression' (February 2025) <<https://committees.parliament.uk/writtenevidence/136503/pdf/>> accessed 29 August 2025.

<sup>213</sup> ACHPR, 'Special Rapporteur on Human Rights Defenders and Focal Point on Reprisals in Africa - 83OS' (8 May 2025) <<https://achpr.au.int/index.php/en/intersession-activity-reports/special-rapporteur-human-rights-defenders>> accessed 29 August 2025 (ACHPR, SR on HRD, 83OS).

communities.<sup>214</sup> These attacks have been aptly termed ‘transnational repression’ by the UN Special Rapporteur on Eritrea,<sup>215</sup> a phrase echoed by African NGOs and increasingly understood by the ACHPR in similar terms.<sup>216</sup>

115. *Intent and Goals.* The intent behind TNR, as recognised in African fora, is to extend the repressive reach of the state beyond its borders in order to **intimidate or neutralise critics**. In other words, states seek to ensure that ‘there is no safe haven’<sup>217</sup> for those who oppose them. The ACHPR panel on HRDs noted that transnational reprisals are ‘designed to inflict fear, isolate HRDs and dismantle solidarity and advocacy networks’.<sup>218</sup> By targeting exiles, governments aim to deter others from speaking out, control the narrative (even in international arenas), and often to force expatriate dissidents into silence or return.<sup>219</sup> An analysis on authoritarian trends in East Africa, tellingly titled ‘Repression Without Borders’, observed that acts seek to maintain a climate of fear among exiled opposition, no matter where they are (i.e. to signal that distance offers no protection).<sup>220</sup> The intent is usually punitive (to exact revenge or ‘pay a price’ for dissent) and preventive (to pre-empt overseas activism or testimonies). For instance, requiring exiles to sign ‘repentance’ forms or pay punitive diaspora taxes (as Eritrean embassies do) in order to receive consular services are acts intended to enforce loyalty and punish activism abroad.
116. *Geographical Scope.* By definition, TNR involves a **cross-border or extraterritorial scope**. African mechanisms have noted that repression is no longer a purely domestic phenomenon; it crosses into other jurisdictions. This can mean physical operations in foreign countries (e.g., surveillance, abduction or assassination attempts on another state’s soil) or long-distance tactics that reach exiles

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<sup>214</sup> Amnesty International, ‘Eritrea: Repression Without Borders: Threats to Human Rights Defenders Abroad’ (26 June 2019) <<https://www.amnesty.org/en/wp-content/uploads/2021/05/AFR6405422019ENGLISH.pdf>> accessed 29 August 2025; Charlotte Touati, ‘Instrumentalizing Terror: The Long Arm of Transnational Repression in Eritrea and Algeria’ (15 May 2025) <<https://africanarguments.org/2025/05/instrumentalizing-terror-the-long-arm-of-transnational-repression-in-eritrea-and-algeria/>> accessed 17 July 2025.

<sup>215</sup> HRC, SR on Eritrea, 2024 (n 50).

<sup>216</sup> Human Rights Concern – Eritrea, ‘Transnational Repression Alert’ (14 July 2025) <<https://hrc-eritrea.org/transnational-repression-alert/>> accessed 17 July 2025.

<sup>217</sup> Amnesty International, ‘“These walls have ears”: the chilling effect of surveillance in South Sudan’ (2021) <<https://www.amnesty.org/en/wp-content/uploads/2022/10/AFR6535772021ENGLISH.pdf>> accessed 12 September 2025, 7.

<sup>218</sup> DefendDefenders, ‘Text of intervention: Panel discussion on the issue of intimidation or reprisal against individuals and groups who cooperate or have cooperated with the UN, its representatives and mechanisms in the field of human rights’ (13 September 2012) <<https://defenddefenders.org/text-of-intervention-panel-discussion-on-the-issue-of-intimidation-or-reprisal-against-individuals-and-groups-who-cooperate-or-have-cooperated-with-the-un-its-representatives-and-mechanisms-in-the-f/>> accessed 17 July 2025.

<sup>219</sup> Eg Human Rights Watch, ‘Transnational Repression by Rwanda’ (15 February 2024) <<https://www.hrw.org/news/2024/02/15/transnational-repression-rwanda>> accessed 17 July 2025.

<sup>220</sup> Mohamed Amin Abdishukri, ‘The Condor Playbook: East Africa’s Transnational Crackdown on Dissent’ (Review of African Political Economy, 2 June 2025) <<https://roape.net/2025/06/02/the-condor-playbook-east-africas-transnational-crackdown-on-dissent/>> accessed 17 July 2025.

anywhere (such as online harassment). The ACHPR's language – '[s]tates even cooperate to track HRDs in exile' – suggests an understanding that multiple states may collude (for example, through intelligence-sharing or unlawful renditions) to target a defender who has taken refuge abroad.<sup>221</sup> In Africa, regional dynamics sometimes facilitate this: neighbouring governments might extradite each other's dissidents, or armed groups may operate across porous borders.<sup>222</sup> A worrying example is the reported collusion of some East African governments in surveilling or handing over exiled Rwandan, Sudanese, or Ethiopian dissidents. Civil Society Group Defenders has highlighted the need for 'the sanctity of asylum' to be respected.<sup>223</sup>

117. *Nature of Acts*. The acts comprising TNR can vary from soft tactics to violent ones, all aimed at intimidation. African sources have enumerated many of these acts. They include digital surveillance and cyber-attacks (monitoring exiled activists' communications, hacking their devices or social media); online harassment and disinformation campaigns to smear exiles or deter their supporters; and misuse of legal tools to target activists in diaspora online spaces.<sup>224</sup> More direct attacks include extrajudicial killings and physical violence abroad – sadly, Africa has witnessed cases like the assassination of Rwandan exiles in South Africa and Kenya, or the attempted killings of Ethiopian and South Sudanese dissidents in neighbouring countries.<sup>225</sup> The ACHPR panel explicitly listed 'abductions and forced disappearances [and] extrajudicial killings' as forms of transnational reprisal against HRDs.<sup>226</sup> Additionally, African regimes often resort to 'proxy' repression: targeting the families and colleagues who remain at home.<sup>227</sup>
118. While the ACHPR has not adopted a formal legal definition of 'transnational repression', its work provides a clear picture of the concept. TNR entails state-sponsored persecution that transcends national borders: the perpetrators are typically home states (or their agents), the victims are exiled HRDs or dissidents (along with their families or networks), the intent is to silence and control or

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<sup>221</sup> Adélaïde Etong Kame (n 200).

<sup>222</sup> Eg Paula Cristina Roque, 'Renditioning dissidents: Kenya's secret service to Empire goes retail' (African Arguments, 5 December 2024) <<https://africanarguments.org/2024/12/renditioning-dissidents-kenyas-secret-service-to-empire-goes-retail/>> accessed 17 July 2025.

<sup>223</sup> See Adélaïde Etong Kame (n 200).

<sup>224</sup> Siena Anstis and Ron Deibert, 'Silenced by surveillance: The impacts of digital transnational repression on journalists, human rights defenders, and dissidents in exile' (18 February 2025) <<https://knightcolumbia.org/content/silenced-by-surveillance-the-impacts-of-digital-transnational-repression>> accessed 17 July 2025.

<sup>225</sup> Henry Ridgwell, 'Report: Rwanda using violence to silence critics across the globe' (VOA, 11 October 2023) <<https://www.voanews.com/a/report-rwanda-using-violence-to-silence-critics-across-the-globe/7306031.html>> accessed 17 July 2025.

<sup>226</sup> ACHPR, SR on HRD, 83OS (n 213).

<sup>227</sup> Human Rights Watch, '“We will find you”: A global look at how governments repress nationals abroad' (22 February 2024) <<https://www.hrw.org/report/2024/02/22/we-will-find-you/global-look-how-governments-repress-nationals-abroad>> accessed 17 July 2025 (Human Rights Watch, 2024).

punish, the scope is extraterritorial, and the acts range from surveillance and legal harassment to abduction and assassination. Notably, African stakeholders sometimes use alternate framing like ‘extraterritorial attacks on HRDs’ or ‘reprisals across borders’. For instance, in African human rights dialogues, the phenomenon may be referred to in French as *répression sans frontières* (repression without borders) or in more general terms as ‘cross-border human rights violations against defenders’. Regardless of terminology, the key elements – perpetrator, victim, intent, geographic reach, and methods – coincide with global definitions.

119. One potential nuance in Africa is the recognition that repressive tactics themselves can be transnationally ‘exported’. The International Federation for Human Rights (FIDH) has observed that restrictive NGO laws and other legal arsenal can be exported from one country to another in order to stifle all forms of promoting and defending human rights.<sup>228</sup> Authoritarian practices, thus, diffuse regionally, contributing to a shrinking civic space across borders. This highlights that TNR is not only about chasing individual exiles, but also about regimes learning from each other to adopt laws and policies that curtail civil society (a transnational trend of repression). The African system’s discussions thus encompass both direct extraterritorial attacks and the broader cross-pollination of repressive strategies that imperil HRDs.

### QUESTION 3 – LEGAL PROTECTION AND GAPS

**How do existing IHRL provisions protect HRDs from TNR in this system? What gaps exist, if any, in IHRL in the protection of HRDs from TNR?**

#### **a) Existing Protections in African Human Rights Law**

120. HRDs facing TNR can invoke a number of provisions of IHRL as applicable in the African system. The primary instrument, the African Charter on Human and Peoples’ Rights,<sup>229</sup> though drafted before ‘transnational repression’ was a known term, contains rights that are frequently violated by TNR and thus can provide protection:
121. Right to Life and Personal Security.<sup>230</sup> Article 4 of the African Charter guarantees the right to life and the integrity of the person. If a state agent assassinates or physically harms a defender abroad, it implicates this fundamental right. Likewise, Article 6 (right to liberty and security) is relevant when

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<sup>228</sup> Observatory for the Protection of Human Rights Defenders, ‘Steadfast in Protest: Annual Report 2009’ (18 June 2009) <<https://www.fidh.org/en/issues/human-rights-defenders/archives-human-rights-defenders/annual-reports/Steadfast-in-protest,6686>> accessed 17 July 2025, Chapters ‘Sub-Saharan Africa’ and ‘North Africa/Middle East’.

<sup>229</sup> African Charter on Human and Peoples’ Rights (adopted 27 June 1981, entered into force 21 October 1986) (1982) 21 ILM 58 (African Charter)

<sup>230</sup> *ibid*, Articles 4 and 6.

HRDs are subjected to abduction or arbitrary detention across borders. For example, if a government orchestrates the kidnapping of a refugee defender in a neighbouring country, it is violating the victim's liberty and security of person. The ACHPR has held states accountable for extraterritorial violations of such rights in principle. For instance, in *Mohammed Abdullah Saleh Al Asad v Djibouti*, the ACHPR acknowledged that the Charter 'does not expressly limit the application of the Charter within the territory and jurisdiction of State Parties'.<sup>231</sup> Although there is not a published Commission decision on a cross-border killing of an HRD, by analogy the Charter's protection of life and security extends to everyone under a state's jurisdiction or power – potentially including acts by state agents abroad – through the spatial ('effective control of part of a territory of another state') or the personal ('state exercises control or authority over an individual') model of jurisdiction.<sup>232</sup> Notably, the Commission's own Resolution 196 (2011) on Reprisals affirms that states must protect individuals from any reprisals for cooperation with human rights bodies<sup>233</sup>; this would cover threats or harm whether delivered domestically or abroad. In practice, when TNR has turned deadly, as in the case of Rwandan exile Patrick Karegeya's murder in South Africa<sup>234</sup>, or the disappearance of a Zimbabwean activist in Mozambique<sup>235</sup>, the home states have been condemned by international observers, and the principle of Article 4 stands as a yardstick to judge those acts as unlawful extrajudicial executions.

122. *Freedom from Torture, Cruel or Degrading Treatment.*<sup>236</sup> Article 5 of the Charter prohibits torture and 'all forms of exploitation and degradation of man'. The ACHPR in *Modise v Botswana* interpreted forced stateless exile as degrading treatment contrary to Article 5.<sup>237</sup> By the same token, many tactics of TNR could violate the dignity and mental integrity of both the direct target and their relatives. If an exiled HRD is subjected to inhuman treatment, Article 5 provides a clear prohibition.<sup>238</sup>

<sup>231</sup> *Mohammed Abdullah Saleh Al-Asad v Republic of Djibouti* Communication No. 383/10 (ACHPR, 28 April 2014), [134].  
<sup>232</sup> *ibid.*

<sup>233</sup> ACHPR Res 196(L)2011 (5 November 2011) <<https://achpr.au.int/en/adopted-resolutions/196-resolution-human-rights-defenders-africa-achpres196l2011>> accessed 18 July 2025; ACHPR, 'Draft Declaration on the Promotion of the Role of Human Rights Defenders and their Protection in Africa' (25 January 2024) <<https://achpr.au.int/en/documents/2024-01-25/declaration-promotion-role-human-rights-defenders-and-their-pro>> accessed 18 July 2025.

<sup>234</sup> Lewis Mudge, 'Rwandans charged with murder of exiled critic' (Human Rights Watch, 13 September 2019) <<https://www.hrw.org/news/2019/09/13/rwandans-charged-murder-exiled-critic>> accessed 18 July 2025.

<sup>235</sup> Amnesty International, 'Zimbabwe: Ten years without answers since journalist and activist Itai Dzamaras's enforced disappearance' (7 March 2025) <<https://www.amnesty.org/en/latest/news/2025/03/zimbabwe-ten-years-without-answers-since-journalist-and-activist-itai-dzamaras-enforced-disappearance/>> accessed 18 July 2025.

<sup>236</sup> African Charter, Article 5.

<sup>237</sup> *John K Modise v Botswana* Communication No. 97/93 (ACHPR, 6 November 2000), [32].

<sup>238</sup> ACHPR, 'General Comment No. 4 on the African Charter on Human and Peoples' Rights: The right to redress for victims of torture and other cruel, inhuman or degrading treatment or punishment (Article 5)' (4 March 2017)

123. *Freedom of Movement and Right to Asylum*.<sup>239</sup> Article 12 of the African Charter affirms that ‘every individual shall have the right to leave any country including his own, and to return to his country’, and that persecuted persons have the right to seek asylum in other countries. This provision is highly relevant to the situation of HRDs in exile. For one, it means states should not arbitrarily prevent their nationals from returning. Attempts to strip dissidents of nationality or to indefinitely exile them violate Article 12(2), as the Commission held in the Modise case, where Botswana was found in breach of Article 12 for depriving Modise of the ability to enter his own country.<sup>240</sup> Article 12(3) on the right to seek asylum is also crucial: it places a duty on African states to respect the asylum granted to HRDs by other countries. Thus, if an HRD has obtained refugee status or other protection abroad, their home state should not undermine that by, for example, demanding their refoulement on spurious charges. The principle of *non-refoulement* is reinforced by the OAU Refugee Convention of 1969, which prohibits sending refugees back to persecution.<sup>241</sup> Thus, African human rights law conceptually protects exiled HRDs by affirming their right to remain in safety abroad until they can return voluntarily.
124. *Freedom of Expression, Association, and Assembly*.<sup>242</sup> TNR often aims to punish HRDs for exercising their freedoms of expression and association. The African Charter’s Articles 9, 10, and 11 guarantee the right to receive information and express opinions, the right to free association, and the right to assemble peacefully. These rights do not vanish when an activist crosses a border. If a state extends its crackdown to foreign soil – such as by hacking an exiled blogger’s website or banning an HRD organisation’s activities even abroad<sup>243</sup> – it runs afoul of these protections. The ACHPR has repeatedly emphasised the need to protect civic space and has condemned laws that restrict NGOs and speech.<sup>244</sup> The commission also notes that freedom of expression, association and assembly are under threat from transnational factors like digital surveillance and cyber-laws.<sup>245</sup> Therefore, an HRD targeted by their government through online intimidation or through the

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<[https://policehumanrightsresources.org/content/uploads/2021/07/achpr\\_general\\_comment\\_no.\\_4\\_english.pdf?x49094](https://policehumanrightsresources.org/content/uploads/2021/07/achpr_general_comment_no._4_english.pdf?x49094)> accessed 18 July 2025.

<sup>239</sup> African Charter, Article 12.

<sup>240</sup> *John K Modise v Botswana* (n 237).

<sup>241</sup> OAU Convention Governing the Specific Aspects of Refugee Problems in Africa (adopted 10 September 1969, entered into force 20 January 1974).

<sup>242</sup> African Charter, Articles 9-11.

<sup>243</sup> Joris Joël Fomba Tala, ‘When protests go digital: Assessing the legal framework in the African rights law system’ (Tech Policy Press, 27 June 2024) <<https://www.techpolicy.press/when-protests-go-digital-assessing-the-legal-framework-in-the-african-rights-law-system/>> accessed 18 July 2025.

<sup>244</sup> eg ACHPR Res 569 (LXXVII) 2023 (9 November 2023); Accord, ‘Civic space restrictions in Africa’ (31 May 2018) <<https://www.accord.org.za/conflict-trends/civic-space-restrictions-in-africa/>> accessed 18 July 2025.

<sup>245</sup> ACHPR Res 573 (LXXVII) 2023 (9 November 2023); DefendDefenders, ‘Reflections on the 83rd Ordinary Session of the African Commission on Human and Peoples’ Rights (ACHPR)’ (26 June 2025) <<https://defenddefenders.org/reflections-on-the-83rd-ordinary-session-of-the-african-commission-on-human-and-peoples-rights-achpr/>> accessed 18 July 2025.

export of repressive NGO laws (e.g. forbidding funding from abroad) can claim their Article 9–11 rights are being violated. In a broader sense, the ACHPR’s 2016 Resolution 345 on the situation of HRDs in Africa urged states to implement laws protecting defenders’ rights to speak out and collaborate, reflecting an understanding that these freedoms must be upheld against both domestic and cross-border interference.<sup>246</sup>

125. Right to a Fair Trial and Due Process.<sup>247</sup> Many instances of TNR involve abuse of legal mechanisms; an exiled HRD might be tried *in absentia* on trumped-up charges, or subject to an Interpol Red Notice<sup>248</sup> to facilitate their arrest abroad. The African Charter’s Article 7 guarantees the right to fair trial and due process. If states engage in legal harassment across borders, such as baseless extradition requests or politicised charges of terrorism against exiles, those acts can be challenged as violating due process rights. Indeed, the ACHPR has cautioned states not to misuse anti-terrorism laws against HRDs. In the context of Ethiopia, for instance, there have been concerns that terrorism charges were levied to target diaspora critics, thereby enabling their persecution transnationally.<sup>249</sup> International fair trial standards would deem such practices unlawful, and the African human rights system provides avenues, such as communications and urgent appeals, to contest them.
126. Existing IHRL as applied in Africa does offer a framework to protect HRDs from TNR. Core civil and political rights in the African Charter – life, liberty, integrity, movement, asylum, expression, association, fair trial – all provide shields against the various tactics of TNR. The ACHPR has shown willingness to interpret these provisions dynamically: for example, treating exile as a human rights violation in itself when it is forced, or recognising reprisals, including those targeting families, as a serious abuse.
127. Additionally, ‘soft law’ and guidelines endorsed by the ACHPR, such as the Kigali Declaration 2003’s recognition of HRDs’ role, or the 2019 ACHPR Guidelines on Freedom of Association, reinforce that states must not only refrain from directly harming HRDs, but also protect them – wherever they may be.

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<sup>246</sup> ACHPR Res 345 (L.VIII) 2016 (20 April 2016).

<sup>247</sup> African Charter, Article 7.

<sup>248</sup> Dr Rasmus H Wandall, Dan Suter, and Gabriela Ivan-Cucu, ‘Misuse of Interpol’s Red Notices and impact on human rights – recent developments’ (European Parliament’s Subcommittee on Human Rights, 17 January 2019) <<https://www.statewatch.org/media/documents/news/2019/feb/ep-study-interpol-red-notices.pdf>> accessed 18 July 2025.

<sup>249</sup> ISHR, ‘Submission to the 56th session of the ACHPR on the situation of human rights defenders’ (April 2015) <[https://ishr.ch/sites/default/files/article/files/ethiopia\\_-\\_achpr\\_briefing\\_paper\\_on\\_hrds\\_april\\_2015.pdf](https://ishr.ch/sites/default/files/article/files/ethiopia_-_achpr_briefing_paper_on_hrds_april_2015.pdf)> accessed 18 July 2025.

## b) Gaps and Challenges

128. Despite these legal protections, significant gaps remain in practice when it comes to shielding HRDs from TNR under the African system:
129. *Lack of Explicit Recognition and Definition.* As noted, there is no dedicated African treaty or binding instrument that explicitly names ‘transnational repression’ as a violation. The protection of exiled HRDs is inferred from general rights. This can pose challenges of clarity and emphasis. For instance, while Article 12 of the African Charter covers the right to seek asylum, it doesn’t explicitly reference the behaviour of home states toward their diasporas. Similarly, there is no African Union convention specifically on the protection of HRDs, unlike, for instance, the EU’s guidelines or OSCE commitments. This gap means that efforts to address TNR rely on interpretation and advocacy rather than on a direct legal mandate.<sup>250</sup>
130. *Jurisdictional and Enforcement Issues.* IHRL traditionally binds states with respect to individuals within their territory or jurisdiction.<sup>251</sup> TNR muddles this, as the harm occurs outside the perpetrator state’s territory. While the ACHPR has taken a flexible view by treating acts of a state agent abroad as still imputable to the state, enforcement of such rights remains problematic. The African Court on Human and Peoples’ Rights (ACtHPR) could, in theory, hear cases of extraterritorial violations, but very few cases of that nature have been brought, and only a handful of states allow direct access for individuals/NGOs. No landmark ACtHPR judgment has yet addressed a cross-border reprisal against an HRD.<sup>252</sup> Thus, accountability mechanisms lag behind: an exiled HRD may find it difficult to get their case heard or to enforce a decision against a regime that targeted them. Even within the ACHPR, if a communication is brought by a defender in exile alleging threats or abduction attempts by their home government, issues of proof and jurisdiction can be challenging – the state can claim it was not responsible or contest the Commission’s competence extraterritorially. This is a gap common to all human rights systems, not just Africa, but it is acutely felt given the rise of TNR.

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<sup>250</sup> eg Freedom House, ‘South Africa: Transnational repression on Host Country Case Study’ <<https://freedomhouse.org/report/transnational-repression/south-africa>> accessed 18 July 2025.

<sup>251</sup> For a discussion see Anne Oloo, and Wouter Vandenhoe, ‘Enforcement of extraterritorial human rights obligations in the African human rights system’ in Mark Gibney, et al (eds), *The Routledge handbook on extraterritorial human rights obligations* (Taylor & Francis, 2021), 140–150; Charlotte Cooper, ‘Defending dissidents: Reforming the U.S. criminal response to transnational repression’ (13 February 2025) 58(2) *Columbia Journal of Law & Social Problems* 193.

<sup>252</sup> However, the ACtHPR has recently had its first inter-state case. See Sifiso Nxumalo, ‘DRC v Rwanda: The African Court’s first interstate case’ (Oxford Human Rights Hub, 21 February 2025) <<https://ohrh.law.ox.ac.uk/drc-v-rwanda-the-african-courts-first-interstate-case/>> accessed 18 July 2025.

131. Protection of Families and Indirect Victims. While the Commission recognises that families of HRDs suffer reprisals, international law has limited tools to address such indirect victimisation. The African Charter's Article 18(1) says the family shall be protected by the state, which the Commission in *Modise* invoked by finding Botswana violated Article 18(1) by breaking up Modise's family life.<sup>253</sup> Still, when a government harasses the relatives of an exiled HRD, the family members themselves can file complaints, but the linkage to the HRD's work may not be formally recognised.<sup>254</sup> There is a conceptual gap in holding states accountable for reprisals-by-proxy.
132. National Implementation Gaps. At the domestic level, only a few African countries have adopted laws to protect HRDs (e.g. Côte d'Ivoire, Burkina Faso, Mali, and, most recently, Niger with a 2022 law, and others like Togo and Cameroon drafting bills). Where they exist, these laws mainly focus on protecting HRDs within the country – they do not explicitly cover citizens or residents acting abroad, nor do they necessarily address obligations to not persecute exiles. Moreover, many authoritarian states simply lack any HRD protection framework. This patchwork of national laws is a gap – without a harmonised approach, HRDs in exile rely on the goodwill of host states and international advocacy rather than any guarantee from their home state. The African Union has no binding directive on HRDs akin to what the EU might issue.
133. Emerging Challenges in the Digital Realm. The digital dimension of TNR – such as spyware attacks or online hate campaigns – is not specifically regulated by existing IHRL. While the rights to privacy and free expression apply, there is a regulatory gap concerning state accountability for cyber-surveillance abroad. The ACHPR has acknowledged digital repression as a growing threat, and the Malabo Convention on Cyber Security and Personal Data Protection (2014)<sup>255</sup> is a regional instrument that could offer some norms, but it's not widely ratified nor framed in human rights terms. This is a gap area where jurisprudence is just beginning to develop.

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<sup>253</sup> *John K Modise v Botswana* (n 237).

<sup>254</sup> For a discussion see Andrew Chubb and Kirsten Roberts Lyer, 'Transnational Human Rights Violations: Addressing the Evolution of Globalized Repression through National Human Rights Institutions' (13 August 2024) 16(3) *Journal of Human Rights Practice* 770.

<sup>255</sup> African Union Convention on Cyber Security and Personal Data Protection (adopted 27 June 2014, entered into force 11 May 2020).

# EUROPEAN HUMAN RIGHTS SYSTEM

## INTRODUCTION

134. Compared to other regional systems, the European human rights framework<sup>256</sup> has generated a larger body of material on TNR. One contributing factor is the rise in conflict and political instability in and around the region, which has been accompanied by an increase in cross-border repression targeting exiled dissidents and HRDs. Europe has also become a key destination for HRDs fleeing persecution elsewhere. In response to these pressures, European institutions have produced a substantial body of resolutions, reports, statements, case law and studies that engage with cross-border repression and protection needs.
135. However, despite this heightened institutional activity, the concept of ‘transnational repression’ is only beginning to be recognised as a distinct issue within the HRD discourse in the European human rights system. In recent years, references to TNR have become more frequent in advocacy and documentation efforts, but it has yet to be met with consistent and coordinated responses.

## QUESTION 1 – DOCUMENTS AND RESOURCES

**What are the relevant documents and resources on TNR of HRDs? When relevant, please also identify resources on transnational/extraterritorial human rights violations against HRDs.**

### **a) Council of Europe (CoE) Institutional Framework**

136. A growing number of documents and initiatives within the CoE have addressed TNR, particularly in recent years. The issue has gained prominence in the institutional agenda since the late 2010s and continues to receive increasing attention.
137. In June 2023, PACE adopted a resolution entitled ‘Transnational Repression as a Growing Threat to the Rule of Law and Human Rights’.<sup>257</sup> The resolution opened with a reference to the assassination and dismemberment of Saudi journalist Jamal Khashoggi at the Saudi consulate in Istanbul in October 2018. It cited this as a striking example of TNR, alongside several other cases involving CoE Member States or observer states. The resolution identified the Russian Federation as the most egregious example, referencing the killings of Alexander Litvinenko and the attempted

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<sup>256</sup> The European human rights system has been analysed with reference to both the CoE and the EU, in terms of their institutional responses to TNR and their efforts to protect HRDs across borders. Where relevant, NGOs' reports that document or assess these responses have also been considered.

<sup>257</sup> PACE Resolution 2509 (2023) (n 9).

poisoning of Sergei and Yulia Skripal in the United Kingdom. Other incidents included threats and assaults against Azerbaijani journalists and opposition activists living abroad, the forced landing of a Ryanair flight by Belarus to arrest journalist Roman Protasevich and his companion Sofia Sapega, and Türkiye's use of TNR tools following the July 2016 coup attempt.

138. The resolution included detailed and binding recommendations for Member States.<sup>258</sup> These included obligations to:

- conduct effective investigations into all credible allegations of TNR involving grave violations such as killings, enforced disappearances, torture, or unlawful detention, and to prosecute those responsible, including senior officials;
- seek the return of individuals subject to extra-legal transfer or rendition through existing legal mechanisms, such as the CoE Convention on the Transfer of Sentenced Persons;
- provide reparations to victims, including rehabilitation and compensation;
- increase oversight and accountability of intelligence services and deliver a clear political message of zero tolerance for serious forms of TNR;
- implement relevant judgments of the ECtHR concerning TNR, especially in relation to the Russian Federation, through both individual and general measures under the supervision of the Committee of Ministers.

139. In addition, Member States, observer states, and states with partnership status with PACE were encouraged to take broader legislative and policy steps.<sup>259</sup> These included:

- adopting an official definition of TNR applicable across all relevant state agencies;
- establishing systems to monitor domestic incidents of TNR and identify perpetrator governments;
- reviewing intelligence and law enforcement cooperation to ensure better protection for vulnerable individuals;
- applying enhanced scrutiny to extradition requests, INTERPOL Red Notices, and legal assistance mechanisms from states with a record of abuse;
- restricting diplomatic privileges in cases of harassment of exiles and diaspora communities;
- enacting targeted sanctions, including through Magnitsky-type laws;

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<sup>258</sup> *ibid*, para 15.

<sup>259</sup> *ibid*, para 17.

- incorporating the TNR record of countries of origin into asylum assessments and ensuring compliance with non-refoulement obligations;
- ensuring that domestic criminal frameworks enable the prosecution of perpetrators based on relevant jurisdictional principles;
- using existing mutual legal assistance treaties and cooperation tools to address TNR;
- controlling the export of surveillance technologies to abusive governments, and addressing digital repression practices;
- strengthening protection for HRDs cooperating with international organisations, including the CoE.

140. In June 2024, a motion for resolution was submitted within PACE to further advance work on TNR. Subsequently, Mr. Constantinof Efstathiou was appointed as rapporteur to prepare a report under the title ‘Fighting Back Against Transnational Repression’.<sup>260</sup> which is expected to be presented by September 2026.<sup>261</sup> This process is ongoing and is expected to result in additional normative or institutional recommendations.

141. In this context, in May 2025, the Legal Affairs and Human Rights Committee (JUR) of PACE held a hearing under the same thematic file.<sup>262</sup> Expert witnesses were invited to share their insights, including Alex Tinsley (Doughty Street Chambers/Lawyers Against Transnational Repression), Dr Saipira Furstenberg (editor of ‘Transnational Repression in the Age of Globalisation, 2024’), and Stephen Reimer (Royal United Services Institute/Sciences Po). The hearing focused in particular on the digital dimension of TNR, including online harassment and the misuse of legal and financial tools. Key topics included INTERPOL’s complaints mechanism, the use of mutual legal assistance, the implications of the draft UN Convention on Cybercrime, and the manipulation of FATF standards and financial intelligence systems for repressive purposes.

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<sup>260</sup> PACE, ‘Fighting back against transnational repression’ (25 June 2024) <<https://pace.coe.int/pdf/232848abcb106aeb7d80ba247e1b3c4adf748a5d0f1915db45a99726b0f3926/doc.%2017.pdf>> accessed 9 July 2025.

<sup>261</sup> PACE, ‘Reports under preparation in the committees’ (28 April 2025) <<https://rm.coe.int/reports-prep-all-eng/1680aa8cd4>> accessed 9 July 2025.

<sup>262</sup> Alex Tinsley, ‘Transnational Repression – Expert input to the Legal Affairs Committee of the Parliamentary Assembly of the Council of Europe’ (Doughty Street Chambers, 16 May 2025) <<https://insights.doughtystreet.co.uk/post/102kb4r/transnational-repression-expert-input-to-the-legal-affairs-committee-of-the-par>> accessed 9 July 2025.

## **b) European Union (EU) Institutional Framework**

142. In recent years, the EU has increasingly acknowledged TNR as a growing global threat, particularly through its engagement in multilateral fora and in connection with digital surveillance and the protection of civil society actors in exile.

143. In its January 2024 Conclusions on the EU Priorities in UN Human Rights Fora, the General Secretariat of the Council made a clear commitment to addressing TNR, stating that:

“The EU will be a leading actor in the promotion of a safe and enabling environment for civil society and HRDs, including those active in exile. It will pay special attention to unlawful online surveillance as well as consider measures to prevent and tackle transnational repression and encourage actions at the UN to address this increasingly grave global phenomenon.”<sup>263</sup>

144. This position was echoed in April 2024, when G7 members (including EU representation) issued a joint statement underscoring the digital dimension of TNR. The statement condemned the misuse of technology to target HRDs, journalists, and political dissidents, declaring:

“We are committed to countering the misuse of technology to target human rights defenders, journalists, perceived political opponents, and other civil society members (...) We strongly condemn the targeting of activists, critics and journalists in this respect.”<sup>264</sup>

145. Further attention to TNR has also been reflected in recent political discourse within EU institutions. For instance, in a July 2025 interview, MEP Chloé Ridel called for a stronger EU-wide strategy to counter TNR and its effects on exiled dissidents and diaspora communities.<sup>265</sup> In parallel, the Council of the EU imposed sanctions in July 2025 against several Iranian individuals in response to human rights violations, signalling the potential use of targeted measures to hold perpetrators of extraterritorial repression accountable.<sup>266</sup> Finally, at the request of the DROI

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<sup>263</sup> Council of the European Union (n 10).

<sup>264</sup> G7, ‘G7 Foreign Ministers’ Meeting Communiqué (Capri, April 19, 2024) – Addressing Global Challenges, Fostering Partnerships’ (press release, 19 April 2024) <[https://www.esteri.it/en/sala\\_stampa/archivionotizie/comunicati/2024/04/g7-foreign-ministers-meeting-communique-capri-april-19-2024-addressing-global-challenges-fostering-partnerships/](https://www.esteri.it/en/sala_stampa/archivionotizie/comunicati/2024/04/g7-foreign-ministers-meeting-communique-capri-april-19-2024-addressing-global-challenges-fostering-partnerships/)> accessed 9 July 2025.

<sup>265</sup> Francesco Bortoletto, ‘INTERVIEW / MEP Chloé Ridel urges EU to “counter transnational repression”’ (3 July 2025) <<https://www.eunews.it/en/2025/07/03/interview-mep-chloe-ridel-urges-eu-to-counter-transnational-repression/>> accessed 21 August 2025.

<sup>266</sup> Reuters, ‘EU sanctions Iranian individuals accused of targeting dissidents’ (Reuters, 15 July 2025) <<https://www.reuters.com/world/middle-east/eu-council-sanctions-iran-individuals-over-human-rights-violations-2025-07-15/>> accessed 2 July 2025.

Subcommittee, a study on TNR of HRDs was published in June 2025, describing, among others, global trends of TNR and its impacts on the civic space and human rights.<sup>267</sup>

### **c) Civil Society Framework**

146. In recent years, civil society organisations in Europe have increasingly focused on TNR, particularly as it affects exiled HRDs, journalists, and political activists based in the region. Their work has contributed significantly to recognising the scope of TNR, documenting individual cases, and calling for institutional responses at both national and regional levels.
147. In February 2024, Human Rights Watch published the report ‘We Will Find You: A Global Look at How Governments Repress Nationals Abroad’.<sup>268</sup> While global in scope, the report’s launch was followed by increased engagement in Europe. In April 2024, Human Rights Watch’s European office co-hosted a public event with MEP Hannah Neumann (Greens/EFA, Germany), bringing together scholars and individuals in exile to discuss European policy options and legal frameworks. The event placed particular emphasis on the use of digital surveillance and online harassment against dissidents residing in EU Member States.<sup>269</sup>
148. Several European-based or Europe-focused initiatives have since expanded their work in this field. The Inspireurope project, coordinated by academic institutions, continues to provide support for at-risk scholars facing repression across borders.<sup>270</sup> Amnesty International has highlighted TNR as a growing concern in the EU, especially in the context of asylum policy and protection gaps.<sup>271</sup> In March 2025, the Arrested Lawyers Initiative and Lawyers Against Transnational Repression (LATRINT) issued a joint statement welcoming a CoE initiative on TNR, framing it as a step toward more consistent recognition of the phenomenon.<sup>272</sup>
149. Other groups have addressed the legal dimensions of TNR. Fair Trials, for instance, has hosted events examining how tools like extradition, INTERPOL Red Notices, and even domestic legal

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<sup>267</sup> Saipira Furstenberg, Marcus Michaelsen and Siena Anstis (n 11).

<sup>268</sup> Human Rights Watch, 2024 (n 227).

<sup>269</sup> HRW Livestream, ‘Transnational repression: a threat to human rights in Europe’ (YouTube, 16 April 2024) <[https://www.youtube.com/watch?v=r\\_YVIV1\\_q-k](https://www.youtube.com/watch?v=r_YVIV1_q-k)> accessed 9 July 2025.

<sup>270</sup> Inspireurope, ‘Transnational Repression and Academic Freedom’ (October 2024) <<https://sareurope.eu/wp-content/uploads/2024/09/Inspireurope-Briefing-Transnational-Repression.pdf>> accessed 29 August 2025.

<sup>271</sup> Amnesty, ‘Open Letter: the EU must address the chilling effect of transnational repression on freedom of expression and academic freedoms of Chinese students’ (Amnesty EU, 15 May 2024) <<https://www.amnesty.eu/news/open-letter-the-eu-must-address-the-chilling-effect-of-transnational-repression-on-freedom-of-expression-and-academic-freedoms-of-chinese-students/>> accessed 9 July 2025.

<sup>272</sup> The Arrested Lawyers Initiative, ‘Arrested Lawyers Initiative & Lawyers Against Transnational Repression Welcome Landmark Council of Europe Convention’ (Arrested Lawyers Initiative, 19 March 2025) <<https://arrestedlawyers.org/2025/03/19/arrested-lawyers-initiative-and-lawyers-against-transnational-repression-welcome-landmark-council-of-europe-convention/>> accessed 9 July 2025.

proceedings can be manipulated for repressive purposes. In one of its public discussions, the Assange case was used to illustrate how Article 18 of the ECHR may be relevant to politically motivated prosecutions disguised as legal cooperation.<sup>273</sup>

150. Academic research has also helped shape the discussion. The work of scholars like Chubb and Iyer has linked TNR with broader patterns of authoritarian behaviour, offering a conceptual framework that is increasingly referenced in both advocacy and institutional documents in the European setting.<sup>274</sup>

## QUESTION 2 – TNR DEFINITION

**Are there any references to a specific definition of TNR by bodies or mechanisms within this system? Please identify and compare key definitional elements.**

151. While no single, universally accepted definition of TNR exists within the European human rights system, several institutional documents, particularly recent reports and resolutions, have started to describe the phenomenon with increasing clarity. These references often appear in the context of political condemnation, but are nonetheless accompanied by descriptions of the underlying acts, actors, and intended effects, which collectively provide an emerging definitional framework.

### **a) Council of Europe**

152. PACE does not offer a standalone legal definition of TNR in its June 2023 resolution. However, the resolution outlines four main methods by which TNR is typically carried out:
- i. Direct attacks:** Physical assaults committed by an origin state against individuals abroad, including assassinations, enforced disappearances, physical intimidation, and violent renditions.
  - ii. Co-opting foreign states:** Use of other states' legal or administrative systems to target dissidents abroad through detention, deportation, or rendition. This includes the misuse of INTERPOL Red Notices, extradition proceedings, and other cross-border legal tools such as anti-money laundering or counterterrorism cooperation.
  - iii. Impediments to mobility:** Actions such as cancelling passports or denying consular services, which aim to restrict the movement of targeted individuals or expose them to detention.

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<sup>273</sup> Fair Trials, 'Legal Responses to Transnational Repression – Learnings from the Assange Case: A Webinar Series' (13–27 March 2025, online) <<https://www.fairtrials.org/events/legal-responses-to-transnational-repression-learnings-from-the-assange-case-a-webinar-series/>> accessed 12 July 2025.

<sup>274</sup> Andrew Chubb and Kirsten Roberts Iyer (n 254).

- iv. **Remote threats and proxy intimidation:** Intimidation from a distance, including digital surveillance, online harassment, and coercion through family members, partners, or business associates remaining in the origin state.

153. Notably, the resolution expands the scope of TNR beyond acts carried out directly by the origin state. It also includes instances where an origin state co-opts another state to act unlawfully against a targeted person within that state's own jurisdiction.<sup>275</sup>
154. The resolution also references political pressure as a potential tool of TNR. For example, Türkiye's opposition to Sweden's NATO membership was cited in the debate as a strategic attempt to influence foreign policy decisions in ways that may compromise the protection of exiles or asylum seekers.<sup>276</sup>

#### **b) European Union**

155. Within the EU framework, explicit definitions of TNR remain limited. However, political statements have begun to outline the types of conduct the term encompasses.
156. The April 2024 G7 statement, which included EU endorsement, referred to TNR as involving:
- “(...) reaching across state borders to intimidate, silence, attack, and/or murder dissidents, human rights activists, and others for peacefully exercising their human rights and fundamental freedoms (...)”<sup>277</sup>
157. Although not a legal definition, this language reflects a growing consensus about the core features of TNR: cross-border targeting, political motivation, and a focus on silencing dissent beyond national borders.

#### **c) Key definitional elements**

158. Based on the sources above, several recurring elements can be identified, even if terminology and emphasis differ:
- **Perpetrator:** Typically, a state actor, especially the origin state where the targeted person formerly resided. Some documents also recognise involvement of proxy actors, including intelligence agencies, diaspora groups, or co-opted foreign governments.

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<sup>275</sup> PACE Resolution (n 9), para 8.

<sup>276</sup> *ibid*, para 16.

<sup>277</sup> See G7 (n 264).

- **Victim:** Usually exiled individuals or diaspora members, including HRDs, journalists, political opponents, or activists perceived as dissidents by the origin state.
- **Intent:** To silence, punish, deter or control political dissent abroad. The aim may be to disrupt advocacy, force return, or deter others through fear or retaliation.
- **Geographical Scope:** Defined by cross-border action, whether direct (e.g. assassinations) or indirect (e.g. misuse of legal tools, pressure through family). It can occur within the host state or via third countries.
- **Nature of the Acts:** Ranges from violent acts (e.g. killings, enforced disappearances) to legal/administrative misuse (e.g. INTERPOL alerts, passport cancellations) and psychological harassment (e.g. surveillance, threats to family).

159. These elements indicate that, while a formal, legally binding definition has not yet been adopted within the European human rights system, a functional and descriptive understanding of TNR is beginning to emerge through political texts and institutional discourse.

### QUESTION 3 – LEGAL PROTECTION AND GAPS

**How do existing IHRL provisions protect HRDs from TNR in this system? What gaps exist, if any, in IHRL in the protection of HRDs from TNR?**

160. The European human rights system offers a relatively robust legal and institutional framework for the protection of HRDs. Although TNR is not yet explicitly addressed in most binding legal texts, many provisions apply through their extraterritorial reach and the interpretation developed in recent case law. Where real and immediate risks exist, both institutions have recognised duties to prevent harm, investigate violations, and hold perpetrators accountable.

#### a) Council of Europe

161. The ECHR applies to acts committed outside a Member State's territory when there is jurisdiction or control exercised extraterritorially. As the Court has explained, extraterritorial jurisdiction arises when a state exercises 'effective control over an area' outside its national territory or 'authority and control over individuals' abroad, even in the absence of territorial control.<sup>278</sup> Serious acts of TNR (such as extrajudicial killings, assaults, enforced disappearances, or forced rendition) may violate key Convention rights, including the right to life (Article 2), the prohibition of torture or inhuman or degrading treatment (Article 3), and the right to liberty and security (Article 5).

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<sup>278</sup> *Loizidou v Turkey (Preliminary Objections)* App no 15318/89 (ECtHR, 23 March 1995), [62]; *Al-Skeini and Others v United Kingdom* App no 55721/07 (ECtHR, 7 July 2011), [133].

162. The ECtHR has also established procedural obligations requiring Member States to investigate and prosecute such violations, which may apply to the origin state, the host state, or both. In 2021, the Court found that the Russian Federation was responsible for the poisoning and death of Alexander Litvinenko in the United Kingdom, having established that the perpetrators acted as agents of the Russian State.<sup>279</sup> In another case, the Court held that Moldova violated Article 5 of the Convention by unlawfully transferring seven Turkish teachers to Türkiye, circumventing domestic and international safeguards.<sup>280</sup> Most recently, Azerbaijan was also found responsible for the extra-legal transfer of an individual to Türkiye under similar circumstances.<sup>281</sup>
163. The principle of *non-refoulement*, though not explicitly mentioned in the Convention, is well established in the Court's jurisprudence. States must refrain from transferring, extraditing, or rendering individuals to countries where there is a real risk of violations, especially of core Convention rights. Rule 39 interim measures, issued by the Court to prevent irreparable harm, are a key protective tool in this context. In *Mamatkulov and Askarov v Turkey*, the Court held that failure to comply with a Rule 39 measure ordering suspension of extradition to Uzbekistan violated Article 34.<sup>282</sup> More recently, in *Savridin Dzhurayev v Russia*, the Court found Russia responsible for an abduction and removal to Tajikistan despite a Rule 39 measure, constituting violations of Articles 3 and 34.<sup>283</sup> It should be noted that despite these protections, enforcement remains a challenge. In the case of *Ahmed Jaffer Muhammad v Serbia*<sup>284</sup>, the applicant was extradited to Bahrain despite a Rule 39 interim measure prohibiting the transfer and despite having clearly expressed his intention to seek asylum while in detention. The extradition went ahead, and he is currently serving a life sentence.<sup>285</sup>
164. Certain Convention rights can also be engaged in specific TNR-related contexts, such as international banking measures and online surveillance. The politically motivated use of anti-money laundering or counterterrorism frameworks may interfere with the right to a fair trial (Article 6) or the right to property (Article 1 of Protocol No. 1). Also, in cases involving online harassment, hacking, or mass interception of communications, the right to respect for private and

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<sup>279</sup> *Carter v Russia* (n 17).

<sup>280</sup> *Ozdil and Others v Republic of Moldova* App no 42305/18 (ECtHR, 11 June 2019).

<sup>281</sup> *Shenturk and Others v Azerbaijan* (Applications nos 41326/17 and others) (ECtHR, 10 March 2022).

<sup>282</sup> *Mamatkulov and Askarov v Turkey* App nos 46827/99 and 46951/99 (ECtHR, 4 February 2005).

<sup>283</sup> *Savridin Dzhurayev v Russia* App no 71386/10 (ECtHR, 25 April 2013).

<sup>284</sup> *Ahmed Jaffer Muhammad v Serbia* App no 32312/20 (ECtHR, 20 April 2023).

<sup>285</sup> Human Rights Watch, 2024 (n 227).

family life under Article 8 is often at stake, as seen in *Big Brother Watch and Others v United Kingdom*, which examined bulk interception and intelligence-sharing regimes.<sup>286</sup>

## **b) European Union**

165. Key instruments within the EU include:

- The EU Guidelines on HRDs, which affirm the EU's commitment to support HRDs at risk, including those in exile.<sup>287</sup>
- Emergency relocation mechanisms, sometimes coordinated through EU-funded initiatives or embassies, offer practical support to HRDs facing imminent threats.<sup>288</sup>
- The EU Global Human Rights Sanctions Regime (sometimes referred to as the "Magnitsky-style regime") allows for the imposition of targeted sanctions against individuals and entities responsible for serious human rights violations, including those linked to TNR.<sup>289</sup>

## **c) Gaps in Protection**

166. Despite the protections available under the European human rights system, important gaps remain in addressing TNR.

167. One significant limitation arises from the fact that several states frequently associated with TNR are not members of the CoE, the EU, or both. For instance, Belarus and the Russian Federation are not CoE Member States and therefore fall outside the jurisdiction of the ECHR. In such cases, any protection must instead rely on broader international instruments, such as the ICCPR or the CAT, both of which have their own institutional and enforcement limitations. Similarly, countries such as Türkiye and Azerbaijan are members of the CoE but not of the EU. As a result, they are not directly bound by the EU's legal or policy instruments related to human rights protection. While the EU may still act externally, for example, through sanctions or diplomatic engagement, its capacity to provide meaningful or consistent protection to individuals targeted by these states

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<sup>286</sup> *Big Brother Watch and Others v United Kingdom* Apps nos 58170/13, 62322/14 and 24960/15 (ECtHR, 25 May 2021).

<sup>287</sup> Council of the European Union, 'European Union Guidelines on Human Rights Defenders' (General Affairs Council, 8 December 2008) <[https://www.eeas.europa.eu/sites/default/files/eu\\_guidelines\\_hrd\\_en.pdf](https://www.eeas.europa.eu/sites/default/files/eu_guidelines_hrd_en.pdf)> accessed 10 July 2025.

<sup>288</sup> European Commission, 'European Union Temporary Relocation Platform (EUTRP)' (2023) <<https://eutrp.eu>> accessed 10 July 2025.

<sup>289</sup> Council Decision (CFSP) 2020/1999 of 7 December 2020 concerning restrictive measures against serious human rights violations and abuses [2020] OJ L410 I/13.

is limited. Taken together, these gaps underscore the fragmented nature of protection against TNR within the European system.

168. Another structural gap lies in the legal character of many CoE and EU instruments concerning the protection of HRDs. A large portion of the existing measures, such as resolutions and policy guidelines, lack binding legal force. Although they play an important role in shaping responses, they do not offer the same level of predictability or enforceability as hard law. There is room to strengthen this framework by incorporating key protective elements into binding legislation or institutional practice.
169. There is also a broader issue of framing. While the European human rights system has developed a substantial body of norms and case law concerning HRDs, references to TNR as a distinct phenomenon remain limited. As a result, specific challenges related to cross-border threats, surveillance, or abuse of legal tools are often addressed only indirectly. This gap has been recognised by PACE, which has called on the Commissioner for Human Rights to give more dedicated attention to TNR, particularly in relation to Belarus and the Russian Federation.<sup>290</sup>
170. While the ECtHR has developed important jurisprudence relevant to TNR, further clarification is needed. The case law on extraterritorial jurisdiction continues to evolve, but questions remain about how far responsibility extends when states act through proxies or abuse international legal cooperation tools.<sup>291</sup> Continued jurisprudential development in this area would strengthen legal accountability and better reflect the realities faced by HRDs in exile.
171. Another weakness is the limited emphasis on positive obligations in the existing framework. Most CoE and EU measures and much of the related case law focus primarily on negative obligations, which prohibit states from certain actions, rather than on requiring proactive steps to prevent, investigate and remedy TNR-related violations. Embedding clear positive duties, such as early-warning mechanisms, proactive protection measures and robust investigative requirements, could significantly enhance the preventive and remedial capacity of the European human rights system.

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<sup>290</sup> PACE report (n 260), para 19.

<sup>291</sup> See *S.S. and Others v Italy* App no 21660/18 (ECtHR, 20 May 2025), where the Court held that Italy's coordination with Libyan authorities did not establish extraterritorial jurisdiction.