

**A tool to assess protection needs and protection activities for Human Rights Defenders.
Enrique Eguren / European Office of Peace Brigades International©**

PRESENTATION.

- Peace Brigades International has developed a material to assess protection needs and responsibilities, and planning protection activities for human rights defenders (HRD).
- Providing efficient protection to HRD is not a simple task. But we strongly believe that a collaborative approach among governmental and non governmental actors can be improved, and the Best Practices exposed in the toolbox on the implementation of the EU Guidelines provide several examples.
- This particular tool can be used by embassies and EU missions to identify the context of Human Rights instruments when a protection problem arises, to identify which kind of action can be implemented by diplomats, how local and international Human Rights NGOs can react and what should be expected from the authorities of the State of accreditation as well as from armed opposition groups. It can be useful for undertaking a comprehensive, long term and coherent policy to protect Defenders, adapted to the specific context of the country of accreditation and in Foreign Affairs and Development Co-operation Ministries to set up their programmes. It can also help Missions to communicate to local HRD on the kind of actions each actor is entitled to take.

All the rights compiled in the UN Declaration of HRD are in the international human rights instruments. From the point of view of field protection, the UN Declaration of HRD is specially useful because it breaks down in operational categories the range of rights to which human rights defenders are entitled to in the course of their work: It (in addition to many more uses) offers in this way a set of strategic guidelines or “road map” to help in the protection of human rights defenders.

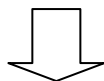
From of the 20 articles of the Declaration, we have selected those which are more relevant from the point of view of field protection. Given that the Declaration on HRD is not a binding legal instrument, we will make brief references to some of the existing binding instruments from which this Declaration takes most of its points. For filling the cells in the following chart we have drawn on the manuals from the International Service for Human Rights and Frontline quoted before.

We have covered the following sets of points of the UN Declaration on HRD:

- Meeting, communicating and organizing themselves.
- Information about HR and advocacy about HR issues
- Complaints and adequate response by the state.
- Consciousness objection and professional rights and duties
- The due protection by the state authorities.
- The use of funding and other resources.
- HR training and understanding.

Acronyms used in the chart:

AfCHPR: African Convention for Human and People’s Rights.
AmCHR: American Convention on Human Rights.
CA3-GC: Common Article 3 of the Four Geneva Conventions.
CSRefu: Convention Relating to the Status of Refugees.
CRC: Convention on the Rights of Child.
CATor: Convention Against Torture, and other Cruel, Inhuman, or Degrading Treatment or Punishment.
EuCPHR: European Convention for the Protection of Human Rights and Fundamental Freedoms
ICCPR: International Covenant on Civil and Political Rights.
ProAd-GC: Protocols Additional to the Geneva Conventions.
UDHR: Universal Declaration on Human Rights



Human Rights Defenders: Meeting, communicating and organising

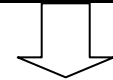
<p>PROTECTION PROBLEMS:</p> <ul style="list-style-type: none"> HRNGO are not allowed legal registration, or the process takes too long or is too difficult. Potential members are threatened to prevent them from joining HRNGO. HRNGO are slandered or accused of supporting an armed party to a conflict. HRNGO are prevented from communicating with other HRNGO abroad. 	<p>Article 5 of the UN Declaration on Human Rights Defenders: <i>For the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels:</i></p> <p>(a) <i>To meet or assemble peacefully;</i> (b) <i>To form, join and participate in non-governmental organizations, associations or groups;</i> (c) <i>To communicate with non-governmental or intergovernmental organizations.</i></p> <p>Other relevant rights enshrined in international legally binding instruments (or fundamental rights):</p> <ul style="list-style-type: none"> The right to freedom of assembly and association The right to freedom of expression, communication and freedom of opinion. <p>(Supported by the UDHR, ICCPR, AfCHPR, AmCHR, EuCPRH, CRC.)</p>
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STAKEHOLDER ACTION				
Primary stakeholders: Human rights defenders	Duty-bearer stakeholders: State authorities	Key stakeholders: UN bodies and missions with a human rights mandate; other IGOs and governments	Key stakeholders: International and national NGOs	Key/Duty-bearer stakeholders: Armed opposition groups
<p>Form NGOs (lawyers, social workers, etc), associations of affected people (relatives of disappeared or detained people, etc.), collectives (women, indigenous people, students), or trade unions, etc. Create networks (at the national and international levels). Network with authorities to claim their rights, including through social protest.</p>	<p>Pass laws and implement policies to promote the creation of and respect for HROs.</p> <p>Allow defenders to travel and communicate freely within the country and abroad.</p> <p>Publicly express support for HROs.</p>	<p>Provide support, funding, training.</p> <p>Publicly express support for HROs.</p>	<p>Provide support, funding, training.</p> <p>Publicly express support for HROs.</p>	<p>Respect defenders' rights.</p>

Human Rights Defenders: Information and advocacy about human rights issues

<p>PROTECTION PROBLEMS:</p> <p>Defenders are: Accused of being “subversives”; their work considered “contrary to the interests” of authorities or armed opposition groups, and punished.</p> <p>Not allowed to publicise human rights issues.</p> <p>Threatened or attacked for spreading human rights information or criticising authorities or armed actors.</p> <p>Prevented from entering certain areas to gather human rights information.</p>	<p>The UN Declaration on Human Rights Defenders:</p> <p>Article 6: <i>Everyone has the right:</i></p> <p style="margin-left: 20px;">a) <i>To know, seek, obtain, receive and hold information about all human rights and fundamental freedoms.../...</i></p> <p style="margin-left: 20px;">b) <i>As provided for in applicable international instruments, freely to publish, impart or disseminate to others views and information on all human rights (...).</i></p> <p style="margin-left: 20px;">c) <i>To study, discuss, form and hold opinions on the observance of all human rights and to draw public attention to those matters.</i></p> <p>Article 7: <i>Everyone has the right to develop and discuss new human rights ideas and principles and to advocate their acceptance.</i></p> <p>Article 8: <i>Everyone has the right to have effective access to participation in the government of his or her country and in the conduct of public affairs. This includes, inter alia, the right to submit to governmental bodies and agencies and organizations concerned with public affairs criticism and proposals for improving their functioning and to draw attention to any aspect of their work that may hinder or impede the protection and realization of human rights and fundamental freedoms.</i></p> <p>Other relevant rights enshrined in international legally binding instruments (or fundamental rights):</p> <ul style="list-style-type: none"> • The right to freedom of expression, to information and to communicate. • The right to freedom from discrimination <p>(Supported by the UDHR, ICCPR, AfCHPR, AmCHR, EuCPHR, CRC.)</p>
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STAKEHOLDER ACTION



Primary stakeholders: Human rights defenders	Duty-bearer stakeholders: State authorities	Key stakeholders: UN bodies and missions with a human rights mandate; other IGOs and governments	Key stakeholders: International and national NGOs	Key/Duty-bearer stakeholders: Armed opposition groups
<p>Monitor the human rights situation.</p> <p>Collect information on human rights abuses.</p> <p>Fact-finding missions.</p> <p>Publicise human rights reports.</p> <p>Promotes social changes in human rights practices.</p> <p>Launch policy proposals on human rights issues</p> <p>Participate in monitoring commissions alongside other institutions.</p>	<p>Allow access to information about how these rights and freedoms are put into practice in domestic legislative, judicial or administrative systems.</p> <p>Allow and promote the publication of human rights information.</p> <p>Ensure all state actors receive human rights information and training</p>	<p>Provide support, funding, training.</p> <p>(UN bodies) Receive and process information on human rights violations.</p> <p>Some UN field missions have a mandate to advise the government on human rights policies as well as to collaborate with primary stakeholders.</p>	<p>Provide support, funding, training.</p> <p>Receive and process information about and allegations of human rights violations.</p> <p>Cooperate with primary stakeholders in making proposals on human rights policies and practice.</p>	<p>Respect defenders’ rights.</p>

Human Rights Defenders: Complaints and adequate response by the state

PROTECTION PROBLEMS:

Defenders cannot complain before competent national and international authorities.

Defenders have difficulties making complaints against state officials.

Defenders are not allowed to know aspects of a legal process regarding complaints of human rights violations.

No investigation of complaints is carried out, or is carried out in way that puts defenders in danger.

A lack of results from defenders' complaints provide a climate of impunity for those acting against human rights or defenders.

Article 9, UN Declaration on Human Rights Defenders

1. *In the exercise of human rights everyone has the right to benefit from an effective remedy and to be protected in the event of the violation of those rights.*
2. *To this end, everyone whose rights or freedoms are allegedly violated has the right to complain to before an independent, impartial and competent authority established by law and to obtain from such an authority a decision providing redress, including any compensation due, where there has been a violation of that person's rights or freedoms, as well as enforcement of the eventual decision and award, all without undue delay.*
3. *To the same end, everyone has the right inter alia:*
 - (a) *To complain about the policies and actions of individual officials and governmental bodies with regard to violations of human rights and fundamental freedoms .../...*
 - (b) *To attend public hearings, proceedings and trials so as to form an opinion on their compliance with national law and applicable international obligations and commitments;*
 - (c) *To offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms.*
4. *To the same end everyone has the right to unhindered access to and communication with international bodies with general or special competence to receive communications on matters of human rights.*
5. *The State shall conduct a prompt and impartial investigation or ensure that an inquiry takes place whenever there is reasonable ground to believe that a violation of human rights has occurred under its jurisdiction.*

Other relevant rights enshrined in international legally binding instruments (or fundamental rights):

- The right to a fair trial.
- The right to remedy and reparation.
- The right to freedom from discrimination

(Supported by the UDHR, ICCPR, CRC, CATor, CSRefu, CA3-GC, ProAd-GC)

STAKEHOLDER ACTION

Primary stakeholders: Human rights defenders	Duty-bearer stakeholders: State authorities	Key stakeholders: UN bodies and missions with a human rights mandate; other IGOs and governments	Key stakeholders: International and national NGOs	Key/Duty-bearer stakeholders: Armed opposition groups
<p>Make complaints and follow up the process and results.</p> <p>Report difficulties to national and international bodies and eventually make them public.</p>	<p>Establish by law independent, impartial and competent judicial or other authorities to review complaints.</p> <p>Investigate allegations.</p> <p>Respond promptly with effective remedies.</p> <p>Enforce decisions.</p> <p>Offer qualified professional legal assistance.</p>	<p>Receive and process allegations of human rights violations.</p> <p>When appropriate, follow up legal processes and outcomes.</p>	<p>Receive and process allegations of human rights violations.</p> <p>Exercise legally authorised representation, by petition or other appropriate means.</p> <p>Offer qualified professional legal assistance and advice.</p>	<p>Respond adequately to complaints of human rights abuses.</p>



Human Rights Defenders: Conscientious objection and professional rights and duties

PROTECTION PROBLEMS:
 Lawyers, police officers, medical personnel, etc., are opposed to carrying out certain professional tasks that could violate other people's rights.

UN Declaration on Human Rights Defenders
Article 10: *No one shall participate, by act or by failure to act where required, in violating human rights and fundamental freedoms and no one shall be subjected to punishment or adverse action of any kind for refusing to do so.*
Article 11: *Everyone has the right to the lawful exercise of his or her occupation or profession. Everyone who, as a result of his or her profession, can affect the human rights of others should respect those rights and comply with relevant national and international standards of occupational and professional conduct or ethics.*



STAKEHOLDER ACTION

Primary stakeholders: Human rights defenders	Duty-bearer stakeholders: State authorities	Key stakeholders: UN bodies and missions with a human rights mandate; other IGOs and governments	Key stakeholders: International and national NGOs	Key/Duty-bearer stakeholders: Armed opposition groups
Organise around conscientious objection associations. Carry out public education activities about the reasons behind conscientious objection.	Legislation covers conscientious objectors' rights. Ensure respect for these rights.	Give advice to support this kind of legislation. Monitor compliance.	Give advice to support this kind of legislation. Monitor compliance.	Ensure respect for these rights.


Human Rights Defenders: Due protection by state authorities

<p>PROTECTION PROBLEMS:</p> <p>Defenders are harassed, threatened, killed, tortured or disappeared because of their work.</p> <p> officials either allow or participate in such attacks.</p> <p>Armed opposition groups participate in such attacks</p> <p>Demonstrations and public events are attacked, forbidden or used to make accusations against defenders.</p>	<p>Article, UN Declaration on Human Rights Defenders</p> <ol style="list-style-type: none"> 1. <i>Everyone has the right to participate in peaceful activities against violations of human rights.</i> 2. <i>The state shall take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.</i> 3. <i>In this connection, everyone is entitled (...) to be protected effectively under national law in reacting against or opposing (through peaceful means) activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.</i> <p>Other relevant rights enshrined in international legally binding instruments (or fundamental rights):</p> <ul style="list-style-type: none"> • The right to life. • The right to freedom from torture and inhuman or degrading treatment or punishment. • The right to freedom and security. • The right to freedom from discrimination <p>(Supported by the UDHR, ICCPR, AfCHPR, AmCHR, EuCPHR CRC, CATor, CSRefu, CA3-GC, ProAd-GC.)</p>
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STAKEHOLDER ACTION

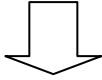
Primary stakeholders: Human rights defenders	Duty-bearer stakeholders: State authorities	Key stakeholders: UN bodies and missions with a human rights mandate; other IGOs and governments	Key stakeholders: International and national NGOs	Key/Duty-bearer stakeholders: Armed opposition groups
<p>Report and complain about state action and omission, before state authorities and international bodies.</p> <p>Negotiate with authorities to claim their rights, including to social protest.</p>	<p>Take measures to ensure protection.</p> <p>React immediately when officials attack or fails to respond to attacks against defenders.</p> <p>Early warning/action systems in place with immediate measures.</p>	<p>Advise the state.</p> <p>Monitor compliance.</p> <p>Issue recommendations, declarations and eventual condemnations.</p> <p>Provide immediate protection measures.</p>	<p>Advise the state.</p> <p>Monitor compliance.</p> <p>Issue recommendations and eventual condemnations.</p> <p>Advocate rights.</p>	<p>Take measures to stop attacks aimed at defenders and their work.</p>

Human Rights Defenders: The use of funding and other resources

<p>PROTECTION PROBLEMS:</p> <p>Defenders are accused of receiving funds or salaries from “abroad” and accused of obeying orders from “foreign enemies”.</p> <p>Defenders are accused of “inventing” human rights violations in order to receive money from abroad.</p>		<p>Article 13, UN Declaration on Human Rights Defenders</p> <p><i>Everyone has the right to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means, in accordance with article 3 of the present Declaration.</i></p>
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STAKEHOLDER ACTION 

Primary stakeholders: Human rights defenders	Duty-bearer stakeholders: State authorities	Key stakeholders: UN bodies and missions with a human rights mandate; other IGOs and governments	Key stakeholders: International and national NGOs	Key/Duty-bearer stakeholders: Armed opposition groups
Request and receive funds and other resources to do their work. Fulfil all accountancy and legal requirements.	Facilitate the management and accountancy requirements of human rights NGOs.	Fund HROs. Train and support defenders in the use of funds.	Fund HROs. Train and support defenders in the use of funds.	Ensure that defenders’ rights are respected.



Human Rights Defenders: Human rights training and understanding

PROTECTION PROBLEMS:

Due to a lack of understanding of their work , defenders are slandered or accused of lacking loyalty or patriotism.

Public servants refuse to cooperate with them.

Article 14, UN Declaration on Human Rights Defenders

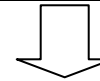
The State has the responsibility to take legislative, judicial, administrative or other appropriate measures to promote the understanding by all persons under its jurisdiction of their civil, political, economic, social and cultural rights.

Other relevant rights enshrined in international legally binding instruments (or fundamental rights):

- The right to freedom of expression, communication and the right to freedom of opinion.

(Supported by the UDHR, ICCPR, AfCHPR, AmCHR, EuCPHR, CRC.) [CHECK]

STAKEHOLDER ACTION



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Undertake public education activities about their work.	Undertake public education activities.	Undertake public education activities.	Undertake public education activities.	Let their armed elements participate in workshops.
Do workshops with specific sectors, like security forces.	Do workshops with specific sectors.	Do workshops with specific sectors.	Do workshops with specific sectors.	

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