

Critical approach to THE RIGHT TO DEFEND HUMAN RIGHTS



PART 1: CONCEPTUALISATION OF THIS RIGHT

The right to defend human rights is

the right of everyone, individually and in association with others, to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels, professionally or occasionally, without geographical boundaries, in the community, in specific regions, nationally or internationally, regardless of profession, age, sex, nationality or any other status.

[Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms](#)

Understanding the right to defend human rights

The right to defend human rights is an “umbrella right”; it does not grant new additional rights, but rather encompasses and reinforces a set of rights that are central to the defence of human rights, and that are recognised in various covenants, conventions and declarations:



Exercising the right to defend:

Individual and collective exercise of this right requires an enabling environment that does not obstruct this right, and that protects those who exercise it.



The exercise of the right to defend can be individual and collective: individuals participate at the individual level, collectives at the group level.

The defence of human rights is an inherently relational practice; defenders almost always act in conjunction with other subjects, or collectives.

Towards a critical approach to the right to defend human rights

1 The struggles of those who defend human rights have been going on since long before the adoption of the UN Declaration on Human Rights Defenders, in the context of **historical, political and social processes**.

2 The recognition of the right to defend human rights in international human rights law undoubtedly grants **formal legitimacy** and a broader acceptance of the exercise of human rights defence activities.

3 However, historical experience has shown that this **legal recognition by itself does not guarantee actual compliance**, nor can it be taken for granted.

4 Relations of **domination, discrimination and power** influence the visibility of defenders' struggles and the support they receive.

“ For this reason, the defence of human rights must always be contextualised and never depoliticised ”



PART 2: HUMAN RIGHTS DEFENDERS

Who can be considered a human rights defender (HRD)?

Some critical considerations about what is expected of defenders

There are no formal qualifications in order to be considered a defender, but [UN Fact Sheet No. 29](#) identifies three key aspects, on which we make a number of critical reflections:

HRDs must accept the universality of human rights, however:

1 CRITICAL NOTES

- it should not be assumed that all defenders are in a position and have the resources to advocate for all human rights in a fair and equitable manner.
- the use of legal terms such as “universality” should not lead us to impose legal language on groups that do not normally use these terms to refer to their struggles.
- the universality of human rights can be built on the logic that “all rights are for all”, considering specific contexts and conditions.

The actions of defenders must be peaceful, however:

2 CRITICAL NOTES

- actions to defend human rights can vary in different social, political and cultural contexts, depending on how concepts of “peaceful action” and violence evolve and change.
- many defenders resort to direct actions that do not involve violence, but are often labelled as “violent” by governments to justify the repression of those involved in these struggles.
- the focus should be to determine whether an action is intended to harm or not (intent), and whether it causes direct harm or not, again taking into account the circumstances of context, manner and place.

Who is right and who is wrong – does it make a difference?

3 CRITICAL NOTES

- individual and collective HRDs operate in contexts of political, economic, social and cultural struggles, which necessarily affect their position and point of view.
- *there should be no expectation of objectivity, nor should HRDs be expected to make neutral observations or give impartial accounts of what may affect them directly.*

Is there a global concept of human rights defender?

1 Global narratives promote a **single, abstract concept of defenders**, which does not reflect the diverse realities and contexts.

2 The global and standard concept of “defender” can lead to a **simplistic and idealised image** of HRDs, which sometimes blurs the specific differences and identities of defenders (e.g. women, youth, indigenous, Afro-descendants, etc.).

3 The material, social and political conditions that determine the struggles of human rights defenders are often ignored and depoliticised.

4 Sometimes defenders do not recognise themselves in this global concept of “HRDs”, but identify with other identities more present in their environment and context.

5 It is fundamental to conceive HRDs as subjects that evolve over time as their awareness of the defence of human rights grows, and as they establish relationships with other subjects and collectives.

6 Individual and collective HRDs learn and are shaped daily by their actions. They may make mistakes that are part of an evolutionary process towards a more effective and just practice of human rights.



Human rights defenders must be defined and accepted by what they do, by the rights they are defending and according to their own right to do so.

The focus on action in the defence of human rights offers a broader interface for the inclusion of all individuals and collectives engaged in activities that defend rights.

Towards the recognition of diverse identities



Individuals or groups working for the defence of human rights are considered defenders in the exercise of their right, even if they do not identify to themselves or to others as defenders, and without excluding the identities or perceptions the defenders have of themselves. Any person or group of persons striving to promote human rights may be considered a defender.

For example, indigenous peoples fighting for the respect and observance of their ethno-territorial rights, while they may not call themselves defenders, are defending their rights, and therefore face barriers and risks, which are also associated with historical discrimination and exclusion, racism, poverty, etc.

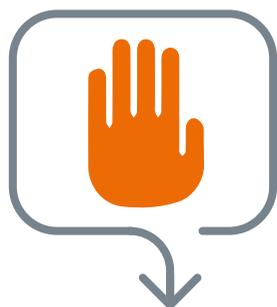
- People working for the defence of human rights have diverse identities, which converge and evolve, and which must be recognised and preserved.
- For example, trade unionists, farmers, feminist women or indigenous people may not necessarily identify with the concept of defender, although in practice they are exercising their right to defend rights.

For all these reasons it is important that, when considering the protection of the right to defend, the identity of the defender is not given precedence over other identities fighting for human rights, on the understanding that all of them contribute equally to the defence of human rights.

PART 3: PROTECTING THE RIGHT TO DEFEND HUMAN RIGHTS

Because it involves denouncing human rights abuses and violations, exercising the right to defend human rights is a high-risk activity in many contexts.

Defenders across the globe are exposed to:



Harassment



Criminalisation



Stigmatisation



Threats



Physical attacks

Human rights defenders often have their rights violated – not only their right to defend rights, but also their most basic fundamental rights, such as the right to life, freedom of movement, personal integrity, and privacy.

Violence against defenders is not only directed against individuals, but also occurs collectively. Criminalisation, stigmatisation and threats against defenders have a collective deterrent impact. The co-optation of leadership or the disruption of the social fabric are examples of strategies aimed at undermining collective defence action.

It is incumbent upon States to protect and guarantee the free exercise of the right to defend human rights:

STATES MUST

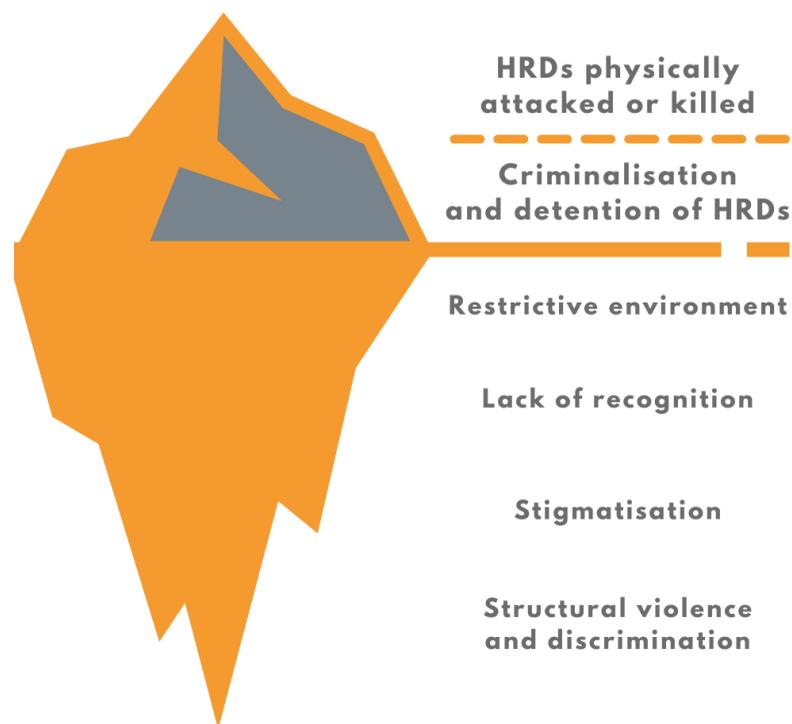
ENSURE A SAFE ENVIRONMENT for the exercise of the right to defend rights.

This requires the adoption of laws and public policies that create a legal and social framework conducive to the exercise of the right to defend, in particular facilitating the right to freedom of expression, assembly, demonstration and protest.

STATES MUST

RESPOND EFFECTIVELY to guard against potential attacks and to prevent impunity for attacks that have already been committed.

This requires the adoption of the necessary measures and mechanisms to guarantee the protection of individuals and collectives that are threatened and attacked because of their activities in defence of rights.



We must not ignore structural violence

We must not forget that, in addition to specific violence resulting from their work in defence of rights, HRDs face other types of structural violence linked to gender, race, class, age, socioeconomic status, etc.

An intersectional approach to the right to defend must consider how this right can be influenced by the different conditions of discrimination and power in which individual and collective HRDs operate.

Conclusions

KEYS TO RETHINKING THE CONCEPT OF DEFENDER FROM A CRITICAL APPROACH



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Keys

Fresh perspective

The focus should be on the action and on the rights being defended



Give prominence to the collective or individual actions and “practices” that defend human rights: vindicating, gathering information, investigating, denouncing, supporting vulnerable groups, mobilising, etc.

HRD as an “individual” vs. HRD as a relational and collective actor



The action of defenders is inherently relational and collective, which is why it is essential to promote, strengthen and protect relationships and networks.

Diverse identities



We cannot reduce or simplify the identity of defenders. Several identities are manifested in the same person or collective (e.g. woman, woman farmer, indigenous woman, woman trade unionist) and all should be recognised.

Gender-based, differential and intersectional approach



HRDs act on the basis of different gender identities, sexual, ethnic or social orientations, conditions of poverty, diverse capacities, etc.

The defence of human rights is affective and emotional



Anger, hope, despair and happiness, among other emotions, are a part of the actions to defend human rights, and they must be considered when it comes to protection.



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Protection International's mission is to support human rights defenders (HRDs) through comprehensive protection programmes.

Our programmes intervene in three key areas:

- 1) Helping defenders develop capacities to effectively manage their protection.*
- 2) Advocating for the protection of the right to defend human rights by the authorities responsible for protection.*
- 3) Persuading other individuals and institutions involved in the protection of defenders to maximise their positive contribution.*



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