



A tool for Diplomats

Protecting Human Rights Defenders as Essential Partners

WHO IS

A 'HUMAN RIGHTS DEFENDER'?

'Human rights defender' ('HRD' hereinafter) means anyone who, individually or with others, acts or seeks to act to promote, protect or strive for the protection and realisation of human rights and fundamental freedoms, at the local, national, regional and international levels. Diplomatic representatives should bear in mind the following when considering whether an individual or group is/are HRDs:

- HRDs can address any human rights concerns, covering the full spectrum of civil and political, and economic, social and cultural rights; they may also focus on specific categories of rights or the rights of specific persons.
- HRDs can come from any part of the world and be of any ethnicity, gender, sexual orientation, religious denomination, age, or any social class or background.
- The definition of HRD is action and context-based, they are defined by what they do, not who they are.
- Many HRDs do not identify themselves as such (and some deliberately don't). HRDs can include artists, lawyers, journalists, politicians, environmental activists, NGO members, trade unionists, authors, health care workers, entrepreneurs, community leaders, bloggers, or teachers, who act to promote or protect human rights.
- A person is not automatically defined as a HRD just because they are prevented from exercising their rights; a person only becomes a HRD when they act or try to act for the promotion and protection of human rights.
- While most guidelines explicitly exclude individuals who use or advocate the use of violence, claims of 'violent acts' are often used to discredit legitimate HRDs and their work. For example, some conduct will be protected and legitimate under international law, even if a host State will argue that such action constitutes 'violence'.
- Some acts of HRDs can appear to be 'unlawful' where restrictive national legislation or its application do not comply with international human rights standards. It is important to consider if the content or the manner in which national legislation is applied is fully consistent with international human rights standards. For instance, international law explicitly empowers HRDs to advocate for 'new human rights ideas', which may imply a criticism of the national normative framework, even though such criticism is often criminalised by authoritarian States.

Many diplomatic guidelines outline that the effective protection of defenders starts with their identification as HRDs. Missions should ensure that the definition is applied in an inclusive manner as intended in the UN Declaration of Human Rights Defenders, and allowing for a case-by-case assessment of a person's status as a HRD.

WHY

SHOULD DIPLOMATIC MISSIONS PROTECT HRDs?

States committed to promoting the rule of law, democracy and human rights in their foreign policy, should see HRDs as essential partners. They play a key role in the promotion and protection of human rights, such as by monitoring and documenting violations, seeking remedies for victims, or combating cultures of impunity. This, in turn, has an impact on the human rights situation of the host country and the expansion of civil society space.

However on account of their work, HRDs whether as individuals or as groups, increasingly face attacks, restrictions or reprisals. This includes but is not limited to stigmatisation and intimidation, harassment, criminalisation, arbitrary arrest or detention, and unlawful imprisonment by State and by non-State actors, such as armed groups or corporations.

This insecurity has a profound impact on the individuals themselves, on their families and communities, and on respect for human rights overall. Therefore, supporting and protecting HRDs against attacks is also critical for diplomatic missions of States committed to protect human rights in their foreign policy. Only where HRDs can operate in a safe and enabling environment can they fully contribute to more rights respecting, just and peaceful societies. In that sense, supporting their work is a direct investment in the rule of law and democracy.

This document is part of a series of 'action sheets' designed for human rights defenders (HRDs) and diplomatic representatives, with the purpose of enhancing the impact of diplomatic support to HRDs.

See the the full series and sources at www.ishr.ch/diplomatic-support

KEY PRINCIPLES TO APPLY WHEN SUPPORTING HRDs



Do no harm. The safety and privacy of the HRDs should be paramount. Any action taken to protect HRDs must be at the expressed wish of and in close consultation with the HRD concerned, their family, or close friends and colleagues to avoid negative consequences.



Consider the global relevance of HRDs. Supporting HRDs and their work should be high on the agenda of all diplomatic missions in all countries, not just in those places where HRDs are most obviously at risk.



Consider the evolving nature of the guidelines. Diplomatic missions should assist in the periodic revision and improvement of the guidelines to reflect changing circumstances with respect to situations faced by HRDs in the field and evolving international norms. This also includes assessing the implementation of their own guidelines on the field and giving feedback to their capital for enhancing the guidelines.



Be flexible with regard to the actions listed in the guidelines. In order to be responsive to particular requirements of a given situation, individual options for action identified in the diplomatic guidelines should be amended and extended as required by the particular situation and/or political context.



"In February 2018, **Joanna K. Cariño**, an indigenous woman peace advocate whose name was included in a terrorism case lodged by the Philippine government

has faced judicial harassment, threats of warrantless arrest, surveillance, stigmatisation, online and offline sexual harassment, freezing of her bank accounts and other such violations engendered by the filing of terror charges. **A broad range of support from diplomatic missions were secured through the collective efforts of indigenous peoples' organisations, rights groups, and individual advocates.** These diplomatic actions and initiatives have made Cariño and other defenders in the case safer in the sense that **these actors provided recognition and affirmed the legitimacy of the work of these defenders.** While the high-profile projection of their case may serve as a deterrent to worse attacks, they still confront the challenges both to their security and their work up to present."

- Cristina Palabay, the Philippines

"The high levels of violence and impunity which HRDs and journalists face in Mexico, have encouraged a group of European and Mexican civil society organisations to **call on the EU Delegation and the EU embassies to publicly recognise the fundamental work of the HRDs in Mexico and their enormous contributions to the democracy, and to condemn attacks against them.** Since January 2017 the EU Delegation in Mexico, with the support of EU member States, the United States, Canada, Norway and Switzerland, regularly publish press releases to condemn the killings of HRDs and journalists in Mexico. This public measure means support and awareness for victim's relatives, and to HRDs and journalists as a whole. It is the result of Mexican civil society organisations consistently informing EU embassies about attacks and reprisals suffered by HRDs and increasing pressure on them to not remain silent"



- Olga Guzmán Vergara, Mexico

Holistic Approaches to Security

It is vital that diplomatic missions adopt a **holistic approach to the security of HRDs** when offering support, which implies that the **physical safety** of defenders should be interlinked and integrated into their **digital security** and **psychosocial well-being**. Both HRDs and diplomats often have **low levels of awareness and familiarity with holistic approaches to the security of HRDs**, and accordingly these aspects tend to be neglected.

Things to bear in mind

- Be aware of the emotional and psychosocial aspects of security of HRDs. Take necessary measures to protect the well-being of HRDs when offering support. This may include for example financial and logistical support for therapy or training from experts in psychosocial health.
- Make sure that the safety and privacy of HRDs are paramount at all times.
- Ensure that any action taken to protect HRDs is at the expressed wish of and in close consultation with the HRD concerned, their family, close friends, colleagues and legal representatives.
- Discard the view that risks are inherent in HRDs' work and that there is little you can do to mitigate them effectively.
- Never take the digital security of HRDs for granted when communicating with them. Instead, ensure the availability and use of secure communication channels with HRDs. Missions should invest in developing and strengthening the digital security knowledge of their staff, and relevant policies and practices.
- Offer financial and logistical support to HRDs for security training.

10 RECOMMENDATIONS

ON FURTHER ENHANCING DIPLOMATIC SUPPORT

- 1 DEVELOP KNOWLEDGE** and familiarity in regard to diplomatic support to HRDs, and regularly conduct internal evaluation and learning processes.
- 2 BE WELL-INFORMED** about the human rights situation in the host country and its overall socio-political context and cultural norms.
- 3 WHEN DECIDING** who is a HRD, keep in mind that many do not always identify themselves as such. While having a list of trusted individuals and organisations ready, ensure that this list is evolving with HRDs developing their activism, especially those outside the capital.
- 4 ENSURE** that support practices are rights-based, inclusive of HRDs from diverse backgrounds, gender-sensitive, based on a holistic understanding of security, oriented to the protection of individuals and collectives, involve the participation of HRDs in the choice of protection measures, and are flexible.
- 5 BEAR IN MIND** that in order for diplomatic support to be effective, it needs to be timely, accessible and appropriately tailored to the circumstances of HRDs.
- 6 ENGAGE** on an ongoing basis with HRDs, with national/international NGOs working on the protection of defenders as well as with local authorities responsible for the protection of defenders, before threats or attacks arise. Relationships of trust and confidence are critical to activate in emergencies.
- 7 CONSIDER** engaging with 'unusual allies' in the protection of civil society space and HRDs, including social services, development organisations and even faith-based actors.
- 8 ENGAGE** with relevant non-State actors, particularly with private companies in order to ensure they consult and do not interfere with the work of HRDs and encourage them to use their influence for the protection of defenders. While some corporations have been active or complicit in attacks or restrictions against HRDs, there are cases where corporations have advocated privately or spoken out publicly in support of defenders. Missions can leverage the shared interest of business and HRDs in operating in a rights-respecting context.
- 9 CONSIDER** the differential in the level of knowledge among HRDs about the existence and content of the diplomatic guidelines, between 'elite' HRDs working at capital level and internationally on the one hand, and grassroots HRDs on the other hand.
- 10 MANAGE THE EXPECTATION** of HRDs realistically. Always be clear about what you can and cannot do for them as well as about the potential risks and consequences of each action you take.

■ *Should a diplomatic mission offer diplomatic support to HRDs even if its country has NOT adopted guidelines on the protection of HRDs?*

Yes. Supporting and protecting HRDs against attacks and reprisals is in the interest of States committed to protect human rights in their foreign policy. Only where HRDs can operate in a safe and enabling environment can they fully contribute to rights-respecting, just and peaceful societies. Guidelines on the protection of HRDs should be seen as minimum standards, and good practice examples of support should be the basis of a consistent support system adapted to each context

■ *Can diplomatic missions offer support NOT explicitly listed in their guideline?*

Yes. There is no single model for supporting HRDs applicable to all situations. The guidelines are intended to serve as a checklist to ensure that all possible avenues are considered. Most diplomatic guidelines emphasise that the tools for intervention described in the guidelines should not be considered exhaustive and should be interpreted in the context of local circumstances, conditions on the ground and in consultation with HRDs.

■ *How can diplomatic missions ensure consistency in their support to HRDs when there are competing against foreign policy interests?*

One of the most difficult challenges for diplomatic representatives is the application of the guidelines in contexts or cases where there seem to be competing against foreign policy priorities. While evidence of such conflicts is rare, a range of issues may be perceived as conflicting with the objective of protecting and supporting HRDs, such as economic or trade interests, arms sales, migratory pressure and limiting migration flows, and the overall bilateral relations with the host country. However, a principled implementation of guidelines strengthens all foreign policy objectives and so the guidelines should be seen as providing an important framework to analyse - and in most instances prioritise - the protection of HRDs.

■ *How can diplomatic missions minimise perceived negative effects of diplomatic protection of HRDs on bilateral relations with the host State?*

Discussing the situation of HRDs and supporting their work may be seen as politically sensitive particularly when they face threats and attacks committed or enabled by the host government. There may be unwillingness or explicit threats of repercussions to address sensitive topics on the side of the host government. However, in the absence of documented cases of actual backlash, the protection of HRDs should be prioritised. According to research conducted by ISHR, maintaining leverage and minimising negative effects on bilateral relations are most likely where (1) support is provided jointly with other States (2) support is provided in a principled way, possibly with explicit reference to guidelines (3) information about the situation of HRDs is sourced from reliable sources including national and international civil society groups.

■ *How should diplomatic missions support HRDs if human and financial resources and/or high-level political support are lacking or insufficient?*

The lack of human and financial resources allocated to diplomatic missions for the protection of HRDs is one of the key challenges in the implementation of guidelines and support for HRDs. In the short-term, effective coordination with other countries' missions may help to overcome this problem. Inability to coordinate should not serve as a dispensation to provide unilateral support. However, in the medium to long-term, diplomatic missions, when assisting in the periodic revision and improvement of the guidelines, should raise the issue of inadequate human and financial resources with their own administration. The lack of political will to push the boundaries on human rights in general is another key obstacle towards the full implementation of the guidelines. Missions should consistently draw attention, within their diplomatic community, to the importance of protecting HRDs, thereby seeking to strengthen high-level political support.

Collective Approaches to Protection

- Recent good practice as well as the HRDs resolution of the Human Rights Council adopted in 2019 push for collective protection measures. This means diplomats should find ways to provide support or funding to HRDs both individually and collectively. The goal of diplomatic support should not only be to provide security to individuals at risk but to achieve sustainable and structural changes leading to policies which guarantee a safe and conducive environment for all those who defend human rights. A collective protection strategy aims at ensuring the group or community is able to defend rights without fear of threats or attacks while also improving the capacity of the group or community to respond to risk and address threats where they occur.

⚠ Things to bear in mind

- Acknowledge that the security and protection of individuals is frequently linked to that of their communities or groups. Recognise their collective efforts, and address the threats they face aimed at hindering precisely that collective effort; by strengthening the capacity of communities and groups, their social fabric and their organisational capacities.
- Collective protection implies long-term protection measures and sustainable funding and resources and interventions. Increase the agency of groups and communities to defend human rights and understand that they are not only individual subjects of protection but also agents of their protection.
- Ensure that the definition of what a collective or community represents is as inclusive as possible.
- Collective protection cannot entirely replace the protection of individuals who are part of the collective, as there is an individual dimension of risk.
- Putting the emphasis on individual and vertical leadership may contribute to increasing risks for individuals and communities.

General support for the protection and empowerment of HRDs

1. Monitoring and reporting an human rights situation

2. Engaging with HRDs on an ongoing basis: meetings, visits and invitations

- Attending the events organised by HRDs, visiting them in their places of work and inviting them to the meetings at mission or in a neutral place
- Regular meetings with HRDs

3. Building Capacity of HRDs

- Capacity-building activities such as organising training, workshops to develop the knowledge, network, skills, abilities and strengthening well-being support services for HRDs.
- Facilitating the stay in shelter cities for HRDs who have been under threat
- Assisting in building up and strengthening networks of HRDs at national, regional and international level
- Providing/facilitating human rights education, and/or fellowship/internship opportunities
- Assistance with return to/entry into home country from meetings abroad
- Providing technical assistance, sharing expertise
- Providing financial support to HRDs

4. Increasing the visibility of human rights work through the use of the media

- Recognising efforts and raising the profile of HRDs through awards
- Press releases, public interviews, public statements, public awareness campaigns

5. Promotion of respect for HRDs third countries and in multilateral fora

- Cooperation with key regional and international actors at local level, working with like-minded governments, the UN, and regional and/or international organisations to discourage laws/regulations that constrain the operating space for HRDs
- Promoting, strengthening and advancing instruments in multilateral forums that protect HRDs, such as UN Special Rapporteur on HRDs
- Using national, regional and international forums to advocate for the protection of HRDs

6. Promotion of respect for HRDs in relations with local actors

- Advocacy in support of a more conducive legal framework, steps to end impunity for attacks on HRDs, advocacy for national protection mechanisms for HRDs, stronger national human rights institutions, or for clearer political support to HRDs by the host State authorities
- Engaging with businesses operating in the host country, with a view to ensure respect for and consultations with HRDs
- Engaging with national authorities on an ongoing basis
- Cooperation with national human rights institutions

7. Promotion of respect for HRDs transnational companies

- Engaging with companies to ensure they consult and do not interfere with the work of HRDs and leverage their influence for the protection of HRDs.

Targeted support for improving the situation of particular HRD(s) in a specific situation

1. Informal diplomatic measures

- Engaging with local authorities discreetly through established networks and mechanisms

2. Formal diplomatic measures

- Official meetings; formal enquiries; official protest (démarche), other firmer diplomatic measures

3. Public interventions/Actions

- Visit of the HRDs under threat, observation of their court cases, prison visits and visits to persons under house arrest (and their families when necessary) if relevant to the situation in question.
- Call for cooperation with the international community such as like-minded governments, and relevant regional and international organisations to push the host country.
- Official public statements, declarations, press releases, media interventions, open letters, op-eds, news conferences, and social media postings
- Observation of court cases involving matters of principle with regard to HRDs.

4. Engaging specific companies (Canada)

- Informal or formal interventions with specific companies linked to or contributing to a threat against a HRD, particularly if domiciled in the States in question

Types of DIPLOMATIC SUPPORT

Exceptional or emergency support

1. Assistance with accessing short-term protection/emergency shelter

2. Assistance with temporary relocation by issuing 'short-term visas through an accelerated procedure' shelter

3. Assistance with issuance of 'temporary residence permit' in exceptional circumstances and on humanitarian grounds

4. Assistance with relocation by allowing applications for asylum without being in the country of the mission

5. Using other protection tools and urgent response mechanisms

- Providing for financial resources
- Housing and accompanying programmes ('shelter cities')

6. Establishing a connection with other relocation initiatives and civil society organisations that specialise in Providing Emergency Assistance

- Civil society organisations that specialise in providing emergency assistance
- Relocation initiatives

Various guidelines, policy documents and initiatives, (including those by Brazil, Canada, Czech Republic, Denmark, EU, Finland, Germany, Ireland, Netherlands, Norway, Spain, Switzerland, and the USA) provide for some of these types of exceptional support. However, which support is appropriate and feasible will be decided by missions on a case by case basis

This page summarises the main types of support available for HRDs, as currently foreseen by one or several of the existing guidelines. While it is based on the different guidelines mentioned, and can serve as a reference, we encourage HRDs to reference the original guidelines when approaching specific missions for support.