

Protocol

for the defense of human rights
defenders and civic space as a follow-
up to the Declaration of Marrakesh

Ramiro Rivadeneira Silva
Consultant

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The elaboration and drafting of the Protocol for the defense of human rights defenders and civic space; as well as the Model of national reports on the situation of human rights defenders, as a follow-up to the Marrakech Declaration, were in charge of the international consultant Ramiro Rivadeneira Silva. In addition, valuable contributions were made by Enrique Guadarrama López, to whom RINDHCA extends its gratitude. Those contributions are especially important given the urgent need in the Americas region for institutional developments such as these two valuable documents, which serve as instruments and working guidelines for NHRIs in the Americas to contribute to the protection of those whose personal and professional mission is to promote the defense of human rights.

Both the Protocol and the Model Report are part of the daily work of the Technical Secretariat, the NHRIs and the six working groups of RINDHCA, from where each action seeks to establish, maintain and promote in the region a culture of respect for human rights and the consolidation of independent, autonomous and capable NHRIs.

Pedro Francisco Callisaya Aro,
*Secretary General of RINDHCA and
Ombudsperson of the Plurinational State of Bolivia.*

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I. Introduction

II. Objective



Protocol for the defense of human rights defenders and civic space as a follow-up to the Declaration of Marrakesh

I. Introduction

The purpose of this protocol is to draw the attention of National Human Rights Institutions, NHRIs, to consider some substantive and procedural elements to strengthen their scope of action in the defense of human rights defenders, HRDs, in each of their countries, through the promotion, protection, cooperation and transparency in their activities. The commitment to the defense of HRDs is essential to guarantee their work for the cause of human rights, in favor of democracy, development and peaceful societies in our region.

The main objective of the proposed protocol is to strengthen the actions of the National Human Rights Institutions (NHRIs) for the integral defense of human rights defenders (HRDs), promoting their protection, cooperation and transparency.

NHRIs develop their competencies with independence and autonomy, based on the Paris Principles¹, an international instrument that places NHRIs at the international level, and governs their functioning through basic criteria to be effective in fulfilling their mandate. With their capacity to educate and inform on human rights, promote the observance of international human rights instruments, monitor situations of human rights violations, and other competencies according to each legal system, NHRIs are in a position to promote and carry out specific actions for the defense of human rights defenders.

¹ Adopted by the United Nations Commission on Human Rights with Resolution 1992/54 of 1992, reaffirmed by the General Assembly with Resolution 48/134 of 1993.

Compliance with the independence, autonomy and pluralism promoted by the Paris Principles organizes NHRIs worldwide around the Global Alliance of National Human Rights Institutions (GANHRI), and places them in a preferential position vis-à-vis international human rights protection bodies to participate actively in forums in which States report on the human rights situation in their countries, such as the Universal Periodic Review within the Human Rights Council. In addition, being at the highest level of independence gives NHRIs credibility and confidence in the eyes of the population that looks to them for support. For these reasons, it is important for NHRIs to be accredited at the international level with A status, which is the highest status that the organization grants to its members who meet the above-mentioned requirements.

The Global Alliance of National Human Rights Institutions held its 13th Conference in Marrakech, Morocco from October 10-12, 2018. The theme of the Conference was *“Expanding civic space, promoting and protecting Human Rights Defenders, with a special focus on women: the role of National Human Rights Institutions”*. The Conference issued the Marrakech Declaration², which has become a north for NHRIs aiming to strengthen their action of HRDD protection institutions according to its guidelines of promotion, prevention and cooperation.

In the Americas, the Network of National Institutions for the Promotion and Protection of Human Rights in the Americas (RINDHCA) has been formed under the auspices of GANHRI. Due to the growing threat of violations of the rights of HRDs in the Americas, RINDHCA has developed a Regional Action Plan of the NHRIs of the American Continent for the accompaniment of human rights defenders.

Against this backdrop, the present protocol aims to establish a framework for action and comprehensive protection for human rights defenders, recognizing the fundamental importance of their work in promoting and safeguarding democratic principles and the rule of law in our societies. This initiative is part of the continuity of the Marrakech Declaration, which underscores the need to protect those who defend the human rights of all people.

Several international bodies for the protection of human rights have expressed their concern and pronounced themselves on the defense of human rights defenders. Without losing sight of the fact that the obligation to respect, protect and guarantee human rights rests with the States, in principle we take as a reference the Inter-American Commission on Human Rights (IACHR), a regional body that issued the *“Comprehensive Policies for the Protection of Human Rights Defenders in the Inter-American Sphere”* consisting of a set of guidelines and policies designed to protect HRDs in the region. These policies seek to ensure a safe and enabling environment for people working in the defense of human rights to carry out their work without fear of reprisals or threats.

These policies are an important part of the IACHR’s efforts to promote and protect human rights in the Americas and to ensure that human rights defenders can play their crucial role in society safely and effectively.

² Global Alliance of National Human Rights Institutions, Marrakech Statement on strengthening the relationship between NHRIs and the human rights treaty bodies system. At: https://www2.ohchr.org/english/bodies/hrtd/docs/marrakeshstatement_en.pdf

Additionally, in line with the above principles and recommendations, the IACHR prepared the *“Practical Guide on Guidelines and Recommendations for the Preparation of Risk Mitigation Plans for Human Rights Defenders”*, a document that emphasizes the commitment of States and competent authorities to:

1. Publicly and unequivocally recognize the fundamental role that human rights defenders play in guaranteeing democracy and the rule of law within society, whose commitment is reflected at all levels and in every branch of government.
2. Refrain from adopting a stigmatizing discourse towards the right to defend rights and towards human rights defenders.
3. Prevent and respond to the criminalization of the work of human rights defenders.
4. Refrain from any action that restricts the exercise of freedom of expression, and facilitate the exercise of the right to peaceful social protest.
5. Refrain from creating obstacles or maintaining any disproportionate impediments or restrictions to the right to defend human rights as well as to the procedures for registration, establishment, financing and operation of human rights organizations.

In general terms, this protocol addresses the protection and recognition of human rights defenders, and seeks to provide an appropriate framework, comprehensive prevention policies and a differentiated and intersectional approach in the application of protection measures. It also emphasizes the need to investigate and punish those responsible for crimes committed against human rights defenders, taking into account the contextual complexities and specific circumstances of the attacks.

Specifically, the document contains four sections:

The general part that points out the general and specific objectives of the protocol; provides a regional context on human rights violations against HRDs; offers definitions that help to establish more precisely the contents of the document; establishes guiding principles for the effective defense of HRDs; specifically analyzes the gender approach and the points on which NHRIs should take special concern; and, concludes with a detailed analysis on various groups of defenders at special risk.

The preventive and promotional part in favor of HRDs. This section develops the importance of the implementation of international human rights instruments by States, and makes special reference to the Declaration on Human Rights Defenders; focuses on the role that NHRIs can play in the adoption of legislation, policies and programs for the defense of HRDs; refers to the need for national protection systems for HRDs, including the special protection mechanisms that have been implemented by some countries in the region, and action plans to establish specific guidelines for HRDs to carry out their activities in safe environments; develops a section on positive narratives as one of the ways to prevent and promote the work of HRDs, especially in the face of the criminalization to which they are often subjected; shows spaces and ways to better address awareness-raising and training on the subject; and concludes with a chapter on the fundamental right to transparency and access to public information.

It is essential within the protocol since it refers to the operationalization and investigation

of cases of human rights violations of HRDs. It covers various measures and interventions for the implementation of formal complaint mechanisms and protection programs. It establishes two types of protection: 1) Monitoring and permanent evaluation of the civic space, which develops strategies for the supervision of policies, comprehensive measures, business activities, and promotion of early warning systems; 2) Protection of specific cases, which in turn develops the methodology for receiving complaints, evaluation of the situation, implementation of protection measures, and access to justice. In this regard, it has been considered essential to explore the space for interaction with human rights defenders; cooperation with civil society organizations on human rights; the support that NHRIs can provide to the formation of networks of human rights defenders; and regional and international coordination in this area.

This protocol not only addresses the protection and recognition of human rights defenders, but also seeks to provide an appropriate framework, comprehensive prevention policies and a differentiated and intersectional approach in the application of protection measures. It also emphasizes the need to investigate and punish those responsible for crimes committed against human rights defenders, taking into account the contextual complexities and specific circumstances of the attacks.

In this way, this protocol aims to be a tool to guarantee the security and full exercise of the rights of human rights defenders in all spheres of society, promoting a culture of human rights and an environment free of violence and threats.

The fundamental purpose of the protocol is to safeguard human rights defenders by providing a structured and effective framework to ensure their protection, prevent risks, provide resources and support, and promote awareness and training to strengthen their security and work in defense of fundamental rights.

The commitment of States and society as a whole will be essential to ensure a safe and enabling environment for the work of human rights defenders in our countries. (IACHR, 2021).

II. Objective

This Protocol for the defense of human rights defenders and civic space has the following objectives:

General objective:

To establish a comprehensive and effective framework that guarantees protection, security and support to persons working in the promotion, defense and protection of human rights.

Specific Objectives:

1. To have parameters to identify patterns of action that generate human rights violations of HRDs, which are the basis for building public policies to eradicate such behaviors.
2. To establish specific measures to guarantee physical, psychological and emotional

security, as well as to implement procedures for rapid and effective response to threats, aggressions or risk situations faced by HRDs.

3. Identify and evaluate the risks to which HRDs are exposed in the exercise of their activities and develop preventive strategies to reduce their vulnerability.
4. To help NHRIs provide access to legal remedies and specialized legal assistance for HRDs facing reprisals or persecution.
5. Promote that NHRIs provide ongoing training to WHRDs on security measures, self-care and strategies for dealing with risk situations.
6. To raise awareness in society, authorities and the international community about the importance of the work of HRDs and the need to protect them.

These specific objectives can be adapted and expanded according to the specific needs of the regional situation, the particular challenges faced by human rights defenders and the normative provisions of each country or entity that adopts this protocol.

III. Regional Context



III. Regional Context

In the global defense of human rights, unfortunately, the number of murders is increasing. In fact, crimes are not the only forms of violating rights, since there are forced disappearances, torture and cruel, inhuman and degrading treatment, arbitrary detentions, personal and family threats, and a long etcetera of forms of imposition of power, which should call us to reflection and action in defense of these beings who are capable of giving up their lives to raise their voices in favor of the dignity of individuals and peoples.

From 2015 to 2019, OHCHR recorded 1,323 killings of human rights defenders, of which 166 were women and 22 were youth. (...) In the same period, the Latin America and Caribbean region consistently recorded the highest number of defenders killed, with 933 killings occurring there out of a total of 1,323 reported in those years. (Lawlor, 2021)

Global human rights advocacy faces a disturbing reality: every week, three people are killed around the world while protecting land and the environment from extractive forces, with more than 200 killed annually in recent years (Shiva, 2022).

The report of the Special Rapporteur on the situation of human rights defenders, Mary Lawlor, notes that during 2019 a total of 35 States recorded at least one murder of a human rights defender in their territory, 12 of them belonged to Latin America. She adds that the number of complaints made is much lower than the actual number of murders.

The 2022 Report of the organization Front Line Defenders reports 401 murders of human rights defenders, which occurred between January 1 and December 31, 2022, in 26 countries. However, what should be of concern for Latin America is that, of these, 4 countries are Latin American: Colombia, Mexico, Brazil and Honduras, in order of

severity³.

Other data of important reference are that 48% of those killed were defending land, environmental, and indigenous peoples' rights; 22% were indigenous; and, 17% were women, including trans women. Out of 1583 reported cases, the main threats suffered by human rights defenders are arrest/detention, legal actions, physical attacks, death threats and surveillance. The groups that suffered the most attacks were those defending the rights of nature, land and indigenous territories, freedom of expression, those engaged in social protest, those defending women's rights, and defenders in the justice system⁴.

IV. Definitions

1. Due diligence

Human rights due diligence refers to the obligation of States and other entities, such as companies, to take appropriate and effective measures to prevent, investigate, punish and remedy human rights violations. This obligation implies a proactive and continuous approach to ensure that human rights are respected and protected in all circumstances. (Gómez del Prado, 2012).

2. Defense of human rights

Any activity carried out in a peaceful manner, in accordance with national and international law, that contributes to the effective elimination of all violations of human rights and fundamental freedoms. Advocacy actions are considered, among others:

- Support for a more effective governance and public management policy in the area of human rights.
- Support for victims of human rights violations.
- Contribution to the implementation of international human rights instruments.
- Human rights education and training.
- The collection and dissemination of information on human rights violations. (Merino, 2020).

3. Civic space

Civic space refers to the environment that enables civil society to play an active role in various aspects of political, economic and social life. This space is essential because it enables individuals and groups to contribute meaningfully to the formulation of policies that impact their lives by providing them with the opportunity to:

- Access relevant information.
- Participate in dialogues and discussions.
- Express disagreement or divergence of opinion.

³ Front Line Defenders, "Global Analysis 2022", 2023, pp. 4, 9, https://www.frontlinedefenders.org/sites/default/files/1535_fld_ga23_web.pdf

⁴ Ibid, pp. 6, 7.

- Join together to express their perspectives and points of view.

The existence of a civic space that is open and pluralistic, and that guarantees freedoms of expression, opinion, assembly and association, is a fundamental requirement for the sustainability of development and the promotion of peace. (OHCHR, 2020)

4. Human rights defenders

Human rights defenders are those who in any way promote or seek the realization of human rights and fundamental freedoms recognized at the national or international level. Their identifying criterion is the activity they carry out in this sense. Human rights defenders promote respect for and protection of civil and political rights as well as economic, social and cultural rights, in accordance with the principles of universality, indivisibility and interdependence. (IACHR, 2011)

In various national and international contexts, the right and duty of individuals to defend human rights is recognized as a fundamental part of peaceful coexistence. In this sense, the 1998 Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, commonly known as the Declaration on Human Rights Defenders, states: *“Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels”*.

At the national level, the Political Constitution of the Republic of Colombia establishes the duty to defend and disseminate human rights as a duty of the individual and the citizen. In Honduras, the Law for the Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Operators recognizes the right of all persons, individually or collectively, to promote and seek the promotion, protection and realization of human rights and fundamental freedoms.

At the regional level, the *“Regional Agreement on Access to Information, Public Participation and Access to Justice in Environmental Matters in Latin America and the Caribbean”*, known as the Escazú Agreement, recognizes the importance and fundamental contributions that environmental defenders represent for the strengthening of democracy, access rights and sustainable development.

These definitions provide a solid framework for understanding who human rights defenders are and highlight their essential role in the promotion and protection of fundamental rights in different contexts and spheres, whether at the national or international level. (IACHR, 2021)

5. National systems for the protection of human rights defenders

They are the articulated and coordinated set of institutions, norms, policies, programs and services that ensure the exercise, guarantee and enforceability of the rights of human rights defenders.

6. Situations of risk, threat or violation of rights

Circumstances, acts or events that endanger the physical, psychological or social integrity, as well as the capacity for action and defense of human rights defenders and

civic space.

These situations may include, among others, acts of harassment, intimidation, persecution, physical or verbal violence, defamation, criminalization, restrictions on freedom of expression, the right to peaceful protest and their ability to exercise their activities in defense of human rights. They may originate from state or non-state actors and vary in severity, from verbal threats to acts of physical violence or even assassinations.

The identification, assessment and mitigation of these situations are fundamental to guarantee the security and effectiveness of the activities of human rights defenders and civic space.

V. Guiding Principles

The following principles apply to the effective defense of human rights defenders:

1. Principle of access to justice

The principle of access to justice establishes that human rights defenders must have effective access to judicial and reparation mechanisms in case of violations of their rights. This entails seeking justice and redress within a legal framework that guarantees a fair process. (United Nations General Assembly, 1999).

2. Principle of self-identification

The principle of self-identification of human rights defenders is respected and reaffirmed, which includes any person working for the promotion and protection of human rights in various areas, such as women's rights, the rights of ethnic, linguistic, sexual or religious minorities, the rights of persons with disabilities, environmental rights, indigenous rights, among others. This principle recognizes the diversity of actors involved in the defense of human rights.

3. Principle of confidentiality

The principle of confidentiality establishes that all information related to the protection of human rights defenders must be handled confidentially and respect the privacy of the persons involved. This principle is essential to guarantee the security of human rights defenders and the effectiveness of protection measures. (IACHR, 2011)

4. Principle of regional cooperation

The principle of regional cooperation highlights the importance of collaboration between states and regional organizations to address the threats and challenges faced by human rights defenders in a transnational context. This cooperation can include harmonization of laws and policies, information and resource sharing, and the promotion of regional standards of protection. (GANHRI, 2018).

5. Principle of human rights approach

All actions aimed at the defense of human rights defenders shall have human dignity as their principle and goal, and shall be based on the respect, protection and guarantee of human rights, based on national and international human rights standards.

6. Principle of differential approach

PDDH defense actions will be oriented to address the differentiated impact of risk, given the particular characteristics of individuals, groups, collectivities or communities due to significant characteristics in relation to their circumstances. Emphasis is placed on defenders established in rural areas; indigenous and Afro-descendant defenders; defenders belonging to the LGBTIQ+ collective and defenders deprived of liberty.

- In reference to defenders based in rural areas, this involves recognizing that they face unique challenges due to their remote location, the absence of the state or reduced possibilities for control, lack of access to resources, lack of knowledge of their rights, how to protect themselves and who to turn to in case of threats or violations of their rights, lack of contact with rights protection systems, and specific risks related to territorial conflicts and natural resources. To address these particular needs, protection and support measures must be tailored, including training in rural security, collaboration with local communities and leaders, and sensitivity to cultural differences. The goal is to ensure the safety and well-being of defenders in rural settings.
- In relation to indigenous and Afro-descendant defenders, it directs that defense actions shall consider their cosmovisions, territorial rights and collective security.
- Respect for defenders belonging to the LGBTIQ+ community, guaranteeing non-discrimination in their defense, taking into account their gender identity and sexual orientation. Protection protocols and guidelines must be inclusive and respectful of their diversity.
- In reference to persons deprived of liberty, NHRIs should exercise their role of supervision and monitoring of places of detention, including through preventive visits without prior authorization. They should have unrestricted access to defenders deprived of their liberty, which helps to ensure that they receive proper treatment and that their human rights are respected at all times. (Sekaggya, 2013)

7. Principle of territorial approach

It directs the obligation to differentiate the territorial contexts in which individuals, groups, collectivities or communities carry out actions for the defense of human rights, with the understanding of valuing the differences of each region or territorial area. This principle gives special importance to rural areas and the sectors farthest from populated cities, which due to their socioeconomic characteristics suffer greater conflict, and in which the absence of the State to comply with its human rights obligations is usually visible.

8. Principle of gender equality

The importance of promoting gender equality in all actions related to the defense of human rights and civic space is recognized. This implies guaranteeing the active and relevant participation of women and men on equal terms in all instances and processes, as well as specifically addressing the threats and challenges faced by women human rights defenders.

9. Principle of nondiscrimination

All human rights defenders, without distinction as to race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, should receive protection and support in their work in defense of human rights.

VI. Gender focus



VI. Gender focus

The experiences of women human rights defenders are diverse. They promote and protect human rights in very different circumstances. In doing so, they generally face greater risks and difficulties than men, risks that vary by gender and are intersectional. Apart from gender, other aspects of their identity, such as age, religion, ethnicity, class, immigration or legal status, disability, sexual orientation, gender identity, gender expression, and how these intersect, determine how women human rights defenders are perceived and treated. Women defenders are not only targeted as individuals; they are also targeted for belonging to networks, collectives and movements, and these attacks are intended to serve as a warning to others. Some of the risks and violations they face have not been properly understood, analyzed, documented and exposed; some have not been treated as legitimate human rights concerns. (Forst, 2019)

Special Rapporteur Michel Forst's 2019 Report on the Situation of Women Human Rights Defenders analyzes, in detail, the gender-related risks faced by women human rights defenders, listed below:

- Non-recognition, marginalization and systematic exclusion
- Social discredit, stigmatization and attacks on honor and reputation
- Threats and attacks in the private sphere and against family members and loved ones
- Physical assaults, sexual violence, torture, murder and enforced disappearances
- Harassment, violence and attacks on the Internet
- Judicial harassment and criminalization

- Denial of participation, restrictions and reprisals for cooperating with international and regional human rights systems
- Threats to legal status
- Physical imprisonment
- Attacks against human rights defenders' collectives and movements

For its part, the IACHR has identified various barriers and structural problems faced by women defenders in the region in promoting equal access to justice for women victims of violations of their rights. These obstacles include:

- The lack of instances for the administration of justice in rural, poor and marginalized areas.
- The absence of public defenders for victims of violence who lack financial resources.
- The scarcity of human and financial resources to address persistent and structural problems.
- The institutional weakness of the public ministries and the police in charge of investigating crimes.
- The lack of specialized units within the prosecutors' offices, the police and the courts with technical skills and expertise.
- The precariousness and lack of coordination in information systems aimed at compiling statistics on incidents and cases of violence against women. (IACHR, 2011)

It should not be overlooked that all these problems occur in a context of discrimination based on historical gender stereotypes, for example, related to their sexual life, or the strong stigmatization in their own communities, for which they even suffer shame when reporting facts related to gender situations.

NHRIs should apply the intersectional and gender-sensitive approach by promoting awareness-raising, training, counseling, promotion of gender policies, constant monitoring, promotion of a safe environment and inter-institutional collaboration. This will help ensure that all defenders receive effective protection measures appropriate to their needs, regardless of their gender identity or other personal characteristics. (Forst, Report of the Special Rapporteur on the situation of human rights defenders, 2019)..

Women human rights defenders, in addition to facing the risks common to all defenders, may also experience gender-specific discrimination and violence. This includes intimidation, threats and sexual violence. These risks can manifest themselves in a variety of contexts, including their organizations, communities and families. In addition, they face social, cultural, and religious barriers that can limit their ability to defend human rights. (GANHRI, 2018).

Ensuring the effective protection of women human rights defenders requires the adoption of gender-sensitive measures. This involves providing protection measures appropriate to their specific needs, such as the provision of adequate protection material, consideration of the safety of their families and the development of safe alternatives in

situations of risk.

1. Awareness and training

Training and awareness-raising campaigns are essential tools in the protection of defenders. These activities should be directed at the authorities, civil society and the general population, with the aim of promoting a broader understanding of the specific protection needs of different groups of defenders.

NHRIs should promote awareness and training on gender and diversity issues at the national level. This involves developing training programs aimed both at their internal staff and at the authorities, civil society and other relevant actors. NHRIs can collaborate with human rights and gender organizations to design and deliver effective training that addresses gender and diversity issues in a comprehensive manner.

2. Promotion of gender policies

NHRIs have an important role in promoting gender and diversity policies at the national level. They should advocate for the inclusion of an intersectional and gender-sensitive approach in all protection measures implemented by the competent authorities.

The Special Rapporteur on the situation of human rights defenders, in her report submitted to the Human Rights Council (Sekaggya, 2010) makes the following recommendations to NHRIs, which are included in this Protocol:

- Integrate a gender perspective in the planning and execution of all programs and actions related to human rights defenders. This should be achieved through consultations with organizations specialized in gender issues.
- Provide back-up and support for the documentation of rights violations committed against women human rights defenders and those working on women's rights and gender issues.

3. Promoting a safe environment

Among the actions that NHRIs can take to promote a safe environment for the work of women human rights defenders are:

- Support the participation of women defenders in peaceful protests and the fight against discrimination and stigmatization of women defenders.
- Urge the media and society in general to eliminate gender discrimination and the dissemination of harmful stereotypes related to women human rights defenders, promoting activities such as audiovisual programs, awareness campaigns, peaceful public demonstrations, among others.
- Offer legal advice and support to women defenders facing discrimination, gender-based violence or any other type of threat based on their gender identity or sexual orientation.
- Collaborate with other institutions, human rights organizations and civil society groups working on gender and diversity issues.

VII. Groups of human rights defenders in special situations of risk



VII. Groups of human rights defenders in special situations of risk

The 2011 Second Report on the Situation of Human Rights Defenders in the Americas stands out for showing the obstacles faced by human rights defenders in the region. Indeed, there are groups of HRDs in the region that are in a situation of greater exposure to the undermining of their rights compared to other defenders, and in which a situation of special risk is detected, as evidenced by reports of murders, attacks, monitoring, harassment and criminalization of their activities.

These groups identified by the IACHR and the Rapporteurship on the Situation of Human Rights Defenders are: 1) Union leaders; 2) Human rights defenders; 3) Peasant and community leaders; 4) Indigenous and Afro-descendant leaders; 5) Defenders of the right to a healthy environment; 6) LGBTI leaders; and 7) Defenders of migrant workers' rights. (IACHR, 2011)

In 2011, the IACHR decided to create a Rapporteurship on the situation of human rights defenders to give greater visibility to the role of human rights defenders and justice operators in building a democratic society based on the rule of law. The Rapporteurship monitors the situation of all persons working in the defense of rights in the region, including justice operators.

During its functional life and by virtue of its mandate, the Rapporteurship has developed a commendable work that includes support in the specialized analysis of complaints filed before the IACHR, in the issuance of precautionary and provisional measures for human rights defenders, visits to States, specialized studies, and other promotional activities on the protection of human rights. (OAS More Rights for More People, 2023)

1. Union leaders

Trade unions represent a legitimate form of association of working people for the protection of their interests. The right to freedom of association is a fundamental human right recognized in the Universal Declaration of Human Rights and other international instruments. Trade union leaders play a key role in the promotion and protection of this right.

The activity of union leaders is important in the defense of human rights because they play a fundamental role in the promotion and defense of workers' labor rights. This includes fighting for fair wages, safe working conditions, reasonable hours and other fundamental labor rights. In doing so, they help ensure that workers are treated with dignity and fairness, which is in line with human rights principles.

Union leaders advocate for workers' economic and social rights, such as access to health care, housing, education and other basic services. These rights are fundamental to people's well-being and dignity, and union leadership plays an important role in promoting policies and reforms that guarantee these rights.

On the other hand, they are often the first to denounce labor abuses, exploitation and unacceptable working conditions. Their work in exposing these practices contributes to public awareness and pressure for corrective action.

Trade unions and their leaders have a long history of struggle for social and economic justice. Their activism not only benefits workers, but also contributes to building more equitable and democratic societies in which the human rights of all citizens are respected.

In this regard, NHRIs should develop mechanisms to monitor that freedom of association and trade union freedom, a fundamental right for the creation, development, growth and strengthening of trade unions, are guaranteed. In particular, they can:

- To ensure that the State does not hinder the exercise of trade union freedoms.
- Promote the State's recognition of the autonomy and independence of trade union organizations.
- Demand that the State guarantee that no one will suffer violence or violation of their rights for participating in a union, especially that the State refrains from criminalizing the work of union leaders through the abusive use of criminal law, which also discourages the exercise of their labor because of the pressure it exerts on people.
- Encourage the State to adopt comprehensive policies for the legitimization of union activities, the protection of union leaders, as well as specific measures for the diligent and effective investigation of attacks committed against them.

2. Peasant and community leaders

The work of peasant and community leaders is very important in the defense of human rights, as they carry out activities in defense of their communities' rights to land and

natural resources, such as the struggle for secure land tenure, access to resources such as water and the protection of ecosystems. These rights are closely related to the right to an adequate standard of living and to food, which are fundamental human rights.

Many peasant and community leaders promote the active participation of communities in making decisions that affect their lives and territories, and fight for the preservation of their cultures, languages and traditional ways of life. The promotion and protection of cultural and indigenous peoples' rights is a key aspect of the defense of human rights.

In particular, they advocate for the labor rights of agricultural workers and peasants, including fair wages, safe working conditions and reasonable working hours. They also fight for access to fair markets and support for sustainable agriculture, which is in line with economic and social rights.

In addition, the struggle for a healthy and sustainable environment is essential to the health and well-being of communities. Peasant and community leaders, when necessary, oppose activities that threaten the environment, such as deforestation, mining and intensive agriculture.

Finally, they play an important role in providing communities with access to legal remedies and advocating for the respect of people's legal rights. This includes denouncing abuses, seeking justice and promoting legal reforms that protect human rights.

NHRIs should observe the importance of the work of peasant and community leaders for their communities, and act accordingly, with a differentiated approach, understanding the importance of the preservation of some resources that are vital for the communities. In particular, NHRIs can:

- Ensure that the right of assembly is guaranteed in communities, including the right to participate in social protests.
- Demand that the State refrain from any type of violence such as attacks, aggressions and harassment, as well as activate the necessary mechanisms for the protection of peasant and community leaders, especially their right to life.
- In particular, intervene in situations that may involve evictions and displacement of communities.
- Promote the presence of the State in the communities farthest from the city to provide peasant and community leaders with mechanisms to defend their rights.

3. Indigenous and Afro-descendent leaders

Indigenous and Afro-descendant leaders promote and protect the cultural rights of their communities, including their language, traditions, spiritual practices and ways of life; they defend respect for the traditional knowledge of their communities and their contribution to science and conservation. They also defend specific rights, such as the right to prior consultation, free, prior and informed consent and self-determination.

The activities of indigenous and Afro-descendant leaders are crucial for the promotion and protection of a wide range of human rights, especially those related to culture, land, environment, non-discrimination and participation.

They often struggle for the recognition and protection of their communities' rights to land and natural resources, which are fundamental to their livelihoods and well-being. This is related to the right to an adequate standard of living and to food, essential human rights. They are often stewards of vast areas of land and ecosystems. Their work in biodiversity conservation and environmental protection contributes to sustainability and the fulfillment of the right to a healthy environment for present and future generations.

In the same vein, indigenous and Afro-descendant leaders fight for the economic and social rights of their communities, including access to health services, education and housing, as well as fair economic opportunities; and, they promote the active participation of their communities in decision-making that affects their lives and territories, which is related to the right to participation and self-determination.

Their activities are generally carried out in contexts of racial and ethnic discrimination, so it is important to denounce discrimination, exclusion and racism, rescuing the prevalence of formal and real equality of indigenous and Afro-descendant leaders.

In this regard, NHRIs can carry out important actions to defend the rights of indigenous and Afro-descendant communities, peoples and nationalities. Thus:

- Demand respect for and protection of indigenous and Afro-descendant leaders from any type of violence they may suffer in the exercise of their activities. In particular, the following should be considered:

Aggressions, attacks and harassment against leaders of ancestral or native peoples affect the development of their communities in various areas, because in addition to being political authorities, they are spiritual authorities considered a source of ancestral knowledge and essential figures for the spiritual and cultural development of their peoples. (IACHR, 2011)

- Promote that the State guarantees the autonomy and cultural identity, the integrity of culture, and the cohesion of peoples in the defense of their rights.
- Monitor to ensure access to justice for victims of attacks on their lives, threats and surveillance.
- To ensure that any type of stigmatization is avoided, especially that which criminalizes them in supposed conflict or criminal situations.
- Intervene in situations of eviction and forced displacement of their communities, especially when it involves the occupation of ancestral lands.

4. Defenders of LGBTIQ+ people

LGBTIQ+ people face discrimination, stigmatization and violence in many parts of the world because of their sexual orientation, gender identity or sexual characteristics. LGBTIQ+ advocates work to combat discrimination and homophobia by promoting tolerance and respect for all people, regardless of sexual orientation or gender identity.

The human rights actions of LGBTIQ+ defenders are fundamental because they are based on the promotion and protection of human rights, such as the right to equality, non-discrimination, life, liberty and security of persons, and the right to health.

Sometimes they take on specific struggles according to the reality of the States in which they are located, for example, in many places equal marriage and the right of same-sex couples to adopt children are claimed as the basis for the legal recognition of all forms of family.

Advocacy for the rights of trans and intersex people includes fighting for legal recognition of gender identity and protection against discrimination based on gender identity or sexual characteristics, which is important to ensure the equality and dignity of these people.

On the other hand, promoting the health and well-being of LGBTIQ+ people is a fundamental part of advocating for their rights. This includes fighting discrimination in access to health services, and other community-related health issues.

Finally, LGBTIQ+ advocates work to ensure that the voices and concerns of LGBTIQ+ people are heard in political and social decision-making. This is essential to building inclusive and democratic societies.

In relation to LGBTIQ+ HRDD advocacy, NHRIs can:

- Promote the principle of equality and non-discrimination in the activities of defense and promotion of the free exercise of sexual orientation and gender identity.
- To ensure that the right to the free exercise of sexual orientation and gender identity is free from arbitrary and abusive interference by the State.
- Intervene against any type of violence involving aggression, harassment, threats and smear campaigns for their work in defense of the LGBTIQ+ community, especially when the right to life may be at risk.
- Ensure that the defense of the LGBTIQ+ community is not criminalized and that a discourse that discredits defenders is not generated.
- Promote a differentiated approach to the investigation of violations committed against LGBTIQ+ HRDs.
- Encourage the State to guarantee the work of LGBTIQ+ defenders through the implementation of strategies aimed at the recognition and protection of their activities, both by officials in charge of security and justice, as well as society in general.

5. Migrant human rights defenders

Migrants frequently face scenarios that place them in situations of vulnerability and risk throughout their journeys, from discrimination to human rights abuses. Migrant defenders work to ensure that the fundamental rights of migrants are respected and

protected, regardless of their immigration status.

Migrant advocates assist those in human mobility by providing legal guidance, emotional support, access to basic services such as health and education, temporary shelter and food. These activities are crucial to improving the living conditions of migrants and their families.

They also play a key role in educating society about the challenges faced by migrants. They promote understanding and empathy towards their situations, fighting discrimination and the stigma associated with migration.

Migrant advocates work to influence public policy and legislation related to migration, advocating for more just and inclusive laws that respect the human rights of migrants.

Another of their important activities is that they observe and document human rights abuses against migrants, denouncing unjust practices or violations at the local, national and international levels, which helps to make these situations visible and combat them.

NHRIs are committed to equality and non-discrimination of migrants, and can therefore take actions to support those who carry out activities in defense of migrants. Thus:

- To promote respect for the activities of people who are dedicated to defending and assisting international migrants, showing the risks they suffer when doing so, especially from being victims of organized crime.
- Intervene in situations of violence that may violate the human rights of human rights defenders, such as threats, stigmatization, criminalization of their activities, raids on organizations, illegal detentions, kidnappings, disappearances and murders.
- Monitor the respect and protection of migrant defenders in the exercise of their activities related to the defense of personal freedom and due process in the context of migrant detentions and deportations.
- Promote the guarantee of the activities of the people who provide their services in shelters or migrant homes, food management and obtaining documentation.

6. Environmental defenders

In the Americas, the environmental issue was brought into line with economic, social and cultural rights (ESCR) through the Optional Protocol on Economic, Social and Cultural Rights or Protocol of San Salvador and the Office of the Special Rapporteur on Economic, Social, Cultural and Environmental Rights (REDESCA).

The IACHR has worked for decades on the protection of economic, social, cultural and environmental rights in the region. In 2021, it approved Resolution 3/2021, entitled Climate Emergency, scope of inter-American human rights obligations, which, referring to the rights of defenders of land and nature, states:

Environmental and climate defenders are directly affected by those projects that are implemented as climate change response or adaptation measures, such as

hydroelectric dams, solar and wind farms, and large-scale monocultures and animal husbandry. Consequently, in recognition of the important work they carry out at the national and regional level and their valuable contribution to the fight against climate change, States should adopt immediate measures to promote and protect the rights of these people to life, integrity and personal liberty, to assembly and freedom of association, to privacy and protection of honor and dignity, to movement and residence, to due process and judicial guarantees, ensuring that defenders are not harassed, stigmatized, discriminated against or killed for the work they do.

The IACHR decided in 2014 to establish a Special Rapporteurship for these rights. The Rapporteurship is responsible for supporting the IACHR in the promotion and protection of ESCR in the Americas.

REDESCA performs several important functions within the American Human Rights System, for example, it prepares reports on ESCR for consideration by the IACHR; works with individual ESCR cases for decision by the IACHR; makes recommendations to the IACHR on urgent situations that may require the adoption of precautionary measures or the request for provisional measures before the IACHR Court; monitors the situation of ESCR in the region and provides advice and assistance to OAS Member States in the adoption of legislative, judicial, administrative or other measures necessary to ensure the realization of economic, social and cultural rights; among others. (OAS, *More Rights for More People*, 2023)

States must act forcefully and decisively to prevent attacks, threats, intimidation or killings and effectively investigate and punish those responsible, including those directly or indirectly related to companies, in contexts of social and armed conflict.

States must recognize the centrality of the leadership of girls, boys, adolescents and young people, as well as their movements, in the fight against climate change. States must generate the necessary protection mechanisms to guarantee that children and adolescents can exercise their activism and defense of environmental rights, also promoting their inclusion and participation in decision-making spaces.

Likewise, the States must recognize the essential role played by women as environmental, land and territorial defenders in the organization and leadership of the processes of defense of a healthy environment in the continent. It is the responsibility of States to ensure the effective participation of women environmental defenders and their movements in decision-making processes related to combating climate change, including measures adopted for a just transition. In this regard, States should implement public policies and concrete measures that, in addition to recognizing their contribution, protect them against aggressions, attacks and other forms of harassment or gender-based violence in these contexts.

For cases of abuses or violations of the rights of individuals or groups defending the Earth and Nature where companies or private actors related to the extractivist sector intervene, States should strengthen transparent and effective mechanisms for monitoring, surveillance and oversight of these, providing, as appropriate, effective sanctions and adequate reparations to apply the criminal and administrative actions that are available in the countries for the protection of the lives and livelihoods of the population. (CIDH REDESCA, 2021)

Around the world, indigenous peoples and environmental defenders risk their lives in the fight against climate change and biodiversity loss. Activists and communities play a crucial role in the first line of defense against ecological collapse, as well as being leaders in the campaign to prevent it. (Global Witness, 2022)

6.1 Obligations of States vis-à-vis environmental defenders

The obligation to respect the rights of environmental defenders necessarily includes the restriction of state power. Consequently, the State must:

- Refrain from adopting a stigmatizing discourse towards those who defend the environment.
- Prevent and respond to the criminalization of the work of environmental defenders.
- Refrain from obstructing and criminalizing the right to peaceful assembly and social protest.
- Refrain from creating obstacles or maintaining any disproportionate impediment or restriction to the right to defend human rights, as well as to the procedures for registration, establishment, financing and operation of human rights organizations. (IACHR, REDESCA, 2023)

The obligation to protect implies the activation of the necessary mechanisms to prevent violations of the rights of environmental defenders. Consequently, the State must:

- Implement suitable material protection measures.
- Agree on protection measures with the beneficiaries.
- Act with urgency and flexibility in the application of protection measures.
- Apply differential and intersectional approaches. (CIDH, REDESCA, 2023)

The obligation to guarantee includes a wide range of actions to be taken by the State. In the case of environmental defenders, emphasis is placed on prevention to avoid the violation of their rights. In this sense, States must:

- To have an appropriate legal framework to prevent violations of the rights of environmental defenders.
- Combat the structural causes of violence against those who defend the environment.
- Promote a culture of human rights and recognition of the work of human rights

defenders.

- Ensure the training and education of public servants. (CIDH, REDESCA, 2023)

However, in the event of any violation of the rights of environmental defenders, States must investigate, prosecute, and punish the crimes committed against them.

6.2 The Escazú Agreement⁵

The Escazú Agreement is a regional treaty that seeks to strengthen the rights of access to environmental information, public participation in environmental decision-making, and access to justice in environmental matters. It also includes measures to protect individuals and groups that defend human rights in environmental matters.

Article 9 of the Agreement, in reference to human rights defenders in environmental matters, states:

Each Party shall ensure a safe and enabling environment in which individuals, groups and organizations promoting and defending human rights in environmental matters may operate free from threats, restrictions and insecurity.

2. Each Party shall take appropriate and effective measures to recognize, protect and promote all rights of human rights defenders in environmental matters, including their right to life, personal integrity, freedom of opinion and expression, right to peaceful assembly and association and right to freedom of movement, as well as their ability to exercise access rights, taking into account that Party's international human rights obligations, its constitutional principles and the basic elements of its legal system.

1. Each Party shall take appropriate, effective and timely measures to prevent, investigate and punish attacks, threats or intimidation that environmental human rights defenders may suffer in the exercise of their rights under this Agreement.

The Inter-American Court has already ruled on environmental defenders in relation to the Escazú Agreement. The first case in which it does so refers to the international responsibility of the State for the violation of the right to freedom of expression in matters of defense of the environment, by imposing on the defender subsequent responsibilities of a criminal nature. It states:

77. In the same sense, Article 9 of the Escazú Agreement provides for the obligation of the States Parties to guarantee "a safe and enabling environment" so that human rights defenders in environmental matters "can act without threats, restrictions and insecurity". It also establishes that States must take "appropriate and effective measures to recognize, protect and promote" all their rights, including the rights to life, personal integrity, freedom of opinion and expression. The general principles also establish that each Party shall ensure that the rights recognized in the Agreement are freely exercised (numeral 2) and shall guarantee an enabling environment for the work of persons, associations,

⁵ Its full name is "Regional Agreement on Access to Information, Public Participation and Access to Justice in Environmental Matters in Latin America and the Caribbean". It was adopted on March 4, 2018 in Escazu, Costa Rica, during the Ninth Meeting of the Council of Ministers of the Association of Caribbean States (ACS).

organizations or groups that promote environmental protection, providing them with recognition and protection (numeral 6). In particular, the Escazú Agreement takes into consideration the 2030 Agenda for Sustainable Development and the Sustainable Development Goals (SDGs), and recalls the commitment to achieve sustainable development, in a balanced and integrated manner, in its three dimensions: economic, social and environmental. It also notes that the outcome document of the 2012 United Nations Conference on Sustainable Development entitled “The Future We Want” recognizes that democracy, good governance and the rule of law are essential for sustainable development. (IACHR Court, 2022)

The activities of environmental defenders are important to guarantee the effective implementation of the Escazú Agreement, promote transparency on environmental issues, protect the environment and related rights, as well as ensure the safety of those who work in defense of the natural environment and their communities.

The NHRIs are in a privileged position to defend people who defend the environment, especially due to the very emergency of carrying out actions to protect nature, and all the issues that arise, such as the obligations of the State and the private sector, especially transnational companies; the impact on lands, including ancestral lands; the impact on communities, many of them indigenous or Afro-descendant, which may even lead to evictions or displacements; among others.

Against this background, NHRIs can:

- Monitor and evaluate the implementation of national and international environmental protection standards that the State has enacted or accepted, especially when non-state actors are involved.
- Intervene in situations of violence against environmental defenders, such as harassment, threats, attacks, kidnappings, disappearances, especially when the person's life is at risk.
- Activate specific protection mechanisms in areas, especially rural areas, where there are permanent tensions between sectors that support mega industrial or extractivist projects and those that resist their implementation.
- Observe the actions of the public security forces in the face of demonstrations in favor of a healthy environment, in which environmental defenders participate.
- Speak out against discourses that delegitimize the activity of environmental defenders, whether they come from the authorities, the private sector or the media.
- Ensure that the activities of environmental defenders are not criminalized, for example, the abusive use of the penal system, especially through criminal offenses such as terrorism, sabotage, rebellion, etc.
- Ensure the existence and effectiveness of administrative and judicial mechanisms to hear cases of violations of the rights of environmental defenders, so that they can exercise their powers to punish and compensate the victims.
- Promote the exercise of the right to organize defenders to fight for the effectiveness of their rights.

VIII. Promotion of human rights defenders' rights



VIII. Promotion of human rights defenders' rights

NHRIs are recognized for their specific mandate in the promotion of human rights. With respect to human rights defenders, NHRIs can take a number of important actions:

1. Implementation of international human rights instruments

International human rights systems are based and developed on the obligations and commitments of States, which must ensure that such instruments are applied domestically, through their recognition in the form of norms, policies and programs that focus on the realization of the rights of the population and, ultimately, on the creation of a State structure whose purpose is to guarantee human rights.

This requires a commitment by States to subscribe to and ratify international human rights instruments, mainly those which, at the level of the universal human rights system, constitute a basic legal framework within which States, with the help of the treaty bodies, can fulfill their obligations, which are:

International treaty	Date of signature of the treaty	Supervisory body
International Convention on the Elimination of All Forms of Racial Discrimination	December 21, 1965	Committee on the Elimination of All Forms of Racial Discrimination, CERD.
International Covenant on Civil and Political Rights	December 16, 1966	Human Rights Committee, CCPR
International Covenant on Economic, Social and Cultural Rights	December 16, 1966	Committee on Economic, Social and Cultural Rights (CESCR), CESCR
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	December 18, 1979	Committee on the Elimination of Discrimination against Women, CEDAW

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	December 10, 1984	Committee Against Torture, CAT
Convention on the Rights of the Child	November 20, 1989	Committee on the Rights of the Child, CRC
International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families	December 18, 1990	Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, CMW
Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	December 18, 2002	Subcommittee on Prevention of Torture, SPT ⁶
Convention on the Rights of Persons with Disabilities	December 13, 2006	Committee on the Rights of Persons with Disabilities (CRPD), CRPD
International Convention for the Protection of All Persons from Enforced Disappearance	December 20, 2006	Committee on Enforced Disappearances, CED.

In this sense, NHRIs should have a permanent commitment and activity to disseminate international human rights instruments, promote their ratification by their States, and observe their implementation and application in each of their countries.

Although human rights declarations, such as the Universal Declaration of Human Rights, the American Declaration of the Rights and Duties of Man, the Declaration on the Right to Development, and other related declarations, are not legally binding on States, they do constitute ethical norms that guide their purposes in international relations and in their national commitments to the population within their territory.

The Declaration on Human Rights Defenders, an international instrument that should become an important tool for NHRIs when promoting, preventing and protecting the rights of HRDs, establishes the right of every person to seek the protection of human rights and fundamental freedoms, a right that obliges them to guarantee that their activity is carried out without obstacles or illegitimate limitations.

In the Americas, the basic instruments of the Inter-American human rights system are the American Declaration of the Rights and Duties of Man and the American Convention on Human Rights, the latter of which develops a structure of human rights content and establishes the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights as its main organs.

NHRIs, in fulfilling this mission, should consider what the United Nations General Assembly stated at the time of adopting the Declaration on Human Rights Defenders:

⁶ The Subcommittee on Prevention of Torture is not competent to hear individual complaints. Its powers are mainly to visit places of deprivation of liberty to recommend the adoption of measures to reduce the risk of torture, cruel, inhuman or degrading treatment.

Invites Governments, the agencies and organizations of the United Nations system and intergovernmental and non-governmental organizations to intensify their efforts to disseminate the Declaration and to promote universal respect for and understanding of the Declaration.

As such, a significant contribution that NHRIs can make is to raise awareness of the Declaration on Human Rights Defenders. This involves a number of actions, such as:

- Disseminate it widely and permanently in its official documents, presentations, communication materials, and in any way that allows institutions and society to know and value its content and importance.
- Translate the Declaration into local languages, especially into the native languages of the various communities, peoples and nationalities that cohabit the territories of the States, and disseminate it among their members.
- Train judicial, administrative and law enforcement officials on the content and scope of the Declaration and other human rights standards.
- Promote to society the self-identification of human rights defenders by the activities they carry out.

All these activities should be carried out with an intersectional and gender-sensitive approach.

2. Legislation, policies and programs

NHRIs are in a position to advise, within their countries, especially to government and legislative bodies, on the content and scope of the human rights recognized in international human rights instruments, and how they can be implemented through the different norms that govern the State, and the policies and programs that can be implemented for their respect, protection and guarantee.

When ratifying an international instrument, States undertake to respect the rights and freedoms recognized therein and to ensure their free and full exercise by all persons subject to their jurisdiction. This commitment implies that States will adopt legislative measures and any other measures necessary to guarantee human rights.

In this regard, Article 3 of the Declaration on Human Rights Defenders states:

Domestic law, insofar as it is consistent with the Charter of the United Nations and other international obligations of the State in the field of human rights and fundamental freedoms, is the legal framework within which human rights and fundamental freedoms are to be realized and exercised and within which all activities referred to in this Declaration for the promotion, protection and effective realization of those rights and freedoms are to be carried out.

The Declaration on Human Rights Defenders goes on to develop a series of fundamental rights and freedoms, among which we highlight, as they are common in the activities of HRDs, freedom of assembly, association and expression. Since human rights are

not absolute, their exercise is subject to restrictions necessary to protect the rights of others, national security, public order, public health or morals; however, such restrictions must be expressly delimited by law, which in turn limits the exercise of the State's power to prevent their unjustified or arbitrary exercise.

These reasons highlight the importance of incorporating human rights standards into laws, and NHRIs are in a privileged position to advise on the correct development of legislation and the adoption of policies and programs to create the social, economic, political and other conditions necessary for the defense of human rights defenders.

NHRIs shall ensure that the legislation, policies and programs developed for the defense of human rights defenders are applied without discrimination on any grounds, especially for reasons of gender.

3. National protection systems

National systems for the protection of human rights defenders aim to ensure that they can carry out their activities in favorable environments, free from threats, violence or infringement of their rights and freedoms, in such a way that their life, personal integrity and/or liberty or that of their family may be put at risk.

To contribute to the establishment of national protection systems, NHRIs may consider:

3.1 Special protection mechanisms⁷

Special protection mechanisms are specialized programs that provide timely and specialized intervention in the event of risks that human rights defenders may face.

NHRIs can promote in their countries the design and formulation of a specialized program aimed at protecting the rights of WHRDs, involving various state institutions, mainly those governmental institutions responsible for security, justice and guaranteeing human rights. NHRIs should seek to have an important place in decision-making in these spaces, always maintaining their rights-observing nature.

NHRIs shall ensure that special protection mechanisms comply with minimum processes and standards of intervention, namely:

- Timely assessment of the need for intervention of the mechanism.
- Identification of the protection measures to be adopted, which shall be adequate, effective and flexible.
- Information to persons at risk about available measures.
- Intervention of the competent authorities.
- Coordination and coordination with various state institutions, including the security and justice forces.
- Active and effective participation of the HRDs in the protection programs emanating from the mechanism.

⁷ Some countries in the region, such as Colombia, Honduras and Mexico, have developed special mechanisms for the protection of human rights defenders, which involve several state institutions that interact with the aim of guaranteeing the exercise of HRDs in appropriate environments, and to react to human rights violations that occur against them.

- Permanent evaluation of risk situations.
- Application of differentiated and intersectional approaches for groups that are more vulnerable or that have been historically discriminated against, especially the gender approach.
- Access to information and transparency of public information generated by the mechanism, guaranteeing the confidentiality and confidentiality of persons to ensure their safety. (IACHR, 2021).

For an effective and comprehensive intervention, it will be necessary for the special protection mechanisms to consider, at least, the following:

- That they are not only reactive, but that they pay attention to the structural causes of the situations that generate risks.
- That they have sufficient financial and human resources to provide effective protection.
- That inter-institutional coordination, and that of the institutions with the protection programs that come from the mechanism, be timely and effective. (IACHR, 2021).

It should be remembered that NHRIs are not the ones in charge of creating special protection mechanisms, because these should be formed with various state institutions, especially governments, as they are the ones who should develop security and justice policies with human rights mainstreaming.

NHRIs are expected to promote the creation of special protection mechanisms for human rights defenders in the States, regardless of the form they take, which will depend on the context and situations of each country, and to actively participate in coordination with other institutions, under their human rights observance powers.

With this understanding, it will also be beneficial for NHRIs to establish, within their institutions, special units for the defense of human rights defenders.

3.2 Action plans

The action plans are intended to safeguard human rights defenders, appoint those responsible for coordinating their implementation and maintain regular communication with defenders. The plans become effective to the extent that they direct their guidelines to the creation of a safe environment for HRDs.

The active participation and empowerment of human rights defenders must be encouraged in the design, selection, implementation and evaluation of plans, programs, policies, strategies and tactics for their protection; recognizing their diversity, applying the intersectional and gender approach; focusing on comprehensive security that encompasses physical, digital security and psychosocial wellbeing, including strategies for groups, organizations, communities and family members who share the risks with them.

The Special Rapporteur on the situation of human rights defenders has made a specific recommendation to NHRIs, in the sense of having flexible, adaptable action plans that are appropriate to the specific needs and circumstances of defenders in each State. (Forst, 2016).

In this sense, action plans can be developed in NHRIs as part of an internal institutional mechanism to direct their actions through specific objectives and goals, or they can be promoted jointly with other State institutions, especially those in charge of security, justice and/or human rights policies, in order to achieve joint objectives.

Regardless of whether it is one way or the other, what is important at the time of drafting the action plans is that they have the active participation of human rights defenders, civil society, leaders of Afro-descendant peoples, indigenous nationalities, gender, intergenerational, those working on the rights of persons with disabilities, human mobility, religious, the media, or any other relevant social actor or group.

4. Positive narratives

In our liquid societies, as defined by the philosopher Zygmunt Bauman, in reference to an overload of information that transits without being processed, to ephemeral interpersonal relationships, to consumerism and the economy of waste, in short, societies that are losing stability based on historically assumed commitments, human rights, as values, principles and ethical norms of social conduct, assumed by States as a primary duty in their relations with their population, are also entering a vortex of particular understandings that are moving away from their original notions.

Under such a premise, the action of human rights defenders becomes more difficult, and, on the contrary, it becomes easier to question them regarding their defense positions, for example, accusing them of generating insecurity, which leads them to be criminalized, or that they would impede social development, which places them in an imaginary situation of being obstacles to well-being, or, situations that have been seen several times, that they would defend people who would be outside the canons of social coexistence.

In this context, the notion of human rights as a north of peaceful coexistence, which rests on the dignity, freedom and equal opportunities of people, which sets limits to power so that it does not become arbitrary and illegitimate; and, the defense of the cause and work of human rights defenders, becomes urgent.

Of particular importance is the training work that can be done with youth, especially when it comes to young people with little access to protection mechanisms, and in general to equal opportunities, such as those who fight for the prevalence of the rights of their remote communities, but who see a State without power or with a power that is diluted by its ineffectiveness, giving way to de facto powers of exploitation.

In this scenario, one of the methodologies to rescue the prevalence of human rights and those who defend them are positive narratives that reinforce the *raison d'être* of rights, empower people, and rescue the activities of human rights defenders.

Several strategies can be used for this purpose:

a. Traditional media:

- **Television:** The production of commercials, documentaries or talk shows that highlight the stories and challenges of human rights defenders.
- **Radio:** Broadcasting of radio programs, interviews in news programs and advertising spots.

- Written press: Publication of articles, reports and interviews in newspapers and magazines.
- b. Digital media and social networks:**
 - NHRI website: Publication of content related to the work of human rights defenders, testimonies and information resources.
 - Social Networks: Creation of profiles on platforms such as Facebook, X, Instagram and LinkedIn to share stories, infographics, videos and news related to human rights defenders.
 - Hashtag campaigns: Promotion of viral campaigns on social networks using specific hashtags to increase visibility and support.
- c. Events and Conferences:**
 - Press conferences: Organization of press conferences to present reports, findings and cases related to the protection of human rights defenders.
 - Seminars and forums: Conducting seminars and public forums to discuss relevant topics and highlight the importance of human rights advocacy work.
 - International events: Attendance and participation in international conferences and events to share perspectives and best practices in the protection of human rights defenders.
- d. Collaboration with the media:**
 - Establishment of relations with the media and journalists to ensure adequate coverage of issues related to human rights defenders.
- e. Publication of Reports and Studies:**
 - Production and dissemination of annual reports, studies and analyses on the situation of human rights defenders in the region.
- f. Partnerships with NGOs and civil society groups:**
 - Collaboration with non-governmental organizations and civil society groups to amplify the reach of awareness campaigns.
- g. Testimonials and interviews:**
 - Give a voice to human rights defenders to share their testimonies and experiences through interviews and videos.
- h. Educational material:**
 - Creation of educational material, such as toolkits for the organizations and defenders themselves, or brochures, infographics and educational videos, to inform the public about the work of defenders and the risks they face.
- i. Mobilization campaigns:**
 - Organization of signature campaigns, peaceful protests and other forms of citizen mobilization with clear and persuasive messages to draw attention to specific cases

or issues related to human rights defenders.

All these activities should be carried out with an intersectional and gender-sensitive approach.

5. Awareness raising and training

The NHRIs, because of their own competencies and attributions, and because of the training of their officials, have a special position when it comes to carrying out awareness-raising and rights training activities. In fact, many of them have specialized units for the promotion of human rights, which allows them to develop theoretical documents, guides, manuals, toolboxes, and the like, which are used for awareness-raising and training purposes.

NHRIs are able to carry out awareness-raising and training activities on the defense of human rights defenders for different actors who may be involved or have responsibilities in this regard.

With respect to organized civil society, including human rights defenders themselves, it is important to train them on their rights, how to proceed in the event of threats or violations of their rights, national and international institutions that can take measures to protect their rights, State justice bodies, alternatives and the scope of criminal complaints. All of this should have a differentiated gender and territorial approach. This space also considers those who practice law, journalism or social communication.

With regard to other individuals, it is necessary to focus efforts on companies, which also have due diligence obligations to respect the human rights of the population over which they may have influence. They can be made aware of the activities and reasons for action of human rights defenders, and even encouraged to create protocols for action on HRDs.

In reference to the State, training on human rights should be directed to multiple actors, however, priority should be given to law enforcement officials and those in charge of enforcing the law, including prison personnel, as these are the most sensitive areas for the protection of human rights defenders in emergency situations.

In this regard, it is important that justice operators understand the contexts of risk and challenges faced by human rights defenders, and the role they play in the consolidation of democracy and the rule of law, mainly due to the high risk of criminalization of the activities carried out by human rights defenders within the justice system.

Another important space for awareness-raising is educational institutions at the intermediate and university levels, for information purposes on the activities of human rights defenders, and to promote a culture of respect and promotion of human rights.

In general, for awareness-raising and training actions, NHRIs should consider some important elements, among them:

- Use positive narratives that strengthen the vision of the importance of the work of human rights defenders.

- Emphasize international standards related to the activities of human rights defenders, especially the Declaration on Human Rights Defenders as a reference standard in this area.
- Organize public awareness campaigns to raise awareness of the challenges and risks faced by defenders and promote respect for their work.
- Emphasize the responsibilities of States to respect, protect and guarantee human rights, the importance of the activities of human rights defenders, the circumstances in which many of them carry out their work, the need to protect them, and related topics in accordance with the actors to whom the events are addressed.
- Use new information technologies to develop virtual awareness and training programs. In this sense, it is even possible to generate a course or training modules related to the defense of human rights defenders.

Finally, for the aforementioned activities, NHRIs will ensure that their own members are fully trained in human rights and differentiated approaches to the defense of human rights defenders.

6. Transparency and access to public information

Access to public information is a fundamental right, and transparency is a necessary element in a State governed by the rule of law, so that citizens may know about the actions of their institutions, authorities, public officials, and persons who use public resources, and, in view of this, may exercise their legitimate right to citizen participation.

In relation to the defense of human rights defenders, NHRIs can collaborate with the authorities and civil society to promote and guarantee the right of access to information related to the protection of HRDs. In particular, NHRIs are able to:

- Disseminate information on how to exercise the right and the importance of its exercise for the defense of human rights.
- Promote and encourage transparency of the authorities responsible for the protection of human rights defenders. This includes urging authorities to provide clear and complete information on the protection measures granted and the procedures related to protection.
- Sensitize the authorities on the importance of transparency in the protection of HRDD. This includes conducting awareness campaigns, seminars, workshops and publications that highlight the benefits of accountability.
- Encourage the establishment of expeditious, independent and effective remedies that allow for timely, complete and accessible responses to requests for information. Any restrictions on the right of access to information must be clearly defined in law and be necessary in a democratic society.
- Promote the active participation of civil society in promoting transparency and accountability. This involves working with civil society organizations and human rights groups to advocate for transparent practices and accountability on the part of the authorities.
- Supervise the authorities' compliance with this right. This includes reviewing the

availability of public information related to the protection of human rights defenders and identifying possible obstacles to access to such information.

As a special feature in this space, where special protection mechanisms exist or are created at the national level, NHRIs should play an active role in promoting the transparency of these mechanisms.

In this regard, NHRIs should work closely with the beneficiaries of these mechanisms to ensure that they have access to complete and comprehensible information on the functioning of these mechanisms and the protection measures granted. In addition, they should support the creation of effective channels of dialogue between defenders and the authorities responsible for protection. This may include the organization of information sessions.

Finally, NHRIs should monitor the functioning of special protection mechanisms to assess their effectiveness and transparency. This includes monitoring the implementation of protection measures and collecting data on their impact.

Promoting transparency and accountability is essential to strengthening the protection of human rights defenders. NHRIs play a central role in this process, working together with the authorities and civil society to ensure that the protection of defenders is based on principles of transparency and accountability.

Ultimately, NHRIs can play an active role in promoting transparency and accountability by working in partnership with the authorities, civil society and human rights defenders. Their task is to ensure that access to information is effective and that authorities are transparent in their protection of human rights defenders.

IX. Protección de personas defensoras de derechos humanos

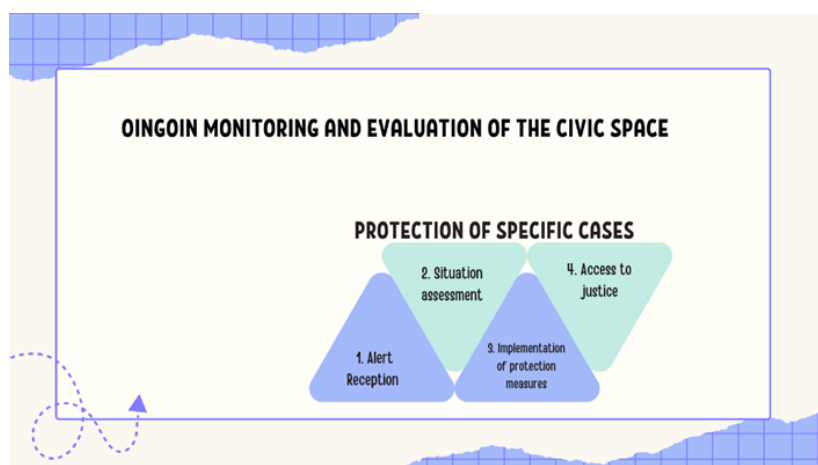


IX. Protection of human rights defenders

NHRIs have a significant role in the protection of human rights defenders, it has been recommended on multiple occasions that these institutions establish a specific liaison center for human rights defenders, whose main responsibility is to ensure their protection. (Sekaggya, 2013)

This protection encompasses various measures and interventions, including the implementation of formal complaint mechanisms and protection programs. It also involves promoting a favorable working environment for human rights defenders, offering public support when violations are committed against them, visiting human rights defenders who are detained or imprisoned, and providing legal assistance in this context. It also includes mediation in case of conflicts between defenders and other sectors of society and strengthening the capacity of HRDs to ensure their own security. (Sekaggya, 2013).

Two types of protection have been identified for the PDDHs: the first is the permanent monitoring and evaluation of the civic space where the PDDHs carry out their activities, and the second is the protection of specific cases that come to the attention of the NHRIs.

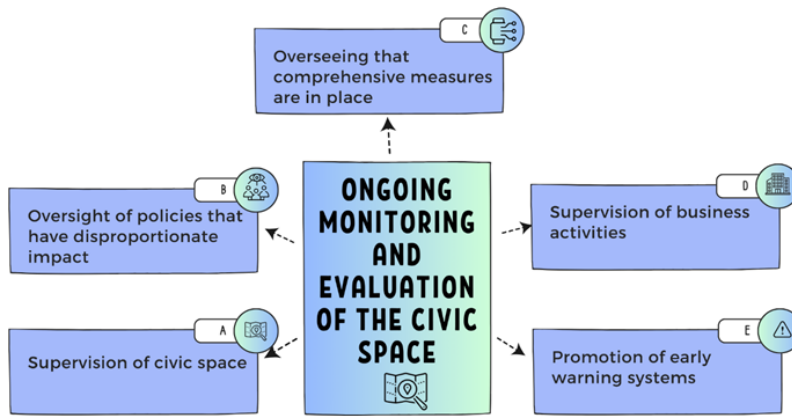


1. Ongoing monitoring and evaluation of the civic space

Sustainable Development Goal 16 on “Promote peaceful and inclusive societies for sustainable development, facilitate access to justice for all and build effective and inclusive accountable institutions at all levels”, contains, among its indicators 16.10.1 which states: “Number of verified cases of murder, kidnapping, enforced disappearance, arbitrary detention and torture of journalists, associated members of the media, trade unionists and human rights defenders, in the last 12 months”.

This objective and indicator should not be absent from the activities of NHRIs, especially when States have the obligation to establish a system for monitoring and following up on threats and attacks against defenders, as well as the implementation of protection measures, effective communication channels with defenders to understand their specific needs, including those related to gender and diversity issues. (IACHR, 2021).

In this regard, NHRIs should assess the following activities:



a. Supervision of civic space

NHRIs can constantly monitor and evaluate civic space, both online and with on-site visits. This involves the collection and analysis of statistical data related to killings, fabricated legal charges and other attacks against human rights defenders. Special attention should be paid to gender-based disaggregation and groups at risk. (GANHRI, 2018)

It is important to gather information from various sources, such as reports from human rights organizations, the media, testimonies from defenders and other relevant sources; include detailed and accurate information on threats, aggressions, homicides, false legal charges or other attacks.

Once the information has been collected, NHRIs should conduct a thorough analysis of the data, identifying patterns, trends and areas of concern regarding the security of human rights defenders.

It is essential to pay special attention to disaggregating data based on gender and at-risk groups, such as defenders belonging to ethnic minorities, indigenous communities, LGBTIQ+ people and other vulnerable groups. This allows for a better understanding of the disparities and specific challenges faced by these groups.

Based on the data analysis, NHRIs should prepare reports describing the situation of civic space and the security of human rights defenders. These reports should include recommendations addressed to relevant authorities and other stakeholders to address threats and improve the protection of defenders.

Monitoring of civic space must be continuous, as threats and challenges may evolve over time, and NHRIs must remain vigilant and adjust their strategies as necessary.

b. Oversight of policies that have disproportionate impact

NHRIs should assess when State legislation and/or policies may have a disproportionate impact on the work of human rights defenders. For example, there may be restrictive regulations on freedom of association, freedom of expression or freedom to demonstrate peacefully; or there may be the adoption of disproportionate measures by the State to curtail the exercise of freedoms in the event of a state of emergency.

In any case, States should ensure the work of the defense of human rights and refrain from imposing disproportionate restrictions, for example, obstacles to registration procedures for human rights organizations, or from receiving financial support from national or international sources. When it is necessary to impose measures that restrict the defense of human rights, they should be regulated by law, be strictly necessary and proportionate to the legitimate aim pursued, and always have adequate recourse to challenge them before an independent tribunal. (IACHR, 2021)

NHRIs should identify restrictive norms or policies that restrict the defense of human rights and civic space by collecting information from various sources: governmental, human rights organizations, civil society reports and other relevant reports.

The data collected will be used by NHRIs to conduct analyses that confront the limitations of defenders' work with the standards for guaranteeing the rights that would be restricted; assess the long-term consequences of restrictive norms or policies, for example, possible human rights setbacks, controls on civil society participation, or increased repression.

Based on the results of the impact analysis, NHRIs should prepare reports describing the disproportionate impact of policies on defenders and civic space. These reports should include recommendations addressed to the relevant authorities to address the identified challenges.

NHRIs can also carry out communication and advocacy activities to raise awareness among the public and authorities about the disproportionate impact of certain policies on human rights defenders. This can include organizing events, disseminating reports and participating in public debates. In this regard, collaboration with other government institutions, human rights organizations and civil society can strengthen the necessary response.

Finally, the identification of disproportionate impact should be an ongoing process. NHRIs should continue to monitor legislation and policy implementation and assess their impact over time to ensure that corrective action is taken where necessary.

c. Overseeing that comprehensive measures are in place

NHRIs should advocate for the adoption of comprehensive measures to respond to

violence against human rights defenders. The action of NHRIs is grounded in the States' own obligations that have been emphasized in the jurisprudence of the Inter-American Court of Human Rights, IACHR:

In turn, States must provide the necessary means so that human rights defenders or those who perform a public function with respect to which they are threatened or at risk or denounce human rights violations, can freely carry out their activities; protect them when they are subject to threats to prevent attacks on their lives and integrity; generate the conditions for the eradication of violations by state agents or individuals; refrain from imposing obstacles that hinder the performance of their work, and seriously and effectively investigate the violations committed against them, combating impunity. (IACHR Court, 2013)

Furthermore, NHRIs should also assess that the adoption of comprehensive measures include enhanced security measures, especially when the right to life and personal integrity of the HRDs may be affected. (IACHR Court, 2014)

For the reinforced security, the IACHR Court sustains the following rationale:

This special protection is necessary because the defense of human rights can only be exercised freely when the persons who carry it out are not victims of threats or any type of physical, psychological or moral aggression or other acts of harassment. (IACHR Court, 2018)

In addition, NHRIs should urge that the structural causes affecting the security of human rights defenders be addressed and work together with the authorities to develop legal frameworks, policies and programs that establish risk prevention systems for human rights defenders.

In relation to structural causes, the Special Rapporteur on the situation of human rights defenders recalls that:

attacks, including killings of human rights defenders, often occur in a context of structural violence and inequality, including in conflict societies, and as a product of patriarchal and heteronormative systems. Threats and killings often occur when a context of negativity has been created around defenders in general, or in relation to specific defenders. This can make them vulnerable to attack. Changing the way political leaders and the public perceive and talk about the value of defenders' work, and emphasizing their positive contributions to society, could reduce the risk of defenders being attacked. (Lawlor, 2021).

Finally, it is necessary for NHRIs to coordinate and articulate their efforts with other State institutions to ensure the effective implementation of protection measures. This implies:

- Verification of the allocation of specific resources and personnel to carry out the protection measures by the competent entities.
- Establish communication and cooperation protocols with other entities in charge of security and protection.

d. Supervision of business activities

NHRIs should monitor and ensure that companies, whether national or transnational,

operating in the country respect human rights in all their activities. This includes ensuring that companies do not violate the human rights of third parties and that they take responsibility for any adverse consequences that may arise from their operations. (OECD)

NHRIs should ensure that companies exercise due diligence in relation to human rights. This implies that companies should comply with the following obligations:

- Prevent their activities from causing or contributing to negative consequences on human rights and civic space.
- Prevent or mitigate negative consequences related to its operations or business relationships.
- Have policies and procedures in place to remediate any negative consequences they may have caused.
- Collaborate with the required information and actions of public bodies in response to early warnings.
- Having personnel responsible for human rights due diligence.

e. Promotion of early warning systems

Early warnings are a timely and preventive warning that describes the risk of human rights violations and are intended for the rapid adoption of preventive measures by the State.

Early warnings can be imminent or structural. The imminent early warning seeks urgent responses to prevent the materialization of damages arising from imminent risks. Structural early warning, on the other hand, seeks to eliminate or mitigate structural risks through planned responses defined through medium- and long-term public policies.

In relation to the defense of human rights, early warnings can be a useful tool for creating a safe and enabling environment for the work of human rights defenders. NHRIs can promote the design and articulation of early warning systems that allow for an immediate response to threats or attacks against human rights defenders.

The basis for the proper functioning of early warning systems is the coordination and inter-institutional articulation to carry out correct risk analyses; to guarantee the issuance of timely measures to protect people who may be direct or indirect victims of such risks; and to permanently monitor and evaluate the actions implemented and being implemented. The collaboration of governmental and judicial bodies and NHRIs is important to achieve the proposed objectives.

In particular, NHRIs, being part of early warning systems, should be prepared to obtain information and generate continuous monitoring reports of civic space; and, if they determine that the situation presents an imminent risk for human rights defenders, they should seek the adoption of timely and effective measures. (OAS- UNDP, 2016) This implies:

- Notify the competent authorities and other relevant stakeholders about the risk situation.

- Coordinate with authorities and other stakeholders to take timely and effective action.
- Mobilize the necessary resources and support to guarantee the protection of human rights defenders.

Ongoing monitoring and evaluation of both civic space and protection measures enables NHRIs to identify and address ongoing challenges faced by human rights defenders, thus contributing to their safety and the protection of civic space in the region. It also helps ensure that NHRIs are informed and prepared to address any threats or rights violations that may arise.

NHRIs are able to include information on the situation of human rights defenders in their reports and recommendations presented at the national and international levels.

2. Protection of specific cases

Before developing the methodology for dealing with specific cases, it is necessary to establish rules for NHRIs to generate interpretation criteria applicable to human rights defenders. These are:

Analysis of the work context: Taking into account the context in which human rights defenders carry out their activities, recognizing the specific challenges they face, such as persecution, harassment or criminalization of their work.

Recognition of defense work: Valuing and recognizing the importance of the work of human rights defenders in society and how this can be the underlying reason for violations of their rights.

Identity protection: Prioritize the protection of the identity of defenders involved in investigations to avoid additional risks derived from their exposure.

Differentiated approach to gender and groups in more vulnerable conditions: Consider the particularities and specific challenges faced by human rights defenders belonging to vulnerable groups, such as women defenders or persons belonging to ethnic minorities or marginalized communities.

Active and pressure-free participation: Ensure that human rights defenders are able to participate freely in the investigation process without fear of reprisals or intimidation.

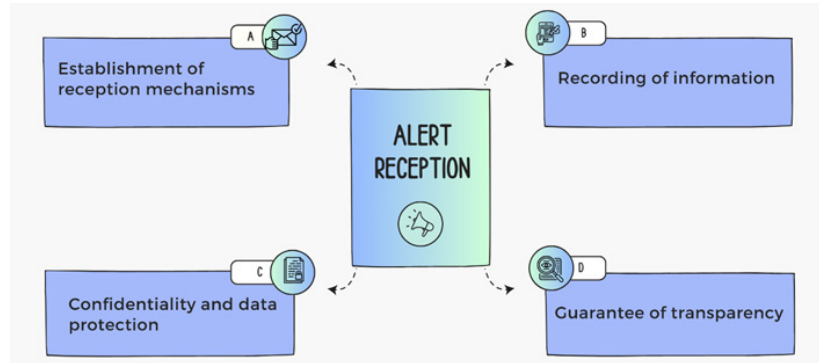
Specialized support and assistance: Provide specialized psychological, legal and security support to defenders affected by human rights violations, recognizing their vulnerability and specific needs.

Preventive approach: Develop preventive strategies aimed at avoiding further violations against human rights defenders in the future, including early protection measures and constant risk monitoring.

At the core of these specific rules is the recognition of the risks inherent in the activities of human rights defenders, adapting investigation processes to effectively address their needs and ensure their safety.

For the protection of specific cases of human rights defenders, NHRIs should implement procedures in which they will consider:

2.1. Alert reception



a. Establishment of reception mechanisms

NHRIs should establish effective mechanisms to receive alerts and complaints related to the security and protection of human rights defenders. These mechanisms should be accessible and secure, allowing defenders, organizations and other stakeholders to report threats and risks in a confidential and protected manner. This implies:

- Provide communication channels that allow defenders, organizations and other stakeholders to report threats and risks in a confidential manner, such as secure telephone lines, encrypted text messages, online forms, protected links from the NHRI website or protected email addresses. (Sekaggya, 2013)
- Ensure that these channels are available 24 hours a day, 7 days a week, to deal with emergency situations.
- Establish security and data protection protocols to ensure the confidentiality of those making complaints.

It should be noted that, in the event of human rights violations, the NHRIs may also initiate an ex officio investigation, based on facts that they may learn of by any means, such as the media, social networks, etc.

b. Recording of information

Upon receipt of an alert, NHRIs should carry out a full and detailed record of the information provided. This involves:

- Identify the person or group at risk, recording their name, contact and other relevant data.
- Document the nature of the specific hazards or risks reported.
- Record the local or regional context in which the events take place.
- Maintain updated and organized records for proper follow-up of each case.

c. Confidentiality and data protection

Throughout the process of receiving alerts, NHRIs must guarantee the confidentiality of

the information provided and the protection of personal data. This is achieved by:

- The use of security protocols that prevent the leakage of confidential information.
- The implementation of technical and legal measures to protect the personal data of defenders and whistleblowers.
- Strict compliance with applicable data protection laws and privacy regulations.

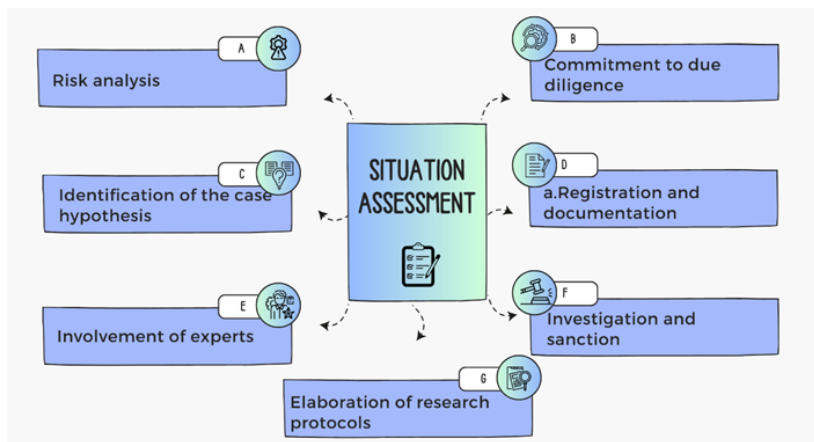
d. Guarantee of transparency

NHRIs should ensure transparency in the handling of complaints, especially in urgent situations. In addition, they should effectively communicate to human rights defenders the scope of protection they can provide. This is essential to manage expectations and allow defenders to properly assess their security in relation to their specific situation. (Sekaggya, 2013)

NHRIs must be agile and meticulous in receiving alerts, ensuring confidentiality, data protection, ensuring transparency and taking timely measures to protect human rights defenders at risk.

2.2. Situation assessment

Assessing the situation is a critical step in ensuring the safety and protection of human rights defenders. How NHRIs can act is described here.



a. Risk analysis

NHRIs should have the capacity to analyze the information received and assess the risks faced by human rights defenders. Once the alert is received, an immediate assessment of the risk situation will be carried out, considering the seriousness of the threat, the identification of possible aggressors and the vulnerability of the defender. This includes:

- Consider factors that may increase risk, such as gender, sexual orientation, ethnicity and other aspects of vulnerability.
- Use risk analysis tools to help determine the severity and urgency of the situation.
- Perform an accurate assessment to make informed decisions.

b. Commitment to due diligence

NHRIs should engage in due diligence in assessing situations involving threats, intimidation or reprisals against human rights defenders. To this end:

- Conduct thorough and complete investigations into reported acts of violence or retaliation.
- They will act swiftly to guarantee the safety of the defenders and will take into account the seriousness of the threat.
- Maintain an impartial and objective attitude during the evaluation, avoiding bias or assumptions.

c. **Identification of the case hypothesis**

During the assessment of the situation, NHRIs should consider the possible relationship between the acts of violence and the human rights advocacy work of the affected person. This involves:

- Investigate whether the crimes were committed in retaliation or for the purpose of hindering human rights advocacy.
- Identify possible patterns of violence that may be specifically directed against defenders.

d. **Registration and documentation**

NHRIs should carefully record and document the information gathered during the situation assessment. This includes:

- Gather tangible evidence, such as testimony, physical evidence and relevant documentation.
- Maintain organized and secure records of all data collected.
- Guarantee the protection of the confidentiality of the data and information provided to it, which may come from other defenders, organizations of the society, population, etc.

e. **Involvement of experts**

Where necessary for an accurate assessment, NHRIs should involve experts in human rights, criminology and other related fields. This ensures:

- An exhaustive and specialized evaluation of the situation.
- Identification of possible patterns of violence or specific threats against defenders.
- Support in the development of strategies for the protection and prevention of future risks.

f. **Investigation and sanction**

NHRIs should advocate for the investigation and punishment of acts of violence or retaliation. This includes:

- Collaborate with the competent authorities to ensure that an impartial and effective investigation is carried out.

- Press for those responsible to be brought to justice and punished in accordance with the law.
- Provide assistance and support to victims in seeking justice and redress.

g. **Elaboration of research protocols**

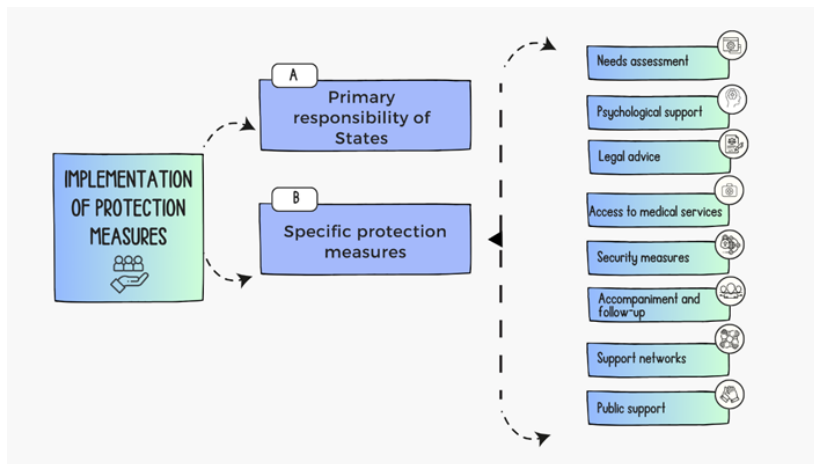
NHRIs can develop investigation protocols that take into consideration the risks inherent in human rights work. This involves:

- Create specific guidelines for investigating cases related to defenders, considering their needs and vulnerabilities.
- Establish clear and efficient procedures to carry out investigations in a more effective and targeted manner.
- Adapt protocols to the particular circumstances of each case.

An NHRI investigation protocol for human rights violations should be a solid tool to guide the assessment process and ensure that adequate measures are taken to protect defenders and seek justice in cases of threats or violence.

2.3. Implementation of protection measures

The implementation of protection measures for human rights defenders is crucial to ensure their safety and enable them to continue their work in a secure environment. Here we describe how NHRIs should act in the implementation of protection measures.



a. **Primary responsibility of States**

NHRIs should recall that, according to the Declaration on Human Rights Defenders, States have the primary responsibility to protect all persons against any form of violence, threats, reprisals or discrimination resulting from the legitimate exercise of human rights. To assist states in fulfilling this responsibility, NHRIs should:

- Advocate with state authorities to take concrete and effective protection measures.
- Monitor and evaluate the implementation of these measures by state authorities.
- Urge States to prevent and respond to attacks and reprisals in an appropriate and

timely manner.

b. Specific protection measures

NHRIs should ensure that the State provides comprehensive attention to human rights defenders, collaborating with the competent authorities to establish and implement concrete protection measures adapted to the situation of human rights defenders, ensuring that the measures are proportional and appropriate to the risks identified, and guaranteeing that the defender gives his or her consent before applying these measures. This includes:

Needs assessment: When a human rights defender faces threats or aggression, the NHRI should conduct a comprehensive needs assessment. This includes identifying the physical and emotional impacts of the threats or attacks.

Psychological support: NHRIs should have mental health professionals, such as psychologists or counselors, who are trained to provide psychological support to affected persons, especially in crisis situations. This support may include individual or group therapy, counseling and coping techniques to deal with stress and trauma.

Legal advice: NHRIs should provide legal advice to affected defenders to guide them in legal matters related to the threats or attacks they have faced. This may include access to specialized human rights lawyers, legal representation in court proceedings if possible within their mandate, or alternatively coordination with access to state sponsorship services.

Access to medical services: If a defender has suffered physical injuries as a result of threats or attacks, NHRIs should ensure that she receives adequate and timely medical attention. This may include emergency medical care, treatment of injuries, and ongoing medical follow-up.

Security measures: NHRIs can coordinate with relevant authorities and security forces to implement effective protective measures. This may include the assignment of panic buttons, emergency telephones, escorts, temporary evacuation and relocation, accompaniment of transfers, installation of cameras, locks, lights or others in the home or workplace, provision of communication equipment, bulletproof vests, metal detectors, armored cars, or any other measure that guarantees the safety of the defender and his or her immediate environment. NHRIs should have mechanisms to continuously supervise and evaluate the implementation of the measures.

Accompaniment and follow-up: It is important that NHRIs maintain constant accompaniment and follow-up of the situation of the affected defender. This involves regularly checking on their safety and well-being, as well as providing ongoing support as needed.

Support networks: NHRIs can help establish a support network that includes other human rights organizations, groups of defenders, and local communities that are willing to support the affected person.

Public support: In situations where violations are committed against human rights defenders, such as threats, harassment, attacks or other harmful acts, NHRIs should be able to communicate with the public directly or through the media to express their views and recommendations. This communication should include condemnation of violations

suffered by individuals or associations that defend human rights because of their work, as well as the expression of public support for them. (Sekaggya, 2013)

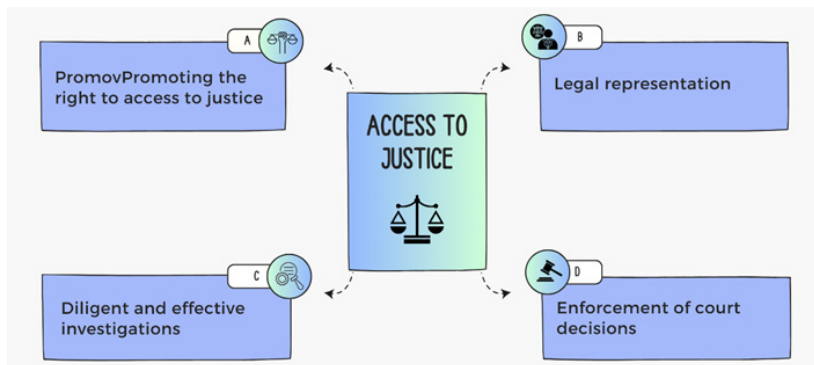
Providing comprehensive care to human rights defenders in the event of threats or aggressions involves addressing both physical and emotional needs, ensuring their safety, well-being and support, and collaborating with various entities to provide the necessary assistance.

c. Coordination with international and regional bodies

NHRIs should interact with international and regional human rights systems in support of human rights defenders. Depending on the risk situation, NHRIs may request protection measures from the competent international bodies and follow up and monitor compliance.

2.4. Access to justice

Access to justice is a human right and an essential space to guarantee the effective protection of human rights defenders. In this sense, NHRIs can carry out actions that facilitate access to judicial and administrative instances to denounce threats or violations of their rights. (GANHRI, 2018)



a. Promoting the right to access to justice

NHRIs should promote the right of access to justice for all human rights defenders. This implies observing and acting to ensure that anyone whose rights or freedoms have allegedly been violated has the right to lodge a complaint with an independent and impartial judicial authority; that complaints are promptly examined in open court; and that, at the appropriate procedural stage, a decision is obtained that provides appropriate redress, including compensation where appropriate.

b. Legal representation

NHRIs can assist human rights defenders to access duly authorized legal representatives, or provide direct legal representation if their mandate allows. This ensures that complaints are filed effectively and that defenders' interests are defended before the judicial authorities.

c. Diligent and effective investigations

NHRIs should observe and act, to the extent of their competence, so that investigations are diligent and effective, leading to the identification and punishment of the perpetrators

of acts of violence against human rights defenders, and, consequently, to the punishment of all persons responsible. (IACHR, 2021)

The Inter-American Court of Human Rights has held:

The Court reiterates that the State is obliged to combat this situation of impunity by all available means, since it fosters the chronic repetition of human rights violations and the total defenselessness of the victims and their next of kin, who have the right to know the truth of the facts. This right to the truth, when recognized and exercised in a concrete situation, constitutes an important means of reparation. (IACHR Court, 2005)

Faced with this responsibility of the State, which is embodied in the effective investigations of its judicial bodies, the NHRI can exercise some powers within its mandate, always vigilant to ensure that diligent and effective investigations are carried out, but under no circumstances to intervene in judicial independence. These are:

- Share relevant information that can contribute to investigations and trials.
- Demand that the competent authorities carry out impartial and serious investigations.
- To monitor the effective action of the judicial authorities in the prosecution of those responsible, which requires that in each case clear and logical lines of investigation are carried out.
- To follow up on the protection measures issued by the judicial bodies.
- Advocate for accountability and justice in all cases of violence or retaliation.

d. **Enforcement of court decisions**

NHRIs should closely monitor the execution of judicial decisions related to violations of fundamental rights and freedoms. This includes monitoring that decisions issued for the protection and defense of human rights are implemented without undue delay. (United Nations General Assembly, 1999)

This approach by NHRIs not only protects the rights of victims and ensures that they receive the justice and reparation they deserve, but also aims to have a greater impact on the delivery of justice, for example, by preventing impunity and undermining confidence in the justice system, deterring others from committing similar violations in the future, ensuring that authorities abide by the law and respect court decisions, contributing to strengthening the rule of law and building societies based on respect for human rights.

XI. Cooperation and partnerships



XI. Cooperation and partnerships

NHRIs have the power and duty to interact with civil society, to cooperate with various types of organizations directly or indirectly related to human rights, to support the creation, development and strengthening of networks of human rights defenders, and to collaborate with each other to improve the way they act at the regional level. In this way, NHRIs will see their attributions and competencies in the defense of HRDs strengthened.

1. Interacting with human rights defenders

Human rights defenders carry out different types of activities, which may be grouped into the defense of civil, political, economic, social, cultural and environmental rights, individually or collectively, temporarily or permanently, at the national, regional or international level, and may focus on specific issues such as poverty, inequality, discrimination, etc., or on groups, especially those that are more vulnerable for reasons of gender, intergenerational, ethnic, disability, human mobility, religious, etc.

These individuals or organizations require support to carry out their advocacy work, and can find in NHRIs strategic allies to accompany and strengthen them in their objectives. To this end, NHRIs will consider:

- Ensure that the regulations governing NHRIs include opportunities for interaction with human rights defenders, for example, in the creation of civil society advisory councils that participate in institutional decision-making.
- Include the participation of human rights defenders in institutional planning, as well as in the monitoring and evaluation of the activities developed according to the planning.
- Promote periodic meetings, especially in local territories where there is a recognized structural and permanent problem of human rights violations, with the PDDH and civil society organizations, so that the Ombudsman Institution guarantees closeness and trust with the population.

2. Cooperation with organizations

NHRIs usually have broad mandates with respect to their powers to promote and protect human rights. On the other hand, civil society is organized around a variety of issues of interest to it and, although not all of them have specific human rights protection purposes, the very cross-cutting nature of human rights means that many of them require support from specialized institutions such as NHRIs. Thus, there are organizations related to social communication, academia, business, trade unions, statistics offices, non-governmental organizations, among others, that may need the cooperation of NHRIs in their human rights defense activities.

In this sense, NHRIs are able to cooperate with organizations according to their requirements, through:

- Share specific information of interest to the organization.
- Sensitization and training on human rights, with specific parameters according to the organization and its needs.
- Report on human rights protection standards and their sources.
- Collaborate in the development of security protocols in their activities related to the defense of rights.
- Participate in events on the defense of human rights defenders.

3. Support the development of defenders' networks

Networks of human rights defenders make it possible to better focus on the needs of the community, strengthen them in the development of their interests, bring people and the population closer together in joint projects, and seek joint solutions to emerging and structural problems.

The networks can be managed, according to needs, by territories, for example, where activities are carried out that may violate the rights of the general population, such as environmental exploitation, or for people who are in a more vulnerable situation, for example, people in human mobility or people with disabilities.

NHRIs, in order to support the development of networks of human rights defenders, can:

- Detect specific problems according to local territories or issues of social conflict.
- Plan accompaniment to specific sectors or population in general, especially in territories with particular problems.
- Motivate and accompany local authorities to work on prevention and protection of rights with social participation.
- Participate in human rights awareness and training activities.
- Register networks of individuals and organizations working for human rights, and monitor their functioning.
- Accompany the development of the networks and provide ongoing support.

Special attention should be paid to the creation and strengthening of networks of women

human rights defenders, especially in their prevention and protection work in relation to gender issues such as violations of sexual and reproductive rights, gender violence, discrimination and exclusion, the struggle against dominant cultural patterns, etc.

In general, NHRIs, in their activities of cooperation, support and interaction with human rights defenders, should be carried out with an intersectional and gender-sensitive approach.

4. Regional and international coordination

Regional and international coordination is essential to strengthen the protection of human rights defenders and guarantee their safety. NHRIs must coordinate their efforts to provide effective protection to HRDs.

The scope of the level of regional and international cooperation under the protocol for the defense of human rights defenders can be broad and multidimensional. It involves working together with various stakeholders, both nationally and internationally, to ensure that human rights defenders are effectively protected and that violations are adequately investigated and sanctioned. This cooperation fundamentally involves:

- Establish alliances to strengthen the regional response to threats and attacks against human rights defenders.
- Exchange information on threats and risks, joint assessment of situations and collaboration in the implementation of protection measures.
- To provide information on cases and best practices in the protection of human rights defenders.
- Collaborate with regional and international organizations that focus on the defense of human rights and the protection of human rights defenders.
- Advocate for the cooperation and support of international and regional organizations in the protection of human rights defenders. Cooperation can address issues such as security, information exchange and best practices in the protection of defenders.
- Coordinate with counterparts in other countries to effectively address cross-border threats and ensure the security of defenders. This international cooperation is essential given the transnational nature of many threats and attacks against human rights defenders.

NHRIs should act as facilitators of regional cooperation and coordination in the protection of human rights defenders in the Americas. This involves collaborating with international bodies, interacting with regional human rights systems, and coordinating efforts with other human rights institutions at the regional and national levels. Regional collaboration is essential to address the challenges and threats faced by human rights defenders in a global and regional context, and to strengthen their security and protection.

XI. Conclusions



XII. Conclusions

The Protocol for the Defense of Human Rights Defenders and Civic Space, as a follow-up to the Marrakech Declaration, represents a significant milestone in the protection and promotion of the fundamental rights of those engaged in the defense of human rights and the promotion of an inclusive civic space. Throughout this document, guiding principles, gender approaches and guidelines have been established to address the defense of these individuals in a comprehensive and effective manner. The main conclusions of the protocol are presented below:

1. The protocol reaffirms the company's unwavering commitment to the defense of human rights and the promotion of a civic space in which human rights defenders can carry out their work safely and without fear of reprisals.
2. Recognizes the importance of a gender approach in all activities related to the defense of human rights, in order to address gender inequalities and empower women human rights defenders.
3. It underscores the need to promote and protect the rights of human rights defenders, ensuring their active participation in decision-making and society in general.
4. The protocol establishes a comprehensive framework for the protection of human rights defenders, including monitoring and evaluation measures for civic space, as well as the implementation of specific protection measures in cases of risk.
5. Emphasis is placed on the importance of guaranteeing access to justice for defenders who face threats or violence, ensuring that those responsible are brought to justice.
6. The protocol encourages cooperation between governments, civil society organizations and other stakeholders in the protection of human rights defenders, promoting alliances to strengthen the defense of human rights.

In summary, this Protocol is a fundamental instrument that reaffirms the commitment to the protection of human rights defenders and the promotion of an inclusive civic space. It provides essential guidance and guidelines to address the challenges faced by human rights defenders and to strengthen the promotion of human rights. Its effective implementation will require the active collaboration of all stakeholders to ensure a safe and enabling environment for the defense of human rights and civic space.



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