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**TRANSNATIONAL REPRESSION: AUTHORITARIANS
TARGETING DISSENTERS ABROAD**

HEARING

BEFORE THE

**COMMITTEE ON FOREIGN RELATIONS
UNITED STATES SENATE**

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C O N T E N T S

	Page
Cardin, Hon. Benjamin L. U.S. Senator From Maryland	1
Risch, Hon. James E., U.S. Senator From Idaho	2
Grozev, Christo, Investigative Journalist, Co-Founder, Bellingcat Productions, New York, New York	4
Prepared Statement	7
Abramowitz, Michael, President, Freedom House, Washington, DC	8
Prepared Statement	10
Gallagher, Caoilfhionn, KC, International Legal Counsel to Jimmy Lai, Doughty Street Barristers, London, England	13
Prepared Statement	17

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

Statement for the Record From the Sikh Coalition Concerning Threats That Sikhs in the United States Face From the Government of India	65
Article From the Wall Street Journal, Dated December 2, 2023, “Foiled Plot To Kill U.S. Sikh is Linked to Murder of Canadian Activist”	76

(III)

TRANSNATIONAL REPRESSION: AUTHORITARIANS TARGETING DISSENTERS ABROAD

WEDNESDAY, DECEMBER 6, 2023

**U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
*Washington, DC.***

The committee met, pursuant to notice, at 10:05 a.m., in room SD-419, Dirksen Senate Office Building, Hon. Benjamin J. Cardin, chairman of the committee, presiding.

Present: Senators Cardin [presiding], Menendez, Shaheen, Kaine, Merkley, Booker, Van Hollen, Risch, Romney, Ricketts, and Young.

OPENING STATEMENT OF HON. BENJAMIN L. CARDIN, U.S. SENATOR FROM MARYLAND

The CHAIRMAN. This hearing of the Senate Foreign Relations Committee will come to order.

For many exiles, human rights defenders, journalists, and civil society activists around the world, it takes incredible courage to speak out against autocrats. Both friends and foes send their agents across borders to hunt down and harass critics, even here on U.S. soil.

We have seen disturbing allegations against an Indian Government official for involvement in planning to assassinate a U.S. citizen in New York who was critical of the Indian Government.

This follows allegations of India's involvement in the killing of the Canadian Sikh leader earlier this year. The Modi government had labeled both critics as terrorists.

Transnational repression is not new, but modern technologies have expanded the governments' reach like never before.

One of the most sophisticated global campaigns of transnational repression comes from the People's Republic of China. Of course, they deny this. They have said, "the accusation of transnational repression is totally made out of thin air."

Tell that to the Olympic figure skater whose father participated in Tiananmen Square protests or the Asian-American Army veteran who ran for Congress in New York or the Radio Free Asia journalist who lives in Virginia.

Beijing targeted all of them and their family members, trying to get tax records, installing cameras in their home, stalking them, imprisoning their family back in China.

It is not just China. A Chechen leader told those who opposed him, "This modern age and technology allows us to know everything, and we can find any of you."

His patron—President Putin—is just as brutal in his persecution of opponents. He sends his hit squads after those he calls scum and traitors.

I want to begin this hearing by thanking our witnesses not just for coming to speak to us about this absolutely critical issue, but for your bravery and courage in the face of these attacks, and I am going to have more to say about each one of our witnesses. This is a distinguished panel that have been on the forefront in the fight for human rights and we thank you very much for your courage, and we particularly thank you for being with us today to share what we can do in regards to this important issue.

Your continued dedication to defending human rights and democracy is an inspiration. As you all know, this is a deadly serious threat to the safety of diaspora and exile communities. They use slander and libel laws to attack human rights defenders in court.

They threaten the family members of dissidents who still live back home, and as you all—and as you know, they have no problem physically assaulting or even killing to make their point.

This oppression is not only felt by the direct victims of the agents of these regimes. By going after one or two critics they send a message to the entire exile community; you are never safe anywhere, not even if you are in a democratic nation, not even if you have political asylum.

That is what makes transnational repression so chilling. It forces many to stop speaking out or end their activism altogether. Whether it is China, Russia, Iran, or Tajikistan, these countries threaten human rights defenders all over the world.

That is why I wrote to the President of Tajikistan expressing my concerns regarding his treatment of political opponents and that is why I led the *Transnational Repression Accountability and Prevention Act* to increase transparency about these regimes' abuse of Interpol red notices to get local law enforcement to arrest critics.

More is needed. In the coming days I will be introducing the *International Freedom Protection Act*. This will address the growing use of transnational oppression by autocratic and illiberal states.

I look forward to working with all the colleagues of this committee, Democrats and Republicans, on this legislation. It is now my pleasure to turn it over to my distinguished colleague, Ranking Member Senator Risch.

**STATEMENT OF HON. JAMES E. RISCH,
U.S. SENATOR FROM IDAHO**

Senator RISCH. Mr. Chairman, thank you for that and thank you for your leadership in this particular area.

Most Americans are not familiar with the term transnational repression. It is not a household term or household phrase, but Americans understand the concept.

Transnational repression occurs when authoritarian governments go beyond their borders to harass and intimidate their citizens, those who defend human rights abroad, or anyone they consider to be a threat to their regimes.

Governments who have gotten away with silencing dissidents inside their own country are now trying to stifle free speech around the world including the United States.

Just last week the Department of Justice, as the chairman referred to, unsealed an indictment alleging an Indian Government official engaged in a plot to assassinate a U.S. citizen in New York City.

It should surprise no one that China is leading the world in using transnational repression to quash any sign of dissent. Last month, pro CCP—Chinese Communist Party—protesters funded by the Chinese consulate harassed and assaulted human rights advocates on U.S. soil at APEC in San Francisco.

The failure of the Administration and the city government to prevent or even respond to these attacks is deeply unfortunate. The Administration prioritized a smooth meeting with Xi Jinping over addressing this issue publicly.

Hong Kong authorities are increasingly engaged in acts of transnational repression. This fall, Hong Kong authorities issued bounties for political dissidents who left the city, some of whom are seeking asylum in the United States.

Prominent Hong Kong businessman Jimmy Lai remains unjustly imprisoned while the CCP harasses his international legal team.

I look forward to hearing directly from Ms. Gallagher on that matter today.

Beyond Asia it is clear the legacy of Soviet tyranny looms large in Eurasia. Russia sends its operatives to poison, intimidate, and sometimes assassinate members of the opposition and dissidents in exile.

A few years ago the Russians actually shot a man in the head in a public park in Germany in broad daylight. They also poisoned a man in a park in England in 2018, which a lot of us, of course, are very familiar with.

There is no boundaries that they will respect and that is clear. Our NATO ally Turkey is also a top offender. While it has decried acts of transnational repression that takes place on its soil, it has also used these same tactics to suppress Turkish dissidents outside of the country.

This is evidenced by its pursuit of members of the Gülenist movement including former NBA player Enes Kanter Freedom, who has had his Turkish passport canceled while abroad, Interpol red alerts issued for his arrest, and threats so aggressive the FBI has issued him a call button.

The Iranian regime is another egregious yet unsurprising offender. It targets dissidents and critics abroad to include murder and kidnapping plots against Americans on U.S. soil.

As countries fail to push back on these increasingly brazen actions that undermine sovereignty and national security, perpetrators grow more emboldened and additional countries adopt similar tactics.

I look forward to hearing from our witnesses today on what more can be done to stop this egregious practice and in particular I want to hear what we as the United States Government can do about it.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Risch.

As I indicated, we have a really distinguished group of panelists today that have really seen firsthand the consequences of these actions.

Today, we are honored to welcome Mr. Christo Grozev, an award-winning investigative journalist and co-founder of the investigative outlet Bellingcat Productions.

Through his investigative work, he has exposed numerous Russian plots and assassinations including identifying the suspect responsible for the poisoning of Russian opposition leader Alexei Navalny.

His bravery earned him the European Press Prize for Investigative Reporting in 2019 and the Nannen Prize in 2021.

In retaliation for his investigations into the activities of President Putin's Russia, he has experienced intimidation, surveillance, break-ins, and thefts with Russia ordering his arrest in absentia earlier this year. Despite these threats, he has admirably persisted in his work. Welcome.

We are also welcoming Michael Abramowitz, the president of Freedom House, an organization that has been critical in shedding a light on transnational repression and broader threats to democracy globally.

Mr. Abramowitz has demonstrated his deep commitment to supporting freedom and democracy around the world through his illustrious career which includes leading the U.S. Holocaust Memorial Museum's Levine Institute for Holocaust Education and 24 years at the *Washington Post* in which he covered many of my activities in the state legislature and in the Congress, and I do not hold any grudges. It is nice to have you here, Mr. Abramowitz.

I am also honored to welcome Ms. Caoilfhionn Gallagher, the human rights and civil liberties lawyer currently serving as the international legal counsel to the pro-democracy businessman and publisher Jimmy Lai.

Through her career Ms. Gallagher has represented many journalists, activists, and human rights defenders. For years, the People's Republic of China and Hong Kong authorities have targeted her for her work on Mr. Lai's case including through death and rape threats, cyber attacks, and threats of prosecution and extradition to Hong Kong.

Despite these attacks, Ms. Gallagher bravely continues to seek justice for Mr. Lai.

Welcome to all.

Mr. Grozev, we will start off with you. Your full testimonies will be made part of our record. You may proceed as you wish. We would appreciate if you would summarize in approximately 5 minutes.

STATEMENT OF CHRISTO GROZEV, INVESTIGATIVE JOURNALIST, CO-FOUNDER, BELLINGCAT PRODUCTIONS, NEW YORK, NEW YORK

Mr. GROZEV. I assume I should go first.

The CHAIRMAN. Yes.

Mr. GROZEV. Thank you very much.

Dear Chairman, honorable committee members, let me start by asserting that the notion of exclusively domestic repression is a misconception, in my view.

Any bad regime if left unchecked in the pursuit of suppressing domestic competitors, critics, or simply inconvenience willulti-

mately extend its repressive machinery across its borders and we have seen that happen with Russia.

Initially directed towards its own citizens globally, this apparatus ultimately will target anyone, whatever nationality, perceived to obstruct their pursuit of eternal authority.

Over the course of almost a decade, I and my investigative partners have scrutinized Russia's repressive operations, encompassing both judicial and extrajudicial methods against its own citizens.

Our investigative team comprised of my former colleagues from Bellingcat, the Insider in Russia and Der Spiegel in Germany, laid bare a systemic and industrial scale operation of repressions.

This apparatus targets hundreds of Russian political activists, journalists, and former intelligence officers who have turned or perceived to have turned against the regime.

The overarching objective of these repressive operations appear to be either assassination or intimidation through the threat of assassination of these activists.

While our initial belief was that these repressive measures exclusively target Russian citizens or former Russian citizens, we saw a much broader scope. Notable instances of the former include the poisoning of Russian activists on Russian soil such as Vladimir Kara-Murza, an American resident who was poisoned twice; the near fatal poisoning of Alexei Navalny in August 2020.

Beyond Russia's borders, individuals like Sergei Skripal and his daughter Yulia barely survived the Novichok poisoning by a group of GRU spies in Salisbury.

An innocent and random British woman became an unintended victim of this bungled operation. Additionally, at least seven men of Chechen origin we have investigated and have been found to have been killed by undercover agents of FSB's Vympel unit in Turkey and Germany as the co-chairman referred to earlier.

As our investigations unfolded, it became apparent that Russia's assassination and intimidation attempts were not confined to Russian nationals alone. In 2015, we discovered that a group of GRU spies poisoned and almost killed a Bulgarian arms manufacturer simply for supplying defensive munitions to Ukraine.

In the past 12 months alone, my Russian investigative partner Roman Dobrokhotov and I have become targets of both judicial and extrajudicial prosecution.

Roman's residence in Moscow was subject to a police raid in front of his minor children and he narrowly escaped arrest and essentially defected or ran out from Russia under the nose of approaching FSB operatives.

Last Christmas, I found myself on Russia's most wanted list with a succinct explanation of my crime—wanted for a crime without specifics, depriving me of any opportunity for a defense.

Just a month later, law enforcement agencies advised me against my return from the United States to Austria where I live, citing a clear and present danger posed by a clandestine Russian intelligence operation targeting both me and my colleague Roman.

I discovered that Russian intelligence officers had surveilled and tailed Roman and me for nearly 2 years, monitoring all of our movements and awaiting the opportune moment to strike.

Regrettably, I am not at liberty to disclose specifics of this operation as the case is currently under official investigation in several countries. My, as well as Roman's, work as journalists have been severely restricted by this. We have to stick to our new accidental domiciles, myself in the United States and Roman in the United Kingdom.

The constraints on travel for work or leisure with our families persist as uncertainty looms regarding which country may choose to enforce Kremlin's request for extradition.

In the past year alone, Kremlin's transnational repressive operations have seen a surge both in frequency and audacity. Judicially, or within whatever Russia calls justice, arrest warrants have been issued for or are pending to be issued for U.S. journalist Masha Gessen and Facebook spokesperson Andy Stone.

Similar to my case, Andy stands accused of a crime, leaving the world befuddled about what the crime is. These measures, however, pale in comparison to Kremlin's extrajudicial operations against Russian journalists opposing the war.

In the past year, at least three women, two journalists and one political activist, have exhibited signs of poisoning with prohibited chemical weapons. These cases involving Elena Kostyuchenko, Irina Babloyan, and Natalia Arno which we have investigated with our colleagues at the Insider remain unresolved.

Aligned with Russia's methods, our investigation has exposed the infiltration by GRU, Russia's military intelligence, of Russian human rights groups abroad, diaspora organizations, and a recent case we discovered involved an undercover GRU officer infiltrating human rights organizations and seeking proximity to Gary Kasparov, another outspoken critic of Putin's regime.

The fallacy of domestic only repression is evident. Russia's regime has been permitted to persecute its opponents domestically without legal consequences for decades.

Adhering to the outdated principle of legal sovereignty, civilized countries abstain from conducting independent judicial inquiries into incidents such as the poisoning of Kara-Murza or Navalny, the assassination of Boris Nemtsov, and many others.

Russian colleagues and activists have long shouted at us and at Western leaders against handshaking and dancing at weddings with Putin, cautioning against energy deals that embolden him while he suppresses dissent domestically.

Unfortunately, Western leaders only heeded these warnings when Putin invaded a neighboring country and there is a risk of these leaders growing wary amongst the protracted war and shaking hands soon again. Only today Putin arrived in Dubai to artillery salute and this is a victory for him.

It is imperative for us to acknowledge that as long as rogue states like Russia benefit from judicial sovereignty over its own people, they remain incentivized to treat the rest of the world as the playing ground for pursuing their so-called national interests against an ever expanding list of targets.

Thank you very much.

[The prepared statement of Mr. Grozev follows:]

Prepared Statement of Mr. Christo Grozev

Allow me to commence by asserting that the notion of exclusively domestic repression is a misconception. Any malevolent regime, if left unchecked in its pursuit of suppressing domestic competitors, critics, or inconveniences, will inevitably extend its repressive machinery beyond its borders. Initially directed toward its own citizens globally, this apparatus ultimately targets anyone perceived to obstruct its perpetual authority.

Over the course of nearly a decade, I and my investigative partners have scrutinized Russia's repressive operations, encompassing both judicial and extrajudicial methods, against its own citizens. Our investigative team, comprised of colleagues from *Bellingcat*, *The Insider*, and *Der Spiegel*, has laid bare a systemic, industrial-scale repressive machine. This apparatus targets hundreds of Russian political activists, journalists, and former intelligence officers who have been perceived as having turned against the regime. The overarching objectives of these repressive operations appear to be either assassination or intimidation through attempted assassinations.

While the initial belief was that these repressive measures exclusively targeted Russian citizens or former citizens, a broader scope became evident. Notable instances include the poisoning of Russian activists on Russian soil, such as Vladimir Kara-Murza twice, and the near-fatal poisoning of Alexei Navalny in August 2020. Beyond Russia's borders, individuals like Sergey Skripal and his daughter Yulia barely survived Novichok poisonings by a group of GRU spies in Salisbury. An innocent and random British woman became an unintended victim of this bungled operation. Additionally, at least seven men of Chechen origin were killed by undercover agents of the FSB's Vypel unit in Turkey and Germany. The most recent victim, Zelimkhan Khangoshvili, was shot and killed by an FSB assassin in a crowded park in Berlin.

As our investigations unfolded, it became apparent that Russia's assassination and intimidation attempts were not confined to Russians alone. In 2015, a group of GRU spies poisoned a Bulgarian arms manufacturer supplying defensive munitions to Ukraine. In the past 12 months, my Russian investigative partner Roman Dobrokhotov and I have become targets of both judicial and extrajudicial persecution. Roman's residence in Moscow was subjected to a police raid in front of his minor children, and he narrowly evaded arrest under the scrutiny of approaching FSB operatives.

Last Christmas, I found myself on Russia's official wanted list, with a succinct explanation: "wanted for a crime," without specifics, depriving me of any opportunity for a defense. Barely a month later, law enforcement agencies advised against my return to Austria, citing a clear and present danger posed by a clandestine Russian intelligence operation targeting both me and my colleague. I discovered that Russian intelligence officers had surveilled and trailed Roman and me for nearly 2 years, monitoring our movements and awaiting the opportune moment to strike.

Regrettably, I am not at liberty to disclose the specifics of this operation as the case is currently under official investigation in several countries. My, as well as Roman's, work as journalists has been restricted to our new, accidental, domiciles—myself in the United States and Roman in the United Kingdom. The constraints on travel for work or leisure with our families persist, as uncertainty looms regarding which country may choose to enforce Kremlin's extradition requests or where undercover agents may await us.

In the past year, the Kremlin's transnational repressive operations have seen a surge in both frequency and audacity. Judicially, or within the questionable semblance of justice practiced in Russia, arrest warrants have been issued for U.S. journalist Masha Gessen and Facebook's spokesperson Andy Stone. Similar to my case, Andy stands accused of "a crime," leaving the world puzzled about what crime that is, and him unable to disprove his alleged criminality.

These measures, however, pale in comparison to the Kremlin's extrajudicial, kinetic operations against Russian journalists opposing the war or the regime. In the past year alone, at least three women—two journalists and one political activist—have exhibited signs of poisoning with prohibited chemical agents. These cases, involving Elena Kostyuchenko, Irina Babloyan, and Natalia Arno, remain unresolved, but align with Russia's GRU methods. Our investigation has exposed the infiltration of GRU undercover spies within Russian human rights groups and diaspora organizations, with a recent case involving an undercover GRU officer infiltrating human rights organizations, participating in sanction-list drafting bodies, and seeking proximity to Gary Kasparov, an outspoken critic of Putin's regime.

The fallacy of domestic-only repression becomes evident. Russia's regime has been permitted to persecute its opponents domestically without legal consequences for

decades. Adhering to the outdated principle of legal sovereignty, civilized countries abstain from conducting independent judicial inquiries into incidents such as the poisoning of Kara-Murza or Navalny, or the assassination of Boris Nemtsov. Russian colleagues, journalists, and activists have long shouted warnings to Western leaders against hand-shaking and dancing at weddings with Putin, cautioning against energy deals that embolden him while he suppresses dissent domestically. Unfortunately, Western leaders only heeded these warnings when Putin invaded a neighboring country, and there is a risk of them growing weary amid the protracted war.

It is imperative to acknowledge that as long as rogue states like Russia benefit from judicial sovereignty over their own people, they remain incentivized to treat the rest of the world as a realm for pursuing their so-called national interest against an expanding list of targets.

The CHAIRMAN. Thank you very much for your testimony. We appreciate it.

Mr. Abramowitz.

**STATEMENT OF MICHAEL ABRAMOWITZ, PRESIDENT,
FREEDOM HOUSE, WASHINGTON, DC**

Mr. ABRAMOWITZ. Chairman Cardin, Ranking Member Risch, it is an honor to testify today.

Transnational repression occurs when states reach across borders to silence dissent from activists, journalists, and others living in exile, often using intimidation and violence.

This phenomenon is not new, but has been made easier by the scale of global migration and modern technologies that allow governments to monitor critics beyond their borders.

From 2014 through 2022 Freedom House has collected information on 854 direct physical cases of transnational repression and this includes assassination, kidnapping, assault, detention, or deportations.

These have been committed by 38 governments in 91 countries. These numbers are likely only the tip of the iceberg as states are also using indirect tactics to intimidate activists in exile through use of spyware, surveillance, threats sent over social media, or threats against their family members back home.

The top 10 perpetrators in our assessment are China, Turkey, Tajikistan, Egypt, Russia, Turkmenistan, Uzbekistan, Iran, Belarus, and Rwanda.

These 10 countries are responsible for 80 percent of the cases in our database and China is responsible for fully 30 percent of the cases. In the last several years, as my colleague just outlined, we have seen brazen measures to intimidate and silence exiles.

A prominent case involves a failed Iranian plot to kidnap journalist and women's rights activists Masih Alinejad from her home in Brooklyn. Iran also attempted an assassination that was also unsuccessful. Alinejad now lives under federal protection.

Just weeks ago, a group of activists were physically assaulted in San Francisco during the Asia Pacific Economic Cooperation summit while protesting human rights violations by Xi Jinping and the Chinese Communist Party.

It is not only authoritarian governments accused of transnational repression, as Senators Risch and Cardin pointed out.

The Canadian Prime Minister has implicated the Government of India in the June murder of a Sikh activist and a Canadian citizen in Canada, and just last week the Department of Justice alleged

in an indictment that an Indian national in India was hired by an Indian government official to orchestrate the assassination of a U.S. citizen who is a Sikh activist.

The impact of transnational repression on targeted individuals is severe. People's physical safety is endangered. Their travel is complicated. Their houses are surveilled in the U.S. and elsewhere. They are harassed online and offline and communication with family and friends living in the country of origin is fraught.

The impact on journalists is especially noteworthy. As the space for free media and dissent has closed in authoritarian countries, governments are increasingly reaching outward to target exiled journalists who continue to do their vital work from abroad.

We have a new report just out today that we have shared with the committee that describes the repressive toolkit used against targeted exiled journalists in the media. At least 26 governments have targeted journalists and 112 of our 854 cases in our database involve journalists.

We urge Congress to strengthen the U.S. response to transnational repression and ensure that the U.S. has the tools needed to protect those within our borders for years to come.

Transnational repression is a direct attack on our security and rights. First, Congress should pass legislation to address gaps in the U.S. Government's response to transnational repression.

This includes codifying a definition of transnational repression, ensuring government officials who may encounter perpetrators or victims of transnational repression receive the training necessary to recognize and respond to the problem, and strengthening sanctions authorities to make it easier to hold perpetrators accountable.

The *Transnational Repression Policy Act*, which was introduced by Senators Merkley, Rubio, Cardin, and Hagerty, includes provisions in all these areas and we urge its passage.

Second, Congress should establish clear pathways for exiled human rights defenders to receive permanent legal status when needed.

Democratic governments should consider appropriate mechanisms including providing special visas such as humanitarian visas or visas for human rights defenders, activists, and journalists to help them receive legal status and should ensure those individuals are not being denied legal status as a result of illegitimate criminal charges leveled against them by origin country governments.

Finally, Congress should urge the Executive Branch to continue to raise transnational repression as a priority issue with our partners and allies.

The United States must not hesitate to raise this issue directly at the highest levels with those countries perpetrating transnational repression even when those perpetrators are close partners such as Saudi Arabia and India.

Transnational repression is a violation of rights and sovereignty and breaks the bond of trust that must exist for deep cooperation between nations.

Whether a government engages in transnational repression should be a factor—a significant factor determining the nature of bilateral relations and the closeness of any partnership.

Thank you for your time and I look forward to your questions.
 [The prepared statement of Mr. Abramowitz follows:]

Prepared Statement of Mr. Michael Abramowitz

I'd like to thank Chairman Cardin, Ranking Member Risch, and the members of this committee for the opportunity to testify today. I ask that my full remarks be entered into the record.

TRANSNATIONAL REPRESSION DEFINED

Transnational repression occurs when states reach across borders to silence dissent from activists, journalists, and others living in exile. Perpetrator states do so using intimidation and violence. This issue presents a direct threat to rights and security around the world, including here in the United States, and will require a coordinated response from across the U.S. Government and between the United States and other democratic governments.

From 2014 through 2022, Freedom House has collected information on 854 direct, physical incidents (assassination, kidnapping, assault, detention, or deportation) of transnational repression around the world, committed by 38 governments in 91 countries. During this time, 13 states have engaged in assassinations abroad, and 30 have conducted renditions.

These numbers are likely only the tip of the iceberg, as states also use indirect tactics to intimidate activists in exile, such as the use of spyware, surveillance, threats sent over social media or phone, or threats against family members back home (known as coercion by proxy).

The top five perpetrators in our assessment are China, Turkey, Tajikistan, Egypt, and Russia—while Turkmenistan, Uzbekistan, Iran, Belarus, and Rwanda round out the top 10. These 10 countries are responsible for 80 percent of the cases in our database. And China, which conducts the most comprehensive and sophisticated campaign of transnational repression, is responsible for 30 percent of the cases.

In the last several years, these countries have undertaken brazen measures to intimidate and silence their exiles and diasporas. One of the most famous cases in the United States involves the Iranian regime's plot to kidnap journalist and women's rights activist Masih Alinejad from her home in Brooklyn. When that didn't work, Iran attempted an assassination plot that was thankfully also unsuccessful. To this day, Alinejad lives under federal protection.

Just weeks ago, a group of activists were physically assaulted in San Francisco during the Asia Pacific Economic Cooperation (APEC) Summit while protesting human rights violations by Xi Jinping and the ruling Chinese Communist Party. In 2021, Belarusian officials called a fake bomb threat into a Ryanair flight from Greece to Lithuania, forcing an emergency landing in Minsk in order to apprehend a blogger critical of the ruling regime. Only 13 months ago, Emirati law enforcement arrested Egyptian-American activist and former Egyptian army officer Sherif Osman based on a request from Egypt. Russian journalists Elena Kostyuchenko and Irina Babloyan were poisoned in late 2022, possibly in connection with their critical reporting on Russia's full-scale invasion of Ukraine. Throughout 2022, Tajikistan's Government expanded its campaign of transnational repression against members of the Pamiri ethnic group, securing the extradition from Russia of outspoken Pamiri activists such as Oraz and Ramzi Vazirbekov.

This does not mean that only authoritarian governments are responsible for incidents of transnational repression. In September, Canadian Prime Minister Justin Trudeau announced that Canada's security services had intelligence linking "agents of the Government of India" to the June murder of Sikh activist and Canadian citizen Hardeep Singh Nijjar in British Columbia. And on November 29, the Department of Justice alleged in an indictment that an Indian national in India was hired by an Indian Government official to orchestrate the assassination of a U.S. citizen who is a Sikh activist.

AN OLD BUT GROWING PROBLEM

In some ways, transnational repression is a new term for an old problem. As long as states and leaders have seen themselves as threatened by dissent outside their borders, they have tried to control that dissent, and sometimes have resorted to coercion to do so. There are legions of historical examples, from the murder of Iranian

exiles in Europe after the revolution to the car bomb murder of Orlando Letelier in Washington, DC by Chilean Government agents.

What has changed is the dynamic between those who leave and the states they leave behind, and with it the scale and scope of transnational repression. The increased scale of global migration has knit our world closer together as more people move across borders and build lives in different countries. It should also be recognized that more and more activists and journalists are being driven from their home communities by authoritarian powers closing down space for them to operate freely. In Russia alone, hundreds of journalists and activists have fled Vladimir Putin's crackdown, setting up operations to continue their work in Georgia, Armenia, Germany, Lithuania, and other countries in Europe and Eurasia, all while remaining politically engaged in their origin states.

Digital technology has enabled exiled individuals and groups to remain connected to their origin countries, posting on social media and messenger apps that reach people within milliseconds instead of arduously smuggling physical samizdat across borders. States, in turn, have gained instantaneous capabilities to surveil their overseas critics through social media monitoring and spyware. That surveillance all too often leads to concrete threats against those living in the diaspora.

One of the most recent and worrying developments is the extraterritorial repression of reporters. As the space for free media and dissent has closed in authoritarian countries, governments are increasingly reaching outward to target exiled journalists who continue to do their courageous work from abroad. Our new report released today, titled *A Light That Cannot Be Extinguished: Exiled Journalism and Transnational Repression*, examines this issue more closely and describes the repressive toolkit used against target exiled journalists and media. At least 26 governments have targeted journalists, and 112 of the 854 cases in our database—13 percent of all cases—involved journalists.

Perpetrator states of transnational repression are innovating even as awareness of the problem in host countries grows. Moving forward, host governments and law enforcement must pay increasing attention to the role of diplomatic staff and proxy actors working on behalf of origin states to intimidate exiles. The aforementioned recently unsealed DOJ indictment alleging a murder-for-hire scheme organized by an Indian Government employee against a Sikh activist in New York City points to the involvement of criminal associates in such plots. Additionally, foreign governments, such as that of China, may continue to seek out private investigators to co-opt host state institutions and more easily reach targeted individuals.

For too long, democracies have missed or allowed the actions of authoritarian countries inside their borders. Such a pattern of impunity has emboldened states to act abroad without fear of consequences.

A GLOBAL THREAT TO RIGHTS AND SECURITY

When we see the Russian Government for years get away with killing its opponents abroad in baroque schemes across Europe; when we see the murder of Jamal Khashoggi literally inside Saudi Arabia's Istanbul consulate go unpunished; when we see the Turkish Government boast officially that it has kidnapped over 100 people from abroad without any consequence; when we see Rwanda kidnap regime critic Paul Rusesabagina off of a Dubai tarmac; when we see armed Iranian agents visiting the house of journalist Masih Alinejad in Brooklyn; when we see an Indian Government agent plotting to murder a Sikh activist in New York City; we have a global problem. Transnational repression poses a threat to both rights and security and a challenge for both domestic and foreign policy.

The impact of transnational repression on targeted individuals is severe. People's physical safety is endangered, their travel is complicated, their houses are surveilled in the U.S. and elsewhere, they are harassed online and offline, and communication with family and friends living in the country of origin is fraught. Some people are cut off from their families entirely. Each individual incident of transnational repression produces ripple effects throughout the community, fostering an atmosphere of fear and suspicion among neighbors and compatriots.

Even when taking care to avoid being impacted by transnational repression, individuals may still face imprisonment and the possibility of deportation. To take one example, Idris Hasan, a Uyghur activist, has been in a Morocco prison for 2 ½ years after he was detained upon arrival on the basis of a since invalidated INTERPOL notice requested by China. Hasan's detention in Casablanca was particularly unfortunate, as he had opted to flee Turkey due to the uptick in pressure from the Turkish Government on outspoken Uyghurs.

The fundamental question is whether democratic societies can and will protect the rights of people inside our borders against such intimidation. The bet that autocrats

are making is that we are not willing to bear the cost of doing so. We must prove them wrong.

PROGRESS SO FAR

Transnational repression is part of a pattern of authoritarian powers seeking to globalize the repression they use to maintain control in their own societies. Thankfully, there has been strong, bipartisan interest in addressing this issue here in the United States and a growing interest from democracies in Europe and elsewhere.

The Biden administration has made addressing transnational repression a priority issue across agencies. We are pleased to see strong interagency coordination, and, as we understand it, increasing engagement between the Executive Branch and the Hill—something crucially important for an effective U.S. response.

Among the steps taken by the U.S. Government: The Commerce Department has moved to rein in the use of American technology in the production of powerful commercial spyware, which is a crucial vector of transnational repression. The State and Treasury departments have sanctioned perpetrators of transnational repression. State has been holding trainings for diplomats, engaging with allies around the world, and coordinating emergency responses for diaspora communities and exiles abroad. The Department of Homeland Security has pursued outreach to vulnerable communities inside the U.S. The FBI has a dedicated stream of work on transnational repression, including a public web page, the issuance of several informational bulletins for targeted communities, and the ability for individuals to report transnational repression to the FBI hotline. And, we have seen the Department of Justice investigate and prosecute a growing number of cases of transnational repression plotted against U.S. persons, sending a powerful signal to perpetrators and their agents that these actions will be caught and punished.

There are also a number of bills pending in Congress, including some authored by members of this committee.

These are all important steps that we and others have encouraged, and we applaud these efforts. But, more action is needed.

RECOMMENDATIONS FOR CONGRESS

We urge Congress to strengthen the U.S. response to transnational repression and ensure the U.S. has the tools needed to protect those within our borders for years to come. There are three specific steps Congress can take.

1) Pass legislation to address gaps in the U.S. Government's response to transnational repression. This includes codifying a definition of transnational repression, ensuring government officials who may encounter perpetrators or victims of transnational repression receive the training necessary to recognize and respond to the problem, and strengthening sanctions authorities to make it easier to hold perpetrators accountable. The *Transnational Repression Policy Act*, which was introduced by Senators Merkley, Rubio, Cardin, and Hagerty, includes provisions in all these areas. We urge its passage.

At present, U.S. law does not include a definition of transnational repression, which makes it impossible for officials to sufficiently respond. A definition is important to allow officials to understand what transnational repression is and to direct their agencies on reporting, training, and sufficient outreach to and support for victims and potential targets. Codification of a definition for foreign policy purposes in Title 22 should include a detailed description that explains the full scope of transnational repression tactics. Any updates to Title 18, which deals with crimes and criminal activity, should be narrowly tailored to ensure U.S. criminal law can sufficiently address transnational repression without inadvertently criminalizing benign activities or enabling the targeting of individuals simply due to their country of origin. Congressman Schiff has introduced legislation that would update Title 18 with additional authorities related to transnational repression.

Some agencies and bureaus have provided training for officials. But, trainings are not yet routinized or mandated for all officials or employees who may come in contact with perpetrators or victims. Establishing agency-wide trainings for all officials who may encounter the issue will help the U.S. Government respond more effectively.

On the sanctions front, the United States possesses a number of targeted sanctions options, including the *Global Magnitsky Human Rights Accountability Act*; the authorities provided in section 7031(c) of the annual Department of State, *Foreign Operations, and Related Programs Appropriations Act*; the Khashoggi Ban visa restrictions, and several country-specific sanctions programs. With the exception of the Khashoggi Ban, however, none of these sanctions programs explicitly address transnational repression, and they cover only the most severe cases of transnational

repression, such as murder or kidnapping. And while the Khashoggi Ban addresses transnational repression directly, it only imposes visa bans—a weaker measure than the asset freezes included in other sanctions mechanisms. It is also a policy implemented voluntarily by the Biden administration, meaning future administrations would not be legally required to screen visa applicants for activity related to transnational repression.

2) Establish clear pathways for exiled human rights defenders to receive permanent legal status when needed. Democratic governments should consider appropriate mechanisms, including providing special visas, such as humanitarian visas or visas for human rights defenders, activists, and journalists, to help them receive legal status. Countries should also review their asylum processes to ensure that exiled human rights defenders, activists, and journalists are not being denied legal status as a result of illegitimate criminal charges leveled against them by origin country governments. Permanent legal status offers a better safeguard against transnational repression by making the protection of a democracy permanent, reducing a human rights defender's reliance on identification documents from their home country (which can often be cancelled or put them at risk when needing to enter consulates or embassies of their original country for renewal), and potentially allows family reunification, which reduces the risk of coercion by proxy.

3) Urge the Executive Branch to continue to raise transnational repression as a priority issue with partners and allies. We commend U.S. leadership in the newly launched G7 Rapid Response Mechanism Working Group on Transnational Repression and for signing the Declaration of Principles to Combat Transnational Repression. In addition to these efforts with like-minded governments, the United States must not hesitate to raise this issue directly at the highest levels with perpetrators of transnational repression, even when those perpetrators are close partners such as Saudi Arabia and India. Transnational repression is a violation of rights and sovereignty and breaks the bond of trust that must exist for deep cooperation between nations. Whether a government engages in transnational repression should be a significant factor determining the nature of bilateral relations and the closeness of any partnership.

Thank you for your time, and I look forward to your questions.

The CHAIRMAN. Thank you for your testimony.
Ms. Gallagher.

STATEMENT OF CAOILFHIONN GALLAGHER KC, INTERNATIONAL LEGAL COUNSEL TO JIMMY LAI, DOUGHTY STREET BARRISTERS, LONDON, ENGLAND

Ms. GALLAGHER. Thank you, Chairman.

Thank you very much, Chairman Cardin and Ranking Member Risch, and thank you for casting a light on this vitally important issue of transnational repression.

In my time today I wish to focus upon two countries: Iran and China. First, I want to look at something I am increasingly seeing in my work as an international lawyer, the extraterritorial targeting of Iranian journalists worldwide, and second, I want to give the very stark example in Hong Kong of transnational repression and reprisals against those supporting Jimmy Lai, my client, the renowned pro-democracy campaigner, media owner and writer imprisoned in Hong Kong.

Indeed, this hearing is timely. Mr. Lai turns 76 this Friday. It is approaching the third anniversary of him being in custody consistently since December 2020, and on the 18th of December he is facing a trial under the much maligned—rightly much maligned National Security Law.

That is an example of not only diaspora and exiled communities being targeted by the Chinese and Hong Kong authorities, but anyone who dares to stand up and speak for Mr. Lai's rights.

Now, those examples illustrate that the nature of the threats faced by those who speak truth to power is changing and the ac-

tions we take to combat those threats must change too and change urgently.

First example, Iran's targeting of journalists globally, I have given you more detail in my written testimony, but in brief I would say this. It is often said that journalists do not want to become the story, but I am afraid given Iran's actions today, we must discuss journalists' stories.

Iran has a long, shameful history of targeting journalists on its own soil—arresting them, accusing them of espionage simply for doing their jobs, and those tactics have been used for many decades.

I now see four new developments which are particularly troubling.

First, Iran using tactics which are routinely cross border, targeting those using the long arm of the state who work as journalists anywhere across the world including Voice of America here, BBC News Persian in the U.K., Iran International, Deutsche Welle, Radio Farda, and it attempts to silence them both through lawfare weaponizing Iranian laws and a range of extralegal tactics.

Second, and importantly as the only woman on the panel, I wanted to highlight the fact that many of Iran's transnational attacks on journalists are gendered and misogynistic. Women journalists face particularly egregious transnational attacks. I want to give two examples of that.

First, with my clients BBC News Persian that, one, involved a presenter being photoshopped into a pornographic image which was then sent to her 14-year-old son in London at his school—particularly chilling, demonstrates that they know where he goes to school—sent to his headmaster.

A second is fake stories stating that a BBC News Persian presenter had been raped by a colleague known to Iranian audiences and a fake photo blog was produced as showing her with her illegitimate child. Later, her father was hauled in and interrogated by authorities in Iran where he lived. Officers told him that she had hidden this from her family, she was so embarrassed about having been raped by a colleague.

A third tactic is that Iran is also now using collective punishment of those connected to those journalists in Iran that combine external tactics outside Iran with internal tactics in Iran to target family members and sources.

Fourth, Iran's conduct against journalists has escalated to include routine and regular credible threats to life including the kidnapping of a French journalist in exile, Ruhollah Zam, him being returned to Iran and executed and, indeed, we have seen now in the last year in particular, individual chilling examples morphing to become a systematic tool in the Iranian authorities' global toolbox and the committee may be particularly interested in the analysis done by another one of my clients, Paul Caruana Galizia, the journalist, in a series for *Tortoise* specifically about Iran's transnational tactics.

In February of this year, the U.K. security services MI-5 revealed that U.K. authorities have discovered at least 15 threats to kidnap or kill British or U.K.-based individuals perceived as enemies of the Iranian regime since January 2022.

That is 15 in 13 months, more than one a month, and it is why Iran International had to suspend their operations in the U.K. and be based solely from Washington because they could not be protected adequately by U.K. authorities.

Next example I want to turn to, and I am happy to answer more questions about this also, concerns China and Hong Kong, and it is little wonder that since the passing of the National Security Law, a number of states suspended their extradition arrangements and recognized that Hong Kong was now trying to use the long arm of the state to silence critics around the world.

Because the NSL, of course, is dangerously vague and broad, virtually anything could be deemed a threat to national security under its provisions. It can apply to anyone on the planet.

We saw a very grave escalation earlier this year with the bounties on the heads of exiled activists and language being used by John Lee calling them street rats and saying that they would be hunted down and pursued for life.

I want to give a specific example about Jimmy Lai. Earlier this year, this committee heard from his son Sebastien and Sebastien himself, simply for campaigning for his father, for leading the “Free Jimmy Lai” campaign has been targeted himself.

He has been threatened in state media. He has been interrupted when he addressed the Human Rights Council in Geneva in June 2023. He has been—it has been very clear to him that if he ever returns to Hong Kong, he himself may be criminalized.

My colleagues and I, as members of the international legal team for Jimmy Lai and Sebastien Lai, have been subjected to a range of actions and, importantly, none of us are Hong Kongers. None of us are in exile. None of us are dissidents.

We are international lawyers working for our clients seeking to hold China and Hong Kong to account for flagrant violations of Jimmy Lai’s fundamental rights protected by international law and what we are experiencing does not come anywhere close to the most extreme examples you have heard about today.

Just before I conclude, I want to just highlight four tactics used against us.

First, attacks in Chinese affiliated state media directed at me particularly as leader of the team, but also importantly directed at Jimmy Lai, and the suggestion is that Jimmy Lai, by instructing international lawyers, by his case being brought to the United Nations, is in collusion with me, engaging with a foreign agent, and committing further criminal offenses, that I am also committing criminal offenses.

It is outrageous to think that by using mechanisms established internationally to hold states to account for violating international law, both Jimmy Lai and we as his lawyers can be accused of being criminals.

Second, we have seen formal statements from the Hong Kong authorities accusing us of committing criminal offenses for doing our jobs, our crime being lawyers doing our jobs.

Third, we have had an extensive and prolonged campaign of hacking attempts and cyber harassment, much of which has also been misogynistic and sexist, distressing, and frightening including multiple death, rape, dismemberment threats to me, threats to my

family members, and the timing and content of those attacks are plainly designed to stop me doing my job as Jimmy Lai's lawyer.

They come thick and fast on key days for the case. I woke up this morning to 17 different rape and death threats on the day when I am giving evidence before this committee. It also includes spying attempts which are sophisticated and concerning and often involve privilege fishing, if I can put it that way, seeking to obtain legally privileged sensitive information about clients or others.

I am happy to answer further questions on that. It has also involved intimidatory physical surveillance.

Now, that campaign by China-Hong Kong to silence dissent and critical voices and to shut down scrutiny of international—international scrutiny of their actions is comprehensive and sophisticated.

It does not just extend within its own borders to individuals such as Jimmy Lai. It does not just extend to those who the Hong Kong authorities erroneously describe as self-exiled such as the individuals with the bounties.

It extends to anyone anywhere in the world who dares to question their narrative regardless of their nationality, and these are deeply concerning issues and I thank the committee for casting a light on them today and I am happy to answer further questions.

[The prepared statement of Ms. Gallagher follows:]



SENATE FOREIGN RELATIONS COMMITTEE

TRANSNATIONAL REPRESSION

OPENING STATEMENT

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5th December 2023



INTRODUCTION

1. My name is Caoilfhionn Gallagher KC. I am a barrister (King's Counsel) at Doughty Street Chambers, London, specialising in human rights and media law. My clients are based around the world: I regularly act for individuals targeted by countries such as China, Russia, Saudi Arabia, Iran, Egypt, Equatorial Guinea. Many of my clients are journalists, human rights defenders, peaceful protestor and other individuals who have been targeted by State or non-State actors and subject to other forms of reprisal, including arbitrary detention and threats to their life, because of they seek to vindicate their internationally protected rights or the rights of others, or to expose the unlawful conduct of individuals, government, and/or corporations.
2. I am an expert in journalists' safety and accountability for crimes against journalists. My caseload includes leading the international legal teams for pro-democracy activist and publisher *Jimmy Lai*, imprisoned in Hong Kong; for the bereaved family of journalist *Daphne Caruana Galizia*, assassinated in Malta; for over 150 *BBC News Persian* journalists, subjected to transnational repression by Iran; and (with my colleague Amal Clooney) for *Maria Ressa*, the Nobel Peace Prize winning journalist in the Philippines. I was appointed an expert by the Inter-American Court of Human Rights on the safety of female journalists (*Jineth Bedoya Lima v. Colombia*) and I have given expert testimony to UNESCO and Parliamentary inquiries in the Council of Europe, United Kingdom and Council of Europe.
3. Increasingly in my work I see a trend of States no longer being content to simply target critical voices within their own jurisdictions: now, they are using the long arm of the State to target their critics, wherever in the world they may be. We now live in a world in which journalists can be forcibly brought within jurisdiction by hijacking a Ryanair plane, as Belarus did in order to arrest Roman Protasevich; in which a journalist from the US is brutally dismembered in the Saudi consulate in Turkey, a Council of Europe country, as happened to Jamal Khashoggi; in which Russia poisons its critics in London; and in which journalists and human rights activists worldwide receive online death threats from State-linked actors.
4. I would like to thank the Senate Foreign Relations Committee for inviting me to give testimony today about this vitally important issue of transnational repression. In the available time I wish to focus upon two countries, Iran and China, and two stark examples which illustrate new trends in transnational repression which I see in my work: (i) the extraterritorial targeting of Iranian journalists worldwide; and (ii) transnational repression and reprisals against those supporting Jimmy Lai, the renowned pro-democracy campaigner, media owner and writer imprisoned in Hong Kong. This Committee's work in support of and solidarity with Mr Lai, a remarkable and brave man imprisoned for standing up to a bully regime, has been commendable. Today we highlight secondary, transnational targeting of those who stand up to that bully regime outside Hong Kong, including in particular Jimmy Lai's son, Sebastien, and his international legal team.



5. These examples illustrate that the nature of the threats faced by those who speak truth to power is changing – and the actions we take to combat those threats must change, too, and change urgently.

IRAN'S TARGETING OF JOURNALISTS GLOBALLY

6. It's often said that journalists don't want to become the story. But given Iran's actions, today we must discuss journalists' stories.
7. Iran has a long history of targeting journalists on its own soil – arresting them and accusing them of espionage simply for doing their jobs. For decades these tactics were used against local journalists; or foreign journalists when based there, such as Jason Rezaian for the Washington Post. Iran targeting journalists is not new, but there are five developments which are particularly troubling:
 - (i) Iran's tactics are now **cross-border**: no longer is Iran only targeting those who report on its own soil, but it is routinely using the long arm of the State to reach out across borders, to attempt to silence journalists based in UK, in Europe, in the US, worldwide. In their sights are media organisations such as BBC News Persian (UK); Iran International (UK and US); Voice of America (US); Deutsche Welle (Germany); Radio Farda (Czech Republic); and individual freelancers. Iran attempts to silence these journalists both through 'lawfare', weaponizing Iranian laws: accusing media organisations and journalists of terrorism offences and freezing their assets; and through a range of extra-legal tactics, including online harassment.
 - (ii) Many of Iran's transnational attacks on journalists are **gendered and misogynistic**: women journalists face especially egregious tactics. In my work for BBC News Persian, for example, I see false and defamatory information generated through different online platforms and domestic and state-controlled media, aided by search engine manipulation of search engines, so that it can be very difficult to separate facts from fakes. This includes fake images, often focusing on discrediting the female members of BBC News Persian staff among their friends and family – and the broader public – in Iran by accusing them of sexual indecencies. Examples include:
 - Fake stories stating that a BBC News Persian presenter had been raped by a colleague known to Iranian audiences and a fake photo blog showing her with her "illegitimate child". Later, her father was interrogated by authorities, where officers told him she had hidden it from her family because she was embarrassed about having been raped by a colleague.
 - A presenter was photo shopped into a pornographic image, which was sent to her 14-year old son in London. This is particularly threatening in that it demonstrates they know where he goes to school.



- (iii) Iran's tactics also constitute a **collective punishment of those connected to those journalists**: their family members and their sources. Family members have passports confiscated, are subject to travel bans, and are harassed in an effort to silence their relatives. Clients of mine, based in the UK, have family members in Iran who are imprisoned, placed in solitary confinement, and given a chilling message: this will continue unless your loved one stops working for the BBC, or Iran International. This is weaponising family members against their loved ones: leveraging the fact that they have loved ones within Iran to exert pressure upon journalists outside.
- (iv) Iran is engaging in unprecedented **collective punishment of journalists**. Simply being connected to a media organisation which they are targeting is enough. For example, the Iranian authorities in 2017 issued an injunction naming over 150 people, current and former members of BBC News Persian staff, simply because of that connection, including those who never appear in front of a screen and never work on political reporting. This is a legal dragnet, capturing all in its path.
- (v) And now, Iran's conduct against journalists has escalated to include routine and regular **credible threats to life** in multiple countries across the globe. For five years, the temperature has been rising, with a series of escalating deeply troubling incidents.
- First, we saw deeply troubling individual examples since 2018:
 - In October 2018 Denmark recalled its ambassador from Tehran after its security services accused Iranian intelligence service of plotting an assassination on Danish soil.
 - In December 2019 a complaint was made to the UN concerning credible death threats made to Rana Rahimpour, a BBC News Persian presenter in London. She addressed the Human Rights Council in Geneva in March 2020, saying she had been warned that she, her husband, her children and her parents would be assassinated within one month. Her crime? Being a journalist.
 - Ruhollah Zam, a journalist and refugee in France was effectively kidnapped by Iran. In October 2019, the Revolutionary Guard announced that they had lured him back to Iran (he is believed to have attended a meeting with a fake source) and arrested him. He was executed in December 2020. His crime? Being a journalist.
 - In July 2021, it was revealed that an Iranian-American journalist based in Brooklyn, Masih Alinejad, was the target of a kidnapping plot, with four individuals charged. This year, it was revealed that the FBI had disrupted another plot to assassinate her.
 - Now, these individual examples have morphed to become a systematic tool in the Iranian authorities' global toolbox. (This pattern has been analysed brilliantly by journalist Paul Caruana Galizia in a series for Tortoise,



Londongrad.¹) By February 2023, the UK's security services, MI5, had revealed that UK authorities had discovered at least fifteen “potential threats” since January 2022 to “kidnap or even kill British or UK-based individuals perceived as enemies of the regime.” That’s over one a month. And also in February 2023, channel Iran International had to suspend its broadcasts from the UK as it was no longer possible to protect the staff at their building in London, following credible threats to multiple staff members. A foreign State had caused such a significant threat to British journalists on British soil that they had to stop their work and move their operations. Their crime, in Iran’s eyes? Being journalists.

TRANSNATIONAL REPRESSION AND REPRISALS FOR HUMAN RIGHTS WORK CONCERNING HONG KONG

8. Transnational repression by the Chinese and Hong Kong authorities is not new but is undoubtedly on the increase, and the tactics being used are becoming more sophisticated. This includes increasingly sophisticated cyber tactics² and alleged interference with parliamentary democracy in sustained and complex ways.³ We are now seeing an increasingly blurred line between transnational repression tactics used in respect of mainland China and those used in respect of Hong Kong, and increasingly brutal tactics being used by the Hong Kong authorities.
9. The passing of the Law of the People’s Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (“the National Security Law” or “NSL”) marked a particularly low point.⁴ It was passed by China’s top legislature, unanimously, on 30th June 2020, without accountability or transparency, and it entered into force in the territory that same day. In June 2020, shortly before it was passed, an unprecedented statement from over 50 UN experts was issued, expressing their alarm about the repression of fundamental freedoms in China and the Hong Kong Special Administrative Region (“HKSAR”), stating that, if passed, the NSL would “impose severe restrictions on civil and political rights” in the HKSAR, and would “deprive the people of Hong Kong... the autonomy and fundamental rights guaranteed to them” under the Sino-British Joint Declaration and the “one country, two systems” framework.⁵ Amnesty International’s summary encapsulates the core concerns:

¹ ‘Londongrad: Iran’s hit squads,’ May 2023, Tortoise: <https://www.tortoisemedia.com/collection/londongrad-irans-hit-squads/>.

² For example, in 2019 Amnesty International reported that Amnesty International Hong Kong had been the victim of a sophisticated cyber-attack, suspected to be linked to the Chinese government; see Amnesty International, ‘State-sponsored hackers target Amnesty International Hong Kong with sophisticated cyber-attack’, 25th April 2019; and on 1st March 2023, Belgium’s Centre for Cyber Security revealed that it had linked China-sponsored hackers to a “spear phishing” attacks on Belgian parliamentarian, Samuel Cogolati, in January 2021: Financial Times, ‘Belgium’s cyber security agency links China to spear phishing attack on MP’, 1st March 2023.

³ See the allegations regarding interference in democratic processes in Canada and the UK.

⁴ Available in English here: <https://www.gld.gov.hk/legazette/pdf/20202448e/cgn2020244872.pdf>

⁵ OHCHR Press Release (2020) “UN experts call for decisive measures to protect fundamental freedoms in China”, 26th June 2020. Available at: <https://www.ohchr.org/en/press-releases/2020/06/un-experts-call-decisive-measures-protect-fundamental-freedoms-china> Soon after it came into force, and following the first arrests under it, UN mandate holders issued another urgent communication, stating that they were, “concerned that the law lacks precision in key respects, infringes on certain fundamental rights and may not meet the required thresholds of necessity, proportionality and non-discrimination under



"The law is dangerously vague and broad; virtually anything could be deemed a threat to "national security" under its provisions, and it can apply to anyone on the planet."⁶

10. From the outset the Hong Kong authorities have, unsurprisingly, threatened the use of the NSL extra-territorially and have been using it to threaten their critics abroad. An example from March 2022: Benedict Rogers, CEO of UK-based organisation, Hong Kong Watch, was threatened with prosecution under the NSL for the publication of certain material on the organisation's website.⁷
11. Little wonder that, after the passing of the NSL, a number of States suspended their extradition agreements with Hong Kong in order to protect individuals from the politically-motivated charges under the NSL.⁸ In March 2022 the International Bar Association's Human Rights Institute ("IBAHRI") called on the international community to suspend extradition treaties with Hong Kong *"amid alleged intimidation by Hong Kong authorities of human rights defenders."*⁹
12. In July 2023, however, there was a very grave escalation by the Hong Kong authorities. On 3rd July 2023, Hong Kong authorities issued arrest warrants and HK\$1 million bounties on eight exiled pro-democracy activists and former lawmakers: Ted Hui, Dennis Kwok, Nathan Law (former legislators); Anna Kwok, Elmer Yuen, Finn Lau (activists); Christopher Mung (a trade unionist); and Kevin Yam (a lawyer). They are based in various countries, including the UK, USA and Australia. The Hong Kong authorities allege that

*international law,*¹⁰ and thus would not be in compliance with China's international human rights obligations with respect to HKSAR: Communication CHN 17/2020, dated 1st September 2020, page 1.

⁶ See <https://www.amnesty.org/en/latest/news/2020/07/hong-kong-national-security-law-10-things-you-need-to-know/>.

⁷ Hong Kong Watch, *'Hong Kong Watch co-founder and CEO Benedict Rogers threatened under National Security Law'*, 14th March 2022.

⁸ See, for example, CBC (2020) *"Canada suspends extradition treaty with Hong Kong over new security law"*, 3rd July 2020. Available at <https://www.cbc.ca/news/politics/canada-suspending-extradition-treaty-hong-kong-over-security-law-1.5636479>; Extradition treaty with Hong Kong, Joint statement from Prime Minister, Minister for Foreign Affairs and Attorney-General, 9th July 2020. Available at <https://www.foreignminister.gov.au/minister/manasse-payne/media-release/extradition-treaty-hong-kong>; Hong Kong and China Foreign Secretary's statement in Parliament, 20th July 2020. Available at <https://www.gov.uk/government/speeches/hong-kong-and-china-foreign-secretarys-statement-in-parliament>; New Zealand suspends extradition treaty with Hong Kong, 28th July 2020. Available at <https://www.beehive.govt.nz/release/new-zealand-suspends-extradition-treaty-hong-kong>; Kate Day (2020) *"Germany suspends extradition agreement with Hong Kong"*, Politico, 31st July 2020. Available at <https://www.politico.eu/article/germany-suspends-extradition-agreement-with-hong-kong/>; Ben Westcott (2020) *"US suspends extradition treaty with Hong Kong due to concerns over city's eroding autonomy"*, CNN, 20th August 2020. Available at <https://edition.cnn.com/2020/08/19/asia/us-hong-kong-extradition-treaty-intl-hnk/index.html>; Helsinki Times (2020) *"Finland suspends extraditions to Hong Kong, prompting response from Beijing"*, 20th October 2020. Available at <https://www.helsinkitimes.fi/finland/finland-news/domestic/18189-finland-suspends-extraditions-to-hong-kong-prompts-response-from-beijing.html>; Reuters Staff (2020) *"Ireland suspends extradition treaty with Hong Kong"*, Reuters, 24th October 2020. Available at <https://www.reuters.com/article/uk-hongkong-security-ireland-idUKKBN2781XA>

⁹ See <https://www.ibahri.org/IBAHRI-calls-for-suspension-of-extradition-treaties-with-Hong-Kong>. In its six monthly report on Hong Kong, dated 31st March 2022, the UK's Foreign, Commonwealth and Development Office confirmed that *"We stand by the measures we introduced in response to the National Security Law, including suspending our extradition treaty and extending the arms embargo on China to Hong Kong."* See <https://www.gov.uk/government/publications/six-monthly-report-on-hong-kong-1-july-to-31-december-2021/six-monthly-report-on-hong-kong-1-july-to-31-december-2021>.



they have “committed serious crimes endangering national security, advocated sanctions, undermined Hong Kong, and intimidated Hong Kong officials;” and “schemed for foreign countries to undermine Hong Kong’s financial status.” All of the suspects have been charged with “colluding with foreign forces” under the NSL, save for Mr Mung, who faces one charge of “inciting secession.” Rewards were offered for information leading to their arrests.

13. On 4th July 2023, Chief Executive John Lee said that the eight would be “pursued for life” and told journalists that, “*the only way to end their destiny of being an abscondee who will be pursued for life is to surrender.*¹⁰ On 11th July, he described them as “street rats” who should be “*avoided at all costs.*¹¹
14. I note that China has a history of kidnapping individuals abroad and forcibly returning them to China – for example, see the recent case of 80-year-old historian and activist Lhamjab Borjigin, arrested at his home in Mongolia and forcibly returned to China in May 2023.¹² Sky Net, the CCP’s campaign to return ‘fugitives’ from overseas, has been expanded since 2022.¹³ The transnational tactics and language now being used in relation to Hong Kong must be seen against this backdrop.
15. However, the Hong Kong authorities are not only targeting Hong Kongers or ‘dissidents’ within diaspora communities (to use the term in the title of this session). The transnational harassment net is now being cast ever-wider by the Hong Kong authorities and their agents. They are now targeting those who stand up to the Hong Kong authorities, regardless of whether they have ever stepped foot in Hong Kong and regardless of their nationality. Transnational targeting of those supporting Jimmy Lai is indicative of new concerning trends which I draw to this Committee’s attention.
16. As this Committee heard from his son, Sébastien, earlier this year, Jimmy Lai is the oldest and highest profile political prisoner in Hong Kong. Since the 1989 Tiananmen Square protests and massacre, Mr Lai has been a leading figure in the Hong Kong pro-democracy movement. He is a well-known and high-profile advocate for democracy and peaceful assembly, and he has been an outspoken critic of human rights violations by the government and authorities of the People’s Republic of China. His response to the horrors of Tiananmen Square was to found Apple Daily, one of Hong Kong’s most popular newspapers and the largest independent Chinese language media outlet in the region until its forced closure in June 2021.

¹⁰ See <https://www.reuters.com/world/asia-pacific/hong-kong-leader-says-8-overseas-activists-will-be-pursued-life-2023-07-04/>.

¹¹ See <https://hongkongfp.com/2023/07/11/treat-hong-kongs-8-wanted-democrats-like-street-rats-who-should-be-avoided-at-all-costs-leader-john-lee-says/>

¹² See further <https://safeguarddefenders.com/en/blog/chinese-police-kidnaps-writer-mongolia>.

¹³ More detail is available here: <https://safeguarddefenders.com/en/blog/china-announces-expansion-sky-net-and-long-arm-policing>.



17. Due to his work, Mr Lai has been subjected to a barrage of criminal prosecutions, and faces life in prison. He is a prisoner of conscience, imprisoned for his peaceful campaigning activities, his writing, and his journalism, as well as on trumped charges based on an alleged breach of a lease. He has served four sentences already; is still serving a fifth; and now awaits trial for sedition and offences under the NSL, on charges which arise out of his journalism and pro-democracy campaigning. This hearing is timely, as Mr Lai turns 76 this week, on Friday, and his NSL trial is due to start in a little over a week, on Monday 18th December 2023. It is clear that the authorities wish to see him die behind bars, and wish to use him as an example to send a chilling message to any others who would dare to stand up to oppression in Hong Kong.
18. Jimmy Lai's son, Sebastien, who is leading the international #FreeJimmyLai campaign, lives in Taiwan and regularly travels across the world to raise awareness of his father's plight and seek to secure his release. He is a son campaigning to see his father again. For that, the Hong Kong and Chinese authorities have criticised and threatened him, using formal statements accusing him of criminal activity; subjected him to hateful attacks in State media; and have even interrupted him when he addressed the Human Rights Council in Geneva in June 2023, along with a member of our international legal team, Tatjana Eatwell.¹⁴ China's conduct in Geneva shows they will stop at nothing to silence criticism. They will even interrupt a son speaking out for his father. A lawyer speaking out for her client. NGOs speaking out about the erosion of democracy, freedom of expression and the rule of law in Hong Kong. This is a bully State, using every tool in its armoury to silence, to intimidate and to threaten.
19. These are not isolated incidents. My colleagues and I, as members of the international legal team for Jimmy Lai and Sebastien Lai, have been subjected to a range of actions. None of us are Hong Kongers. None of us are 'dissidents.' Rather, we are international lawyers acting for our clients and seeking to hold China and Hong Kong to account for flagrant violations of Jimmy Lai's fundamental rights protected by international law. What we are experiencing does not come anywhere close to the most extreme examples you have heard about today, but it nevertheless raises very serious concerns.
20. Some of the transnational tactics used against us include:
- (i) **Attacks in Chinese affiliated State media since March 2022**, particularly targeted at me, as lead counsel of the international legal team for Jimmy Lai and Sebastien Lai. This has included multiple articles in *Wen Wei Po*, for example, suggesting that my colleagues and I are "*guilty*" of committing national security offences, sedition and espionage by leading the international legal team in the case; describing me as having "*strong anti-China sentiment*" and having "*slandered China*" by raising human rights concerns in relation to the Beijing Olympics on

¹⁴ See further <https://www.doughtystreet.co.uk/news/jimmy-lais-case-raised-united-nations-human-rights-council-geneva-0>.



my twitter account¹⁵; criticising me for “blackening Hong Kong’s National Security Law” by expressing concerns about it in an online meeting on press freedom at which I spoke alongside Nobel Peace Laureate Maria Ressa of the Philippines (and another client of mine); and criticising my connections to other human rights groups, particularly Reporters Without Borders (“RSF”) and IBAHRI.

Many of the articles in State affiliated media suggest that Jimmy Lai is guilty of offences for the very act of instructing international lawyers. They carry quotes from high-ranking politicians claiming that the international legal team are, by filing appeals and making submissions to the UN Human Rights Council Special Procedures for Mr Lai, acting illegally and committing serious crimes.¹⁶ By way of example, an article published in Wen Wei Po on 16th March 2023 included accusations that the international legal team for Jimmy Lai was “colluding with foreign forces” – an offence under the National Security Law. We are described as “*disgusting*,” “*anti-China foreign forces*” committing criminal offences to “*smear*” the Hong Kong and Chinese authorities, and that – by being lawyers acting for our client – we and our client are somehow, together, “*forces disrupting Hong Kong [which] are determined to intervene in Hong Kong affairs forcibly and undermine the rule of law in Hong Kong.*” By speaking to the United Nations or Parliamentarians, it is alleged that that the legal team, “*seeks foreign forces to interfere in Hong Kong affairs, which must violate Hong Kong’s national security law.*” Editorials call for ever heavier penalties for our client, and for our crimes to be investigated and for us to be arrested or extradited to face justice.

- (ii) **Reprisals from the HKSAR government, through formal public statements.** These State media attacks are combined with formal sabre-rattling statements from the Hong Kong authorities, accusing us of committing criminal offences. Our crime? Being lawyers. Doing our jobs. Such a statement was released in March 2023, for example, following Jennifer Robinson and my addressing the UN Human Rights Council in Geneva, accusing the legal team of committing criminal offences for engaging with the UN on behalf of our clients, “*abusing*” UN processes, and “*scandalising*” the National Security Law and the Hong Kong courts. That same statement also criticised Sébastien Lai and claimed he was committing criminal offences by speaking out and calling for his father’s release.¹⁷

¹⁵ Qi Zhengzhi, Wen Wei Po, ‘黎智英律師收「國安電郵」警方譴責有人冒警’, 2nd March 2022 (unofficial translation to English).

¹⁶ Wen Wei Po, ‘Jimmy Lai’s son “sold himself out” and begged for external intervention in national security case. The SAR government strongly condemned it’, 16th March 2023 [unofficial translation].

¹⁷ The full statement is available here:
<https://www.info.gov.hk/gia/general/202303/15/P2023031500686.htm>



- (iii) These formal actions by State actors are combined with **an extensive and prolonged campaign of hacking attempts cyber-harassment**, which has been distressing and frightening. This has included repeated hacking attempts on personal and professional accounts, and multiple death, rape and dismemberment threats to me, and threats to my family members, all of which are being dealt with by the authorities. We also regularly receive false notifications of inbound WhatsApp calls, purporting to come from individuals when they are alone with female members of the legal team, which has been particularly frightening and intimidating. The timing and content of these attacks are plainly designed to be attritional and stop me doing my job as Jimmy Lai's lawyer: the attacks come thick and fast on key days for the case. It also includes spying attempts, including requests from bogus journalists, bogus lawyers or bogus Parliamentary aides and staffers seeking information about the case, our client and our approach. Of most concern to me are tactics which I would describe as 'privilege phishing,' seeking to obtain legally privileged, sensitive information about clients or other targets of the authorities and thus put them at risk. I regularly receive emails impersonating professionals – including emails impersonating a Senate staffer, and partners in US law firms – requesting sensitive information; and emails purporting to be sent by me are sent to my clients and others. For example, when the NGO Safeguard Defenders published their recent report on illegal Chinese police stations abroad, they received an email purportedly from me offering them my services pro bono, starting an email chain which then led to requests for sensitive source information. Impersonation of a lawyer is a criminal offence in multiple countries worldwide for good reason. These are deeply concerning tactics which could risk the physical safety, liberty or even the lives of individuals who are fooled by it.
 - (iv) **Intimidatory physical surveillance within and near the UN building in Geneva:** throughout this year, I and colleagues on the international legal team have been placed under surveillance, followed and photographed whilst meeting with OHCHR staff and State Missions on Mr Lai's case. I understand that one of these incidents – which took place within the UN building itself – was investigated and was confirmed to be State activity.
21. These actions are clearly designed to send a message: we should not act for Jimmy Lai, and we should not raise concerns about China and Hong Kong's human rights records with the United Nations, other international organisations or States. If they go to these lengths and devote such resources to secondary targeting of lawyers like me, it gives an indication of the scale on which they are operating. I have acted in the most sensitive of cases for two decades, and the tactics which I see in Jimmy Lai's case are on a different scale and of a different severity to anything I have seen before.
22. I am grateful to the UN Secretary-General for drawing attention to these actions in his Report on Cooperation with the United Nations, its representatives and mechanisms in the field of rights, 21st August 2023. It states that multiple UN actors have raised concerns



about reprisals by China against those cooperating with the UK and fear thereof,¹⁸ many of whom are necessarily anonymous. Our case is the only non-anonymised example.¹⁹ Alarmingly, China has refused to confirm to the UN Human Rights Committee in its fourth periodic review of HKSAR, or to the UN Special Procedures, that engagement with the UN would not constitute an offence under the National Security law, stating to the Human Rights Committee that it would “*depend on the particulars of the case and on the activities of the body in question.*”²⁰

- 23. The campaign by China/ Hong Kong to silence dissent and critical voices, and to shutdown scrutiny of the international scrutiny of their actions, is comprehensive and it is sophisticated. The actions listed above are designed to intimidate and silence individuals who are simply calling upon the authorities to comply with their international obligations, and, in the case of Hong Kong, its own domestic law that purports to guarantee rights and freedoms to person in Hong Kong. It is clear that China and Hong Kong’s weaponisation of the law – its ‘lawfare’ – extends not only to those within its own borders, such as Jimmy Lai; and those who it erroneously describes as ‘self-exiled’, such as the individuals with the bounties; but to anyone, anywhere in the world, who dares question their narrative.

CONCLUSION

- 24. These examples of Iran and China/ Hong Kong make clear the new nature of the threats we face across the globe. These are not distant issues. Nor are they diaspora only issues, or dissident issues. They impact upon us all.
- 25. One often thinks of transnational repression as being targeted at members of a diaspora, victims of human rights violations or members of civil society activists whose work or campaigning exposes grave human rights violations or other abuses committed by a State. The targeting of my colleagues and I, as the legal representatives of Jimmy Lai and Sebastien Lai, is illustrative of the extent to which China attempts to shut down any and all scrutiny of its conduct and compliance with its international obligations, including those who engage with the UN Human Rights Council, of which China is a member²¹ and as a member, purports to uphold the principles and purposes of the UN and the promotion

¹⁸ Report of the Secretary-General on Cooperation with the United Nations, its representatives and mechanisms in the field of rights, 21st August 2023, A/HRC/54/61, para. 26 and Annex I, para. 55.

¹⁹ Ibid, Annex I, para. 56.

²⁰ Ibid, para. 23; Human Rights Committee, Summary record of the 3895th meeting held on 12th July 2022, Fourth Periodic Report of China cont., CCPR/C/SR.3895, 20th July 2022, para. 44; Response to the letter from the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, the Special Rapporteur on the independence of judges and lawyers, and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism on matters concerning Hong Kong Special Administrative Region of the People’s Republic of China, (AL CHN 1/2023), CH/HR/2023/46, 1st May 2023, para. 56.

²¹ China's term for the 17th cycle expires on 31st December 2023. On 15th October 2023 China was re-elected by the General Assembly in accordance with resolution 60/651, to serve for an additional term that will expire on 31st December 2026.



and protection of human rights. It is an outrage that China can sit on the Human Rights Council whilst at the same time continue to its attempts to harass and intimidate with individuals and entities who seek to engage with it.

26. The US Government issued a Hong Kong Business Advisory on 16th July 2021 warning US businesses of the emerging risks to their operations and activities in Hong Kong posed by the National Security Law.²² The growing threat of transnational repression by China and the Hong Kong authorities underlines the need for urgent effective measures must be taken to address incidents of physical and online targeting and harassment of lawyers, members of civil society, human rights campaigners, and academics, who are based outside of China and Hong Kong. Such measures, at a national level, require a “whole government” approach to an issue that engages the interests of national security, foreign affairs, and business and trade, in cooperation with social media platforms and tech companies. Individuals and groups at risk must be warned of the sophisticated and insidious methods used to target perceived critics of China and Hong Kong, and associated risks. At an international level, it is only through the collaboration and cooperation of States, that this growing threat can be properly addressed, and individuals are protected.

Caoilfhionn Gallagher KC
5th December 2023

²² Department of State, Department of the Treasury, Department of Commerce, Department of Homeland Security, [Hong Kong Business Advisory](#), 16th July 2021.

The CHAIRMAN. Let me, again, thank all three of you. This is chilling information you are presenting to us.

I think we know what is happening, but it is, when we hear it spelled out the way you all have laid it out, it really does present a damning situation where transnational repression is really eating at the core of our own democracy because many of the victims are being prosecuted because of participating here in the United States in our open society.

That is a direct attack at our system of government and it compromises our ability to get objective information. I think of Kara-Murza who is currently in prison in Russia.

He was indicted and sent to prison because of his activities here in the United States informing our committees about what was happening in Russia.

That is why he was imprisoned, poisoned a couple times. He survived that, but now he is lingering in prison.

I think of Sergei Magnitsky and bringing that cause here to the United States by Bill Browder. Both of—of course, Sergei Magnitsky was arrested, tortured, and killed and Bill Browder is under indictment in Russia.

I think about so many of these cases that are really aimed at what is happening here in the United States. I have a constituent, Muyai Gazi, from Rwanda who because of a speech he gave in 2006, critical what was happening in Rwanda, he was sentenced to 14 years in prison in Rwanda for what he said here in the United States, just open speech.

It really does affect our system. We know that—and, Mr. Grozev, you are at risk. We recognize that, and travel—we saw that with Bill Browder with red notice through Interpol, that you could be picked up by a democratic state because of their obligations under the Interpol system on red notice.

We are trying to correct some of those issues, but it seems to me we have got to be much more aggressive because you are at risk. You are at risk here, but you are certainly at risk if you travel.

I appreciate Mr. Abramowitz giving us a roadmap of some things that we can do, but tell us more effectively how we can help you. We put a spotlight on these issues. We do not hide from this. We want to give you a platform. We want the world to know what is happening.

What more can we do to protect particularly our two people that are here that are on—basically frontline soldiers in this campaign? What else would you like to see the United States Senate do?

Mr. GROZEV. I would just take a minute to suggest that the United States can take a more leading coordinating role in helping law enforcement across Europe, for example. Many of the crimes against—many of the examples of transnational aggression do not happen on American territory.

The Russians, for example, would not dare usually by the old rules. Nobody knows what the new rules are, but the old rules of the game, they would not dare attack somebody on American territory, at least not physically.

They do it in Europe and you have to understand that this is an organized crime group called a country and—as the late John McCain used to call them, and they operate like an organized crime group with operations in different countries.

No one country has this division of how they operate as a whole and somebody needs to take the initiative to help the Government of the Czech Republic or the Government of Germany or of Austria to complete the puzzle of understanding how these operations are conducted.

Therefore, investigations against such prospective or committed crimes against journalists and activists must be coordinated on a transnational scale.

Transnational crime must be fought with transnational measures and we do not see that happening. I think the United States can

allocate resources and maybe the Senate can help with that to—for such a coordinating body that actually advises and coordinates different law enforcement agents across the world.

The CHAIRMAN. Thanks for that suggestion.

Ms. Gallagher, any suggestions of what you would like to see us do?

Ms. GALLAGHER. Yes, thank you.

Mr. Chairman, may I start by saying I do not at all put myself in the same category of a frontline worker in the way that Christo Grozev is.

Indeed, the person who is really in the front line is my client, Jimmy Lai, and ultimately the reason that these secondary transnational tactics are being used against Sebastien Lai for speaking out for his father or against us as the lawyers is because it is another weapon with which to target ultimately Jimmy Lai himself. I just want to emphasize that.

I do think there are a number of actions which could be taken. The first thing is that the enemies of freedom are sophisticated and coordinated. I think we need to be much more sophisticated and coordinated in how we deal with these tactics.

We have seen the U.S. Government with the role that it has taken on hostage taking and arbitrary detention of U.S. nationals abroad, creating the role of special envoy so that you have some muscle memory and a centralized place where you can look at the tactics that are used about arbitrary detention and hostage taking in Iran, in Rwanda, in Egypt, and so on.

It seems to me that an equivalent centralized type role in relation to transnational repression could be very important and powerful because what I find in these cases is when I am dealing with transnational repression in cases concerning Saudi Arabia, for example, I deal with officials in multiple countries who are starting with a blank sheet of paper and who simply do not know the tactics that you then see when you are dealing with, for example, China, Russia, Iran.

It seems to me internalized centralized coordination could lead to more sophisticated policymaking in this field and the U.S. would be well-placed to take a leadership role in relation to that.

Similarly, in many countries in which I act in which there is transnational repression and, indeed, as a victim of it myself in the U.K., I often find that police forces are not centralized.

You get some tactics, for example, which are picked up because someone complains to their local police force in Nottingham that something that has happened with China for people working in relation to Hong Kong issues or some academics in the north of England have complained to their local police force. There is no centralized knowledge base where people can go.

I think democratic states who are experiencing this just need to get more sophisticated in looking at having a centralized way of dealing with it.

I also think it is important that we tackle the bad carriers who are facilitating this happening. Now, some of that may involve—and a case like Rwanda was mentioned by Michael earlier—in the case of Paul Rusesabagina, the way in which he was kidnapped and brought to Rwanda did involve a European Union registered

airline company with a private jet picking him up in Dubai and bringing him to Rwanda in a kidnap attempt.

Now, it seems to me we need to look at what action is taken in relation to a private company—a European Union company—which facilitates that. In relation to Hong Kong, what do we do about companies and other entities who are unwitting or otherwise involved in these actions?

Now, some of them are witting bad carriers, but some of them are unwitting and in that I would highlight the role of tech companies who often are used for cyber harassment and do not have very sophisticated ways of dealing with it.

The CHAIRMAN. Thank you very much.

Senator Risch.

Senator RISCH. Thank you, Mr. Chairman.

My first line of questioning for Mr. Grozev. I am always struck that every time we see a Russian poisoning case, they use the same poison all the time it seems like and it is also one that is easily identifiable and traced back to the FSB or one of their agencies.

I am assuming this is done to send a message as much as anything else that they are doing this and they are not trying to do it secretly. They want people to understand what they have done.

Am I right in that assessment?

Mr. GROZEV. That is as good of an analysis as anyone. We do not know what exactly is in their head, but my conclusion is that they have an optional approach. They are trying to use a weapon that they continually improve over the years and invest millions and millions in making more efficient on the hope that it may remain undiscovered.

In the case it gets discovered, it has such a scary reputation that it achieves a different outcome which is fear and intimidation. They win, from their point of view, either way.

If it remains undiscovered, they win. If it gets discovered, then it points to them; they also win. They have zero reputation cost and thus you are right that they do not mind being discovered.

Senator RISCH. On top of that the Russians are notorious that when they do get caught red-handed, whatever they are doing, they just lie about it. A good example of that is the invasion of Ukraine. They get on TV all the time and say, well, we—this was not our fault. America did this. America caused this.

It is just—it is phenomenal that they can do that and, yet, people shrug their shoulders and walk away from it.

Listen, for all three of you I have a question that I would like perhaps a general answer. Time is limited so if you would give me as brief a answer as you could I would appreciate it.

I think we are at a point on the planet where countries are deciding which club they are going to belong to. Is it a freedom and democracy and a government that is created by the people and operated by the people and disciplined by the people or is it a dictatorship, an autocracy, and, of course, the two governments operate very, very differently.

I note that none of the cases that have been referred to here today come from democratic countries. They come from the autocracies.

I think that our challenge as human beings over in this century, in the 21st century, is going to be trying to figure out how the two groups of countries exist on this planet without killing each other because I think one thing we can all agree on—North Korea, Iran, China, they are not going to change. They are going to be the same for a long, long time to come for the foreseeable future.

You hope that there is some change, but hope, as we all know, is not much of a strategy. The democracies are not going to change. We are not going to change. Great Britain is not going to change.

The countries that make up those—the group of free countries are not going to change. The conduct we are talking about specifically in this hearing is—are small instances, and I say that not to demean them because when I say small I mean compared to a war like what is going on in Ukraine or in Israel.

They are a unique, specific incident. They wind up in a newspaper reporting. Everybody reads it and what have you, but they turn the page and move on to sports or something else.

How do we deal with these from country to country? How do we as a country deal with these, with the countries who perpetrate that and other free countries without going to war over them, obviously?

There needs to be some kind of discipline. There needs to be some kind of accountability. How do you do that? What is your recommendation in how we deal with these?

Let us go down the dais just like we started.

Mr. Grozev, would you please start?

Mr. GROZEV. Very briefly, and I have said this before, I would advocate for invoking the principle of universal jurisdiction whenever feasible to investigate crimes that otherwise remain uninvestigated because bad actors are not going to investigate themselves.

Many countries have the principle of universal jurisdiction. Partly, the United States can invoke it, but a crime that happens across several countries outside of the United States and as its core—its basis of an action decided in Moscow can still be prosecuted.

It is not at the moment. Everybody delivers the benefit of the principle of judicial sovereignty to bad actors and this is one way that it, I think can be somewhat curtailed.

You also pointed out that not every country is in the camp of either the bad actor or the good actor. Some countries are borderline.

They are nominally democracies and they are in many respects democracies, but they sometimes are afraid of taking action against China or Russia because of economic pressures.

Those are very insidious nonaction sometimes. For example, Bulgaria, Hungary, Georgia—the country of Georgia—within certain governments are afraid to prosecute Russian crime or Chinese crime that happens on their territory.

Such nonactions actually can be sanctioned, can—sanctions can be imposed against the people not prosecuting by the United States. These are two examples I could see as very practical.

Senator RISCH. I am out of time.

Briefly, Mr. Abramowitz.

Mr. ABRAMOWITZ. Thank you for the question.

A couple points I would like to make. First of all, I think since Freedom House began reporting on this phenomenon 3 or 4 years ago, I think that democratic governments have actually begun to kind of be much more aware of the problem and actually do things about it.

Is it perfect? No, but you see law enforcement agencies like the Justice Department, Homeland Security, the FBI, their agents are being educated about their problems.

They are noticing these cases that might not have—they might not have noticed before. We talked with Western democracies as well. They are really beginning to be much more focused on this issue.

There is not a silver bullet, Senator, with this. I think that—in my testimony I outlined a range of different things—sanctions, visa bans, the creation of tip lines for people to tip off law enforcement.

This is going to be a generational struggle, I think. Russia—as you pointed out, Russia and China are not going anywhere. Other countries are choosing sides now and I think what is really important is for particularly the United States Government and other democracies to make clear that this is unacceptable behavior and to not sweep this under the rug.

When especially people that are friendly to the United States—I mentioned India and Saudi Arabia—and these are—and Saudi Arabia is a significant perpetrator of transnational repression. We have had two big cases that have been outlined from India recently. This should be a matter that is in the bilateral relationship and if it is seen as being swept under the rug then I think other governments will not take it as seriously.

The CHAIRMAN. Senator Menendez.

Senator MENENDEZ. Thank you, Mr. Chairman.

The People's Republic of China has committed a despicable campaign of genocide against the Uyghur people and has exported its suppression to target ethnic and religious minority groups and their family members globally.

Since 1997, members of the Uighur diaspora have experienced the long reach of the PRC's authoritarianism in the form of unprovoked harassment, intimidation, and coercion. Communities in our own nation are victims of China's repression.

Mr. Abramowitz, how do China's tactics differ and remain unpublicized compared to other countries when it is the key enabler of transnational repression?

Mr. ABRAMOWITZ. Senator, China is the world leader on transnational repression. It has been very clear from our reports, from the work that my colleagues have done. They conduct the most sophisticated global and comprehensive campaign of transnational repression in the world.

I would say that China is, number one, the campaign targets many groups—ethnic and religious minorities, political dissidents, human rights activists, journalists and former insiders.

It is the full range of tactics that they use from direct attacks like kidnapping dissidents, co-opting other countries to detain their dissidents, and also in the case of the Uyghurs that you outlined, really threatening their families to get their family members who are living in the free world to basically shut up.

Finally, the sheer breadth and global scale of the campaign is incredible and outspoken members of the Hong Kong diaspora have found themselves in the dragnet as have many others.

It is really the number-one country—the number-one perpetrator.

Senator MENENDEZ. How can the United States help support governments to combat China's repression of minority groups abroad and, for example, can Magnitsky sanctions be utilized to hold the perpetrators enabling China's transnational repression accountable?

Mr. ABRAMOWITZ. We have certainly been in favor of the greater use of the Magnitsky sanctions to target individuals. We think that there can be changes to the law to make perpetrators of transnational repression more squarely within the focus of the sanction regime.

I would also say I think it is very difficult to influence China directly, but one of the themes that we have looked at at Freedom House over the last 5 years is China's efforts to co-opt international fora like the Human Rights Council in Geneva. It is really important for the United States to really combat China's efforts in fora like that.

Senator MENENDEZ. Russia imprisons dissenters like Vladimir Kara-Murza and Alexei Navalny that threaten Putin's power and it shuts down independent media to control the behavior and flow of information to its citizens, but, sadly, Russia's repression does not stop within its borders. In 2022, Russia journalists Yevgenia Baltatarova fled to Kazakhstan after Russian police searched her house due to her online presence in opposition to Russia's illegal war against Ukraine.

Kazakh authorities then detained her when they learned of the criminal charges against her and told her she was not allowed to leave Kazakhstan.

Mr. Grozev, how—have there been widespread transnational repression activities targeting Russian journalists and media services who moved abroad after Russia invaded Ukraine?

Mr. GROZEV. Yes. I give example with three—at least three cases where Russian journalists have been targeted or activists have been targeted abroad with assassination attempts, which may have intended to just be inconclusive assassination attempts just to send a shiver down the spine of other journalists.

Women were selected, in my view, specifically because of the terror from a Russian perspective of the fact that they are not stopping at gender or boundary, and we have seen more attempts than the three, but the three are conclusively linked to chemical weapons that we believe are only in the hands of Russia.

We have seen attempts by Russian authorities to force countries that are nominally democratic to extradite Russians that are in those countries. Kazakhstan is one example, but Bulgaria is another example. Austria is another example.

There are many attempts for judicial repression in addition to the extrajudicial that were mentioned earlier. I think we are talking about cases that are definitely close to 100, not just one or two.

Senator MENENDEZ. One-hundred?

Mr. GROZEV. Yes.

Senator MENENDEZ. Mr. Chair, if I may, one last question. In November, the Nicaraguan regime applauded the unprecedented win of the first Miss Universe winner and called her win a moment of “legitimate joy and pride.”

Shortly after, the director of the Miss Nicaragua pageant, Karen Celebertti, was prohibited from returning to Nicaragua and her husband and son in Nicaragua were detained on accusations of conspiracy dating back to 2018.

Clearly, Ortega regime intends to use such tactics to silence all dissenters both within Nicaragua and abroad. Mr. Grozev, how should the United States respond to the Ortega regime’s intimidation of Karen Celebertti and her family?

Mr. GROZEV. As we discussed earlier, we believe that sanction tools such as the *Magnitsky Act* should not be exclusively used to countries like Russia. They can definitely be applied to the context of Nicaragua as well.

Senator MENENDEZ. Thank you. Thank you, Mr. Chair.

The CHAIRMAN. Senator Ricketts.

Senator RICKETTS. Thank you, Mr. Chairman.

Many Americans believe that the Chinese Communist Party is an external threat only. However, this hearing illustrates the long tentacles of authoritarian regimes like the CCP and that it knows no borders.

This became obvious with the revelation that the CCP is operating secret police stations in overseas centers around the world including here in the United States to intimidate, threaten, and harass Chinese dissidents.

While the case in New York is well known, there are reports that there could be others including in my home state of Nebraska. This is a flagrant violation of our sovereignty and must be addressed swiftly and forcefully.

As countries have woken up to the threat of these police stations and overseas centers, the CCP has adapted. According to a recent report by Safeguard Defenders, the CCP is running a global network of consular volunteers through its embassies and consulates who form part of the United Front influence to enforce operations on foreign soil.

These consular volunteers are mostly used to help with administrative tasks linked to consular protection, risk assessments, and even warnings and advisories to overseas citizens and organizations.

This gives them the full access to individuals’ personal information and may also enhance their control over overseas communities and dissenters. According to the report, none of these liaisons have been declared to host country authorities by the PRC or other relevant actors, let alone receive consent.

While the PRC embassies and consulates have been using these informal networks for at least a decade, they were recently formalized through a state council decree in September.

Mr. Abramowitz, in your testimony you said that host governments and law enforcement officials must pay increasing attention to the role of diplomatic staff and proxy actors working on behalf of the origin states to intimidate exiles.

What role do these consular volunteers play in enhancing the CCP's ability to conduct transnational repression activities?

Mr. ABRAMOWITZ. Senator, the honest truth is my knowledge on this issue is really from the human rights group that you cited that did very good work and that is deeply disturbing.

We were encouraged to see in April an indictment for two PRC nationals arrested on suspicion of operating one such police station in New York. This issue is beginning to kind of get greater attention.

I think the point that I would just simply make is that the 850 or so cases we have had of physical transnational repression—the murders, the renditions—that is just the tip of the iceberg and countries like China are employing surveillance, these police stations, spyware, just all manner of tactics, and I think it is a wakeup call for the nation.

Senator RICKETTS. Are there things specifically we can do with regard to these consular volunteers or how do we work better with our allies on these?

Mr. ABRAMOWITZ. I think the one thing that I would—that comes to mind that I would suggest is that I would say for—if it comes to the attention of the State Department or a foreign ministry in a certain country that a diplomat is behaving outside of the normal diplomat channels, that seems to me grounds for expulsion.

Senator RICKETTS. In addition to formalizing consular volunteers, other parts of the CCP's new regulations on consular protection could allow it to grow into its capacity to carry out transnational repression.

In Article 7 of this state council new regulation that I mentioned, it states that the PRC embassies can act unilaterally under "special circumstances" granted that there is permission from the host country.

Under Article 7 it states the PRC embassies can—sorry, under Article 3, rather, states the consulates are responsible when "the rights of Chinese nationals are violated or simply if help is needed."

The PRC might target a Chinese national abroad under almost any pretext, but these new regulations could provide formal grounds for the PRC consulates to intervene in overseas private affairs of Chinese nationals whether they welcome government support or not.

What is your takeaway on this, Mr. Abramowitz, with regard to these new security rules from embassies and consulates and are there specific things we should do in light of this new regulation that the state council and the Chinese government has passed?

Mr. ABRAMOWITZ. Let me just add, if I may. I think my colleague wanted to say one thing on that because she had just—

Senator RICKETTS. Oh, sure. Absolutely. Ms. Gallagher.

Ms. GALLAGHER. Of course. It is just following your question earlier about the overseas police stations and the consular volunteers.

Just a quick point. When the NGO Safeguard Defenders published their report on Chinese police stations abroad, they received on that day an email purportedly coming from me as an international human rights lawyer in that space saying your report is

superb—I would like to offer you my services pro bono—I would like to help.

They engaged with that email, and after a period of time they started getting asked questions about their sources for the report, and luckily the person who received the email at Safeguard Defenders thought something was not quite right and reached out to me through another source and we discovered that it was quite a sophisticated fake.

Now, that is an example of this kind of privilege-phishing that I have been speaking about where people purport to be lawyers, people who are well-respected and reach out in that way.

Indeed, I have had those privilege-phishing type emails from people purporting to be staffers to members of the Senate and from people who purport to be partners in U.S. law firms. They are very sophisticated and it does seem to me there is a very simple step which could be taken in relation to that.

The U.S. Government, of course, issued a business advisory warning U.S. businesses of emerging risks to their operations and activities in Hong Kong in July 2021.

It does seem to me these tactics of transnational repression that are being used including that example of privilege-phishing and purporting to be professionals in order to obtain sensitive information which may put people at very serious risk that that should obviously be the subject of quite clear guidance from the U.S. government, it seems to us, so that people are warned about this tactic, and I for my part share the concerns which you raised, Senator, regarding broadly at this issue.

It does also seem to me in the U.S. unusually there has obviously been criminal justice activity in relation to the overseas police stations. Many, many countries there was none. There have been very few prosecutions arising from those overseas police stations, which is concerning.

Senator RICKETTS. Mr. Chairman, may I just—I have a follow-up question for Ms. Gallagher.

The CHAIRMAN. Please do.

Senator RICKETTS. On these new regulations the Chinese Government state council has put out with regard to the behavior of their consulates and these consular volunteers and so forth, what steps do you think we as the United States or I should take with regard to these new regulations that came out?

The CHAIRMAN. I would ask that you respond briefly, if you could.

Ms. GALLAGHER. Of course. I can give you a more detailed answer on that in writing subsequently if that would be helpful.

Senator RICKETTS. That would be great. Great. Thank you very much.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you. We have a statement from the Sikh Coalition that is well-documented and without objection it will be made part of the record.

[EDITOR'S NOTE.—The information referred to above can be found in the "Additional Material Submitted for the Record" section at the end of this hearing.]

The CHAIRMAN. Senator Kaine.

Senator KAINES. Thank you, Mr. Chair, and that is a good segue into my line of questioning. It is one thing to deal with this behavior when it comes from a nation that we would sort of put into the adversary camp—China, Iran, others, but you, Mr. Abramowitz, mentioned in particular nations like India with which we have a strong relationship or Saudi Arabia—one a democracy, one a monarchy—and I want to just focus on how do we deal with this when it is a nation that we are in partnership with and I want to use India as an example.

I would like to introduce into the record an article from *The Wall Street Journal*, December 2, “Foiled plot to kill U.S. Sikh is linked to murder of a Canadian activist.”

The CHAIRMAN. Without objection it will be included in the record.

[EDITOR’S NOTE.—The information referred to above can be found in the “Additional Material Submitted for the Record” section at the end of this hearing.]

Senator KAINES. I want to read the first two paragraphs of the letter. I think members of the panel understand this, but I just want to make sure the public does.

“Hours after a Sikh community leader was assassinated by two masked men in the parking lot of his temple in Canada, a senior Indian security officer sent a drug trafficker he knew a video of the blood-covered victim slumped over in his truck. An hour later he followed that up with the New York address of another Sikh activist he wanted killed.

“The trafficker got right on it, according to U.S. prosecutors. He passed on the video and other messages to a purported hit man who had already accepted a \$15,000 advance payment for the contract killing on U.S. soil and suggested there could be more such work. ‘We have so many targets,’ he told the hired gun, who he did not know was really an undercover U.S. law enforcement officer.”

That is the case that has been recently brought in federal court in New York connecting to the murder of the Sikh activist in the suburb of Toronto and it is highly, highly disturbing, to say the least.

That quote, “We have so many targets,” is something we need to pay very serious attention to. It is interesting to note that the Indian Government’s reaction to the prosecution in the United States has been somewhat different than to the claim that their intelligence officials—at least one official—was implicated in the murder in Toronto.

When the Canadian Government Prime Minister Trudeau raised the issue and laid out the evidentiary case, the Indian Government responded in a very negative way and asked Ottawa to recall about 40 Canadian diplomats that were in India.

When the news of this prosecution in the United States came out, the Indian Government at least suggested they were somewhat concerned and potentially chastened by the story and their comments have been a little bit more reasonable.

We often say we are the oldest democracy in the world and India is the largest democracy in the world. This is not the behavior of a respectable democracy and I would like you to just use this—use the Indian example when we are dealing with a nation that we have such strong connections to—we have military connections, economic connections, connections of family. Our Indian-American diaspora community in the United States is such an important part of who we are as a country.

What are the strategies you suggest that we use in dealing with nations that we traditionally count as friends?

Mr. ABRAMOWITZ. What I can say on this, I honestly do not know more about these cases than is in the public record so far. This is all coming to light. It strikes me that one thing that is very important is to get more information about India's activities in democracies out there in the open. That strikes me as something that this body could obtain from sources within the U.S. Government, I think, and to publicize as much as you can so be transparent about what is going on.

I would say the only other thing that I would add is that if you look at freedom in the world, which is our canonical annual survey of political rights and civil liberties in the world, you see two broad trends.

One is authoritarian countries kind of getting stronger, but you will also see backsliding among established democracies and, clearly, India is one of the cases that have been—where there has been this kind of backsliding.

The kind of overseas activities that you are alluding to is also part of a backsliding—a democratic backsliding.

Senator Kaine. Thank you. Just one last comment. I want to thank Ms. Gallagher for being here representing my profession, the legal profession. The targeting of lawyers who represent political dissidents, human rights activists, is a longtime strategy.

There is a case decided by the U.S. Supreme Court in 1963, NAACP v. Button, that came out of Virginia when Virginia tried to pass both criminal statutes and ethical rules to stop lawyers from taking on school desegregation cases.

When dictators want to go after political dissidents, they usually start with the lawyers, but it never ends there.

Thank you for your work. I yield back, Mr. Chair.

The CHAIRMAN. Senator Van Hollen.

Senator VAN HOLLEN. Thank you, Mr. Chairman, and thank all of you for your testimony here today.

To Ms. Gallagher, let me just thank you for your ongoing work with Jimmy Lai. A couple years ago, Senator Toomey—former Senator Toomey and I teamed up and we passed the *Hong Kong Accountability Act* to provide the Executive Branch with more tools to go after both Chinese Government officials, as well as folks in Hong Kong, who were cracking down on dissent and I am pleased it has been used. Obviously, we need to do a lot more on that front.

Mr. Abramowitz, great to see you. Let me thank you for all you are doing at Freedom House, and in your testimony you say for too long democracies have missed or allowed the actions of authoritarian countries inside their borders. Such a pattern of impunity

has emboldened states to act abroad without fear of consequences, and that, of course, is what we are focused on in this hearing.

There is a little known provision in the *Arms Export Control Act* that prohibits arms transfers to any countries that are “engaged in a consistent pattern of acts of intimidation or harassment directed against individuals in the United States.” Not just citizens, not just green card holders, individuals in the United States.

Now, some of the countries we are talking about today are countries we, obviously, do not sell arms to in any form—China, Russia, Iran—but there are many governments out there that are engaged in this kind of intimidation and harassment of individuals on U.S. soil who are.

Would you agree that we should use all of the tools at our disposal? Because a October GAO report just came out, indicated that this provision of law has actually never been used.

One of the things we are looking at is requiring the Administration to come forward with a report identifying which countries would trigger this provision. Is that something you would support?

Mr. ABRAMOWITZ. I would be—what I can commit to, Senator, is I can have my staff look at the proposal and we can come back to you with a considered answer on that.

[EDITOR’S NOTE.—The requested information referred to above follows:]

Freedom House response: We do think the United States should look closely at every existing tool available to address the threat of transnational repression and would be in favor of the United States exploring whether it could utilize this *Arms Control Act* provision against perpetrators of transnational repression. The GAO report that highlighted this as an option is an excellent report that contains a number of good recommendations.

Mr. ABRAMOWITZ. The one thing that comes to mind in your question is that one of the key tools of transnational repression is the use of spyware. That is something that has been done by a number of different countries and I think there was an executive order earlier this year.

Senator VAN HOLLEN. I am going to get to that. That is my next question. You anticipated—

Mr. ABRAMOWITZ. Oh, okay. My point being is that I think really being careful about exporting spyware to those countries that could use it as part of transnational repression strikes me as a—

Senator VAN HOLLEN. Right, but this provision I gathered—I am not sure—I do not think anybody was really focused on this provision and it is embedded in our law, and I am going to be working to make sure that we reactivate it or activate it since it has never been activated.

Mr. ABRAMOWITZ. What I—

Senator VAN HOLLEN. It is not an automatic tool. It does not require cutting off arms transfers, but it is a tool that the executive branch has never used. I look forward to working with folks on that.

Let me talk about the spyware issue because it is a very important issue. You mentioned in your testimony. You just mentioned it now. Of course, NSO technology was used to go after Khashoggi, specifically targeting his fiancé.

We also know that in addition to NSO technology there has been this Predator software that has been used. The administration has taken some actions, but this is the tool—these are the tools of choice of authoritarian governments and other governments.

Some have been mentioned today that are our close friends that used to go—to either go after dissidents themselves or these are companies that sell their wares in many cases to authoritarian governments and other governments.

What more can we be doing to make sure that these tools of choice sold by private companies cannot be abused in this way? In fact, it turns out the Predator software was used to target a couple members of Congress recently.

Can you just speak to this?

Mr. ABRAMOWITZ. I think it is a very serious problem that you are raising. I think that—two things that come to mind. Number one is the U.S. Government can give extra scrutiny to applications from companies that are seeking to export products to those countries where—that may be engaging in transnational repression, the so-called unfree countries or—that would be one thing that I think—extra scrutiny to these applications.

I think that governments can look at the research done by Freedom House and other human rights groups to look at those countries that could be qualified for that. I do not think it is a big secret.

I think to the extent that export controls exist, they need to be carefully and thoroughly enforced. It is not a silver bullet.

Senator VAN HOLLEN. No, I understand. It is not just the countries though. Right now, we just have lots of private entities that are engaged in these kind of activities. It seems to me we need to do a much better job of figuring out how we target them and that ecosystem, to the extent their software is being used by foreign governments to crack down on dissidents.

Obviously, there are important good uses like for the U.S. Government to have surveillance technology, but this is a very different use of those technologies. I see that I am out of time, but I want to——

Mr. ABRAMOWITZ. I would like to commit that my team will get back to you with a thoughtful response on that question. I think it is an important issue.

Senator VAN HOLLEN. Thank you.

[EDITOR'S NOTE.—The requested information referred to above follows:]

Freedom House response: As you know, in March 2023, the Administration of President Joseph Biden announced an executive order that, among other mandates, bars federal agencies from the “operational” use of commercial spyware products that pose a threat to national security or counterintelligence, or that could be employed by foreign governments to violate human rights or target people from the United States. While this is a welcome step forward, Congress should make the Executive Order provisions permanent law through bipartisan legislation, ensuring that the prohibition remains in place under future administrations. To guarantee effective international cooperation on spyware, the United States and like-minded democracies will need to encourage other governments to implement common standards. Governments that signed the Joint Statement on Efforts to Counter the Proliferation and Misuse of Commercial Spyware should follow through on their commitments and encourage like-minded states to join.

In addition, the U.S. Government should work closely with civil society to ensure that democracies' lists of prohibited companies are swiftly and appropriately updated as the industry evolves. The U.S. Commerce Department's Bureau of Industry and Security has imposed special licensing requirements on several surveillance firms whose foreign government clients had used their technologies to target journalists, activists, and others. The addition of these firms to the bureau's Entity List was a positive development, and others engaged in such practices should be subjected to the same restrictions. When reviewing export licensing applications, the U.S. Government should give extra scrutiny to applications from companies seeking to export products to countries whose governments may engage in human rights abuses, especially those previously identified as perpetrators of transnational repression. Governments should consult research by Freedom House and other human rights organizations to determine whether there is a risk that the exported items could enable human rights abuses. Where export controls already exist, governments should enforce them thoroughly and update and strengthen them as necessary to account for the development of new technologies. Government signatories to the U.S. Government-led Export Controls and Human Rights Initiative should follow through on their commitment to prevent the export of technologies used in the violation of human rights.

Furthermore, government surveillance programs should adhere to the International Principles on the Application of Human Rights to Communications Surveillance (<https://necessaryandproportionate.org/principles/>), a framework agreed upon by a broad consortium of civil society groups, industry leaders, and scholars with the aim of protecting people's rights. The principles, which state that all communications surveillance must be legal, necessary, and proportionate, should also be applied to open-source intelligence methods such as social media monitoring and the use of intrusive tools such as spyware.

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INTERNATIONAL PRINCIPLES
ON THE APPLICATION OF HUMAN RIGHTS
TO COMMUNICATIONS SURVEILLANCE



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Credits

The International Principles on the Application of Human Rights to Communications Surveillance was cooperatively written by privacy organizations and experts worldwide including, but not limited to, Access, Article 19, Asociación Civil por la Igualdad y la Justicia, Asociación por los Derechos Civiles, Association for Progressive Communications, Bits of Freedom, Center for Internet & Society India, Comisión Colombiana de Juristas, Electronic Frontier Foundation, European Digital Rights, Reporter Without Borders, Fundación Karisma, Open Net Korea, Open Rights Group, Privacy International, and the Samuelson-Glushko Canadian Internet Policy and Public Interest Clinic. In addition, we also want to thank IP Justice, SHARE Foundation — SHARE Defense, IFEX Network and Instituto NUPEF for help connecting concerned groups together.

For more information, visit

necessaryandproportionate.org/text

Background History

More than 40 privacy and security experts participated in the drafting process of the Principles during the Brussels meeting in October 2012. After an initial broad consultation, which included a second meeting in Rio de Janeiro in December 2012, Access, EFF and Privacy International led a collaborative drafting process that drew on the expertise of human rights and digital rights experts around the world. The first version of the Principles was finalized on July 10, 2013 and was officially launched at the UN Human Rights Council in Geneva in September 2013. The resounding success and global adoption of the Principles by more than 400 organizations across the world necessitated a number of specific, primarily superficial, textual changes in the language of the Principles in order to ensure their consistent interpretation and application across jurisdictions. From March 2013 to May 2013, another consultation was conducted to ascertain and rectify those textual problems and update the Principles accordingly. The effect and the intention of the Principles were not altered by these changes. This version is the final product of those processes and is the authoritative version of the Principles.

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FINAL VERSION MAY 2014*

As technologies that facilitate State surveillance of communications advance, States are failing to ensure that laws, regulations, activities, powers, and authorities related to Communications Surveillance adhere to international human rights law and standards. This document attempts to clarify how international human rights law applies in the current digital environment, particularly in light of the increase in and changes to Communications Surveillance technologies and techniques. These principles can provide civil society groups, industry, States, and others with a framework to evaluate whether current or proposed surveillance laws and practices are consistent with human rights.

These principles are the outcome of a global consultation with civil society groups, industry, and international experts in Communications Surveillance law, policy, and technology.

PREAMBLE

Privacy is a fundamental human right, and is central to the maintenance of democratic societies. It is essential to human dignity and it reinforces other rights, such as freedom of expression and information, and freedom of association, and is recognised under international human rights law.¹ Communications Surveillance interferes with the right to privacy among a number of other human rights. As a result, it may only be justified when it is prescribed by law, necessary to achieve a legitimate aim, and proportionate to the aim pursued.²

Before public adoption of the Internet, well-established legal principles and logistical burdens inherent in monitoring communications created limits to Communications Surveillance by States. In recent decades, those logistical barriers to surveillance have decreased and the application of legal principles in new technological contexts has become unclear. The explosion of digital communications content and — information about an individual's communications or use of electronic devices — the falling cost of storing and mining large sets of data, and the provision of personal content through third party service providers make Communications Surveillance by States possible at an unprecedented scale.³ Meanwhile, conceptualisations of existing human

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rights law have not kept up with the modern and changing Communications Surveillance technologies and techniques of the State, the ability of the State to combine and organize information gained from different surveillance technologies and techniques, or the increased sensitivity of the information available to be accessed.

The frequency with which States are seeking access to both communications content and metadata is rising dramatically, without adequate scrutiny.⁴ Communications metadata may create a profile of an individual's life, including medical conditions, political and religious viewpoints, associations, interactions and interests, disclosing as much detail as, or even greater detail than would be discernible from the content of communications.⁵ Despite the vast potential for intrusion into an individual's life and the chilling effect on political and other associations, laws, regulations activities, powers, or authorities often afford communications metadata a lower level of protection and do not place sufficient restrictions on how they can be subsequently used by States.

SCOPE OF APPLICATION

The Principles and the Preamble are holistic and self-referential – each principle and the preamble should be read and interpreted as one part of a larger framework that, taken together, accomplish a singular goal: ensuring that laws, policies, and practices related to Communications Surveillance adhere to international human rights laws and standards and adequately protect individual human rights such as privacy and freedom of expression. Thus, in order for States to actually meet their international human rights obligations in relation to Communications Surveillance, they must comply with each of the principles set out below.

These principles apply to surveillance conducted within a State or extraterritorially. The principles also apply regardless of the purpose for the surveillance — including enforcing law, protecting national security, gathering intelligence, or another governmental function. They also apply both to the State's obligation to respect and fulfil individuals' human rights, and also to the obligation to protect individuals' human rights from abuse by non-State actors, including business enterprises.⁶ Business enterprises bear responsibility for respecting individual privacy and other human rights, particularly given

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the key role they play in designing, developing, and disseminating technologies; enabling and providing communications; and in facilitating certain State surveillance activities. Nevertheless, these Principles articulate the duties and obligations of States when engaging in Communications Surveillance.

CHANGING TECHNOLOGY AND DEFINITIONS

“Communications surveillance” in the modern environment encompasses the monitoring, intercepting, collecting, obtaining, analysing, using, preserving, retaining, interfering with, accessing or similar actions taken with regard to information that includes, reflects, arises from or is about a person’s communications in the past, present, or future.

“Communications” include activities, interactions, and transactions transmitted through electronic mediums, such as content of communications, the identity of the parties to the communications, location-tracking, information including IP addresses, the time and duration of communications, and identifiers of communication equipment used in communications.

“Protected Information” is information that includes, reflects, arises from, or is about a person’s communications and that is not readily available and easily accessible to the general public. Traditionally, the invasiveness of Communications Surveillance has been evaluated on the basis of artificial and formalistic categories. Existing legal frameworks distinguish between “content” or “non-content,” “subscriber information” or “metadata,” stored data or in transit data, data held in the home or in the possession of a third party service provider.⁷ However, these distinctions are no longer appropriate for measuring the degree of the intrusion that Communications Surveillance makes into individuals’ private lives and associations. While it has long been agreed that communications content deserves significant protection in law because of its capability to reveal sensitive information, it is now clear that other information arising from communications – metadata and other forms of non-content data – may reveal even more about an individual than the content itself, and thus deserves equivalent protection. Today, each of these types of information might, taken alone or analysed collectively, reveal a person’s identity, behaviour, associations, physical or medical conditions, race, color, sexual orientation, national origins, or viewpoints; or enable the mapping of

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the person's location, movements or interactions over time,⁸ or of all people in a given location, including around a public demonstration or other political event. As a result, all Protected Information should be given the highest protection in law.

In evaluating the invasiveness of State Communications Surveillance, it is necessary to consider both the potential of the surveillance to reveal Protected Information, as well as the purpose for which the information is sought by the State. Any Communication Surveillance is an interference with human rights and so international human rights law applies. Communications Surveillance that will likely lead to the revelation of Protected Information that may place a person at risk of investigation, discrimination, or violation of human rights will constitute a serious infringement on an individual's right to privacy, and will also undermine the enjoyment of other fundamental rights, including the right to free expression, association, and political participation. This is because these rights require people to be able to communicate free from the chilling effect of government surveillance. A determination of both the character and potential uses of the information sought will thus be necessary in each specific case.

When adopting a new Communications Surveillance technique or expanding the scope of an existing technique, the State should ascertain whether the information likely to be procured falls within the ambit of Protected Information before seeking it, and should submit to the scrutiny of the judiciary or other democratic oversight mechanism. In considering whether information obtained through Communications Surveillance rises to the level of Protected Information, the form as well as the scope and duration of the surveillance are relevant factors. Because pervasive or systematic monitoring or invasive techniques used to accomplish Communications Surveillance have the capacity to reveal private information far in excess of its constituent parts, it can elevate surveillance of non-protected information to a level of invasiveness that demands full protection as Protected Information.⁹

The determination of whether the State may conduct Communications Surveillance with regard to Protected Information must be consistent with the following principles.

THE 13 PRINCIPLES



NECESSARY & PROPORTIONATE

THE 13 PRINCIPLES**Legality**

Any limitation to human rights must be prescribed by law. The State must not adopt or implement a measure that interferes with these rights in the absence of an existing publicly available legislative act, which meets a standard of clarity and precision that is sufficient to ensure that individuals have advance notice of and can foresee its application. Given the rate of technological changes, laws that limit human rights should be subject to periodic review by means of a participatory legislative or regulatory process.

Legitimate Aim

Laws should only permit Communications Surveillance by specified State authorities to achieve a legitimate aim that corresponds to a predominantly important legal interest that is necessary in a democratic society. Any measure must not be applied in a manner that discriminates on the basis of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Necessity

Surveillance laws, regulations, activities, powers, or authorities must be limited to those which are strictly and demonstrably necessary to achieve a legitimate aim. Communications Surveillance must only be conducted when it is the only means of achieving a legitimate aim, or, when there are multiple means, it is the means least likely to infringe upon human rights. The onus of establishing this justification is always on the State.

Adequacy

Any instance of Communications Surveillance authorised by law must be appropriate to fulfil the specific Legitimate Aim identified.

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Proportionality

Communications surveillance should be regarded as a highly intrusive act that interferes with human rights threatening the foundations of a democratic society. Decisions about Communications Surveillance must consider the sensitivity of the information accessed and the severity of the infringement on human rights and other competing interests.

This requires a State, at a minimum, to establish the following to a Competent Judicial Authority, prior to conducting Communications Surveillance for the purposes of enforcing law, protecting national security, or gathering intelligence:

1. there is a high degree of probability that a serious crime or specific threat to a Legitimate Aim has been or will be carried out, and;
2. there is a high degree of probability that evidence of relevant and material to such a serious crime or specific threat to a Legitimate Aim would be obtained by accessing the Protected Information sought, and;
3. other less invasive techniques have been exhausted or would be futile, such that the techniques used is the least invasive option, and;
4. information accessed will be confined to that which is relevant and material to the serious crime or specific threat to a Legitimate Aim alleged; and
5. any excess information collected will not be retained, but instead will be promptly destroyed or returned; and
6. information is will be accessed only by the specified authority and used only for the purpose and duration for which authorisation was given.
7. that the surveillance activities requested and techniques proposed do not undermine the essence of the right to privacy or of fundamental freedoms.

NECESSARY & PROPORTIONATE**Competent Judicial Authority**

Determinations related to Communications Surveillance must be made by a competent judicial authority that is impartial and independent. The authority must be:

1. separate and independent from the authorities conducting Communications Surveillance;
2. conversant in issues related to and competent to make judicial decisions about the legality of Communications Surveillance, the technologies used and human rights; and
3. have adequate resources in exercising the functions assigned to them.

Due Process

Due process requires that States respect and guarantee individuals' human rights by ensuring that lawful procedures that govern any interference with human rights are properly enumerated in law, consistently practiced, and available to the general public. Specifically, in the determination on his or her human rights, everyone is entitled to a fair and public hearing within a reasonable time by an independent, competent and impartial tribunal established by law,¹⁰ except in cases of emergency when there is imminent risk of danger to human life. In such instances, retroactive authorisation must be sought within a reasonably practicable time period. Mere risk of flight or destruction of evidence shall never be considered as sufficient to justify retroactive authorisation.

User Notification

Those whose communications are being surveilled should be notified of a decision authorising Communications Surveillance with enough time and information to enable them to challenge the decision or seek other remedies and should have access to the materials presented in support of the application for authorisation. Delay in notification is only justified in the following circumstance:

NECESSARY & PROPORTIONATE

1. Notification would seriously jeopardize the purpose for which the Communications Surveillance is authorised, or there is an imminent risk of danger to human life; and
2. Authorisation to delay notification is granted by a Competent Judicial Authority; and
3. The User affected is notified as soon as the risk is lifted as determined by a Competent Judicial Authority.

The obligation to give notice rests with the State, but communications service providers should be free to notify individuals of the Communications Surveillance, voluntarily or upon request.

Transparency

States should be transparent about the use and scope of Communications Surveillance laws, regulations, activities, powers, or authorities. They should publish, at a minimum, aggregate information on the specific number of requests approved and rejected, a disaggregation of the requests by service provider and by investigation authority, type, and purpose, and the specific number of individuals affected by each. States should provide individuals with sufficient information to enable them to fully comprehend the scope, nature, and application of the laws permitting Communications Surveillance. States should not interfere with service providers in their efforts to publish the procedures they apply when assessing and complying with State requests for Communications Surveillance, adhere to those procedures, and publish records of State requests for Communications Surveillance.

Public Oversight

States should establish independent oversight mechanisms to ensure transparency and accountability of Communications Surveillance.¹¹ Oversight mechanisms should have the authority: to access all potentially relevant information about State actions, including, where appropriate, access to secret or classified information; to assess whether the State is making legitimate use of its lawful capabilities; to evaluate whether the State has

NECESSARY & PROPORTIONATE

been comprehensively and accurately publishing information about the use and scope of Communications Surveillance techniques and powers in accordance with its Transparency obligations; to publish periodic reports and other information relevant to Communications Surveillance; and to make public determinations as to the lawfulness of those actions, including the extent to which they comply with these Principles. Independent oversight mechanisms should be established in addition to any oversight already provided through another branch of government.

Integrity of Communications and Systems

In order to ensure the integrity, security and privacy of communications systems, and in recognition of the fact that compromising security for State purposes almost always compromises security more generally, States should not compel service providers or hardware or software vendors to build surveillance or monitoring capability into their systems, or to collect or retain particular information purely for State Communications Surveillance purposes. *A priori* data retention or collection should never be required of service providers. Individuals have the right to express themselves anonymously; States should therefore refrain from compelling the identification of users.¹²

Safeguards for International Cooperation

In response to changes in the flows of information, and in communications technologies and services, States may need to seek assistance from foreign service providers and States. Accordingly, the mutual legal assistance treaties (MLATs) and other agreements entered into by States should ensure that, where the laws of more than one state could apply to Communications Surveillance, the available standard with the higher level of protection for individuals is applied. Where States seek assistance for law enforcement purposes, the principle of dual criminality should be applied. States may not use mutual legal assistance processes and foreign requests for Protected Information to circumvent domestic legal restrictions on Communications Surveillance. Mutual legal assistance processes and other agreements should be clearly documented, publicly available, and subject to guarantees of procedural fairness.

NECESSARY & PROPORTIONATE

Safeguards Against Illegitimate Access

States should enact legislation criminalising illegal Communications Surveillance by public or private actors. The law should provide sufficient and significant civil and criminal penalties, protections for whistleblowers, and avenues for redress by those affected. Laws should stipulate that any information obtained in a manner that is inconsistent with these principles is inadmissible as evidence or otherwise not considered in any proceeding, as is any evidence derivative of such information. States should also enact laws providing that, after material obtained through Communications Surveillance has been used for the purpose for which information was given, the material must not be retained, but instead be destroyed or returned to those affected.

* The process of elaborating these Principles began in October 2012 at a meeting of more than 40 privacy and security experts in Brussels. After an initial broad consultation, which included a second meeting in Rio de Janeiro in December 2012, Access, EFF and Privacy International led a collaborative drafting process that drew on the expertise of human rights and digital rights experts across the world. The first version of the Principles was finalised on 10 July 2013, and officially launched at the UN Human Rights Council in Geneva in September 2013. The resounding success and global adoption of the Principles by more than 400 organisations across the world necessitated a number of specific, primarily superficial textual changes in the language of the Principles in order to ensure their consistent interpretation and application across jurisdictions. From March to May 2013, another consultation was conducted to ascertain and rectify those textual problems and update the Principles accordingly. The effect and the intention of the Principles was not altered by these changes. This version is the final product of those processes and is the authoritative version of the Principles.

NECESSARY & PROPORTIONATE

ENDNOTES

- 1 Universal Declaration of Human Rights Article 12, United Nations Convention on Migrant Workers Article 14, UN Convention of the Protection of the Child Article 16, International Covenant on Civil and Political Rights, International Covenant on Civil and Political Rights Article 17; regional conventions including Article 10 of the African Charter on the Rights and Welfare of the Child, Article 11 of the American Convention on Human Rights, Article 4 of the African Union Principles on Freedom of Expression, Article 5 of the American Declaration of the Rights and Duties of Man, Article 21 of the Arab Charter on Human Rights, Article 21 of the ASEAN Human Rights Declaration, and Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms; Johannesburg Principles on National Security, Free Expression and Access to Information, Camden Principles on Freedom of Expression and Equality.
- 2 Universal Declaration of Human Rights Article 29; General Comment No. 27, Adopted by The Human Rights Committee Under Article 40, Paragraph 4, Of The International Covenant On Civil And Political Rights, CCPR/C/21/Rev.1/Add.9, November 2, 1999; see also Martin Scheinin, "Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism," 2009, A/HRC/17/34. See also Frank La Rue, "Report of the Special Rapporteur to the Human Rights Council on the implications of States' surveillance of communications on the exercise of the human rights to privacy and to freedom of opinion and expression," 2013, A/HRC/23/40 EN.
- 3 Communications metadata may include information about our identities (subscriber information, device information), interactions (origins and destinations of communications, especially those showing websites visited, books and other materials read, people interacted with, friends, family, acquaintances, searches conducted, resources used), and location (places and times, proximities to others); in sum, metadata provides a window into nearly every action in modern life, our mental states, interests, intentions, and our innermost thoughts.
- 4 For example, in the United Kingdom alone, there are now approximately 500,000 requests for communications metadata every year, currently under a self-authorising regime for law enforcement agencies who are able to authorise their own requests for access to information held by service providers. Meanwhile, data provided by Google's Transparency reports shows that requests for user data from the U.S. alone rose from 8888 in 2010 to 12,271 in 2011. In Korea, there were about 6 million subscriber/poster information requests every year and about 30 million requests for other forms of communications metadata every year in 2011-2012, almost all of which were granted and executed. 2012 data available at <https://www.kcc.go.kr/user.do?mode=view&page=A02060400&dc=K02060400&boardId=1030&cp=1&boardSeq=35586>
- 5 See as examples, a review of Sandy Pentland's work, 'Reality Mining' in MIT's Technology Review, 2008, available at <http://www2.technologyreview.com/article/409598/tr10-reality-mining/> and also see Alberto Escudero-Pascual and Gus Hosein, 'Questioning lawful access to traffic data,' *Communications of the ACM*, Volume 47 Issue 3, March 2004, pages 77 - 82.

NECESSARY & PROPORTIONATE

- 6 Report of the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue, May 16 2011, available at http://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/a.hrc.17.27_en.pdf
- 7 "People disclose the phone numbers that they dial or text to their cellular providers, the URLs that they visit and the e-mail addresses with which they correspond to their Internet service providers, and the books, groceries and medications they purchase to online retailers . . . I would not assume that all information voluntarily disclosed to some member of the public for a limited purpose is, for that reason alone, disentitled to Fourth Amendment protection." *United States v. Jones*, 565 U.S. ___, 132 S. Ct. 945, 957 (2012) (Sotomayor, J., concurring).
- 8 "Short-term monitoring of a person's movements on public streets accords with expectations of privacy" but "the use of longer term GPS monitoring in investigations of most offenses impinges on expectations of privacy." *United States v. Jones*, 565 U.S., 132 S. Ct. 945, 964 (2012) (Alito, J. concurring).
- 9 "Prolonged surveillance reveals types of information not revealed by short-term surveillance, such as what a person does repeatedly, what he does not do, and what he does ensemble. These types of information can each reveal more about a person than does any individual trip viewed in isolation. Repeated visits to a church, a gym, a bar, or a bookie tell a story not told by any single visit, as does one's not visiting any of these places over the course of a month. The sequence of a person's movements can reveal still more: a single trip to a gynecologist's office tells little about a woman, but that trip followed a few weeks later by a visit to a baby supply store tells a different story.* A person who knows all of another's travels can deduce whether he is a weekly church goer, a heavy drinker, a regular at the gym, an unfaithful husband, an outpatient receiving medical treatment, an associate of particular individuals or political groups – and not just one such fact about a person, but all such facts." *U.S. v. Maynard*, 615 F.3d 544 (U.S. D.C. Cir., C.A.), p. 562; *U.S. v. Jones*, 565 U.S. ___, (2012), Alito, J., concurring. "Moreover, public information can fall within the scope of private life where it is systematically collected and stored in files held by the authorities. That is all the truer where such information concerns a person's distant past....In the Court's opinion, such information, when systematically collected and stored in a file held by agents of the State, falls within the scope of private life for the purposes of Article 8(1) of the Convention." (*Rotaru v. Romania*, [2000] ECHR 28341/95, paras. 43-44.
- 10 The term "due process" can be used interchangeably with "procedural fairness" and "natural justice", and is well articulated in the European Convention for Human Rights Article 6(1) and Article 8 of the American Convention on Human Rights.
- 11 The UK Interception of Communications Commissioner is an example of such an independent oversight mechanism. The ICO publishes a report that includes some aggregate data but it does not provide sufficient data to scrutinise the types of requests, the extent of each access request, the purpose of the requests, and the scrutiny applied to them. See <http://www.iocco-uk.info/sections.asp?sectionID=2&type=top>
- 12 Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue, 16 May 2011, A/HRC/17/27, para 84.

Also, Congress should reform or repeal existing surveillance laws in the United States, including Section 702 of the *Foreign Intelligence Surveillance Act* and Executive Order 12333. Broad powers under Section 702 and Executive Order 12333 have allowed U.S. Government agencies to collect and access Americans' personal data without meaningful transparency or oversight. Congress should also close a legal loophole that allows U.S. Government agencies to purchase personal data from data brokers rather than obtaining a warrant.

Finally, the U.S. Government should refrain from introducing legislation that weakens encryption, for example by mandating "backdoor" access for authorities or the ability to trace messages. In the United States, any reforms to Section 230 of the *Communications Decency Act* should not undermine the ability of intermediaries and service providers to offer robust encryption. Weakening encryption would en-

danger the lives of activists, journalists, members of marginalized communities, and ordinary people around the world.

Ms. GALLAGHER. I would also like to add something on spyware. I can add more detail in writing, but I have also through my previous work prior to acting for Mr. Lai, those technologies have been used against me in relation to cases that I have done in respect to Saudi Arabia and a number of other countries, and it does seem to me one of the key issues as well as the issue of export licensing applications is the protection of end-to-end encryption because increasingly what I see which is concerning is a naive notion that somehow you can have a backdoor in relation to end-to-end encryption which good actors can use and bad actors cannot. It is very concerning and I think that is an issue that we need to flag as well.

I know it is referred to briefly in the Freedom House report that has been published today.

Senator VAN HOLLEN. Protecting end-to-end encryption? Yes.

Ms. GALLAGHER. Protecting end-to-end encryption, but that is a key point.

Senator VAN HOLLEN. Yes, for dissidents. Yes. No, I think that is a very important point. Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Merkley.

Senator MERKLEY. Thank you very much, Mr. Chairman, and Mr. Abramowitz, thank you for the work of Freedom House.

If we were just kind of ballpark estimating between the year 2000 and 2023, the increase in transnational repression actions within the United States, how would you characterize that?

Mr. ABRAMOWITZ. It is hard for me to give you—what I can tell you is the facts. We have documented this since 2014. We have documented 850 different cases. We will be out in January with an update to our report. I expect there to be many, many more cases.

This is a very old tactic—dates, the murder of Trotsky in Mexico, but I think what I would say is that the conditions are—and the belligerence of the authoritarian countries is just definitely increasing.

Senator MERKLEY. Certainly, anecdotally has—the impression is a massive increase and one of the top actors—the top actor, according to Freedom House, is China and our Congressional Executive Commission on China, which I co-chair, we have had a lot of examination of this and we realize that very few incidents get reported.

Those that do get reported can range from someone walking up to a Chinese-American or Chinese national in America and saying just simply, “We know who your family are back in China,” and walking away. Or it might be an email that says that or a text message that says that.

I have been pressing for the FBI to develop a much better system that—and publicity in trying to collect information about these incidents and, of course, there is a trust factor that has to be established.

People are afraid to report. Do you have any recommendations on how we can see more of the iceberg that is hidden from us about the extent of transnational repression going on, suppressing freedom of assembly, freedom of speech here in the United States?

Mr. ABRAMOWITZ. I would say two things.

Number one, I think a codified definition of this so that everyone knows what you are talking about, and then directing the law enforcement agencies to collect that information.

I think they already are doing that to some extent, but I think, as my testimony indicated, we are at the tip of the iceberg.

Senator MERKLEY. Yes, they are collecting very, very little and in fact the FBI when I have repeatedly approached them says, well, we are just going to tell people to call our national tip line, which is a tip line for everything in the world.

There has to be some type of higher trust portal, Chinese language-speaking assurances to communities that their information is highly protected and so forth. At least that is certainly what I have been hearing from others. I guess would you share that perspective?

Mr. ABRAMOWITZ. In general, yes. I think that—I just will say that we have—my team has spent a lot of time over the last couple of years briefing out the findings of our research to different law enforcement agencies.

There is a huge appetite of information because I think many individual agents, they will see a case and it seems like a isolated case, but, in fact, it is part of a larger national and global story.

I think anything we can do to paint that larger picture would be very valuable.

Senator MERKLEY. I do appreciate that you highlighted the act that a number of us have put together, including the chairman and Senator Hagerty, and the chairman now pursuing a broader bill or, I guess, maybe more targeted bill, but to take on transnational repression.

I think this is such an important growing challenge, and in that context I think many would be surprised to find that Turkey is among the top five offenders—Turkey, a NATO ally.

Given that we have so many dynamics that interact with Turkey including the military base, their common NATO membership, and so forth, what more can we do to bring an end to or dramatically diminish transnational repression by Turkey?

Mr. ABRAMOWITZ. As you suggest, Turkey has been on a campaign since 2016 to hunt down and track its critics who are living abroad.

I think it is very important for the United States to assist victims. I think it is important to not deport people back to the country of origin.

I think it is a very hard challenge. We have other security interests with Turkey. One thing I would just like to say which I have not had a chance to say today is I think there is one silver lining to this whole situation.

It is a terrible situation, but I do think that Americans and others, because of the publicity and the greater publicity of this problem, are beginning to see the nature of authoritarian regimes.

They understand that what happens in China is not just happening in China anymore. What is happening in Russia is not just happening in Russia anymore.

The rights of people inside democracies are directly at threat because of this—their free speech rights, as one of my colleagues just said.

I think it is a very important point. I think anything we can do to get more information out about the size of this phenomenon is really important.

Senator MERKLEY. I will just close by noting that among the recommendations you had was for us to provide permanent legal protection to human rights defenders, to journalists who are under attack, and I certainly would second that.

Thank you very much.

The CHAIRMAN. Senator Shaheen.

Senator SHAHEEN. Thank you, Mr. Chairman, and thank you to each of you for being here and for your ongoing work.

Mr. Abramowitz, in your opening statement you mentioned Belarus, I believe, as one of the top 10 countries that is behaving in a way that promotes transnational crime.

Yesterday, I had an opportunity to meet with Sviatlana Tsikhanouskaya, who was here. She is—I think, most of us believe she is the real leader of Belarus having won that election against Lukashenko in 2020.

Her husband has been imprisoned since that time for his effort to try and challenge Lukashenko and she was recently sentenced in absentia to 15 years in prison.

One of—can you talk about—and I would ask each of you on the panel if you have thoughts about this, about whether you see regimes like Lukashenko working with the Kremlin mimicking what Putin has done or are these efforts by authoritarian leaders to work together to deploy intimidation tactics and do all of the detentions—acts of violence, all of the things that you all have outlined?

Mr. ABRAMOWITZ. First of all, thank you for that question. We actually at Freedom House yesterday welcomed Natalia Pinchuk, the wife of the Nobel Prize winner Mr. Bialiatski, to Freedom House.

Senator SHAHEEN. Yes, I had a chance to meet with her as well.

Mr. ABRAMOWITZ. It is a heartrending story. Not just her husband is in a penal colony, but 1,500 other Belarusian political prisoners.

The point that I would simply make is that the autocrats are learning from each other. Putin was the original kind of modern-day autocrat and his tactics are being copied by other autocrats including Lukashenko and including the most—one of the most brazen cases of transnational repression—the forcing down of the airplane so he could arrest the blogger.

Senator SHAHEEN. The Ryanair.

Do either of the other panelists have thoughts on this?

Mr. GROZEV. I would completely agree with Mr. Abramowitz. It is a copycat situation especially with Lukashenko. Although he was chronologically before Putin—created his model before Putin—but what has to be clear is that there is no assumed collaboration between them.

There is actually a lot of distrust and this is something that can be used in thinking how to maybe topple this autocracy on a smaller scale now.

Russia does not trust Lukashenko's own loyalty forever and Lukashenko himself does not trust that Russia will not overtake Belarus and make him just a figurehead.

This is an important discord that is not—it is latent. It is under the surface. We have seen evidence of this on the surface, for example, when Lukashenko arrested 33 Russian mercenaries thinking that they was sent by the Kremlin to topple him just before the election is 2020.

This is a good example of the paranoia that is in his head. There is occasional collaboration between the intelligence services, but there is generally distrust, and we have seen cases where Russia has sent their own agents to actually watch over what Lukashenko says, what members his government says, at certain press conferences, because they do not trust him and, again, this is an opportunity as much as the threat.

Senator SHAHEEN. Thank you.

Ms. Gallagher, I actually have a different question for you because I think you suggested the idea of a special envoy for transnational repression, and I am not sure which of you talked about improper detentions—illegal detentions of American citizens, and having worked on some of those early cases and helping to develop legislation around creating a fusion cell here to support victims of that kind of repression. Can you talk about what more we ought to be thinking about in terms of supporting victims? Not just going after the perpetrators, but what can we do to support victims and their families?

I really like the idea of the special envoy. I think that makes a lot of sense.

Ms. GALLAGHER. First of all, thank you very much for the very important work that you have done in this space.

Unfortunately, in my work I often deal with journalists, human rights defenders, pro-democracy activists, bloggers, cartoonists, who are arbitrarily detained by authoritarian regimes for doing their work.

One of the difficulties you have is that you cannot as a lawyer use the usual legal tools you have because you are dealing with a regime which does not play by the rules.

These are not rule-of-law-compliant countries, and one of the things where I think the U.S. has shown real leadership is in centralizing its learning in those cases.

I do think the special envoy works very well. I met with him recently and, indeed, I understand he is in the U.K. today giving evidence.

There is no equivalent role in the U.K., so what I see time and again in the U.K. is the complete blank sheet when you have a case like this, which is very problematic.

The other issue that we have, and Jimmy Lai is a good example of this, is that sometimes there is a lack of awareness that when you are dealing with Hong Kong, for example, or you are dealing with a regime which is now in the same category as Iran, Egypt, Saudi Arabia, these kinds of cases, I do think in respect to victims, one of the real problems that I see, and this is—I see it in the U.K., but also Australia and a number of other jurisdictions—here is a real lack of aftercare for victims.

Quite often what you have is someone who has been subjected to arbitrary detention, the most horrendous violation of their

rights, are often in circumstances where they are in solitary confinement. They may have been subjected to torture and so on.

When they return, the support drops off a cliff. Sometimes they are provided with very initial support from a psychiatrist or psychologist, but the gap is then filled ordinarily by civil society organizations or by fundraising, and that is a very serious problem and I think that is one obvious area.

I should also just say on the playbook question that you asked my colleagues, I think that what I am increasingly seeing in my work and the patterns that I am seeing is, and Belarus is a good example, whether it is working directly with the Kremlin or just simply copying the tactics, we are now seeing that there is a dictator's playbook and mechanisms which are used which are effective in transnational repression are inevitably going to be spreading and used by others and it is one of the reasons why it is such a high political priority to deal with China who we all agree is the most serious actor in this space, the most sophisticated actor in this space.

Unless we treat that as the political priority, which it deserves to be, we will see those tactics spreading, picked up by others, in the way that we saw Russia's tactics picked up by Belarus most graphically with that example of Roman Protasevich being hijacked in a Ryanair plane and forcibly brought within jurisdiction.

Senator SHAHEEN. Mr. Chairman, can I ask one more question for the panel?

One of the—since you have all mentioned China, one of the things that we are seeing happening in China is a extensive collection of DNA by the Chinese.

Are there ways in which you are concerned that they are going to use this database to promote the kind of transnational repression that you all are talking about? How do you see that working or is that totally different than what you think we are dealing with now?

I think as we look at AI and the prospects for AI in the future that this is an area that we ought to be thinking about.

Mr. ABRAMOWITZ. Senator, all I can say is that we are deeply concerned just in general about the "bad uses" of technology.

We just put out a report at Freedom House. We did an annual survey of online rights and what was very interesting about the report was it showed that, number one, traditional repression, censorship, is increasing online, but also AI is now being used to kind of turbo-charge human rights violations to spread disinformation, to make it easier for the authorities to censor.

I think, in general, that is very concerning and the collection of that kind of database sounds disturbing to me as well.

Senator SHAHEEN. Any other thoughts about that?

Mr. GROZEV. I would, again, hypothetically and analytically I would imagine that it would contribute to the two sets of transnational oppression and repression, for example, by the inability of good governments to offer protection to—with the usual traditional methods of witness protection, for example, because the one biometric that you cannot change is DNA.

You can change your face. You can change the fingerprints, but you cannot change DNA.

Theoretically, the Chinese Government could use that to verify the identity of their enemies even after they have received protection.

Ms. GALLAGHER. Of course, I agree with the comments about theoretically what—how it could be used. I do not have any comments specifically on that issue or that database simply because it is not within my area of expertise.

I would be happy to look at it if helpful. I would save just generally that I think it is right that you are raising the question because I think in relation to China, what we have seen is increasingly creative use of lawfare, weaponization of the law, increasingly creative use of technology in order to extend the long arm of the state to target people internationally, wherever around the world they may be.

It does seem to me that quite often we respond to that in a fire-fighting way, in a defensive responsive way, and I mentioned earlier the enemies of freedom being creative. It is time for us to get creative, too.

It does seem to me that we should be preemptively thinking about what their next moves may be. I welcome the question, although I cannot give you a specific answer on it.

Senator SHAHEEN. Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Kaine, I was going to ask if you had anything further.

Once again, let me thank our witnesses. It is clear to us that transnational repression, there is the victim and we are obviously concerned about the individual that has been victimized by these actions.

It is also compromising the ability of the nation in which that person comes from, from having the type of participation that is necessary for that country's growth, and then there is also the concerns it has on our own democracies because it denies us the opportunity to hear different views and it compromises our own country.

We see over and over again that democratic institutions are used by our adversaries for their own advantage. This is another example where they are using our open system to gain information, to supply disinformation, in order to advance their causes.

The discussions that took place just recently on the AI, you may not be aware, but every senator is going through AI 101, 102, 103, and 104—I think the last classes are this week—and we are looking at how we can get a handle on AI from a regulatory—from a government regulatory point of view.

Not to stop technology, but to deal, as Mr. Abramowitz said, the bad actors and what you are seeing out there—how can we try to bring this in.

This is just an open invitation to all three of you. As we go through this process, if you see a role that we can play in Congress in the regulation of AI as it relates to this issue, do not hesitate to supply that information to us.

This committee has some jurisdiction over a potential bill that will be coming up next year. There is going to be some individual bills coming out on urgent issues, but the general bill we expect to come out next year.

Please give us that because I would welcome provisions that could help us deal with this current challenge.

The record of the committee will remain open until close of business tomorrow for those that might have questions. You already have a few questions that you volunteered to answer, Ms. Gallagher. We appreciate that very much.

The record will remain open for the questions and then we would ask that you—to the extent that questions are asked that you try to get replies to us in a timely way.

Then concluding this, again, thank the three of you for your contribution to these issues, to your willingness to take on an incredible challenge and in some cases personal risk including as has been pointed out not only the individual here, Mr. Grozev, your challenge, but Ms. Gallagher as a lawyer, it is—you are at risk as well.

Mr. Abramowitz, people sometimes go after the adversary groups—the groups that are trying to get the information out there, so we recognize these are challenging times. Thank you again. With that, the hearing will stand adjourned.

[Whereupon, at 11:36 a.m., the hearing was adjourned.]

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

Statement for the Record From the Sikh Coalition Concerning Threats That Sikhs in the United States Face From the Government of India*Submitted by Senator Benjamin L. Cardin*

**Statement for the Record from
The Sikh Coalition**
**United States Senate Committee on Foreign
Relations**
**Transnational Repression: Authoritarians
Targeting Dissenters Abroad**

December 6, 2023

The Sikh Coalition respectfully submits this statement for the record in connection with the above-referenced hearing before the United States Senate Foreign Relations Committee. As a civil rights organization that represents the Sikh community in the United States, we write to address our concern about the threats that Sikhs in the United States face from the government of India.

By way of background, the Sikh Coalition is the largest Sikh American civil rights organization in the United States. We were founded in the immediate aftermath of September 11, 2001, in response to a torrent of hate crimes against Sikhs throughout the United States. Our mission since then has been to work towards a world where Sikhs and other religious minorities in America can freely practice their faith without bias and discrimination.

Transnational repression is being used to silence dissidents, human rights advocates, journalists, and minorities around the world — including American citizens. This is an area of concern that impacts diaspora communities targeted by Russia, Iran, India, China, Turkey, North Korea, and other countries.¹ To address the safety concerns and civil rights of our communities, the Committee has the ability to pass existing bills and identify additional recommendations that responsibly hold countries accountable for their actions while also ensuring that no community in the United States is scapegoated for the acts of one nation.

While the Sikh Coalition cannot comment on all of the lived experiences of every community targeted by transnational repression, we write to share with you credible concerns that the government of India has engaged in such behavior. Recent events have confirmed longstanding

¹ Mike Abramowitz and Nate Schenckan, "The long arm of the authoritarian state," The Washington Post, Feb. 3, 2021, <https://www.washingtonpost.com/opinions/2021/02/03/freedom-house-transnational-repression-authoritarian-dissidents/>; and Yana Gorokhovskaya, Nate Schenckan, and Grady Vaughan, "Still Not Safe: Transnational Repression in 2022," Freedom House, Apr. 6, 2023, https://freedomhouse.org/sites/default/files/2023-04/FH_TransnationalRepression2023_0.pdf



community concerns about efforts to instill fear and silence within Sikhs in the United States. Most recently, the Department of Justice indicted an Indian national who allegedly collaborated with an employee of the government of India to assassinate a Sikh American on U.S. soil. Information in that indictment also suggests that the government of India had a list of more Sikhs to target between the United States and Canada. Moreover, the Sikh Coalition is also concerned that India is exporting hate-fueled propaganda to further target religious minority communities with Islamophobic and anti-Sikh disinformation to incite community unrest and violence within the diaspora. In light of the alarming news of India's alleged involvement in multiple assassinations and other recent events indicating attempts to target Sikh Americans and houses of worship in our nation, it is imperative that Congress take bold action to protect the civil rights and civil liberties of all Americans and defend our nation from such challenges to our nation's democratic and pluralistic ideals.

The United States should not tolerate attempts to intimidate, harass, and threaten its people, and must hold accountable not only the individual actors but also those involved in the architecting and supporting such plots. Indeed, our commitment to democracy must be even stronger when foreign nations are actively propagating fear in our nation and seeking to restrict the freedom of our citizens. We appreciate the Biden-Harris Administration prioritizing initiatives to address transnational repression in 2021. However, this new and developing area of national security requires greater multi-agency resource coordination to streamline current processes. Additionally, the United States government must ensure there is neutral application of existing political tools to avoid favoritism with specific countries.

I. Credible Allegations of India's Plot to Murder Americans and Instill Fear Against a Religious Diaspora

On November 29, the Department of Justice unsealed an indictment² of Indian national Nikhil Gupta, who was allegedly recruited by an employee of the Indian government to work with others to assassinate Sikh Americans and Canadians. The indictment indicates that Mr. Gupta, along with his collaborators, dedicated extensive time, international coordination, and \$100,000 to a murder-for-hire scheme targeting a Sikh American in New York, and that plot had involved "so many [other] targets," including at least one other American in California. The indictment contains allegations that corroborate India's alleged role in the assassination of Hardeep Singh Nijjar, a Canadian citizen who was murdered in Canada. Moreover, the facts alleged in the indictment indicate that there is an ongoing threat of assassination against an unknown number of U.S. Sikhs,

² United States v. Nikhil Gupta, Sealed Superseding Indictment, S1 23 Cr. 289 (VM), <https://www.justice.gov/media/1326501/dl?inline>.



and that there is an international network of individuals, including an employee of the Government of India, who are coordinating and financing these illegal activities.

Pursuant to laws on international human rights,³ communities have the right to determine if they want to be a part of a nation-state or not, and that right should not be infringed upon.⁴ Regrettably, India has criminalized the right of self-determination for Sikhs and overbroadly deems any expression in support of this political belief as terroristic. In a democracy like the United States, individuals have the right to peacefully express their political beliefs without fear of retribution. The freedom of speech and expression of our citizens is a fundamental cornerstone that cannot be violated by any domestic law, much less by a foreign government. The assassination plots by India undermine these principles by targeting individuals, including Canadians and Americans, who are prominently involved in the establishment of an unofficial and non-binding referendum vote to gather consensus among Sikh communities worldwide on the establishment of Khalistan, an independent Sikh state in the Punjab region of Southeast Asia.⁵

Beyond India ignoring the rules-based international order by attempting to use criminal means to kill Americans, it is alarming to note that India's targeting of the Sikh diaspora appears to be politically motivated leading up to India's elections.⁶ Nor are India's claims justified in any way that is proportionate to the alleged threat. According to the South Asia Terrorism Portal, between 2000 and 2022, allegedly Khalistan⁷-related violence accounted for only 33 fatal incidents, significantly lower than any other ideology. In the same time period, there were 11,892 fatal activities of a different ideology in Jammu and Kashmir, and 5,247 involving Maoists.⁸

³ International Covenant on Civil and Political Rights, United Nations General Assembly Resolution 2200A (XXI), December 16, 1996, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>; Declaration on the Granting of Independence to Colonial Countries and Peoples, United Nations General Assembly Resolution 1514 (XV), Dec. 14, 1960, <https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-granting-independence-colonial-countries-and-peoples>.

⁴ The demand for self-determination by Sikhs to create a homeland called Khalistan has roots in the historical and cultural differences between the Punjabi Sikhs and the Indian state. Sikhs have a distinct identity and many believe that their rights and interests have been ignored or suppressed by the Indian state for more than four decades. Therefore, the demand for self-determination is not just a political issue, but also a cultural and social one. Genocidal violence by India targeting the Sikh community also plays a significant role in legitimate requests for self-determination.

⁵ The Sikh Coalition does not take an institutional position on Khalistan, but firmly believes that all people have a right to free speech and a right to lawfully advocate for their beliefs.

⁶ C. Christina Fair, "India's Spat With Canada Is a Win-Win Situation for Modi," FP, Oct. 20, 2023, <https://foreignpolicy.com/2023/10/20/india-modi-canada-trudeau-nijjar-khalistan-sikh-separatism/>.

⁷ The Sikhs that India is targeting through transnational repression are often advocates for Khalistan—an independent Sikh state.

⁸ See footnote 6.



Further undermining the legitimacy of India's claims of combating fatal threats is the alleged strategic timing of India's assassination plot: The indictment specifically identifies that the Indian agent requested action that would not coincide with Prime Minister Narendra Modi's state visit to the United States.⁹ These allegations suggest a misuse of diplomatic relations to target political dissenters abroad, including Americans.¹⁰ This information also raises serious concerns about India's commitment to democratic principles, its reliability as a strategic partner,¹¹ and its commitment to bilateral agreements with our nation. The 2005 New Framework Agreement focused on upholding democratic institutions and the rule of law; similarly, the recent 2023 U.S.-India Comprehensive Global and Strategic Partnership affirms that the rules-based international order must be respected. These actions of India, however, run contrary to such agreements and demonstrate that India is using its geopolitical standing with the United States to exploit human rights abuses against not only the United States, but also other five-eyes nations.

Finally, it is deeply concerning that India appears to be actively financing and promoting criminal enterprise activity in the United States. We are alarmed by the government of India using criminal elements—including but not limited to recruiting an international narcotics trafficker¹²—to target Sikhs in the United States, a clear violation of democratic principles, due process, and respect for the rule of law. The use of criminal elements to kill individuals on India's hitlist further lends concern that the targets were selected not to enact justice but to send a message of fear to specific communities in the United States and intent to avoid culpability for the murder of Americans.

II. Concerning Pattern of Transnational Repression by India and Indian Nationalists Targeting Religious Minorities in the United States

In September, Canadian Prime Minister Justin Trudeau confirmed that "Canadian security agencies have been actively pursuing credible allegations of a potential link" between the Indian state and the arbitrary extra-judicial killing of Sikh Canadian Hardeep Singh Nijjar in British

⁹"Gupta also specifically instructed the UC not to commit the murder around the time of anticipated engagements scheduled to occur in the ensuing weeks between high-level U.S. and Indian government officials." *United States v. Nikhil Gupta, Sealed Superseding Indictment, S1 23 Cr. 289 (VM),* <https://www.justice.gov/media/1326501/dl?inline>.

¹⁰ See footnote 6.

¹¹"On foreign policy, India is reliably unreliable," *The Economist*, Nov. 24, 2022, <https://www.economist.com/asia/2022/11/24/on-foreign-policy-india-is-reliably-unreliable>.

¹²"In or about May 2023, CC-1 recruited GUPTA to orchestrate the assassination of the Victim in the United States. GUPTA, an Indian national who also resides in India, is an associate of CC-1 and has described his involvement in international narcotics and weapons trafficking in his communications with CC-1 and others." *United States v. Nikhil Gupta, Sealed Superseding Indictment, S1 23 Cr. 289 (VM)*, <https://www.justice.gov/media/1326501/dl?inline>.



Columbia in June.¹³ Prime Minister Trudeau's national security advisor previously named India as a "top source of foreign interference in Canada,"¹⁴ and these concerns were publicly raised by Prime Minister Trudeau at the G20 Summit in New Delhi in September.¹⁵

Concerns of transnational repression, and specifically the targeting of Sikhs, extends beyond these events in Canada. The United States Commission on International Religious Freedom (USCIRF) has also found that Jagtar "Jaggi" Singh Johal, a British Sikh man, remains "detained [in India] for his religious belief and for documenting religious freedom violations."¹⁶ And in May 2022, the United Nations Working Group on Arbitrary Detention declared Johal's detention arbitrary and called for his immediate release.¹⁷

Members of the Sikh American community, including elected officials,¹⁸ have courageously spoken out about threats that could be traced back to the government of India or may be the result of Hindu nationalist extremism¹⁹ stoked by India's industrial-scale disinformation campaigns and

¹³ Paula Newton and Rhea Mogul, "India expels Canadian diplomat in tit-for-tat move as spat over assassinated Sikh activist deepens," CNN, Sep. 19, 2023, <https://www.cnn.com/2023/09/18/americas/canada-harddeep-singh-nijjar-india-intl/index.html>.

¹⁴ "India among top actors for foreign interference in Canada: national security adviser," CTV News, Jun. 5, 2023, <https://www.ctvnews.ca/politics/india-among-top-actors-for-foreign-interference-in-canada-national-security-adviser-1.6428213#:~:text=Prime%20Minister%20Justin%20Trudeau's%20national,of%20foreign%20interference%20in%20Canada.>

¹⁵ "Trudeau leaves India after aircraft issues delayed departure from rocky G20: Canadian prime minister's time at G20 summit in New Delhi highlights growing tensions between India and Canada," Al Jazeera, Sep. 12, 2023, <https://www.aljazeera.com/news/2023/9/12/trudeau-leaves-india-after-aircraft-issues-delayed-departure-from-rocky-g20#:~:text=Canadian%20prime%20minister%20time%20at,tensions%20between%20India%20and%20Canada.&text=Canadian%20Prime%20Minister%20Justin%20Trudeau,between%20Ottawa%20and%20New%20Delhi.>

¹⁶ "Jagtar Singh Johal," United States Commission on International Religious Freedom, <https://www.uscirf.gov/religious-prisoners-conscience/forb-victims-database/jagtar-singh-johal>.

¹⁷ Calum McKay and Katie Hunter, "UN group: No legal basis for Jagtar Singh Johal's detention in India," BBC News, May 8, 2022, <https://www.bbc.com/news/uk-scotland-scotland-politics-61371846>.

¹⁸ Jenny Huh, "Sikh lawmakers, threatened over ethnicity in recent weeks, highlight nationwide safety concerns," KGET, Oct. 19, 2023, <https://www.kget.com/news/local-news/local-sikh-lawmakers-threatened-over-ethnicity-in-recent-weeks-highlight-nationwide-safety-concerns/>; Joe Rubin, "Sikh activists in California fear being targeted in alleged assassination plot," The Sacramento Bee, Dec. 1, 2023, <https://www.sacbee.com/news/local/article282490123.html>.

¹⁹ Hindu Nationalists and White Supremacists are also worryingly becoming further aligned to advance their respective agendas of prejudice in establishing racially pure societies. Supporters have embraced the Aryan race mythology as well as fascism, while White Supremacists have admired Hindu Nationalists promoting Islamophobia and the ideals of a caste system. See Aadita Chaudhury, "Why white supremacists and Hindu nationalists are so alike" Al Jazeera, Dec. 13, 2018, <https://www.aljazeera.com/opinions/2018/12/13/why-white-supremacists-and-hindu-nationalists-are-so-alike>; and Audrey Truschke, "Hindu Supremacists in a White World," Oxford Academic, Jun. 23, 2023, <https://academic.oup.com/taar/article/90/4/805/7205783>. The cross-pollination of extremist ideologies to inspire bigoted acts of hatred has become a growing threat for religious minorities around the world. See Joe Heim and James McAuley, "New Zealand attacks offer the latest evidence of a web of supremacist extremism," The Washington Post, Mar. 15, 2019, https://www.washingtonpost.com/world/europe/new-zealand-extremism/2019/03/15/133a33d0-13e0-11e9-9a2c-0059b3c3a550_story.html.



open calls for the assassination of dissidents, including individuals in the United States. It should be very alarming that the government of India appears also to be targeting gurdwaras (Sikh houses of worship), including one in California, using travel visas as a tool of coercion against Americans.²⁰ Similarly, India has also been repeatedly implicated in infiltrating gurdwaras in Canada²¹ and Germany.²² Many Sikhs, including current²³ and former elected officials in Canada, have also been denied visas to visit India as a result of speaking out about human rights abuses in India.

The Sikh Coalition has also received reports from individuals in the United States receiving threatening messages after attending peaceful protests critical of the Indian government. We are also aware of instances of Indian government agents stopping individuals arbitrarily and with false charges to elicit information about Sikh communities in the United States. And finally, we have been notified of situations in which individuals in the United States who have expressed criticism of the Indian government have had their family members in India face harassment at the hands of Indian authorities. Regrettably, many individuals are understandably reluctant to come forward due to the very real fear of reprisal against themselves or their loved ones abroad. Community reporting of incidents faces challenges due to a lack of awareness in recognizing signs of transnational repression. These challenges are exacerbated by insufficient community involvement and a lack of awareness among law enforcement agencies, including federal authorities.

²⁰ Joe Rubin, "California Sikhs report threats, troubling incidents to FBI following assassination in Canada," The Sacramento Bee, Oct. 19, 2023, <https://www.sacbee.com/news/local/article280306154.html>.

²¹ "WSO Expresses Concern over Indian Interference in Canada," World Sikh Organization, April 17, 2019, https://www.worldsikh.org/wso_expresses_concern_over_indian_interference_in_canada.

²² Germany has charged individuals linked to Indian intelligence services at least three times. "Germany charges man with spying for Indian intelligence," Al Jazeera, May 13, 2020, <https://www.aljazeera.com/news/2020/5/13/germany-charges-man-with-spying-for-indian-intelligence>; IP Singh, "Second case of Germany going after Sikhs spying on their community," Times of India, April 12, 2019, <https://timesofindia.indiatimes.com/city/ludhiana/second-case-of-germany-going-after-sikhs-spying-on-their-community/articleshow/68841351.cms>; "German official charged with spying on Sikhs for India," The Local, Sept. 20, 2016, <https://www.thelocal.de/20160920/german-official-charged-with-spying-on-sikhs-for-india>.

²³ IP Singh, "Canadian Sikh MLA alleges India denied visa to him," Times of India, Updated Dec. 27, 2013, <https://timesofindia.indiatimes.com/nri/us-canada-news/canadian-sikh-mla-alleges-india-denied-visa-to-him/articleshow/28001791.cms>; and A Singh, "India denies ex-MP visa," Asian Pacific Post, Oct. 25, 2011, <https://asianpacificpost.com/article/4732-india-denies-ex-mp-visa.html>.



These disturbing reports highlight that Sikh Americans of all walks of life are being targeted, whether they are dissidents, elected officials, or houses of worship within the country. This pattern of intimidation and harassment is deeply troubling and poses a significant threat to the safety and well-being of our nation and the rights of Americans.

III. The History of Religious Oppression by the Indian Government Indicates a Move Towards Authoritarianism with International Aspirations

These egregious actions by India attempting to murder Americans not only violate our democratic ideals but are part of a broader pattern of suppressing religious minorities domestically and abroad. When Sikhs and other religious minorities peacefully dissent, the response from the Indian government has too often been marked by attempts to suppress freedoms of expression through internet shutdowns, media censorship, intimidation, arbitrary arrests, escalation of violence, and characterizations of peaceful dissidents as terrorists. Actions like these contradict fundamental human rights and risk exacerbating civil unrest and alienation of an entire religious minority community.

In March of this year, Indian authorities executed weeks-long massive mobilizations of paramilitary and police forces, conducted multiple coordinated arbitrary arrests with brutal violence, imposed mobile internet data blackouts, blocked SMS services, censored media, and disproportionately targeted Sikhs and political dissenters across Punjab.²⁴ Similar oppressive tactics were also displayed during the historic Farmers' Protests that began in September 2020.²⁵ These actions by the Indian government to censor certain aspects of the country's national conversation evoke grave concerns of fostering a climate that could lead to mass violence against Muslims, Sikhs, and other minorities, especially given that India is considered a country at high risk for mass killings.²⁶ The United States Commission on International Religious Freedom (USCIRF) Chair Abraham Cooper also reiterated that "Religious freedom conditions in India have notably declined in recent years. Muslims, Sikhs, Christians, Dalits, and Adivasis are experiencing increased levels of attacks and acts of intimidation."²⁷

²⁴ Letter to Secretary Antony Blinken, The Sikh Coalition, March 21, 2023, <https://www.sikhcoalition.org/wp-content/uploads/2023/03/Support-for-Sikhs-and-Democratic-Norms-in-India-March-21-2023.pdf>.

²⁵ Mujib Mashal and Sameer Yasir, "Modi's Response to Farmer Protests in India Stirs Fears of a Pattern," New York Times, Feb. 3, 2021, <https://www.nytimes.com/2021/02/03/world/asia/india-modi-farmer-protest-censorship.html>.

²⁶ "Rising Mass Atrocity Risks in India." United States Holocaust Memorial Museum, Mar. 30, 2022, <https://www.ushmm.org/genocide-prevention/blog/rising-mass-atrocity-risks-in-india>; "India: 2022-23 Statistical Risk."

²⁷ "USCIRF Reiterates Concerns on Religious Freedom in India, Calls for Release of Religious Prisoners of Conscience," United States Commission on International Religious Freedom, Oct. 3, 2023, <https://www.uscirf.gov/news-room/releases-statements/uscirf-reiterates-concerns-religious-freedom-india-calls>.



Non-governmental organizations (NGOs) like Amnesty International, which monitor human rights conditions worldwide, were forced to shut offices across India after being financially paralyzed by the Indian government.²⁸ Oxfam and Khalsa Aid have also been subjected to raids by the Indian government.²⁹ Similarly, the offices of BBC and other media organizations were subject to government raids.³⁰

The Indian Government's control and manipulation of the media to advance their ideological purposes is also no secret. Since 2020, India has regressed further down the Reporters Without Borders World Press Freedom Index. It is now ranked among the worst for global press freedom with the likes of Russia, China, and Iran.³¹ India has expelled foreign journalists due to work critical of Mr. Modi,³² and imprisoned a growing number of journalists in-country for their reporting.³³ Additionally, even U.S.-based journalists who ask simple questions about India's human rights record face online threats and harassment.³⁴

Additionally, social media users critical of India's draconian policies routinely have their accounts restricted at the request of the government.³⁵ Any criticism of the Modi government can lead to bans and attacks by trolls. Individual users have been targeted for something as trivial as sharing a BBC documentary that is critical of Mr. Modi;³⁶ there have also been coordinated campaigns to restrict trending topics that peacefully acknowledge India's genocidal violence against Sikhs in

²⁸ Hannah Ellis-Petersen and Ben Doherty, "Amnesty to halt work in India due to government 'witch-hunt,'" The Guardian, Sep. 29, 2020, <https://www.theguardian.com/world/2020/sep/29/amnesty-to-halt-work-in-india-due-to-government-witch-hunt>.

²⁹ Astha Rajvanshi, "How the Indian Government Uses Raids to Silence Critics," TIME, Feb. 14, 2023, <https://time.com/6255425/india-raid-bbc-modi-documentary/>.

³⁰ Id.

³¹ "India: Media freedom under threat," Reporters Without Borders, Mar. 5, 2023, <https://rsf.org/en/india-media-freedom-under-threat>.

³² "VICE journalist Angad Singh deported from Delhi," The Hindu, Aug. 25, 2022, <https://www.thehindu.com/news/national/vice-journalist-angad-singh-deported-from-delhi/article65810246.ece>.

³³ Kavitha Iyer, "'They Can Target Anybody': India's War on Free Press Is in High Gear," TIME, Aug. 1, 2022, <https://time.com/6202430/zubair-modi-muslims-target-media-free-press/>.

³⁴ Amy B Wang, "White House defends WSJ reporter facing harassment over Modi question," Washington Post, June 28, 2023, <https://www.washingtonpost.com/politics/2023/06/28/white-house-modi-reporter-wall-street-journal/>.

³⁵ Yashraj Sharma, "Twitter accused of censorship in India as it blocks Modi critics," The Guardian, Apr. 4, 2023, <https://www.theguardian.com/world/2023/apr/05/twitter-accused-of-censorship-in-india-as-it-blocks-modi-critics-elon-musk>.

³⁶ Rhea Mogul, "India bans BBC documentary on PM Modi's role in Gujarat riots," CNN, Jan. 23, 2023, <https://www.cnn.com/2023/01/23/business/india-modi-bbc-documentary-twitter-youtube-censorship-intl-hnk/index.html>.



1984.³⁷ When American social media companies such as Meta and Twitter do not comply with takedown requests, their employees risk arrests and raids in India.³⁸ Former Twitter CEO Jack Dorsey alleged that the Indian government threatened to "shut Twitter down" if they did not censor accounts commenting on the Farmers Protest.³⁹ The Sikh Coalition is also aware of media from India that improperly attempts to label Sikhs as terrorists for their peaceful political views. Such segments are then immediately followed by commentators who advocate for the global extrajudicial murder of "terrorists." We are deeply alarmed by India's attempts to silence journalists, advocates, and nonprofits around the world who are critical of the Indian government.

It is not only international NGOs and media suppression that indicate India has embraced and continued to permit authoritarianism for a significant period of time that should be concerning to the United States. Prior human rights reports on India from the Department of State, spanning at least a decade, indicate longstanding concerns regarding India's major human rights issues concerning "police and security force misconduct, such as extrajudicial killings, torture, and rape."⁴⁰ USCIRF has also detailed religious freedom violations by India and made persistent recommendations in the past four years that India should be designated as a Country of Particular Concern.⁴¹ Recommendations made by USCIRF must be adopted without political favoritism to ensure that countries such as India are put on notice that they cannot operate with impunity. Despite these warning signs, the United States is permitting the most egregious violators of religious persecution to disregard human rights and democratic ideals that promote stability and security in the world.

India's credibly suspected role in the recent unjustified killing of a Canadian citizen without legal process, along with the thwarted scheme to eliminate more Sikhs, including those in the United States, through illicit methods, suggests that India is attempting to extend its authoritarian and religious oppression practices worldwide. This alarming trend of disproportionately targeting Sikhs is further substantiated by historical and recent reports indicating India's active involvement in establishing similar oppressive networks in other countries (such as Canada, the United Kingdom,

³⁷ "India attempts to censor tweets commemorating '1984 Genocide of Sikhs,'" Tamil Guardian, Sept. 20, 2020, <https://www.tamilguardian.com/content/india-attempts-censor-tweets-commemorating-%E2%80%991984-genocide-sikhs%E2%80%99>.

³⁸ Ryan Grim and Murtaza Hussain, "Elon Musk's Twitter Widens Its Censorship of Modi's Critics," The Intercept, Mar. 28, 2023, <https://theintercept.com/2023/03/28/twitter-modi-india-punjab-amritpal-singh/>.

³⁹ Zoya Mateen, "Jack Dorsey: India threatened to shut Twitter and raid employees." BBC, Jun. 13, 2023, <https://www.bbc.com/news/world-asia-india-65886825>.

⁴⁰ "India 2011 Human Rights and Labor Report: India." U.S. Department of State, Bureau of Democracy, Human Rights and Labor, May 24, 2012, <https://2009-2017.state.gov/documents/organization/186675.pdf>.

⁴¹ "USCIRF Reiterates Concerns on Religious Freedom in India, Calls for Release of Religious Prisoners of Conscience," U.S. Commission on International Religious Freedom, Oct. 3, 2023, <https://www.uscirf.gov/news-room/releases-statements/uscirf-reiterates-concerns-religious-freedom-india-calls-release>.



and Germany). It is a clear violation of international norms and human rights that cannot be overlooked or tolerated, especially within the United States.

IV. Recommendations

In light of the growing body of evidence and credible reports of transnational repression propagated by the government of India, The Sikh Coalition recommends the following actions:

1. Protect the rights and safety of all individuals, especially those targeted by the malicious behavior of foreign governments, by passing the Transnational Repression Policy Act (H.R. 3654/S.831).
2. Similar to actions already taken by Canada, hold India accountable and suspend trade pending a thorough and complete investigation into India's alleged covert activities against Sikhs in the United States, Canada, and the United Kingdom.
3. Publicly condemn India's hostile actions and flagrant violations of human rights, the rule of law, and the sovereignty of our nation. It is also critically important that public assurances are made to help address the safety and security concerns of Sikhs and Indian diaspora communities in the United States targeted by India.
4. Ensure greater congressional oversight into transnational repression by amending Section 6 of the Arms Export Control Act to include a reporting requirement of any instances where the President declines to enforce the law that would prohibit arms transfers to any country determined to be engaged in a consistent pattern of acts of intimidation or harassment against individuals in the United States.
5. Provide greater resources that better address transnational repression that targets religious-based institutions, such as gurdwaras. Grant programs like the Non-Profit Security Grant must provide greater support and access to communities that are now also being targeted by foreign nation-states and their criminal proxies.
6. Support the documentation efforts of USCIRF by permanently reauthorizing the Congressional body, and passing legislation to reduce Presidential authority to waive taking action against Countries of Particular Concern based on longstanding human rights concerns.
7. Pass legislation prohibiting a government from employing a registered lobbyist if its country has been designated as a Country of Particular Concern or has engaged in transnational repression to intimidate or harass individuals in the United States.



It is imperative that the U.S. government take a strong stand against India's escalating violations of human rights and sovereignty. Congress' leadership in this matter is crucial to safeguarding not only the Sikh community but also the foundational values of our nation.

Article From the Wall Street Journal, Dated December 2, 2023, “Foiled Plot To Kill U.S. Sikh is Linked to Murder of Canadian Activist”

Submitted by Senator Tim Kaine

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Foiled Plot to Kill U.S. Sikh Is Linked to Murder of Canadian Activist

Indian security agent's alleged role in a thwarted killing spotlights New Delhi's fight against separatists; 'we have so many targets'

By Vipal Monga [\[Follow\]](#) in Surrey, British Columbia, Aruna Viswanatha [\[Follow\]](#) in Washington, Tripti Lohri [\[Follow\]](#) in New Delhi and Suryata Bhattacharya [\[Follow\]](#) in Los Angeles | Photographs by Alana Paterson for The Wall Street Journal

Dec. 2, 2023 11:00 am ET

Hours after a Sikh community leader was assassinated by two masked men in the parking lot of his temple in Canada, a senior Indian security officer sent a drug trafficker he knew a video of the blood-covered victim slumped over in his truck. An hour later, he followed that up with the New York address of another Sikh activist he wanted killed.

The trafficker got right on it, according to U.S. prosecutors. He passed on the video and other messages to a purported hit man who had already accepted a \$15,000 advance payment for the contract killing on U.S. soil, and suggested there could be more such work. "We have so many targets," he told the hired gun, who he didn't know was really an undercover U.S. law-enforcement officer.

Hardeep Singh Nijjar, the 45-year-old killed near Vancouver on June 18, and Gurpatwant Singh Pannun, the New York lawyer who prosecutors say was set up for the same fate, were passionately devoted to a cause obscure to many Westerners: carving out of India an independent Sikh state called Khalistan. Allegations of an Indian plot to eliminate them have seeded a diplomatic contretemps that threatens to rattle the blossoming relationship between New Delhi and Washington.

In the same month Nijjar was gunned down and Pannun's would-be killer allegedly hired, Indian Prime Minister Narendra Modi made an elaborate state visit to the U.S. It was designed, the White House said, to "affirm the deep and close partnership" between the two countries.

The detailed allegations, contained in an indictment unsealed this week, give new weight to the bombshell Canadian Prime Minister Justin Trudeau dropped in September: that Canada had evidence that agents of the Indian government were involved in killing Nijjar. New Delhi responded with outraged denials and forced Ottawa to withdraw more than 40 Canadian diplomats from India.



A billboard in Surrey, British Columbia, promotes a referendum on creating an independent homeland, Khalistan, and refers to an alleged planner of the 1985 terrorist bombing of an Air India plane.

This week, in contrast, India acknowledged the seriousness of U.S. concerns about the alleged involvement of a New Delhi-based state official in the Pannun plot, as conveyed by officials up to and including President Biden, who raised the matter with Modi in September. Modi's government said Wednesday—as the indictment laying out the plot was set to be made public—that it had set up a special committee to investigate and would act on its findings.

"This is a matter of concern," Arindam Bagchi, spokesman for India's Ministry of External Affairs, said Thursday. "We have said, and let me reiterate, that this is also contrary to government policy."

Modi's government had designated both Nijjar and Pannun as terrorists and accused them of fomenting subversive activity. New Delhi appeared to be particularly vexed by their efforts to organize protests and referendums among the millions of Sikhs living abroad.

Both Nijjar and Pannun used fiery rhetoric against the Indian government, lobbing the accusation of terrorism right back at New Delhi. But it was as much where they expressed their cause as how they did so that set India's teeth on edge. Overseas support for an independent Sikh homeland is a problem for India, given the strong ties between Sikhs at home and in the diaspora, said C. Raja Mohan, a New Delhi-based senior fellow at the Asia Society Policy Institute.

"The Sikh groups don't threaten U.S. and Canadian interests so they can treat it mainly as a freedom-of-speech issue," he said. "India can't."

Under a cloud of violence

Nijjar and Pannun's lives ran in parallel with the movement for Sikh independence. They were both born in Punjab, India's rich agricultural region where the Sikh religion developed. With around 25 million adherents, some two million of whom live outside India, Sikhism draws on both Hindu and Muslim religious traditions, with one God, one holy book and vegetarian meals served in its temples. Sikhs generally vow not to cut their hair, and men in the community, known for its martial tradition, wrap their hair in turbans and wear long beards.



Temple-goers attending prayer at the Guru Nanak Sikh Gurdwara in Surrey, a suburb of Vancouver.

As the two grew up in the 1970s and 1980s, so too did the separatist movement for an independent Sikh state known as Khalistan. India aimed to brutally repress the movement, which sometimes took violent turns. Nijjar told friends stories about running from police and suffering beatings at their hands.

Pannun, who is from the outskirts of the Punjabi city of Amritsar, said he watched Indian forces roll into the city in 1984, when the Indian army attacked Sikh militants holed up in one of Sikhism's holiest shrines, the Golden Temple—precipitating a bloody battle in which many civilians were killed.

Later that year, in October, the month Nijjar turned seven, Indian Prime Minister Indira Gandhi was assassinated by some of her Sikh bodyguards. The day after her killing, mobs—widely believed to be operating with government acceptance—fanned out to Sikh homes in New Delhi and other cities, killing thousands.

The next year, in a terrorist act organized by Sikh militants, an Air India flight from Canada exploded, killing all 329 people on board.

The tension and violence of those years prompted many Sikhs to leave, including Pannun, who said several youths he knew were "extrajudicially tortured" by Indian law enforcement.

"Once anybody sees something like that, they don't want to stay," he said. He moved to the U.S. in 1992, got his law degree in 2003, and founded Sikhs for Justice in 2007 to advocate for separation from India.

Nijjar also fled, leaving India in 1997 for Canada, which had become a center of the Sikh diaspora. In Nijjar's adopted home, the Vancouver suburb of Surrey, turbans are a common sight on the streets, and many of the businesses that populate the strip malls bear Sikh names.

Nijjar joined one of Surrey's 11 Sikh temples, but was long devoted more to his plumbing business than to political matters, said a friend, Moninder Singh. Always a devout Sikh, Nijjar eventually became active in the Khalistan movement and started working with Pannun in 2009, after the two met in Surrey.

The men traveled together to Geneva to petition the United Nations to recognize the killings of Sikhs in India in the 1980s as a genocide, which the organization hasn't done. They ran meetings in Canada to educate Sikhs about their planned referendums and build support for secession.



Moninder Singh, a friend of Nijjar and the spokesman for the British Columbia Gurdwaras Council, which represents Sikh temples in the province.

A year before he was murdered, Nijjar was visited by four officials from the Royal Canadian Mounted Police and Canada's national security division. "There's a threat against your life," one of the officers said, according to Nijjar's son Balraj Nijjar, who was at the meeting.

In subsequent meetings, Canadian security officials asked Nijjar to tone down his pro-Khalistan rhetoric, according to Singh, who said Nijjar told him about the meetings. The agents asked Nijjar to stop attending rallies and giving speeches because of the risk to his life, but Nijjar refused, he said.

"The way he put it was, 'I must be doing something right if they want me so badly,'" Singh said.

Pannun's advocacy, meanwhile, stirred continued anxiety in India. In a video released in recent weeks, the New York lawyer urged Sikhs not to imperil themselves by traveling on India's flagship Air India airline, an argument that Indian security officials saw as evoking the 1985 bombing. Pannun says he was only calling for an economic boycott.

Listed terrorists

Pannun, who has a private law practice in Queens, in New York City, helped Nijjar in 2016 to craft a letter to Trudeau denying he supported violence, after Indian authorities had accused Nijjar of running a terror camp in British Columbia. They also had asked Interpol to issue a so-called red notice, a request to law-enforcement agencies worldwide to locate and detain a wanted individual.



Gurpartew Singh Pannun, a New York-based lawyer, was the intended target of an assassination plot, U.S. prosecutors said. PHOTO: TED SHAFFREY/ASSOCIATED PRESS

India also asked Interpol to issue one for Pannun, but he successfully petitioned the agency to remove it last year because the information India provided didn't comply with Interpol rules, according to a letter from the commission that handles such appeals, which was reviewed by The Wall Street Journal.

In July 2020, India designated Nijjar and Pannun terrorists under its Unlawful Activities Prevention Act, a 1960s-era law meant to suppress secessionist activity in India. Sikh groups in the West say India is trying to censor lawful free speech.

By then, India's government became increasingly concerned by protests at Indian diplomatic missions and secession referendums organized by Pannun's advocacy group, Sikhs for Justice. Thousands of Sikhs in Canada, the U.K., Switzerland, Italy and Australia have voted in these nonbinding polls. The first one in the U.S. is set to take place in San Francisco in January.

The referendum campaign, Pannun's prime focus, gained fresh life after months of protests in 2020 and 2021 by Indian farmers—many of them Sikhs—drew the attention of Sikhs abroad and

prompted Modi to withdraw the laws that prompted the protests. That face-off sparked concerns that Sikhs could face repercussions from his party's Hindu nationalist base.

In Canada, Nijjar became the public face of the referendum movement. And by earlier this year, Pannun and Nijjar had something new in common, according to U.S. prosecutors: They were both on a secret hit list.

By June, Nikhil Gupta, the India-based drug trafficker named in the indictment that was unsealed this week, was pushing to expedite the project of killing Pannun. "Finish him brother, finish him," Gupta said on a call to a contact he thought could put him in touch with a hit man, according to the indictment.

The contact—who was really a U.S. government informant—offered up a fake surveillance photo of Pannun on June 4 and said his associates could do the job as soon as they got a \$25,000 advance.

Days later, the Indian security officer who had engaged Gupta said payment was on its way. "Let's activate the team and get it done this weekend," the officer said. The hit man—really an undercover law-enforcement officer—called Gupta on a video call as he accepted a thick stack of hundred-dollar bills, folded in half.



Bhupinder Hothi, a friend of the Sikh activist murdered in Canada, said the U.S. indictment "clearly brings everything out."

Gupta relayed that this wouldn't be the only killing. "We will give more bigger job," he said, "more job every month."

Nijjar wasn't the only Khalistan supporter on India's list of Sikh terrorists to end up dead this year. Another one on the same list, Paramjit Singh Panjwar—described by India as the head of an armed outfit called the Khalistan Commando Force—was shot dead in May while taking a morning walk in the Pakistani city of Lahore, by two men on a motorbike. He was living there under an assumed name and police haven't launched an investigation, which would require officials to admit he was in the country.

Even though the U.S. indictment only implicates a single Indian official, friends of Nijjar in Surrey's Sikh community said it validates their criticisms of India's tactics. "We were saying from Day One that the Indian government was behind the killing of Hardeep Singh Nijjar," said Bhupinder Hothi, who befriended Nijjar when he first arrived in Canada. "This clearly brings everything out. It gives us a lot of relief."

—Krishna Pokharel and Saeed Shah contributed to this article.

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