



Transnational repression conceptual clarification and sectoral responsibilities

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Prepared for the Ministry of Labour and Social Inclusion

Foreword

This report was commissioned by the Ministry of Labour and Social Inclusion. Proba's project team has consisted of project manager Jens Plahte, Anja Aaheim Naper, Rune Busch and quality assurance officer Trude Thorbjørnsrud. The report has been prepared in co-operation with lawyer Cecilie Schjatvet.

We are grateful for the good co-operation with the client and with informants in co-operating ministries.

Oslo, 19 April 2023

Executive summary

Background and objectives

This report has been prepared by Proba samfunnsanalyse in collaboration with lawyer Cecilie Schjatvet on behalf of the Ministry of Labour and Social Inclusion. The purpose has been to strengthen the conceptual understanding of what has been referred to as economic, ideological or religious "pressure and control" against diaspora groups by the authorities of the country of origin or persons who can act on their behalf. In this report, we propose the term *transnational repression* and a new definition.

Furthermore, a key objective has been to map and analyse how the sectoral responsibilities of the various ministries are understood. The purpose of the report is to contribute to phenomenon understanding and knowledge development, highlight interfaces and opportunities for co-operation across different sectors, and establish a common basis for the development and implementation of measures.

The Solberg government's integration strategy *Integration through knowledge* (2019-2022) stated that it was desirable to increase knowledge about the topic, cf. key action 14 and measure 54 in the strategy. Hence the commission that resulted in the report *Pressure and Control* (Proba, 2020) and the commission of this report.

Methodology

We have conducted citation searches based on the research literature used in Proba (2020) and performed simple searches in recent literature. Furthermore, we have conducted interviews and had ongoing communication with the Ministry of Labour and Social Inclusion, the Ministry of Children and Family Affairs, the Ministry of Justice and Public Security, the Ministry of Culture and Equality, the Ministry of Education and Research and the Ministry of Foreign Affairs.

The chapter dealing with the normative framework is a legal opinion mainly written by Cecilie Schjatvet.

Conclusions and recommendations

Acts covered by the concept of transnational repression can be grouped into the following main categories:

- 1) Violence and other attacks against the physical safety of persons
- 2) Threats
- 3) Harassment and discrediting
- 4) Infiltration
- 5) Restriction or conditional consular services
- 6) Monitoring
- 7) Weakening and abuse of international frameworks

Transnational oppression can thus be expressed in many different ways and in different arenas of society. A wide range of different acts and means are used, and these can be subject to a number of different criminal offences. Transnational oppression can be directed against many different groups and individuals, and in ways that fall under the sectoral responsibility of at least six ministries.

Our review shows that transnational oppression emerges as a so-called intractable problem. Key characteristics of a persistent problem are the absence of a precise problem definition, that the phenomenon is difficult to delimit, that it affects different sectors, and that it changes over time. Each of the six sectoral ministries we have examined is responsible for a different part of the problem. One could perhaps describe it as each of them having a *partial understanding of the problem*.

It seems that the Norwegian authorities' reaction and response to transnational oppression is currently somewhat characterised by a failure to interpret or *frame the problem in a way that adequately reflects the seriousness of the problem.*

The actual extent and consequences are currently not fully known. There is no doubt that diaspora in Norway are exposed to serious forms of transnational oppression - probably the most serious being various forms of violence and threats against family in the country of origin. The examples and cases that have been documented show that transnational oppression hinders integration and participation in democratic processes for many diaspora groups - and can also limit democratic participation for ethnic Norwegians with interests or vulnerabilities linked to the country of origin. Furthermore, it can - partly through entry bans and other sanctions and partly through self-censorship - prevent the development of independent and critical knowledge about perpetrator countries. Transnational repression has the potential to constitute a significant societal problem in the form of threats to Norwegian sovereignty, national security, territorial integrity and democracy - in addition to the human rights violations and abuses it represents for individuals and diaspora groups.

Based on this, we believe that it is obvious that the Ministry of Justice and Public Security should have primary responsibility for the problem, both in terms of measures and efforts in its own sector and in cross-sectoral coordination. Beyond this, we have no basis for making specific proposals for how inter-ministerial coordination should be organised. If an action plan is to be prepared, it will be important to define an appropriate thematic focus and delimitation - for example, it will probably be appropriate for the authorities' work to prevent and combat transnational repression and influence operations to be coordinated.

Many actions that are undesirable are protected by various rights. Rights-based and important values such as freedom of assembly, freedom of association, freedom of belief and freedom of expression limit the room for manoeuvre of the authorities in countering and preventing transnational oppression.

In our view, the special protection of minority groups is not adequately addressed in the Criminal Code and other legislation.

Consideration should be given to establishing a systematic record of reports of transnational repression.

Preventing and combating transnational oppression is - as we perceive it - not a high priority. The justice sector in particular, and to some extent the Ministry of Foreign Affairs, appear to have room for manoeuvre that is not currently being exploited.

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1 Introduction and methodology

This report has been prepared by Proba samfunnsanalyse in collaboration with lawyer Cecilie Schjætvet on behalf of the Ministry of Labour and Social Inclusion. The purpose has been to strengthen the conceptual understanding of economic, ideological or religious "pressure and coercion" against diaspora groups from the authorities of the country of origin or persons who can act on their behalf. Furthermore, a key objective has been to map and analyse how the sectoral responsibilities of the various ministries are understood. The purpose of the report is to contribute to an understanding of the phenomenon and knowledge development, highlight interfaces and opportunities for cooperation across different sectors, and establish a common basis for the development and implementation of measures. The work to strengthen the understanding of the concept has led to an assessment that it may be appropriate to establish an umbrella term and definition other than "pressure and control". We explain our interpretation and understanding of the objectives and issues for this assignment below.

1.1 Background

Economic, ideological, or religious pressure and control against diaspora groups by the authorities of the country of origin or persons who can act on their behalf is an international phenomenon that takes place in many countries. The Solberg government's integration strategy *Integration through knowledge* (2019-2022) stated that it was desirable to increase knowledge about what may limit the opportunities for immigrants in Norway to participate in society and to enjoy the right to a free life on an equal footing with other citizens in the country, cf. Key Action 14 and Action 54 of the strategy.

In the Proba report *Press and Control* (2020), we described how pressure and control are exercised against various diaspora groups in Norway, based partly on interviews with representatives of selected diaspora groups, and partly on a literature study. During the last two or three years, international literature has emerged in the field that refers to the phenomenon as *trans - national repression*. A new field of research is being established here, and this term is becoming so widespread - not to say exclusive - that we use the Norwegian direct translation of the expression throughout this report - *transnational repression* - as a substitute for "pressure and control", also in the title (see Chapter 2 for a discussion of the concept). In the literature, transnational repression is described as a global problem that poses a serious threat to fundamental human rights, state sovereignty and democracy.

The phenomenon is becoming increasingly topical, perhaps especially with Russia's war of aggression against Ukraine (Gorokhovskaia et al., 2023). There was already a Russian diaspora in Norway, particularly in Finnmark, and the war is creating division and unrest in this group.¹ In addition, new migrants consisting of Russians critical of the regime are now arriving, which may lead the Russian authorities to exert pressure on Russian diaspora communities - in other words, *transnational repression*.² There have been reports of large-scale emigration of men of military age, possibly including deserters. Furthermore, there are reports of persecution of Ukrainian civilians in Russian-controlled areas of Ukraine,³ and we believe that it cannot be

¹ *Russians in Finnmark support the war effort: Creates strife in the Russian environment* . Nrk.no. Retrieved 8 April 2022 from https://www.nrk.no/tromsogfinnmark/russere-i-finnmark-stotter-krigforingen_-_skaper-strid-i-det-russiske-miljoet-1.15904220.

² *War in Ukraine leads to brain drain from Russia* . Nrk.no. Retrieved 25 March 2022 from <https://www.nrk.no/urix/krigen-i-ukraina-forer-til-hjerneflukt-fra-russland-1.15894721>.

³ UN: *Sivile Ukrainians are being abducted by the Russians* . Vg.no. Retrieved 25 March 2022 from https://direkte.vg.no/krig-i-ukraina/news/fn-sivile-ukrainere-blir-bortfoert-av-russerne.JhM-OjqYw?utm_source=vgfront&utm_content=hovedlopet_row6_pos1.

The possibility of extending that repression to the large Ukrainian diaspora of refugees now being established in Norway is ruled out.

1.2 Issues and understanding of the mission

The four main research questions of the project are:

- 1) How the collective concept of pressure and control can be clarified and given a more precise definition, including whether another term for the phenomenon should be established and the advantages and disadvantages of different possible definitions.
- 2) How the range of pressure and control activities can be appropriately described in terms of both the purpose of the activity and the means used.
- 3) How the distinction between legal, unwanted and illegal pressure and control can be appropriately categorised given the different means of pressure that can be described as pressure and control.
- 4) Assess, on the basis of the proposed categorisation, which sectors are most affected by what can reasonably be said to be pressure and control.

As already mentioned, we use the term "transnational repression" throughout instead of "pressure and control". In Chapter 2, we discuss the appropriateness of this term. We show its origins in international research literature, develop a definition, and discuss delimitations in relation to neighbouring and partly overlapping phenomena. In essence, the first research question is answered in this chapter. We also consider that an established and well-founded definition will contribute to the objectives of contributing to further understanding of the phenomenon and the development of knowledge - i.e. the establishment of a common knowledge base.

Chapter 3 mainly answers research question 2) by providing a systematic review and overview of the most important means and actions that constitute transnational oppression, as they appear in international research literature and our own empirical material from Proba (2020). We have established seven main categories: 1) Violence and other attacks on the physical security of individuals; 2) threats, 3) harassment and discrediting, 4) infiltration, 5) restriction of or conditional consular services at the foreign missions of the perpetrator state, 6) surveillance, and 7) weakening and abuse of international frameworks.

The last two questions are mainly answered in chapters 4 and 5. Chapter 4 is a review of some key legal issues related to the counteraction and prevention of transnational oppression. We interpret issue 3) to mean that we will firstly assess which provisions in the Penal Code that may affect the acts and means described in Chapter 3, and that we will then assess whether the acts and means are unlawful. Next, we discuss how transnational oppression can impede the fulfilment of various rights of individuals and groups, and finally, we address the question of whether undesirable acts and activities can be protected in the form of rights that practitioners of transnational oppression can invoke. Chapter 4 is a legal opinion written mainly by Cecilie Schjatvet, and the methodology and argumentation thus differs somewhat from the other parts of the report.

Chapter 5 provides a review of the sectoral responsibilities of the six ministries that we consider to be most affected by transnational oppression: The Ministry of Labour and Social Inclusion, the Ministry of Children and Family Affairs, the Ministry of Justice and Public Security, the Ministry of Culture and Equality, the Ministry of Education and the Ministry of Foreign Affairs. The perspective here is the ministries' own perceptions of their sectoral responsibilities as expressed in documents and interviews with representatives of these ministries.

Here we also address the question of what is to be regarded as undesirable by the Norwegian authorities. Here we base ourselves partly on what is explicitly considered undesirable on the basis of written sources and interviews, and partly on what can be deduced on the basis of what is explicitly considered *desirable*.

The fact that a ministry or a sector is "affected" by transnational oppression can mean several things. On the one hand, it may mean that the ministry has a social mission that indicates that it has a duty to contribute to counteracting or preventing transnational oppression. On the other hand, it may mean that transnational oppression hinders the fulfilment of the Ministry's duties or social mission and/or inhibits the achievement of the Ministry's objectives. On the other hand, it may mean that the Ministry has instruments that can be used to counteract or prevent such acts. And secondly, it may mean that the Ministry itself or one of its subordinate agencies receives information that transnational repression is being exercised. All these meanings will be taken into account in the review and discussion.

In Chapter 6, we discuss the sectoral responsibilities of ministries in the light of the previous chapters and using the concept of 'wicked problems' as a theoretical framework. We also draw some conclusions and make a few recommendations.

This assignment has not included the preparation of proposals for measures or recommendations, but we assess the extent to which the Norwegian central administration currently has tasks, goals, priorities and organisation that contribute to counteracting and preventing transnational oppression. In this way, we believe that we can help to highlight interfaces and opportunities for co-operation across different sectors, and establish a common basis for the development and implementation of measures.

1.3 Methodology

The empirical basis for the overview of actions and instruments is based on our 2020 report (Proba, 2020) and international research literature. The scope of the project did not allow for extensive literature searches; we have conducted citation searches on the literature reviewed in Proba (2020) and searched for "transnational repression" on Google Scholar. The literature is thus not complete, as in a systematic review, but we believe that the review nevertheless captures the most important and authoritative sources.

A control search for "transnational repression" on Google Scholar shows that we have found the most central sources - but also shows that new literature is published continuously: An overview of much of the research in the field can be found in an article published after our literature search was finalised in May 2022 (Dukalskis, 2022).

We have conducted interviews and conversations with representatives of the six ministries described in Chapter 5. The descriptions of sector responsibilities and the derivation of what is desirable and undesirable are based on these conversations and on relevant documents such as laws and regulations, white papers, etc.

2 Conceptual clarification

In our first report (Proba, 2020), based on the terms of reference for the project, we used the term 'pressure and control', which we 'expanded' to 'pressure, control and discrediting'.

Pressure was defined as an expectation or demand from an actor that a person performs or refrains from performing certain actions, or in other words, some form of alignment is required. *Control* was defined as subjecting a person or organisation to mapping or monitoring by an actor, i.e. 'controlling' whether a person performs or refrains from performing certain actions. Mapping of exile communities or individual persons in such communities is also to be regarded as control. We also defined *discrediting* as actions that put individuals, organisations or groups in a bad light, either in the public eye or towards a third party. An example of discrediting is the submission of a false report of concern about a person to child welfare services. It is also conceivable that discrediting can occur by making or disseminating scandalising true allegations.

In retrospect, we realise that "pressure and control" - or "pressure, control and discrediting" - is not a sufficiently explanatory term, nor does the definition provide a precise meaning. A similar assessment underlies the Ministry of Labour and Social Inclusion's terms of reference for this project.⁴

This chapter answers the first of four questions, discussing how the concept of pressure and control can be clarified and more precisely defined, including whether another term for the phenomenon should be established and the advantages and disadvantages of different possible definitions.

We set out some basic principles of terminology development, from which we derive and discuss an operationalisable definition of the phenomenon that we believe should be labelled 'transnational oppression'.

2.1 Development of concepts and designations - terms

The guide *Termlosen* (Suonuuti, 2015), published by the Swedish Language Council,⁵ , provides guidelines and recommendations for terminology development. In the following, we discuss the concept of *transnational oppression* on the basis of its criteria.

2.2 "Transnational repression"

Origin of the concept

The term "transnational *repression*" first appeared in the title of a peer-reviewed journal article in 2016, with Dana Moss' article "*Transnational Repression, Diaspora Mobilisation, and the Case of The Arab Spring*" in the journal *Social Problems* (Moss, 2016). Since then, this term has been used in several reports and scholarly articles (Michaelsen 2017; Michaelsen, 2018; Adamson, 2020; Al-Jizawi et al., 2021; Tsourapas, 2021; Schenkan and Linzer, 2021; Gorokhovskaia and Linzer, 2022; Furstenberg et al. 2021), and our definite impression is that it has become an established term within what is beginning to emerge as a field of research.

⁴ Announcement on Doffin Public Procurement Database. Retrieved 10 October 2022 from <https://doffin.no/Notice/Details/2021-316414>.

⁵ Originally published in English in 1995 with the title *Guide to Terminology*, which is based on the international standards ISO 704, 860 and 10241.

As we read the literature, the term has been developed from a wider range of concepts in transnationalism, migration, global security and diaspora studies that describe authoritarian practices across borders. For example, Lewis (2015) uses the term 'extraterritorial security practices', and Jörum (2015) uses "repression beyond borders".

Scholars who have examined and described authoritarian practices across borders have also tried to develop a better theoretical understanding of the phenomenon - for example Furstenberg et al. (2021), who provide a review of the literature and draw lines from various studies of transnationalism to the crystallisation of the concept of 'transnational oppression'.

Much of the literature using the term has emerged in the last two to three years. When we conducted the limited literature search in connection with the "Pressure and Control" report (Proba, 2020), there was no uniform use of the term:

[...] there is little systematic research on pressure and control against diaspora in general, and in a Scandinavian or European context in particular (Proba 2020, p. 17).

Furthermore, we recognised that research on pressure and control did not then constitute or form part of a defined field of research.

Transnational oppression as a term

In Suonutti (2015), the following requirements or criteria are set for a term:

The term chosen for a concept should be linguistically correct, i.e. it should follow the norms and rules of the language in question. Ideally, a term should also reflect some of the characteristics of the concept (be motivated), be short and allow for inflection and derivation (Suonutti, 2015).

First, we assess the term in relation to the criterion of linguistic correctness. Our judgement is that *transnational oppression* follows the Norwegian language norm. The prefix "trans" occurs in a number of compound words in Norwegian (transsexual, transatlantic, transparency), and the terms national and oppression are part of the active vocabulary of most Norwegian speakers.

The next criterion is whether the term is *motivated*. *Transnational repression* reflects the essence of the phenomenon. It is something that happens across national borders, and *repression* is almost self-explanatory.

Secondly, there is the criterion of brevity. *Transnational repression*, with its 27 characters and eight syllables, cannot be said to be short. This is, in our opinion, the most serious objection to the choice of this term. In most contexts, *transnational oppression* will occur in the uninflected form, but one can imagine formulations such as "the *transnational oppression*".

Finally, there is the criterion of inflections and derivations. Given that this is a multi-word term, derivations will mainly be in the form of suffixes with fuge-s, such as "transnational repression prevention". The derivation "transnational repression prevention" is in turn inappropriate, as it becomes unclear whether it is the repression or the prevention (or both) that is transnational - hence "prevention of ...". Likewise, different actors will need to be referred to as "perpetrators of ..." or "victims of ..." rather than "transnational oppressors" or "victims".

Given that the term *transnational repression* is becoming established in the English-language research literature, we see no need for a comprehensive discussion of alternative terms. In Proba (2020), we concluded - in line with input from the client - that "persecution" is not suitable, as it is used as a legal standard in the Immigration Act. At the time, we considered the use of "pressure and control" to be a pragmatic way of responding to the assignment, and it was not part of the assignment to carry out any conceptual clarification or development, as in this report. Compared to *transnational repression*, *pressure and control* seems less appropriate, particularly because that term does not sufficiently delimit the meaning of the "referent" in question.

Our judgement is that although *transnational oppression* is linguistically somewhat heavy, it is *motivated* and precise, and in accordance with existing literature and knowledge in the field.

2.3 Definition of *transnational repression*

Transnationalism

Moss (2016), the originator of the term transnational oppression, has no explicit definition of transnational oppression, but points out that researchers have ignored the fact that people who emigrate from a country with an authoritarian regime continue to be subject to oppression and its effects even after they have emigrated. This means that even in exile they are prevented or inhibited from exercising political and social rights. Moss places the concept within a theoretical framework of understanding - *transnationalism*.

Transnationalism implies that people who have migrated across borders retain or forge links with the country of origin through social, religious and economic relations that connect the country of origin and the new home country.

[...]

For example, the country of origin may seek to capitalise on the 'positive' aspects of migrants, encouraging them to contribute to language learning, cultural exchange, giving them the opportunity to vote in elections, and even reserving seats for diaspora in national assemblies (Proba 2020).

Within this framework, transnational repression is seen as an extension of the authoritarian practices of a given regime within its own national borders.

In the transnationalism perspective, diaspora in the form of political exile communities can also be seen as a threat to regimes in countries of origin. It is primarily here that there may be a motivation to prolong the repression of political opposition beyond national borders. Furstenberg et al. (2021) build on Moss (2016) and others, and point out that the central motivation is to strengthen the regimes' own security and power.

Tsourapas (2021) understands transnational repression as one of four strategies that authoritarian regimes can use against their own diaspora in other countries: 1) transnational repression, 2) legitimation, 3) co-optation and 4) co-operation with non-state actors. Schenkkan and Linzer (2021) of the US-based think tank Freedom House see transnational repression as governments extrapolating their power across national borders to silence dissent in diaspora and exile communities

A subtle but very important point in this understanding is that the focus is turned towards the perpetrator. The repression is linked to the perpetrator regime, and the motivation for the repression is linked to its characteristics and properties. The intention of the perpetrator regime is thus to repress opponents and enemies of the regime who are in other countries.

2.3.1 Elements of a definition

We believe that the wording in the title of Proba (2020) - *economic, ideological or religious pressure originating in the country of origin, directed against persons with an immigrant background in Norway - is* suitable as a starting point for a definition. It describes both the actions, the perpetrator and who the actions are directed against.

What is meant by repression

A first element of a definition includes the description of actions and who is exposed to them:

Transnational oppression is the oppression of diaspora groups in Norway.

The wording *economic, ideological or religious pressures* is replaced with *oppression*, and *people with a migrant background* is replaced with *diaspora*.

One question is whether *repression* requires further explanation. This is not an established legal concept, either in Norwegian or international law. Nor are we aware of any precise lexical definition of *oppression* or *repression*. Despite the fact that *repression* is an immediately intuitively understandable concept, research on *transnational repression* includes very serious acts, such as murder and torture, which makes the concept not self-explanatory. There is therefore a need to map the acts (Chapter 3) and draw the boundaries between what is criminal and what is undesirable, as well as explain the different degrees of severity of the various criminal offences (Chapter 4).

An important aspect of using the word *oppression* in both the term and the definition is that it clarifies the *purpose of the perpetrator*, namely to restrict other people in their fulfilment of life - or their right to live freely.

Who is subject to transnational oppression?

The term *diaspora* is a key academic term in several social sciences and is increasingly used in everyday language and cultural expressions. We believe that the term's connotations of ties to the country of origin reflect the theoretical understanding of transnational oppression above. Moreover, it is short. Finally, *diaspora* is sufficiently imprecise - or flexible - to capture everything from people in short-term exile to people who experience attachment to a country of origin after several generations of residence in Norway.

Adamson (2016) points out that many people can experience a strong personal and emotional attachment to and identification with a real or imaginary homeland that they have never lived in - and may not even have visited.

[...] definitions of diaspora that rely only on ethnicity or national origin can be misleading or problematic. They essentialise a group based on a particular category and ignore the larger political context, including the internal politics and differences that help explain how diasporic identities are formed and maintained [...]. (Adamson, 2016)

We believe it is reasonable to consider both parties in a marriage between an ethnic Norwegian and a foreign national as members of the diaspora. However, the delimitation of the concept of diaspora is not obvious. One can, for example, imagine an ethnic Norwegian citizen who has a child with a person from another country, where the child lives with the foreign parent in their home country. Furthermore, one can imagine that the Norwegian citizen participates in solidarity work or other political activities that may make him or her vulnerable to transnational oppression from the authorities in the country where the child and the co-parent are staying.

On this basis, we believe that the concept of *diaspora* must be understood in a broad sense in the context of transnational oppression. However, it is questionable whether a definition that limits transnational oppression to something that only affects the diaspora is sufficiently broad to capture the full scope of transnational oppression. We return to this question below.

The practitioner

The above definitional starting point is incomplete in that it lacks a qualification of the *perpetrator*. Our original definition of "pressure and control" limits it to the authorities of the diaspora's country of origin. We consider the delimitation to authorities to be necessary and appropriate. This was discussed in Proba (2020).

However, it is not a given that diasporas are only subject to transnational repression from their own country of origin. Practising states may also target diasporas from other countries - for example, Ukrainian refugees in Norway could conceivably be subject to repression by Russian authorities. A very serious case is the murder of Ahmed Bouchiki in Lillehammer in 1973, carried out by the Israeli intelligence service Mossad. Mr Bouchiki, a Moroccan citizen but originally from Algeria, was probably exchanged with the Palestinian Fatah officer Ali Hassan Salameh.

To take this into account, we rather recommend *foreign powers*, giving the following definition:

Transnational oppression is the oppression of diaspora groups in Norway carried out or initiated by foreign powers.

Furstenberg et al. (2021) show how authoritarian states extend their use of power across nation-state borders via digital surveillance technology and informal networks of security agents - and through the use of non-state actors operating on behalf of and/or at the behest of state power. To capture exercise through non-state actors, we have included the words "or initiated by" in the definition. However, it should be noted that in some cases there may be a fluid transition between states and state-like actors, particularly when terrorist organisations such as ISIS become territorial.

We would also like to point out that assessments of what constitutes "foreign powers" can have political aspects. In section 3.1.2 we describe how extradition requests for diaspora members are used as a tool of transnational repression. Based on the above definition, it is possible to argue that the US request for the extradition of Julian Assange is part of transnational repression - but directed against the UK. It is irrelevant that the US is an allied state. It is also irrelevant that the prosecution of Mr Assange is - from the US perspective - a legitimate pursuit of national security interests.⁶

The question of the significance of a state being an ally or "friendly" is also discussed in the Norwegian Bar Association's consultation response to the bill on criminal liability for co-operation with foreign intelligence services to exercise influence activities:

[...] what about "friendly" intelligence services? The CIA has been behind quite a few influence activities, including "Radio Free Europe" and "Radio Liberty". Are these covered? Should we use the delimitation of offences to distinguish between "good" and "bad" intelligence services?⁷

International literature also points out that transnational repression can be exercised by powers that Norwegian authorities regard as "like-minded", or that are allies through the NATO treaty. Furstenberg (2021) cites Israel's assassination programme, US abductions as part of the "war on terror" and the associated use of detention centres such as the Guantánamo detention camp in Cuba as examples of "illiberal practices" carried out by presumably "liberal" states.

Turning to the subject matter of this report, it is problematic to draw any clear or uncontroversial distinction between "good" and "bad" foreign powers. The definition proposed here makes no such distinction.

Another problem is to define and delimit who can act as actors for such non-aligned foreign powers when exercising their oppression.

Firstly, a distinction can be made between face-to-face confrontations and repression via electronic media, such as the telephone or social media. This first distinction implies that repression can take place both in Norway and across national borders.

Secondly, a distinction can be made between official representatives of the foreign power and others. These "others" can make the phenomenon difficult to deal with. They may be either private individuals or organisations that have been commissioned by the foreign power to undertake repressive actions, or persons who pretend to be in cahoots with the foreign power in an attempt to control the other for purely personal reasons.

⁶ Norwegian PEN also points out that this case could help set a global precedent that a journalist or publisher anywhere in the world can be prosecuted by any country's government for publishing leaked information. *International Assange letter to the British Home Secretary*. Norwegian PEN. Retrieved 17 June 2022 from <https://norskpen.no/nyheter/internasjonalt-assange-brev-til-den-british-home-minister/>.

⁷ *Consultation - Amendments to the Penal Code, etc. Consultation response* from the Norwegian Bar Association, 11 August 2021. Retrieved 17 June 2022 from <https://www.regjeringen.no/no/dokumenter/horing-om-endringer-i-straffeloven-mv.-pavirkningsvirksomhet/id2849395/?uid=f874946c-4c96-4836-93bb-1f90b0f05d68>.

motivations. Conversely, a person may pretend that the oppressive act is a purely personal matter, while in reality he or she is in cahoots with the foreign power. These factors mean that it may be appropriate to understand transnational oppression as something that can happen

- *from outside and from above* , by representatives of foreign powers and individuals openly in cahoots with the foreign power,
- *from below and from within* , by persons in league with the foreign power who infiltrate an organisation without making themselves known,
- *as a personal matter*, by persons who for private reasons claim proximity to foreign power without actually having it - i.e. not really transnational oppression

For members of the diaspora who are being oppressed, it can therefore be difficult to show tangible evidence of having been subjected to transnational oppression. The foreign power has an interest in acting covertly, and infiltration will provide the best cover. The repression will then appear as the opinions and actions of individuals, and their support for the regime of their home country will appear as expressions that they are fully entitled to express. In this way, practitioners of transnational repression use freedom of expression and assembly as a weapon to undermine and restrict the exercise of democratic rights by the diaspora. A minority organisation which appears to be characterised by conflict, rivalry and factionalism, or which is funded by forces in the country of origin, may in fact be infiltrated or may have been originally established by a foreign power. Eritrean diaspora organisations in particular are subject to this problem (Proba, 2020). We describe the instrument of infiltration in section 3.4.

2.3.2 Transnational repression against non-diaspora?

So far, we have defined transnational oppression as oppression of diaspora groups in Norway carried out or initiated by foreign powers. This definition is consistent with the understanding expressed in the terms of reference, and in itself also with our definition of "pressure, control and discrediting" in Proba (2020). The limitation to diaspora can also be said to be an expression of transnational oppression being understood from a migration and integration perspective. However, we believe that such a definition does not adequately capture the full scope and reach of the phenomenon. In our view, transnational oppression can also be directed against other population groups. Ethnic Norwegians can also be affected.

An example of the latter is the attempted assassination of publishing editor William Nygaard in 1993, which is suspected to have been carried out by Iranian secret services. Less serious, but still serious enough, is the fact that historian Harald Bøckman - formerly of the University of Oslo, now retired - has on several occasions been denied a visa to China, allegedly because of the Chinese authorities' dissatisfaction with Bøckman's research on Chinese history and politics.⁸ The Norwegian journalist and editor of the Kirkenes-based online newspaper *Barents Observer*, Thomas Nilsen, was banned from entering Russia in 2017 (Aro, 2022). Furthermore, Proba (2020) found the so-called "SETA report", in which the Turkish research institute SETA named 120 people and organisations in Norway, including Norwegian politicians, and referred to them as supporters of the PKK. This shows that foreign powers can exercise transnational repression against Norwegian citizens who are not residents of the country harbouring the perpetrator regime.

Furthermore, one can imagine photographing or even registering persons - diaspora members or ethnic Norwegians - who participate in demonstrations outside embassies. It is also conceivable that Norwegian citizens who have business interests in other

⁸ *Harald Bøckman denied visa to China for the third time* . Uniforum, 24 August 2015. Retrieved 19 April 2023 from <https://www.uniforum.uio.no/nyheter/2015/08/harald-bockman-nektes-visum-til-kina.html>.

countries may be subject to transnational repression through their vulnerability or exposure in terms of markets and/or investments.

This is in line with the assessments that must be made in connection with security clearance in accordance with the National Security Act. Here, association with another state is considered one of the circumstances that may prevent security clearance (cf. Section 8-4 fourth paragraph letter n). § Section 8-4 (letter c) also specifies circumstances that may make a person, or a person close to him/her, vulnerable to threats to "life, health, freedom or honour" that can be used to blackmail him/her.

The term "connection" must be interpreted broadly. Many factors may indicate the existence of a connection that is relevant to examine further in this context, such as citizenship, family/relatives/friends, financial interests or contact with the authorities of another State. The degree of connection must also be included in the assessment; for example, how close the family or friendship relations are, what kind of contact the person has with these or how large the financial interests are (NSM, undated).

This shows that the Norwegian authorities consider that links to - or interests in - other countries may give rise to a risk of Norwegian nationals being subject to pressure from the authorities of other states. Such pressure may be motivated by intelligence activities directed against Norwegian state interests, or it may be part of transnational repression, or there may be other motives.

Nor does the so-called "refugee espionage" provision of the Penal Code (Section 126) distinguish between persons on the basis of nationality or ethnic origin, either with regard to perpetrators or victims. It uses general expressions: "whoever [...] collects information" for the perpetrators and "danger to *someone's* life, health, freedom or property" for the victims.

The above discussion leads us to the following definition:

Transnational repression is repression of diaspora groups in Norway carried out or initiated by foreign powers. The repression may also be directed against all Norwegian citizens who have an interest in or exposure to the foreign power.

In Chapter 6 we show that this definition reflects that the phenomenon falls under the sectoral responsibility of several specialised ministries in the Norwegian administration, and that it should not only be considered from a migration and integration perspective.

2.3.3 Delimitation of neighbouring phenomena

Transnational repression has features and aspects that may resemble other intelligence activities, terrorism and negative social control. Here we briefly discuss how transnational repression can be distinguished from these phenomena.

Delimitation against other intelligence activities

Given that *transnational repression* includes actions directed against Norwegian citizens who have interests linked to or exposure to the perpetrator regime, it may be difficult to distinguish from what is usually characterised as intelligence activities. In Proba (2020), with reference to the terms of reference, it was limited to foreign powers' intelligence activities in Norway and instruments that fall under the security and defence area.

This refers to what is probably considered "traditional" intelligence and espionage activities, usually directed against defence and security installations and public authorities, but also industrial espionage directed against Norwegian businesses.

To some extent, transnational repression and intelligence activities have different purposes. Intelligence is essentially the collection of information about other countries for the purpose of national security interests, whereas transnational repression is aimed at restricting people's freedom of expression, particularly in the political and religious spheres. However, as we will see in section 3.6, surveillance - i.e. the collection, recording and/or dissemination of information about individuals or organisations - is one of the

seven key elements of transnational repression. And from the practitioner's point of view, information on opposition exile communities can be used to safeguard national security to the same extent as information obtained through what is usually associated with intelligence activities.

From this it is clear that those aspects of transnational repression that deal with what we call *surveillance* are difficult to separate from intelligence activities.

Disinformation campaigns and advocacy

Disinformation campaigns or advocacy aimed at the general population - for example by Russian and Chinese governments - differ from transnational repression because repression is not the main motive. However, influence operations and transnational repression can still be used in combination.

In her recently published book *Putin's Trolls*, Finnish journalist Jessika Aro describes Russian influence operations as consisting of three elements: "rotten herring", "the big onion" and the "40/60 method". The *40/60 method* is attributed to the Hitler regime's propaganda minister Joseph Goebbels and consists of constructing a convincing - but distorted - narrative by combining lies and truth in the aforementioned mixing ratio. *The big lie* is to convey a lie that is so incredible that it is impossible to believe that anyone could lie about it. The *rotten herring* is the discrediting of opponents (Aro, 2022). In many cases, it is likely to be difficult to determine whether the purpose of a given operation is repression or influence.

Countering terrorism

The Penal Code defines terrorist acts as various forms of serious crime (mostly acts of violence) committed with the intention of disrupting basic societal functions, creating serious fear in a population, or seeking to impose one's will on public authorities or an intergovernmental organisation, see the Penal Code chapter 18 on terrorist acts and terrorist-related acts in section 131. The definition, as well as the other provisions in chapter 18, implements Norway's obligations in the EU Directive 2017/541 and other international law obligations (Prop. 100 L, 2018-2019).

While an act of terrorism is intended to put pressure on the authorities or to instil fear in the population, transnational repression targets individuals and specific population groups - specifically diaspora and those with interests linked to or exposure to the perpetrator's power. The two phenomena are thus essentially distinct, but it is possible to imagine acts of terrorism where it may be difficult to determine *who* the perpetrator intends to instil fear in.

Acts of terrorism that are not carried out or initiated by a foreign power are not considered transnational repression.

Delimitation against negative social control (and honour-related violence)

In our report on the extent of negative social control, we defined this phenomenon as follows: The use of pressure, supervision, threats, violence or other means to ensure that individuals live in line with family or group norms. The control is characterised by being systematic. It entails restrictions on the individual's life development and freedom to make independent choices, and is contrary to the rights of children and young people in line with, for example, the UN Convention on the Rights of the Child (Proba, 2021).

This phenomenon is similar to transnational oppression in that it involves restrictions on the freedom and rights of individuals, in that it largely affects members of diaspora groups in Norway, and in that it has a transnational aspect. However, it differs from transnational oppression in that it is not the authorities of foreign powers that are the perpetrators, but family and the diaspora group itself. There is likely to be a borderland here, for example if negative social control exercised by the diaspora group were to originate with the authorities of the regime in the country of origin.

Delimitation against international , organised crime

Organised crime can be transnational, and we assume that instruments such as violence and threats are used against individuals in such activities, as in transnational repression. We consider that organised crime differs from transnational oppression primarily in that the motivation is usually economic, as opposed to the political motivation that is often behind transnational oppression. Furthermore, organised crime is usually carried out by private actors and not by governments.

2.4 Conclusion - proposal for a definition

Based on the above review, we propose the following definition.

Transnational repression is the repression of diaspora groups in Norway carried out or initiated by foreign powers. The repression may also be directed against all Norwegian citizens who have an interest in or exposure to the foreign power.

The definition is consistent both with the basic principles of terminology development and with international literature. Furthermore, the definition provides an appropriate delimitation, although certain aspects of transnational repression overlap to some extent with, or are difficult to distinguish from, other, neighbouring phenomena.

3 List of actions

In this chapter, we provide an overview of actions and activities that are included in transnational oppression. The presentation is based on the definition of transnational oppression above, and is based partly on the empirical work we carried out for our first report (Proba, 2020) and partly on available literature.

On the identification and selection of performing countries

Proba (2020) is based on interviews with representatives of the Eritrean, Ethiopian, Chechen, Turkish and Uyghur diasporas in Norway. These five diaspora groups were selected as case studies from a total of nine 'candidate' groups. The other four groups were Iranian, Saudi, Sudanese and Syrian diasporas. The resource constraints of the project did not allow for data collection for all nine groups, so it was necessary to make a selection of cases based on partly pragmatic considerations. The lack of mention of the four omitted groups in our reports is thus primarily a reflection of this limitation - it is not necessarily the case that the five selected groups are the most vulnerable to transnational oppression. For example, there have been recent reports of Afghans receiving death threats from the Taliban regime after family members abroad expressed criticism in chat groups.⁹

Designations for acts that constitute transnational repression

This in turn means that our review in this chapter probably does not constitute a complete catalogue of acts that can be considered transnational repression. It is also likely that practitioners develop new tools over time. Nevertheless, we believe that the seven main categories discussed in sections 3.1-3.7 capture the breadth of instruments at a general level. We believe it is likely that any actions that we have overlooked or that are added at a later stage can be expected to fit into this framework.

No common conceptual framework has been established to describe the different forms of transnational oppression, but some main types - or main *modes* - have been used in the Free House reports (Gorokhovskaia and Linzer, 2022; Schenkkan and Linzer, 2021):

- *Direct attacks* ; assassination, assault, physical intimidation, unexplained disappearance
- *Co-opting other countries* ; rendition, detention, unlawful deportation
- *Mobility controls* ; passport and document controls
- *Long-distance threats*; coercion by proxy/family intimidation, digital threats, spy-ware

These reports focus on the most serious offences, which are referred to as 'physical transnational repression'.¹⁰

Al-Jizawi et al (2021) is entirely devoted to the actions that take place in digital arenas; 'digital transnational repression'. The report by Gorokhovskaia and Linzer (2022) includes a whole chapter on this topic.

⁹ *Taliban prevents international press from working in Afghanistan* . Aftenposten, 13 January 2023. URL: <https://www.aftenposten.no/verden/i/wAveb1/taliban-hindrer-internasjonal-presse-fra-aa-jobbe-i-afghanistan>.

¹⁰ In addition to the two main reports referenced here, case study reports on six perpetrator countries (Iran, China, Russia, Rwanda, Saudi Arabia and Turkey) and nine host countries of vulnerable diaspora groups that have implemented countermeasures (Canada, UK, Sweden, South Africa, Thailand, Turkey, Germany, Ukraine and USA) can be found at URL: <https://freedomhouse.org/report/transnational-repression>. Note that Turkey is represented in both country groups!

In order to provide a fairly systematic presentation of transnational oppression as it unfolds in its full breadth, we have grouped the various acts into the following main categories:

- 1) Violence and other attacks against the physical safety of persons
- 2) Threats
- 3) Harassment and discrediting
- 4) Infiltration
- 5) Restriction or conditional consular services
- 6) Monitoring
- 7) Weakening and abuse of international frameworks

These categories are not mutually exclusive. There are several acts that can be placed in more than one category - not least because some acts may have multiple purposes, functions and/or consequences. The Norwegian Police Security Service writes in its open threat assessment for 2023:

China, Iran and several other authoritarian states use their intelligence services to map, monitor and influence their own citizens residing in Norway. Refugees and dissidents engaged in opposition activities are particularly vulnerable targets. The aim is to restrain, undermine or eliminate political opposition. These activities can have serious consequences for those affected and are a threat to Norwegian democratic values. [...]

Some states may be willing to take great risks to silence political opponents living abroad. Many will be subject to threats and harassing behaviour, either physically or digitally. Dissidents may also be pressurised to return to their home countries, for example by threats or imprisonment of remaining family members in their country of origin. In recent years, we have seen examples of dissidents and opposition figures being killed or subject to assassination attempts in several European countries. In 2021, a Norwegian-Iranian citizen was convicted in Denmark for helping to plan the murder of an Iranian exile on behalf of Iranian intelligence (PST, 2023).

Photographing a demonstration outside an embassy is primarily a surveillance activity, but can also act as a threat if done openly. Similarly, an act of violence can act as a threat to supporters and sympathisers of the person against whom the act of violence is directed.

3.1 Violence and other attacks against the physical safety of persons

Perhaps the most serious form of transnational repression are acts of violence and other attacks on the physical security of individuals, such as arrests and abductions. In the literature, the term *physical transnational repression* has been used to refer to violence and other acts that target personal physical security (Schenkkan and Linzer, 2021).

Physical transnational repression is:

detention, assault, physical intimidation, unlawful deportation, rendition, or suspected assassination (Schenkkan and Linzer, 2021)

We recognise that *threats* are included here, but we believe it can be treated as a separate main category, see section 3.2.

3.1.1 Violence targeting the diaspora

Schenkkan and Linzer (2021), in their report on transnational repression, find 608 physical acts targeting individuals in a total of 79 countries of residence by authorities in 31 countries of origin, carried out from 2014 through 2020. An update in Gorokhovskaia and Linzer (2022) shows a significant increase: Including 2021, there are now 735 acts carried out by 36

countries. Countries registered for the first time in 2021 include Algeria, Belarus, Comoros and Nigeria.

Furstenberg et al. (2021) and Tsorapas (2021) also report specific cases. A widely publicised recent example is the liquidation of the Saudi Arabian journalist Jamal Khashoggi in 2018, carried out by the Saudi Arabian authorities inside the Saudi consulate in Istanbul when Khashoggi came there to use consular services. Other widely publicised examples are the poisonings of Russian defected former intelligence agents Alexander Litvinenko in London in 2006 and Sergei Skripal in Salisbury, England, in 2018. The latter attack also involved Mr Skripal's daughter. The above-mentioned murder of Ahmed Bouchikhi in Lillehammer is an example of the liquidation of immigrants by foreign powers in Norway.

NRK reported in 2020 that the stateless Palestinian Iyad El-Baghdadi, who was staying in Norway, was approached by PST and taken under protection following a tip-off from the CIA. The tip-off to the Norwegian authorities was that the Saudi Arabian authorities were planning to assassinate him.¹¹ In this case, the actual act of violence was not carried out, but it shows that there is a real risk that diaspora in Norway may be exposed to violence as part of transnational oppression. In Proba (2020, p. 49), we referred to a case from Sweden where a Chechen blogger was attacked.

In our work with Proba (2020, p. 41), our Ethiopian informants described less serious physical attacks against people in this diaspora group. Various forms of physical violence are also directed against people participating in demonstrations or other anti-regime protests, or at public events organised by diaspora organisations.

3.1.2 Arrests and abductions

The literature provides several examples of abductions and arrests followed by extradition. A number of sources refer to examples of abductions carried out by Russian, Saudi Arabian, Chinese, Turkish and Tajik authorities in countries such as Austria, the United Arab Emirates, Dubai, Kosovo, Turkey and Kenya (Schenkkan and Linzer, 2021; Tsourapas 2021; Furstenberg et al. 2021).¹² The Norwegian Police Security Service writes in its open threat assessment for 2022:

One [...] method is to trick individuals into travelling to a third country, where the foreign intelligence service has significantly more room for manoeuvre to abduct the individuals and take them back to their home country. (PST, 2022)

In May 2021, Belarusian air traffic control ordered a Ryanair flight travelling in their airspace from Athens to Vilnius to land in Minsk under the pretext of a bomb threat. The Belarusian journalist Roman Protasevich, who was on board, was arrested, along with his girlfriend Sofia Sapega. At the time of writing (February 2023), they are both still in prison (Gorokhovskaia and Linzer, 2022).¹³

Schenkkan and Linzer (2021) report 160 cases over the last six years where authorities in a total of 26 countries of origin have persuaded countries of residence to extradite citizens. As reported in Proba (2020), the use of so-called *Red Notice* via INTERPOL is a procedure to denounce and arrest, but also threaten and harass diaspora (see also section 3.3.2 on denunciation). Lewis (2015) reported two cases using *Red Notice*

¹¹ NRK. Retrieved 12 March 2020 from https://www.nrk.no/norge/aktivisten-iyad-el-baghdadi_-hvis-de-ikke-onsker-a-drepe-meg-sa-gjor-jeg-ikke-jobben-min-1.14542222.

¹² Freedom House (2021) finds examples of physical transnational repression carried out by China, Uzbekistan, Rwanda, Tajikistan, Iran, Turkey, Thailand, Saudi Arabia, Egypt, Azerbaijan, North Korea, Bahrain, Vietnam, Turkmenistan, Cambodia, United Arab Emirates, Sudan, Nicaragua, Equatorial Guinea, Pakistan, India, Ethiopia, Burundi, Laos, Kyrgyzstan, Butan, South Sudan and Libya.

¹³ *Roman Protasevich*. Retrieved 21 February 2023 from https://en.wikipedia.org/wiki/Roman_Protasevich.

against persons residing in Norway by Uzbek authorities. Schenkkan and Linzer find examples of at least 12 states successfully using INTERPOL to surrender their own citizens (2021, p. 12). See also section 3.7.

Since the 2016 coup attempt, Turkey has reported and requested the extradition of 504 persons allegedly linked to the Gülen movement. Following bilateral political pressure, 107 refugees have reportedly been extradited, including from Afghanistan, Angola, Bulgaria, Pakistan and Sudan (Öztürk and Tas 2020, p. 62). This activity was escalated to the grand political level with the conclusion of the Swedish and Finnish NATO membership agreements, where the concrete consequences of the point on the extradition of PKK activists to Turkey are still unclear (Gorokhovskaia et al., 2023).¹⁴

Another approach is the arrest or deprivation of passports during transit through or visits to countries of origin. In Proba (2020), we reported on such cases in Turkey. The report also described similar actions against Uyghurs, where diaspora members are taken in for questioning, deprived of assets such as mobile phones and passports while in China (Proba, 2020, p. 31). On such occasions, Chinese authorities may also take blood samples, fingerprints, photos and voice recordings for voice recognition. A number of sources have reported that this is a widespread practice in China, and is thus not aimed at the diaspora alone.

However, the informants in our 2020 report say that information is used to keep track of people in Norway, themselves or other people registered on the mobile phone. One of the informants in the study believed that the Chinese police used information on their seized mobile phones to find contact information for other people in the Uyghur diaspora community in Norway.

Demands to return to the country of origin can be directed at the individual themselves or at family in the country of origin. In Proba (2020), we reported that the Chinese authorities have reportedly pressurised Uyghurs studying abroad to return home with threats that the family would otherwise be punished.

3.1.3 Coercion by proxy - family in country of origin

Authorities may subject diaspora members' families in countries of origin to interrogation, arrest and acts of violence. This can function both as reprisals or as threats (Proba, 2020). Moss (2016) calls this "*coercion-by-proxy*":

the harassment, physical confinement, and/or bodily harm of relatives in the home-country as a means of information gathering and retribution against dissidents abroad (Moss, 2016)

Remaining family members in the country of origin can make diasporas highly

vulnerable: I propose that any member of a diaspora who wishes to maintain access to an authoritarian home country and has significant others residing there is likely to consider dissent a high-risk activity irrespective of the freedoms granted by domestic authorities (Moss, 2016)

In the Scandinavian context, we find Emma Jörum's study (2015) of the Syrian diaspora in Sweden. The study reported, among other things, that families living in Syria are targeted by authorities who subject them to arrest and violence as a result of diaspora activities in Sweden.

Proba (2020, p. 33) reported on an article from The Guardian describing Uyghur families in China being put in detention camps as a result of having relatives abroad. Proba (2020) also provides a number of other examples of families in the country of origin being approached and threatened as a result of diaspora activities abroad. Among other things, we describe how the Eritrean authorities threaten families with sanctions if persons in

¹⁴ Turkey opens the door for Sweden and Finland to join NATO . Nrk.no, 28 June 2022. Retrieved 16 September 2022 from https://www.nrk.no/urix/tyrkia-snur_-opnar-for-at-sverige-og-finland-kan-bli-med-i-nato-1.16020586.

foreigners engage in opposition activity or do not pay the so-called two per cent tax (see section 3.5), how Uyghurs in Norway receive direct threats over the family's own phone and Norwegian-Ethiopians where families are threatened, arrested and used to make demands against the diaspora. The report refers to other studies, including Jörum (2015), which describes how threats are made against family members in Syria to stop Syrian activists in Sweden.

3.2 Threats

Threats are covered by the Penal Code - specifically sections 251 and 252, which deal with coercion, and sections 263 and 264, which deal with intimidation (see also Chapter 4). Threats can be exercised directly and explicitly, or indirectly and implicitly through actions we describe in this chapter - such as violence, harassment/discrediting, infiltration, withholding consular services and surveillance. Threats can have many different purposes, but overall they are either to make someone refrain from or stop certain activities, such as political activities, or to make someone do something they would not otherwise do, such as acting as an agent of the regime, paying the two per cent tax (to the Eritrean authorities), or returning to their country of origin (Uyghurs).¹⁵ We have already described that threats can be directed against family in the country of origin - what we call coercion by proxy.

Proba (2020, p. 28) reported, among other things, from Norwegian-Eritrean informants who told of death threats, often made face-to-face in various contexts. Several of these cases have been reported to the police, and several of the victims have been assigned a violence alarm. In Proba (2020, p. 41), we also report more indirect threats, by being told that "we know who you are and where you live". Both Ethiopians¹⁶ and Eritreans have reported such threats.

Telephone or letter is another common way of making threats. Proba (2020, p. 19) refers to research and news articles reporting threats by phone to Norwegian-Ethiopians after participating in demonstrations,¹⁷ about an Uzbek woman in Norway receiving threats from Uzbek police by phone (Lewis 2015), and about threats of violence by phone or letter directed at Syrian activists living in Sweden (Jörum 2015).

A French news article (see Proba 2020, p. 34) describes how Uyghurs receive parcels where the family's address in China is written as the sender's address, but the family denies having sent such parcels. There are also reports of others receiving parcels to be picked up at the Chinese embassy. This is interpreted by the informants as a threat due to the fact that they have joined Uyghur organisations. In other words, threats can in some cases be made in very subtle forms.

Proba (2020, p. 32) reported that Chinese authorities are promoting threats via the digital communication apps WeChat and Whatsapp, demanding cooperation and information.

Threats can be combined with promises of benefits. In Proba (2020, p. 32), Uyghur informants report that Chinese security police contact their families in their home country by telephone and offer them benefits such as travel permits, passports and money to visit each other in exchange for the dissidents in the diaspora in Norway starting to "cooperate" and ceasing political activity.

3.3 Harassment and discrediting

Transnational oppression also takes the form of harassment and discrediting. Harassment refers to harassment or actions that disturb, upset or agitate, but

¹⁵ China's Campaign Against Uighur Diaspora Ramps Up. Foreign Policy, 3 April 2018.

¹⁶ Espionage in Norway. Ny Tid, 7 July 2015.

¹⁷ Espionage in Norway. Ny Tid, 7 July 2015.

without physical violence or attacks on the physical safety of individuals. Harassment is often carried out as a form of retaliation and there is a blurred line with threats - if the harassment is carried out in a way that makes it perceived as *conditional*, it may be more appropriate to perceive it as threats. Harassment is often carried out through telephone or digital channels. This has given rise to the term "digital transnational repression" (Al-Jisawi et al., 2021).

Certain forms of harassment can be covered by the provisions of the Criminal Code, including the sections on intimidating or harassing behaviour (Section 266), stalking (Section 266a), invasion of privacy (Section 267) and sharing of offensive information (Sections 267a and 267b); see also Chapter 4.

The purpose of discrediting is to weaken a person's reputation and standing, be it within limited circles or towards third parties. Third parties can be public agencies or the public - in Norway or in the country of origin. An example of discrediting is when a false report of concern about a person is sent to the child welfare services. It is also conceivable that discrediting can occur by making or disseminating scandalising *true* allegations (Proba, 2020).

3.3.1 Harassment

Proba (2020, p. 25) reported that Norwegian-Eritreans who refrain from paying the two per cent tax to the Eritrean authorities have been subject to various forms of harassment. Among other things, women have been subjected to derogatory comments on social media and have had obscene pictures sent to their mobile phones. The report also describes such cases among Uyghurs and Turkish diaspora in Norway.

Ny Tid mentions another form of harassment. People with ties or sympathies to the Ethiopian authorities showed up at opposition events and tried to stop it (see Proba, 2020, p. 40).

Digital sabotage of websites via electronic interference ("jamming") or in other ways is a form of harassment that often aims to prevent people from expressing themselves. Ethiopian informants report in Proba (2020, pp. 38-39) that their Norwegian websites are subjected to electronic disruptions that prevent them from reaching out with political messages, and that websites are blocked for visits from people in Ethiopia.

Another form of harassment or sabotage is to prevent exile communities from communicating with family and friends. Proba (2020, p. 31) reported, for example, that Uyghurs in Norway have been blocked from the Chinese communication app WeChat, preventing them from communicating with family in their home country.

3.3.2 Discrediting

As mentioned above, discrediting is the act of undermining the reputation and standing of individuals. The sources describing such acts refer, among other things, to scandalous or 'immoral' content being spread on social media, being distributed on national media in countries of origin, or the creation of fake or discrediting social media profiles.

Discrediting content in social media

Proba (2020, p. 26) describes acts where discrediting content is spread in social media, through derogatory comments, including towards the Eritrean diaspora. This can be untrue or scandalising claims about, for example, bigamy, pro forma marriages, sexual orientation and other matters that can be damaging to the reputation of the diaspora community. This also includes the creation of false profiles on social media that portray people in a way that would be scandalising (Proba, 2020, p. 26). Aro (2022) describes how a discrediting campaign initiated by Russian "cyber trolls" through the use of social media managed to gain traction in traditional media as well.

Discrediting through stolen identity

During our work with Proba (2020), we were also told of a case where an unknown person pretended to be a named exile worker to a Norwegian government agency. The named person was the sender of a grant application, while the person pretending to be that person made threats to the government agency. The intention was apparently to sabotage or undermine the genuine application. The story was verified by the Norwegian grant authority.

Discrediting content/comments at public events/social

media

Proba (2020) reported that discrediting content was spread in Eritrean communities in retaliation against people who were willing to pay the two per cent tax, or who do not follow the 'correct' religious practices. This happened in congregations and at various social events. We observe here the aforementioned grey zone between discrediting and intimidation.

Smear campaigns in countries of origin

Jørum (2015) describes videos of Syrian activists participating in demonstrations being disseminated on national media. Michaelsen (2018) reports on cases where scandalising allegations about Iranian activists, such as participation in a terrorist organisation or prostitution, are made in national channels in Iran.

As referred to earlier, we reported in Proba (2020) on the so-called "SETA report", where the Turkish research institute SETA named 120 individuals and organisations in Norway, including Norwegian politicians, and referred to them as supporters of the PKK.

Disclosure to third parties

As we have already described, denunciation or demands for arrest, directly to the authorities or via INTERPOL, is a way to have persons extradited to their country of origin. In our view, this can also be a form of discrediting or harassment, undermining the person's position or status in the country of residence. In Proba (2020), we reported that such claims are not exclusively directed against authorities. For example, after the attempted coup in 2016, the Turkish regime disseminated information letters on social media encouraging pro-regime supporters to denounce people who were critical of the regime.

In Proba (2020), we also reported on cases where pro-regime individuals in Norway reported or sent false reports of concern about the Chechen diaspora to Norwegian child protection authorities. As we have described earlier, in the work with Proba (2020), we also described how Kurdish activists' Facebook accounts are reported to contain material that is contrary to Facebook's guidelines.

3.3.3 Harassment of family in country of origin

Discrediting and harassment can be carried out against family in the country of origin, cf.

3.1.3 on coercion by deputising.

3.4 Infiltration

In Proba (2020), we found a number of examples of different forms of infiltration of diaspora Jews, with the aim of excluding or undermining critics or gaining important positions in the community. These actions targeted both publicly registered organisations and more informal communities or networks. Infiltration can also take place through third parties, such as interpreters.

3.4.1 Infiltration of diaspora organisations

Proba (2020) describes several examples of diaspora organisations being infiltrated - through coups and power struggles, exclusion of members and elected representatives, and through the transfer of legal rights. This was particularly prominent in the Eritrean diaspora community.

"Coup d'etat" and/or seizure of power by organisations and communities

Proba (2020, pp. 27-28) reported from Eritrean informants that pro-regime circles and individuals engage in power struggles in Eritrean diaspora organisations, and can also "coup" governing bodies. The report refers to several newspaper articles describing how individuals operating on behalf of Eritrean authorities also sabotage attempts to form organised communities.

Exclusion and exclusion

We were further told that to the extent that organised communities survive, it is reportedly because pro-regime individuals have taken control, and exclude Eritreans who do not support the regime. It is also reportedly common to exclude, ostracise or ban Norwegian-Eritreans who are not pro-regime or who fail to pay the two percent tax from meetings, church services or cultural events.

Conditional support to religious organisations

Another approach, allegedly carried out by the Turkish State Directorate Diyanet and the Joint Association of Turkish Religious Communities in Norway, is to transfer ownership of mosques to the Joint Association, which in turn is said to be controlled by Diyanet. In return, the mosques are promised legal assistance and other support from the Turkish authorities. The informant in Proba (2020, pp. 45-46) said that various forms of pressure were exerted on the mosques to agree to such a transfer.

Recruitment for intelligence activities

Proba (2020, p. 23) refers to a news article in Agderposten where a former Iranian ambassador says in an interview that the embassy's intelligence personnel have sought to infiltrate diaspora organisations critical of the regime in order to recruit individuals for various purposes. Attempts are also made to recruit radical Muslims. He says that the families of Iranian exiles are used as leverage, but that they are also recruited by paying money or by threatening to stop the possibility of visiting family in Iran.

The Police Security Service writes in an open threat assessment:

Although China's intelligence services are sophisticated and technically advanced, they also rely heavily on civilians with access to information. They use their position voluntarily or under pressure. Any Chinese citizen or business can be required by Chinese law to cooperate with the country's intelligence apparatus. This means that actors who initially have legitimate intentions can be ordered to collect information on behalf of the party-state (PST, 2022).

3.4.2 Infiltration of diaspora communities

Other forms of infiltration towards diaspora communities described in Proba (2020) are the creation of organisations loyal to the regime that attempt to influence diaspora communities, the exclusion of individuals from political, cultural, religious and social arenas, various communities and arenas, and various forms of threats and pressure directed at individuals in such arenas. Infiltration is also used to establish surveillance mechanisms.

Creation of regime-controlled organisations

Proba (2020, p. 28) refers to a news article from Agderposten in which a representative of the Eritrea Committee stated that pro-regime organisations are a central part of the repression apparatus in Norway. In interviews, we were told about an educational initiative for children - a language school in Tigrinya for children, which is run under the auspices of a Norwegian-Eritrean organisation - is in reality controlled by pro-regime actors, and that the content of the teaching is unilaterally pro-regime oriented.

Fear and social exclusion

In Proba (2020, p. 24), Eritrean informants describe a strongly factionalised diaspora environment that is characterised by power struggles, where various means are used. Among other things, threats of various kinds are used, and the community is described as characterised by a culture of fear and as being under the strong influence of the Eritrean authorities. Among other things, social pressure is exerted on individuals to participate in the "right" political, cultural, religious and social meeting places. This social pressure takes the form of exclusion from important social events such as baptisms and other celebrations, or the threat of such exclusion.

Proba (2020, p. 26) also reported that a Norwegian-Eritrean responsible for a debate forum received death threats if he did not exclude an allegedly oppositional Norwegian-Eritrean from the forum.

Exclusion from social arenas and networks

Proba (2020, p. 25) reports that Norwegian-Eritreans who do not pay the two per cent tax may be denied access to meetings, church services, confirmations and cultural events.

Proba (2020, p. 28) also reports that demands and threats are made in the Eritrean community to avoid socialising with critics of the regime. An Eritrean informant said that the children were also excluded from the Eritrean community, in that they are not allowed to maintain contact with other Norwegian-Eritrean children.

Exclusion from the churches is to take place partly by the governing bodies being taken over by persons friendly to the regime, and partly by the "undesirable" persons being excluded from important social contexts in the church, such as confirmations, or being ostracised by being left alone. The report notes that Norwegian Eritreans have established some politically independent congregations in reaction to this practice.

Funding and other forms of support

In Proba (2020), we referred to several studies (Brand, 2006; Jørum, 2015; Sunier et al., 2016; Tourapas, 2016) that describe how the Moroccan, Turkish and Egyptian authorities, among others, have a tradition of combining language training, cultural exchange, remittances and investments with control of the diaspora in other countries. The use of so-called "matching funds", where the regime contributes funds to projects that also receive funds from expatriates, is another way to incentivise relations and support.

Sunier et al. (2016) point out that the Moroccan regime in particular uses religion as a mechanism for maintaining and building relations with the Moroccan diaspora. In Norway, we also know of examples of the Saudi Arabian regime providing support to religious communities through financial transfers.

3.4.3 Infiltration of third parties - interpretation services

Proba (2020) states that Eritrean informants are sceptical about using interpreters for fear of being denounced or manipulated. The report refers to a news article in which a Norwegian-Eritrean describes an instance when he was advised by an interpreter to moderate criticism of the regime in his country of origin during a health care consultation (2020, p. 26). In other words, it is conceivable that interpreters may report confidential information about individuals

obtained in interpretation missions to authorities in countries of origin, see also section 3.6.3 on monitoring by third parties.

3.5 Restriction of, or conditional, consular services

A fourth main category of transnational repression is embassies imposing conditions on and/or restricting diaspora members' use of consular services. This is done by withholding benefits, rights and/or services, or through threats of such withholding.

Proba (2020) reports that both the Eritrean and Turkish embassies in Oslo refuse to issue passports to their own citizens in Norway. For Eritreans, the embassy requires the payment of the Eritrean two per cent tax in order to receive a passport, but also other public documents, such as diplomas, birth certificates, marriage certificates, etc.

In practice, this means that, for example, Norwegian-Eritreans must pay this tax annually in order to receive general consular services in Norway, and to maintain contact with Eritrea in the form of visits, safeguarding property, business interests, inheritance rights, etc.

Informants in Proba (2020, p. 46) also report that the Turkish embassy in Oslo refuses to accept case papers and assist with documentation such as ID papers. In Proba (2020, p. 23), we also refer to an article in *Agderposten* about people of Iranian origin being similarly prevented from visiting family in Iran.

Eritrean informants tell Proba (2020, p. 25) that it is common for Norwegian-Eritreans to have to sign a "declaration of regret", in which they distance themselves from any previous unfavourable statements about the regime. An unofficial English translation of what is supposed to be a copy of the regret form states:

I, whose name is the above-stated citizen, hereby confirm with my signature that all the foregoing information which I have provided is true and that I regret having committed an offence by failing to fulfil my national obligation and that I am willing to accept the appropriate measures when decided.

Unofficial foreign missions

In Proba (2020), we described how the so-called "Eritrean Information Association" with an office in the centre of Oslo acted until 2016 as the extended arm of the Eritrean authorities to collect the two per cent tax from Eritreans living in Norway. The activities of the office officially ceased that year, after the Ministry of Foreign Affairs lodged a protest with the Eritrean Embassy in Stockholm.

Recently, it has been revealed that Chinese authorities are setting up unofficial "police stations" in various countries, including Stockholm, which are used as bases for various forms of transnational repression.¹⁸

Rather than restricting consular services, this is probably a breach of the 1961 Vienna Convention on Diplomatic Relations (more on this in section 5.3).

3.6 Monitoring

Surveillance here means the collection, recording and/or dissemination of information about individuals or organisations. Such acts are covered by the so-called the "refugee espionage section" of the Criminal Code (section 126) if it could jeopardise

¹⁸Chinese police stations have popped up all over the world. Now *US is demanding their removal*. *Aftenposten*, 23 November 2022. Retrieved 23 November 2022 from <https://www.aftenposten.no/verden/i/L146d1/uoffisielle-kinesiske-politistasjoner-har-dukket-opp-over-hele-verden-naa-krever-usa-at-de-blir-fjernet>.

life, health, liberty or property, or the information may harm the security interests of other states. The Police Security Service assesses the threat as follows:

Several states will, among other things, map events, meetings and associations of exile communities in Norway. Some countries use their official representations in Norway for this work, while other countries use visiting intelligence officers, organised criminals or persons reporting from diaspora communities (PST, 2023).

In the following, we describe surveillance through self-reporting, via third persons, via foreign missions and surveillance in public spaces.

3.6.1 Monitoring by foreign station

Many of the examples of surveillance that have been reported are allegedly carried out by foreign missions or embassies in Norway. The surveillance includes passive recording of activity and preparation of reports, mapping of relationships and collection of sensitive personal data.

Preparation of intelligence reports

Jörum (2015) shows that Syrian authorities write intelligence reports on and threaten Syrian activists in other countries and their families back home in order to restrict political opposition. The "SETA report", allegedly prepared by Turkish authorities and referred to earlier, is another example of how such intelligence work is recorded.

Monitoring and registration also takes place in countries of origin. Chinese authorities map whether Uyghurs have relatives abroad, which will count negatively in security police profiling of individuals.

Installation of video cameras around the embassy in Oslo

One of the informants in Proba (2020, p. 34) describes that a large number of video cameras have been installed around the Chinese Embassy in Oslo as a mapping and control measure. The cameras are allegedly used for facial recognition of Uyghurs staying in the vicinity, partly as a result of telephone calls asking them to come to the embassy.

3.6.2 Monitoring through infiltration

We know of only one case where someone has been convicted of so-called refugee espionage under section 126 of the Penal Code. Ny Tid has reported that a Sudanese intelligence officer has been convicted of posing as a refugee and thereby collecting information from fellow countrymen in exile in Norway. The surveillance is said to have taken place during prayers in mosques (Proba, 2020, p. 22).

3.6.3 Monitoring by third parties

Monitoring is often carried out by third parties - or agents - who report back to authorities. These may be individuals who are recruited, or imams or others with access to information on individuals by virtue of various offices or positions, such as interpreting assignments (see section 3.4.3).

Agderposten has reported that Iranian asylum seekers in Norway have been offered cash, legal counselling and assistance with asylum applications in exchange for intelligence against opposition members in Norway (Proba, 2020, p. 22). Tsourapas (2021, p. 623) refers to a report from Amnesty International¹⁹ where it is described how a Uighur was called by the Chinese police

¹⁹ Amnesty International. *Nowhere Feels Safe*. Retrieved 21 February 2023 from <https://www.amnesty.org/en/latest/%20research/2020/02/china-uyghurs-abroad-living-in-fear/>.

and are asked to release information about other Uyghurs in the Netherlands. Tsourapas (2021) also refers to another report from Amnesty International²⁰ which describes how the Uzbek regime is said to have developed an apparatus for monitoring people abroad.

The Turkish state has allegedly instructed the imams who are in Norway to report back to the Turkish authorities via the embassy in Oslo (Proba 2020, p. 45). The informant in our report claims, among other things, that a public letter had been leaked in which Diyanet urged imams to send information about Gülen followers to the Turkish authorities. This type of activity has also been reported in Germany, by the Financial Times (Proba 2020, p. 46). Jørum (2015) has described the monitoring and reporting of the Syrian diaspora in Swedish mosques.

Proba (2020, p. 29) referred to news articles about a Swedish citizen of Uyghur origin who was convicted in 2010 of espionage against Uyghur refugees in Norway and Sweden. The suspect had, among other things, infiltrated the World Uyghur Congress and passed on information about Uyghur health, travel and political views to a Chinese agent. Furthermore, telephone numbers, addresses and asylum status of Uyghurs living in Sweden, Germany, the USA and Norway, as well as other personal information, were obtained.

3.6.4 Surveillance in public spaces - and private homes

Jørum (2015) reports that the Syrian Embassy in Sweden films demonstrations and people in mosques. Tsourapas (2021, p. 623) refers to Bozzini (2015), who describes how filming of demonstrations is used for surveillance and as a threat to the Eritrean diaspora. The Ethiopian embassy has reportedly sent people to engage in overt photography during political demonstrations and political meetings (Proba, 2020, p. 40).²¹ Turkish informants report photographing people in their own homes (Proba, 2020, p. 45).

3.6.5 Digital surveillance

In particular, Ethiopian and Uyghur informants in Proba (2020) describe extensive digital surveillance through various digital techniques. An article in the Washington Post also reports on accusations against the Ethiopian regime of using the computer programme *FinSpy*, a programme that monitors information and activity, as well as providing access to use the phone's functions.²² Other studies describe digital surveillance by the Iranian and Syrian regimes (e.g. Michaelsen, 2018; Jørum, 2015). This takes place in social media, through facial recognition (connected to Google and positioning tools), in digital forums, communication applications and private machines. In Proba (2020, p. 32), we reported that Chinese citizens - both in China and in the diaspora - are required to download other applications that monitor their phone and their activity. Al-Jizawi et al. (2021) provide an overview of other literature and sources for "digital transnational repression".

²⁰ Amnesty International. *Uzbekistan: Tentacles of Mass Surveillance Spread across Borders*. Retrieved 21 February 2023 from <https://www.amnesty.org/en/latest/news/2017/03/uzbekistan-tentacles-of-mass-surveillance-spread-across-borders/>.

²¹ Ethiopia: The Ethiopian Satellite Television media group (ESAT), including objectives and activities in Canada, particularly in the Kitchener-Waterloo area; reports of surveillance by Ethiopian authorities (2012 - March 2016). Refworld, 1 April 2016. Retrieved 31 October 2019, from <https://www.refworld.org/docid/58944cbe4.html>.

²² Timberg, C. (2014). *U.S. Citizen Sues Ethiopia for Allegedly Using Computer Spyware against Him*. Retrieved 8 July 2020 from https://www.washingtonpost.com/business/technology/us-citizen-%20sues-ethiopia-for-allegedly-using-computer-spyware-against-him/2014/02/18/b17409c6-98aa-11e3-%2080ac-63a8ba7f7942_story.html.

3.6.6 Monitoring through self-reporting requirements

Uyghurs are instructed by the Chinese authorities to submit various types of personal information to the embassy, often using forms sent to them, and sometimes in person at the embassy. Some have been asked to send copies of their passport, copies of employment contracts, documentation about their place of study, or to submit a photo of themselves in front of various Norwegian institutions. Many express concern that family members will be detained as a result of both providing *and* refraining from providing the information. Some Uyghurs in Norway have received such requests in the form of automated phone calls with instructions to report to an embassy and/or consulate (Proba 2020, pp. 30, 33-34).

3.7 Weakening and abuse of international frameworks

International organisations are also an arena for transnational oppression. Gorokhovskaia and Linzer (2022) describe how representatives of ethnic minorities in particular are subjected to threats, surveillance and discrediting in connection with participation in meetings in UN organisations. China and Ethiopia are specifically mentioned.

However, Gorokhovskaia and Linzer (2022) also describe how some practising states weaken or prevent international cooperation against transnational repression.

However, perpetrators of transnational repression use their influence to weaken the enforcement and dilute the meaning of human rights standards. They sway votes in their favour, collaborate with one another, and reshape the very missions of international organisations (Gorokhovskaia and Linzer, 2022)

One of several examples cited is that China managed to achieve a majority in favour of a resolution at the UN Human Rights Council²³ that changed the Council's mandate from holding countries accountable for human rights violations to having a goal of "mutually beneficial" cooperation in the form of "dialogue".

The resolution effectively relegates human rights to the domain of domestic affairs or bilateral relations, with little role for the UNHRC itself or independent civil society groups (Gorokhovskaia and Linzer, 2022).

We have already described the abuse of INTERPOL's search and extradition request mechanisms by practising countries (section 3.1.2).

It is part of the picture that international organisations are increasingly drawing attention to transnational repression. Gorokhovskaia and Linzer (2022) report that they have identified more than 30 cases of transnational repression in the context of cases that have been heard by the European Court of Human Rights.

²³ United Nations Human Rights Council: UNHRC; United Nations Human Rights Council.

4 Normative framework: Legal issues

This chapter addresses issue 3), i.e. how to distinguish between the acts and activities that constitute transnational oppression according to whether they are legal, unwanted, illegal and criminal offences.

Firstly, we consider which provisions of the Criminal Code may apply to the acts and means described in Chapter 3. Secondly, we consider whether the acts and means are unlawful. Next, we discuss how transnational oppression may impede the fulfilment of various rights of individuals and groups, and finally, we address the question of whether undesirable acts and activities may be protected in the form of rights accruing to the perpetrators of transnational oppression.

4.1 The domain of criminal law

4.1.1 Introduction and problem statement

Which of the different offences described in Chapter 3 are punishable? In this chapter, we provide an overview of the criminal law provisions relevant to the different known acts of transnational repression.

The fact that an act is covered by the description of the offence in a penal code does not mean that it can be prosecuted without further ado. Even if section 275 of the Penal Code provides an adequate description of the killing of a person, the other conditions for punishment must also be met in order for the murder to be prosecuted.²⁴ These conditions will not be discussed here, with the exception of the special condition concerning when Norwegian authorities have jurisdiction to prosecute offences committed abroad.²⁵

Criminal offences are most often committed by individuals, but can be committed by undertakings, see Chapter 4 of the Criminal Code. For linguistic reasons, the offences will be referred to as committed by persons. The fact that undertakings may also commit punishable transnational oppressive acts should be read into the text. An overview of the relevant provisions of the Penal Code is given in Annex 1.

4.1.2 A criminal offence?

Various diasporas in Norway and abroad have in recent decades been subjected to murder, assault, abduction and violence against family in their country of origin (cf. section 3.1). All of these offences are described in the Penal Code, see Section 254 (deprivation of liberty), Section 271 (assault), Section 273 (bodily harm), Section 275 (murder) and Section 291 (rape).

Section 3.1 also refers to arrests, which will not be a criminal offence when made in the exercise of the home Member State's authority. This will also apply when it is the result of an offence. In such situations, it will be up to the Ministry of Foreign Affairs to appeal to the person's civil and political rights, if it concerns a Norwegian citizen and not just someone with a residence permit in Norway, see in particular Article 9 (right to personal liberty and security) and Article 14 (fair trial) of the UN Covenant on Civil and Political Rights.

²⁴ In order to be punishable, the subjective and other objective conditions of criminal liability must also be met. The subjective conditions of criminal liability are the necessary subjective culpability (e.g. intent) and culpability (sanity). The objective conditions of punishability are, in addition to the fact that the act must meet the description of the offence in the penal code, that there must be no grounds for impunity (necessity, self-defence, consent or special circumstances that may be described in the penal code).

²⁵ The requirement for the court to have jurisdiction is one of several administrative conditions for sentencing that are not of particular interest for this report (such as the requirement that the case is not time-barred and that the defendant has been properly charged).

If this is a case of political imprisonment or is the result of informing, the transnational repression will have similarities with the provision in Section 266a of the Penal Code (serious personal prosecution), but which cannot be applied to the offence. To the extent that it is conceivable that an individual or an undertaking is behind it, for example as an act of complicity, the Norwegian authorities will lack the authority to initiate criminal prosecution.

Among the more recurring forms of oppression that also occur to some extent, the diasporas report harassment, discrediting (section 3.2) and threats and identity theft (section 3.2). Such offences are described in Chapter 24 of the Penal Code on the protection of personal freedom and peace, see Penal Code § 202 (identity theft), § 263 (threats),

§ Section 266 (reckless behaviour), Section 267 (invasion of privacy), Section 267 (sharing of offensive images). Although not reported by the diasporas, it is likely that the transnational repression may also trigger the use of Section 185 of the Penal Code (hate speech).

A separate category of actions concerns infiltration (point 3.4); restriction of, or conditional, consular services (point 3.5) and surveillance (point 3.6). This is because they concern actions that indicate that they are carried out by public authorities. Where the infiltration or surveillance concerns intrusion into computer systems, the Criminal Code provides protection, see Section 201 (unauthorised access to access data), Section 202 (identity theft) and Section 205 (violation of the right to private communication).

Where the surveillance concerns some form of espionage (for example, taking pictures during demonstrations), the acts could conceivably be covered by the previously mentioned criminal provisions on the protection of privacy in section 267 of the Penal Code, or the provision on serious personal persecution in section 266a of the Penal Code. However, it is rather unclear whether such offences would fall under these sections, as these provisions are designed with different circumstances in mind than is the case for diasporas.

Restriction of, or conditional consular services (point 3.5) are not criminal offences. Such problems are for the Ministry of Foreign Affairs to resolve through bilateral dialogue or other means.

The diasporas have not reported the use of coercion or extortion, Penal Code Section 251 (coercion) and Section 330 (extortion). Given that transnational oppression ranges from harassment to murder, it is reasonable to assume that coercion and extortion may also occur. Coercion and extortion is likely to be both a very effective tool and one that could easily

"fly under the radar of the police" (compared to abduction, murder and grievous bodily harm). 'Effective' means, among other things, that it would contribute to undermining the purpose of diaspora organisations and the desire of their members for democratic participation.

It may therefore be necessary to look in particular at measures to prevent such behaviour. Moreover, such repression may lead to new situations of pressure, such as whistleblowing as mentioned above, or completely different types of offences such as economic crime, see the Criminal Code

§Section 324 (embezzlement), Section 337 (money laundering) and Section 372 (fraud). Today, Økokrim works primarily with young people in minority groups who are vulnerable to being recruited as criminals in organised financial crime where the perpetrators are located abroad (for example, so-called "Nigerian letters"). It is conceivable that practitioners of transnational oppression may also adopt the methods of criminal organisations.

4.1.3 Criminal offences committed abroad (territorial scope of criminal law)

National criminal law applies to the offences committed on its territory, see Section 4 of

the Penal Code. When an act or its effects are committed in several places, the mixed theory is applied, see Section 7 of the Penal Code: An act is considered to have been committed both where it was physically committed (the place of commission) and where it had its criminally relevant

effect (place of effect). Norwegian authorities will therefore have jurisdiction if a chicanous statement is published in Norway and has its effect in that something happens to a Norwegian citizen abroad.

In addition, Section 5 of the Penal Code (on the territorial scope of the Act) also provides jurisdiction in some cases where Norway does not exercise sovereignty.²⁶ The provision distinguishes between offences committed by those with citizenship or residence in Norway and offences committed by foreigners.

The offender is a Norwegian citizen or resident in Norway or another Nordic country

If the perpetrator is a Norwegian citizen, resides in Norway or another Nordic country, or is an enterprise registered in Norway when the act abroad is committed, the principle of dual criminality applies, see section 5, first paragraph, letters a to c. This means that the case can be investigated and prosecuted if the act is also a criminal offence in the country where it was committed, see section 5, first paragraph, no. 1. According to the provision, Norway has jurisdiction in certain cases, even if the acts are not criminal offences in the country where they were committed. Of relevance to this report are the provisions on human trafficking and sexual offences (Section 5(1)(9)), as well as hate speech (Section 5(1)(11)).

The offender is a foreigner and is also not from the Nordic region

The descriptions in Chapter 3 describe several incidents where the perpetrator represents, or gives the impression of representing, the home country's authorities. There may be cases where the perpetrator is not a Norwegian citizen or is not resident in Norway or another Nordic country. This may include, for example, persons who are on holiday or business in Norway, or who have applied for asylum in Norway.

If the perpetrator is a foreigner (and also not resident in a Nordic country), a special provision in Section 5, third paragraph, applies. In order for Norwegian criminal law to be applicable to offences committed abroad by such persons, three cumulative conditions must be met: The offender must reside in Norway, the offence must be punishable by a sentence of more than one year and, in principle, the requirement of double criminality must be met. It is particularly the first requirement that in practice will present challenges in the case of transnational offences. The penalty framework means that several of the criminal offences mentioned above will not be applicable (unauthorised access to access data, threats, invasion of privacy, sharing of offensive images, assault and battery all have a penalty framework of only one year, i.e. lower than the minimum requirement).

In 2009, a new provision in section 5 of the Penal Code was introduced to provide better protection against criminal offences committed abroad. If the offence is punishable under Norwegian criminal law by imprisonment for six years or more, the offender is not required to reside in Norway.²⁷ Nor is there an explicit requirement of double criminality, although in most conceivable cases it will be met. Under this rule, there will be jurisdiction for several of the different types of offences described in Chapter 3 (penalties of six years or more): Grievous bodily harm (section 274) which carries a penalty of up to ten years, murder (section 275) where the penalty ranges from eight to 21 years, and rape (section 291) where the penalty is up to ten years. Furthermore, aggravated coercion (section 252), aggravated deprivation of liberty (section 255), aggravated assault (section 272), bodily injury (section 273), aggravated extortion (section 331), aggravated embezzlement

²⁶ This access to exercise jurisdiction within the sphere of the territorial sovereignty of other States must be in accordance with international law, see Article 2 of the Criminal Code.

²⁷ Odelsting prp. nr. 22 (2008-2009). Also in such cases, it is a prerequisite for criminal prosecution in Norway that the offender is present in Norway, but it is not appropriate to make this a condition for jurisdiction. Increasingly close international cooperation in the field of criminal law means that it may increasingly be relevant for Norwegian authorities to request the extradition of a person from another country, but this presupposes that the offence is punishable under Norwegian criminal law.

(section 325), aggravated money laundering (section 338), aggravated criminal damage (section 352) and aggravated fraud (section 372), which carry a six-year penalty.

If the offence is committed by an undertaking, a maximum sentence - or maximum penalty - of three years or more is sufficient.²⁸ A number of additional offences will be covered here: Hate speech (section 185), deprivation of liberty (section 254), aggravated threats (section 264), aggravated stalking (section 266a) and extortion (section 330), all of which carry a maximum penalty of three years.

4.2 The rules of civil law and the boundary of undesirable behaviour

4.2.1 Breach of public law rules

In our context, when an offence occurs outside the domain of criminal law, it will make a difference whether it is a breach of public law, or a breach of a contract with the administration, or whether, on the other hand, it concerns a relationship between two private parties, or a private party and an association.

Administrative sanctions may be imposed for breaches of public law provisions. Examples of this are legal provisions imposing accounting and auditing obligations. In some areas, the administration also carries out control activities to strengthen the enforcement of its own legislation. Such supervision must be authorised by law or be the result of an agreement with the private party, for example when granting state aid. As the granting authority, the administration may also impose requirements on the recipients of aid by stipulating conditions in award letters and the like. Breaches of such conditions for the use of funds are enforced in accordance with general contract law.²⁹

There are several examples of the administration actively checking that organisations comply with the obvious requirement that funds must be used in accordance with the purpose for which they were awarded; see, for example, the chapter on sectoral responsibility, particularly sections 5.5 and 5.6. The withdrawal of state aid to the organisation Born Free provides an example of money being used for something other than the purpose for which it was granted. The case was discovered as a result of IMDi's supervisory and control responsibilities.³⁰

Moreover, if an organisation violates civil law rules in relation to another private party, the clear starting point is that the public authorities cannot and do not wish to sanction such violations. This is expressed, among other things, in the principle of legality in section 113 of the Norwegian Constitution, as well as in a number of places in the European Convention on Human Rights, which states that government intervention in various rights can only take place when this is authorised by law. An example of this may be that the administration becomes aware of an illegal exclusion practice, which is a relationship between the excluded person and the organisation.

On the other hand, in deciding whether or not to fund an organisation, it is widely accepted that the political leadership is quite free to screen out associations which it considers to have engaged in unlawful behaviour under private law, and also towards other private parties, as well as lawful but undesirable behaviour.

²⁸ The undertaking ("the perpetrator") must either be registered in Norway (Section 5(1)(c) of the Penal Code) or have transferred its entire business to an undertaking registered in Norway after the time of the offence (Section 5(2)(c)).

²⁹ The rules on "public aid" as defined by Article 61(1) EEA, which apply to undertakings engaged in economic activity, fall basically on the side of the problem of transnational oppression. The diaspora organisations, with the exception of religious associations, are characterised as undertakings not engaged in economic activity. To clarify that in the context of this report there is no question of such public support, this term is not used in the text.

³⁰ *Rehman may lose millions after using disputed contracts.* nrk.no, 7 October 2020. Retrieved 15 September 2022 from <https://www.nrk.no/norge/rehman-kan-miste-millioner-etter-bruk-av-omstridte-kontrakter-1.15190367>.

Født Fri lost complaint case. nrk.no, 25 June 2021. Retrieved 15 September 2022 from <https://www.nrk.no/nyheter/fodt-fri-tapte-klagesak-1.15552671>.

The issue is not entirely impractical. For example, an organisation may operate in a way that hinders integration, but which may be difficult to counteract through contractual terms or otherwise because it would constitute an infringement of freedom of assembly or freedom of expression. The challenge is that there is little systematic collection of information about this type of undesirable behaviour. The administration relies on tips and other informal contacts that may have political significance (see section 5.5). It is unclear to what extent such information could influence decisions on grant allocations. Traditionally, such decisions are made on a political basis³¹ and are therefore not subject to full transparency.

4.2.2 Limits on requirements that can be imposed on associations

Associations are protected by the freedom of association in Article 101 of the Constitution, see also Article 11 of the European Convention on Human Rights.

Association law as a legal field is the collective term for the rules that apply to all types of associations, from those that participate in public governance (for example NHO) to purely hobbyist activities (Woxholt, 2020, p. 43). In addition, the association's own statutes will constitute an important source of law. Legal theory also refers to generally accepted association practice and association principles, especially those related to the democracy of associations.

In the political context, associations are often referred to as "voluntary organisations" (Meld. St. 10, 2018-2019). The state's relationship with voluntary organisations can be adequately summarised as follows:

Voluntary associations take their own initiatives and co-operate with others, including public authorities, in the realisation of common goals. By taking part in public tasks, they contribute to solving important welfare tasks (Meld. St. nr. 27, 1996-97, chapter 1.1).

This is based, among other things, on the assumption that organisations are "democratic actors [that] train organisations to participate in joint decision-making processes".

At present, public law rules do not provide for any control of whether the associations operate as democratic actors - i.e. the part of the right of association that has to do with association practice and association principles. This is because part of the point of volunteering is to cultivate a sense of responsibility in relation to programmes and services that we administer jointly. The state has defined its role as "differentiating its support schemes, award criteria and forms of control so that these are adapted as far as possible to the specific nature of the organisations" (Meld. St. nr. 27, 1996-97).

On the topic of transnational repression, the question can be raised whether associations can be expected to comply with the general right of association. This in the context of the fact that associations can be infiltrated or formed by non-friendly foreign powers (see chapter 3.4 above). Questions that can be asked that would not automatically imply a violation of the freedom of association and assembly are: How the association is founded and the relationship with its members (including exclusion), as well as the functioning of the governing bodies (elections, general assembly, etc.), dissolution and termination. It is conceivable that such an expectation could be expressed through an explicit legal requirement, or as a condition for various grant schemes. One point here would be that the assumption that organisations are "democratic actors" that provide "training in participating in joint decision-making processes" is put into play by the exercise of transnational oppression within an association, for example through infiltration and/or threats. If there is to be a requirement for such

"good governance", it would break with our tradition and relationship with voluntary organisations. At the same time, a paradox arises if such requirements are not imposed. On the one hand

³¹ See for example *HRS loses state support: - A day of shame*, Aftenposten 22 September 2021, retrieved 3 October 2022 from [https://www.aftenposten.no/norge/politikk/i/9Kq92q/hrs-mister-statsstoetten-](https://www.aftenposten.no/norge/politikk/i/9Kq92q/hrs-mister-statsstoetten)

[en- day of shame](#) and *JURK loses support* , Journalen 13 October 2017, retrieved 3 October 2022 from <https://journalen.oslomet.no/2017/10/JURK-mister-st%C3%B8tte>.

the premise of providing support to diasporas is to promote democratic participation, while on the other hand, diaspora associations can be targeted and exploited by anti-democratic forces originating from authoritarian regimes.

4.2.3 A legal meaning of the characteristics of associations discussed in this report?

A characteristic of many diaspora associations is that they do not have an exclusively social purpose, while at the same time having a weak link to public governance.³² This latter characteristic is indeed shared with many other types of associations, such as sports clubs, corps or charitable organisations. What distinguishes them from such associations is that, despite their weak link to public governance, they nevertheless have a particular social influence within their segment or catchment area - the diaspora: They set the conditions for their members' integration and the exercise of their civil and political rights. This societal influence becomes particularly relevant for Norway and Norwegian authorities through the existence of transnational oppression. From this perspective, diaspora associations may resemble some religious associations in terms of societal influence, but without being subject to the specific regulations that apply to the field of faith and belief. The Ministry of Children and Families also states that some diaspora associations may be organised as religious communities.

The distinctiveness could conceivably have a legal impact on which principles on the relationship between state and civil society should be relevant for the distinction between lawful and unlawful actions. The distinctiveness may indicate that the principles that usually apply to the relationship between government and the voluntary sector (see chapter 4.2.2 above) are not developed with a view to the fact that unexpected elements of social control may arise here, which means that they operate under the guise of flying the flag of voluntarism, but have activities that require a different type of attention from the authorities.³³

4.3 Transnational repression and the positive obligation of the state to protect freedom of assembly

Transnational repression often takes place in the context of assemblies and associations. This raises the question of what limits and obligations the state has to safeguard the freedom of association and assembly in section 101 of the Norwegian Constitution, see Article 11 of the ECHR, against such acts.

The European Court of Human Rights has recognised the freedom of assembly in Article 11 ECHR as particularly important for minorities, including national and ethnic minorities. Such associations are considered to provide an opportunity to express and promote the identity of the minority. The European Court of Human Rights has stated that they constitute a fundamental condition for the group's self-preservation and rights.³⁴ Norway therefore has a particularly positive obligation to protect and support the freedom of association of minorities.³⁵

³² Organisations that, in contrast, have strong links to public governance are, for example, LO and NHO.

³³ If the organisation is infiltrated or established by non-friendly foreign powers and engages in political activities to influence opinion formation in the diaspora that hinders integration and suppresses opposition to the regime, a secondary purpose may be to destabilise the Norwegian social order. Norway has no law on such political activities, compare the preconditions for the Political Parties Act Ot.prp. nr. 84 (2004-2005) Om lov om visse forhold vedrørende de politiska partiene (partiloven) chapter 5.2.

³⁴ *Case of Gorzelik and others v. Poland*. Strasbourg: The European Court of Human Rights [GC], 2004, § 93. Retrieved 16 September 2022 from <https://hudoc.echr.coe.int/fre#%7B%22itemid%22:%5B%22001->

[61637%22\]\].](#)³⁵ *Eğitim ve Bilim Emekçileri Sendikası v. Turkey*. Strasbourg: The European Court of Human Rights, 2012, § 59 listing obligations under international law.

Some types of minority assemblies will have stronger protection than others because their activities are closely linked to other human rights, such as freedom of religion or freedom of expression. Just as it takes more to *restrict the* right to hold a political meeting than, for example, a concert,³⁶ the positive obligation to protect the right to freely hold political meetings will be stronger than when, for example, a cricket association in Oslo (which is mainly started and run by Norwegian-Pakistanis) holds meetings. In between are meetings of associations with their home country in their name that meet to share cultural experiences, where politics and sometimes religion are a component. Therefore, in order to clarify the positive obligation of the state to protect various activities in the diasporas, it must be determined whether the activity is at the core of the right.³⁷

The State may have a positive obligation to ensure the safe conduct of meetings and activities of diaspora associations, particularly those of a political nature, depending on the circumstances.³⁸ These obligations are reinforced in the case of minorities in need of special protection. Such obligations may include having security measures in place and/or maintaining a good dialogue with the associations. If the threat to the assembly falls within the remit of the PST, it may also include preventive dialogue with possible perpetrators of transnational repression. The State will have a wide margin of manoeuvre in the choice of measures, as they are best placed to assess security risks.³⁹

From a human rights perspective, the topic of this report will raise questions about the ways and measures the state has taken to protect the freedom of assembly of diasporas. What the various ministries are doing today will be discussed in more detail in Chapter 5 on sectoral responsibilities. However, it is worth mentioning here two aspects that are believed to be indicative of compliance with the positive obligations to protect freedom of assembly:

Firstly, the prosecution of transnational repression will provide an important signal that the state is upholding its positive obligations. There are examples where individuals have been convicted for gathering information on diaspora opponents in the United States.⁴⁰

Designing a policy or action plan would be another way. Freedom House, in a 2022 report on transnational repression, has identified the following as recommended points for such a plan (Gorokhovskaia and Linzer, 2022, p. 13):

Freedom House research identified security, migration, and foreign policy factors that are important for countering transnational repression:

- Security policy: Inclusive national security frameworks, awareness among law enforcement and intelligence personnel, and proactive protection for targeted individuals.
- Migration policy: Permanent forms of protection for refugees and consideration of transnational repression within asylum review processes.

³⁶ *Friend and Others v. the United Kingdom inadmissibility decision*. Strasbourg: The European Court of Human Rights (16072/06, 27809/08). In this case, which concerned a ban on fox hunting, the ECtHR stated on proportionality assessment under Article 11(2) (paragraph 50) "a wider margin of appreciation must be accorded to State authorities in regulating a particular assembly the further that assembly moves from one of a political character to one of a purely social character."

³⁷ On unlawful forms of action: Kudrevičius paras. 155-157 and Drieman and others v. Norway.

³⁸ *Kudrevičius para. 158 - 160*

³⁹ *Faber v Hungary*. Strasbourg: The European Court of Human Rights, 2012, para. 42

⁴⁰ *Five Men Indicted for Crimes Related to Transnational Repression Scheme to Silence Critics of the People's Republic of China Residing in the United States*. "According to the indictment, one of Liu's co-conspirators ("Co-conspirator") retained Taylor to obtain personal identification information regarding multiple PRC dissidents residing in the United States, including passport information and photos, and flight and immigration records, which Taylor allegedly tasked to two DHS law enforcement officers, including Miller. As alleged, Miller and the other DHS agent obtained the information from the restricted database and improperly provided it to Taylor, who shared it with the Co-conspirator. Liu, Ziburis and Sun used this information to target and harass these U.S. residents while acting on behalf of the PRC government". Washington DC: OPA, Department of Justice. Retrieved 16 September 2022 from

<https://www.justice.gov/opa/pr/five-men-indicted-crimes-related-transnational-repression-scheme-silence-critics-people-s>.

- Foreign policy: Mechanisms for holding both individuals and governments accountable for transnational repression. Host countries can help protect vulnerable people by adopting policies and practices that will increase their resistance to and accountability for transnational repression. Ultimately, however, a global threat to human rights requires a global response. Lasting security for exiles and diasporas depends not only on individual action by governments to fortify their domestic protections, but also on a coordinated, multilateral campaign to counter the spread of authoritarianism.
- In addition, in regards to migration policy, to secure permanent resident permit is assessed as an important protection against transnational oppression.

4.4 Summarising

Section 101 of the Constitution and Article 11 of the ECHR set out a positive obligation for the State to ensure freedom of assembly. This applies in particular to minorities, because their assemblies are often considered a necessary condition for participation in society and the maintenance of their rights.

The state has a wide margin of discretion as to how best to fulfil these positive obligations. However, enforcement of criminal offences reported by diasporas is likely to be central.

As explained in section 4.1 above, the Criminal Code does not have a specific offence of transnational repression. The most serious offences, such as murder or kidnapping, would still be covered. For the more recurring offences, such as surveillance and harassment, the applicability of the provisions of the Criminal Code must be assessed on a case-by-case basis. Such acts could conceivably be covered by the penal provisions on the protection of privacy in section 267 of the Penal Code, or the provision on serious personal persecution in section 266a of the Penal Code. However, it is somewhat unclear whether the penal provisions will apply, as these provisions are designed to deal with quite different circumstances than transnational oppression. It is therefore conceivable that there is a need to draft a separate penal provision to provide this group with adequate protection.

It may also be of value that the Penal Code also in other ways indicates that it is considered an aggravating factor when criminal offences are intended to undermine freedom of assembly and democratic participation. Persons in diasporas who are subjected to coercion or extortion, for example, are protected by sections 251 (coercion) and 330 (extortion) of the Penal Code. However, the Penal Code does not currently reflect the seriousness of such offences, especially in light of the positive obligation of the state to protect and support minority associations. Moreover, criminal offences of this type may lead to new situations of pressure, such as informing, or entirely different types of offences such as economic crime, see Section 324 (embezzlement) of the Criminal Code,

§ Section 337 (money laundering) and Section 372 (fraud).

Against this background, it may be questioned whether the current Criminal Code does not provide sufficient room for manoeuvre for the Ministry of Justice and Public Security to fulfil its sectoral responsibilities in the context of combating transnational oppression.

The question of the potential for increased prosecution of these types of offences will be addressed again in section 5.1 on the sectoral responsibilities of the Ministry of Justice and Public Security.

Another way in which Norway can fulfil its positive obligations is to ensure systematic collection of information on undesirable behaviour and actions in the diasporas. Such information can indicate the extent to which such behaviour affects citizens' democratic participation, and hence form the basis for specifying actions to counteract such behaviour, for example by drawing up an action plan against transnational oppression.

One possible measure that could be included in such a plan is the establishment of a reporting system that would enable the collection and systematisation of information on transnational

repression. Another possible measure could be to legislate on good governance requirements for diaspora associations, but, as mentioned above, this is not unproblematic, although the specific nature of these associations may mean that the principles normally applicable to the relationship between government and the voluntary sector do not apply here.

5 Sectoral responsibility and transnational repression

In this chapter, we describe how transnational oppression can trigger sectoral responses in six ministries. As mentioned in the introduction, a given ministry may have a social mission that indicates that it has a duty to contribute to counteracting or preventing transnational oppression. Sectoral responsibility may also mean that transnational oppression represents a challenge to the fulfilment of the ministry's social mission and achievement of objectives. The fact that a given ministry is considered to have a sectoral responsibility in the matter may also indicate that it has instruments at its disposal that can be used to counteract or prevent such acts. Finally, it may mean that the ministry itself or one of its subordinate agencies receives information that transnational repression is being practised.

Transnational repression affects the sectoral responsibilities of the following six specialised ministries:

- Ministry of Justice and Public Security; has sectoral responsibility for civil defence, the police and prosecution authorities, the judiciary, the criminal justice system and immigration authorities, as well as for rescue services and the polar regions
- Ministry of Labour and Social Inclusion; has sectoral responsibility for the field of integration and is the parent ministry of the Directorate for Integration and Diversity (IMDi)
- Ministry of Foreign Affairs; has sectoral responsibility for Norway's relations with other countries' authorities
- Ministry of Education and Research; has a sectoral responsibility that includes researchers and students from other countries who are affiliated with the higher education sector (and the institute sector)
- Ministry of Children and Families; has sectoral responsibility for the field of faith and life stance and is the parent ministry for the Directorate for Children, Youth and Family Affairs (Bufdir)
- Ministry of Culture and Equality; has sectoral responsibility for the voluntary sector and the culture and media sector

In the following presentation of sectoral responsibilities, we explain the sectoral responsibilities in more detail, and we also explain and discuss what appears *undesirable* from the point of view and perspective of each sectoral ministry - in some cases by deducing what is undesirable from what is presented as *desirable*. For some of the ministries, the scope for action in terms of countering and/or preventing transnational oppression is also assessed.

5.1 Ministry of Justice and Public Security

The Ministry of Justice and Public Security (JD) is responsible for the judiciary, the criminal justice system, the police and prosecution authorities, rescue services, civil defence, immigration authorities and the polar regions.⁴¹

Within this broad sectoral responsibility, we will highlight here the main aspects and functions that are relevant to the Ministry's sectoral responsibilities in relation to transnational repression.

The Ministry of Justice and Public Security has administrative responsibility for the Security Act. The purpose section (section 1-1 letter a) reads as follows:

The law should contribute to

- a. to safeguard Norway's sovereignty, territorial integrity and democratic governance and other national security interests.

⁴¹ *Ministry of Justice and Public Security* . Review of the Ministry retrieved 14 September 2022 from <https://www.regjeringen.no/no/dep/jd/id463/>.

The purpose clause in section 1, second paragraph of the Police Act gives the police a very comprehensive and ambitious social mission, which is relevant for understanding the Ministry of Justice and Public Security's sectoral responsibility in relation to transnational oppression:

Through preventive, enforcement and assisting activities, the police shall be part of society's overall efforts to promote and consolidate citizens' rule of law, security and general welfare in general.

The provision should be understood to mean that the police have a special responsibility to strengthen the population's trust in the authorities and protect democracy. When transnational oppression hinders the participation of groups and individuals in society, it is a problem for the police - and other Norwegian authorities that have sectoral responsibilities related to the phenomenon.

The Ministry of Justice and Public Security's primary sectoral responsibility in relation to transnational repression relates to criminal offences, in the form of preventing, investigating and possibly prosecuting the acts described in Chapter 3 above, if they are to be considered criminal offences. The Ministry states that in this context, the overall task of the police - to contribute to the welfare of the population through prevention and enforcement - is important in order to fulfil its sectoral responsibility, see the purpose clause in Section 1 of the Police Act.

The sectoral responsibility is further specified in the Ministry's annual allocation letter, which sets out the political management signals to the police service. The following passage shows that transnational repression falls under the sectoral responsibility of the police - and the parent ministry:

The police help to ensure that democratic social structures, the resource base and the environment are protected against subversive criminal activities. [...] The police [...] cooperate with PST, among others, in matters relating to national security, including complex threats.⁴²

The enforcement part of the sector's responsibility can be measured in terms of reports, prosecutions and any convictions in cases relating to the topic of the report. We are not aware of any statistics on the number of reports and any solved criminal offences involving perpetrators and victims that fit the actor and target group as defined in the concept of transnational oppression. We are aware of only one known criminal conviction where the prosecution was based on an offence that clearly relates to transnational oppression.⁴³ We discuss how the prevention and prosecution of transnational oppression is prioritised in the justice sector in the next chapter.

Specifically on the Police Security Service (PST)

The Instructions for the Police Security Service (section 4) stipulate the following mission for the agency: The Police Security Service shall contribute to safeguarding important public interests and, through its activities, be part of society's overall efforts to promote and consolidate citizens' rule of law, security and general welfare.

The provision coincides with section 1 of the Police Act, which is discussed above. In performing its tasks, PST shall assist and cooperate with public authorities, organisations and institutions.⁴⁴ The Ministry of Justice and Public Security's letter of allocation to PST is not public, and PST's priorities are classified information.

PST's social mission is thematically delimited in a way that allows the agency to come into contact with both actors and target groups for transnational oppression. PST's area of responsibility for investigations is specified in section 17 b, first paragraph no. 5 of the Police Act. This includes politically motivated violence or coercion or terrorist acts. PST states that this means that they have some knowledge of "who is who" in the diasporas in Norway, and to a somewhat greater extent than the ordinary police.

⁴² Allocation letter 2023. Police. Ministry of Justice and Public Security. Retrieved 16 February 2023 from <https://www.regjeringen.no/contentassets/80197702ddb144e8a016a040e656751f/2023/tildelingsbrev->

[politiet-2023.pdf](#).

⁴³ A Sudanese national was convicted in 2014 for refugee espionage. HR-2014-1900-A–Rt-2014-901–flyktningspionasje.

⁴⁴ Instructions for the Police Security Service, sections 6 and 10.

PST is aware that Russian intelligence officers, among others, have so-called cover positions at the embassy in Oslo (PST, 2022). However, several of the countries practising transnational repression do not have representation in Norway. In these cases, the activity will start outside Norway, for example by sending personnel into refugee flows, or by activities on digital platforms. In such cases, PST will be dependent on tips or reports from victims - i.e. persons who are subjected to such forms of transnational oppression.

At present, there is no structured cooperation between PST and the ordinary police specifically aimed at preventing and investigating transnational repression, but the Ministry of Justice and Public Security states that PST and the police cooperate closely at various levels and in various constellations. Examples of this are centres such as the Joint Cyber Coordination Centre (FCKS) and the National Intelligence and Security Centre (NESS). This cooperation is described in more detail in the *Police Emergency Preparedness System (POD, 2020)*.

A proposed amendment aims to make it a criminal offence to cooperate with foreign intelligence on influence activities in Norway - so-called "illegal influence activities", see proposed new section 130 of the Penal Code. According to the proposal, a possible amendment to Section 17 d first paragraph of the Police Act would give PST coercive powers in preventive cases.⁴⁵

Specifically about the Directorate of Immigration (UDI)

The Directorate of Immigration is responsible for processing applications from foreign nationals wishing to visit or live in Norway, operating asylum centres and deportation cases. Transnational repression may affect their sectoral responsibility if it turns out that a person who has been granted a residence permit on the basis of a need for protection has been granted this on incorrect grounds.

Section 63 of the Immigration Act deals with the revocation of residence permits. According to this provision, a residence permit may be revoked - or cancelled - if the person in question has deliberately provided incorrect information in connection with the application, and this information was of significant importance to the decision on residence. Expulsion of persons without a residence permit is regulated by section 66 of the Immigration Act, which states that the same circumstances can give grounds for expulsion.

This means that a person who infiltrates the diaspora by pretending to be in need of protection may be expelled from Norway if it can be proven or substantiated that at the time of application he or she was in fact operating in co-operation with the authorities in the country of origin, and that there was thus no real need for protection. In such cases, it is not required that there is a conviction, for example for violation of the refugee espionage paragraph. However, the person cannot be expelled if there is a real risk of being subjected to the death penalty, torture or other inhuman or degrading treatment or punishment on return to the country of origin, cf. Section 73 of the Immigration Act.

§§ Sections 66 - 68 also contain provisions on expulsion on other grounds, including that a person may be expelled if they have been sentenced to imprisonment or for offences that may lead to imprisonment or certain other specified offences. For example, a person convicted of threats (section 263 of the Penal Code) may be expelled.

Revocation of residence permits is a means of achieving the UDI's business objective that all persons staying in Norway have clarified identity and legal residence. Although the letter of authorisation does not specifically mention refugee espionage or other aspects of transnational oppression as grounds for revocation,⁴⁶ such matters will be central.

⁴⁵ Consultation memorandum on amendments to the Penal Code etc. Ministry of Justice and Public Security. Retrieved 9 August 2022 from <https://www.regjeringen.no/contentassets/4bc018494c444e3994569d15a9927276/horingsnotat-om-enderinger-i-straffeloven-mv.-pavirkningsvirkosomhet.pdf>

⁴⁶ *Letter of commitment 2022. Norwegian Directorate of Immigration (UDI) . Ministry of Justice and Public Security, 10 January 2022. Retrieved 20 September 2022 from <https://www.udi.no/globalassets/global/om-udi/forvaltning/2022/tildelingsbrev-udi-2022.pdf>.*

Recently, the asylum cases of 150 persons from Eritrea were reopened by the UDI, and as of 1 January 2022, this has resulted in 13 revocation decisions, of which four have also received expulsion decisions.⁴⁷

5.2 Ministry of Labour and Social Inclusion

The Ministry of Labour and Social Inclusion (AID) is responsible for policies related to the labour market, working environment, inclusion, pensions and welfare.⁴⁸

The Ministry of Labour and Social Inclusion considers that transnational oppression leads to poorer integration of immigrants, and that immigrants are prevented or hindered from participating in society as free and independent people. Transnational oppression may therefore hinder the achievement of the Ministry's objectives.

Integration issues are mainly dealt with by the Ministry's Integration Department, which was moved from the Ministry of Education and Research in 2021. The Ministry is responsible for the agency management of the Directorate of Integration and Diversity (IMDi).

The Solberg government's integration strategy for 2019-2022 states:

Everyone living in Norway has the right to live a free life. [...] A [...] threat to the right to live a free life is pressure and threats from authorities in the country of origin against refugees or remaining family. Protection in Norway shall entail the right to live a free life (KD, 2019, pp. 56-57).

It seems clear that the right to live a free life is about much more than successful integration - in particular, protecting personal security and facilitating the exercise of political rights are responsibilities of other ministries.

One of the action points in the strategy was to carry out a research project with the aim of gaining knowledge about whether various forms of control are exercised by authorities in certain countries of origin, how this may take place and to what extent it occurs. This project resulted in our first report on this topic, Proba (2020). In carrying out the assignment for this report, the Ministry has cooperated with the Ministry of Children and Family Affairs, the Ministry of Justice and Public Security and the Ministry of Foreign Affairs in the implementation of the assignment. The Ministry of Education and the Ministry of Culture and Equality have also been involved in our work on the report.

The Interpretation Act

The Ministry of Labour and Social Inclusion has administrative responsibility for the Interpretation Act, so to the extent that transnational oppression takes place through "disloyal" interpreters exerting pressure in interpreting assignments or reporting assignments to foreign powers, this is the Ministry's responsibility to counteract. The Ministry states that the Interpretation Act's requirement to use qualified interpreters in public organisations is believed to help prevent the misuse of interpretation services through infiltration (see section 3.4.3). Interpreters have a duty of confidentiality (cf. section 15 of the Interpretation Act),⁴⁹ and breach of confidentiality is a criminal offence (cf. section 209 of the Penal Code).

Grant schemes

The Ministry of Labour and Social Inclusion has overall administrative responsibility for two grant schemes aimed at NGOs that may be affected by transnational oppression by limiting the achievement of objectives, "Grants for national resource environments in the field of integration" and "Grants for integration work under the auspices of NGOs".

⁴⁷ *Asylum fraud exposed. Eritreans lose residence permits*. Vårt Land, 21 January 2022. Retrieved 23 August 2023 from <https://www.vl.no/nyheter/2022/01/21/asylijuks-avslort-eritrearar-mistar-opphaldsloyve/?R=XimusDjcmd&subscriberState=valid&action=loggedin> (paywall).

⁴⁸ *Ministry of Labour and Social Inclusion*. Review of the Ministry retrieved 21 September 2022 from <https://www.regjeringen.no/no/dep/aid/id165/>.

⁴⁹ If the assignment is part of the public service, the duty of confidentiality also follows from section 13 of the Public Administration Act.

This responsibility involves designing a regulatory framework for IMDi and the municipalities to use in their grant management.

The Ministry states that it has so far received no information that allegations of transnational oppression have been made in connection with these grant schemes. Nevertheless, the reason for providing a somewhat detailed review of their design is partly to examine whether it is possible to deduce what the authorities consider undesirable in Norwegian organisational life.

The Storting decides which organisations will receive grants under the national resource environment scheme. The aim of the grant is to contribute to 1) better knowledge about integration in the population, including knowledge about opportunities and challenges in the integration process, 2) increased trust and belonging to Norwegian society among immigrants and their children, and 3) increased participation and representation among immigrants and their children in various social arenas.⁵⁰ In 2022, a total of NOK. 37.5 million has been distributed to 14 organisations.

Under "Grants for integration work", voluntary organisations can receive funding for projects, individual measures or activities that help to increase the participation of immigrants and their children in work and society. IMDi provides grants for national projects, while 40 selected larger municipalities provide support for local activities. The three sub-objectives of the scheme are A) to stimulate community, trust and belonging in local communities for immigrants and the general population, and to counteract exclusion; B) to increase knowledge of Norwegian society, improve Norwegian language skills, and strengthen qualification for work or education among immigrants; and

C) to prevent negative social control, honour-related violence, forced marriage and gender mutilation, and to strengthen gender equality.⁵¹

The Ministry states that the guidelines are drawn up with a view to ensuring the best possible achievement of objectives. It is emphasised that

Volunteering should be free. Grant recipients should not be the "extended arm of the authorities". The Ministry should not interfere in the inner life of the organisations. We trust them to do what they say they do.⁵²

This means that there is little provision in the grant criteria to indicate what is desirable or undesirable from the point of view of the authorities in terms of the organisation and internal life of grant recipients.

Furthermore, it is clear that the grant manager has few instruments at its disposal to counteract transnational oppression, for example if allegations were to be made that an organisation was subject to infiltration (cf. point 3.4), unless it were to emerge that the funds awarded were used contrary to the objectives. The only one we find is the criterion on "The applicant's/organisation's network, anchoring and impact in the relevant environment/local community" in the "Grants for integration work" scheme. There is also reason to believe that any significant form of intervention in the internal life of the organisations could conflict with the freedom of association (cf. point 4.2.2)

Other instruments of the Ministry

With regard to measures to counteract transnational oppression, the Ministry states that an efficient and well-functioning reception system with rapid settlement and a good introduction programme that helps immigrants to find work and become financially self-sufficient can help to make immigrants less dependent on diaspora communities, which

⁵⁰ *Grants for national resource centres in the field of integration*. Retrieved 21 September 2022 from <https://www.imdi.no/tilskudd/tilskudd-til-nasjonale-ressursmiljo-pa-integreringsfeltet/>.

⁵¹ *Grants for integration work under the auspices of NGOs*, retrieved 21 September 2022 from <https://www.imdi.no/tilskudd/tilskudd-til-integreringsarbeid-i-regi-av-frivillige-organisasjoner/>. See also the guidelines at <https://www.imdi.no/contentassets/8d17408644b44edc9874784bdbbee3401/retningslinjer-kap.-291-post-71--2022---tilskudd-til-nasjonale-ressursmiljoer-pa-integreringsfeltet---imdi.no.pdf>.

⁵² Personal communication, 21 September 2022.

may be of importance in cases where diaspora communities are infiltrated by practitioners of transnational oppression.

5.3 Ministry of Foreign Affairs

In its activities, the Ministry of Foreign Affairs has direct and indirect points of contact with transnational repression. Much of the information that comes to the Ministry about conditions in Norway falls within other authorities' areas of competence and broader assessments in bilateral relations. One example of a point of contact is the diaspora in Norway. The possibility of following up specific matters in relation to individual countries' diplomatic representations in Norway presupposes that the information from other government agencies in Norway is of a nature that makes it possible to follow up, so that it is possible to elaborate on and substantiate the allegations.

Most embassies carry out perfectly legitimate activities aimed at the diaspora in Norway, much in the same way as Norwegian foreign service missions do. It can be difficult to draw a clear line between what is legitimate diplomatic activity and what may constitute transnational repression, undue interference in Norwegian national affairs, or regular intelligence activities.

1961 Vienna Convention on Diplomatic Relations

The international legal framework for the Ministry of Foreign Affairs' contact with the diplomatic representations of other states in Norway is provided by the Vienna Conventions of 1961 and 1963 on diplomatic and consular relations respectively. These conventions regulate much of the formal diplomatic relations between the states that have acceded to the conventions. In Norway, the Ministry of Foreign Affairs has the overall responsibility for ensuring that Norway's obligations and rights under these conventions are met, while the practical day-to-day responsibility is in reality taken care of by several external authorities, including the police authorities.

An important principle of these conventions is that the diplomatic representation of a sending State in another State has an unquestionable obligation to comply with the laws and regulations of the receiving State, without prejudice to the immunities and privileges accorded to the diplomatic representatives of the sending State. The principle of immunity and inviolability of diplomatic envoys does not preclude the prosecution of offences against Norwegian laws and regulations and the imposition of various types of sanctions in serious cases.

As a rule, various types of breaches of the obligation to comply with Norwegian laws and regulations can be dealt with through "diplomatic channels", but the conventions also allow for the possibility of requesting that a diplomatic envoy leave the country. If this is not complied with, it may ultimately be necessary to declare an envoy to be "persona non grata", which means that the Norwegian authorities will no longer respect the person's immunities and inviolability. In most cases, this will mean that the diplomatic mission in question will have to leave the country because they will no longer have legal residence, but declaring someone "persona non grata" is not the same as expulsion.

Information provision and collection

The Ministry of Foreign Affairs states that in its work related to transnational repression, it uses information gathered about the various countries, partly from Norwegian foreign service missions and partly through contact with other countries' representations in Norway. In addition, the Ministry obtains information through its co-operation with other Norwegian authorities, including the police, through contacts in the diaspora and from other sources. The Ministry's need for information stems from several factors, first and foremost to maintain bilateral relations. But a special need, bordering on transnational repression, arises from the risk that local staff at some Norwegian foreign service missions may be exposed to various types of attacks by the host country's intelligence services.

The Ministry states that information gathering and contact with diaspora communities can be challenging due to complex domestic political conditions in the countries of origin.

Co-operation with PST

The Ministry of Foreign Affairs states that it cooperates well and closely with the Police Security Service (PST). In some cases, there will be different priorities between the Ministry of Foreign Affairs and PST, which means that there will not always be a direct overlap between the countries prioritised by PST and countries that are of interest to the Ministry of Foreign Affairs in connection with transnational repression. The division of roles is also different, in that PST is primarily a prosecuting authority, while the Ministry of Foreign Affairs is also interested in information about circumstances and acts that are not necessarily criminal offences.

For some countries, there are also formal restrictions on information gathering. Norway does not conduct intelligence against allied countries.

The Ministry's room for manoeuvre

The foreign ministry's room for manoeuvre in the face of transnational repression is also limited to some extent by informal requirements or expectations of *symmetry* in bilateral relations. For example, dual citizenship can give rise to dilemmas.

Another example is tax collection from foreign citizens resident in Norway. Such tax collection is basically legal, as long as it is directed at foreign citizens - in the same way as Norwegian citizens living abroad may be liable to pay taxes to Norway. A third example is that Norway finances human rights organisations in other countries. This may help to raise the threshold for imposing restrictions on other countries' funding of organisations in Norway.

5.4 Ministry of Education and Research

The Ministry of Education and Research is responsible for kindergartens, primary and secondary schools, cultural schools, further education, vocational education and training, higher education, research, adult learning and skills policy.⁵³

Sectoral responsibilities

The Ministry of Education and Research has overall responsibility for the Norwegian higher education and research system. In the area of research, the Ministry of Education and Research has both a coordinating role and a sectoral responsibility for research. We consider that transnational oppression affects the Ministry of Education and Research's sectoral responsibility primarily through the international cooperation of the higher education sector and the institute sector. Transnational oppression may manifest itself partly through cooperation at the institutional level, but individual students and researchers may also be exposed - both foreign academics staying in Norway and Norwegian researchers with research interests in countries where the authorities and/or actors operating on behalf of the authorities exercise transnational oppression.

Transnational repression and intelligence activities in the sector

Another risk factor for the sector's international co-operation is related to export controls and foreign powers' interest in knowledge and technology, but this is a related topic that falls under intelligence and security policy. Nevertheless, there may be overlap - for example, it is conceivable that an individual could be subject to both transnational repression *and* demands, pressure or recommendations to engage in technological espionage at *the same time*, and

⁵³ Ministry of Education and Research . Review of the Ministry retrieved on 14 September 2022 from <https://www.regjeringen.no/no/dep/kd/id586/>.

by the same actor. The following passage shows that transnational repression and compliance can be closely intertwined:

[...] foreign states' intelligence activities [...] take place not only through sophisticated network operations, but also through the placement of graduate students, the establishment of relationships in academic arenas such as conferences, invitations for visits and research stays, and through other seemingly transparent and regulated processes (KD, 2021b).

The Police Security Service describes the threat as follows:

Norwegian research and educational institutions are of a high international standard. They often have favourable funding arrangements and access to advanced laboratories and other research infrastructure. Foreign states have a strong interest in utilising these advantages of Norwegian environments. The purpose may be to facilitate the use of Norwegian technology and knowledge in ways that contravene export control regulations. In contact with Norwegian companies, the actual end use of a product, or the real purpose of a research collaboration, is concealed. Financing research projects or offering researchers with cutting-edge expertise lucrative financial agreements are also instruments that PST knows are used. Such incentives can facilitate the transfer of sensitive information, knowledge and technology to the foreign actor (PST, 2022).

The committee that investigated issues related to academic freedom of expression (NOU 2022:2) mentions three important developments regarding academic freedom in an international context, one of which is that:

[...] some countries [may] influence academic freedom of expression in Norway through research co-operation or in other ways. [...] (NOU 2022:2)

Some states do not stop at their own borders in the abuse of their country's researchers or students. In Australia, there is a lively debate about hostile Chinese interference and harassment of Chinese overseas students, partly on the basis of a report by Human Rights Watch. Based on interviews with 48 Chinese-speaking students, the report describes how China attempts to influence the image of China on foreign campuses, influence academic discussions, monitor Chinese students, censor research work and otherwise restrict academic freedom (NOU 2022:2).

The Ministry of Education and Research has prepared a policy document on security and preparedness (KD, 2021). It describes transnational repression carried out in combination with so-called influence operations.

An influence operation could, for example, be the leaking of stolen confidential information to undermine values such as academic freedom and transparency. It can also be cyberbullying or blackmail to prevent speech, or to gain access to research (KD, 2021b).

The Norwegian higher education sector is expected to engage in international co-operation (cf. section 1-3 (g) of the Universities and University Colleges Act). At the same time, the institutions shall promote and protect academic freedom (cf. Section 1-5, first paragraph). Furthermore, they shall ensure that the cooperation is in line with broader national interests, including security considerations:

International co-operation is more important than ever, and an open research and higher education system that gives everyone access to knowledge is an ideal. At the same time, the world around us requires vigilance and increased awareness of values, norms and basic security. This is in addition to fundamental academic values such as academic freedom and non-discrimination on which all higher education and research cooperation is built. Preventive security work, including information security, data protection and export control, must safeguard these values and ensure that Norwegian knowledge is not misused and shared contrary to our security and defence policy interests (KD, 2021a).

In the face of a phenomenon such as transnational oppression, different considerations related to these two objectives must be weighed against each other. A Ministry of Education official illustrated the dilemma with a pointed formulation made by a researcher at a conference, with reference to China:

The more difficult the co-operation with a country, the more important it is to co-operate with it! This means that it is important for Norway to have knowledge and expertise about certain countries with authoritarian regimes that are known to engage in transnational repression

especially countries that are of great economic and security importance to Norway. Such trade-offs between different considerations are made at the government level - for example, cooperation with Russia has now been put on hold - and at the institutional level:

In line with established principles of academic freedom and institutional autonomy, it is up to the higher education and research institutions themselves to choose with whom they wish to co-operate (KD, 2021b).

The Ministry of Education and Research expresses concern that transnational repression may push researchers and students into self-censorship, especially those in the social sciences and humanities who are engaged in country and area studies, where researchers may be most dependent on co-operative relationships with their "object of study" countries. We refer to the example of the China researcher Harald Bøckman in section 2.3.1. We can also point out that it was recently discovered that Chinese researchers travelling to Norway through the Chinese Scholarship Council (CSC) scholarship and exchange programme must sign a contract committing them to obedience and loyalty to the Chinese authorities.⁵⁴

Strategies and actions in the sector

The Aune Committee, which prepared a proposal for a new law on universities and university colleges, proposed that the institutions should be responsible for protecting their employees in their exercise of academic freedom. The committee proposed the following wording in section 2-4:

Universities and higher education institutions shall promote and protect academic freedom and the staff who exercise it.

The reasoning was that academic freedom at the individual level is a necessary condition for institutions to fulfil their social mission in a good way. It further states There is an increasing tendency for academic staff who have exercised their academic freedom of expression to be subject to demands for sanctions from groups or individuals who disagree with the expression. The addition in the first sentence clarifies the institutions' responsibility to support employees in such cases, and not to give in to pressure to deprive the employee of tasks or positions solely on the basis of the expression (NOU 2020:3).

The proposal was not accepted, so the wording remains (§ 1-5):

Universities and university colleges should promote and protect academic freedom.

It is unclear why the Committee did not propose that students should also benefit from the institutions' protection.

The Panorama Strategy is the Government's strategy for research and higher education cooperation with Brazil, Canada, India, Japan, China, Russia, South Africa, South Korea and the USA, and applies for the period 2021-2027. The purpose of the strategy is to clarify overarching priorities for cooperation with the strategy countries and introduce measures to address specific challenges. Five basic principles form the basis for cooperation: Quality, relevance, reciprocity, sustainability and *accountability*. Furthermore, reference is made to the UN Sustainable Development Goals. The fifth and final point on accountability was included in the last revision of the strategy in 2021, and can be said to reflect the balance between transparency and accountability in international cooperation mentioned above. The Panorama strategy emphasises the freedom of institutions, but points out that they must demonstrate accountability in establishing and interacting in cooperative relations and with regard to export control regulations

Accountability - When entering into concrete co-operation, fundamental academic values and national interests, including security interests, should be taken into account (KD, 2021a)

An important measure to support the sector is to draw up guidelines for responsible international cooperation - work that is currently underway under the auspices of the Norwegian Agency for Higher Education and Skills (HK-dir) and the Research Council of Norway on behalf of the Ministry of Education and Research.

⁵⁴ *PhD students in Norway forced to "obediently follow orders" from China* . Khrono, 20 February 2023. Retrieved 21 February 2023 from <https://khrono.no/phd-studenter-i-norge-tvinges-til-a-lydig-folge-palegg-fra-kina/759467>.

In consultation with the sector, the Government will draw up guidelines for responsible international cooperation to support Norwegian academic communities in their work on risk assessments and quality assurance of specific cooperation (Ministry of Defence, 2021) [Panorama].

The Ministry of Education and Research has also initiated an inter-ministerial collaboration on regular roundtables for academic cooperation with China, in which the Ministry of Justice and Public Security, the Ministry of Defence and the Ministry of Foreign Affairs also participate. The purpose of this meeting place is to facilitate a more systematic exchange of information between the authorities and the higher education and research sector on both opportunities and challenges related to knowledge cooperation with China. This may include issues related to transnational oppression.

5.5 Ministry of Children and Families

The Ministry of Children and Families is responsible for policy development in the areas of child welfare, childhood development and living conditions, children and young people, family and cohabitation, faith and beliefs and consumer policy.⁵⁵

Religious practice is inherently a fundamentally transnational activity - the world religions of Buddhism, Hinduism, Islam and Christianity are estimated to comprise around 80 per cent of the world's population, and all religions are present in many countries.⁵⁶ To the extent that transnational religious and philosophical communities engage in oppressive practices, this may result in acts that fall within the definition of transnational oppression.

We consider that transnational oppression may affect the Ministry of Children and Family Affairs' sectional responsibility through its administrative responsibility for the Religious Communities Act. Our description of resources (Chapter 3) indicates that religious communities associated with diasporas can be arenas for transnational oppression.

Freedom of religion or belief in Norway is constitutionally enshrined in section 16 of the Norwegian Constitution, which in turn must be interpreted in the light of a number of international conventions to which Norway has acceded, including the European Convention on Human Rights (ECHR; Article 9) and the UN Covenant on Civil and Political Rights (ICCPR; Article 18). In addition, Article 14 of the Convention on the Rights of the Child (Prop. 130 L, 2018-2019) emphasises children's freedom of religion or belief (Prop. 130 L, 2018-2019). At the same time, the UN Women's Convention prohibits discrimination against women in "social, cultural or any other field" (CEDAW; Article 1). Following an amendment to the law in 2009, the exemption from the protection against discrimination for religious communities was removed, at the same time as the Women's Convention was placed on an equal footing with the other conventions in the Human Rights Act. Nevertheless, religious communities have some authorisation to discriminate on the grounds of gender and sexual orientation and/or cohabitation, according to the general provision on lawful discrimination in Section 9 of the Equality and Anti-Discrimination Act.

Entitlement of religious communities to state subsidies

The Faith Communities Act entitles registered religious and life stance communities to state subsidies (cf. section 5). An important element of the Ministry of Children and Family Affairs' sectoral responsibility is to administer the grant scheme for religious and life stance communities, cf. Sections 5 to 8 of the Faith Communities Act. The Ministry of Children and Family Affairs states that certain aspects of transnational oppression may be picked up by the grant authority through the reporting of the faith and life stance communities.

Insofar as undesirable aspects of the practice of religion are included in the text of the law, they appear mainly in Section 6 in the form of reasons for refusing to award this subsidy. Practice

⁵⁵ *Ministry of Children and Families* . Review of the Ministry retrieved on 15 September 2022 from <https://www.regjeringen.no/no/dep/bfd/id298/>.

⁵⁶ *World religion* . Store norske leksikon. Retrieved 19 April 2023 from <https://snl.no/verdensreligion>.

of violence or coercion, making threats, violation of children's rights, violation of the prohibition of discrimination or other serious violation of the rights and freedoms of others may lead to cancellation or reduction of the grant.

Religious and life stance communities that receive contributions from states that do not respect the right to freedom of religion and life stance may also be denied grants. Under section 13 of the Faith Communities Regulations, grant recipients must report to the State Administrator which countries they receive grants from where the annual sum from the country exceeds NOK 50,000, and the State Administrator may request more detailed information. Section 11 requires the State Administrator to inform the Ministry of Foreign Affairs before concluding that a state does not respect freedom of religion or belief.

As the current Religious Communities Act came into force on 1 January 2021, the experience with section 6 is still limited. We have not received information on how the state administrators obtain information about different countries, and how the state administrators establish a uniform opinion on which countries fulfil the conditions in section 11 that can justify a refusal of a grant at any given time.

The Ministry's duty to counteract transnational oppression is mainly limited to matters relating to the denial of grants under the above-mentioned provisions. However, from time to time, the Ministry receives information through its grant management that may give reason to suspect that transnational oppression occurs in some religious and life stance communities.

The state subsidy is calculated on the basis of the number of members, and an individual can be included in the calculation basis for only one religious or life stance community. Occasionally, disagreements and conflicts arise between religious or life stance communities when individuals are listed as members of several communities. The disagreement is then about which of them the dual-registered members rightfully belong to. The Ministry states that in many cases it concerns persons who have resigned from one religious community and joined another, and that the first - deliberately or by mistake - has failed to remove the resigned persons from the list of members submitted with the claim for a state subsidy. Where this is done deliberately, it is considered that it may be an attempt to prevent withdrawal, which in turn, if done under pressure from actors associated with the authorities of foreign powers, may be an expression of transnational repression.

From time to time, the Ministry receives information through the state administrators about internal conflicts in diaspora-based religious communities. A common issue is that the religious community may have built up financial resources, and that internal factionalisation leads to a struggle for control over these resources. Fear of loss of accumulated funds also contributes to raising the threshold for withdrawal, which is likely to contribute to conflicts becoming protracted.

The Ministry's room for manoeuvre

Transnational oppression is to some extent expressed through efforts to enforce the provision in the Religious Communities Act concerning restrictions on financial support from certain countries (Section 6, second paragraph). In conversation, the Ministry points out that the loss of state subsidies does not entail the loss of registration as a religious community, so that all activities of the religious community can freely continue regardless of the question of subsidies. Any religious community is completely free to operate without registration, but without the right to marry (cf. § 9). In any case, it is clear that it is possible to circumvent the provision on restrictions on financial support, for example by channelling the financial support from the "blacklisted" country through a church in a non-blacklisted country that does not have such a restriction in law.

Beyond this, the Ministry's room for manoeuvre is relatively limited. Religious and life stance communities in Norway are relatively free in their religious practice, especially if they are willing to forgo the state subsidy - by not applying for it, or by not applying for registration at all. The state does not engage in dialogue with unregistered communities.

In addition to the Religious Communities Act, which primarily regulates matters related to the right to apply for registration and the right to state subsidies, religious and life stance communities are bound by other legislation, and equality and discrimination legislation should be mentioned in this context. For example, religious communities are allowed to legally discriminate where it is rooted in doctrine. However, this right is not unlimited either, cf. for example, employment. Freedom of religion and belief and internal matters are primarily about the autonomy of the religious community to be a religious community and determine its own practices in accordance with the religious or philosophical purpose of society. The general rule is that the state shall not interfere with the internal organisation or activities of religious communities, but the state may interfere with the freedom of religion or belief when other sufficiently weighty considerations justify it, such as the rights and freedoms of others.

The Ministry of Children and Families states that some religious communities have such extensive activities and finances that other legislation also comes into play, including the Accounting Act and the Working Environment Act, which then fall under the responsibility of other sector ministries.

5.6 Ministry of Culture and Equality

The Ministry of Culture and Equality (KUD) is responsible for government policy and administration in the areas of culture, equality and discrimination, copyright, media, sport, voluntary activities and gambling and lottery.⁵⁷

We consider that transnational oppression may affect the sectoral responsibilities of the Ministry of Culture and Equality in two ways. Firstly, NGOs that are subject to infiltration may be applicants for some of the grant schemes for which the Ministry is responsible. Secondly, transnational oppression can contribute to limiting the freedom of expression of groups and individuals.

Freedom of expression

The Ministry of Culture and Equality's sectoral responsibility for the field of art, culture and media is anchored in section 100, sixth paragraph of the Constitution: "It is incumbent on the state authorities to facilitate an open and informed dialogue." The Storting has interpreted this as follows:

The requirement means that the state must actively contribute to ensuring that individuals and groups have an actual opportunity to express themselves. The state's task is expanded in the sixth paragraph from passively refraining from interference to actively ensuring citizens' freedom of expression. The infrastructure requirement entails an obligation to facilitate channels and institutions and an open and informed public dialogue, in short, an overall state responsibility for the construction of a public space (Innst. S. no. 270, 2003-2004).

We are informed by the Ministry that the sector responsibility involves establishing and maintaining an infrastructure consisting of a diversity of media and other arenas for expression, exchange of views and opinion. The aim is for the population to have access to a diverse range of sources, where the various sources and voices are subject to mutual criticism and competition among themselves. However, the exercise of authority in the cultural and media field takes place at "arm's length", which implies a high degree of reluctance to intervene in individual cases or specific contexts when freedom of expression is alleged to be restricted. We shall see below that this proactive approach characterises the design of the instruments.

The Ministry's room for manoeuvre

The arm's length principle is reflected in the 2018 White Paper on Culture, the White Paper on Media and the White Paper on Volunteering, among others, and has cross-party support.

⁵⁷ Ministry of Culture and Equality. Review of the Ministry retrieved 15 September 2022 from

<https://www.regjeringen.no/no/dep/kud/id545/>.

The principle of arm's length has been referred to as the constitution of cultural policy and fundamentally points to the notion that art must be free. The arm's length principle thus represents the ideal of artistic freedom. The principle is related to the need for democratic states to prevent the state as an organ of power from exerting pressure, censoring or unequally distributing resources to artists. In this way, the principle is also about ensuring freedom of expression and a diversity of cultural expressions (Meld. St. 8, 2018-2019).

The Government wants the media to have the greatest possible independence from political authorities. Media openness is an autonomous building block in society, which should be able to develop on its own terms without government interference. This white paper presents measures that can help to strengthen the principle of arm's length in media policy, and thus increase confidence in the independence of all media subsidy recipients (Meld. St. 17, 2018-2019).

Civil society is a prerequisite for an informed public, and thus an investment in democracy and education. [...] A fundamental principle of volunteerism policy is the self-sufficiency of volunteerism. It is not the state that sets the goals for volunteering - volunteering does that itself. The state supports the voluntary sector through grants, simple and transparent grant management and a comprehensive, predictable and coordinated policy (Meld. St. 10, 2018-2019).

In other words, it is a general principle that the authorities should be very cautious about influencing the organisation, content and practice of cultural life, the media and voluntary organisations, which is also evident from the descriptions of the Ministry of Labour and Social Inclusion (section 5.2) and the Ministry of Children and Families (section 5.5).

Ministry grant schemes

We discuss here what can be inferred in terms of what is considered desirable and undesirable, and what possibilities grant managers have to counteract transnational oppression, especially with regard to possible infiltrated grant recipients.

The Ministry of Culture and Equality's grant programmes fall mainly into four groups.

- Grants for sport, volunteering and culture for children and young people. This group includes some dozens of schemes, several of which have inclusion as a goal, including the *Til- shot for the inclusion of children and young people in cultural life* and several support schemes in the field of sport.
- Grants for culture. These seven schemes are primarily aimed at public institutions and organisations, including museums and libraries.
- Grants for equality and against discrimination. These seven schemes are mainly aimed at organisations for persons with disabilities and for LGBTIQ persons, and are managed by the Directorate for Children, Youth and Family Affairs (Bufdir). However, one of them is a scheme for measures to combat hate speech.
- Grants for film, media and art. These programmes - 19 in number - are aimed at mass media and the professional arts and culture sector and are administered by the Directorate of Culture, the Norwegian Media Authority, the Norwegian Film Institute and the International Sami Film Institute

In addition, there are a number of other government grant schemes for NGOs, administered by a total of 13 ministries, and it would be too long to provide a comprehensive overview here. We refer to the government's website.⁵⁸

The Ministry of Culture and Equality informs us that they are not aware of transnational oppression being expressed in connection with the administration of these grant schemes. From Bufdir, we receive similar information - with the exception of a reference to one specific incident that was perceived as an isolated attempt to discredit a grant recipient by an individual who contacted the Directorate, as mentioned in section 3.3.2).

⁵⁸ *Government grant schemes for NGOs.*

retrieved 14 June 2022 from

<https://www.regjeringen.no/no/dep/kud/tilskudd/Tilskuddsordninger-for-frivillige-organisasjoner/id2342820/>.

The purpose and organisation of the grant schemes clearly express the values of the Norwegian authorities. However, since the requirements imposed on grant recipients are essentially very general or objective, it is not possible - through interpretation of the award criteria - to draw unambiguous conclusions as to whether specific acts described in the *infiltration* chapter of transnational repression can be considered "undesirable" on the part of the Norwegian authorities.

There are no requirements for applicants other than registration in the Register of Voluntary Organisations, i.e. municipalities, county authorities and commercial enterprises are not eligible to apply. The formulation of the objective is an expression of the authorities' positive and general desire for *inclusion in* a broad sense, and there are no specific requirements for the composition or internal organisation of the applicant organisations that could possibly contribute to disqualifying "infiltrated" organisations, for example.

Another grant scheme that could be relevant to transnational oppression is the Local Audio and Visual Media Scheme, which can provide operating grants to local radio stations for ethnic and linguistic minority groups. It is conceivable that individuals with ties to the authorities of a foreign power would apply for such grants, or that a grant recipient could be accused of such ties, or that a dispute could arise between two diaspora factions over control of a media organisation. As a grant manager, the Norwegian Media Authority has very limited room for manoeuvre to deal with such accusations and conflicts.

Freedom of Expression Commission

In 2020, the Ministry of Culture and Equality established the Freedom of Expression Commission, which presented its report in the form of NOU 2022:9 *An open and informed public discourse* on 15 August 2022. The mandate highlights some issues that may include some aspects of transnational repression:

[...] statements that are protected by freedom of expression, but which are nevertheless considered problematic for those affected, may lead many people to refrain from expressing their opinions in public.

Freedom of expression is weakened if fear of retaliation causes certain topics to be avoided or certain ideas, ideologies or authorities to be shielded from discussion and criticism.

Journalists, politicians, academics, leaders of organisations and other public figures are increasingly exposed to threats, violence and harassment, especially online.

The Commission should consider:

Measures to provide citizens with a secure framework and infrastructure for the exercise of freedom of expression, as a prerequisite both for the free and informed formation of opinion and for the disclosure of important information to the public.

However, we find little in the report that touches on transnational oppression. It states: Several studies show that there are challenges related to the prevalence of threats, hate speech and various forms of harassment (p. 15)

The Nygaard attack is cited as an example of people who have been physically attacked by opponents, and examples are given of social commentators who have received large amounts of harassment and threats in recent years (p. 187). Among the recommendations aimed at the police and the judiciary, it is pointed out that safeguarding the safety of journalists should be prioritised, but beyond this there are no proposals for measures aimed at better protection of persons whose freedom of expression is curtailed due to transnational repression.

Transnational oppression and digital media

The Ministry of Culture and Equality informs us that sectoral responsibility for content in digital media is divided between several sectors. In principle, statements made on digital surfaces are subject to the same content regulation as other statements, i.e. the Criminal Code, the Tort Liability Act and the Courts Act - which the Ministry of Justice and Public Security

The Ministry of Public Security is responsible for - is applicable (e.g. incitement to criminal offences, hate speech, breach of confidentiality, gross depictions of violence, threats, pornography, and so on). The Ministry of Culture and Equality is responsible for other "content regulation", including the Media Responsibility Act, the Broadcasting Act, the Image Programme Act, the Equality and Discrimination Act and the Copyright Act. However, content in digital media may also be covered by the Marketing Control Act, the Personal Data Act, the Health Personnel Act, the Alcohol Act and many other pieces of legislation.

6 Discussion and conclusions

This chapter starts by presenting the notion of *intractable problems*, which then provides a framework for summarising the review of sectoral responsibilities in the previous chapter and for future policy development.

It then discusses how transnational oppression should be understood and framed, and outlines some measures that have been proposed in the existing literature. A few concrete measures are considered in light of the findings and implications of the previous chapters.

Finally, we summarise the main conclusions of this report.

Persistent problems - or societal tangles

Transnational oppression is a social problem of such a nature that it may be fruitful to consider it as a wicked problem. In the discourse *on* state governance in Norway, *wicked problems* (Head and Alford, 2013; Rittel and Webber, 1973) are a term for complex public coordination tasks that do not have clear and definable solutions and that span organisational boundaries, administrative areas and hierarchical levels. When faced with such a problem, the sectors concerned often have different understandings of the problem, and the causes may be unclear and sometimes unknown. Put another way: Key characteristics of a recalcitrant problem are the absence of a precise problem definition, the difficulty of defining the phenomenon, the fact that it affects different sectors, and that it changes over time.

Examples of intractable problems include terrorism, poverty, labour market crime and the integration of immigrants (Difi, 2014; Fimreite et al., 2011; Nesheim et al., 2019), but also comprehensive efforts for vulnerable children and young people (0-24 cooperation, 2020). Another term that is also widely used is '*community flakes*'.

Transnational repression has many of the above characteristics. The sectoral responsibilities of the different ministries shape their perception - and definition - of the problem. For the justice sector, transnational oppression is primarily a form of crime, for the Ministry of Labour and Social Inclusion it may appear as an obstacle to the integration of immigrants, while for the Ministry of Foreign Affairs it may be a matter of foreign powers' foreign missions acting in violation of the Vienna Convention.⁵⁹ The conceptual clarification in Chapter 2 shows - based on the original concept of "pressure and control" - that defining the phenomenon has been a challenge.

Transnational oppression changes over time, particularly in terms of who is subject to it and by what means. In Proba (2020), we show that political changes in Ethiopia led to reduced repression of the Ethiopian diaspora as well as the domestic population. Similarly, there is reason to assume that the Ukraine war could have an impact on how Russian authorities relate to both the Russian and Ukrainian diaspora in Norway.

Development of measures to solve stubborn problems

In Difi (2014), four factors in particular are emphasised as important in an intervention development context when faced with intractable problems:

- 1) Persistent problems can only be resolved through clear political leadership and anchoring.
- 2) The stubborn problem must be identified within each ministry or at the interface between them.
- 3) It needs to be assessed whether processes and working methods adequately support co-ordination.

⁵⁹ Vienna Convention on Diplomatic Relations. See the text of the treaty on Lovdata, URL: <https://lovdata.no/dokument/TRAKTAT/traktat/1961-04-18-1>.

- 4) Management must be developed in the administration with a view to ensuring co-ordination.

According to Difi (2014), the degree of coordination can be divided into four steps or levels of ambition. Which step on the coordination ladder is chosen or achieved depends on the situation in terms of needs, objectives and capabilities.

Figure 6-1. The coordination ladder. From Difi (2014).



Sectoral responsibilities summarised

For the justice sector, transnational oppression is primarily a *crime problem* and the instruments are mainly investigation, prosecution and prosecution - and to some extent prevention. However, it is also recognised that transnational repression has the potential to threaten or undermine democracy and public confidence in the authorities. In addition, it is a problem related to *immigration* and residence .

For the Ministry of Labour and Social Inclusion, transnational oppression is primarily perceived as a possible obstacle to the integration of immigrants, especially with regard to participation in democratic processes. Furthermore, infiltration into interpretation services may represent a violation of the Interpretation Act and the Public Administration Act. As an integration problem, transnational oppression has been referred to (as "pressure and control") in the government's integration strategy *Integration through Knowledge (2019-2022)*.

For the Ministry of Foreign Affairs, transnational oppression primarily represents different types of violations of the Vienna Convention. Furthermore, the Ministry perceives that transnational repression is something that it has to take into account as a reality when receiving different types of enquiries from the diaspora communities. These communities are important sources of information about their respective countries of origin. At the same time, the Ministry must engage in "source criticism" in the sense that it must, for example, try to keep track of which sources are "infiltrated" as part of transnational oppression and which are genuine representatives of exile communities. We find little evidence that the Ministry of Foreign Affairs considers it their sectoral responsibility to prevent transnational repression as a potential threat to national sovereignty. No specific international co-operation seems to have been established with the aim of countering and preventing transnational repression.

For the Ministry of Education and Research, transnational repression is a threat to academic freedom, particularly in the context of international cooperation, where it can be closely intertwined with threats to national security interests. For example, visiting researchers may be threatened both to not exercise their academic freedom of expression *and* to engage in intelligence activities through their research activities.

For the Ministry of Children and Families, transnational oppression is mainly a problem that can arise in the administration of grants, and the same can be said of the Ministry of Culture and Equal Opportunities. Both of the latter two ministries are subject to relatively strong guidelines on arm's length distance, which considerably limits their room for manoeuvre when it comes to designing measures to counteract and/or prevent transnational oppression.

Our review shows that transnational repression appears to be a recalcitrant problem in the sense that each of the six sector ministries is only responsible for its own part of the problem. One might describe it as each of them having a *partial understanding of the problem*.

It may appear that the Norwegian authorities' reaction and response to transnational oppression today is somewhat characterised by a failure to interpret or *frame the problem* in a way that adequately reflects the seriousness of the problem. We believe that transnational oppression represents a threat to Norwegian sovereignty, national security, territorial integrity and democracy - in addition to the human rights violations and abuses it represents for individuals and diaspora groups. However, the Ministry of Justice and Public Security has to some extent interpreted the phenomenon in this way, but the political guidelines and priorities that the agency works according to do not reflect such a view.

Transnational oppression is a significant social problem - at a global level

Transnational repression constitutes a significant social problem at the global level - and requires an international response. Freedom House writes:

Transnational repression should be recognised for what it is: a direct threat to fundamental freedoms, state sovereignty, and democracy, and a disturbing physical manifestation of global authoritarianism. [...]

Host countries can help protect vulnerable people by adopting policies and practices that will increase their resistance to and accountability for transnational repression. *Ultimately, however, a global threat to human rights requires a global response.* (Gorokhovskaia and Linzer, 2022, italicisation according to emphasis in the original text)

The report is based on case studies of nine countries harbouring diaspora groups that have been subjected to 'the most extreme forms' of transnational oppression: Canada, the United Kingdom, Sweden, South Africa, Thailand, Turkey, Germany, Ukraine, and the United States. The case studies examined interventions in the three policy areas of security and justice policy, immigration policy and foreign policy.

The authors recommend a re-definition of national security, pointing out that national authorities that recognise threats to human rights and democracy as threats to national security are better equipped to prevent and counter transnational oppression. This contrasts with more traditional security thinking, which focuses on foreign powers' threats to their own territory, to core institutions and physical infrastructure, and to the general population. Such a security concept does not capture the harm that foreign powers can inflict on specific citizens - nor the effects of such aggression on the country's democracy (Gorokhovskaia and Linzer, 2022). It is worth noting here that the *democratic form of government* is included in the purpose clause of the Security Act (Section 1-1, see also section 5.1).

Transnational oppression as a social problem in Norway

Chapters 3, 4 and 5 show that transnational oppression can take many different forms. A wide range of different acts and means are used, and these can be subject to a number of different criminal offences. Transnational oppression can be directed against many different groups and individuals, and in ways that fall under the sectoral responsibility of at least six ministries.

It is difficult to assess how serious and extensive transnational oppression is as a social problem in Norway. In its open threat assessment for 2023, the Norwegian Police Security Service writes:

Several authoritarian states will use their intelligence services to map, monitor and influence their own citizens living in Norway. The purpose is to restrain, undermine or eliminate political opposition (PST, 2023).

Our first report (Proba, 2020) shows that some diaspora groups in Norway are subject to very serious forms of transnational oppression. This report provides a largely exhaustive description of the purposes and means used by the perpetrators. However, we do not know how many people are directly exposed to it and how many are affected by it, and with how large and far-reaching consequences.

Because there are no statistics on the number of reports and any solved cases, it is currently not possible to investigate whether the cases that are reported to the ordinary police have resulted in contact with PST, or whether the cases are instead dropped because the perpetrator is unknown or for other reasons.

Transnational repression targeting journalists and researchers - whether Norwegian or from a diaspora - may reduce the authorities' and the public's access to knowledge about the target country. Since this will often involve countries that, for various reasons, are of special foreign, trade or defence policy interest to Norway, we can speak here of national security interests being threatened. Here, too, the scope and consequences are not known.

The Ministry of Justice and Public Security's sectoral responsibilities - priorities and organisation

Given that transnational repression represents a threat to democracy, human rights and national security, in addition to being a crime problem, we believe that it is obvious that the Ministry of Justice and Public Security should have primary responsibility for the problem, both through measures and efforts in its own sector and in cross-sectoral coordination.

On this basis, we have assessed to what extent the prevention and combating of transnational oppression is made visible and prioritised by the police? In recent years, two ministers of justice have answered questions about transnational oppression (then referred to as "pressure and control") in the Storting, in this case Minister Monica Mæland (H):

Pressure, control and recruitment against diaspora communities are of political and societal concern, and we recognise the challenges. The Government is working broadly to prevent unlawful pressure and control.⁶⁰

A similar response was given by Minister Emilie Mehl in 2022.⁶¹ Both recognise the seriousness of such cases, and both emphasise that it is very demanding for the police and PST to prevent and investigate them.

The police's priorities are largely defined by the letter of allocation, as well as in the Director of Public Prosecutions' prioritisation circular, which specifies which types of crime are to be given priority in the country's police districts.

Transnational oppression or similar terms do not appear in the descriptions of the prioritised types of cases in the prioritisation circular. In its circulars, the Director of Public Prosecutions has several times specified crime motivated by the victim's nationality or ethnicity (hate crime) as a priority, most recently in Circular 1-2023.⁶² For several years, the circulars have also stated that social control and honour-related crime should be prioritised in the preventive stage. These are, however, acts that mainly fall outside the phenomenon of transnational oppression, cf. section 2.3.2 above. Some acts falling under transnational repression are so serious that they are covered by the priority of homicide and serious violent offences and/or serious international and organised crime.

⁶⁰ *Written question from Petter Eide (SV) to the Minister of Justice and Public Security*. Document No. 15:144 (2020-2021). Retrieved 17 February 2023 from <https://www.stortinget.no/no/Saker-og-publikasjoner/Sporsmal/Skriftlige-sporsmal-og-svar/Skriftlig-sporsmal/?qid=81707>.

⁶¹ *Written question from Rasmus Hansson (MDG) to the Minister of Justice and Public Security*. Document no. 15:1232 (2021-2022). Retrieved 17 February 2023 from <https://www.stortinget.no/no/Saker-og-publikasjoner/Sporsmal/Skriftlige-sporsmal-og-svar/Skriftlig-sporsmal/?qid=88063>.

⁶² Objectives and priorities of the Director of Public Prosecutions. Retrieved 16 February 2023 from <https://www.riksadvokaten.no/wp-content/uploads/2023/02/M%C3%A5l-and-pri-2023-.pdf>.

Transnational repression (or the equivalent) is not mentioned in the letter of allocation either. The letter of commitment does, however, use the perceived sense of security in the population as a management parameter. This is measured based on selected questions from the police's citizen survey.

In other words, based on these two governing documents, transnational repression *as such* cannot be said to be a high priority task for the police, unless an act carried out in connection with transnational repression is so serious that it will be prioritised based on other considerations. PST's prioritisation is, as previously mentioned, classified information. However, we note that transnational oppression is given considerably more detailed mention in the 2023 threat self-assessment than was the case in 2019.

The handling of individual cases of transnational oppression presents a similar picture. In Proba (2020), the informants told us that transnational oppression is carried out in ways that most often do not involve the use of violence, but rather threats of serious violence. According to the informants, reports filed are always dropped. A complicating factor from a prosecution and punishment perspective is that it is usually not possible to name the perpetrator or the person in the perpetrator's network who represents the oppressive mechanisms. Furthermore, cases may often have cross-border ramifications. We know of only one example of criminal prosecution of transnational repression in Norway - that was based on the refugee espionage section.

Since there are no statistics on the number of reports and any solved cases, it is currently not possible to investigate whether the cases that are reported to the ordinary police have resulted in contact with PST, or whether the cases are instead dropped because the perpetrator is unknown or for other reasons.

We understand the division of labour between PST and the ordinary police to mean that PST is not tasked with investigating and prosecuting the acts described in Chapter 3 above. When acts that fall under transnational repression are difficult for the ordinary police to investigate and prosecute in a prosecution track, we believe that they appear best suited to be handled in the preventive track of PST. This makes PST the agency that in practice works the most in this field.

The problem with this is that the results of PST's prevention track are not visible to the public. They therefore have little or no significance for the individual and general preventive effects that are inherent in the prosecution track of the ordinary police - which the informants in the Proba report from 2020 consistently call for. This entails a risk that an attitude may take hold that society must put up with this type of crime that is known to exist, but cannot be prosecuted or prevented.

The challenges that transnational oppression represents for the justice sector are not only about the complexity and challenge of the issue. We believe that there is room for manoeuvre that has not been exploited.

Current measures to prevent and combat transnational oppression

While our mission does not include the development of proposals for action against transnational oppression, we nevertheless summarise some key recommendations from the work of Gorokhovskaia and Linzer (2022). These are aimed at governments, technology companies, civil society organisations and member states of the UN and UN organisations. There is a very broad range of actions being rolled out, the most important of which are: Establishment of inter-national cooperation, economic sanctions, expulsion of diplomats, stricter controls on diplomatic accreditation, consideration of transnational repression in asylum policy, establishment of systems for mapping and recording transnational repression, publication of information on the existence of transnational repression, information activities and awareness-raising measures aimed at both authorities and vulnerable groups, several measures for "digital hygiene", critical "screening" (English: "*vetting*" of extradition requests and INTERPOL notices, strengthening police protection of vulnerable persons and grants to NGOs working against or supporting victims of transnational repression.

Sweden has the same refugee espionage provision as Norway, and both represent the implementation of international obligations. Internationally, Sweden is highlighted as an example of best practice for the application of the provision in combating transnational repression. Sweden has declared at least ten diplomats *persona non grata* due to surveillance of diaspora communities (Gorokhovskaia and Linzer, 2022). We are not aware of Norway expelling diplomats for actions that fall under transnational repression.

The UK Government has recently established a 'Defending Democracy Task Force', with a mandate to, inter alia, combat transnational repression. In addition, consideration is being given to strengthening provisions on intimidation, coercion and harassment in criminal law. In the United States, prosecutions have been brought against alleged perpetrators of transnational oppression, changes to criminal law are also being considered, and the State Department has circulated a memo to all foreign missions in the capital Washington DC warning diplomats against engaging in acts of intimidation, coercion and harassment (Gorokhovskaia et al., 2023).

Like Gorokhovskaia and Linzer (2022), we believe that technology companies - the owners of Facebook, Twitter, YouTube, Instagram, Snapchat, TikTok and others - have an independent responsibility to prevent social media platforms from acting as "useful idiots" for practitioners of influence operations and transnational repression. We note that the EU is in the process of introducing the *Digital Services Act*, which has as one of its objectives to reduce systemic risks such as manipulation and disinformation.⁶³ Based on the experience of Aros (2022), we believe that this responsibility also falls on the traditional, editorial-controlled media.

We see that several of the above measures require coordination between government actors on the two highest rungs of the coordination ladder. In relation to the four conditions for solving intractable problems set out by Difi, we find that political leadership and anchoring are particularly lacking. Furthermore, we cannot see that countering and preventing transnational oppression is a high priority task in any of the sectors, even though parts or aspects of the problem are being addressed in some of them.

If the formulations in the proposed re-definition of national security in Gorokhovskaia and Linzer (2022) are to be adopted, it would mean that human rights must be included in provisions dealing with the preservation and protection of Norway's sovereignty, such as the purpose clause in section 1-1 letter a of the Security Act (reproduced in section 5.1).

We note that although there is a criminal offence of refugee espionage, there is no separate provision specifically targeting transnational oppression. Given the complexity of the phenomenon, it is unclear whether this is appropriate, but in our view, consideration should be given to whether diaspora groups in Norway should be better protected against some of the acts we have described, particularly in light of their right to special protection.

It should be noted that apart from the justice sector - and perhaps the Ministry of Foreign Affairs, which has consular and diplomatic response options - none of the ministries have strong instruments at their disposal. And the justice sector's instruments are mainly limited to responding to criminal offences. Since the instruments are so weakly developed, a logical implication may be that it is all the more important that the instruments that are available are utilised as much as possible.

We believe it is important - for the individual and general preventive reasons we mentioned above - that the police authorities find methods for registering and mapping reports of transnational repression and that preventive work and the results of investigations are made visible, even if they almost never lead to prosecution and conviction. We question whether intelligence and investigative material can be shared with the Ministry of Foreign Affairs to a greater extent than is currently the case in order to support diplomatic reactions.

⁶³ The Digital Services Act: ensuring a safe and accountable online environment. Retrieved 17 February 2023 from https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/europe-fit-digital-age/digital-services-act-ensuring-safe-and-accountable-online-environment_en.

We also question whether the police citizen survey can be used to map the extent of transnational oppression.⁶⁴

Conclusion

We propose that transnational repression be defined as direct or indirect repression of diaspora groups in Norway by foreign powers. The repression can also be directed against all Norwegian citizens who have an interest in or exposure to the foreign power.

We believe that transnational oppression has the potential to be a significant social problem. The actual extent and consequences are currently not fully known. The examples and cases that have been documented show that it hinders integration and participation in democratic processes for many diaspora groups - and may also limit democratic participation for ethnic Norwegians with interests or vulnerabilities linked to the country of origin. Furthermore, it can - partly through entry bans and other sanctions and partly through self-censorship - prevent us from developing independent and critical knowledge about perpetrator countries. Transnational repression has the potential to constitute a significant societal problem in the form of threats to Norwegian sovereignty, national security, territorial integrity and democracy - in addition to the human rights violations and abuses it represents for individuals and diaspora groups.

Many actions that are undesirable are protected by various rights. Rights-based and important values such as freedom of assembly, freedom of association, freedom of belief and freedom of expression limit the room for manoeuvre of the authorities in countering and preventing transnational oppression.

The grant schemes can give rise to a paradox. On the one hand, the premise of providing support to diasporas is to promote democratic participation, while on the other hand, diaspora organisations can be targeted and exploited by anti-democratic forces originating from authoritarian regimes.

By viewing transnational repression as a recalcitrant problem, the response from Norwegian authorities so far appears to be characterised by a lack of political leadership. Transnational repression is inadequately addressed in the current design of sectoral responsibilities. We believe it is obvious that the Ministry of Justice and Public Security should have primary responsibility for the problem, both in terms of measures and efforts in its own sector, and in cross-sectoral coordination.

Beyond this, we have no basis for making specific proposals on how inter-ministerial coordination should be organised. If an action plan is to be drawn up, it will be important to define an appropriate thematic focus and boundaries - for example, it would probably be appropriate for the authorities' work to prevent and combat transnational repression and influence operations to be co-ordinated.

In our view, the special protection of minority groups is not adequately addressed in the Criminal Code and other legislation.

Consideration should be given to establishing a systematic record of reports of transnational repression.

Preventing and combating transnational oppression is - as we perceive it - not a high priority. The justice sector in particular, and to some extent the Ministry of Foreign Affairs, appear to have room for manoeuvre that is not currently being used.

⁶⁴ Citizen survey. Retrieved 17 February 2023 from <https://www.politiet.no/om-politiet/tall-og-facts/citizen-survey/>.

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Annex 1: Overview - relevant criminal offences

The Criminal Code of 2005 is divided into different chapters. The table below lists the sections of the law that may apply to the offences described in this report (Chapter 3) and against which individuals should be protected:

- Public order offences (Chapter 20)
 - hate speech (§ 185); penalty range 3 years
 - discrimination in employment or similar activities (§ 186); penalty of 6 months
- Protection of information and exchange of information (Chapter 21)
 - Unauthorised access to access data, computer program, etc. (§ 201); penalty 1 year
 - Offence against identity (§ 202); penalty 2 years
 - Burglary of a computer system (§ 204); penalty 2 years
 - Infringement of the right to private communication (§ 205); penalty of 2 years
- Protection of personal liberty and peace (Chapter 24)
 - Coercion (§ 251); penalty 2 years
 - Aggravated coercion (§ 252); penalty 6 years
 - Deprivation of liberty (§ 254); maximum penalty 3 years
 - Aggravated deprivation of liberty (§ 255); penalty of 6 years
 - Offence of aggravated deprivation of liberty (§ 256); penalty of 6 years
 - Threats (§ 263); penalty 1 year
 - Aggravated threats (§ 264); penalty 3 years
 - Reckless behaviour (§ 266); penalty range 2 years
 - Serious persecution of a person (§ 266a); penalty range 4 years
 - Offence against privacy (§ 267); penalty 1 year
 - Sharing of offensive images etc. (§ 267a); penalty of 1 year
 - Aggravated sharing of offensive images (§ 267b); penalty of 2 years
 - Unauthorised entry or residence (§ 268); penalty 2 years
- Violent offences etc. (Chapter 25)
 - Assault (§ 271); penalty 1 year
 - Aggravated assault (§ 272); penalty of 6 years
 - Bodily injury (§ 273); penalty 6 years
 - Grievous bodily harm (§ 274); penalty 10 years
 - Murder (§ 275); penalty range 8 to 21 years
- Sexual offences (Chapter 26)
 - Rape (§ 291); penalty 10 years
- Offences for profit and similar offences against property (Chapter 27)
 - Extortion (§ 330); penalty 3 years
 - Aggravated extortion (§ 331); penalty 6 years
 - Embezzlement (§ 324); penalty 2 years
 - Aggravated embezzlement (§ 325); penalty 6 years
 - Money laundering (§ 337); penalty of 2 years

- Aggravated money laundering (§ 338); penalty of 6 years
- Criminal offences (Chapter 28)
 - criminal damage (§ 351); penalty 1 year
 - Aggravated criminal damage (§ 352); penalty of 6 years
- Fraud (Chapter 30)
 - Fraud (§ 371); penalty 2 years
 - Aggravated fraud (§ 372); penalty of 6 years