
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair

2023 - 2024 Regular

Bill No: AB 3027 **Hearing Date:** June 18, 2024
Author: Bains
Version: April 17, 2024
Urgency: No **Fiscal:** Yes
Consultant: JD

Subject: *Crime: transnational repression*

HISTORY

Source: Author

Support: California Police Chiefs Association; California State Sheriffs' Association; Sikh American Legal Defense and Education Fund (SALDEF)

Opposition: None known

Assembly Floor Vote: 72 - 0

PURPOSE

The purpose of this bill is to make various legislative declarations regarding transnational repression and to require the California Office of Emergency Services (Cal OES) through its California Specialized Training Institute (CSTI) to develop a transnational repression recognition and response training in consultation with the Commission on Peace Officer Standards and Training (POST).

Existing law establishes Cal OES within the Office of the Governor for the purpose of mitigating the effects of natural, manmade, or war-caused emergencies. (Gov. Code, § 8550)

Existing law requires Cal OES to coordinate the emergency activities of all state agencies in connection with an emergency, and requires every state agency and officer to cooperate with Cal OES in rendering all possible assistance in carrying out its duties, as specified. (Gov. Code, § 8587, subd. (a).)

Existing law establishes the CSTI in Cal OES, to assist the Governor in providing training to state agencies, cities, and counties in their planning and preparation for disaster. (Gov. Code, § 8588.3, subd. (b).)

Existing law establishes the Curriculum Development Advisory Committee to recommend criteria for terrorism awareness curriculum content to meet the training needs of state and local emergency response personnel and volunteers, and to make recommendations pertaining to training oversight agencies for first responders. (Gov. Code, § 8588.12, subd. (a).)

Existing law specifies that Cal OES shall be considered a law enforcement organization as required for receipt of specified criminal intelligence information by persons employed by Cal

OES whose duties and responsibilities require the authority to access criminal intelligence information. (Gov. Code, § 8585, subd. (c).)

Existing law requires POST, in consultation with subject matter experts, to develop guidelines and a course of instruction and training for law enforcement officers who are employed as peace officers, or who are not yet employed as a peace officer but are enrolled in a training academy for law enforcement officers, addressing hate crimes. (Pen. Code, § 13519.6, subd. (a).)

Existing law provides that the Department of Homeland Security (DHS), under the federal Homeland Security Act of 2002, has responsibility for integrating law enforcement and intelligence information relating to terrorist threats to the homeland. (6 U.S.C. § 111.)

Existing law provides that it is the sense of Congress that some INTERPOL member countries have repeatedly misused INTERPOL's databases and processes to conduct activities of an overtly political or other unlawful character and in violation of international human rights standards, including by making requests to harass or persecute political opponents, human rights defenders, or journalists. (22 U.S.C. § 263b.)

Existing law requires the U.S. Secretary of State to transmit to the Speaker of the House of Representatives and Committee on Foreign Relations of the Senate, by February 25 of each year, a full and complete report that includes, where applicable, a description of the nature and extent of acts of transnational repression that occurred during the preceding year, including identification of:

- Incidents in which a government harassed, intimidated, or killed individuals outside of their internationally recognized borders and the patterns of such repression among repeat offenders;
- Countries in which such transnational repression occurs and the role of the governments of such countries in enabling, preventing, mitigating, and responding to such acts;
- The tactics used by governments of specified countries, including the actions identified and any new techniques observed;
- In the case of digital surveillance and harassment, the type of technology or platform, including social media, smart city technology, health tracking systems, general surveillance technology, and data access, transfer, and storage procedures, used by the governments of specified countries for such actions; and
- Groups and types of individuals targeted by acts of transnational repression in each country in which such acts occur. (22 U.S.C. § 2151n, subd. (d)(14).)

This bill provides that by July 1, 2026, Cal OES, through its California Specialized Training Institute ("CSTI") and in consultation with the Commission on Peace Officer Standards and Training ("POST"), shall develop a transnational repression recognition and response training.

This bill provides that this training shall be regularly updated to address emerging threats and specific information on tactics used by specific foreign governments.

This bill provides that the training shall include, but not be limited to:

- How to identify different tactics of transnational repression in physical and nonphysical forms.
- Identifying governments that are known to employ transnational repression, including not only those who use it most frequently, but also those who use it most egregiously, including, but not limited to, tools of digital surveillance and other cybertools frequently used to carry out transnational repression activities.
- Best practices for appropriate local and state law enforcement prevention, reporting, and response tactics.
- Information about communities targeted by transnational repression and misinformation that may be perpetuated by foreign governments, including, but not limited to, improper labeling of dissidents as terrorist threats and notice abuses effectuated through international law enforcement cooperatives, such as The International Criminal Police Organization -- Interpol.
- Any guidance, best practices, definitions, or identified trends or threats issued by federal authorities on national security and public safety.

This bill defines “human rights” for the purposes of this bill, as “the free exercise or enjoyment of any right or privilege secured to an individual by the California Constitution or laws of this state or by the United States Constitution or laws of the United States, in whole or in part”.

This bill defines “transnational repression” for the purposes of this bill, as “any action by a foreign government or an agent of a foreign government involving the transgression of national borders through physical, digital, or analog means in order to intimidate, silence, coerce, harass, or harm members of diaspora and exile communities, or organizations that advocate for individuals in diaspora and exile communities, in order to prevent the exercise of their human rights. Including the gathering of information about individuals in diaspora or exile communities, or organizations that advocate for individuals in diaspora and exile communities, on behalf of a foreign government with the intent to use that information to harass, intimidate, or harm an individual in order to prevent their exercise of their human rights.”

This bill makes specified legislative findings and declarations pertaining to transnational repression including that:

- Transnational repression against individuals and organizations that live outside their countries of origin, prominent or vocal antiregime figures, and persons who provide aid and support to dissidents and religious and ethnic minority communities is a human rights violation that seeks to stifle dissent and enhance control over exile, activist, emigrant, and diaspora communities.
- Transnational repression is any action taken by government officials, diplomatic personnel, and proxies through acts such as extrajudicial killings, physical assaults, unexplained disappearances, physical or online surveillance or stalking, intimidation, digital threats, such as cyberattacks, targeted surveillance and spyware, and online harassment, and coercion, such as harassment of, or threats of harm to, family and associates both in and outside the United States.

- Transnational repression is a threat to individuals, democratic institutions, the exercise of rights and freedoms, and national security and sovereignty.
- Governments, including, but not limited to, Russia, Iran, China, and India, increasingly rely on transnational repression as their consolidation of control at home pushes dissidents abroad.
- The spread of digital technologies provides new tools for censoring, surveilling, and targeting individuals deemed to be threats across international borders, especially dissidents pushed abroad who themselves rely on communications technology to amplify their messages, which can often lead to physical attacks and coercion by proxy, including individuals radicalized by state-sponsored propaganda or ideology that targets ethnic or religious minorities.
- Authoritarian actors routinely attempt to deter and silence the voices of dissident and exile communities at international fora, as documented by the United Nations Assistant Secretary-General for Human Rights in the Secretary-General's annual report on reprisals to the United Nations Human Rights Council.
- It is the policy of the State of California to do all of the following:
 - i) Protect persons and organization in the state from transnational repression.
 - ii) Pursue criminal prosecutions, as appropriate, against those who engage in transnational repression.
 - iii) Provide support services for victims and communities that may credibly be targeted in transnational repression.
 - iv) Meaningfully hold accountable foreign governments engaged in transnational repression and limit their ability to influence state policy or public opinion.
 - v) Coordinate actions to enhance and complement any federal laws or regulations related to transnational repression.

COMMENTS

1. Need for This Bill

According to the Author:

The human rights of dissidents and religious and ethnic minorities are increasingly under attack from hostile governments. These governments seek to intimidate and stifle any dissent, and their tactics have ranged from harassment to threats and even murder. The rise of social media and the interconnectedness of our online presence has made the tools of harassment and intimidation easier than ever before.

In my own Sikh community we have experienced transnational repression. The Indian government was credibly linked to the assassination of a prominent Sikh activist in Toronto, Canada. Another assassination plot against Sikh leaders by an Indian

government official took place right here in California, but thankfully law enforcement intervened to prevent more death. The United States and California should be a haven anyone who has fled their country in search of a safer home with the protections and freedoms we have all come to know and love. Recognizing transnational repression and training our law enforcement to identify and prevent them is critical to protecting the many refugees and exiles who call our state home. AB 3027 is groundbreaking legislation that will prevent future harm, support victims, and hold foreign governments accountable when they target Californians.

2. Transnational Repression

In a written testimony given to the United States' Senate Foreign Relations Committee for their hearing regarding transnational repression and its threat to global rights and security, Freedom House clarified that “transnational repression occurs when states reach across borders to silence dissent from activists, journalists, and others living in exile, perpetrator states do so using intimidation and violence”. The testimony also describes how the federal government is responding to the increasingly prominent threat on US soil:

“Authorities, particularly at the federal level, are increasingly aware of the threat of transnational repression within the United States, and have taken steps to prevent the worst of it: assassination attempts, rendition, and assault. However, property damage, stalking, and intimidation still occur, causing severe disruption to people’s lives. The Departments of Homeland Security, Justice, and State, as well as the Federal Bureau of Investigation (FBI) are part of a recently launched “whole-of-government” approach to this issue, which is being coordinated by the National Security Council. Significant effort has been expended to make federal law enforcement practices more responsive to the threat of transnational repression, deploy targeted sanctions to hold perpetrators accountable, and prosecute those engaging in the most aggressive campaigns. Important action has also been taken by Congress, including passage of legislation to help end the authoritarian practice of misusing Interpol to target critics.” (Freedom House, [Unsafe in America: Transnational Repression in the United States](#))

Federal law does not currently define “transnational repression”, however, there are two bills, pending in Congress that would define this term, improve the tracking of transnational repression incidents, and develop policies and training materials to better recognize and respond to incidents of transnational repression. ([H.R. 3654 – 118th Congress \(2023-2024\)](#). and ([S. 831 – 118th Congress \(2023-2024\)](#)). For example, H.R. 3654 defines “transnational repression” as “actions of a foreign government, or agents of a foreign government, involving the transgression of national borders through physical, digital, or analog means to intimidate, silence, coerce, harass, or harm members of diaspora and exile communities in order to prevent their exercise of internationally recognized human rights.”

3. Maintaining Consistency with Federal Law

Given that transnational repression is largely within the jurisdiction of the federal government and that there are multiple pieces of federal legislation that would define transnational repression, establish federal training procedures, and provide guidance on transnational repression recognition and response, it may be prudent for California to wait for federal legislative guidance before enacting legislation in this space. Defining and establishing state trainings on transnational repression before the federal government has acted carries a risk of

creating statutory provisions, or state training guidelines, that are inconsistent with federal law. For example, AB 3027 defines transnational repression as “any action by a foreign government or an agent of a foreign government involving the transgression of national borders through physical, digital, or analog means in order to intimidate, silence, coerce, harass, or harm members of diaspora and exile communities, or organizations that advocate for individuals in diaspora and exile communities, in order to prevent the exercise of their human rights.” This definition is substantially similar to the current definitions of transnational repression contained in the pending federal legislation. However, this definition is distinct from H.R. 2654, which does not include “organizations that advocate for individuals in diaspora and exile communities” within the definition of persons that can be subject to transnational repression. Given that both the federal bills are still in their respective houses, their definitions of transnational repression and associated recognition and response tactics may change. Due to the potential for inconsistencies between this bill and potential federal legislation, the author may wish to consider adding amendment language conditioning the effectiveness of this bill on federal action or otherwise clarifying that the Cal OES training and definition of transnational repression this bill proposes should be updated to reflect future federal legislative action. Lastly, the author may wish to remove the definition of “human rights” in this bill, since the legislative language does not contain any references to human rights.

4. Argument in Support

According to Sikh American Legal Defense and Education Fund (SALDEF):

[...] Transnational repression is a growing and insidious threat to Sikh Americans, as well as other diaspora groups from Iran, China, and Russia. As the 2022 Freedom House report reveals, “operations by foreign intelligence agents have significantly intensified in recent years”. Authoritarian regimes are taking aggressive measures to silence critics and dissidents. We share Assembly Member Bains’ concerns over transnational repression and strongly believe that A.B. 3027 has the potential to protect the basic constitutional rights of Sikhs living in California.

Importantly, A.B. 3027 addresses an important gap in the current approach to addressing transnational repression - the need for robust and coordinated federal-state cooperation. By placing the responsibility for addressing transnational repression within the Office of Emergency Services (Cal OES), the state ensures that incidents and education are addressed in a consistent and coordinated fashion across the state.

[...] By centralizing responsibility to address transnational repression within Cal OES, A.B. 3027 ensures there will be consistent coordination between federal, state, and local agencies. As transnational repression involves a significant federal response and related incidents occur around the state, as evidenced by the Sikh experience, having a statewide agency leading the efforts is the most appropriate way to ensure a consistent response and marshal appropriate resources for victims and organizations.

Cal OES has deep experience serving as the coordinator between federal, state, and local agencies in response to different threats to Californians and their property. In such a complex issue environment, their experience will be an asset to impacted communities. Further, Cal OES has a proven track record in training, educating, and developing resources for the public and local agencies.

Creating educational resources in coordination with the California Commission on Peace Officer Standards and Training (POST) system is an appropriate way to ensure that impacted agencies receive an appropriate understanding of transnational repression. As SALDEF's experience and research indicates, there is a significant gap in the ability of local law enforcement to identify, prevent, and appropriately respond to incidents of transnational repression.

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