

#### **CASE STUDY**

## The United Kingdom



The United Kingdom has been the site of numerous high-profile attacks against exiles and is an important destination for diasporas at risk of transnational repression. Authorities are aware of the threat posed by transnational repression. However, foreign policy responses are hampered by political relationships with perpetrator states. Migration policies are a major weakness in the UK's preparedness to address transnational repression, with antimigrant policies putting potential victims at greater risk.

#### Best practices in the UK's response to transnational repression:

- The national security framework recognizes transnational state threats that include physical threats to individuals, such as assassination, forced repatriation, and harassment.
- Law enforcement agencies take **proactive protective measures** by issuing warnings to people who face credible threats against their lives.
- Sanctions and other diplomatic responses create accountability following acts of transnational repression.
- Safeguards in the extradition process, including judicial oversight, help prevent refoulement.

Army begins clean up operation after poisoning of Sergei Skripal in Salisbury, United Kingdom on April 24, 2018, Finbarr Webster via Shutterstock.

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### Introduction

Sergei Skripal, a former Russian intelligence officer turned spy, and his daughter were found unconscious and violently ill on a park bench in Salisbury in March 2018. Authorities soon determined that they had been poisoned in an assassination attempt perpetrated by Moscow. The UK responded by declaring 23 Russian diplomats personae non gratae, freezing certain Russian state assets, and taking other symbolic diplomatic measures. The government successfully galvanized the European Union and several other allied governments into taking parallel measures.

Britain's response to the Skripal poisoning was rapid and forceful. However, the attack was far from the only incident of transnational repression to have happened in the UK. A decade earlier, the Russian government had poisoned another former insider, Alexander Litvinenko, with radioactive material.' In addition to Russians, people from Rwanda, Pakistan, Bahrain, Saudi Arabia, China, and Equatorial Guinea have been targeted in the UK in recent years.<sup>2</sup>

The UK government demonstrates a high level of awareness of transnational repression in its security policy, particularly through its assessment of "transnational state threats." Authorities take proactive measures, such as providing threat to life warnings to people targeted by assassination plots. However, conflicting political interests appear to hamper a robust response in other areas. The government's accountability efforts and policy reviews following attacks against Skripal, exiled Saudi journalist Jamal Khashoggi, and exiled Belarusian activist Raman Pratasevich stand in contrast to its ongoing partnerships with the governments of Bahrain and Rwanda. Restrictive asylum policies—most recently the 2021 Nationality and Borders Act and the accompanying plan to remove asylum seekers to Rwanda—also place vulnerable refugees at greater risk.

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## Security

Transnational repression is relevant to the work of multiple agencies in the UK's sprawling national security apparatus, including MI5, MI6, the Metropolitan Police, counterterrorism units and intelligence units, and the Joint State Threats Assessment Teams. The threat of transnational repression is reflected in the UK's national security policy and the government has taken action to protect potential targets. The UK government has at times used foreign policy tools to hold perpetrators accountable, but these steps are inconsistent and tied to conflicting political goals.

#### **Government awareness**

The UK government's assessment of foreign threats demonstrates an awareness of transnational repression. The attack on Skripal renewed attention on policies surrounding foreign threats to the UK. The poisoning was discussed extensively in Parliament, and in 2018 the government announced it was taking new steps to counter activities by foreign states. This included giving police the power to stop individuals suspected of engaging in hostile state activity when they attempted to enter the country and conducting a review of the UK's ability to counter hostile state threats.3 Subsequently, the government released several initiatives and papers focusing on the issue. During his annual threat update shared in July 2021, MI5 director general Ken McCallum discussed state threats, highlighting the Salisbury attack and showing an understanding of tactics and targets of transnational repression. He emphasized the need to build "public awareness and resilience" as well as to update laws.4

The 2020 National Risk Register identifies hostile state activity as a significant threat<sup>5</sup> and in May 2021 the Queen announced the government's plans to introduce legislation "to counter hostile state activity by foreign states." <sup>6</sup> The March 2021 policy paper "Global Britain in a Competitive Age" outlines the government's intentions to counter state threats. The paper addresses a wide range of activities that constitute state threats, including espionage, political interference, sabotage, assassination and poisonings, electoral interference, disinformation, propaganda, cyber operations, and intellectual property theft. <sup>7</sup> Due to the paper's breadth, the policies and issues it describes are not always relevant to transnational repression. Promisingly, however, the paper identifies the importance of multilateral responses, noting the collective response to the Salisbury attack, and the need for a

comprehensive response to malign activities by foreign state that integrates tools from across the government.

Also in 2021, the Home Office undertook consultation on "Legislation to Counter State Threats (Hostile State Activity)." The consultation proposed new measures—including reforming the Official Secrets Act, creating a foreign influence registration scheme, and establishing civil orders for cases where hostile state actions cannot be proven to be criminal that had not been enacted at the time of writing. Under the term "state threats," the Home Office identified tactics including assassination, forced repatriation and harassment, noting that "a small number of states present a physical threat to UK ...citizens and residents at home and abroad, as well as third-country nationals in the UK." 8 This definition is similar to the definition of transnational repression used by Freedom House but differs in two important ways. It is a broader definition because it includes people who are not nationals of the foreign country, but it is simultaneously narrower because it does not capture nonphysical tactics such as coercion by proxy, document controls, or digital attacks.

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#### **Proactive protection and legal action**

There is no known public preventative outreach related to extraterritorial attacks in the UK, but authorities have intervened to provide warnings, protection, and legal action in specific cases. The police issue threat to life warnings, or Osman warnings, when they identify a credible threat of murder. In these cases, police provide guidance on changing behavior to help mitigate the threat and have reportedly offered protection to some individuals facing threats.

The Metropolitan Police issued threat to life warnings to at least two Rwandans, René Mugenzi and Jonathan Musonera, in

2011 who were at risk of extraterritorial violence.<sup>10</sup> The warnings read, "Although the Metropolitan Police Service will take what steps it can to minimize the risk, the police cannot protect you from this threat on a day-by-day, hour-by-hour basis." More recently, Pakistani exiles living in the UK have received threat to life warnings.<sup>11</sup> Fazal Khan, who received such a warning in April 2021, said the police gave him an emergency phone number to contact if he was concerned about his safety, and said they would respond to his call with protection.<sup>12</sup>

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UK authorities recently took legal action in response to a British man's involvement in a planned transnational attack. In January 2022, a London court found Muhammad Gohir Khan guilty of conspiring to kill Waqass Goraya, a Pakistani dissident blogger living in the Netherlands. Khan had traveled from the UK to Amsterdam the previous February but was apparently unable to complete the murder for which he had been hired. Goraya, for his part, has been in hiding since Dutch police warned him the same month about a threat to his life. The case underscores the importance of government awareness and cooperating with partner governments in response to the threat of transnational repression.

In another example of proactive law enforcement activity, in 2015 the Metropolitan Police investigated allegations that the Eritrean embassy was harassing Eritreans to pay the "diaspora tax," a fee levied by the regime on all members of the Eritrean diaspora.<sup>13</sup> As part of their investigation, police officers reached out to members of the Eritrean community to learn more about the tactics used and to consider whether the pressure constituted a criminal offense; according to a spokesperson from the Foreign and Commonwealth Office, "use of harassment and blackmail could be [illegal]."

#### Foreign policy and accountability

Efforts to hold perpetrator states accountable for transnational repression are inconsistent and appear to be related to other foreign policy considerations. The UK responded to the Skripal attack by declaring 23 Russian diplomats personae non gratae, freezing certain state assets that "may be used to threaten the life or property of UK nationals or residents," and taking other symbolic diplomatic measures. The EU applied targeted sanctions in the form of travel bans and asset freezes on two Russian intelligence officials believed to be involved in the attempted murder. Several allied governments joined the UK in expelling Russian diplomats following the attack.

Two years later, in 2020, the UK adopted the Global Human Rights Sanctions Regime, modeled on the United States' Magnitsky sanctions. The mechanism allows targeted sanctions on human rights violators. They have been applied to 20 Saudi officials implicated in the 2018 assassination of Khashoggi in Istanbul. Using separate authorities, the UK joined allied governments in applying targeted sanctions in response to Belarus's arrest of Pratesevich.

UK officials have raised issues of transnational repression in bilateral relationships. From 2011 to 2015, the Foreign and Commonwealth Office raised the issue of the diaspora tax with Eritrean counterparts at least four times. 16 In 2011, the UK Security Service confronted the Rwandan high commissioner to Britain, urging him to end the campaign of harassment against Rwandan dissidents in the UK. The Security Service said that the UK might cut its aid to Rwanda if the intimidation continued.<sup>17</sup> However, both the harassment of Rwandans living in the UK and the partnership between the UK and Rwandan governments have continued since then.18 Rwandan exile and UK resident Faustin Rukundo was subject to coercion by proxy in 2017, when his wife traveled to Rwanda for a funeral and was arrested, and to a spyware infection in 2019.19 In early 2022, the UK approved Johnston Busingye as the new Rwandan ambassador to the country despite his record of involvement in transnational repression.20 Busingye, who had served as Rwanda's justice minister and attorney general since 2013, had admitted in a 2021 media interview that the Rwandan government had paid for the private flight from Dubai to Rwanda that was used in the rendition of dissident Paul Rusesabagina.21

Similar conflicts are present in UK-Bahraini relations. The two countries have close relations and the UK government has helped train Bahraini security officials as recently as 2018.<sup>22</sup> Concerns about Bahraini extraterritorial targeting of UK

residents have been raised in Parliament at least six times since 2018, and the government regularly responds that it is aware of the issue and has raised it with Bahraini officials.<sup>23</sup> In February 2019, a member of Parliament questioned the government about coercion by proxy against Sayed Alwadaei, the London-based director of the Bahrain Institute for Rights and Democracy. In response, the Minister for the Middle East shared his positive experience meeting with Bahrain's independent monitoring committee and urged "people to go through that independent process because we are confident that it is genuinely independent and it is making a difference to the administration." <sup>24</sup>

# UK officials have raised issues of transnational repression in bilateral relationships.

The following month, after Alwadaei's case was raised again, the government responded that "Bahrain remains a key regional partner for the UK," illustrating the way other diplomatic considerations can supersede or erode real accountability for Bahraini targeting of exiles in the UK.

## Migration

Six of the top ten origin countries of asylum seekers in the UK— Iran, Eritrea, Syria, Sudan, Pakistan, and India—have track records of targeting exiles abroad. The new Nationality and Borders Act, which overhauls the migration system, fundamentally restricts the right to seek asylum and leaves refugees in an even more precarious situation. One bright spot in protecting against transnational repression is the UK's strong protections against unlawful extradition.

The Nationality and Borders Act became law in April 2022, making the migration system even more hostile to asylum seekers.

#### **Anti-asylum policy**

In the UK, asylum seekers are generally not allowed to work, their accommodations are poor, and they are given a meager stipend—as low as £6 (\$7) per day.<sup>26</sup> Without financial and physical resources, asylum seekers may be unable to take precautions to support their physical and digital security. They also may be unable or unwilling to contact authorities for fear of deportation.

The Nationality and Borders Act became law in April 2022, making the migration system even more hostile to asylum seekers. Changes introduced by the act include an increased standard of proof for refugees, removal of certain stages of appeal, increased authority to revoke British citizenship, and a two-tier asylum system that reduces protection and support for those who arrive in the UK by "irregular" means, potentially assigning them criminal liability.<sup>27</sup>

Awareness about transnational repression and relevant information is lacking in the UK's migration system.

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The Nationality and Borders Act continues a trend of policies that undermine the right to seek asylum and endeavor to keep asylum seekers out of the UK, at the expense of their safety. Prior to leaving the EU, the UK was able to return some asylum seekers to other EU countries under the Dublin system, which required refugees to seek asylum in the first "safe" country they reached. As an island on the far side of the continent, the UK frequently used the Dublin agreement to return asylum seekers who reached its shores by way of mainland Europe. Without a return agreement in place with the EU when the UK left the bloc, the number of asylum seekers deported to Europe plummeted from 289 in 2020 to 5 in 2021.28 Reporting in 2017 found that the UK, along with European partners, was engaged in a rapprochement with the Sudanese government and was relaxing standards for deporting Sudanese asylum seekers, despite the government's record of atrocities.29

After European governments refused the UK's effort to establish a post-Brexit return agreement with the EU,<sup>30</sup> the UK announced a new solution in April 2022: certain asylum seekers would be deported to Rwanda.<sup>31</sup> The plan, which the Nationality and Borders Act put into effect, may violate migrants' right to seek asylum in the country that they reach. It also disregards Rwanda's poor domestic record on human rights and its status as one of the world's most prodigious perpetrators of transnational repression, including against UK residents.<sup>32</sup>

#### **Preparedness within the migration system**

Awareness about transnational repression and relevant information is lacking in the UK's migration system. The Home Office produces "country policy and information notes," which are used by officials in asylum decisions. There is an independent, external body that provides oversight of these documents, but its power is limited in practice. The information provided by these notes is extremely limited and often focuses on specific issues or groups. For example, the Russia page includes two documents, one from 2020 offering guidance on sexual orientation and gender identity and expression, and the other on Jehovah's Witnesses. There is no other information about the rights violations people in Russia experience, or the risks they may face abroad, despite the high-profile Russian assassination attempts in the UK. Country notes are entirely absent for numerous perpetrators of transnational repression, including Bahrain, Belarus, Saudi Arabia, Thailand, and others.

By contrast, the notes on Turkey provide a thorough accounting of repression against people affiliated with the Gülen movement, including Turkey's extradition requests, forced disappearances, passport cancellation, and coercion –by proxy of alleged Gulen supporters abroad.<sup>33</sup> Similarly, a China note on Uighurs in Xinjian includes a small section titled, "Restrictions of those outside of China," which identifies problems such as passport confiscation, surveillance, and coercion by proxy.<sup>34</sup>

Migration officials are also not encouraged to seek out further knowledge to supplement the incomplete country-of-origin information they are provided. An investigation by the Independent Chief Inspector of Borders and Immigration found that "training did not adequately equip [asylum decision makers] with the skills to conduct a substantive interview or make decisions." <sup>35</sup> The report also describes a "refusal culture," and trainers have allegedly told asylum decision makers that their performance would partly be evaluated on their refusing more applications than they grant. <sup>36</sup> Another problem the report identified is that staff felt pressure to meet their caseload targets, at the expense of thoroughly considering each individual case.

## Extradition requests and cooperation with foreign governments

The UK has strong provisions against unlawful extraditions. Circumstances that bar extradition include the possibility that the individual will face capital punishment in their home country and "improperly motivated" requests where there is a risk of "prejudice to the requested person," which offers a safeguard against politically motivated extraditions. Courts must also consider whether "extradition would be disproportionate or would be incompatible with the requested person's human rights." <sup>37</sup>

The UK has extradition agreements with several countries that have perpetrated physical transnational repression including Russia, Turkey, Azerbaijan, Libya, India, Nigeria, Thailand, and the United Arab Emirates. However, extradition requests from all non-EU countries are reviewed by the secretary of state before being passed to a judge for their decision whether to issue a warrant. If a warrant is issued, extradition hearings take place before a court, and eventually the secretary of state is involved in the final decision of whether to order an extradition. Extradition requests from governments that do not have a treaty with the UK are first vetted by the secretary of state.<sup>38</sup>

Outside of extradition treaties, the UK has mutual legal assistance (MLA) agreements with a number of perpetrators of transnational repression, including China, Saudi Arabia, and Vietnam.<sup>39</sup> These agreements usually concern requests for assistance or information in criminal cases. The requests are processed through the Home Office and may involve search warrants. UK government guidance requires a human rights assessment when considering an MLA and lists political motivation as grounds for refusal.<sup>40</sup> Nevertheless, the judicial oversight that plays a centra role in consideration of extradition requests is absent from the MLA assessment process. People interviewed for this report expressed concerns that not enough resources were directed towards MLA review processes to ensure protection from exploitation.

Processes for handling Interpol requests are inconsistent. As spurious Interpol notices are a tool commonly used for detaining and extraditing opponents abroad, gaps in how they are treated open the door to transnational repression. With the exception of those initiated by a handful of the UK's democratic partners, Interpol notices and diffusions are not grounds for arrest in the UK; they must first be reviewed and produce a domestic warrant as outlined in the process for extradition requests. However, requests for information via Interpol appear to have a lower standard of review. The National Crime Agency centralizes intake of Interpol notices and diffusions and disperses them to relevant law enforcement agencies, which then have the discretion to execute the request, subject to any data sharing agreement.

# Processes for handling Interpol requests are inconsistent.

The experience of Zaina Erhaim, a Syrian journalist and activist, reveals another loophole in intergovernmental cooperation that can facilitate transnational repression. In 2016, the Syrian government was successfully able to co-opt British authorities into detaining Erhaim by reporting her passport as stolen. Border police detained and questioned Erhaim, who lived in Turkey at the time, and confiscated her passport. The Home Office responded to the incident by saying that it is obligated to confiscate passports that are reported as stolen.<sup>42</sup>

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## Recommendations for the UK government:

- Adopt a government-wide definition of transnational repression, possibly by updating the subcategories of state threats.
- Improve government documentation of transnational repression, by including them in the annual human rights and democracy reports and the Overseas Security and Justice Assistance Guidance produced by the Foreign, Commonwealth & Development Office.
- Ensure that any new immigration policies respect the right to seek asylum, do not externalize the processing of asylum requests, and take into account the threat of transnational repression.
- Improve the quality of information notes on countries of origin used in assessing asylum claims and include information about the threat of transnational repression.
- Ensure a high level of scrutiny of mutual legal assistance requests.
- Create a screening process for diplomatic visas to prevent the entry or accreditation of diplomatic personnel with a history of harassing, intimidating, or harming their diasporas.

## **About the Project**

efending Democracy in Exile: Policy Responses to Transnational Repression examines what is being done to protect exiles and diaspora members who are being intimidated and threatened by the governments from which they fled. This report assesses the responses put forward by the governments of countries where exiles and diasporas reside, by international organizations, and by technology companies.

It represents the culmination of the second phase of our research into transnational repression. It combines an analysis of the policies of nine host countries, interviews with members of diasporas targeted by transnational repression who reside in the United States, interviews with staff at technology companies, and data on 735 physical, direct transnational repression incidents that occurred between 2014 and 2021. With this report, we aim to advance the ongoing conversation among members of the general public, civil society, media, and policymakers on countering this practice.

Over a 16-month period, we developed an original methodology for evaluating policy responses to transnational repression, trained and collaborated with 16 in-country analysts to gather data, and held two roundtables to review and refine our findings and recommendations. Collaboration with academics and civil society researchers around the world was integral to the success of this project.

Yana Gorokhovskaia and Isabel Linzer led the project and cowrote the final report and eight of the nine country reports. Research Associate Bochen Han provided research support and wrote one country report. Intern Paulina Song helped to catalog and vet incidents for the transnational repression database. The project was made possible through the generous support of the National Endowment for Democracy.

Our data collection and coding methods can be viewed at <a href="https://freedomhouse.org/report/transnational-repression/about-acknowledgements">https://freedomhouse.org/report/transnational-repression/about-acknowledgements</a>. Data is available on request through the <a href="research@freedomhouse.org">research@freedomhouse.org</a> email account. Please use the subject line "Transnational Repression Data Request."

This report builds on the findings of *Out of Sight, Not Out of Reach: The Global Scale and Scope of Transnational Repression*—the first global study of this dangerous practice—which Freedom House released in February 2021. The first phase of our research sprang from our engagement with academic researchers dedicated to examining transnational repression.

Finally, none of this would have been possible without exiles from Syria, Iran, Saudi Arabia, India, Egypt, Rwanda, Russia, China, Turkey, Vietnam, Equatorial Guinea, and Ethiopia who agreed to speak with us about their experiences of transnational repression. Their courage and resilience are an inspiration.

## **Endnotes**

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