

Analysis of the situation of Human Rights Defenders 20 years after the approval of the United Nations Declaration on Human Rights Defenders

“Through the work of human rights defenders hundreds or thousands of lives have been saved”

On the occasion of the 20th anniversary of the United Nations Declaration on Human Rights Defenders (henceforth, the Declaration), Peace Brigades International (PBI) invited thirteen human rights defenders who are accompanied by the seven PBI projects on an advocacy speaking tour through 10 European countries, beginning with a series of meetings and work sessions over four days in Brussels.

On September 20, 2018, advocates from the Americas, Africa and Asia and PBI staff and volunteers gathered in Brussels to exchange experiences and knowledge of integral protection. The shared space enabled the analysis of global and regional trends affecting the risks faced by human rights defenders as well as the identification of common needs among the group that require immediate attention from the international community. Moreover, the work sessions made it possible to construct a common narrative with key messages and recommendations directed towards the political stakeholders of the European Union and Member States. In this publication, we adapt those recommendations to a U.S. context.

What has the Declaration on Human Rights Defenders meant?

The Declaration is not a legally binding instrument. However, it contains a series of principles and rights that **are based on the human rights standards enshrined in other international instruments that are legally binding on States who have ratified them**, such as the International Covenant on Civil and Political Rights. Moreover, **the General Assembly approved the Declaration by consensus**, which therefore represents a very strong commitment on the part of the States in terms of its application. Increasing numbers of States are considering the possibility of adopting the Declaration as mandatory national law.

Directly, the UN Declaration on Human Rights Defenders has promoted and contributed to the adoption of measures by the States. For example:

- The Declaration has contributed to strengthening the Rule of Law and the anchoring of democratic principles: In some countries, progressive legislation and Constitutional reforms have been adopted that expressly recognize human rights, such as the 2010 Constitution of Kenya.
- The Declaration has promoted the creation of governmental protection mechanisms. Notably, in Latin America, more protection mechanisms have been implemented, with varying levels of consultation and active participation of human rights defenders.
- Various countries have adopted Guidelines for the protection of human rights defenders, which guide diplomatic missions in the implementation of their policies to protect human rights defenders in developing countries.
- The figure of the human rights defender is largely recognized in its broadest definition, which is inclusive, regardless of the right that is being claimed or the profile of the defender. Likewise, people self-identify themselves as human rights defenders.
- Approval of the mandate of the United Nations Special Rapporteur on the Situation of Human Rights Defenders has given visibility to the main challenges faced by human rights defenders, which has meant that many States include the importance of protecting them in their political agendas and foreign actions.

In history, individuals have been recognized, such as Martin Luther King Jr., Nelson Mandela, Mahatma Gandhi and the suffragists in Great Britain and the U.S., for bringing down unjust systems, changing mentalities and inspiring future generations. While these individuals are globally recognized, there are a multitude of anonymous human rights defenders who helped carry out those movements then and movements today, with bravery and determination, to achieve structural change and human rights advances.

“Sometimes I feel like I can make a big change but small things can make a big change.”

Here, we highlight some of those advances that have been made over the last 20 years in which the community of human rights defenders has played a key and fundamental role.

- The empowerment of women human rights defenders has resulted in women being more present in political and social spaces, leading to women’s rights gaining ground and global visibility.
- The work of women and LGBTI+ defenders has resulted in an opening of space for the recognition and defense of the human rights of women and LGBTI+ individuals and communities. For example, thanks to women’s organizations, key international instruments have been approved, such as Resolution 1325, adopted by the United Nations Security Council in 2000, which recognizes the distinct impact that conflict has on women and girls and the need for women to fully participate, with decision-making capacities, in the prevention of conflict and the negotiation and consolidation of peace.
- Progress has been made in the recognition of labor rights as human rights that can be exercised before States.
- The movement for the defense of human rights has become stronger, partly due to the resilience of human rights defenders, new technologies available for the defense of human rights, the reach of digital communication, and the internationalization and connection of struggles.
- Historic sentences dictated by national tribunals have been achieved, such as the case of genocide in Guatemala.

The human rights defenders who participated in PBI’s gathering in Brussels recognized the importance of the existence of the Declaration and its potential as an advocacy tool, however, it was evident that the majority were not familiar with it.

What is the global context that the community of human rights defenders works in?

Looking at the situation of human rights defenders 20 years after the approval of the Declaration on Human Rights Defenders, we reiterate that human rights defenders are working in ever-more hostile contexts, in which strategies of criminalization, stigmatization and repression of social protest have intensified globally. It is estimated that, in this period, 3,500 human rights defenders have been assassinated around the world, with an increase in murders occurring over the last few years.

Defenders are also facing a closure of spaces for direct action due to the approval of laws that restrict the right to defend rights, as well as a lack of economic resources and obstacles in obtaining funding, and a lack of effective inclusion of human rights defenders in spaces for political decision making. Moreover, we note that there is an increase in social and environmental conflicts caused by the imposition of economic projects. In many communities that defend the right to the land, territory and environment, state and non-state actors apply the strategy of “divide and conquer” among members of social movements which has a negative impact on the social fabric of communities. As a global phenomenon, mass migration caused by violent conflict, violence against women, poverty and climate change occurs in situations of extreme insecurity and as a result includes the added risk of human trafficking and enforced disappearance.

Human rights defenders are building local, regional, and global alliances, including with diplomatic missions by the international community. However, these relationships greatly depend upon the awareness and willingness of those in charge of issues concerning human rights and human rights defenders to invest the time and resources necessary to build and maintain those relationships, particularly as it pertains to facilitating visits to defenders in remote communities.

What are the common patterns in the different countries analyzed?

Despite the different contexts in which the invited human rights defenders live and carry out their activities (Guatemala, Colombia, Honduras, Mexico, Kenya, Indonesia and Nepal), PBI could identify transversal trends that, together with the individual characteristics of each country, affect, limit and undermine the right to defend human rights.

Unfortunately, States continue to fail to implement national laws to enforce human rights and prevent grave breaches of international human rights standards, recommendations issued by international bodies, and agreements reached between human rights organizations and government authorities on various human rights issues - although advanced mechanisms now exist for the protection of human rights. The community of human rights defenders is essential in the construction of democracy and social justice, however, state actions in terms of the protection of defenders are insufficient and, when they do exist, do not fully meet integral protection needs. In countries such as Nepal and Indonesia, there are still no protection mechanisms in place. In Colombia, which is one of the leading countries in the creation of these programs, the shocking statistics on the killing of human rights defenders is evidence of the inefficiency of the aforementioned programs.

“Who is a human rights defender? For how many hours of the day are we human rights defenders? The answer is that being a human rights defender affects your professional and personal life. So, we cannot have security measures that only function during the day because we never stop being human rights defenders”.

In all of the countries where PBI currently has a protective presence, serious discrimination persists on the grounds of gender, ethnicity, religion, socio-economic status and, in some cases, caste systems. The hetero-patriarchal system imposes patterns of gender violence in economic, social, political and cultural dimensions.

Likewise, we highlight the concentration of wealth, land and territory as one of the structural causes of inequality in all of the countries where PBI has a presence and the resulting struggle on the part of human rights defenders and victims to build countries with peace and social justice. This assertion of rights is severely compromised by high levels of impunity, a lack of access to justice and an absence of guarantees for victims in their demands for truth, justice, reparations and guarantees of non-repetition. In the countries analyzed, we highlight scarce or null results in terms of the judicial sanctions imposed upon material and intellectual perpetrators. Furthermore, no political and economic sanctions are imposed by the international community.

Additionally, in countries where PBI has a presence, high levels of corruption are recorded at different levels of governments, and there are no genuine and transparent accountability mechanisms in place. Nor are there clear accountability mechanisms on international transactions received by countries where flagrant violations of human rights are being committed.

The human rights defenders mentioned that the risks they face increase exponentially in contexts where both legal and illegal economies operate, such as human and narcotrafficking or the land grabbing that occurs in the contexts of extractive projects and monoculture plantations that are imposed. It was confirmed that these kinds of projects also impact food sovereignty and threaten the existence of indigenous populations, Afrodescendant communities and rural communities able to survive off of the land. Moreover, the imposition of these projects is often accompanied by militarization of the surrounding area and widespread violence, including sexual violence. Another common pattern in these contexts is the repression of social protest through serious brutality and an excessive use of force by security forces such as the army, the police and special and elite security forces, etc.

It must be mentioned that, far from recognizing the important role of human rights defenders in ensuring the fulfillment of fundamental rights, many media sources in the countries where PBI has a presence promote the stigmatization and seek to tarnish the reputation of human rights defenders. Too often, media undermine the work and contributions to society as a whole of human rights defenders, making their struggles invisible and forgetting that the rights we currently enjoy would not exist without the tireless efforts of human rights defenders past and present.

What is the cost to human rights defenders?

“I pointed out that you, human rights defenders, accomplish so much without the recognition you deserve. I am fully aware of the very high price that many activists pay for their efforts, and I commit to do my best to make their struggle worth the effort.”

Michelle Bachelet - UN High Commissioner for Human Rights

These global and transversal trends have a serious impact on the rights and lives of human rights defenders:

Risks related to the right to life and physical integrity: Assassination, femicide, hate crime, gender violence, extrajudicial execution, forced disappearance, torture and sexual torture, re-victimization, forced displacement.

Risks related to the right to defend rights: Threats, smear campaigns, psychological pressure and torture, illegal espionage, economic stability of the organizations due to a lack of funding, stability of grassroots organizations due to the difficulty of combining unpaid work as human rights defenders and economic and professional activities, illness.

Risks related to the right to protest: Violent eviction, arbitrary detention, prosecution, legal harassment, intimidation.

What can political actors in the U.S. do to support the work of human rights defenders?

“To truly protect the rights of everyone, we need a transformation from the roots, and that includes transforming ourselves. For this reason, self-care is a model, a practice that we want to see out there, and therefore a political act”

IM Defensoras and Defenred

Provide recognition and political, social and economic support to the work carried out by human rights defenders in different parts of the world, contributing to building a narrative that endorses their vital role in societies, in order to counter growing criminalization and stigmatization. Take measures to combat the closure of their spaces for direct action.

Specific actions:

- ▶ Affirm U.S. commitment, through the annual appropriations process and the work of U.S. officials at home and abroad, to upholding the principals espoused in the UN Declaration on Human Rights Defenders in their actions within and outside of the U.S., and to guaranteeing full respect for the rights mentioned within it, especially the right to defend human rights. In particular, highlight the work and risks faced by the most vulnerable populations of human rights defenders, including indigenous, Afrodescendant, women, LGBTI+, and impoverished, rural communities in human rights reports developed by the U.S.
- ▶ Ensure that U.S. human rights and democracy funding, particularly instruments dedicated to the promotion and defense of human rights such as the State Department's rapid response mechanisms, are known and accessible by the beneficiary population. For this, it is important to guarantee accessible formats for all populations, duly taking into account grassroots organizations and communities and, in particular, their collective need for protection.
- ▶ Condemn attacks against human rights defenders and, especially, publicly denounce declarations by public officials that stigmatize, defame or undermine the work of human rights defenders. Ensure U.S. funding provided to other states is not used to commit human rights abuses.

Support the fight against impunity, impunity being one of the main factors that enables the repetition of events. Ensure access to justice for victims of human rights violations in and/or from the U.S. and combat the global increase in laws that limit or deny the right to defend human rights.

Specific actions:

- ▶ Publicly and privately urge countries to carry out quick and impartial investigations into cases of attacks against human rights defenders. It is of vital importance that, in the investigation phase, exhaustive and objective analyses of the context are carried out. These should seek to clarify not only material responsibilities but, more importantly, intellectual responsibilities, including possible links to political and economic elites, on a local, national and international level. These investigations must also include differentiated perspectives that consider factors such as gender, race, ethnicity, religion, etc.
- ▶ In the case of violations against human rights defenders, the initial investigation of the crime should explore whether they were targeted because of their work in defense human rights.
- ▶ In the case of imprisonment of a human rights defender, he/she/they should have the means and resources necessary to ensure due process and that protocols are defined to protect his/her/their psychological integrity in prison, paying particular attention to gender identity.

Promote the safety and protection of those who defend human rights with a differentiated and holistic approach.

Specific actions:

- ▶ Ensure high-level dialogues on human rights between the U.S. and foreign diplomats of countries receiving U.S. military and financial support take place every year with the effective participation of civil society. Open bilateral dialogue to observation by civil society, carry out evaluations every two years and monitor progress in the agreements and commitments achieved through a follow-up mechanism between the U.S., the country in question and civil society.
- ▶ Ensure that governmental protection measures have the necessary economic and human resources, meet the requirements and needs of beneficiary people, include a differentiated and collective approach and agree on the protection methods together with the beneficiaries themselves. Similarly, promote preventative protection measures such as public statements of recognition, risk maps and proposals regarding public policy on protection.

Ensure that the presence of U.S. investments and companies does not promote further abuses and violations of human rights.

Specific actions:

- ▶ Ensure the creation of mechanisms for consultation and free, prior and informed consent with communities and groups affected by projects receiving U.S. government funding or support through a U.S. business or investment. These consultations should fulfill the highest international standards and be culturally appropriate. Additionally, the affected communities and groups must have the necessary resources for their participation to be complete, genuine and fair.
- ▶ Ensure that U.S. companies do not directly or indirectly benefit from land that is or has been appropriated in a violent way.
- ▶ Promote land restitution and redistribution programs as a necessary measure to address the serious inequality of the world.
- ▶ Urge for the human rights clauses contained within free trade agreements to act as effective monitoring mechanisms for the respect of human rights.
- ▶ Condemn any form of restriction of the rights to social protest and peaceful assembly in opposition to large-scale economic projects in countries with which trade relations are maintained.
- ▶ Ensure the implementation of the U.S. National Action Plan for Responsible Business Conduct, particularly in regard to the responsibilities of U.S. companies to follow the rule of law, uphold human and labor rights, and strengthen communities in which they operate, with the objective of fully applying the UN Guiding Principles.

Guarantee collaboration, cooperation and complementarity with different mechanisms of the United Nations and, in particular, with mechanisms that promote and monitor respect for human rights.

Specific actions:

- ▶ Ensure the implementation, monitoring and follow-up of the recommendations made in the different UPR (Universal Periodic Review) sessions.
- ▶ Ensure that mechanisms such as the OHCHR (Office of the High Commissioner for Human Rights) have strong political support from the U.S. to carry out their work in countries.
- ▶ Become actively and constructively involved in the United Nations process to create a legally binding instrument on business and human rights.