

DEFINITION OF HUMAN RIGHTS DEFENDERS AND THE FRAMEWORK FOR THEIR PROTECTION



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Who are Human Rights Defenders (HRD)?

Basically anyone can be a human rights defender: e.g. a poor Filipino farmer who is fighting for his or her land, a Brazilian slum inhabitant who is fighting for a better housing situation, a German unionist who is struggling for better working conditions or a rich Canadian woman who is struggling for women's rights.

According to the UN "Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights", all individuals, groups and associations can be human rights defenders regardless of being professionals, volunteers, activists, personally affected or not. Thus it is not a person's title or the name of the organisation the person works for that matters most, but the character of the work. The work must be related to human rights and for that three key issues must be followed:



© Anne Ritter | Maribel Luzara (KMBP-President) claiming her rights on an agrarian reform demonstration, Manila

First of all human rights defenders must accept the universality of human rights as defined in the "Universal Declaration of Human Rights". For example, it would not be admissible to defend the human rights of rich people but to

refuse equal rights to poor people. Furthermore it is not essential for a human rights defender to be correct in his or her arguments in order to be a genuine defender. The important question is whether or not the defenders' concerns fall within the scope of human rights. In a dispute about land for example a group of defenders advocate the peasants' rights to own the land they have lived on and farmed for several generations. Simultaneously a big landowner claims the right of ownership for him- or herself in regard to the same piece of land. The group of defenders may or may not be correct about who owns the land. This is not relevant to the question whether or not they are human rights defenders. Finally, actions taken by human rights defenders must be peaceful.

Because they stand up for their rights, human rights defenders worldwide are prone to be criminalised and harassed. In many cases "they have been the target of executions, torture, beatings, arbitrary arrest and detention, death threats, harassment and defamation, as well as restrictions on their freedoms of movement, expression, association and assembly. Defenders have been the victims of false accusations and unfair trial and conviction." (UN Fact Sheet No 29: 10). State authorities are the most common perpetrators of any kind of attack against human rights defenders even though they are primarily responsible for ensuring their protection. Police and other security forces are the most visible perpetrators but not the only ones. Others appear within the court system when authorities push human rights defenders into administrative "illegality" to use this as the basis for arrest and conviction. Besides, it can be difficult to identify the perpetrator who committed an offence against human rights defenders, e.g. in cases of anonymous death threats.

In all these situations it is important that state authorities are in charge of investigating the crimes committed and providing the necessary protection. Various non-state actors commit crimes against human rights defenders as well

and they also bear responsibility. Those actors can be armed groups, transnational corporations or individuals and their actions can be both with and without state complicity.

How does the UN try to protect HRD?

Recognising the important and vulnerable role of people struggling for human rights convinced the United Nations that human rights defenders and their work needed special protection. The “Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms” was adopted by the United Nations General Assembly resolution 53/144 in December 1998. In April 2000 a second step was taken when the United Nations Commission on Human Rights asked the Secretary-General to appoint a special representative of human rights defenders to monitor and support the implementation of the declaration. The first holder of that mandate was Ms. Hina Jilani, a lawyer and famous human rights defender from Pakistan. In March 2008 the Human Rights Council appointed Ms. Margaret Sekaggya to the position. Ms. Sekaggya is a magistrate from Uganda and was the chairperson of the Uganda Commission on Human Rights from 1996 to 2008. She is also a member of the United Nations high level task force on the implementation of the Right to Development.

The mandate of the special rapporteur on human rights defenders is broad. His or her main task is to seek for, receive, examine and respond to information about the situation of human rights defenders. Furthermore the special rapporteur should establish cooperation and conduct

dialogue with governments and other interested actors in order to promote and effectively implement the declaration. Another task is to recommend effective strategies to protect human rights defenders as well as to secure the follow-up on these recommendations.

In its resolution, the Human Rights Council urges all governments to cooperate with the special rapporteur and to provide him or her with all requested information. The governments are also urged to implement these recommendations and follow up on them. Within the exercise of the mandate, the mandate holder has to present annual reports to the Human Rights Council and the General Assembly. These reports cover particular topics or situations of special importance regarding the promotion and protection of the rights of human rights defenders. Moreover the special rapporteur undertakes country visits and takes up individual cases of concern with the governments. According to the Office of the United Nations High Commissioner for Human Rights the special rapporteur requested a country visit to the Philippines in 2008. Still the visit has not taken place.

How does the European Union (EU) try to protect HRD?

The European Union continues to reaffirm its attachment to the principles announced in the Charter of the United Nations. Human rights are an important issue of safety policy and foreign affairs of the EU and its member states. In this context the EU has developed some common instruments for the encouragement of human rights and democracy. One of those are the Guidelines on Human Rights Defenders which the EU adopted in 2004 and revised



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in 2008. They were conceived as a practical tool to help EU embassies and consulates to interact with persons, groups and institutions who work for the protection, respect and guarantee of human rights. The EU regards the support of human rights defenders to be an effective and efficient way of promoting and protecting human rights throughout the world. It claims to follow the motto of the Irish NGO Front Line: „Protect one, empower a thousand.“ The EU recognizes human rights defenders as key actors who contribute to the effective elimination of all human rights violations. Hence it is seen as of utmost importance to ensure their safety, protect their rights and support their work all over the world.

SOURCES

- United Nations (2004): Human Rights Defenders: Protecting the Right to Defend Human Rights. UN Fact Sheet No 29; Geneva.