

TOOLS OF TRANSNATIONAL REPRESSION: HOW AUTOCRATS PUNISH DISSENT OVERSEAS

HEARING BEFORE THE COMMISSION ON SECURITY AND COOPERATION IN EUROPE ONE HUNDRED SIXTEENTH CONGRESS FIRST SESSION

SEPTEMBER 12, 2019

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SEPTEMBER 12, 2019

COMMISSIONERS

	Page
Hon. Roger F. Wicker, Co-Chairman, Commission on Security and Cooperation in Europe	1
Hon. Benjamin L. Cardin, Ranking Member, Commission on Security and Cooperation in Europe	3
Hon. Joe Wilson, Commissioner, Commission on Security and Cooperation in Europe	4
Hon. Sheldon Whitehouse, Commissioner, Commission on Security and Cooperation in Europe	5
Hon. Marc Veasey, Commissioner, Commission on Security and Cooperation in Europe	13
Hon. Cory Gardner, Commissioner, Commission on Security and Cooperation in Europe	

WITNESSES

Alexander Cooley, Director, Columbia University's Harriman Institute for the Study of Russia, Eurasia and Eastern Europe and Claire Tow Professor of Political Science, Barnard College	6
Nate Schenkkan, Director for Special Research, Freedom House	8
Bruno Min, Senior Legal and Policy Advisor, Fair Trials	11
Sandra A. Grossman, Partner, Grossman Young & Hammond, Immigration Law, LLC	14

APPENDIX

Prepared statement of Hon. Roger F. Wicker	24
Prepared statement of Hon. Alcee L. Hastings	27
Prepared statement of Hon. Benjamin L. Cardin	28
Prepared statement of Alexander Cooley	30
Prepared statement of Nate Schenkkan	36
Prepared statement of Bruno Min	40
Prepared statement of Sandra A. Grossman	51

MATERIAL FOR THE RECORD

“Putin and other authoritarians’ corruption is a weapon— and a weakness,” by David Petraeus and Sheldon Whitehouse	56
Prepared statement of Nadejda Atayeva, Uzbekistan	58
Prepared statement of Dolkun Isa, China	63
Prepared statement of Muhiddin Kabiri, Tajikistan	66
Prepared statement of Alexey Kharis, Russia	71
Prepared statement of Ilhan Tanir, Turkey	73

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September 12, 2019

COMMISSION ON SECURITY AND COOPERATION IN EUROPE
WASHINGTON, DC

The hearing was held at 10:19 a.m. in Room 210, Cannon House Office Building, Washington, DC, Hon. Roger F. Wicker, Co-Chairman, Commission on Security and Cooperation in Europe, presiding.

Commissioners present: Hon. Roger F. Wicker, Co-Chairman, Commission on Security and Cooperation in Europe; Hon. Benjamin L. Cardin, Ranking Member, Commission on Security and Cooperation in Europe; Hon. Joe Wilson, Commissioner, Commission on Security and Cooperation in Europe; Hon. Cory Gardner, Commissioner, Commission on Security and Cooperation in Europe; Hon. Sheldon Whitehouse, Commissioner, Commission on Security and Cooperation in Europe; and Hon. Marc Veasey, Commissioner, Commission on Security and Cooperation in Europe.

Witnesses present: Alexander Cooley, Director, Columbia University's Harriman Institute for the Study of Russia, Eurasia and Eastern Europe and Claire Tow Professor of Political Science, Barnard College; Nate Schenkkan, Director for Special Research, Freedom House; Bruno Min, Senior Legal and Policy Advisor, Fair Trials; and Sandra A. Grossman, Partner, Grossman Young & Hammond, Immigration Law, LLC.

HON. ROGER F. WICKER, CO-CHAIRMAN, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Mr. WICKER. Well, welcome, everyone. How are we doing? Good to see you. This hearing will come to order. Welcome on behalf of the Helsinki Commission to this hearing on "Tools of Transnational Repression: How Autocrats Punish Dissent Overseas." And I think I'll turn my ringer off before you all learn what my ringtone is.

We've assembled an expert panel to probe how autocratic states project repressive force beyond their borders to silence dissenters, human rights defenders, journalists, and other perceived enemies overseas. Autocrats today have access to a range of tools to extend their reach by thousands of miles, sometimes in fractions of a second. Some schemes rely on 21st century technologies to hack, surveil, and intimidate targets, while others use blunter tactics, such

as extortion, abduction, and assassination. This practice of transnational repression constitutes a wholesale assault on the rule of law internationally. It requires the attention of all democratic nations.

This commission, the Helsinki Commission, is particularly concerned by the politically motivated abuse of INTERPOL by autocratic states wishing to harass and detain their opponents overseas, often in the hopes of trying them on bogus criminal charges. INTERPOL is a legitimate instrument for international law enforcement cooperation, linking the law enforcement arms of its 194 member countries through a global communications and database network. The United States relies on INTERPOL daily to bring criminals to justice and foil threats to global security. As with the United Nations, however, INTERPOL's broad membership leaves it open to manipulation by authoritarians.

Repressive regimes have seized on INTERPOL's potent tools to harass and detain their perceived enemies anywhere in the world. Red Notices and diffusions are among the most commonly abused instruments at INTERPOL, as they constitute international requests for detention and extradition. The Helsinki Commission regularly receives reports from dissidents, journalists, and human rights defenders across the OSCE region who are targets of INTERPOL Notices or diffusions issued by autocratic states on trumped up charges.

Perhaps the most prominent case is that of outspoken Kremlin critic Bill Browder. After his lawyer, Sergei Magnitsky, was murdered by Russian thugs for exposing state-sponsored corruption, Mr. Browder emerged as a champion of transparency and accountability for President Putin's misrule. In response, the Kremlin has embarked on a more than decade-long campaign to silence Bill Browder. As of today Russia has issued at least eight politically motivated diffusions against Mr. Browder. And yet, to our knowledge, INTERPOL has not penalized Russia in any way to punish or deter this abuse.

To the contrary, Russia felt comfortable enough in its position in the organization to have proposed a leading candidate for the presidency of INTERPOL last fall. At the time I joined with fellow Helsinki Commissioners Shaheen and Rubio, along with Senator Coons, to denounce the Russian candidacy, which fortunately was ultimately defeated after an outcry from the United States and our European allies.

Of course, Mr. Browder is one victim, and Russia one abuser, among many. Ahead of this hearing, the Helsinki Commission received statements from individuals from China, Turkey, Uzbekistan, and Tajikistan who have been targeted by authorities using INTERPOL. At this point I request that these statements be entered into the record of this hearing. Is there objection? Without objection, they'll be entered at this point.

The Helsinki Commission is taking action to address these assaults on the rule of law. Chairman Alcee Hastings and I are preparing to introduce bipartisan legislation in the House and Senate to tackle the abuse of INTERPOL by autocrats.

The Transnational Repression Accountability and Prevention Act will lay out priorities for U.S. engagement with INTERPOL, en-

courage executive branch agencies to approve processes for responding to politically motivated INTERPOL Notices, and codify strict limits on how INTERPOL communications can be used by U.S. authorities against individuals in our country. In addition, this legislation will require the State Department to report on trends in transnational repression in its annual human rights report.

The U.S. has long been a champion of reform and good governance within INTERPOL. Since 2016, INTERPOL, with U.S. support, has enhanced vetting of Notices and diffusions, created special protections for refugees, instituted greater transparency regarding its adjudication of complaints from victims, made rulings on complaints binding, and begun reviewing thousands of longstanding Notices and diffusions. But more remains to be done. The organization is in dire need of greater transparency. Countries should face consequences, including being denied leadership positions, for repeated abuses.

I might add that this matter has been brought to the attention, successfully, of the OSCE Parliamentary Assembly at our annual legislative meeting, just this past July. I appreciate the support we had from around the OSCE area.

Our witnesses this morning will provide expert testimony on the scale of this problem and policy recommendations to address it. Before introducing them, do members of the Commission request to be heard on this issue?

Senator Cardin.

**HON. BENJAMIN L. CARDIN, RANKING MEMBER, COMMISSION
ON SECURITY AND COOPERATION IN EUROPE**

Mr. CARDIN. Mr. Chairman, first let me thank you and Congressman Hastings for calling this hearing. It's critically important. As I was listening to your opening statement, I agree completely with everything you said. This hearing couldn't be more appropriately chaired by Senator Wicker, "Tools for Transnational Repression." He's not only the Senate chair of the Helsinki Commission, but he's vice president of the OSCE Parliamentary Assembly. So he's very much engaged with our international partners in carrying out the commitments of the Helsinki Final Act. And I applaud you for your leadership on this.

As we know, the principles of Helsinki are freedom, and peaceful and just democratic societies. And that those principles are to protect the human rights of the citizens of each country—from religious persecution, from the freedom of the media, to freedom of NGOs, to the ability to peacefully disagree with your government. That's part of the fundamental principles of Helsinki. And as we all know, one of the binding principles is that each member State has the right to challenge actions in any other member State.

The problem we have is that it's not only oppression within the country itself of its citizens. We now see the outreach beyond their own geographical borders. And that is absolutely outrageous. The most blatant example was Jamal Khashoggi's murder in Turkey—the outreach of the Saudis in doing that. But Turkey itself has abducted a dissenter from Malaysia. So, you know, we find that—and the chairman's comments about the use of Red Notices by

INTERPOL is shocking, and something that has to end. And I applaud your efforts to spotlight that at this hearing, but also to pursue legislation.

How do we respond to it? Well, one way we respond to it is by having this hearing. And we thank the witnesses that are here. We put a spotlight on it. That's an extremely important part. Passing legislation. And I very much look forward to working with Senator Wicker on his legislation. Enforcing the Magnitsky sanctions. We're now 10 years from when Sergei Magnitsky was murdered. And the Congress responded in 2012 by the passage of the Sergei Magnitsky sanctions law against Russia—expanded it to global in 2016. And that has now taken roots in many other countries around the world to let abusers know that if they do this there will be consequences.

We used that against the Saudis in regard to the Khashoggi murder, but it was used but not to the full extent. Congress, under the Magnitsky statute, asked for further considerations, which this administration has not complied with. So it's also enforcing our laws here that can help deal with this international problem.

So, Mr. Chairman, I wanted to take this time to thank you for your leadership on this, to thank the panel for being here, let us know that we very much will be united—Democrats and Republicans—to deal with what is this new trend of the transnational repression.

Mr. WICKER. Thank you, Senator Cardin.
Representative Wilson.

**HON. JOE WILSON, COMMISSIONER, COMMISSION ON
SECURITY AND COOPERATION IN EUROPE**

Mr. WILSON. Thank you, Co-Chairman Roger Wicker, with Chairman Alcee Hastings, for calling this important hearing. This topic is a critical and startling one. The enemies of freedom and democracy around the world have always persecuted those who dared to criticize them. This is an unfortunate reality, one that I'm grateful to say the United States has always fought against to promote freedom. But it is appalling that now these tyrants and authoritarian regimes around the world seek not only to persecute their critics at home: They now chase them to the ends of the Earth, ensuring that no one and no country in the world is safe for critics. Unfortunately, these criminal regimes do this by exploiting the very international rules-based order meant to prevent and fight international crime.

This is a very serious issue. The fact that countries like Russia, China, and Venezuela abuse their access to the International Criminal Police Organization, or INTERPOL, to issue bogus Notices with the express intent to repress dissent against their own democratic regimes is dangerous. It is not only imperiling the champions of freedom around the world, but it undermines the very integrity of INTERPOL and, more broadly, of the international system we've worked so hard to build.

Knowing how critical this issue really is, I'd like to thank our expert panel today for their work and their testimony today. I'm also appreciative of the opportunity to work with Chairman Hastings on the House version of the Transnational Repression Accountability

Act, TRAP, which seeks to address some of the ways autocrats exploit INTERPOL, as well as to improve U.S. capabilities to identify and respond to instances of abuse. I thank Chairman Hastings for his leadership on this issue and commend the Helsinki Commission staff for their hard work on the TRAP Act.

With that, I yield back the balance of my time, and I look forward to hearing from our distinguished panel today.

Mr. WICKER. Senator Whitehouse.

**HON. SHELDON WHITEHOUSE, COMMISSIONER, COMMISSION
ON SECURITY AND COOPERATION IN EUROPE**

Mr. WHITEHOUSE. Well, this is a very special occasion because Joe Wilson and I agree virtually 100 percent, which is always a wonderful thing. [Laughter.] There is a lot of talk about how there has been a clash of civilizations that dominates the globe. I think there is a clash of civilizations, and it's between rule of law civilization and kleptocracy, autocracy, and criminality. Unfortunately, kleptocracy, autocracy, and criminality, at some point, depend upon rule of law. Because once you've stolen enough to become a very rich person, suddenly rule of law looks like a good thing. And the transit of the illicit proceeds from kleptocracy, autocracy, and criminality into the protection of our rule of law is something that we have a national security interest in preventing.

And I'd like to ask that the article to that effect that General David Petraeus, the former CIA director, and I wrote be entered into the record, and express my appreciation to all of these people here for helping to bring to light the dangers. It's not just our allowing their use of the rule of law to protect their ill-gotten gains. It's also needing to make sure that their tools of repression that keep their populations in place and punish whistleblowers are exposed, and that we do not allow our rule-of-law tools to be used for purposes of oppression.

So, Mr. Chairman, thank you. Thank you to the witnesses. This is terrific work by the Helsinki Commission.

Mr. WICKER. I thank Senator Whitehouse. And without objection, that article will be entered into the record.

And now to our panel.

First, Alexander Cooley, a political science professor at Barnard College and director of Columbia University's Harriman Institute. Professor Cooley wrote the book on extraterritorial authoritarian practices. The book is entitled, "Dictators without Borders: Power and Money in Central Asia," which was co-authored by John Heathershaw and published in 2017. Drawing on his scholarly work, Professor Cooley we hope will explain the origins, scope, and trajectory of transnational repression.

Then we will hear from Nate Schenkkan to provide concrete examples of these authoritarian practices based on his work as director of special research at Freedom House.

Our third witness is Bruno Min, a senior legal and policy advisor at Fair Trials, an international nonprofit that monitors criminal justice standards around the world. Mr. Min will present his experience leading the Fair Trials advocacy relating to INTERPOL and other examples of cross-border justice and discrimination.

And finally, we will hear from Sandra A. Grossman, an immigration lawyer and founding partner of Grossman, Young & Hammond, where she has honed her expertise in complex and sensitive immigration issues, often involving statements targeted by politically motivated INTERPOL communications.

I will refer you to the materials in your folders for our witnesses' full bios. I look forward to their testimony. I invite Professor Cooley to begin. We ask each of you to limit your verbal remarks to 5 minutes. Welcome, Professor Cooley.

ALEXANDER COOLEY, DIRECTOR, COLUMBIA UNIVERSITY'S HARRIMAN INSTITUTE FOR THE STUDY OF RUSSIA, EURASIA, AND EASTERN EUROPE AND CLAIRE TOW PROFESSOR OF POLITICAL SCIENCE, BARNARD COLLEGE

Mr. COOLEY. Thank you, Co-Chairman Wicker and members of the commission. Thank you for inviting me to testify about the topic of transnational repression as part of this hearing on reforming INTERPOL. And I request that my written testimony be admitted into the record.

Mr. WICKER. Everyone's written statement will be admitted into the record, without objection.

Mr. COOLEY. Thank you.

My aim today is to explain why autocrats are increasingly projecting their reach overseas and highlight how INTERPOL has become a weapon in these efforts. By transnational repression, I refer to the targeting by governments and their internal security and intelligence services of the exiled co-national political challengers, civil society advocates, non-pliant business community members, and journalists who reside abroad. These extraterritorial acts of repression may include coercive acts, including assassination attempts, disappearances, forced abductions, and renditions back to the home country—also, the act of monitoring, infiltration, disruption of exiled communities abroad, the harassment and intimidation of an exiled political opponent's family members in the home state in order to deter political activities abroad, and cooperation between the security services of a host and sending country to deny exiles due process that would determine eligibility for political asylum.

Transnational repression is certainly not new. Think of Soviet security services going after exiles and emigres after the 1917 revolution. But this current wave does have distinctive drivers and dynamics. It's foremost an outcome of the recent global backlash against democratization. Democratic optimism in the 1990s and early 2000s has given way to the emergence of a more aggressive and a savvier breed of autocrat. The so-called Color Revolutions of the mid-2000s and Arab Spring in the Middle East have prompted authoritarians to reframe democratic opponents and civil society activists as security threats, intent on destabilizing and disrupting their rule. So as political opponents flee these crackdowns and go abroad, autocrats aggressively pursue them in exile and attempt to deny safe spaces from which they can organize, broadcast independent or oppositional media, and spotlight their governments' abuses.

Second, globalization has created new diaspora communities of economic migrants that leave their poor authoritarian home countries in search for work. Cheap international transportation, low-cost communications, allow for the constant transmission of information, ideas, and values between diasporas and their home-country communities. And this raises the concerns of autocrats that these overseas groups may become radicalized or politically active back home.

Third, the rise of new digital and information technologies, including social media, offers new tools to authoritarians to extend their control of the information space. Without leaving their own territorial borders, dictators can now target the communications and social media profiles of exiles abroad, disrupt online platforms, and damage anti-government websites, and intimidate outspoken regime critics with electronic messages and the collection of their personal information.

This new transnational repression is taking place at a time when the international environment during which liberal democratic norms are weakening. Autocrats are actively cooperating with one another and learning how to successfully repurpose international institutions to avoid international scrutiny and accountability for human rights abuses. Some of this cooperation has been formalized with international organizations. For example, the Shanghai Cooperation Organization, led by China and Russia and including most Central Asian countries, maintains a common blacklist of individuals and organizations under the auspices of its regional anti-terrorism structure—RATS for short.

Though the list is officially meant to target the three evils of extremism, terrorism, and separatism, in practice human rights organizations have noted that member country regimes use the SCO blacklist to deny each other's regime opponents safe harbor and asylum. Experts have also cautioned about the organization's overly broad definition of the three evils, its practice of unconditional extradition, and its opaque data sharing and classification practices.

In this more unsure international environment, autocrats are also now repurposing INTERPOL to use against their political enemies abroad, with the INTERPOL alerting system. INTERPOL's own constitution mandates that the alert system must not be abused for political purposes. However, in practice authoritarians are increasingly violating neutrality by designating wanted political opponents as criminals or even terrorists. Over the last two decades, we've seen an explosion in INTERPOL alerts, increasing almost tenfold from about 1,400 in 2001 to over 13,000 in 2013. The latest account on the website mentioned 58,000 active Notices, about 7,000 of which are public.

Russia and China issue a high volume of alerts, but autocrats in smaller countries also appear to be abusing the organization. For example, political scientist Ed Lemon has uncovered that the small Central Asian state Tajikistan has issued 2,500 Red Notices, while we have reporting that the governments of Azerbaijan, Egypt, Iran, India and Venezuela also aggressively abuse the list for political purposes.

I think it's important to mention that the repressive effect of this abuse does not just hinge on whether a political opponent is successfully extradited. In most democracies, properly functioning judicial systems tend to eventually weed out the obviously politically motivated extradition request. However, the alerts can still have devastating consequences. They prevent travel and lead to unexpected detentions in third countries. They incur costly legal bills. And they make it difficult for those listed to conduct banking and other financial transactions. Moreover, repressive governments use the very act of being listed that they initiate to tarnish the personal reputations of those in exile, intimidate their family members, and confiscate their property and business.

Nadejda Atayeva, whose testimony is in the record, is a human rights defender with refugee status in France. She remained on the Red Notice list for over 15 years after she was accused by the Government of Uzbekistan of an economic crime, which was her family pointed out corruption in a particular sector, and later convicted in absentia. This conviction appears to have been intended to hamper her advocacy work abroad as a human rights defender.

Journalists and advocacy organizations have spotlighted many of these abuses, but the continued lack of transparency makes it difficult to assess the progress of reform efforts. The TRAP Act would provide much-needed basic data about which member states issue Notices and in what frequency. It would shed light on how INTERPOL's own independent oversight board adjudicates complaints of abuses and which member states are the most frequent violators. And in turn, this will allow other member governments, activists, and the media to identify and track obvious abuses of the international policing network. Finally, it will help ensure that politically motivated abuse of INTERPOL is kept in check and deter other authoritarians from similarly misusing the organization.

Although it may not be realistic for the United States or any one country to check all of the malevolent transnational activities of autocrats and their foreign security services, the TRAP Act would send a powerful signal that autocracies will not have a free hand to refashion international organizations and redefine basic human rights standards and critical protections.

Thank you for your attention.

Mr. WICKER. Well, thank you very much.

And Mr. Schenkkan, we'll continue with you. We appreciate your attendance.

**NATE SCHENKKAN, DIRECTOR FOR SPECIAL RESEARCH,
FREEDOM HOUSE**

Mr. SCHENKKAN. Thank you very much. Co-Chairman Wicker and members of the commission, it's an honor to testify before you today.

I think Professor Cooley has already provided a summary of transnational repression and what it is, so let me skip ahead to the Turkish case, which is the prime example in my testimony.

I began focusing on this issue, transnational repression, in my work at Freedom House after the July 2016 coup attempt in Turkey. In response to that coup attempt, the Turkish Government embarked on a global campaign against those that it held respon-

sible, principally members of the Gülen movement. Using an expansive guilt by association approach, Turkey designated anyone associated with the movement as part of a terrorist organization, and aggressively pursued them around the world. This involved multiple tools. Turkey uploaded tens of thousands of requests for detention into INTERPOL's systems. It canceled the passports of thousands of people who were outside the country. It refused to renew the passports of others. And it refused to issue passports for some Turkish children born outside the country, in an effort to get their parents to return to Turkey so that they could be arrested.

Most strikingly, Turkey physically brought back at least 104 Turkish citizens from 21 countries, according to its own official statements. At least 30 of those were kidnappings—citizens taken from abroad without any legal process whatsoever. People pulled off the streets of foreign cities, bundled onto private jets linked to Turkey's intelligence services. In one well-documented case, the kidnapping of six Turkish citizens from Kosovo, one of the men Turkey took was the wrong person—a different Turkish citizen with a similar name. That man remains in prison in Turkey anyway, while the, quote/unquote, “right” man received asylum in Europe.

The Turkish example since 2016 is striking, and useful to study for several reasons. Because it's so concentrated in time—this is only in the last 3 years—because it is so aggressive, and because it uses so many different tactics.

But transnational repression is universal. Freedom House has just embarked on a new study of transnational repression that will document its scope and scale around the world since 2014. Data collection is far from complete, but we've already documented 208 cases of violent transnational repression in the last 7 years, targeting exiles from 21 countries, and we know there are hundreds more waiting to be identified.

These documented cases range from Saudi Arabia's murder of Jamal Khashoggi in Istanbul to Azerbaijan's kidnapping of Afqan Muxtarli in Georgia, to the disappearing of Thai activists from Laos, to the mass detention and deportation of Uighurs, Tibetans, and Falun Gong practitioners to China from a range of countries. Transnational repression occurs in all parts of the world and affects activists and even apolitical exiles everywhere they live, including in the United States.

Now let me speak about some recommendations. The political scientist Yossi Shain, in his book, “The Frontier of Loyalty,” laid out a three-part test for why states would engage in persecution of exiles. These three parts are the regime's perception of the threat posed by exiles, a regime's available options and skills for suppression through coercion, and a regime's cost-benefit calculations for using coercion. Regarding the first, authoritarian regimes fundamentally see their citizens as subjects to be ruled, not voices to be heeded. Any kind of political engagement is taken as a threat. We can't change the first part of the equation.

But we can change the second and the third parts. First, we need to blunt the tools of transnational repression or, in Shain's vocabulary, weaken the available options and skills that a regime has. There are several ways to do this. I think INTERPOL is a nec-

essary focus for this panel, and I'm sure we'll discuss it widely. The TRAP Act is a welcome step in this direction. It should help counter INTERPOL abuse in the United States and perhaps globally if it's able to achieve reforms within INTERPOL itself.

Another tool of transnational repression to be blunted is commercially available spyware, which has been deployed against exiles by countries like Saudi Arabia, China, and others. The U.N. Special Rapporteur for Freedom of Expression David Kaye has called for tighter regulation of targeted surveillance technology and a moratorium on the export of spyware. There's new draft U.S. guidance for the export of surveillance technology prepared by DRL [the State Department's Bureau of Democracy, Human Rights, and Labor]. That's a welcome step, placing human rights due diligence at the center of the guidance. But this guidance must be translated into mandatory regulations governing these exports, including those that carry penalties for violations. We cannot rely on industry to self-regulate in this area.

Second, the U.S. needs to reduce the benefit of engaging in transnational repression. The best way to do this is to support targeted diasporas, especially in the United States. I believe yesterday the Senate passed the Uighur Human Rights Policy Act, which includes measures to protect the Chinese diaspora. This is a welcome measure, and I hope it will be reconciled. Freedom House supports it.

In addition, Congress should pursue legislation to support all vulnerable diaspora communities in the United States, including by providing additional resources to strengthen the ability of the FBI and appropriate U.S. law enforcement to counter transnational repression campaigns. It should make resources available to educate local law enforcement and immigration authorities in parts of the country where there are high concentrations of vulnerable diasporas.

Outside of the United States, in its democracy promotion work, the United States can reduce the benefits of transnational repression by supporting shelter models that strengthen the resilience of exiled activists and journalists. Last, the United States should show leadership by providing safe haven to persecuted individuals. Instead of reducing the number of refugees the United States accepts, we should significantly increase it.

Third and finally, the United States needs to raise the cost of engaging in transnational repression. On the diplomatic front, we should make a consistent practice of issuing private, and where necessary public, protests to diplomats and consular officials who abuse their positions to intimidate, threaten, or undermine the rights and freedoms of exiles and members of diasporas in the United States. And we should sanction individuals responsible for grave human rights violations against exiles, using the Global Magnitsky Act or other authorities as appropriate.

Especially where the persecuting state is a U.S. ally, units and individuals should be scrutinized to ensure they do not receive security assistance if they're committing human rights violations. The United States and other democracies have the ability and the responsibility to blunt the tools of transnational repression and protect vulnerable exiles.

Thank you for your time and attention, and I look forward to our discussion.

Mr. WICKER. Thank you very much.

Mr. Min.

**BRUNO MIN, SENIOR LEGAL AND POLICY ADVISOR,
FAIR TRIALS**

Mr. MIN. Thank you, Chair. I'd like to thank the chair and the co-chair of the commission for this opportunity to speak at this panel. I'm also very thankful that the commission has decided to take an interest in what we believe is a very important matter. INTERPOL is not subject to any formal external effective oversight, so the oversight of member countries, and particularly the United States—the largest state donor financially speaking to INTERPOL—is particularly helpful. Fair Trials has been campaigning for the past 7 years or so for the reform of INTERPOL. We believe that INTERPOL plays a very important role in making the world a safer place, and the system of Red Notices and diffusions are central to the fulfillment of that objective.

Just to get the basics right, Red Notices—as quite rightly pointed out earlier—are electronic alerts circulated through INTERPOL's systems to seek the location and the arrest of an individual—a wanted individual—with a view to extradition. They're often described as international arrest warrants, but they are not. There is no international legal obligation to act upon a Red Notice. Diffusions are electronic alerts that are also circulated through INTERPOL's information system that carry a request for police cooperation, which can be exactly the same as a Red Notice—namely, to seek the location and the arrest of a wanted individual. But the key differences between Red Notices and diffusions are formality—with diffusions being less formal than Red Notices—and also the manner in which they are checked and disseminated, which I will come to a little bit later.

The big challenge for Fair Trials is that INTERPOL is not always able to ensure that Red Notices and diffusions comply with their rules relating to human rights and political neutrality, as a result of which we get certain states abusing its systems to target dissidents and others in need of international protection. Our concerns were outlined in our 2018 report, "Dismantling the Tools of Oppression,"¹ where we identified that there were serious flaws to INTERPOL's systems that needed fixing. In summary, those two concerns are, one, the ways in which INTERPOL reviews Red Notices and diffusions, both prior to their dissemination and after their dissemination, and also the ways in which they interpret their rules relating to human rights and neutrality.

I'd like to emphasize, though, that INTERPOL is fully aware of these concerns, and they've taken steps to address them through a set of reforms adopted, probably for the past 5 years or so. At the moment, I think one of the biggest challenges is how INTERPOL reviews Red Notices and diffusions prior to and during circulation.

¹ <https://www.fairtrials.org/publication/dismantling-tools-oppression-1>

INTERPOL has a team of about 30–40 staff members in the general secretariat whose role it is to check Red Notices and diffusions so they're not violating their rules. There's a big question about how effective these mechanisms are, primarily because there are no statistics around them. So we don't know of over 10,000 new Red Notices per year how many of those Red Notice requests get refused. Same goes for diffusions as well. If we even had just very basic data, just a percentage of how many Red Notices are rejected, that would persuade us to have a little more confidence that they are doing something.

And the other big challenge is that we simply have no idea what the procedures are for checking these Red Notice requests. We don't know, for example, what would trigger INTERPOL to carry out a more cautious assessment of whether or not a Red Notice request is compliant with its rules. We also don't know what kind of information they would consult if they find that a Red Notice request requires a bit more review. Whatever these processes are wasn't quite clear from the cases that we see. We see Red Notices being issued in very clear cases of abuse, including against refugees who have a very public profile. So what we can tell is that whatever these systems are, they're simply not working as well as they should.

And in a way, that's not very surprising, considering particularly that we have about 30 to 40 staff members at INTERPOL reviewing over 10,000 new Red Notices per year, and on top of that about 50,000 diffusions per year as well. You don't need to do very complicated math to figure out that that's an enormously difficult task. The other big problem here is about diffusions as well, which I mentioned are checked in a different way to Red Notices. The problem is that they are not subject to the same sort of scrutiny as Red Notices, as a result of which there is a risk that unchecked data—possibly very devastating data—can enter into national databases and stay there. This is what has been causing the very high-profile arrests of Bill Browder.

For the lack of time, I won't be able to go into too much detail about the other concerns we had. Just very briefly, there were lots of concerns about the effectiveness of INTERPOL's redress mechanism, the Commission for the Control of INTERPOL's File, or the CCF. In its previous form, the procedures of the CCF had basically no regard for basic due process standards, and it was unable to even make binding decisions, making it pretty ineffective as a redress mechanism. Fortunately, INTERPOL has taken steps to dramatically improve the CCF, as a result of which it's a much more fair process, and it's more independent and more capable of performing its role. But there are still problems in relation to its transparency, the fact that it's understaffed and under resourced. It's worth mentioning that it is not possible to challenge the CCF's decisions. So if you are affected by an abusive Red Notice and you don't get the right outcome, then there is no further recourse.

Finally, Fair Trials also had concerns about the interpretation of INTERPOL's rules, particularly in relation to human rights, because there is very little information about how those rules are interpreted. One policy development, a very positive development, over the past 5 years is the adoption of the refugee policy, which

aims to protect individuals who have been granted refugee status under international law. But even there, although there are many positive things about it, we find that the scope of that policy is rather limited, and there are some problems in its effective implementation, given the first challenge that I talked about: INTERPOL's ability to weed out bad Red Notice requests.

In terms of our recommendations to member countries, the main thing that I wanted to say was that INTERPOL has been on a path of reform, making gradual improvements over the past few years. It needs encouragement to do that—not only to make sure that its current reforms are effectively implemented but also to be encouraged to adopt further reforms to address the rest of the concerns that remain. The other thing that member countries, and the United States included, should do, we think, is to help INTERPOL to do what they're supposed to do—that might be in relation to its decisionmaking, helping them make the right decisions in the cases that they see, and also to alert them of potential patterns of abuse.

A really crucial thing is the lack of funding at INTERPOL for these very important mechanisms that keep their systems in check. The Commission for the Control of INTERPOL's Files and the specialist team within INTERPOL that reviews Red Notice requests and diffusions are currently understaffed, in our opinion, and under resourced. They quite often depend on the generosity of member states to fund them and resource them. My other recommendations are outlined in the written briefing that I've submitted in advance. Of course, I'd be happy to discuss them in more detail.

Thank you.

Mr. WICKER. We appreciate those recommendations.

And I think we're going to depart at this point from our assigned procedure. There's been a vote called on the House floor. And I want to give Mr. Veasey a chance to ask a question or two before these House members have to beat the clock. So, Mr. Veasey, you're recognized for questions. And then we'll take Ms. Grossman's testimony.

**HON. MARC VEASEY, COMMISSIONER, COMMISSION ON
SECURITY AND COOPERATION IN EUROPE**

Mr. VEASEY. Thank you very much. I really had one question. I would just like to try to get into the mindset of the people that issue these—is it red flags?—because obviously that takes away time and resources when they issue these for people that are just dissenters from very serious violators out there that could be committing very serious acts like terrorism acts. What I'm trying to figure out is knowing that they could be taking away resources from more serious matters, why do they continue to do that? Obviously if there was a terrorism act that took place in Turkey that could have been prevented, because they were just trying to squash dissenters, obviously you wouldn't want that sort of blood on your hands. So if you could put me into the mindset of some of the leaders over there. We, obviously, in the United States, see terrorism as very serious. We probably place it on probably the highest of high priority. But maybe for them dissenting is just as big of a deal as terrorism. Can you just sort of put me into their mindset?

Mr. COOLEY. Sure. Thank you for that question.

I think part of the shift that's happened, especially over the last 15 years, is looking at the security and insecurity of their own rule and what are the sources of threat, right? So one source of threat is, of course, terrorists. In a post-9/11 world—a world of sort of global radicalization, these kinds of frames are a foremost concern around the world. But what happened, particularly in the mid-2000s, is that all forms of domestic opposition started to be recoded as threatening—as security threats. Security services who had been active in going after actual terrorist threats and fears of radicalization, started turning these same surveillance instruments, these same tools onto also political opponents, right?

So now we have a broad array of regime opposition that includes what we would regard possibly as terrorists, as well as ordinary domestic opponents. In countries like Tajikistan a political party that as part of the ruling coalition was banned in 2015 with all of its leadership rebranded terrorists and going abroad. So I think that's the switch that's happening.

Mr. SCHENKKAN. If I could just add one point to that, too—I pretty much agree with what Alex said. The cost is actually quite low of inputting these requests. In the post-coup environment in Turkey, what we saw was essentially a batch upload. If you can imagine, you have a spreadsheet of names. That spreadsheet could have 20,000 names on it. Once the system is automated, you can essentially—I'm not speaking about the actual system—just upload these names and generate requests—or, seek to generate requests. So the time spent—the effort spent—is low, because the technology enables you to diffuse those requests very rapidly.

That's why it's so important to get insight into the processes themselves and to try to improve the processes, because that's really a due process question as I hope Bruno would agree. This is a due process question. How do you examine what can, in its impacts, have the effect of being an arrest warrant? That means you need a real process for examining them and making sure that they're not in violation.

Mr. WICKER. Other questions from either Mr. Veasey or Mr. Wilson before we turn to Ms. Grossman?

Okay, Ms. Grossman, you're recognized. And I think you're probably going to talk more about individual examples.

**SANDRA A. GROSSMAN, PARTNER, GROSSMAN YOUNG &
HAMMOND, IMMIGRATION LAW, LLC**

Ms. GROSSMAN. That's right. As the only U.S. immigration attorney on this panel, I'm going to really focus on that topic. In my work as an immigration attorney over the past few years, I have seen how oppressive regimes are actually manipulating the U.S. immigration system to persecute political dissidents seeking refuge in this country. They are utilizing our justice system to arrest and jail political dissidents. And the manner in which this is happening is quite clear. Law enforcement agencies, in particular Immigration and Customs Enforcement, or ICE, utilize Red Notices to target foreign nationals, many times asylum seekers, and to detain them and press for their deportation.

The Department of Justice does not consider a Red Notice to be sufficient basis for an arrest. It does not meet the probable cause standard under the Fourth Amendment, and really offers little assurance into the legitimacy of the allegations it concerns. Unfortunately, what we're observing in the immigration field is that ICE is treating many Red Notices as conclusive evidence of criminality, with consequences on the basic rights of victims of persecution. Even worse, this blind acceptance of an INTERPOL communication without scrutiny can, and often does, turn ICE officials and our own immigration judges into unwitting agents of repressive regimes.

I'd like to share with you some real-life examples of INTERPOL abuse that are currently processing through our immigration system. My client, a citizen of Russia, entered the U.S. with a valid visa and applied for asylum before the U.S. Citizenship and Immigration Services [USCIS]. His persecution claim is based on spurious and persecutory tax fraud charges lodged against him by the same tax office that prosecuted Sergei Magnitsky. He appeared for what was supposed to be a non-adversarial asylum interview before USCIS. Instead, ICE arrived at the interview and detained him. He spent 4 months in jail before being released on a very high bond.

INTERPOL actually canceled the Red Notice, recognizing its illegitimacy. However, my client and his family had already suffered the worst effects of the Red Notice through the U.S. immigration system. Years later, his case continues to languish in U.S. immigration court. We filed a Freedom of Information Act request in his case, which revealed that ICE categorized my client as a danger to the community and a flight risk based on nothing more than the existence of the Red Notice. So in this very specific example, ICE agents and the immigration courts became tools in advancing bogus criminal allegations made by an autocratic government. There are many, many more examples.

In another case, a U.S. citizen filed to obtain lawful permanent residency for her father, a citizen of Armenia. Her father was the subject of a Red Notice that arose from a private business dispute with corrupt Armenian officials. ICE went to his home and detained him. The immigration judge denied a request to lower an extremely high bond amount, and this was in spite of extensive ties with U.S. citizen family members and his eligibility for permanent residence. The sole stated reason for refusing to lower the bond amount was the existence of the INTERPOL Red Notice. In fact, a Red Notice actually decreases flight risk and makes travel a lot more difficult. Nevertheless, DHS officials and immigration judges alike consistently miss this point, all at the expense of the liberty of persecuted persons, like my Armenian and Russian clients.

I'd also like to point out that a recent survey issued by the American Immigration Lawyers Association—which has more than 16,000 members—uncovered many more similar examples of INTERPOL abuse in the United States. As my colleagues here have testified today, INTERPOL does serve a good purpose, and the built-in human rights protections found in the constitution and subsidiary rules are sound. They only work if they are properly applied.

My recommendation is that part of holding INTERPOL and the Commission for the Control of INTERPOL's Files to a higher standard is requiring them to have greater transparency. Jurisprudence and reports must be published, and the organization must allow for more access to information and opportunities for advocacy, especially for persons who allege INTERPOL abuse. Within our own borders, we must do a better job at ensuring that immigration officials understand that the mere existence of a Red Notice, especially when it concerns an asylum seeker or affects the interests of U.S. citizens or lawful permanent residents, cannot be considered conclusive evidence of criminality.

If the Transnational Repression Accountability and Prevention Act accomplishes even some of these goals, it will be a much-needed first step to address the problem of INTERPOL abuse and to prevent our justice and immigration from being further manipulated by autocratic regimes.

Thank you.

Mr. WICKER. Well, thank you very much to all four of you for your excellent testimony.

Who can tell us how much the United States donates to INTERPOL each year?

Mr. MIN. I'm afraid I don't have the exact statistics, although there might be other people in the room who might be able to get the statistics for you. The United States, at least among states donors, is easily the largest donor to INTERPOL. But I don't have the statistics.

Mr. WICKER. Well, try to get that to us.

Ms. GROSSMAN. I believe I do, sir.

Mr. WICKER. Okay, yes.

Ms. GROSSMAN. This is, in part, thanks to the research of Dr. Ted Bromund. It looks like the United States contributed 19.4 percent in 2019, 11 million euros. And this is compared to Japan, which is second, who contributed 6 million euros. And China third, Russia, then Turkey. The United States is, by far, the greatest statutory contributor to INTERPOL.

Mr. WICKER. When was INTERPOL formed?

Mr. MIN. I believe INTERPOL was formed around, I think, the 1930s. It's often criticized for the fact that I think there was German involvement or German leadership in the creation of INTERPOL at the time. But that's the historic origin of the organization. I think it's evolved considerably since then, obviously. It started very much, I think, like a nongovernmental organization, a policeman's club. And now it's a much more formal entity.

Mr. WICKER. Was it abused during the run-up to Nazism in Germany?

Mr. MIN. I don't know about that. What we would say is that the phenomenon of Red Notices, and diffusions, and other INTERPOL tools being misused at this scale is a relatively new phenomenon. Obviously Red Notices have been around for decades. But it's relatively recent that they can be circulated with this much ease. And that's primarily due to technological developments, first of all, and also the growing understanding amongst states that international cooperation on police matters is absolutely crucial these days, given the global nature of security threats and crime.

Mr. WICKER. No question, it's a vital tool. No question it's being abused on a large scale.

Who was giving—I'm jotting notes here and trying to juggle members who had to go vote. Who was giving us information—was it you, Mr. Min—about the number of Red Notices per year and the number of diffusions per year, in the entirety of INTERPOL?

Mr. MIN. Yes, I think the latest statistics were something on the region of around 13,000 or 14,000 new Red Notices per year, and about 50,000 new diffusions per year. And those, I think, are just diffusions that call on the location and the arrest of individuals. I think it's worth mentioning at this point that the number of new diffusions issued jumped dramatically in the past couple of years. I think INTERPOL would attribute that primarily to the increasing use of their systems for foreign terrorist fighter alerts. But there are concerns that as there are better safeguards that prevent the misuse of Red Notices, countries are turning to diffusions instead, which have a less stringent checking mechanism.

Mr. WICKER. Okay, well, tell us about that. Let's give the commission and our friends listening worldwide those differences. When would you—and you want to jump in, Mr. Schenckan—when would a country decide to go through the more difficult procedure of a Red Notice? What does that entail? And then why is a diffusion easier?

Mr. SCHENKKAN. I'll also defer, I think, to Bruno and to Sandra Grossman on these matters. But I would say that the concern that observers of INTERPOL have is that the diffusion process essentially sends the communication directly. So INTERPOL is acting as a middleman, but without necessarily a process by which that diffusion is reviewed.

Mr. WICKER. So they don't vet the diffusion at—

Mr. SCHENKKAN. At the moment of submission.

Mr. MIN. Right. I mean, there's some unclarity on this. And what would be ideal would be someone from INTERPOL to explain that to us in that much more detail.

So the reason why countries would use Red Notices instead of diffusions is that Red Notices are meant to have a higher injunctive value. Red Notices are meant to be more serious. And that's the reason why they use that, whereas diffusions are meant to be more informal kind of casual variants, I suppose, in lots of situations.

So in terms of how the two are different in terms of how they're being checked, with Red Notices the information that eventually gets uploaded onto Red Notices doesn't become visible to other member countries until the request for the Red Notice is checked. So the country would send the request to INTERPOL's general secretariat saying that they want to have a Red Notice disseminated and providing all the details. That would be checked by INTERPOL. And then only if it's found to be compliant would that Red Notice be disseminated to all the member countries.

Whereas with diffusions, diffusions start their lives off pretty much like emails—like normal electronic communications between member countries of INTERPOL. And it is only after—when that information is sent out that INTERPOL is able to review that in-

formation. And only after it has done that is it able to validate that communication as a valid diffusion.

Ms. GROSSMAN. And I'd just like to point out, the organization is supposed to properly vet Red Notice requests before they are sent out. The organization has very sound rules in its constitution: the principle of neutrality, the idea that any request by a member state has to comply with the spirit of the Universal Declaration of Human Rights.

But what's nebulous in these cases is exactly how INTERPOL is going about the process of making sure that these requests comply with the rules. And clearly there are some significant gaps there that are allowing some of these requests to be emitted. And then what makes the situation worse is that the mechanisms for then addressing illegitimate requests is extremely lengthy, inefficient. There's very little access for information. You know, you can write to the Commission for the Control of INTERPOL's Files to get a review of your case but, as someone else here pointed out, there is no appeal. Sometimes you're not able to learn exactly the details of the allegation. So it's a very difficult process that leaves victims with little opportunity for redress.

Mr. WICKER. Mr. Min, on this CCF—that stands for Commission for the Control of Files—it's the body which handles requests from individuals seeking access to or removal of information from INTERPOL's files—how well is this commission staffed? How big is this commission? How many members and how many staff?

Mr. MIN. So the commission is structured in a way that it's divided into two chambers. One deals with kind of data protection issues, and the other deals with complaints. I think the division is three-four. So there are four, I think, commissioners, I think, in the complaints chamber, if that's right?

Ms. GROSSMAN. There's three commissioners in the supervisory and advisory chamber, and then there's five—

Mr. MIN. Five, sorry. Thank you. And they sit a few times a year to decide on requests and complaints. But they work with a team of, I think, around a dozen people. There's like a secretariat for the Commission for the Control of INTERPOL's Files, who are there full time. And they're the ones who really do most of the leg work. But even then, I mean, I think what we hear from them, from speaking to the Commission for the Control of INTERPOL's Files, is that there's always a big challenge in terms of sifting through all these requests with the limited funding and staff resources that they have. So it was very disappointing that in last year's budget for INTERPOL it seemed as though the staffing had increased by one, but the funding for the CCF had actually decreased.

Mr. WICKER. Where is it housed?

Mr. MIN. It's in Lyon. It's basically next to INTERPOL.

Mr. WICKER. In the most celebrated case that I know of, the case of Bill Browder, how is it that there's just not a flag anytime the Russian Federation submits a Red Notice on Bill Browder, that this is probably bogus and it's probably just a rehashing of what's already been determined to be invalid? Who wants to try that?

Mr. MIN. If I can just jump in there as well, I think the main issue about Mr. Browder's case is that these are diffusions. And for the reasons that we mentioned earlier, diffusions are notoriously

difficult to check for INTERPOL, because the information that forms the basis of diffusions are sent out directly between states. The real problem, I think, is that we can always delete Red Notices and diffusions after they've been disseminated through the Commission for the Control of INTERPOL's Files, or whatever other means.

But the frank reality is that in the policing context, I'd be very surprised if data was ever really deleted. The data that's being circulated via and on INTERPOL's systems is quite often transferred into domestic databases. And INTERPOL might, for reasons that a Red Notice or a diffusion is incompliant with its rules, delete that from their databases and ask other countries to delete copies of that information from their domestic databases, but there's a big problem with compliance.

And it was quite telling last year, I think, a question was asked in the German Bundestag about how often the German police complied with INTERPOL's requests to delete Red Notices and diffusions. The response that came back was that they delete the vast majority, but they don't delete all of them. So given that Germany's been particularly vocal about misuse of INTERPOL, we found that quite interesting and surprising.

Mr. WICKER. Let me just ask this—and unfortunately they tell me there's a car waiting for me outside at 11:30 to take me to another meeting, so we're scheduled way too tight for this important matter, and I apologize for that—is there anything in the constitution or bylaws or procedures of INTERPOL to stop resubmitting these Notices and diffusions? Is there any sanctions or penalties?

Yes, ma'am, Ms. Grossman?

Ms. GROSSMAN. If I may, Senator Wicker, there is a possibility within INTERPOL to make preventative requests. And we have done that in cases where there are blatant human rights abuses. And also I'd like to point out that in the Bill Browder case INTERPOL did stop issuing diffusions and Red Notices against him in recognition of the illegitimacy of those requests from Russia. So there are some mechanisms where one is able to make this kind of a request. The issue is too that INTERPOL has very stringent rules on admissibility. It's an organization that is built to respond to the requests of member states for law enforcement purposes. So when you as an individual are arguing that you are a victim of human rights abuses, you have to show that your request is admissible. And you have to know that, in fact, you are included on INTERPOL databases already. So there again, while there are avenues for redress, they are difficult to access.

Mr. MIN. On the point about how they're able to prevent repeated cases of abuse on exactly the same case, we haven't had a very convincing, in my opinion, answer from INTERPOL as to how they do that. We've been given assurance that once a Red Notice, for example, has been found to be incompliant with its rules, there are systems to make sure that repeat attempts of Red Notice requests are refused because, again, there's a question about diffusions, which are not circulated in the same manner.

But we have seen at least one example of that system not working. And that was about 2, 3 years ago, where we had one individual who claimed asylum from a Latin American country. And

once she did that, and she got her refugee status, she contacted INTERPOL immediately to say: 'I'm very concerned that I might get a Red Notice against me. This is proof of my refugee status. Could you please block any attempts at getting a Red Notice?' That didn't work, and she was arrested on the basis of a Red Notice in another Latin American country within a matter of months.

So there is a big question about how efficiently that system works. In terms of what can be done in terms of repeat offenders—as in, the repeat offending countries. It's well within INTERPOL's functions to restrict access to its databases to countries that are repeat offenders. My understanding is that that doesn't happen that often. We don't know of any kind of specific examples of that being done. And this is partly to do with them being a membership organization and being sensitive to the opinions of other member countries, perhaps.

Mr. WICKER. Mr. Cooley—really I'm going to be chastised if I don't make this next meeting—Mr. Schenkkan made specific recommendations. Is he absolutely right-on on all of them? Do you support wholeheartedly what he had to say, or would you make any modifications or offer some advice to us? And then I'll ask the other two also.

Mr. COOLEY. No, on the specific recommendations I would wholeheartedly support those.

My final comment would be a general one, which is many of these organizations that the commission deals with on the international, regional front, the overall change in the international context has also changed authoritarians' calculations. There's a certain sense that there's a good-faith nature to the protections that are in INTERPOL that we're not going to abuse them for these sort of constitutional reasons. Once that good faith is no longer there, then there are all sorts of manners in which these safeguards and protections within the DNA of these organizations can be twisted and manipulated. So that's just my word of warning.

Mr. WICKER. Mr. Min? Were those good recommendations?

Mr. MIN. Mr. Schenkkan's recommendations?

Mr. WICKER. Yes.

Mr. MIN. I do agree with Mr. Schenkkan's recommendations, yes.

Mr. WICKER. Okay.

Ms. GROSSMAN. I agree with them as well. I would like to point out just one addition to your question about how much the United States contributes. And what I cited to you were the statutory contributions. It also makes additional contributions on a per project basis to INTERPOL's trust fund and special account. So I do have statistics from 2017. The U.S. Department of State supported projects through INTERPOL with a total value of 2.6 million euros. And then there are other projects, apparently memoranda of understanding with the FBI, which result in payments of unspecified amounts to INTERPOL. So we're looking at at least 13 million euros in U.S. statutory and project contributions in 2017.

So the United States has the possibility to influence what happens in this organization and to advocate that the organization utilize its best efforts to apply the rules that it has in the constitution and in its subsidiary rules.

Mr. WICKER. And I hope this hearing provides a bit of a push, among others, that need to be made in that regard. Your testimony is that different organs of the U.S. Government view these Notices and diffusions different?

Ms. GROSSMAN. Yes, Senator. My testimony is centered around the fact that the U.S. Department of Justice has a very clear policy that Red Notices do not meet our minimum standards for arrest under our Constitution. Nevertheless, that message isn't getting across to decisionmakers in our immigration system who are using Red Notices to target foreign nationals in the United States. Many times these individuals are fleeing persecution in their home countries.

Mr. WICKER. Good information to have and something for us to follow up on.

Let me just observe that it's—this hearing is about a broad tool—about a broad subject. And that's transnational repression. My questions have centered in on INTERPOL, because it's something that's so visible and so egregious, that we have so many examples of. It seems that we come down to the real problem here and that is that there are a large number of members of INTERPOL, including some of our allies, who are frankly international scofflaws. And to the extent that we have to defer to these governments who take at face value what they send to us, that has become a real problem, and a real abuse. I, for one, am determined to be part of a solution to getting to the bottom of this and reversing that.

Thank you very much for being here. Thanks to all of you for attending and for, I hope, thousands and thousands of people who are participating with us on livestream today.

Thank you and, unfortunately, this hearing is adjourned.

[Whereupon, at 11:31 a.m., the hearing ended.]

A P P E N D I X

PREPARED STATEMENTS

PREPARED STATEMENT OF HON. ROGER F. WICKER, CO-CHAIRMAN,
COMMISSION ON SECURITY AND COOPERATION IN EUROPE

This hearing of the Helsinki Commission will come to order.

Good morning. Welcome to this hearing on “Tools of Transnational Repression: How Autocrats Punish Dissent Overseas.”

We have assembled an expert panel to probe how autocratic states project repressive force beyond their borders to silence dissidents, human rights defenders, journalists, and other perceived enemies overseas.

Autocrats today have access to a range of tools to extend their reach by thousands of miles, sometimes in fractions of a second. Some schemes rely on 21st century technologies to hack, surveil, and intimidate targets, while others use blunter tactics such as extortion, abduction, and assassination.

This practice of transnational repression constitutes a wholesale assault on the rule of law internationally. It requires the attention of all democratic nations. This Commission is particularly concerned by the politically-motivated abuse of INTERPOL by autocratic states wishing to harass and detain their opponents overseas, often in the hopes of trying them on bogus criminal charges.

INTERPOL is a legitimate instrument for international law enforcement cooperation, linking the law enforcement arms of its 194 member countries through a global communications and database network. The United States relies on INTERPOL systems daily to bring criminals to justice and foil threats to global security. As with the UN, however, INTERPOL’s broad membership leaves it open to manipulation by authoritarians.

Repressive regimes have seized on INTERPOL’s potent tools to harass and detain their perceived enemies anywhere in the world. INTERPOL Red Notices and Diffusions are among the most commonly abused instruments, as they constitute international requests for detention and extradition.

The Helsinki Commission regularly receives reports from dissidents, journalists, and human rights defenders across the OSCE region who are the targets of INTERPOL Notices or Diffusions issued by autocratic states on trumped up charges.

Perhaps the most prominent case is that of outspoken Kremlin critic Bill Browder. After his lawyer Sergei Magnitsky was murdered by Russian thugs for exposing state-sponsored corruption, Mr. Browder emerged as a champion of transparency and accountability for President Putin’s misrule. In response, the Kremlin embarked on a more than decade-long campaign to silence him.

To date, Russia has issued at least eight politically-motivated Diffusions against Mr. Browder, and yet—to our knowledge—INTERPOL has not penalized Russia in any way to punish or deter this abuse. To the contrary, Russia felt comfortable enough in its position in the organization to have proposed a leading candidate

for the Presidency of INTERPOL last fall. At the time, I joined with fellow Helsinki Commissioners Shaheen and Rubio and Senator Coons to denounce the Russian candidacy, which was ultimately defeated after an outcry from the U.S. and our European allies.

Of course, Mr. Browder is one victim—and Russia one abuser—among many. Ahead of this hearing, the Helsinki Commission received statements from individuals from China, Turkey, Uzbekistan, and Tajikistan who have been targeted by authorities using INTERPOL—without objection, I request that these be entered into the record of this hearing.

The Helsinki Commission is taking action to address these assaults on the rule of law. Chairman Alcee Hastings and I are preparing to introduce bipartisan legislation in the House and Senate to tackle the abuse of INTERPOL by autocrats. The Transnational Repression Accountability and Prevention Act will lay out priorities for U.S. engagement with INTERPOL, encourages executive branch agencies to improve processes for responding to politically-motivated INTERPOL notices, and codifies strict limits on how INTERPOL communications can be used by U.S. authorities against individuals in our country. In addition, this legislation will require the State Department to report on trends in transnational repression in its annual human rights report.

The U.S. has long been a champion of reform and good governance within INTERPOL. Since 2016, INTERPOL—with U.S. support—has enhanced vetting of Notices and Diffusions, created special protections for refugees, instituted greater transparency regarding its adjudication of complaints from victims, made rulings on complaints binding, and begun reviewing thousands of long-standing Notices and Diffusions. But more remains to be done. The organization is in dire need of greater transparency, and countries should face consequences—including being denied leadership positions—for repeated abuses.

Our witnesses this morning will provide expert testimony on the scale of this problem and policy recommendations to address it. Before I introduce them, however, I would like to recognize other commissioners for opening statements.

Now to our witnesses:

First, we will hear from Alexander Cooley, a political science professor at Barnard College and director of Columbia University's Harriman Institute. Professor Cooley wrote the book on extra-territorial authoritarian practices: *Dictators without Borders: Power and Money in Central Asia*, which was co-authored with John Heathershaw, and published in 2017. Drawing on his scholarly work, Professor Cooley will explain the origins, scope, and trajectory of transnational repression.

Next, Nate Schenckan will provide concrete examples of these authoritarian practices based on his work as director of special research at Freedom House.

Our third witness, Bruno Min, is senior legal and policy advisor at Fair Trials, an international non-profit that monitors criminal justice standards around the world. Mr. Min will present his experience leading Fair Trials' advocacy relating to INTERPOL and other examples of cross-border justice and discrimination.

Finally, we will hear from Sandra A. Grossman, an immigration lawyer and founding partner of Grossman Young & Hammond, where she has honed her expertise in complex and sensitive immigration issues, often involving clients targeted by politically-motivated INTERPOL communications.

I will refer you to the materials in your folders for our witnesses' full bios. I look forward to their testimonies and hereby invite Professor Cooley to begin his testimony.

PREPARED STATEMENT OF HON. ALCEE L. HASTINGS, CHAIRMAN,
COMMISSION ON SECURITY AND COOPERATION IN EUROPE

The TRAP Act is aimed in part at addressing the plight of individuals such as Russian asylum seeker Alexey Kharis, whose harrowing tale of mistreatment at the hands of Russian and U.S. authorities has been reported in *The Atlantic* and *New York Times*. Mr. Kharis submitted testimony to the Helsinki Commission for this hearing, which I request be included in the record, without objection.

A businessman and father of two, Mr. Kharis relocated to the U.S. five years ago after coming under government pressure in Russia to testify against a whistleblower who had revealed government corruption in a business venture. Fleeing government threats and politically-motivated charges of financial crimes in Vladivostok, Mr. Kharis landed in California on a valid visa. Despite his attempts to clear his name in Russia, authorities there persisted and ultimately issued an INTERPOL Red Notice seeking his removal from the United States to face trial.

In 2016, Mr. Kharis applied for asylum, citing in part the Russian Red Notice. Unbeknownst to him, however, U.S. immigration authorities had already used that very Red Notice as justification to revoke his visa. When Mr. Kharis appeared in person to receive his asylum decision the following year, ICE officers instead arrested him and placed him in removal proceedings that risked sending him back to face the injustice of Russia's legal system.

Mr. Kharis spent the next 15 months in detention pleading his innocence. In his testimony to the Commission, Mr. Kharis recounts: "I ended up having to take my case to a federal court, which ordered the immigration judge to consider evidence that 'Russia is a frequent abuser of INTERPOL's lax procedural checks to obtaining a Red Notice,' and that the Department of Justice does not consider INTERPOL Red Notices, on their own, as a basis for arrest." Mr. Kharis was finally released in November 2018 and earlier this year had his asylum denial overturned. Nevertheless, he is required to wear an ankle monitor and is still awaiting a final asylum decision.

Mr. Kharis' experience demonstrates the need for Congressional action to tackle autocratic abuse of INTERPOL. We cannot allow autocratic regimes to manipulate the U.S. justice system to carry out reprisals against their political opponents. Additionally, repressive regimes must face real costs for abusing legitimate international law enforcement mechanisms, such as INTERPOL. INTERPOL abuse will not stop until it is punished.

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PREPARED STATEMENT OF HON. BENJAMIN L. CARDIN, RANKING
MEMBER, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

I would like to thank Chairman Hastings and Co-Chairman Wicker for their leadership of the Helsinki Commission and for convening this hearing on a topic of tremendous importance to all of us who recognize the rule of law as a pillar of free, peaceful, and just democratic societies.

While so many Americans enjoy the freedom to speak and write freely—and critically—about their government, elsewhere in the world millions live in conditions under which voicing any public opposition to political forces is a life-threatening activity.

Autocrats often go to great lengths to stifle dissent. They shut down access to the internet and communication channels, they ban free and independent media, employ propaganda to prop up their cult of personality and nationalism, and to silence dissenting voices.

They often scapegoat and demonize vulnerable minorities, preying on the fears of the masses to build popular support. Autocrats also weaken the checks and balances on government power needed to preserve human rights and the rule of law, such as an independent judiciary. They often crack down on civil society groups and NGOs by limiting their ability to operate in their country.

As evidenced from the horrific crisis in Venezuela, to the targeting of indigenous environmental advocate Berta Caceras in Honduras, to the crackdown and deadly targeting of journalists from Brazil—to the Philippines—to India—to the Gambia, and indeed across the world, autocratic leaders will stop at nothing perpetuating their own power by any means necessary.

Nor do autocrats confine intimidation and violence against dissenters to their countries' borders; more and more we see regimes abusing the tools of international diplomacy and law enforcement to silence those who dare to speak against them.

Next month we will mark the one-year anniversary of the assassination of Saudi journalist Jamal Khashoggi at the Saudi Consulate in Istanbul. This politically motivated killing by a team of Saudi regime henchmen underscores the motivation that authoritarian governments have to silence their critics anywhere in the world and the difficulty we face in bringing the perpetrators and masterminds of such crimes to justice.

Khashoggi's killing revealed the confidence of senior Saudi officials who felt they could export Saudi-style repression to a European nation with impunity.

In response to Khashoggi's murder, I have called for steps to hold the regime accountable. Over the past year, I pressed the Trump Administration to apply Global Magnitsky sanctions to the masterminds of Khashoggi's murder—not just its implementers. Although I welcomed the sanctioning of 17 conspirators last year, I remain dismayed by the Administration's refusal to respond—as required by law—to Congressional inquiries concerning the complicity of senior Saudi officials, including Crown Prince Muhammad bin Salman.

While Turkey has led international calls for Saudi accountability in the case of Jamal Khashoggi, President Erdoğan has undertaken his own campaign against his political opponents overseas.

Just last month, Turkish officials confirmed that its intelligence forces abducted a suspected follower of Turkish religious leader Fethullah Gülen from Malaysia and rendered him to Turkey to face terrorism charges. Our witness this morning, Nate Schenckan, has tracked this phenomenon closely, finding open source evidence of such abductions in at least three countries.

Describing the broader scale of Turkey's global dragnet in *Foreign Affairs* last year, Mr. Schenckan wrote that "In at least 46 countries across four continents, Turkey has pursued an aggressive policy to silence its perceived enemies and has allegedly used INTERPOL as a political tool to target its opponents."

Ahead of today's hearing, the Helsinki Commission received a harrowing statement from a victim of Turkey's abuse of INTERPOL: veteran Turkish journalist Ilhan Tanir. Mr. Chairman, I request that Mr. Tanir's statement be entered in the record.

I echo Co-Chairman Wicker's concerns about Russia's repeated targeting of Bill Browder using INTERPOL Diffusions, most recently earlier this year. How many times will Russia be allowed to drag Mr. Browder into a fight to clear his name?

Accountability and deterrence are our most potent tools in resisting the spread of authoritarian lawlessness across borders. This is why I led the fight for the original Magnitsky Act and championed its worldwide expansion under Global Magnitsky.

This November 16th marks the 10th anniversary of the suspicious death of Sergei Magnitsky in a Moscow prison following 11 months in custody. Magnitsky, a tax attorney, drew attention to large-scale theft from the Russian state, and was jailed as a result. As Putin said dismissively of his death at the time: "Must we make a story out of each and every case?" To those who suffer under repressive efforts to silence their voices, we must. The law I sponsored bearing Magnitsky's name was passed in 2012, and its global counterpart was enacted in 2016. Since the ratification of these laws, we have made 113 designations worldwide based on allegations of corruption and gross human rights abuses. I look forward to the testimony of our witnesses about the scope of transnational repression and recommendations for how to improve U.S. policy responses to this growing threat.

PREPARED STATEMENT OF ALEXANDER COOLEY, DIRECTOR OF THE HARRIMAN INSTITUTE FOR THE STUDY OF RUSSIA, EURASIA, AND EASTERN EUROPE, COLUMBIA UNIVERSITY AND CLAIRE TOW PROFESSOR OF POLITICAL SCIENCE, BARNARD COLLEGE

Chairman Hastings, Co-Chairman Wicker and Members of the Commission,

Thank you for inviting me to testify about the topic of transnational repression as part of the hearing on reforming INTERPOL. I request that my written testimony be admitted into the record.

My aim today is to explain why autocrats are increasingly projecting their reach overseas and highlight how INTERPOL has become a weapon in their efforts to target exiled political opponents. The TRAP Act is a critical tool to safeguard human rights in the international policing organization and to provide principled leadership that counters alarming transnational trends.

What is Transnational Repression?

By “transnational repression” I refer to the targeting of co-national political opponents, civil society advocates, non-pliant business community members and journalists who reside abroad by governments and their internal security and intelligence services.

These extraterritorial acts of repression include, but may not be limited to:

- Coercive acts against political exiles by security services and their agents, including assassination attempts, disappearances, forced abductions and renditions back to the home country.
- Active monitoring, infiltration and disruption of diaspora and exile communities abroad.
- Harassment and intimidation of an exiled political opponent’s family members in the home state in order to deter political activities abroad.
- Restricting overseas travel and professional activities.
- Cooperation between the security services of a host and sending country to deny exiles due process and/or bypass legal proceedings that would determine eligibility for political asylum.

Transnational repression is certainly not new. Dictators across the globe historically have sought to extend their reach by targeting political opponents abroad—for example, following the 1917 revolution, Soviet security services were tasked with hunting down political exiles and emigres, including the operation, ordered by Stalin, that in 1940 assassinated Leon Trotsky in Mexico City.¹ Cooperation among authoritarian security services also has precedent, most notably the Operation Condor network under which six Latin American dictatorships in the 1970’s targeted a common list of communists and political opponents throughout the continent.²

¹ Andrei Soldatov and Irina Borogan, *The Compatriots: The Brutal and Chaotic History of Russia’s Exiles: Emigres, and Agents Abroad* (Public Affairs, 2019).

² Patrice J. McSherry, *Predatory States: Operation Condor and Covert War in Latin America* (Rowman & Littlefield Publishers, 2012).

But the rise of this new wave of transnational repression—through the 2000’s and 2010’s—within the era of globalization does have some distinctive drivers and new dynamics.

Characteristics of Today’s Transnational Repression: Exiles, Diasporas and IT

First, transnational repression is an outcome of the recent global backlash against democratization.³ The democratic optimism of the 1990’s and early 2000’s, when it appeared that democratic norms and practices were spreading irreversibly worldwide, has given way to the emergence of a more aggressive and savvy breed of autocrat. The so-called Color Revolutions of the mid-2000’s in Eurasia and the Arab Spring in the Middle East have prompted authoritarians to reframe democratic opponents, civil society activists and even journalists as security threats intent on destabilizing and disrupting their autocratic rule. As political opponents flee these crackdowns, autocrats now aggressively pursue these exiles overseas in an attempt to deny them safe spaces from which they can organize, broadcast oppositional media and question their home government’s legitimacy. Emboldened autocrats have taken advantage of overly broad counterterrorism and counterextremism measures to rebrand exiled political opponents as extremists, while dozens of countries have introduced new restrictions on the scope of activities and the foreign funding sources of civil society organizations,⁴ such as Russia’s “Foreign Agents” (2012) and “Undesirable Organizations” (2015) laws.⁵

Second, globalization has created new diaspora communities of economic migrants. For example, since the early 2000’s the authoritarian post-Soviet Central Asian states have sent millions of migrants to Russia. Though at first they may not be politically active in the affairs of their home states, over time and as they vie for protections, social rights and/or become radicalized, these communities are perceived as threatening by authoritarian regimes. Cheap international transportation links and low-cost communications technologies allow for regular contacts and the transmission of information, ideas and values between economic diaspora and their home countries. Uzbekistan’s former strongman President Islam Karimov, fearing their radicalization, viewed these diasporas with great suspicion, even as his security services cooperated with Russian counterparts to monitor them. Home countries may also actively exploit and intimidate their diasporas to ensure political loyalty and cultivate a network of embedded informants. For example, in Africa, the Eritrean government, with a large diaspora population in Europe and North America, has aggressively collected a

³ Larry Diamond, Marc F. Plattner, and Christopher Walker, eds. *Authoritarianism goes Global: The Challenge to Democracy* (Johns Hopkins University Press, 2016).

⁴ International Center for Non-Profit Law, “Civic Freedom Monitor: Russia.” At: <http://www.icnl.org/research/monitor/russia.html>

⁵ Darin Christensen and Jeremy M. Weinstein. “Defunding Dissent: Restrictions on Aid to NGOs.” *Journal of Democracy* 24, no. 2 (2013): 77-91.

so-called “diaspora tax,” using the threat of withholding legal services as leverage in their collection efforts.⁶

Third, the rise of new digital and information technologies—including social media—offers new tools to the security services of authoritarians to monitor, survey and infiltrate beyond borders. Historically, information technologies were viewed as inherent facilitators of free speech and activism across borders. This assumption was reinforced by the important role played by social media in networking and organizing activist street protests during the Arab Spring of 2011–2012. However, authoritarians have responded by extending their control of the information space beyond their territorial borders and into transnational spaces used for anti-regime activities. Sociologist Dana Moss has shown how the Syrian government used new technological tools to survey the online communications and social media profiles of activist exiles in the United States and United Kingdom, disrupt and damage online platforms and anti-government websites, and intimidate outspoken regime critics with electronic messages and the collection of their personal information.⁷

Authoritarian Cooperation, Learning and the Breakdown of International Democratic Norms

New transnational repression is also taking place more openly in an international environment where liberal democratic norms are weakening. Autocrats are actively cooperating with one another and learning how to successfully repurpose international institutions to avoid international scrutiny and accountability for human rights abuses.

Some of this authoritarian cooperation has been formalized within international and regional organizations. For example, the Shanghai Cooperation Organization (SCO)—comprised of China, Russia, Kazakhstan, Kyrgyzstan, Tajikistan, Uzbekistan and, since 2017, India and Pakistan—maintains a common blacklist of individuals and organization under the auspices of its Regional Anti-Terrorism Structure (RATS). Though the list is officially meant to target the “three evils” of extremism, terrorism, and separatism, in practice human rights organizations have noted that member country regimes use the SCO blacklist to deny each other’s political exiles and regime opponents regional safe harbor and asylum.⁸ In just one decade, the list of blacklisted individuals and organizations has exploded—from 15 organizations and 400 individuals in 2006, to 42 organizations and 1,100 in 2010, to 69 organizations and 2,500 individuals 2016—while courts in member countries—such as Kazakhstan—have cited the SCO Treaty as the legal basis for extraditing political asylum-seekers and exiles back to countries

⁶ Nicole Hirt, and Abdulkader Mohammad. “By Way of Patriotism, Coercion, or Instrumentalization: How the Eritrean Regime Makes Use of the Diaspora to Stabilize its Rule.” *Globalizations* 15, no. 2 (2018): 232-247.

⁷ Dana Moss, “The Ties that Bind: Internet Communication Technologies, Networked Authoritarianism, and ‘Voice’ in the Syrian Diaspora.” *Globalizations* 15, no. 2 (2018): 265-282.

⁸ International Federation for Human Rights, “The Shanghai Cooperation Organization: A Vehicle for Human Rights Violations.” Paris: 2013. At: https://www.fidh.org/IMG/pdf/sco_report.pdf; and Human Rights in China, “Counter-Terrorism and Human Rights: The Impact of the Shanghai Cooperation Organization.” New York, March 2011. At: <https://www.hrichina.org/en/publications/hric-report/counter-terrorism-and-human-rights-impact-shanghai-cooperation-organization>

that routinely practice torture.⁹ A former U.N. special rapporteur on Counterterrorism and Human Rights publicly voiced concern about the organization's overly broad definition of the "three evils," its practice of unconditional extradition, and its opaque data-sharing and classification practices.¹⁰

Authoritarians and their security services are also informally co-operating and emulating one another's successful repressive tactics. Over the last few years, China has pressured governments as far afield as Egypt, Cambodia, Kenya and Thailand to deport asylum-seeking Uighurs. At the same time, as part of an aggressive global anti-corruption campaign, China has sent operatives overseas to harass economic fugitives, while pressuring their family members back in China to persuade them to return.¹¹ As you will hear in more detail, Turkey has conducted overseas security operations against regime opponents in Kosovo and attempted, with mixed success, to leverage its economic and cultural ties to the Central Asian states to demand the closure of Gülen-affiliated schools and the extradition of anti-regime critics. And even the usually reliably democratic country of Georgia appears to have succumbed to pressure from its more powerful neighbor Azerbaijan by allowing, and even assisting in, the abduction of journalists and dissidents from within its territory.¹²

The watering down of international human rights protections and practice of granting political asylum is part of a steady erosion of clear standards of permissible international conduct within the OSCE area. Authoritarian global media outlets like RT and CGTN compete with Western counterparts to frame news coverage. Government-funded non-governmental organizations (GONGOs) drown out the critical voices of actual democratic watchdogs and civil society monitors. Regime-friendly election monitors from the SCO and the Commonwealth of Independent States (CIS) praise obviously flawed elections while diverting attention from the assessments of more critical international observers. We are witnessing a similar erosion of international human rights safeguards as authoritarians have become increasingly adept at rebranding even the most vulnerable opponents abroad as security threats. They target the motives and credibility of the messengers, especially international journalist and activists, who report and document human rights abuses. And they hire Western public relations firms, law firms and lobbyists in an attempt to whitewash their autocratic reputations.

Transnational Repression and INTERPOL Reform

In these renewed efforts to go after political opponents in exile, INTERPOL has become both an arena for countries to contest the

⁹ Alexander Cooley and Matthew Schaaf, "Grounding the Backlash: Regional Security Treaties, Counternorms, and Human Rights in Eurasia." In Stephen Hopgood, Jack Snyder and Leslie Vinjamuri, eds. *Human Rights Futures* (Cambridge University Press, 2017): 175-78.

¹⁰ Martin Scheinin, Testimony to the Tom Lantos Human Rights Commission of the United States House of Representatives. 15 April 2011. At: <https://humanrightscommission.house.gov/sites/humanrightscommission.house.gov/files/documents/Testimony%20Scheinin%20120411.pdf>

¹¹ Mark Mazzetti and Dan Levin, "Obama Administration Warns Beijing about Covert Agents Operating in the United States" *New York Times* August 16, 2015.

¹² Freedom Now, "Repression beyond Borders: Exiled Azerbaijanis in Georgia." Brussels, Washington D.C. and Tbilisi, 2017. Available at: <http://www.freedom-now.org/wp-content/uploads/2017/09/Repression-beyond-Borders-Exiled-Azerbaijanis-in-Georgia.pdf>

politicization of international law enforcement, as well as a weapon wielded by autocrats against their political enemies abroad.

INTERPOL actions or “alerts,” especially the issuing of “Red Notices” and diffusions, have been at the center of efforts by autocrats to misuse the international police organization. Red Notices refer to the electronic warnings issued by INTERPOL’s General Secretariat—at the request of a member government—to ascertain the location of a wanted criminal for the purposes of detaining and extraditing them to stand trial in the home country. “Diffusions” are the requests for international law enforcement cooperation sent by member states to all or a selected group of INTERPOL members to assist in the restriction, detention or arrest of an individual who has been criminally convicted or accused of a crime. According to INTERPOL’s own constitution, international police cooperation is promoted “in the spirit of the Universal Declaration of Human Rights” (Article 2), while members are strictly prohibited by Article 3 from undertaking “any intervention or activities of a political, military, religious or racial character.” The latter is also known as the “neutrality clause” and meant to safeguard the alert system from being abused for political purposes.

In practice, however, authoritarian governments have increasingly violated the neutrality rule by designating exiled political opponents as wanted criminals or terrorists. Over the last two decades, INTERPOL has seen an explosive growth in alerts, increasing almost tenfold from 1,418 in 2001 to 13,561 in 2018—for a current total of over 58,000 active notices worldwide (about 7,000 of which are public).¹³ Improvements in informational technology that have eased listing have contributed to this growth, but authoritarian governments have also found that taking advantage of the alert system, as Steve Swerdlow of Human Rights Watch has noted, is a “low-cost” way to export repression and extend the geography of their autocratic reach.¹⁴

In general terms, the most abusive governments of the INTERPOL system are autocracies that routinely engage in transnational repression. Some attention has been given to the high volume of alerts issued by the governments of Russia and China, but autocrats in smaller countries also appear to be abusing the organization. For example, Political Scientist Edward Lemon’s research has shown that the small Central Asian State of Tajikistan has issued 2,528 Red Notices, including targeting the leadership and members of the country’s political opposition parties, including Muhiddin Kabiri, the leader of the Islamic Party of Tajikistan which once shared power with the government but was subsequently banned in 2015.¹⁵ The Central Asian States routinely place Red Notices on exiled regime insiders, representatives of opposition parties, and prominent civil society leaders and regime critics.¹⁶

¹³ 2001 from Amy Mackinnon, “The Scourge of the Red Notice,” *Foreign Policy* December 3, 2018. At: <https://foreignpolicy.com/2018/12/03/the-scurge-of-the-red-notice-interpol-uae-russia-china/>; 2018 data and current cumulative data from INTERPOL website. INTERPOL, “Red Notices.” At: <https://www.interpol.int/en/How-we-work/Notices/Red-Notices>

¹⁴ Quoted in Mackinnon, “The Scourge of the Red Notice.”

¹⁵ Edward Lemon, “Weaponizing INTERPOL,” *Journal of Democracy* 30, no. 2 (2019): 15-29.

¹⁶ Alexander Cooley and John Heathershaw, *Dictators Without Borders: Power and Money in Central Asia* (Yale University Press, 2017).

Importantly, the repressive effect of INTERPOL abuse does not just hinge on whether a political opponent is successfully extradited. In most democracies, properly functioning judicial systems tend to, eventually, weed out the obvious politically motivated extradition requests. However these alerts still have devastating consequences on targeted individuals: they disrupt their professional and personal lives; they can prevent them from traveling or lead to unexpected detentions in third countries; they incur costly legal bills and consume time as listed individuals await their court hearings; and they make it difficult for listed individuals to conduct banking and other financial transactions. Moreover, governments use the very act of listing to tarnish the reputations of exiled targets in the media and public sphere, intimidate their family members still residing in the home country, and confiscate their properties and businesses.¹⁷ Nadejda Atayeva, now a human rights defender with refugee status in France, remained on the Red Notice list for over 15 years—after she was accused by the government of Uzbekistan of an economic crime along with other family members and later convicted in absentia. This greatly hampered her advocacy work and travel as she assisted hundreds of Uzbeks with their refugee requests. She finally managed to have her designation removed after a protracted legal process.

Journalists and advocacy organizations, most notably Fair Trials, have spotlighted many of INTERPOL's abuses,¹⁸ and the organization has introduced some reforms since 2015, but the organization's continued lack of transparency makes it difficult to assess the progress of its reform efforts and hold its leadership to account. The TRAP Act would provide much-needed basic data about which member states issue notices and in what frequency. It would shed light on how INTERPOL's own independent oversight boards—the Commission for the Control of INTERPOL's Files (CCF)—adjudicates complaints of abuses and which member states are the most frequent violators. This will in turn allow other member governments, activists and the media to identify and track obvious abuses of the international policing network. Finally, it will help ensure that politically motivated abuse of INTERPOL is kept in check and deter other authoritarians from misusing the organization.

Although it may not be realistic for the United States, or any country, to check all of the malevolent transnational activities of autocrats and their foreign security services, the TRAP Act would send a powerful signal about the importance of maintaining clear international standards against the politicization of our most important international organizations. Autocracies will not have a free hand to refashion international organizations and redefine basic human rights standards and critical political protections.

Thank you for your attention.

¹⁷ Cooley and Heathershaw, *Dictators Without Borders*, pp. 187-219.

¹⁸ Fair Trials International, "Strengthening Respect for Human Rights, Strengthening INTERPOL," November 2013. At: www.fairtrials.org/wp-content/uploads/Strengthening-respect-for-human-rights-strengthening-INTERPOL4.pdf

PREPARED STATEMENT OF NATE SCHENKKAN, DIRECTOR FOR
SPECIAL RESEARCH, FREEDOM HOUSE

Introduction

Chairman Hastings, Co-Chairman Wicker, and members of the commission, it is an honor to testify before you today. I ask that my full written testimony be admitted into the record.

Transnational repression, or the persecution of exiles by their origin state, is a practice that shapes politics and activism around the world. By targeting exiles, governments seek to extend their control over their citizens even when they leave their territory. As technology and travel have made it easier for people to leave their countries yet remain in contact with their homelands, authoritarian states in particular are treating exiles as still subject to their rule even once they have left their territorial jurisdiction.

And it works. By raising the cost of even the most mundane political activity like commenting on a Facebook post, transnational repression changes how and even whether citizens engage in activities with potential political meaning. This shuts down another pathway for democratic change—and that is why states use it.

The Turkish case

I began focusing on this issue in my work at Freedom House after the July 2016 coup attempt in Turkey. In response to the coup attempt, the Turkish government embarked on a global campaign against those it held responsible, principally members of the Gülen movement. Using an expansive guilt by association approach, Turkey designated anyone associated with the movement as part of a terrorist organization, and it aggressively pursued them around the world. Turkey uploaded tens of thousands of requests for detention into INTERPOL. It canceled the passports of thousands of people who were outside the country, refused to renew the passports of others, and refused to issue passports for some Turkish children born outside the country in order to try and get their parents to return to Turkey where they could be arrested.

Most strikingly, Turkey physically brought back 104 Turkish citizens from 21 countries, according to its own official statements. At least 30 of those were kidnappings, with citizens taken from abroad without any legal process whatsoever—in some cases, people pulled off the streets of foreign cities and bundled onto private jets linked to Turkey's intelligence agency. Dozens of others, including many registered asylum-seekers, were unlawfully deported to Turkey. In one well documented case, the kidnapping of six Turkish citizens from Kosovo, one of the men Turkey took was the wrong person—a different Turkish citizen with a similar name. The wrong man remains imprisoned in Turkey anyway.

The Turkish example since 2016 is striking and useful to study for several reasons: because it is so concentrated in time, because it is so aggressive, and because it uses so many different tactics. But transnational repression is universal. Freedom House has just embarked on a new study of transnational repression that will document its scope and scale around the world since 2014. Even as data collection is far from complete, already we have identified at least 208 cases of violent transnational repression in the last 7

years targeting exiles from 21 countries. And we know there are hundreds more waiting to be identified.

Documented cases range from Saudi Arabia's murder of Jamal Khashoggi in Istanbul, to Azerbaijan's kidnapping of journalist Afgan Muxtarli from Georgia, to the disappearance of Thai activists from Laos, to the mass detention and deportation of Uighurs, Tibetans and Falun Gong practitioners to China from a range of countries. Although our focus today is on the OSCE region, we should not overlook the fact that this is a truly global phenomenon—a global purge, if you will.

Transnational repression occurs in all parts of the world and affects activists and even apolitical exiles everywhere they live, including the United States. Just recently the Uighur Human Rights Project has published a new report on intimidation and surveillance of the Uighur diaspora in the United States. This is an issue that affects citizens and residents in our country as well.

Recommendations

The political scientist Yossi Shain in his seminal book *The Frontier of Loyalty* laid out a three-part test for why states would engage in persecution of exiles. The three parts are:

- 1) A regime's **perception of the threat** posed by exiles
- 2) A regime's **available options and skills** for suppression through coercion
- 3) A regime's **cost-benefit calculations** for using coercion

Authoritarian regimes fundamentally see their citizens as subjects to be ruled instead of voices to be heeded: for this reason, any kind of political engagement is taken as a threat. There is nothing we can do to change that first part of the equation. **To reduce transnational repression, then, the United States needs to focus on the second and third parts:**

- 1. First, it needs to **blunt the tools of transnational repression**, or in Shain's vocabulary, weaken the "available options and skills" that a regime has for engaging in transnational repression. There are several ways to do this: As other panelists will describe, INTERPOL has become a tool of transnational repression. The currently proposed **Transnational Repression Accountability and Prevention (TRAP) Act** would help reduce the possibility of **INTERPOL abuse**. This is a welcome piece of legislation and I'm sure we will discuss in the panel this and other ways to counter INTERPOL abuse in the United States.

Another tool of transnational repression is commercially available spyware, which has been deployed against exiles by countries like Saudi Arabia and China. The U.N. Special Rapporteur for freedom of expression David Kaye has called for tighter regulation of surveillance exports and a full moratorium on the export of spyware. The new Draft U.S. Guidance for the Export of Surveillance Technology prepared by the Bureau of Democracy, Human Rights and Labor is a welcome step in that it places human rights due diligence at the center of the guidance. Now comes the work to translate the guidelines into **mandatory regulations governing export of spyware, including those that carry pen-**

alties for violations. We cannot rely on industry to self-regulate in this area.

- 2. Second, the US needs to reduce the benefit of engaging in transnational repression:

The best way to do this is by **supporting targeted diasporas**, especially in the United States. There are two current pieces of legislation focused on China’s persecution of Uighurs that include measures to **increase protection of the Chinese diaspora in the United States** (HR 649 and HR 1025). These are positive bills and we hope a reconciled version will pass. In addition, Congress should pursue separate legislation to **support all vulnerable diaspora communities in the United States**, including by providing additional resources that would strengthen the ability of the FBI and appropriate United States law enforcement entities to counter transnational repression campaigns. Congress should also **make resources available to educate local law enforcement and immigration authorities** in parts of the country where there are high concentrations of particularly vulnerable diasporas.

Outside of the United States, the US can reduce the benefits of transnational repression by **supporting “shelter” models** that strengthen the resilience of exiled activists and journalists. These shelters provide short and long-term assistance so that activists can recover from persecution, continue their activism, and make a difference even if they are forced to remain abroad. The US should work closely with its democratic allies around the world to build political will to support shelter projects and persecuted individuals.

The United States should also show leadership by providing safe haven to persecuted individuals. **Instead of reducing the number of refugees the United States accepts, we should significantly increase it instead.**

- 3. Third and finally, the US needs to **raise the cost** of engaging in transnational repression:

On the diplomatic front, the US should make **a consistent practice of issuing private and where necessary public protests** to diplomats and consular officials who abuse their position to intimidate, threaten, or otherwise undermine the rights and freedoms of exiles and members of diasporas in the United States.

The United States should also **sanction individuals responsible for grave human rights violations against exiles**. As we see clearly in the cases of Saudi Arabia and Turkey, transnational repression campaigns are matters of state, often run by designated intelligence units that target exiles and diasporas. The United States should identify individuals and units involved in violent transnational repression and sanction them, using the Global Magnitsky Act, Section 7031[c] of the Fiscal Year appropriations bill, or other authorities as appropriate. Especially where the persecuting state is a US ally, units and individuals should be scrutinized to ensure that they do not receive security assistance. **And where US criminal law applies, the US should investigate and prosecute officials and proxies** who engage in transnational repression.

Conclusion

In a world that has been shrunk by technology, neither activism nor authoritarianism respect traditional state boundaries. The growth of transnational repression is a logical consequence of technology making it easier for activists to speak to fellow-citizens from abroad, and easier for states to attack them. But just because it is a part of our world doesn't mean we have to accept it. The United States and other democracies have the ability and the responsibility to blunt the tools of transnational repression and to protect vulnerable exiles.

PREPARED STATEMENT OF BRUNO MIN, SENIOR LEGAL AND POLICY
ADVISOR, FAIR TRIALS



Commission on Security and Cooperation in Europe ('Helsinki Commission')
12 September 2019

'Tools of Transnational Repression – How Autocrats Punish Dissent Overseas'
Briefing note to the Commission

INTRODUCTION

1. Fair Trials welcomes this opportunity to speak before the Commission on Security and Cooperation in Europe ('**the Commission**') about the abusive use of INTERPOL's Notices and Diffusions by certain states to target dissidents overseas. We believe this is an important issue on which Congress can provide crucial oversight and advice, so we are thankful for the opportunity to assist the Commission in its reflections.
2. Fair Trials recognises the crucial role of INTERPOL as the world's largest international policing organisation, and as a key facilitator of international police cooperation. Our position has always been that law enforcement authorities need effective mechanisms for cooperation in order to tackle serious cross-border crime.
3. INTERPOL's rules include provisions that it must remain politically neutral, and respect fundamental rights. Under Articles 2 and 3 of INTERPOL's Constitution, the organisation has to carry out its activities within the 'spirit of the Universal Declaration of Human Rights', and it is prohibited from undertaking 'any intervention or activities of a political, military, religious or racial character', respectively. However, INTERPOL is not always able to ensure that countries comply with these rules, and this can result in its powerful police cooperation tools, including Red Notices and Diffusions being misused to target and harass dissidents, human rights defenders, journalists, and others who are in need of international protection.
4. INTERPOL is aware of these challenges, and the negative impact the abusive use of its systems can have both on individuals, as well as on its credibility. Its commitment to reform is evidenced by a number of positive changes to its procedures and policies in recent years, which build in further safeguards to its systems and improve its respect of fundamental rights. These include a policy to protect refugees who are subject to Red Notices and Diffusions (the '**Refugee Policy**'), changes to its *ex ante* review mechanisms to ensure that requests for Red Notices are subject to more stringent reviews before dissemination, and significant reforms to the procedures and the structure of the Commission for the Control of INTERPOL's Files ('**CCF**'), the body that acts as INTERPOL's complaints mechanism.

5. We consider the Helsinki Commission's intervention in relation to the abuse of INTERPOL's system to be of importance in the absence any other external oversight of INTERPOL's operation, and the Commission's extensive expertise on security and cooperation.

About Fair Trials and our INTERPOL work

6. Fair Trials is a global criminal justice watchdog with offices in London, Brussels and Washington, D.C., focused on improving the right to a fair trial in accordance with international standards. Our work combines: (a) helping suspects to understand and exercise their rights; (b) building an engaged and informed network of fair trial defenders (including NGOs, lawyers and academics); and (c) fighting the underlying causes of unfair trials through research, litigation, political advocacy and campaigns.
7. Since 2012, Fair Trials has worked to highlight the misuse of INTERPOL, and to campaign for changes that will help to prevent its systems from being used as a tool for exporting human rights abuses. We have:
 - a. Helped individuals who have been subject to abusive INTERPOL alerts, either by representing them directly, or by providing support to their lawyers and other NGOs;
 - b. Worked constructively with INTERPOL, including through meetings with the Secretary General, Jürgen Stock and chairpersons of the CCF, to gain a better understanding of the underlying causes of INTERPOL abuse, resulting in a range of detailed papers, including a major report in 2013 – *Strengthening respect for human rights, strengthening INTERPOL*¹ ('**Strengthening INTERPOL**' for short) – in which we set our proposals for reform, and our 2018 report, *Dismantling the Tools of Oppression*² in which we analysed the reforms adopted by INTERPOL so far;
 - c. Supported regional and international bodies, including the Parliamentary Assembly of the Council of Europe, the European Union and the UN Committee against Torture, in their work relating to the issue of INTERPOL abuse;
 - d. Collaborated with civil society organisations, lawyers and academics in building and advancing the case for INTERPOL reform; and
 - e. Highlighted cases of injustice arising from INTERPOL abuse, generating press coverage across the world.

Key Terms

8. Key terms referred to in this paper are:

¹ Available at: <https://www.fairtrials.org/wp-content/uploads/Strengthening-respect-for-human-rights-strengthening-INTERPOL4.pdf>

² Available at: https://www.fairtrials.org/sites/default/files/publication_pdf/Dismantling%20the%20tools%20of%20oppression.pdf

- a. **'Red Notice'** = a notice published by INTERPOL saying a person is wanted for arrest by a certain country
- b. **'Diffusion'** = a less formal request for international police cooperation circulated through INTERPOL channels by a country (which might include an alert that an individual is wanted for arrest by a certain country)
- c. **'NCB' = 'National Central Bureau'** (the unit within national police which acts as the contact point for matters relating to INTERPOL).
- d. **'CCF' = 'Commission for the Control of Files'**, the body which handles requests from individuals seeking access to or removal of information from INTERPOL's files.
- e. **'Notices and Diffusions Task Force'** = a team within INTERPOL's General Secretariat responsible for reviewing the validity of Notices and Diffusions.
- f. **'Refugee'** = a person recognised as refugee under the **1951 Convention relating to the Status of Refugees** (not other forms of international protection)

INTERPOL and its system of Red Notices and Diffusions

- 9. INTERPOL's role is defined by its Constitution, Articles 2 and 3, under which it is mandated to facilitate police cooperation tackling 'ordinary-law' crime, in a manner consistent with the 'spirit of the Universal Declaration of Human Rights ('UDHR'), and at the exclusion of activities of a political character. There are various ways in which INTERPOL promotes police cooperation, such as through trainings, but it is best known for facilitating the exchange of information through its system of 'Notices' and 'Diffusions'.

Red Notices

- 10. Red Notices are part of a wider system of international 'Notices' administered by INTERPOL, which are colour-coded according to the limited purposes for international police cooperation in INTERPOL's rules. The function of the Red Notice is to seek the location of a wanted person with a view to their arrest.
- 11. Red Notices are based on a national arrest warrant issued by a competent authority of the issuing state. The information provided by the NCB to INTERPOL for the dissemination of a Red Notice includes the summary of the facts, specifics of the offence, relevant laws that create the offence, and depending on the case, either the maximum sentence, or the sentence that has already been handed down. In addition, the NCB provides data to help identify the individual, such as their physical description, name, and biometric data. Although based on a domestic arrest warrant, it must be stressed that Red Notices are not 'international arrest warrants'. Red Notices do not,

on their own, have legal value *per se* and countries take different approaches on how they treat such alerts.

Diffusions

12. Since the early 2000s, NCBs have also been able to circulate 'Diffusions'. These are electronic alerts disseminated through INTERPOL's systems that contain specific requests for cooperation. Diffusions can contain requests to locate and arrest and wanted person, so in practice, they often have the same effect as a Red Notice, and to the affected individual, there is usually very little noticeable difference between Diffusions and Red Notices. However, Diffusions seem to be designed as a more informal cooperation request, of lower authority and injunctive value than a Red Notice, and we have been informed like e-mails circulated by NCBs through INTERPOL's systems.
13. Diffusions are circulated to other NCBs, and at the same time recorded on INTERPOL's databases, but there are some key differences between Diffusions and Red Notices:
 - a. The processes for review are different. Requests for Red Notices are checked by the General Secretariat before they are disseminated, but with Diffusions, the information requesting cooperation can be circulated without prior review by INTERPOL;
 - b. An NCB can use a Diffusion to limit circulation of the information to individual NCBs, groups of NCBs, or all NCBs (Red Notices are disseminated to all of INTERPOL's member countries); and
 - c. Diffusions can be issued to seek a person's arrest where the specific conditions for a Red Notice (e.g. the minimum sentence threshold) are not met.

Overview of Fair Trials' Concerns

14. Fair Trials has identified three main areas that INTERPOL needs to address to strengthen its protections from abuse: (a) the mechanism for preventing publication of alerts which do not comply with INTERPOL's constitutional rules; (b) the process through which those affected by INTERPOL alerts can seek access to the information being disseminated through INTERPOL's channels and request deletion of INTERPOL alerts which do not comply with INTERPOL's own rules; and (c) the interpretation of its Constitution which requires INTERPOL to respect political neutrality and human rights. In recent years, INTERPOL has made significant positive reforms in all three areas, but we believe there is ample room for further improvement.

Internal Review of Red Notices and Diffusions (ex-ante reviews)

15. Red Notice requests and Diffusions are reviewed for compliance with INTERPOL's rules by a specialist team set up in 2016, known as the 'Notices and Diffusions Task Force' within the General Secretariat. Staffing levels vary, but our understanding that the task force consists of about 30 to 40 staff members.

16. It is difficult to ascertain how effectively INTERPOL is able to identify and weed out Red Notice requests that do not comply with its rules. It does not, for example, publish statistics on how many Red Notice requests are refused by the Notices and Diffusions Task Force, and there is still no clarity on how its *ex ante* review mechanism operates (including, for example, what sources of information it consults to figure out whether a Red Notice request is politically motivated).
17. Fair Trials has continued to come across cases that indicate that the review procedures are far from perfect, and certain countries continue to get Red Notice requests approved against political activists, human rights defenders, and others in need of international protection. Recent examples include the following:
 - a. Dogan Akhanli, a German writer of Turkish origin, who fled Turkey and was granted asylum in Germany in the 1990s, was arrested in Spain in August 2017, reportedly on the basis of a Turkish Red Notice. Akhanli had a public profile as a renowned critic of Turkey's human rights record and an advocate for the recognition of the Armenian genocide. Turkey's use of the Red Notice against Akhanli was heavily criticised, including by German Chancellor Angela Merkel.³
 - b. Hakeem Al-Araibi, a Bahraini footballer with refugee status in Australia, was arrested in Thailand last month, and continues to be detained pending the outcome of his extradition proceedings. Al-Araibi's refugee status means that under INTERPOL's own policy, a Red Notice or Diffusion issued against him by Bahrain is, as a general rule, not permitted. The Red Notice has now been deleted, but this did not immediately halt the extradition process.⁴
2. It is not known how many Red Notices are reviewed on a yearly basis by the Notices and Diffusions Task Force but this number is clearly in excess of the 13,000 new Red Notices issued each year.⁵ In addition, the Task Force also reviews Diffusions, which are now being issued at a rate of more than 50,000 per year.⁶ There are also over 47,000 Red Notices currently in circulation, the majority of which are likely to have been disseminated before the more stringent review procedures were introduced. These existing Red Notices will also need to be reviewed, further adding to the Task Force's already heavy workload. In this context, it is implausible that INTERPOL would be capable of checking each-and-every Red Notice request thoroughly.

³ Reuters, 'Merkel attacks Turkey's 'misuse' of Interpol warrants' (20 August 2017), Available at: <https://www.reuters.com/article/us-eu-turkey-election/merkel-attacks-turkeys-misuse-of-interpol-warrants-idUSKCN1B00IP>

⁴ New York Times, 'Thai Court Holds Bahraini Soccer Star Who Escaped Persecution' (11 December 2018), Available at: <https://www.nytimes.com/2018/12/11/world/asia/thailand-bahrain-hakeem-al-araibi-soccer.html>

⁵ INTERPOL, Annual Report 2016

⁶ Statistics recently obtained by the German Broadcaster ARD in 'Interpol: Unschuld in Haft', Video available at: <https://www.daserste.de/information/politik-weltgeschehen/europamagazin/videos/interpol-unschuldig-in-haft-video-100.html>

3. We also have serious concerns to Diffusions, which can be sent directly between member countries. INTERPOL does review Diffusions, but only after a request for cooperation has already been circulated. We have concerns that this makes Diffusions a convenient alternative to Red Notices that are subject to less stringent checks, even though their impact can be just as devastating.
4. By the time INTERPOL checks a Diffusion for compliance, the information about the wanted person would have already been shared with police forces across the world. If information regarding a wanted person is made accessible to police forces of Member States, this information can be copied or downloaded, and subsequently stored on national police databases, even if INTERPOL advises NCBs not to rely on the information. Currently, INTERPOL does not have effective mechanisms of preventing abusive requests for arrests from entering national databases through its systems by way of Diffusions, and it also has no effective means of deleting or recalling such data from national databases if it has been found to violate INTERPOL's rules.

Reviews by the Commission for the Control of INTERPOL's Files (ex-post reviews)

5. Fair Trials is not aware of any cases to date in which individuals have successfully challenged INTERPOL's decisions in national courts. This is because INTERPOL does not have a physical presence in most countries, and in countries where it does have a presence, such as in France, the United States, and Singapore, it is protected from the jurisdiction of national courts by formal immunity agreements and national laws.⁷
6. For many, the only way in which they are able to challenge or obtain information about a possible Red Notice or Diffusion is through the CCF. The CCF was initially set up as a supervisory body, but its role has since evolved, and it is now also responsible for handling requests from individuals who wish to gain access to, and seek deletion of, information concerning them which is stored on INTERPOL's files. Although in theory, individuals affected by INTERPOL alerts should be able to seek redress from the countries that issued the alert, this is not a realistic option for many, who may, for example, be facing persecution, or be dealing with a legal system with little regard for the rule of law, that offers no realistic hope of justice.
7. The CCF has been subject to serious criticism for failing to provide an effective avenue of redress for those affected by abusive Red Notices and Diffusions. In the past, it was staffed solely by technical and data protection experts with no expertise to make determinations on matters relating to human rights or political motivation, and its processes were mostly opaque, with complainants having little to no information about the Red Notice they were trying to challenge and the arguments put forward by NCBs to defend them. It was not unusual for complainants to have to wait several years

⁷ For example, Agreement between the International Criminal Police Organisation – INTERPOL and the Government of the French Republic Regarding INTERPOL's Headquarters in France (24 April 2008), and International Organisations (Immunities and Privileges) (ICPO-INTERPOL) Order 2012 (Singapore) (20 August 2012)

to get a decision from the CCF, and even when they did, they were not reasoned, and they were not even binding.

18. In recent years, INTERPOL has taken a number of steps to address these concerns. Most significantly, INTERPOL adopted a set of new measures in 2016 that introduced significant changes to its information processing mechanisms. These include a new Statute of the CCF (**'the Statute'**), which came into force in March 2017, and amendments to the Rules on the Processing of Data, which contain substantial reforms to the CCF and its procedures. In addition, the CCF adopted a new set of Operating Rules, which largely reiterate the relevant provisions in the CCF Statute and the RPD, and detail how the CCF functions. These were also adopted in March 2017.
8. On paper, these reforms bring the CCF's procedures closer in line with international due process standards, and they ensure the CCF's effectiveness as a redress mechanism by making its procedures more transparent, effective, and efficient. These reforms included greater independence and powers for the CCF; improvements to the CCF's capacity and expertise; better transparency and respect for the equality of arms; introduction of timeframes to ensure that complaints are handled expeditiously; and the availability of reasoned decisions.
9. We have been encouraged by a number of positive results in various cases, that illustrate that there have been real changes:
 - a. Dolkun Isa, a German citizen of Uyghur origin, first found out that he was subject to an INTERPOL Red Notice in 1999. Isa had fled China in the 1990s due to his fear of persecution on account of his political activism that called for greater autonomy for Uyghur people in northwest China. He eventually obtained refugee status in Germany, but his Red Notice compromised his ability to advocate for his cause, as the Chinese authorities used to Red Notice to justify labelling him as a 'terrorist', and he risked arrest every time he travelled overseas. After years of trying, Isa's Red Notice was deleted by the CCF in February 2018.⁸
 - b. Maxime Azadi, a French journalist of Kurdish origin, was arrested in Belgium in December 2016 because of a Red Notice issued at the request for the Turkish authorities. Azadi's arrest was heavily criticised, particularly given that he was the Director of Firat, an Amsterdam-based news agency known for its stance critical of President Erdogan. Azadi's Red Notice removed by the CCF in May 2018, and his extradition proceedings were discontinued shortly thereafter.
10. Fair Trials have been speaking with lawyers and NGOs to understand their perceptions of how well the CCF reforms are being implemented. Their responses have mixed – whilst acknowledging that the CCF procedures are far more efficient than they used to be, the following concerns have been raised:

⁸ Fair Trials, 'INTERPOL deletes Red Notice against persecuted Uyghur dissident Dolkun Isa' (23 February 2018), Available at: <https://www.fairtrials.org/news/interpol-deletes-red-notice-against-persecuted-uyghur-dissident-dolkun-isa>

- a. Transparency: One of the most promising changes in the CCF Statute were the new rules governing the disclosure of information. Under the previous rules, no information regarding a Red Notice or Diffusion was disclosed to individuals unless the NCB that is responsible for the alert gave the CCF permission to do so. This seemed to change under the CCF Statute, which appeared to create presumption of disclosure, allowing NCBs to prevent disclosure if it had good reasons for doing so.⁹ Lawyers who have spoken to us have commented that in practice, little has changed, and there are still relatively few instances in which any meaningful disclosure is made by the CCF. Furthermore, the rules do not explain precisely what happens if the NCB does not give good reasons for refusing disclosure.
 - b. Written Decisions: While the availability of written decisions is a major positive change, but we have spoken to lawyers who question the quality of the written decisions. They do not contain sufficient reasoning, and they do not always make it clear how a decision was reached.
11. Individuals are still denied the right to appeal against the decisions made by the CCF either internally, or through an external complaints mechanism. It is important that, even with the significant improvements to the CCF's expertise, individuals are able to question how the CCF interprets the relevant rules, and how they are applied in specific cases. Furthermore, in the absence of an appeals mechanism, there is no effective quality control of the CCF's decisions, and no way of ensuring that its decisions are being made consistently.
 12. Fair Trials also has some doubts about the CCF's capacity to implement these reforms, given the current level of staffing and resources. The requirement to make decisions within a specified time and to produce reasoned decisions no doubt require significantly more resources and manpower than the CCF needed under the previously rules. We are also aware that as more and more lawyers become more familiar with the CCF's work and INTERPOL's rules, the CCF is likely to face a heavier workload. We were therefore disappointed to learn that at the last General Assembly, the CCF's budget was decreased by 130,000 Euros between 2018 and 2019, although its staff increased by one.¹⁰

Interpretation of INTERPOL's rules

19. On paper, Articles 2 and 3 of INTERPOL's Constitution help to ensure the organisation's reputation as a trustworthy facilitator of international cooperation by enshrining its commitment to human rights and its neutrality. While the text of the Constitution and supplementary rules appear satisfactory, Fair Trials has recognised that there are problems, or at least a lack of clarity, in the way these are implemented.

⁹ CCF Statute , Article 35

¹⁰ INTERPOL General Assembly Resolution GA-2018-87-RES-13, cf. General Assembly Resolution GA-2017-86-RES-15

This lack of clarity not only makes it difficult for individuals affected by abusive Red Notices or Diffusions to challenge them before the CCF, they also make it easier for member countries to break INTERPOL's rules, knowingly or not.

20. Fair Trials has been concerned particularly about the lack of clarity on the interpretation of Article 2 of INTERPOL's constitution, which relates to the organisation's commitment to respect human rights. INTERPOL's General Secretariat was given powers in 2014 to create a 'Repository of Practice' to clarify how Article 2 is interpreted,¹¹ but we are not aware of any progress on this document.

Refugee Policy

21. One noteworthy positive development regarding INTERPOL's interpretation of its rules is the adoption of the 'Refugee Policy'. In May 2015, INTERPOL announced the policy under which the organisation regards Red Notices and Diffusions invalid if it is against a person recognised as a refugee under the 1951 Convention and the Red Notice or Diffusion was issued by the country from which the refugee sought asylum. We regard this as a very positive change that provides a relatively straightforward process for challenging politically-motivated Red Notices and Diffusions in the most obvious cases of abuse. Fair Trials has been impressed with the speed and efficiency which the CCF has processed complaints that engage the Refugee Policy, but a number of challenges still remain.
 - a. The precise text of the Refugee Policy still remains nowhere to be found in any of INTERPOL's official publications, or on its website. The lack of adequate information about this policy prevents the vast majority of refugees subject to INTERPOL Red Notices from making use of it. INTERPOL's failure to publish its Refugee Policy only highlights its lack of transparency, and it needs to do a better job of communicating how its rules are applied and interpreted.
 - b. The scope of the Refugee Policy is limited. In particular, it does not strictly cover other forms of international protection granted on the basis of *non-refoulement* (for example, under Article 3 of the European Convention on Human Rights, or Article 3 of the UN Convention Against Torture). This is a particularly pertinent question, because INTERPOL Red Notices could be the very reason why an individual might be excluded from the protection of the 1951 Refugee Convention, and in certain countries like Australia, it is an explicit lawful basis on which immigration status can be refused.¹² Our understanding is that in practice, the CCF does delete Red Notices and Diffusions where the individual affected has other types of protected status under international law, but it would be

¹¹ Resolution No. 18, [AG-2014-RES-18](#), and Art. 34(4), INTERPOL's Rules on the Processing of Data.

¹² Annexe A, section 10, Direction No.65, Migration Act 1958 – Direction under section 499, Visa refusal and cancellation under s501 and revocation of a mandatory cancellation of a visa under s501CA; and section 7, Direction No. 63, Migration Act 1958, Direction under section 499, Bridging E visas, Cancellation under section 116(1)(g) – Regulation 2.43(1)(p) or (q)

helpful if this was clarified way of a written policy or rule. We are also aware that the policy does not extend to refugees that subsequently lose their status through naturalisation.

22. While we have seen that the Refugee Policy has been implemented effectively in the context of *ex-post* review procedures, the same cannot be said for *ex-ante* reviews. Examples that Fair Trials has seen in recent years, including that of Hakeem Al-Araibi (mentioned above) imply that in many cases, INTERPOL's Notices and Diffusions Task Force is simply unable to identify whether or not an individual is a refugee. This challenge is, to a degree, understandable, given that most countries rightly regard the grant of refugee status as sensitive information that cannot be shared freely with external bodies. However, INTERPOL's inability to identify recognise refugees, even where the information about their status is on the public domain also highlights that this is also a question of the effectiveness of INTERPOL's processes.

Recommendations

23. We appreciate the Commission's interest in helping to ensure that INTERPOL is protected from misuse, and in particular, the effective implementation of the reforms adopted by the organisation in the past 4 years. We would like to invite the Commission to support our recommendations to INTERPOL, which are outlined in our latest report 'Dismantling the Tools of Oppression'. In summary these are:
 - a. Reform Diffusions: INTERPOL needs to make sure that Diffusions, much like Red Notices, are subject to reviews before the information is made visible to other countries.
 - b. Improve *ex-ante* reviews of INTERPOL alerts: INTERPOL needs to clarify how the Notices and Diffusions Task Force carries out its reviews, so that the challenges can be identified, and possible solutions can be found. The Notices and Diffusions Task Force also needs to be adequately funded.
 - c. Ensure the effectiveness of the CCF reforms: The CCF should develop and publish a strong position on how the NCBs' refusal to disclose data affects its decisions. The CCF and INTERPOL also need to develop ways of ensuring better compliance with the CCF's decisions and directions, especially regarding the deletions of data.
 - d. Enhance protections for refugees and others in need of international protection: INTERPOL should be encouraged to publish the refugee policy, and also consider expanding the policy so that it covers a wider category of individuals who are at risk of refoulement.
 - e. Improve transparency: INTERPOL should be asked to disclose data that would help to illustrate how effective its review mechanisms are. These include statistics on how many requests for Red Notices are received and refused each year.

24. We acknowledge however, that INTERPOL cannot prevent the injustices caused by the misuse of its systems alone. Support from member countries, including the United States of America are crucial. We are calling on member countries to:
 - a. Work with the CCF: by complying with the CCF as much as possible, and to respect its decisions. This also means that where the CCF has decided to delete a Red Notice or Diffusion, countries should comply with this decision fully by ensuring that all copies of the data in their national databases are also deleted.
 - b. Protect refugees and other vulnerable individuals: Member countries should become better aware of the dangers of over-reliance on data being circulated through INTERPOL's systems, including in relation to decisions to arrest, and those that relate to refugee status determinations. In addition, we believe that member countries can also help INTERPOL to remove abusive Red Notices used against refugees and others that need international protection. This could be done, for example, by sharing information about their status (with their consent) with INTERPOL so that INTERPOL can make the right decisions in individual cases.
 - c. Fund INTERPOL: It is our belief that institutions within INTERPOL that help to prevent the misuse of its systems, and in turn, strengthen the organisation, are badly in need of additional funding and resources. We would encourage countries to provide ring-fenced funding to the CCF and the Notices and Diffusions Task Force so that these bodies can function in the best possible way.

**Fair Trials
September 2019**

PREPARED STATEMENT OF SANDRA A. GROSSMAN, PARTNER,
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HOW ABUSIVE RED NOTICES AFFECT PEOPLE IN THE U.S. IMMIGRATION
SYSTEM AND STEPS THAT CAN BE TAKEN WITHIN THE U.S. AND AT
INTERPOL TO PROTECT VICTIMS ¹

Introduction

Chairman Hastings, Co-Chairman Wicker, and members of the Commission, my name is Sandra Grossman. I am a founding partner of the law firm Grossman Young and Hammond. I am an attorney practicing in the field of U.S. immigration law for over 15 years and a member of the American Immigration Lawyers Association. I became involved in INTERPOL-related work through my representation of politically exposed individuals who retained me to help them navigate the byzantine U.S. immigration system. I have represented hundreds of individuals fleeing persecution from all over the world. I have also written, published, and spoken extensively about U.S. asylum law and different aspects of the U.S. immigration system. In the course of my work, I have witnessed far-too-often how oppressive regimes manipulate INTERPOL to persecute political dissidents seeking refuge in the United States.

Authoritarian regimes in Russia, China, Turkey, Venezuela, and a growing list of other countries are attempting to achieve through the back door of the U.S. immigration system what they cannot accomplish through formal extradition proceedings: utilizing our justice system to arrest and jail political dissidents. In my experience, victims of INTERPOL abuse are often powerless to mitigate the grave effects of an illegitimate diffusion or Red Notice. These effects include extensive limitations on their ability to travel, efforts by federal authorities to deport them, lengthy detention in immigration custody, the denial of immigration benefits such as permanent residency or naturalization, the closure of bank accounts, and separation from family, friends, and colleagues. Illegitimate Red Notices literally devastate the lives of already vulnerable people.

How is the U.S. immigration system coopted by foreign governments?

Before publishing a Red Notice, INTERPOL is required to review any request for compliance with Articles 2 and 3 of its Constitution and the subsidiary rules. However, because of inherent flaws in its system of review and its reflexive deference to member countries, and because INTERPOL is itself not an investigative body, far too often the organization publishes Red Notices and diffusions that have not been properly vetted but are, in fact, persecutory in nature. Autocratic nations accomplish this by accusing dissidents of

¹ This submission is largely based on an original article co-authored by Sandra A. Grossman and Dr. Ted R. Bromund (theodore.bromund@heritage.org), who is the Senior Research Fellow in Anglo-American Relations in the Margaret Thatcher Center for Freedom at the Heritage Foundation. The author would like to thank Dr. Bromund and also attorney Thomas Ragland for their assistance in preparing this article.

crimes such as fraud or tax evasion, which on their face appear to be non-political.

Those abusive Red Notices begin to circulate in U.S. law enforcement databases after they are communicated to the United States. Although a Red Notice alone is *not* a sufficient legal basis for arrest in the United States, law enforcement agencies—and in particular Immigration and Customs Enforcement or ICE—utilize Red Notices to target foreign nationals for detention and deportation. Accepting a Red Notice without scrutiny can, and often does, turn ICE agents and Immigration Judges into unwitting agents of the individual's abusive home country. Worse, if a person enters the U.S. on a valid visa that is then cancelled based on the publication of a Red Notice, the abusive foreign nation has essentially “manufactured” an immigration violation in the U.S. by simply lodging the Red Notice request.

Examples of INTERPOL abuse and how authoritarian regimes use illegitimate Red Notices to manipulate the U.S. immigration system

Illegitimate Red Notices have real life implications for vulnerable people and their families.

1. A U.S. government-credentialed Turkish journalist who held lawful permanent residence in the United States sought our services to obtain his U.S. citizenship. He then learned of a Red Notice issued against him from the Turkish government related to his criticisms of the government while working for an independent newspaper. As acknowledged by multiple international human rights organizations, the Red Notices against him and others similarly situated were part of a large scale, politically-motivated crackdown on dissent by the Turkish regime. Despite more than a year of communications with the Commission for the Control of INTERPOL's Files, and despite the fact that the prosecutor's office of the Turkish appeals court itself declared that most of the trial's defendants should be acquitted, INTERPOL has yet to remove the Red Notice lodged against this individual. In the meantime, he cannot travel internationally, and is unable to pursue U.S. citizenship. Importantly, the Red Notice has also had the effect of acting as a virtual gag order; as the journalist has made the decision to seriously limit his criticisms of the Turkish regime.

2. In another case involving an individual accused of tax fraud by the Russian Federation, my client filed for asylum in the United States shortly after discovering that he was the subject of a Red Notice. DHS detained the individual at his asylum interview and he spent four months in jail before being released on bond. The results of a request under the Freedom of Information Act (FOIA) filed with ICE later revealed that ICE had immediately categorized the individual as a danger to the community and a flight risk based on nothing more than the Red Notice. An Immigration Judge eventually released him on a very high \$100,000 bond. Due to our efforts before the Commission for the Control of INTERPOL's Files, the Red Notice was deleted, but only after the client and his family had suf-

ferred most of the Red Notice's worse effects. Years after his initial ICE arrest, he is still fighting deportation in Immigration Court.

3. In another recent case, a U.S. citizen filed an immigrant visa petition for her father, a citizen of Armenia. Unbeknownst to him, he was the subject of a Red Notice that arose from a private business dispute with corrupt Armenian officials. ICE detained my client due to the Red Notice. The Immigration Judge denied a request to lower the extremely high bond amount, despite the fact that the Respondent appeared eligible for permanent residency and asylum and had extensive family ties in the U.S. The sole stated reason for refusing to lower the bond amount was the existence of an INTERPOL Red Notice. In fact, a Red Notice actually *decreases* flight risk and makes travel more difficult. Nevertheless, DHS officials and Immigration Judges alike consistently miss this point.

4. Several years ago, I represented a Venezuelan citizen with lawful permanent resident status, who had his company raided and unlawfully expropriated by the Venezuelan government. Venezuela issued an illegitimate Red Notice, as it so often does. For years, until we were able to convince INTERPOL to cancel the Red Notice, he was unable to travel. In the meantime, his mother who resided in Mexico was diagnosed with cancer and he was unable to visit or care for her.

5. A recent survey by the American Immigration Lawyers Association (AILA) uncovered many more similar examples of INTERPOL abuse within the U.S. immigration system. Attorneys consistently described how immigration authorities, rarely questioning their legitimacy, used the existence of a Red Notice as justification to detain valid asylum seekers and press for their deportation.

Conclusion

The Department of Justice does not consider a Red Notice alone to be sufficient basis for arrest, because it does not meet the requirements of the Fourth Amendment to the Constitution. Instead, the U.S. treats a foreign issued Red Notice only as a formalized request to be "on the lookout" for the individual in question and to advise if they are located. Unfortunately, this message is not getting across to decision-makers in the immigration system.

Last year, the United States Court of Appeals for the Third Circuit *denied* a petition for release from detention (habeas corpus petition) for a Russian citizen who had languished in U.S. immigration detention for over two-and-a-half years solely because of a Red Notice issued by Russia accusing him of fraud. In his dissent, Judge Roth declared that "the judicial branch of our federal government should be sheltered from the political maneuverings of foreign nations.. Nevertheless, there are occasions when it becomes evident that the machinations of a foreign government have inadvertently ... become entangled in the judicial process." The issue

of INTERPOL abuse is such an occasion, which has repeated itself far too often and needs to be remedied.

The U.S. must ensure that INTERPOL enhances the screening process for INTERPOL communications, and that the U.S. National Central Bureau (NCB), which is responsible for communicating with INTERPOL, acts as a second layer of protection against abusive notices. The U.S. NCB should more carefully examine the full, original Red Notice, especially if the issuing state is a member country that is known to repeatedly misuse INTERPOL. The NCB should then ensure that the Notice or diffusion meets all the conditions and contains all the judicial data required by INTERPOL, and to assess whether the Notice contains any information or assertions that violate INTERPOL's rules or indicate bias on the part of the requesting authorities. The U.S. must also play a greater role in ensuring that INTERPOL and the CCF is more transparent, publishes its jurisprudence and reports, and that its activities actually comply with its rules, including the political predominance test. Those nations which consistently violate the rules should have their memberships suspended. If the Transnational Repression Accountability and Prevention Act (or the "TRAP" Act) accomplishes even some of these goals, it will be a much-needed first step to address the problem of INTERPOL abuse, and to prevent our justice system from being manipulated by authoritarian regimes. International police cooperation is certainly necessary in a world of transnational crime, but it must be accomplished in such a way that is also protective of individual human rights.

MATERIAL FOR THE RECORD

PUTIN AND OTHER AUTHORITARIANS' CORRUPTION IS A WEAPON—
AND A WEAKNESS¹

BY DAVID PETRAEUS AND SHELDON WHITEHOUSE

Thirty years after the end of the Cold War, the world is once again polarized between two competing visions for how to organize society. On one side are countries such as the United States, which are founded on respect for the inviolable rights of the individual and governed by rule of law. On the other side are countries where state power is concentrated in the hands of a single person or clique, accountable only to itself and oiled by corruption.

Alarmingly, while Washington has grown ambivalent in recent years about the extent to which America should encourage the spread of democracy and human rights abroad, authoritarian regimes have become increasingly aggressive and creative in attempting to export their own values against the United States and its allies. Russian President Vladimir Putin and other authoritarian rulers have worked assiduously to weaponize corruption as an instrument of foreign policy, using money in opaque and illicit ways to gain influence over other countries, subvert the rule of law and otherwise remake foreign governments in their own kleptocratic image.

In this respect, the fight against corruption is more than a legal and moral issue; it has become a strategic one—and a battleground in a great power competition.

Yet corruption is not only one of the most potent weapons wielded by America's authoritarian rivals, it is also, in many cases, what sustains these regimes in power and is their Achilles' heel. For figures such as Putin, the existence of America's rule-of-law world is intrinsically threatening. Having enriched themselves on a staggering scale—exploiting positions of public trust for personal gain—they live in fear that the full extent of their thievery could be publicly exposed, and that the U.S. example might inspire their people to demand better.

Corrupt regimes also know that, even as they strive to undermine the rule of law around the world, they are simultaneously dependent on it to a remarkable degree. In contrast to the Cold War, when the Soviet bloc was sealed off from the global economy and sustained by its faith in communist ideology, today's autocrats and their cronies cynically seek to spend and shelter their spoils in democratic nations, where they want to shop, buy real estate, get health care and send their children to school.

Ironically, one of the reasons 21st-century kleptocrats are so fixated on transferring their wealth to the United States and similar countries is because of the protections afforded by the rule of law. Having accumulated their fortunes illegally, they are cognizant that someone more connected to power could come along and rob them too, as long as their loot is stuck at home.

Fortunately, the United States has begun to take steps to harden its rule-of-law defenses and push back against foreign adversaries. The passage of the Global Magnitsky Act in 2016, for instance, pro-

¹ *The Washington Post*, March 8, 2019.

vided a powerful new tool for targeting corruption worldwide that is being increasingly utilized. But there is more to do.

In particular, the United States should make it more difficult for kleptocrats, and their agents, to secretly move money through the rule-of-law world, whether by opening bank accounts, transferring funds or hiding assets behind shell corporations. Failure to close loopholes in these areas is an invitation to foreign interference in America's democracy and a threat to national sovereignty.

Congress should tighten campaign-finance laws to improve transparency given that U.S. elections are clearly being targeted for manipulation by great-power competitors.

At the same time, the United States must become more aggressive and focused on identifying and rooting out corruption overseas. Just as the Treasury Department has developed sophisticated financial-intelligence capabilities in response to the threat of terrorism and weapons of mass destruction, it is time to expand this effort to track, disrupt and expose the corrupt activities of authoritarian competitors and those aligned with them.

Hardening the nation's rule-of-law defenses is not, of course, a substitute for traditional forms of U.S. power, including military strength and economic dynamism. But it can provide an additional set of tools to bolster national security.

In the intensifying worldwide struggle between the rule of law and corruption, the United States cannot afford neutrality. Complacency about graft and kleptocracy beyond U.S. borders risks complicity in it—with grave consequences both for the nation's reputation abroad and Americans' well-being at home.

David Petraeus is a retired U.S. Army general and the former director of the Central Intelligence Agency. Sheldon Whitehouse, a Democrat, is a U.S. senator from Rhode Island.

**Statement of Nadejda Atayeva to the
Commission on Security and Cooperation in Europe**

Republic of Uzbekistan: the case of Nadejda Atayeva concerning abuses of Interpol mechanisms and manipulations in the system of wanted persons

• SUMMARY OF THE CASE:

In the 1990s, President Islam Karimov announced a “National Grain Independence Program”, within the framework of which he created a “Seed Fund for Grains” – the production of national wheat and its processing by the Uzdonmahsulot corporation enterprises. From April 1997 to April 2000 Alim Ataev held the position of chairman of the bakery industry (father of Nadejda Atayeva).

As he began work, Alim Ataev discovered that the statistics on grain productivity in Uzbekistan which were kept by the Ministry of Statistics (Macroeconomstat) did not take into account the loss of grain waste, litter and natural loss which occurs during the drying of grain - and which is provided for by established standards. This way of keeping statistics therefore artificially overestimated yield quantity, and also affected the reliability of information on state stocks and the quality characteristics of food wheat. In March 2000, state stocks of food wheat would have run out by May 2000. Despite this shortage of food wheat, Islam Karimov had already announced that Uzbekistan had achieved grain independence, thus carefully hiding the real situation.

From the fall of 1998 to March 2000, confidential correspondence between Alim Ataev, as Chairman of Uzdonmahsulot, and other government officials who raised questions about the need to replenish government resources with food grain and reform the system for monitoring wheat stocks in quantitative and qualitative terms. Each official sought to avoid responsibility for the systematic falsification of grain yields. As time passed, the threat to food security grew, but the Prime Minister of Uzbekistan Utkur Sultanov, Vice-Prime Minister Mirabror Usmanov, Minister of Finance Rustam Azimov and others remained silent.

In early March 2000 Alim Ataev wrote a memo to Islam Karimov which he sent through the curator of the National Security Service of Uzbekistan for the bakery industry, in order to prevent the food crisis.

On 4 March 2000, President Karimov called Alim Ataev, and they discussed the situation and a decision was made to purchase additional food wheat. On 9 March 2000, Islam Karimov signed a decree on checking stocks of food wheat in state warehouses and the need to hold accountable those who were responsible for the falsification of grain yields. A conspiracy began amongst officials as everyone tried to avoid blame, and they turned their attention to Alim Ataev. At the same time, he was constantly being asked to sign orders for stock checks containing unreliable indicators, but he refused.

Within three days, the once reputable academic Alim Ataev turned into an “enemy of the people”, together with 22 leading experts in the bakery industry, his daughter, son and brother. Due to the threat of arrest and torture, Ataev, his daughter Nadejda Atayeva and son Kakhramon Ataev left Uzbekistan on 30 March 2000 and have been in exile for 19 years, 15 of which they were on the international wanted list.

* * *

• **PERSONAL INFORMATION AND STATEMENTS OF FACTS:**

Nadejda Ataeva/ Nadejda Atayeva¹ - 07/16/1968
President of the Association for Human Rights in Central Asia² (France).

In March 2000, a criminal case was opened on charges of committing crimes under articles 167 (*"Theft by embezzlement or embezzlement"*), 205 (*"Abuse of power or official authority"*) of the Criminal Code of the Republic of Uzbekistan³. Nadejda Ataeva is not the perpetrator of the crime on these charges, as she did not have organizational and administrative responsibilities in her post. Until 2015, access to the criminal case materials was classified and the right to defense was limited.

In May 2000, Nadejda Atayeva, her father Alim Ataev and brother Kahramon Ataev were put on the international wanted list through Interpol.⁴

In July 2005, OFPRA France granted refugee status to eight members of the Ataev family and the right to permanent residence.⁵

In 2009, Uzbekistan sent an extradition request to France for the extradition of Nadejda Atayeva, her father Alim Ataev and brother Kahramon Ataev, which was rejected in 2011.⁶

On 24 July 2013, a sentence in absentia⁷ was issued by Tashkent City Criminal Court in Uzbekistan, in violation of the established procedural order. The verdict found Nadejda Atayeva guilty under paragraphs a, c of part three of article 167 (*"Theft by embezzlement or embezzlement"*), paragraph "b" of part two of article 209 (*"Official forgery"*), and under article 243 (*"Legalization proceeds from criminal activities"*) of the Criminal Code of the Republic of Uzbekistan. The court ruled on a sentence of imprisonment for: Nadejda Atayeva - 6 years, Kakhramon Ataev⁸ - 7 years, Alim Ataev⁹ - 9 years, as well as the complete confiscation of property left in Uzbekistan from all family members. The ruling was made despite the fact that the criminal case file contained clear evidence that Nadejda Atayeva and Kakhramon Ataev could not have perpetrated* these crimes. (*are not the subjects of the crimes)

¹ Explanation: according to the Uzbek passport, the spelling of the name is Nadejda Atayeva; according to French documents - Nadejda Ata eva..

² The official website of the Association "Human Rights in Central Asia" <https://ahrca.org/>

³ Appendix No. 1 - requirement of the information center of the Ministry of Internal Affairs (hereinafter referred to as the Ministry of Internal Affairs) of Uzbekistan.

⁴ Media report

⁵ OFPRA - Office Français de Protection des Réfugiés et Apatrides. If necessary, a copy of the refugee status document will be provided.

⁶ Link to the documentary film "The Grain of Truth", shown on the central television "TV Tashkent":

https://www.youtube.com/watch?v=70e3JW230eI&list=UUjYiWaip93I_2stNTwBQ6rg

⁷ If necessary, a copy of the sentence in absentia will be provided. The legislation of Uzbekistan provides for convictions and acquittals, but in this case, a verdict was passed in violation of fair trial procedures, since there were no defendants present in court, the lawyers were appointed by the state, and they did not contact the defendants in any way. In addition, the court used the testimony of witnesses who were not present in the court and at the time of sentencing - indeed one of the witnesses had already died, two had changed their citizenship and were outside the country. The testimonies of another 20 witnesses were used by their investigation materials, data of 14 years ago.

⁸ Kahramon Ataev was found guilty under the following articles: Criminal Code of the Republic of Uzbekistan.

Alim Ataev was found guilty under the following articles: Criminal Code of the Republic of Uzbekistan.

⁹ Алим Атаев признан виновным по статьям: Уголовного кодекса Республики Узбекистан.

On 17 July 2015, Interpol¹⁰ removed Nadejda Atayeva and her father Alim Ataev from the wanted list, recognizing that the charges against them were politically motivated. The procedure lasted fourteen months with the participation of the NGO Fair Trials International¹¹ as part of the Defending the Human Right to a Fair Trial program.¹²

• **CONSEQUENCES OF ABUSE**

1) The reason why the person feels they were targeted by the government in question;

a) On 10 November 2008, at about 2 p.m., at the airport of Istanbul, Nadejda Ataeva was detained while undergoing passport control. This was witnessed by Yodgor Obid, vice president of the Association for Human Rights in Central Asia. Nadejda Atayeva was not given back her passport, they checked the authenticity of the visa and asked if she had met with Salih (they had in mind Muhammad Salih, the leader of the opposition Erk party). The detention lasted about 40 minutes and then Nadejda Atayeva was released;

b) On 18 or 19 November 2008, Nadejda Atayeva was detained in Geneva (Switzerland) at the railway station while crossing the border. She was held for an hour and a half and then she was informed that she was wanted by Interpol at the request of Uzbekistan, as well as her father and brother. She had travelled to Geneva at the invitation of the FIDH for a briefing as part of the Universal Periodic Review (2008).

c) In March 2012, the documentary film “Grain of Truth”¹³ was shown on Uzbek television channel “Tashkent”, where the presenter stated that Nadejda Atayeva was on the wanted list through Interpol. Azizkhon Jakhonov, an employee of the National Central Bureau of Interpol in the Republic of Uzbekistan, commented on the criminal case against Nadejda Atayeva, Alim Ataev and Kakhramon Ataev.¹⁴

d) On 18 October 2012, at about 8. a.m., at the airport of Lima (Peru) Nadejda Atayeva was taken off the flight when checking in her baggage. Officials noticed that on her passport expired on 18 October and then they confiscated her passport and called her to the supervisor’s office, where they informed her that she was wanted by Interpol at the request of Uzbekistan. The French Embassy in Peru issued her a travel document (un laissez-passer) for the next flight to France, and the threat of extradition to Uzbekistan was avoided;

e) In September 2013, Nadejda Atayeva received an invitation to the OSCE conference in Turkey. The Turkish Embassy in Paris refused her a visa, the consul explained that as she was wanted by Uzbekistan in Interpol, it was extremely difficult to guarantee her security in Turkey, as the Uzbekistani authorities already knew through the OSCE about her arrival in Istanbul;

f) in November 2013, while receiving a visa to the United States, Nadejda Atayeva was asked why Interpol was looking for her. She explained the reason for the emigration and she was given a visa.

¹⁰ Interpol notice of 17.07.2015 on removal from Interpol database, attachment №2;

¹¹ Fair Trials <https://www.fairtrials.org/>

¹² Video witness for: <https://www.youtube.com/watch?v=ZozzpwEuanI>

¹³ Video at link : https://www.youtube.com/watch?v=70e3JW230eI&list=UUjYtWaip931_2stNTwBO6rg;

¹⁴ Photo of Azizjon Shakonova in attachment file No.3;

2) What criminal violation the government alleged as a pretext to file an INTERPOL notice/diffusion;

The fabricated charges, for formal reasons, to be added to the Interpol search database.

3) What effect the INTERPOL notice/diffusion had on the individual (were they detained anywhere, did they have bank accounts frozen, etc.);

- a) travel restrictions, as many countries do not issue visas;
- b) restrictions on obtaining a visa for family members;
- c) coercion to testify against wanted person, including of relatives;
- d) detention at passport or border control;
- e) difficulties in booking a hotel;
- f) violation of personal data through a search alert;
- g) intrusion into private space not only of the person concerned, but also of his relatives, his colleagues and all those who involve law enforcement agencies from the environment of the wanted person.
- h) confiscation of property based on false or inaccurate information.
- i) most often this category of persons is subjected to cyberstalking to sow distrust of wanted persons;
- j) blocking and freezing bank accounts;
- k) loss of property;
- l) discrimination in the employment for relatives.

4) Whether they tried to fight the INTERPOL notice/diffusion and, if so, what the outcome was ;

Until 2014, Interpol did not consider individual appeals and placed information on wanted persons at its discretion in the search base.

5) What other means –if any—the government used to punish/pursue the individual in addition to INTERPOL ; and

- a) Since 1999, Uzbekistan has been actively using the Interpol wanted list to prosecute members of informal religious groups and communities based on information obtained through torture or other means of coercion;
- b) after 2000, Uzbekistan began to actively abuse Interpol mechanisms to put civil society activists and also investors, including foreign ones; making more use of the fabrication of economic charges on the wanted list;
- c) After 2005, Uzbekistan began to put well-known human rights defenders on the international wanted list, stating that they were involved in terrorism. For example, this practice affected two Andijan human rights activists Lutfullo SHAMSUTDINOVA, who lives in exile in the USA, and Muzaffarmirza ISAKOVA, who lives in exile in Norway.
- d) since 2017, under President Shavkat Mirziyoyev, abuse of Interpol mechanisms has also occurred in Uzbekistan, but with the active participation of the Russian Bureau. This practice has intensified as they began to cooperate more intensely, using the new

capabilities of the passport system, and the courts more often sentenced in absentia to confiscate the property of those outside the country.

CASE STUDIES:

- In the criminal case materials relating to the case of Kakhramon Ataev on page No. 295¹⁵ - a document dated May 29, 2017 that he was detained in Russia in Stavropol through Interpol, but this is a lie. Kakhramon Ataev has not travelled to Russia since 2002. Further in the document it is written that Uzbekistan rejected the extradition by an absentee decision of the Tashkent City Criminal Court, which decided to confiscate all property in order to pay off the debt appointed by the court on 24 July 2013. Indeed, all the property of Kakhramon Ataev, Nadejda Atayeva, Alim Ataev and Zinaida Ataeva (wife of Alim Ataev) was sold at a lower value with the active participation of the son of the mafia boss of Uzbekistan Salimbay Abduvaliev, about whom Nadejda Atayeva made a report in 2017.¹⁶

- On 2 February 2018, Uzbekistani citizen AK¹⁷, having a new-type biometric passport, legally left Uzbekistan for Russia for work. On 26 February 2018, he crossed the border of a European country, with a legal visa, where he was forced to remain in connection with politically motivated persecution. On 29 August 2019, at the border control at the airport, he was detained due to the fact that he was travelling on a passport which had been declared lost. However, AK had not reported the passport as lost, therefore it should be noted that claims that his passport was cancelled due to the fact that it was declared lost are purely false.

- The past three years have seen the highest rates of deprivation of citizenship of Uzbekistan, which applies mainly to political emigrants and persons with respect to whom it was decided to confiscate property, so that it would be more difficult for victims to challenge such court decisions.

This material was prepared by the Association for Human Rights in Central Asia

¹⁵ Attachment №4 copies of document.

¹⁶ <http://nadejda-atayeva-en.blogspot.com/2017/05/the-role-of-organised-crime-in.html>

¹⁷ Ассоциация имеет заявление пострадавшего.

STATEMENT FROM WUC PRESIDENT DOLKUN ISA ON CHINA'S ABUSE
OF INTERPOL

China's abuse of the INTERPOL red notice system and general harassment had significant detrimental effects on my work as a human rights activists and restricted my access to various countries and organizations and violated my basic rights to freedom of movement and freedom of expression.

For context, I am currently the President of the World Uyghur Congress, an umbrella organization of Uyghur diaspora groups that aims to promote democracy, human rights and freedom for the Uyghur people and to use peaceful, nonviolent, and democratic means to determine their political future. I am also the Vice President of the Unrepresented Nations and Peoples Organisation (UNPO). I have been working in the field of human rights advocacy for over 20 years, since I fled China and was granted political asylum in Germany in 1996. I was forced to flee China due to my activism as a leader of the Uyghur democratic students' demonstration in 1988.

I have consistently advocated for the rights of the Uyghur people and has raised the issue in the United Nations, the institutions of the European Union and in individual States, as well as working to mobilize the Uyghur diaspora community to collectively advocate for their rights and the rights of the Uyghur people in East Turkistan.

Due to my work on Uyghur human rights issues, the Chinese government has taken a number of measures to inhibit my work and movement, the most serious of these being the subject of today's hearing. In 1999, I first learned that the Chinese government had issued an INTERPOL Red Notice on my name, which demanded my arrest and extradition back to China. The Chinese government made completely unfounded allegations with no compelling evidence that I was involved in terrorist activities. These charges were politically motivated and without merit, but were accepted by INTERPOL, apparently without a proper investigation into the Chinese government's claims, and a Red Notice was put on my name. It was not until February 21, 2018 that the Red Notice on my name was finally deleted. The NGO Fair Trials used INTERPOL's updated complaints mechanism to appeal the Red Notice, which was then deleted upon review.

While I am deeply grateful for the work of Fair Trials and happy to no longer be subjected to a Red Notice, it took from 1997–2018 to overturn a clearly politically motivated and unsubstantiated Red Notice. My case is one of several cases where authoritarian governments have abused the system in an effort to silence and impede the work of human rights activists and political dissidents.

The practical impacts of the Red Notice on my name during these 21 years were real and substantial. It impacted my work by preventing me from being able to travel to certain countries, to enter government buildings on a number of occasions, to have access to fora and institutions. On several occasions it led to dangerous and potentially life threatening situations where I was faced with a possible extradition to China, where I would have certainly

been arbitrarily detained and subjected to other serious human rights violations.

Crucially, the Red Notice was used by the Chinese government to defame me and to delegitimize my work. On numerous occasions, including in a Statement from the Chinese Foreign Ministry Spokesperson in July 2017, I was labelled a “terrorist wanted under the red notice of INTERPOL and by the Chinese police”. This politically motivated Red Notice was used as proof by the Chinese government that their false claims about me were true. The reputational damage and the ‘terrorist’ label certainly made my human rights work significantly more difficult.

Below is a chronological list of incidents of harassment and attempts to me from speaking about China’s human rights record.

- In December 1999, I was detained at the US General Consul in Frankfurt while applying for a visa to the United States. He was handed over by embassy guards to German police and detained for 6 hours. I was then released and became aware that he was stopped due to China putting a notice on him through INTERPOL.
- In April 2005, during the session of the Human Right Committee in Geneva, I participated in a joint Uyghur-Tibetan peaceful demonstration in front of U.N. After the demonstration, Swiss police detained me and took me to the police station. I was questioned and detained for 5–6 hours and had my finger prints taken. I was then released.
- In September 2006, I was stopped and detained in the Dallas Airport while on a trip to the USA. After being detained for 23 hours, I was sent back to Germany. This incident too was caused by the red notice placed on Dolkun Isa through INTERPOL by the Chinese government.
- In August 2008, I was stopped at the Antalya airport in Turkey. I was refused entry, likely because of Chinese pressure, and was sent back to Germany 24 hours later.
- In September 2009, I was detained at the Seoul airport in South Korea for 3 days after traveling to the country to attend a conference. After significant pressure from the Chinese government, the South Korean authorities were considering forcibly returning me to China. It took the intervention of the German foreign ministry to prevent this from happening and I was forced to return to Germany.
- Also in 2009, I was informed that U was banned from Taiwan and refused a visa. This decision followed a debate in the Taiwanese parliament, where the decision was made to ban the Uyghur activists to improve relations with mainland China.
- In April 2016, I was due to attend a conference in Darussalam, India together with Tibetan groups. I was granted an electronic visa to attend the event. The spokesperson for the Chinese Foreign Ministry heavily protested this to the Indian government and a few days later my visa was canceled.
- In April 2017, I was removed from the U.N. Permanent Forum on Indigenous Issues by U.N. security on the third day of his attending. I was accredited to attend the event and had attended the first 2 days without incident. No explanation has ever been given for his expulsion despite numerous requests

for more information. The Chinese head of U.N. DESA responsible for the Forum has since admitted on Chinese TV that he used his power as a U.N. official to get me expelled.

- In July 2017, I was stopped by Italian police while trying to attend a press conference that I was invited to in the Italian Senate. The police officers who stopped me and prevented me entering informed me that I was stopped because I had a 'red notice' put on me by China. I was detained for 3 hours before I was released, but I was not allowed to enter the Italian Senate.
- It should also be noted that I have been regularly harassed by Chinese officials while attending the U.N. Human Rights Council Sessions. The Chinese government has sent letters to other Permanent Missions telling them not to meet with me or other WUC representatives and labelled me a terrorist.
- In April 2018 the Chinese Mission to the U.N. tried to revoke the ECOSOC status of the Society for Threatened Peoples who had accredited me to attend the U.N. Permanent Forum on Indigenous Issues, again claiming that I was a terrorist. The case was taken before the ECOSOC Committee where the Chinese government again was not able to provide any evidence for their claims and eventually stopped proceedings.

**Statement of Muhiddin Kabiri to the
Commission on Security and Cooperation in Europe**

**Tajikistan – One of the Countries Most Abusing INTERPOL for Political
Purposes**

Tajikistan with a population of 9 million is considered one of the countries in the world that has most embraced INTERPOL as a repressive tool to persecute dissidents beyond their borders.

In December 2017, Abdugaffor Azizov, head of the National Bureau of INTERPOL in Tajikistan told the media that the Tajik government has put more than 2,500 citizens of Tajikistan on the list of internationally wanted fugitives. INTERPOL as a global police organization that claims to uphold international human rights standards, should not be exploited to serve the regime's political motives.¹

How many IRPT members are on the INTERPOL Red List?

Abdugaffor Azizov, head of the Interpol National Central Bureau for Tajikistan, said, out of 2,528 wanted persons, "as many as 1,873 of them are affiliated with "terrorist and extremist groups". Thirty-five are active members of the Islamic Renewal Party of Tajikistan (IRPT), "terrorist and extremist organization" (outlawed in September 2015)."²

But there are three cases, which drew the attention of the international community and global media. These are the cases of Muhiddin Kabiri, chairman of the IRPT and head of the National Alliance of Tajikistan; Mirzorahim Kuzov (well-known as Shohnaimi Karim), one of the leading members of the IRPT; and Qamariddin Afzali, head of the IRPT's chapter in Khatlon Province.

Why are IRPT members put on the INTERPOL Red List?

Starting after the parliamentary elections of 2010, in which the IRPT showed its popularity among the Tajik people, the Supreme Court of Tajikistan banned the IRPT and declared it a terrorist organization. This move was internationally criticized and denounced.

The UN, EU, OSCE, international organizations, and western countries have criticized this action of the government and saw it as the end of political pluralism in Tajikistan.

The United States in October 2015 in a statement said: "The United States joins the EU and others in expressing its concern over the future of political pluralism in Tajikistan. On September 29, a decision by the Supreme Court of Tajikistan banned the Islamic Renewal Party of Tajikistan (IRPT), following months of increased government pressure against the opposition IRPT and its members."

The US statement continued: "Since the IRPT lost both of its parliamentary seats through flawed elections last March, authorities prevented the IRPT from organizing events, ordered the closure of IRPT headquarters, and issued notice for the party to cease

¹ Exeter Central Asian Studies Network, "*Tajikistan: the use of international system to target dissidents abroad*", <https://theconversation.com/after-25-years-of-independence-tajikistan-is-a-bastion-of-torture-and-repression-64945>

² Interfax, "*Almost 1,900 Tajik terrorists wanted by Interpol – Dushanbe*", <http://www.interfax.com/newsinf.asp?pg=8&id=792406>, Jumhuriyat, a state newspaper, "*INTERPOL: Members of the terrorist IRPT are internationally wanted fugitives*" http://jumhuriyat.tj/index.php?art_id=31583

all operations by September 5, citing unmet legal requirements for national parties... International observers believe these actions are politically motivated and intended to eliminate the IRPT—Tajikistan's last remaining opposition group—and intimidate its supporters.”

The United States added: “The Tajik government continues to assert a link between IRPT members and the violent attacks of September 4. At this time, we have seen no credible evidence that the IRPT as an organization was involved with the attacks in Dushanbe and surrounding towns; the IRPT denied involvement in the attacks.”³

The UN in a statement said: “The United Nations today voiced concern about an increasing risk of human rights violations connected with the recent banning of the Islamic Revival Party of Tajikistan (IRPT), and the arrest and detention of more than a dozen of its members since early September.”

The UN considered the ban of the IRPT politically motivated, saying: “This decision followed a long-running campaign of pressure, intimidation and a subsequent crackdown by the Government on the IRPT”⁴

Human Rights Watch's Central Asia director, Hugh Williamson, said: “Shutting down the party is perilous for human rights, democratic participation, and stability in the country.”⁵

It is obvious that the Tajik government has put the IRPT's leading members on the red list in order to silence its peaceful dissidents.

What are the Allegations against the IRPT's Members?

Speaking about the charges against 35 members of the IRPT on the Red List of INTERPOL, Mr. Azizov said: “They are accused of terrorist and extremist crimes under Articles 179 (terrorism), 186 (banditry), 187 (establishment of a criminal group), 185 (establishment of an armed group), 306 (power grab), 307 (public appeals for extremism), and 313 (armed revolt) of the Tajik Criminal Code.”⁶

IRPT members have perpetrated a total of 1,610 crimes, Mr. Azizov added. Thirty-five members of the IRPT have committed more than 1,600 crimes? Is it logical? It is very surprising that the Tajik government has used very exaggerated information in denouncing its peaceful dissidents.

The UN human rights Council in a statement said: “IRPT members were sentenced on accusations of participation in a criminal group, incitement of national, racial or religious hatred, murder, terrorism, appeals to violent change of the constitutional order, illegal possession or transfer of weapons, and armed rebellion. Yet evidence detailing the accusations has been completely hidden from view.”

³ U.S. Embassy in Tajikistan, “*United States Government Statement on Political Opposition in Tajikistan*”, October 8, 2015 <https://tj.usembassy.gov/united-states-government-statement-political-opposition-tajikistan/>

⁴ The United Nations, “*UN human rights office voices concern after Tajikistan bans Islamic political party*”, October 2, 2015 <https://news.un.org/en/story/2015/10/511272-un-human-rights-office-voices-concern-after-tajikistan-bans-islamic-political>

⁵ Human Rights Watch, “*Tajikistan: Reverse Political Party Closure. Allow Islamic Renaissance Party of Tajikistan to Operate*”, September 14, 2015 <https://www.hrw.org/news/2015/09/14/tajikistan-reverse-political-party-closure><https://www.hrw.org/news/2015/09/14/tajikistan-reverse-political-party-closure>

⁶ Interfax, “*Almost 1,900 Tajik terrorists wanted by Interpol – Dushanbe*”, <http://www.interfax.com/newsinf.asp?pg=8&id=792406>, Jumhuriyat, a state newspaper, “*INTERPOL: Members of the terrorist IRPT are internationally wanted fugitives*” http://jumhuriyat.tj/index.php?art_id=31583

The statement continued: "... imposing such drastic and arbitrary measures against opposition and religious leaders is not only unacceptable but dangerous as it only helps to radicalize those pushed out of public debate."⁷

Consequences of INTERPOL's Misuse by the Tajik Regime

Misuse of INTERPOL by Tajikistan's government has caused many negative impacts on the IRPT's leading members, including imprisonment, financial costs, limitations in travelling, waiting for days in airports, etc.

Three-year-long Case of Kabiri Caused a lot of Limitations and Problems

Dr. Muhiddin Kabiri, chairman of the IRPT and head of the Tajik National Alliance, was put on the INTERPOL red list in 2015 until he was removed in February 2018.

During his three years on the red list, Dr. Muhiddin Kabiri faced a lot of limitations in his travelling and cancelled many meetings and often waited a long time, sometimes for days, in airports. He was stopped many times for a long time in Turkey while entering this country, where he was living.

The government of Tajikistan was looking at putting Dr. Kabiri's name on the INTERPOL wanted list as a triumph over the Tajik opposition, while he is still considered an opposition leader who can challenge President Rahmon. The state media had been very happy with the actions of INTERPOL towards the Tajik opposition.

After three years of legal fighting, the INTERPOL removed him from the red list on February 8, 2018. Removal of his name from the wanted list was a big blow to the government. RadioFreeEurope/Radio Liberty called it "a rare triumph for the IRPT".⁸

Months Long Detentions of Two Leading Members on INTERPOL Warrant

Mr. Mirzorakhim Kuzov (well-known as Shohnaimi Karim), a leading member of the IRPT, who has received political asylum in Lithuania, was stopped and detained in the transit zone of Athens International Airport on September 10, 2017 at 22:00 on an INTERPOL warrant on the request of Tajikistan by Greek authorities while returning from the OSCE HDIM 2017 in Warsaw.

He was released by the Greek Supreme Court on November 29, 2017 after serving detention for 50 days in Koridallios prison in Athens. The Greek Supreme Court decided that the case against him at INTERPOL was politically motivated and he had no link with the bloody 2015 events in Tajikistan. The Greek Supreme Court decided that he is a peaceful politician and that the Tajikistan government wants to silence dissidents by putting us on INTERPOL's wanted list.⁹

Another high ranking member of the IRPT, Qamariddin Afzali, was detained by Turkish authorities in Istanbul on April 15, 2016 and finally released on June 28, 2016 after being kept in the prison for more than two months.

The detentions of these two high ranking members of the IRPT caused them to face the risk of deportation to Tajikistan, financial costs for legal actions, fear for their families, and, most importantly, being kept in prison for months.

⁷ The UN Human Rights Council, "UN expert deplores harsh sentencing of Tajikistan opposition leaders and warns of radicalization", <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20064&LangID=E>

⁸ RadioFreeEurope/Radio Liberty, "Rare Triumph For Tajikistan's IRPT, As Leader Removed From Interpol's 'Red Notice'" <https://www.rferl.org/a/tajikistan-islamic-renaissance-party-leader-kabiri-interpol/29076658.html>

⁹ The Diplomat, "Greek Court Denies Tajik Extradition Request for IRPT Member", November 30, 2017 <https://thediplomat.com/2017/11/greek-court-denies-tajik-extradition-request-for-irpt-member/>

Efforts to fight INTERPOL's Notice

The IRPT has spent a lot of efforts to fight these unjust INTERPOL Notices against its chairman and its other leading members, by releasing statements, giving interviews to the international media, raising its voice against these politically motivated decisions in international conferences, etc.

For example, the IRPT raised its voice against Kabiri's inclusion on INTERPOL's wanted list in the OSCE annual conference held in Warsaw in September 2016.¹⁰

As well as other human rights organizations, Fair Trials, Freedom Now, Human Rights Watch, Norwegian Helsinki Committee, etc, have helped in fighting the red notices.

Other Means in Persecuting the Tajik Activists Abroad

Dr. Edward Lemon, the DMGS-Kennan Institute Fellow in Washington DC who closely follows Tajikistan said that he compiled a database of known cases in which the government of Tajikistan has deployed its security apparatus beyond its borders.

He added that his database contains incidents of assassination, attack, arrest/detention, 'voluntary' return, exile, and rendition. ('Voluntary' return refers to cases where the individual returned to Tajikistan following threats against family members at home. 'Exile' refers to the case of Dr. Muhiddin Kabiri, who has been accused of financial crimes in Tajikistan and exiled to Europe.)¹¹

In August 2018, a man identifying himself as Mahmadali Rasulov, an officer of Tajikistan's security services since 1992, claimed he was tasked with assassinating Muhiddin Kabiri.

Rasulov said he traveled to Europe several times to run surveillance operations on Kabiri and his children. "Our task was to collect information. For the murder of Muhiddin Kabiri, we would of course have had to bring specially trained employees over to Germany. And let me assure you that the plot to kill Muhiddin Kabiri is still in place. Until this happens, the country's leadership and the leadership of the GKNB will not rest," Rasulov said.¹²

Human Rights Watch said: "The government is also targeting perceived critics abroad, seeking their detention and extradition back to Tajikistan, and has forcibly disappeared critics abroad only to have them reappear in Tajik custody."¹³

How Has the IRPT Succeeded in the Fight against the INTERPOL Red List?

The IRPT with the collaboration of friendly countries, including the U.S., and international organizations, especially Fair Trials, has succeeded in removing the names of its chairman and other high ranking members from the INTERPOL list.

¹⁰ OSCE, "What Does Dr. Kabiri's Name on INTERPOL List Mean?", September 23, 2016, <https://www.osce.org/odihr/267366>

¹¹ Dr. Edward Lemon, "Governing Islam and Security in Tajikistan and Beyond: The Emergence of Transnational Authoritarian Security Governance", August 2016, <https://pdfs.semanticscholar.org/4b1b/9dcd7ed452a26174acfea714b69ac0226690.pdf>

¹² Eurasianet, "Tajikistan: Alleged security services agent reveals assassination plot. The man claims he received orders to kill IRPT leader Muhiddin Kabiri", August 2018, <https://eurasianet.org/tajikistan-alleged-security-services-agent-reveals-assassination-plot>

¹³ Human Rights Watch, "Tajikistan: Severe Crackdown on Political Opposition US, EU Should Urgently Raise Abuses", February 2016, <https://www.hrw.org/news/2016/02/17/tajikistan-severe-crackdown-political-opposition>

The cooperation of friendly countries, especially the US, and international organizations, including the UN, EU, OSCE, etc, with the IRPT on political motivated bans of the IRPT, illegal imprisonment of tens of its members and removal from the INTERPOL list has angered the Government of Tajikistan.

In March 2017, Shohin Talbakzoda, a representative of the Tajikistan Prosecutor General's office said: *"Muhiddin Kabiri, chairman of the banned Islamic Renaissance Party of Tajikistan... is to be arrested immediately. But some European countries are providing asylum to criminals instead of arresting and extraditing them to Tajikistan."*¹⁴

A European expert in his letter to INTERPOL described M. Kabiri and the IRPT as such: "It should be underlined that the Islamic Renaissance Party of Tajikistan (in spite of its name) is NOT a radical/Islamist party, but promotes secular, democratic values, something that has been repeatedly recognized by western states and analysts following Central Asia. Kabiri does not pose a threat to Tajikistan or any other country."

Fair Trials, a global criminal justice watchdog, has been advocating for the removal of the arrest warrant against Kabiri, who represents a clear case of an authoritarian Government abusing INTERPOL's systems to persecute political opponents.

¹⁴ Radio Ozodi, *"Tajik Prosecutor General's Office: Europe instead of Deportation, Provides Asylum"*, <https://www.ozodi.org/a/tajik-official-complain-less-cooperation-in-extradation-/28401476.html>

STATEMENT OF ALEXEY KHARIS TO THE COMMISSION ON SECURITY
AND COOPERATION IN EUROPE

My name is Alexey Kharis. I am a 44-year-old Russian citizen. I have a wife and two young children, aged 8 and 10. We are seeking asylum in the United States after I was targeted for opposing official corruption in Russia. I am giving this statement to describe how U.S. immigration authorities have allowed Russia to persecute me through abuse of the INTERPOL Red Notice system.

Before my problems with the Russian government, I ran a successful construction business that employed over 2,000 people and participated in projects with international corporations such as Hyundai and ExxonMobil. In 2010, my company was awarded a contract to renovate a shipbuilding facility near Vladivostok, Russia. Unfortunately, I later learned that high-level government officials were embezzling from the project. In 2014, I was called in for interrogation by agents of the Russian Federal Security Service (FSB), who asked me to help them falsely accuse a whistleblower who was exposing this corruption. When I refused, they threatened to “bury” me alongside the whistleblower. Later that year, my family and I traveled to the United States for what we thought would be a short trip. Unfortunately, we quickly learned that I was facing false accusations of embezzlement in Russia, likely as retaliation for refusing to cooperate with the FSB.

At first, we tried to obtain justice through the Russian courts. Unfortunately, in 2015, the Russian government issued an INTERPOL Red Notice against me based on its false allegations. I later learned that Russia routinely uses Red Notices and false accusations of financial crimes as a way to have other countries return its dissidents from abroad. Having lost all hope in the Russian legal system, I applied for asylum in 2016. I even mentioned the INTERPOL Red Notice as one of the ways the Russian government was persecuting me. Unfortunately, U.S. immigration authorities used the INTERPOL Red Notice as a basis to revoke our visas.

When I later went to pick up my asylum decision in August 2017, I was arrested and placed in removal proceedings. I ended up spending 15 months in immigration detention because the immigration judge was convinced that the INTERPOL Red Notice meant I was a flight risk, even though it had been issued by a regime that routinely abuses the INTERPOL system to punish dissidents. The immigration judge also denied me asylum, in part, because he found that the INTERPOL Red Notice was “probable cause” evidence that I had committed these crimes.

I ended up having to take my case to a federal court, which ordered the immigration judge to consider evidence that “Russia is a frequent abuser of INTERPOL’s lax procedural checks to obtaining a Red Notice,” and that the Department of Justice does not consider INTERPOL Red Notices, on their own, as a basis for arrest.

¹ I was finally released on bond in November 2018. In April 2019, the Board of Immigration Appeals reversed my asylum denial, in part because it found that a Red Notice was not a sufficient basis to deny me asylum. Finally, in July 2019, INTERPOL informed me that it was deleting my Red Notice after I submitted a request to

¹ *Kharis v. Sessions*, 18-CV-04800 (N.D. Cal. November 6, 2018).

them nearly nine months before. My asylum case is still working its way through the immigration courts.

In some ways, I am lucky. Unlike so many Russian dissidents, I had the resources and family support to wage this five-year battle in both Russian and U.S. courts. However, I continue to suffer the consequences of U.S. immigration authorities relying on fraudulent Russian Red Notices. I still have to wear an ankle monitor, preventing me from traveling freely, even for my job. Also, my kids are still reluctant to let me go even for a short trip, asking if there is a chance that I might go to the “immigration camp” again. Also, I live in fear that Russian will try once again to abuse the legal process to target me and my family. Therefore, I hope the Commission will consider my experience and work to prevent authoritarian regimes from using the U.S. legal system to oppress its own citizens.

STATEMENT OF ILHAN TANIR TO THE COMMISSION ON SECURITY AND
COOPERATION IN EUROPE

When I woke up on the morning of October 16, 2018, I knew immediately from the alerts on my phone of dozens of mentions of my name in the media that there had been a big development in one of the cases in Turkey against me. But the development was so far from what I had been expecting that it seemed almost surreal. An Istanbul court had requested that INTERPOL issue a Red Notice arrest warrant for myself and my former chief editor at the *Cumhuriyet* newspaper, Can Dündar. What could I possibly have done to compel Turkish authorities to demand that INTERPOL make such a move?

The Turkish government is pursuing me for my activities as a journalist, and is charging me, like many other journalists back in Turkey, with membership in—and associations with two different terrorist organizations. I am accused of being a member of the Gülen movement as well as making propaganda for the Kurdistan Workers' Party (PKK), an outlawed Kurdish armed organization recognized as a terrorist group by the United States, Turkey and the European Union. I am also accused of “undermining the Turkish government”.

I should tell you first without a doubt that this is a purely political case in which the aim is to silence and punish me like the dozens of journalists now rotting in Turkey's jails. If I had obeyed the Turkish government and muted my critical reporting and tweets, or took the side of the government, I would have been just fine.

The *Cumhuriyet* indictment is more than 400 pages long and I take my place in it alongside more than a dozen other journalists thanks to the time I spent reporting for the secularist daily between January 2015 and July 2016.

Around 20 pages of the indictment refer to me, and these include about 35 tweets out of nearly 76,000 tweets I posted at @WashingtonPoint from 2009. In not one of these tweets, did I praise U.S.-based preacher Fethullah Gülen or his movement, unlike AKP government officials, journalists and media mouthpieces who were doing so at the time.

As I have previously said and written publicly, I unequivocally reject all allegations of ties to the Gülen movement and repeat that the indictment against me contains not one shred of evidence of any link. Given its record, it is still not that surprising that Turkish authorities have decided to request that INTERPOL issue a Red Notice international warrant for my arrest due to a case involving the *Cumhuriyet* newspaper.

For the PKK allegations, the indictment cites an interview I gave to the pro-Kurdish ARA News agency, which has also published interviews with numerous current and former U.S. officials, including the spokesperson of the anti-Islamic State coalition at the time, Colonel Ryan Dillon, and former U.S. ambassador Robert Ford. The reporter who interviewed me was Wladimir van Wilgenburg, a long-serving and respected reporter on the Middle East, who frequently speaks with government officials from the United States and other countries in the region.

Another piece of “evidence” showing my alleged association with the PKK is from an article I wrote on August 12, 2015, titled “A Strong Stance from the US: Attacks on YPG Are Unacceptable”:

A senior State Department official in Turkey who has been closely following events told *Cumhuriyet*, ‘We have made it clear that an attack by Turkey on the YPG in Syria is unacceptable for us.’ When reminded of Sinirlioglu’s claim that the US had carried out strikes on the PYD, the official started laughing as if to say ‘What else?’ ‘Strikes against the YPG aren’t even on the table.’ When asked if there was a communication problem, the official said, ‘These are complex issues. Turkey wants us as an ally, and we want to work together with them. For the sake of preventing harm to Turkish civilians from attacks by the PKK, we want the top officials to be as careful as possible.’

In the Turkish prosecutors’ world, reports like these show my support for a terror organization. I do not think I need to do any defense for these articles I wrote as they speak for themselves.

The indictment accuses me of “taking aim at the president personally” and continues very vaguely worded ‘accusations’:

While creating the impression that he was a journalist with reliable sources and powerful connections, especially in America, he depicted Turkey as an ungovernable country that has become isolated in its foreign relations, that fails to show the necessary decisiveness in dealing with terrorist organizations, and that even overlooks/aids ISIS (the Islamic State). In the suspect’s articles, it is noteworthy that he often based his claims on unnamed ‘high-level American’ sources.

These are the main accusations Turkish prosecutors laid out against me. For a few irrelevant tweets, discussions with a news site and university, and some easily refuted false claims, the prosecutor wants to give me seven-and-a-half to 15 years in jail.

Since November 2018, I have been trying to understand what kind of data, notice or diffusion on me is stored at INTERPOL following press reports that the Turkish Government is pursuing a Red Notice on me. I prepared my case in consultation with some leading experts on INTERPOL in Washington, D.C. and expert lawyers on the subject, laying out that the indictment against me by the Turkish government has not a single evidence against me and that such a politically motivated request from the Turkish government should be rejected.

Unfortunately, my attempts to get INTERPOL to simply tell me whether they have any data on me failed. All I received from INTERPOL is a vaguely worded short letter in March 2019, saying that the “National Central Bureau (NCB) of INTERPOL in Turkey has restricted the communication of any information, including the existence or the absence of data concerning you in the INTERPOL Information System.”

According to experts and lawyers, ‘restriction’ could mean there are data on me or not. After almost a year, I am back to the square one.

Here INTERPOL is unwilling to even share whether any data exist on me, and by this lack of transparency happens to enable an authoritarian regime to harass a critical journalist living abroad, placing limits on my ability to travel freely and creating quite a few other costs. INTERPOL is simply assisting the Turkish government to raise the cost of criticism of her.

I am extremely happy to see that the U.S. Helsinki Commission is taking up this important legislation to pave the way for INTERPOL to update its system and hopefully to respond to legal challenges. There is a clear need for INTERPOL to enforce its rules for member nations, correcting and updating disseminated notices and communications to stop abuse by authoritarian regimes worldwide.

According to Article 3 of INTERPOL's Constitution, "It is strictly forbidden for the Organization to undertake any intervention or activities of a political, military, religious or racial character."

To follow its own constitution, INTERPOL needs to be reformed and be more transparent. I sincerely hope that the Helsinki Commission's work on the subject will help INTERPOL to do just that. Sincerely,

Ilhan Tanir

Note: This statement is a shortened version of three installments I published about my experience with INTERPOL in 2018.



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