



HAS THE DECLARATION MADE A DIFFERENCE TO THE LIVES OF DEFENDERS?

AN ANALYSIS OF THE IMPLEMENTATION OF THE UN DECLARATION ON HUMAN RIGHTS DEFENDERS IN COLOMBIA AND TUNISIA

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Introduction

'Each State shall adopt such legislative, administrative and other steps as may be necessary to ensure that the rights and freedoms referred to in the present Declaration are effectively guaranteed.'

UN Declaration on Human Rights Defenders¹, Article 2 (2)



In 1998 the UN General Assembly adopted the Declaration on Human Rights Defenders by consensus, indicating a high level of commitment by States to defend the right to defend human rights. However, twenty years later, as attacks against defenders continue 'multiplying everywhere'², the lack of implementation of the Declaration remains a grave concern.

During its 72nd Session, the UN General Assembly finally turned its attention to the issue by adopting a resolution on the implementation of the UN Declaration on Human Rights Defenders and, by implication, of subsequent, relevant resolutions and recommendations issued by UN mechanisms. The resolution encourages members of the international community – including civil society – to share analyses related to the implementation of the Declaration by States, and the ways in which UN bodies have taken into account the protection of defenders in their work and their engagement with governments.

In January 2018, ISHR and partners the Colombian Commission of Jurists (Comisión Colombiana de Juristas) and the Tunisian League for Human Rights (Ligue tunisienne des droits de l'Homme) carried out investigative missions in Bogota and Tunis to analyse the procedures and practices employed to implement UN resolutions and recommendations related to human rights defenders. A series of recommendations to relevant stakeholders are included at the end of this report. The report ends with a brief reflection on the potential value of creating a regional or global network of 'focal points on human rights defenders', considered in light of our findings in Colombia and Tunisia.

In neither Colombia nor Tunisia did we aim to assess the level or nature of implementation of all relevant recommendations. We did not look at the question of how companies fulfil their responsibilities in regard to the protection of defenders, for example, nor the experience of particular groups of defenders in depth. This report offers a snapshot on some of the progress made in regard to implementation as well as the considerable challenges faced in both countries.

In both Colombia and Tunisia we met with State representatives, as well as UN officials and civil society actors. We are very grateful to all those who took the time to meet with us.

¹ Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms

² Report of the Special Rapporteur on the situation of Human Rights Defenders to the Human Rights Council, A/HRC/34/52, January 2017.



Focus on Colombia

'There is opposition to the transformation of the Colombian reality.'

Ex- Representative of the UN High Commissioner for Human Rights, Todd Howland, December 2017³

'The war against social leaders and human rights defenders still continues.'

We Are Defenders Programme (Programa Somos Defensores), September 2017⁴

Colombia is a pioneer in institutional responses to the protection of human rights defenders. Before the UN Declaration on Human Rights Defenders was adopted, Colombia had already established a Protection Programme designed to respond to the needs of those in imminent danger to their lives, physical integrity, safety or liberty as a result of politically or ideologically motivated violence.⁵ Since then, Colombia has passed a series of decrees related to the protection of human rights defenders,⁶ as – over the same period – the UN has provided an ongoing focus on the situation of human rights defenders through a raft of UN resolutions and recommendations specific to Colombia.

However, despite this focus, throughout this time human rights defenders in Colombia have faced grave risks. Indeed, the situation has worsened, with the annual number of murders of defenders increasing since the end of 2015.⁷

If the State were focused on implementing the UN Declaration on Human Rights Defenders, why does the situation for human rights defenders remain so grave?

Is there a way that UN recommendations could be better harnessed to effect positive changes in the situation for human rights defenders? How do relevant stakeholders employ the resolutions and recommendations to push for change? Could UN recommendations and resolutions be articulated in a more useful fashion to encourage positive action by the State?

A/ The current context for human rights defenders in Colombia

The peace process and signing of the Peace Accord between the Colombian State and the Revolutionary Armed Forces of Colombia—People's Army (FARC-EP) in August 2016 has brought opportunity but also provoked dangerous flux.

The end of hostilities with the FARC-EP has led to power vacuums which, in turn, have made human rights defenders highly vulnerable. Power struggles and micro conflicts have proliferated over control of the land and illegal economies previously controlled by the FARC, and with elites that see their economic and political interests threatened by the Peace Accord. The changes faced by human rights defenders in the post-conflict context put in question all prior diagnoses regarding their protection.

In its most recent report to the Human Rights Council, the Office of UN High Commissioner for Human Rights (OHCHR) identifies three characteristics that define the context of the vast majority of killings of human rights defenders: the presence of illicit economies (e.g. trafficking or production of narcotics, illicit crops, illegal mining, micro-trafficking, extortion); a municipal homicide rate exceeding the levels of endemic violence according to the criteria established by the World Health Organization (WHO) ; and a multidimensional poverty rate higher than the national average.⁸

Where human rights defenders were previously seen as critics of the government, in some cases, they are now 'accused' of being part of the government (and, in particular, are seen in sympathy with coca crop substitution programmes). The impact of this shift falls primarily upon those defenders working in rural areas, and particularly upon Afro-Colombian and indigenous defenders.⁹

³ See: <http://www.bbc.com/mundo/noticias-america-latina-42347273>.

⁴ 'Is this the End?', Somos Defensores. See: <https://somosdefensores.org/index.php/en/publicaciones/informes-siaddhh/140-este-es-el-fin>.

⁵ Law 418, 1997.

⁶ For example, Decree 4800 of 2011 on a Differential Focus for Protection Programmes, and Degree 1314 of 2016 of the Ministry of the Interior which created an Intersectoral Commission of Guarantees for Women leaders and Women human rights defenders.

⁷ Risk report No. 010 -17 of the 'early warning mechanism' of the National Human Rights Institution.

⁸ Annual Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia, March 2018, A/HRC/37/3/Add.3, paragraph 15.

⁹ From 2015 to 2016 there was a 60% increase in the number of murders in rural areas. Annual Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia, March 2017, A/HRC/34/3/Add.3 pg 11.

According to the National Human Rights Institution (la Defensoría del Pueblo), since 26 August 2016, *'in different parts of the country, the number of threats and attacks against social and community leaders is increasing, particularly against those that carry out activities associated with the defence of their territories, opposition to extractives projects and, particularly, those working in peace education and supporting peace building efforts in the country'*.¹⁰ The head of the Institution, Carlos Alfonso Negret Mosquera, has said that the threats, harassment and attacks they have faced come in the form of 'stigmatization, threatening leaflets, murders and enforced disappearances'.¹¹

The Peace Accord does provide for important institutional changes to ensure, amongst other things, the protection of human rights defenders. It includes key principles of accountability and non-repetition to steer all State action; and provides for guarantees for political participation and steps in favour of the rights of victims of past violations. However, the question arises as to whether these complement existing initiatives, are sufficiently articulated¹² and whether, in fact, they themselves are being implemented.

A critical challenge to defender protection is the endemic problem of the absence of key State entities from large stretches of the country. Human rights defenders work in contexts where, too often, basic rights to education, healthcare, and political participation are not being guaranteed. Such an environment undermines the implementation of the Peace Accord and the safety and security of human rights defenders because it allows armed actors to gain control of territories and communities. Without structural, social, economic and political gaps being adequately addressed, the transformation envisaged in the Peace Accord cannot be achieved. Defenders are targeted for denouncing this situation.

The Presidential elections in May 2018 provide great uncertainty for the future of the peace process and for the country. In addition, there is a concern that the electoral period could see a spike of attacks against defenders. Electoral periods are known to be times of increased risk for defenders.¹³

B/ Colombia and UN commitments related to human rights defenders

Within UN political bodies, Colombia has played a positive role in debates on the protection of human rights defenders. It has consistently supported General Assembly and Human Rights Council resolutions on human rights defenders and co-sponsored several, including the 2017 General Assembly resolution focusing on implementation of the Declaration.

Beneath the President, responsibility for implementing these resolutions lies with the Ministry of Foreign Affairs. The Ministry should ensure the dissemination of UN resolutions and recommendations and push relevant institutions to implement commitments.

However, the Ministry provides little leadership on the issue. Dissemination of recommendations is lacking and there is no clear road map – providing a cascade of responsibilities from the highest echelons to the local level – to ensure implementation, or the monitoring and reporting on implementation. There appears to be no clearly expressed requirement for relevant entities to provide information regarding implementation, for reporting purposes.

The main drivers of efforts for the protection of human rights defenders appear to be the Office of the Presidential Advisor for Human Rights within the Vice President's office (la Consejería Presidencial para los Derechos Humanos) and – to some degree – the Ministry of the Interior which deals with policies and practical steps regarding the protection of human rights defenders. However, the Office of the Presidential Advisor for Human Rights does not have the convening power necessary to demand an appropriate State response to the need to implement UN recommendations.

All this said, there has been a recent acknowledgement of the need to systematise follow up to UN recommendations and resolutions. A few years ago, the Ministry of Foreign Affairs bought special software to list them and track their follow up. However, there was no public access to the database. In addition, as of 2016, the database was no longer updated and a request from a civil society actor to work along

¹⁰ From Report 010 of the National Human Rights Institution, 2017, pages 18 and 19.

¹¹ *Ibid.*

¹² OHCHR has highlighted that whilst the Peace Accord contains general references to guarantees of non-repetition it fails to establish specific provisions to realise them. Annual OHCHR report 2017, *Op.cit.* page 5.

¹³ See report of the Special Rapporteur on the situation of Human Rights Defenders to the Human Rights Council, A/HRC/13/22, December 2009.

with the Ministry and OHCHR on the follow up of recommendations went without reply.¹⁴ Currently, the Office of the Presidential Advisor for Human Rights is investing in a database to monitor levels of implementation and encourage coordination and action between relevant entities. It is hoped that the database will be accessible to the general population to increase transparency and accountability, as well as encourage involvement by civil society in the follow up of UN resolutions and recommendations.

In the case of precautionary measures of the Inter-American Commission of Human Rights it appears that the State responds more quickly and more precisely than it does to many UN recommendations. This may be because they consider these decisions to carry more weight.

C/ Some advances related to defender protection that correspond with UN resolutions and recommendations

The UN Declaration on Human Rights Defenders states that 'the State shall conduct a prompt and impartial investigation or ensure that an inquiry takes place whenever there is reasonable ground to believe that a violation of human rights and fundamental freedoms has occurred in any territory under its jurisdiction.' (Article 9 (5)).¹⁵

Since the signing of the Peace Accord, a series of directives, memoranda and protocols designed to improve the investigation of attacks against defenders have been adopted.

The Peace Accord requires the Attorney General's Office (Fiscalía General de la Nación) to strengthen investigative and judicial processes including establishing a Special Unit of Investigation to dismantle criminal operation, including successors to paramilitary groups, that target defenders or members of social or political movements, including in regard to the implementation of the Peace Accord.¹⁶ The Attorney General's Office is also required to share information about what occurred during the conflict with the Special Jurisdiction for Peace (Jurisdicción Especial para la Paz), one of the transitional justice mechanisms created by the Accord.

Despite recent changes, the Public Prosecutor's office is criticised for focusing on perpetrators rather than on instigators of crimes. In 2017 OHCHR estimated that 75% of assassinations of human rights defenders were at the hands of hired guns.¹⁷ The Presidential Advisor for Human Rights has attempted to work with the Public Prosecutor's Office to improve the ways in which cases related to defenders are treated, including by police and local authorities. An example of this work is the design of Directive 002 of the Public Prosecutor's office (November 2017) – created with input from the Special Rapporteur for Human Rights of the Inter-American Commission on Human Rights (IACHR) – related to the investigation of crimes against defenders. Despite criticism of how the Public Prosecutor's Office handles investigations, some have noted that the Office does appear to be sincere in its commitment to the safety of human rights defenders.

The June 2017 Directive 002 of the Office of the Inspector General (Procuraduría de la Nación) outlines how it will implement its responsibilities toward the protection of defenders. The Directive emphasises the importance of prevention; establishes a central registry to collect data on ways in which human rights defenders and social leaders are made vulnerable to attack; and creates a group to share information and analysis on the protection of human rights defenders. The Office has also added its voice to calls for improved public policy on the protection of individual defenders and groups of defenders.

The National Human Rights Institution (la Defensoría del Pueblo) contains an 'early warning system' (SAT) which produces reports on impending human rights crises, as well as follow up analytical 'notes' which should provide a basis for the development of policies of prevention and immediate responses by competent authorities. The SAT report 010-17 of 2017 focused on the risks human rights defenders' organisations face. With that report, the government has been warned about the grave situation human rights defenders face.

¹⁴ According to the Colombian Commission of Jurists (Comisión Colombiana de Juristas).

¹⁵ Concern about the lack of timely investigations of all incidents involving threats or aggression toward human rights defenders, carried out in an impartial manner, has been expressed by the Committee Against Torture in at least its last three periodic reports. See, for example, CAT/C/COL/CO/5, Concluding observations on the fifth periodic report of Colombia, 26b, May 2015.

¹⁶ Points 2.1, 2.2 and 3.4.4 of the Peace Accord.

¹⁷ See: <http://www.bbc.com/mundo/noticias-america-latina-42347273> (available in Spanish).



Recently, SAT was made responsible for defining the immediate steps competent authorities should take in response to its warnings.¹⁸ This responsibility previously lay with an external body, the Inter-Institutional Commission on Early Warnings (CIAT). Despite this much welcomed change, it is clear that the response to the SAT guidelines are frequently weak or totally lacking.¹⁹ This is due to a lack of coordination between different entities and, in particular, between national and local authorities.²⁰

D/ Challenges in the implementation of UN resolutions and recommendations

I A lack of coordination between State entities:

The lack of clear direction from the highest echelons in government results in a lack of vision or coherent thinking on implementation. A plan of action needs to connect the actions of one ministry to another and promote coordination between the federal level and the departments. Defining approaches on implementation should not lie solely in the hands of individual ministries, reliant on the commitment of one individual. A certain territoriality seems to bedevil any efforts toward greater coordination.

Further to this, the lack of coordination is seen in the multiplication of new committees and programmes created on the back of each wave of attacks against defenders. These new initiatives are frequently embarked upon without measuring the impact of existing mechanisms. This can lead to duplication and divisions between different institutions. It can create unnecessary work and lead to the creation of layers of bureaucracy that hinder progress.

Political will to implement human rights commitments also depends on having an understanding of human rights and how

to promote them. The Ministry of the Interior, which is responsible for generating a human rights culture, could encourage such an understanding within the ministries themselves.

II The failure to deal with the causes of risk or with impunity for attacks:

An understanding of the root causes of the risks faced by defenders is lacking. This could be one of the tasks to fall to the National Commission on Security Guarantees (Comisión Nacional de Garantías de Seguridad, CNGS) created by the Peace Accord. The Commission focuses on the design of policy related to the dismantling of criminal and paramilitary groups targeting defenders, social and political movements. The body seems split on the need for such a diagnosis.

The systematic nature of attacks against defenders

The systematic nature of attacks against human rights defenders is highlighted by key State and civil society actors. The Inspector General has stated that 'there is a systematicity in the murder of social leaders because the connection with a conflict over land is clear. The land rights of these communities are connected to the ways in which they are being eliminated'.

In addition, several members of the National Commission on Security Guarantees have stated that 'systematicity is not only in play when there is a policy or plan to exterminate by a particular organisation, but when there is a practice that is tolerated.' That is to say, 'repeated omission by the State in regard to its duty to protect is a sign of tolerance of different forms of aggression against social leaders and defenders'.²¹

The Office of the Attorney General has not always been willing to acknowledge the systematic nature of attacks. However, having stated publicly – including before the Congress – that he did not see patterns in threats and attacks against defenders, a few months ago the Attorney General Martínez Neira changed his tune. In December 2017, he acknowledged that 'we are identifying worrying phenomena related to the possible continued existence of strongholds of paramilitaries operating with a degree of systematicity in some regions of the country'.²²

Definitions, facts and figures:

Definitions of who is a defender have been revisited to reflect the new reality created by the peace process. The Office of the Inspector General includes in its definition of a human rights defender 'members of political and social movements and their organisations and those (from these

18 Such a step does respond to some degree to the recommendation 11.6.3 made by Serbia during the UPR Second Cycle, April 2013, for the continued implementation of an early warning system within the framework of the Ombudsman's Office 'in order to prevent different human rights violations.'

19 See: <http://www.defensoria.gov.co/es/nube/noticias/7039/Comunicado-de-prensa-08-de-febrero-de-2018-Defensor%20DA-del-Pueblo-Ministro-del-Interior-alertas-tempranas.htm> (available in Spanish).

20 See: <http://www.defensoria.gov.co/es/nube/noticias/7074/En-m%C3%A1s-de-dos-a%C3%B1os-ocurrieron-282-homicidios-de-1%C3%ADderes-sociales-y-defensores-de-derechos-humanos-en-Colombia-1%C3%ADderes-sociales-defensores-de-derechos-humanos-Defensor%20DA-del-Pueblo.htm> (available in Spanish).

21 Public statement of December 2017.

22 See: <https://www.elspectador.com/noticias/judicial/fiscal-admite-algun-grado-de-sistematicidad-en-crimenes-lideres-sociales-articulo-729362> (available in Spanish).

groupings) that participate actively in the implementation of the Peace Accord.²³

The Office of the UN High Commissioner for Human Rights (OHCHR) broadened its definition of human rights defenders to include leaders and those attacked in social protests. Some civil society actors, such as Somos Defensores, use other criteria to determine who is a defender, which can result in inconsistent figures.

Different ways of defining who a human rights defender is complicates the recording of threats and attacks against defenders. It makes it difficult to produce a consistent set of data among interested parties. The figures produced by the Attorney General's Office related to human rights defenders have also been questioned. In 2017 the Office claimed to have cleared up 51.72% of cases of murder of human rights defenders in the country. This was countered by those who noted that only 5% of cases ended up with a sentence or punishment (between 2016 / 2017).²⁴

In addition, it may be that the legal understanding of threat needs to be altered to reflect the diversity of the type of threats that human rights defenders can face.

Criminalisation:

Several UN resolutions and recommendations have focused on the need to stop the criminalisation of defenders.²⁵

With a lack of understanding or acknowledgment of the causes of attacks against defenders or of attempts – in too many cases – to apprehend perpetrators, impunity reigns and threats, attacks and criminalisation continue. The Peace Accord provides one glimmer of hope for defenders imprisoned on unfounded charges related to alleged association with the FARC-EP.

David Ravelo has benefited from article 35 of Law 1820, December 2016,²⁶ related to those sentenced for purported militancy with the FARC (whether they were members of the group or not). Ravelo was found guilty of aggravated homicide in 1991 and sentenced to 18 years in prison. His detention was the subject of multiple expressions of concern.²⁷ The law provides for a review of his case by a section of the Special Jurisdiction for Peace (Jurisdicción Especial para la Paz). This may provide an opportunity for other defenders – accused of crimes committed in relation

to the FARC – to have accusations against them dropped. Of course, this option will not be relevant to all cases of suspected criminalisation against defenders. The need to revise these cases remains urgent.

Stigmatising defenders and downplaying their role:

A raft of UN resolutions and recommendations speak of the need to recognise the importance of the vital work of human rights defenders, as part of a policy to prevent attacks against them. Recent General Assembly resolutions have spoken of the importance of public statements in support of defenders by 'leaders in all sectors of society and in their respective communities, including political, military, social and religious leaders and leaders in business and the media'.²⁸

Given this, the recent remark made by the Minister of Defence, Luis Carlos Villegas, that the 'vast majority of deaths of social leaders are due to disagreements between neighbours, disagreements over women ('faldas') or illegal rents' was particularly egregious. This statement was condemned by several members of the National Commission on Security Guarantees in December 2017, who criticised the Minister for 'trivialising one of the gravest problems the country faces' and 'making evident a general attitude of distrust toward the statements made by leaders and human rights defenders about the increase in the number of murders and other incidents that form part of a generalised attack (against defenders)'.²⁹

Furthermore, there have been initiatives that discriminate against human rights defenders, downplaying their expertise and sending a message that their role in society is not important.

For example, the adoption of an amendment that denies the right to act as Magistrates of the Special Jurisdiction for Peace (Jurisdicción Especial para la Paz) to those that within the last five years have provided legal representation during processes related to the armed conflict, or have litigated against the State before national or international tribunals.³⁰ This step would deny the option to stand for these positions to many human rights defenders.

III No review of the legislative framework

Despite the acknowledgement by the UN that 'domestic law and administrative provisions and their application should not

23 Directive 002 of the Office of the Inspector General.

24 Somos Defensores, 'Agúzate' 2017.

25 For example, UN General Assembly resolution A/RES/70/1161, paragraph 10a, states that States must ensure that '(t)he promotion and protection of human rights are not criminalized or met with limitations in contravention of the obligations and commitments of States under international human rights law'.

26 The law provides for the review of cases related to alleged actions taken during the context of the conflict, and where there are concerns about irregularities in the criminal process leading to the sentencing of the defender.

27 For example, in March 2011, the then Special Rapporteur on the independence of magistrates and lawyers, Gabriela Knaul, and the then Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, sent a joint statement to the Colombian government in regard to detention of the defender.

28 For example, UN General Assembly resolution A/RES/68/181, operative paragraph 15. Also, recommendations of Slovakia and Hungary in the UPR of 2013 and the Committee on ESCR (10c) of 2017.

29 See Public Communique, December 2017, available (in Spanish): <http://www.arcoiris.com.co/wp-content/uploads/2017/12/Comunicado-de-los-representantes-de-sociedad-civil-de-la-Comision-Nacional-de-Garantias-de-Seguridad.pdf>

30 We are still awaiting the decision of the Constitutional Court in regard to these cases.

hinder, but enable the work of human rights defenders',³¹ in Colombia there has been no review of the legislative or institutional framework to establish whether current legislative and administrative steps are compatible with obligations related to human rights defenders. Furthermore, where laws and decrees do guarantee the rights of human rights defenders, too often they have remained as mere formalities.

IV Failure by the judiciary to take into account the role of defenders

In the opinion of the Colombian Constitutional Court, the State 'is under an obligation to abide by the articles contained in the Declaration on Human Rights Defenders which grants to human rights defenders various freedoms and rights enshrined in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, amongst others.'³²

Whilst recognising that the primary responsibility to promote and protect human rights lies with States, the Court is of the opinion that 'those individuals or groups that assist the State in that endeavour deserve special protection. In that regard, the Declaration on Human Rights Defenders, upon granting legal status to the right to defend rights, aims at describing the minimum standards of protection and promotion that States should provide to individuals and organisations that work to promote and defend human rights'.

The Constitutional Court has made references to the Declaration on Human Rights Defenders in a couple of decisions. One related to the provision of specific measures to ensure the protection of a woman, bearing in mind her gender and status as a defender. It was decided that these measures should be extended to ensure the protection of the defenders' children.³³ A subsequent decision of 2015 concluded that the situation of human rights defenders had worsened since 2009 and requested reports from the Office of the Public Prosecutor, the Ministry of the Interior and the National Human Rights Institution. In addition, a request was made that the Administrative Unit of Victims (Unidad Administrativa de Víctimas) should implement a plan of prevention and public policy to promote the right to defend rights during armed conflict.³⁴

In its decisions, the Constitutional Court has recognised the existence of the human rights defender but at the point of sentencing, few judges take the status of defenders into account. When a defender is the victim of attacks, the social value of a defender is not taken into account as an aggravating factor. The need to sensitise judges and other working in the judiciary to the particular status of defenders, was highlighted by both representatives of the State and civil society.³⁵

V The limitations of the Protection Unit of the Ministry of Interior

At the heart of State protection efforts is the Protection Unit (Unidad de Protección -UNP), created by decree in 2011, which assesses the need for protection measures for defenders at risk. Colombia's protection programmes, and the National Protection Unit in particular have been the subject of several UN resolutions and recommendations.³⁶

The Unit's capacity to respond to demand is limited by a lack of funding and the fact that hard protection measures³⁷ alone cannot adequately ensure the security of defenders. The prevention of threats and attacks at local level – involving key agencies including the local authorities, the Office of the Attorney General and the Office of the Inspector General – is key. Ensuring the safety and security of defenders cannot fall exclusively on the shoulders of the Protection Unit.

In acknowledgement of its own limitations, the Unit points to the co-responsibility of human rights defenders in ensuring their own protection. Any encouragement to a defender to take precautions to reduce risk does not, of course, diminish the responsibility the State has for ensuring the safety and security of human rights defenders.

There are differing views as to whether evaluations of risk faced by individual defenders, which the Protection Unit carries out, should be carried out at national level or regional / local levels. Concern about the risk of infiltration of relevant instances at local level was highlighted by some, whilst others noted that someone from outside the area may not understand the dynamics at the local level.

31 See for example, A/RES/70/1161, February 2016.

32 <http://www.corteconstitucional.gov.co/relatoria/autos/2013/a098-13.HTM> (available in Spanish).

33 Decision T-234/12, March 12, 2012. See: <http://www.corteconstitucional.gov.co/relatoria/2012/t-234-12.htm>.

34 Constitutional Challenge 87/2015, Supreme Court of Justice, June 30, 2006.

35 Human Rights Council resolution A/HRC/Res/22/16 paragraph 11b of 2013 notes that a State should ensure that '(t)he judiciary is independent, impartial and competent to review effectively legislation and its application affecting the work and activities of human rights defenders'.

36 For example by Human Rights Committee in November 2016 (see: CCPR/C/COL/CO17) and the Committee on Economic, Social and Cultural Rights in October 2017 (see: E/C.12/COL/CO.6).

37 Such as the provision of bodyguards; security systems for homes and offices, and bullet proof cars.



E/ The role of the international community

Over time, members of the international community have integrated human rights concerns into exchanges with the Colombian government. For example, the London Declaration, adopted by a group of ambassadors (the G24) in July 2003 – underlined the importance of the implementation of recommendations as a factor informing cooperation policies with Colombia.

In addition, until 2005 statements on the human rights situation in Colombia were delivered by the President of the Commission on Human Rights³⁸ in name of the Commission as a whole. These statements made reference to the situation of human rights defenders, including the 'climate of hostility' generated around their work. In one declaration, the President called on Colombia to stop making general public statements that put defenders' lives at risk. With the creation of the Human Rights Council, the practice of Presidential statements was lost, although the UPR has provided an ongoing focus on human rights in Colombia (albeit a less frequent one).

Currently, investment by the international community in peacebuilding in Colombia provides a means for channeling financial and political support toward certain outcomes that relate to safeguarding civil society space and the defence of human rights defenders. Existing commitments, including European Union, Canadian and Swiss guidelines on human rights defenders, should provide useful steers in regard to where investment could be targeted, as well as encouraging the creation of regular monitoring and evaluation processes.

I UN recommendations and Colombia's reporting record

According to some State representatives, UN recommendations and resolutions have served to apply pressure on the State, particularly when civil society used them as tools to demand action. Members of civil society confirmed that they have value. When resolutions and recommendations are invoked, the government feels a need to respond and say something about their implementation.

It seems that the likelihood of these recommendations getting implemented is increased when they are focused on processes or procedures rather than on structural changes; are made in regard to specific groups; and incorporate clear deadlines for implementation. In addition, UN bodies acknowledging progress made is important in further encouraging State individuals to press for implementation of recommendations.

38 The Commission was replaced by the Human Rights Council in 2015.

39 See: <https://colombiareports.com/colombia-drilled-un-human-rights-committee/20th-October-201635>

Colombia's lack of commitment to implement resolutions or recommendations has been criticised by UN bodies. In the case of treaty bodies, Colombia has faced criticism for a lack of preparation and willingness to respond to questions by members. In 2016 the Chair of the Human Rights Committee noted that Colombia seemed to 'enter a state of amnesia' when the moment comes to send information to the Committee.³⁹ The lack of implementation of recommendations – including in regard to the protection of human rights defenders – prompted the Chair to note that 'this is the third time that Colombia comes before the Committee and the sensation of 'd  j   vu' is depressing as I listen to the same thing each time.'⁴⁰

That said, in the case of the most recent review of Colombia before the Committee for the Elimination of Racial Discrimination (CERD), the Ministry of Interior encouraged a process of several months, where input from different stakeholders was sought. A report was then prepared with the participation of the Office of the Presidential Advisor for Human Rights. In the case of the Third Cycle of the UPR, Colombia organised several regional meetings with civil society in regard to the government report. However, Colombia failed to share the conclusions of these consultations with civil society before submitting the government report to the UN.

There have been four cases of reprisals against Colombian human rights defenders cooperating with the UN included in reports of the UN Secretary General.⁴¹ However, in only two cases is there evidence of a response from the State.⁴²

II The practice of UN bodies in Colombia

The Office of the UN High Commissioner for Human Rights (OHCHR):

For the last 20 years, OHCHR has played a role monitoring and analysing the situation of human rights in Colombia, and providing technical cooperation to State entities. Its mandate currently runs until October 2019. OHCHR has been invited to take up several activities supportive of the implementation of the Peace Accord, including adding a chapter on implementation of the Accord in annual reports to the Human Rights Council. These extra tasks have not come with additional resources.⁴³

The work of OHCHR was warmly acknowledged by all those interviewed. State representatives confirmed that OHCHR had been important in work on human rights defenders, including in helping to conceptualise the problem for defenders in the country. OHCHR has helped the Office of

the Presidential Advisor for Human Rights in its work to sensitise and monitor State entities at local level. The Office of the Presidential Advisor for Human Rights has adopted the definition of defenders promoted by OHCHR.

Members of civil society have spoken very positively about the work of OHCHR 'at the head of the titanic task of mobilising and informing the work of the Attorney General's Office in regard to crimes against defenders.'⁴⁴ The Attorney General's Office has changed its work due to the efforts of OHCHR. OHCHR has pushed for the development of investigative processes that take into account the identity of the victims as human rights defenders, where relevant, and that the alleged crime committed against them could be related to their work. OHCHR has provided the Attorney General's Office with information from the ground that has assisted the Office in making progress with investigations.

OHCHR is encouraged to reference UN resolutions and recommendations on defenders more regularly. Several defenders acknowledged the value of the 2013 UN General Assembly resolution on women human rights defender.⁴⁵ They noted that, by OHCHR using similar references, the Office could contribute to making it easier for civil society to press for implementation of the resolution. Whilst not a solution for the many challenges women defenders face – including lack of access to justice, impunity for attacks against them and protection measures that fail to meet their needs as women defenders – UN bodies referencing the resolution would be helpful.⁴⁶ Civil society representatives did say that OHCHR regularly referenced and called for the implementation of the Declaration on human rights defenders.

Finally, concern was expressed by many at the delays by the Colombian State in confirming the new Representative of OHCHR when Todd Howland's term came to an end. In addition, civil society representatives spoke of the need for the continued presence of OHCHR beyond October 2019.

The UN Verification Mission in Colombia

One of the pillars of the work of the UN Verification Mission in Colombia is the verification of security guarantees and the fight against criminal organisations. Every ninety days, the Mission produces reports for the UN Security Council which include a sub-section related to the security of communities in areas most affected by the conflict. This is the first time that the situation for defenders has been so referenced in Security Council reports. The Mission was also invited to be part of an inter-sectorial Commission looking at swift responses to early warning alerts.⁴⁷

40 *Ibid.*

41 See: A/HRC/10/36 (2009); A/HRC/14/19 (2010); A/HRC/21/18 (2012) and A/HRC/24/29 (2013).

42 The right to communicate with intergovernmental organisations is guaranteed in Article 5 of the UN Declaration on Human Rights Defenders.

43 Annual report of the UN High Commissioner for Human Rights, *Op cit.*

44 *Somos Defensores, 'Aguzate'* pg 48.

45 A/RES/68/181, January 2014.

46 UN resolution A/RES/70/161 (paragraph 27) specifically references the need for UN agencies and organisations to provide 'suggestions on ways and means' of ensuring the protection of women defenders, citing the UN resolution.

47 Report of the Secretary-General on the United Nations Verification Mission in Colombia, S/2017/1117, page 6, December 2017.

Whilst there is some concern that the Mission could eclipse the work of the far less well-resourced OHCHR, the presence of two such UN bodies has allowed each to play to its strengths, as well as come together in the production of joint statements, for example.⁴⁸

Visits by Special Procedures:

Twelve Special Procedures have requested to visit Colombia since 2010, and not one has been received, despite Colombia having issued a standing invitation to all Special Procedures since 2003.

F/ Transforming the context for Human Rights Defenders

In Colombia, the State response to the vulnerability defenders experience is rooted – largely – in hard protection measures. Whilst these are important to ensure people's protection in the short term, they act as nothing more than plasters. The urgent need for a comprehensive and integrated approach to protection is emphasised by many State and civil society representatives. Increasing the active presence of State entities and the positive impact of their work is key to preventing attacks.

UN bodies have made the case that investment in the presence of State entities at the local level is critical in creating an environment where people can live decently, and work to defend rights without fear or hindrance. This requires investment in the 'social State' – ie education, health, care of children – as well as the presence of judicial bodies and the national human rights institution; and in ensuring the right to participation. The UN Declaration on Human Rights Defenders is clear that guaranteeing the full spectrum of human rights and fundamental freedoms is key to the respect of the right to defend rights.⁴⁹

During a visit to Colombia in January 2018, the UN Secretary General called for the government to 'accelerate the active presence of the State throughout the country.'

In its most recent report to the Human Rights Council, OHCHR spelt that out more fully, noting, '*some of the killings of human rights defenders, especially in areas of former influence of FARC-EP, could arguably have been prevented by a timely and coordinated State response to implement the Agreement, prioritising the rights of the population. The weak State presence in these areas generates a lack of access to rights and opportunities for the communities to become part of the legal economy. It therefore exacerbates poverty and contributes to the development or maintenance of illicit economies, which then facilitates the formation and/or arrival of criminal organisations and illegal armed groups that fight for control, generating corruption and endemic levels of violence.*'⁵⁰

I A change from a war logic to one rooted in the respect of the full spectrum of human rights

The State response to disorder in the country remains a militarised one. A war mentality borne of fifty years of conflict takes time to change, but it is not clear that the government is committed to understanding the need to define an alternative response. There is no commitment to understanding that economic and social factors are related to the protection of human rights defenders. Political and economic inclusion of the population is critical to achieving real change.

Example: Between December 2017 and January 2018 there were 14 documented murders in Tumaco, the majority of them young people. The response of the State in reinforcing the presence of the military and police forces – sending 6000 officers to the region – was acknowledged as a necessary short-term measure. However, as noted by the National Human Rights Institution, 'the grave humanitarian and social problem in the region requires a comprehensive and integrated response from the government to overcome the conditions that make people vulnerable where they lack access to the rights of education, health, work, drinkable water and basic sanitary conditions, amongst other things.'

II Prevention

In regard to preventing violations against defenders, all too often it seems relevant entities pass the buck. Providing leadership on prevention should fall to the Ministry of the Interior. However, the Ministry has cited the responsibilities of municipalities to put in place plans for the prevention of violations of human rights – including of human rights defenders – drawing on their own funds.

48 There are other UN bodies present in Colombia, such as UN Women and UNDP. We did not have the opportunity to analyse their work or impact.

49 UN Declaration on Human Rights Defenders (Article 2 (1)).

50 A/HRC/37/13/Add.3, paragraph 14.

That said, it appears that the Ministry of the Interior has worked with the municipalities on 'plans to prevent violations of security guarantees' and has asked the Attorney General's Office to follow up on their implementation.

III Political participation

The right to political participation is guaranteed under article 8 of the UN Declaration on Human Rights Defenders, and is one of the pillars of the Accord. The number of parliamentary seats has been increased to create 16 additional seats for the victims of the conflict. However, the legislature was split on ensuring this agreement was honoured and deciding the issue was left in the hands of the judiciary. OHCHR has emphasised that political participation is a key, cross-cutting principle of the Peace Accord; that it should inform all phases of implementation and not be reduced to a mere formality.⁵¹

G/ Conclusion

In Colombia there have been some positive advances in regard to the protection of defenders. The question of the safety and security of defenders has gained considerable visibility, including in the media. There is a significant degree of expertise in government and other circles on the issue, informed and encouraged by dialogue between civil society and government representatives.

The focus provided by UN bodies on the situation of human rights defenders in Colombia has been positive. Colombia is susceptible to international pressure and does not wish to be seen badly in international spaces. UN recommendations and periodic reporting requirements have provided a means to keep demanding answers from the State; have encouraged some State and quasi-governmental bodies to improve their practice; and have provided important frameworks to guide the work of key UN bodies on the ground.

That said, the situation for human rights defenders remains grave. Too little has been achieved to ensure their protection. To deal effectively with the risks defenders face, the State will need to invest in guaranteeing human rights and rebuild the institutions of the State in areas where for too long they have been absent. With international attention still focused on Colombia post conflict and funds available for peace building, now is the moment to work for that highly challenging but necessary transformation. Such a transformation will be needed for the guarantees enshrined in the Declaration on Human Rights Defenders to be met.

Focus on Tunisia

A/ Normative and institutional framework related to the protection of human rights defenders

The fall of Ben Ali's regime in January 2011 following the Jasmine Revolution led to the creation of new institutions, mechanisms and laws related to the respect of human rights. Numerous human rights defenders rose to key positions within the Executive – including at the highest levels – as well as within human rights institutions.

The national level institutions related to the follow up and implementation of UN recommendations, include the following:

- I/ The National Commission of Coordination, Preparation and Presentation of Reports and follow up of recommendations in the field of human rights⁵² (CNCEPRSR). The Commission is a permanent inter-ministerial Committee (see below).
- II/ The Superior Committee of human rights and fundamental freedoms.⁵³ This Committee – National Human Rights Institution (NHRI) – was established during the time of Ben Ali but, within the context of the planned constitutional reform, should be replaced by the Superior Human Rights Authority (Haute Instance aux Droits de l'Homme) in 2018 or 2019, at the latest. It is accredited with a "B" status by the Global Alliance of National Human Rights

51 OHCHR report, page 6, Op.cit.

52 La Commission nationale de coordination, d'élaboration et de présentation des rapports et de suivi des recommandations dans le domaine des droits de l'Homme (CNCEPRSR). See Facebook: <https://goo.gl/Fu1jM2>.

53 Le Comité supérieur des droits de l'Homme et des libertés fondamentales. <http://www.csdhlf.tn/?lang=fr>



Institutions (GANHRI).⁵⁴ The Committee is involved in preparing periodic State reports to treaty bodies and has also presented alternative reports. However, the capacity of the Committee to address violations of human rights is limited and its effectiveness questioned.

III/ The Commission of Individual Liberties and Equality.⁵⁵ This is an ad hoc Commission created by the President in August 2017. The Commission membership is comprised of well-known human rights defenders. It is expected that the Commission will produce progressive recommendations in regard to individual freedoms and in particular in regard to women's rights. The conclusions and recommendations are expected in 2018.

IV/ The Minister of Human Rights,⁵⁶ who hosts the CNCEPRSR.

V/ The Commission of General Legislation and the Commission on human rights and liberties⁵⁷ of the Tunisian Assembly of the Representatives of the People.

It is important to note the primary and active role non-State actors play in the follow up of international recommendations, such as civil society and the Office of the UN High Commissioner for Human Rights (OHCHR).

B/ Human rights defenders at risk

From the interviews held, the following groups of human rights defenders appear to be at greatest risk and face most harassment:

- **Journalists:** particularly those connected with covering the wave of demonstrations held in January 2018.

- **Women human rights defenders:** in particular those demanding equal inheritance rights, and those against other discriminatory practices enshrined in and justified by Sharia law or traditional practices.
- **LGBTI human rights defenders:** in particular those demanding the revocation of the Article 230 of the penal code that criminalises homosexuality.
- **Defenders of religious minorities:** particularly the Bahá'í Faith.
- **Bloggers**
- **Defenders of economic, social and cultural rights.**

C/ Follow up and implementation of UN recommendations

Tunisia is one of the few countries in the sub-region that has in place a permanent and sophisticated mechanism to coordinate the preparation of the reports on the international human rights instruments and the follow up and implementation of recommendations.⁵⁸ The Commission has benefitted from, and continues to benefit from, the close support of the Office of the UN High Commissioner for Human Rights.

A compilation of all the recommendations of the Treaty Bodies, the Special Procedures and the UPR (as well as regional mechanisms) is held and updated by the Office of the UN High Commissioner for Human Rights.⁵⁹ An online register can also be accessed through OHCHR and should be made an online searchable database. Amongst the human rights themes used to 'sort' the recommendations is one on human rights defenders.

54 The status of NHRIs is accorded through a peer-peer process led by the GANHRI Sub-Committee on Accreditation which assesses an NHRIs compliance with the Principles Relating to the Status of National Human Rights Institutions (The Paris Principles).

55 La Commission des libertés individuelles et de l'égalité.

56 Ministère des relations avec les institutions constitutionnelles et la société civile et des droits de l'Homme

57 La Commission de la Législation Générale et la Commission des droits et libertés.

58 The other country with a similar institution is Morocco.

59 'A List of recommendations made to Tunisia by human rights mechanisms', OHCHR, May 2014. See: <http://en.calameo.com/books/0033142930cb4f8d2d393>.

The CNCEPRSR

The National Commission of Coordination, Preparation and Presentation of Reports and follow up of recommendations in the field of human rights – the Tunisian National Mechanism for Reporting and Follow-up (NMRF) – was established by Presidential Decree in 2015.⁶⁰ This inter-ministerial body brings together representatives from 27 ministries, under the leadership of the Minister of Human Rights who is responsible for providing coordination and direction. The Commission has a permanent Secretariat headed by a Director General for Human Rights. The mandate of the Commission was amended⁶¹ in May 2016 to include in the Commission a representative of the national institute of statistics. In addition to preparing reports for periodic reviews of Tunisia (particularly the Universal Periodic Review (UPR) and treaty bodies) the mandate of the Commission includes the following responsibilities:

- Following-up on recommendations (art. 1&2)
- Analysing the extent of recommendations and identifying who's responsible for their implementation (art. 2)
- Coordinating the implementation of recommendations (art. 2)

The Commission has defined as a top priority the submission of all overdue reports to treaty bodies before the end of 2019. Although this has been defined as a priority, in a country that has ratified ten international human rights treaties, this leads to a disproportionate amount of attention dedicated to the production of reports and the preparation of reviews. The Commission has, nevertheless, participated in two processes related to the follow up on recommendations from the following treaty body reviews of Tunisia:

- Concluding observations from the Committee on Economic, Social and Cultural Rights (end of 2016)
- Concluding observations from the Committee against Torture (2017, see below)

The establishment of the Commission marks a notable advance in the follow up of international and regional obligations and the Commission shows a clear determination to end violations of human rights which characterised the regime of Ben Ali. However, the Commission faces several challenges, most notably:

- Structuring work plans around the deadlines of upcoming reviews (i.e chronologically), which prevents the development of a thematic and transversal approach. The Commission focuses all its work on the upcoming (or recent) reviews, an approach that means that the follow-up and implementation of the recommendations is relegated to the demands of reporting.
- Members or 'focal points' in each Ministry do not have human rights backgrounds – at least not all of them. In addition, no additional resources have been dedicated to enabling their participation in the work of the Commission. The focal points are expected to carry out this work in addition to their regular tasks. It is important to note that a ministerial circular is expected in 2018 which should contribute to improving this problem and enable the work of NMRF members in the NMRF.
- The interaction between the Commission and civil society is limited.
- The capacity of the Commission to contribute to the implementation of more 'complex' recommendations such as the revocation of Article 230 of the Penal Code, which criminalises homosexuality, comes up against resistance from parts of the community, and /or a lack of political will.

It is of note that the CNCEPRSR is working on preparing a national human rights plan which will outline the goals and objectives at national level, and will integrate recommendations of relevant international and regional human rights bodies.

60 Presidential Decree n°2015-225, 29 October 2015.

61 The mandate was amended by Decree n° 2016-663, 30 May 2016.

The case of the concluding observations from the Committee Against Torture, 2016

The concluding observations of the Committee against Torture (CAT) to Tunisia prompted an unprecedented process which could be considered a good practice in regard to follow up and support to the implementation of recommendations coming from the international system. The observations included one related to the protection of human rights defenders (paragraph 44, as below).⁶²

Following the publication of concluding observations by the Committee, the CNCEPRSR organised a series of activities and consultations with the support of OHCHR and a Tunisian

member of CAT, Abdelwahab Hani, with the aim of drawing up a plan for the implementation of the recommendations. This plan was the first example of a national implementation plan, encouraged by the new follow up procedure by CAT in September 2015.⁶³

Whilst not equivalent to the implementation of concluding observations, the adoption of this plan is a significant advance welcomed by CAT itself. The implementation plan was sent to CAT and made public on their webpage.⁶⁴ The next periodic report of Tunisia to CAT should give an idea of the degree to which the actions and implementation envisaged in the plan have been effectively carried out and how.

The following is an extract from Tunisia's 'Presentation and Methodology for the Implementation of Concluding Observations from the Committee against Torture', April 2017.

THEMATIC RECOMMENDATIONS	PRIMARY RESPONSIBILITY SECONDARY RESPONSIBILITY <i>Potential technical partners recommendations</i>	<i>Measures and steps taken by the State for the implementation of each recommendation</i>	<i>Indicators of progress made in regard to each recommendation</i>	<i>Timeline</i>	<i>Level of progress</i>	<i>Challenges faced</i>
<p>The Committee invites the State party to publicly condemn threats and attacks against human rights defenders, journalists, artists and bloggers and not to support, by action or omission, such attacks, by ensuring:</p> <p>(a) Effective protection of these groups against the threats and attacks to which they may be subjected by virtue of their activities;</p> <p>(b) That prompt, thorough and effective investigations are carried out of all threats and attacks targeting these groups and by guaranteeing that those responsible for them are brought to justice and punished in a manner commensurate with the gravity of their acts.</p>	<p>Primary responsibility <u>Government</u> <u>Minister of Justice</u> <u>Prosecutor and Judge</u></p> <p>Secondary responsibility <u>Civil society</u></p> <p>Potential partners</p>	<p>The sensitisation of judges on freedom of expression</p> <p>Training of security officers on freedom of expression</p> <p>The possibility of considering the adoption of a law to protect human rights defenders</p>	<p>Judges sensitised</p> <p>Number of sentencing judgments passed compared to complaints lodged</p>			

62 CAT/C/TUN/CO/3; June 2016.

63 CAT/CI/55/3. For a commentary on the procedure, see: Ploton, Vincent, *The Implementation of Treaty Body Recommendations*, SUR 25 - v.14 n.25 • 219 - 235 | 2017, 30 January 2018. See: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3107696.

64 See: http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/TUN/IINT_CAT_FCO_TUN_27570_F.docx

On a network of focal points on the protection of human rights defenders



UN Member States have identified the value of appointing focal points within the public administration to ensure dialogue with human rights defenders on public policies and programmes, including for protection purposes.⁶⁵ One of our areas of enquiry in Colombia and Tunisia has been whether the designation of national level focal points within the Executive could assist in encouraging coherence and effectiveness in the implementation of UN resolutions and recommendations on human rights defenders.

A national-level focal point would be a senior-level official appointed within the Executive with a mandate to promote, coordinate, monitor, follow up and report on national-level implementation of the Declaration on Human Rights Defenders and other relevant standards. It could be located within a relevant ministry, be inter-ministerial, and /or sit within a National Mechanism for Reporting and Follow Up. These national focal points could be networked at regional and /or international level to encourage the sharing of lessons, good practice and technical advice as well as flagging and analysing challenges in regard to implementation. The focal point in the Executive would not replace other focal points, such as those in national human rights institutions (NHRIs).

The relevance of the designation of a focal point dedicated to the protection of human rights defenders: *Tunisia*

Tunisia faces many deep-seated challenges to ensuring human rights are respected, including political and societal conservatism, but following the fall of the authoritarian regime, numerous measures and steps have been taken to make progress and end the repressive practices of the past. The idea of designating a focal point dedicated to the follow up and implementation of international and regional norms, standards and recommendations related to human rights defenders, met with a somewhat lukewarm response by those interviewed. This can be explained, at least in part, by the fact that a number of national human rights institutions and mechanisms have already been established and – despite the major ongoing challenges – are still running their course.

⁶⁵ See UN General Assembly resolution A/Res/70/161, paragraph 13.

The relevance of a focal point dedicated to the protection of human rights defenders being part of a regional or global network: *Colombia*

In the Colombian Executive there are several individuals assigned responsibilities regarding the promotion of the respect of human rights and specifically the protection of human rights defenders - notably in the Ministry of Foreign Affairs, the Ministry of the Interior, and within the Presidential Advisor for Human Rights within the Vice President's office. These individuals and their staff convene and participate in numerous bodies and initiatives that connect with other ministries, civil society and representatives of the international community. Much work is still needed to ensure coordinated and effective responses to the problem of the vulnerabilities faced by human rights defenders.

The concern is that in designating one of these individuals to participate in a regional or international network of human rights defender focal points, this would very likely provide the State with a platform to promote and celebrate the national protection programme externally. Instead, a more productive focus would be one placed on dealing with the very many challenges faced internally in ensuring effective responses to the need for defender protection.

Furthermore, any discussions on protection programmes amongst States officials – as envisaged in a potential network of focal points – would need to be open to voices of civil society and other relevant actors to ensure that potentially critical opinion and recommendations for change were heard in regard to the State protection programmes.

General recommendations

To UN Member States

At international level

- Integrate into resolutions from the General Assembly (GA) and the Human Rights Council (HRC) language inviting or requesting States to adopt, enact or implement national processes, policies and mechanisms to follow-up and comply with relevant provisions of those resolutions at the national level.
- Ensure resolution operational paragraphs and recommendations on human rights defenders are as precise and concrete as possible, with clear dates and indicators for their implementation.
- Ensure resolution operational paragraphs and recommendations acknowledge the diversity of the identities and experiences of human rights defenders.
- Consider that an appreciation of advances made in regard to the implementation of UN resolutions and recommendations can be an important encouragement to further implementation.

At national level

- In those States that have designated National Mechanisms for Reporting and Follow up (NMRFs), make sure these institutions are established in law, are permanent, focus on recommendations from all relevant UN human rights bodies (including Special Procedures, Treaty Bodies and the UPR), and engage with all relevant stakeholders including human rights defenders and other civil society actors.
- In those States that have no NMRF at all or have no permanent or weak NMRFs, establish or strengthen such institutions as a matter of priority and make sure that these institutions prioritise both work related to the preparation of periodic reviews or visits by UN human rights bodies, and national follow up and implementation of recommendations from such UN bodies.
- Consider the integration of follow up to thematic recommendations on human rights defenders contained within resolutions adopted by the GA and HRC, as well as soft law standards, within the mandate of NMRFs or other national follow up processes and mechanisms.
- Implement a holistic and thematic approach to the implementation of recommendations from relevant UN bodies, namely Treaty Bodies, Special Procedures and Universal Periodic Review (UPR), and consider the addition of recommendations from regional bodies, as well as national bodies such as NHRIs. Recommendations ought to be clustered thematically for follow up, including a cluster dedicated to human rights defenders.

- Establish comprehensive, transparent and publicly accessible databases compiling recommendations from UN human rights bodies, along the lines of the Universal Human Rights Index.⁶⁶ Make sure that such public national databases integrate information on follow up measures planned and the status of implementation, along with clear timelines and assigned entities.
- Consider the designation of thematic focal points within the structures dedicated to following up on UN human rights recommendations and resolutions, including a focal point dedicated to human rights defenders.
- In creating or participating in any sub-regional, regional or international network for focal points based in the Executive dedicated to the protection of human rights defenders, States should ensure that the agenda for discussions is focused on exchange of best practice and discussion of challenges. Furthermore, States should ensure civil society participation in discussions and decision making.

To the UN Secretary General

- Maintain, protect and expand UN initiatives related to supporting national follow up and implementation of UN human rights recommendations, including those on human rights defenders, across the whole UN machinery, including through the UN Development Programme and the Human Rights Upfront initiative.

To UN Human Rights Bodies

- Make recommendations on the legislative, administrative, budgetary and other steps necessary to ensure a safe and enabling environment for human rights defenders.
- Ensure recommendations on human rights defenders are as precise and concrete as possible; acknowledge the diversity of the identities and experiences of human rights defenders; where relevant, include an appreciation of the advances made to encourage State entities in further implementation of commitments; and set clear dates and indicators for their implementation.
- Integrate standard recommendations to all States under review on the need to establish strong, effective and broadly encompassing structures, policies and mechanisms to follow and implement recommendations on the protection of human rights defenders, including NMRFs and/or thematic focal points such as a focal point on human rights defenders.
- In line with the good practice developed by most Treaty Bodies,⁶⁷ adopt robust and innovative policies and working procedures, in coordination with other relevant UN rights bodies, to encourage national follow up and implementation of recommendations, and publicly assess State compliance with recommendations.

To UN Country Teams

- Coordinate national UN efforts to support implementation of UN recommendations on human rights, including on the protection of human rights defenders.
- Take a holistic approach to the implementation of human rights defender-related recommendations, which should not be considered an OHCHR-only responsibility.
- Make sure national implementation plans, processes and mechanisms incorporate recommendations from all relevant UN bodies related to human rights defenders, notably Treaty Bodies, Special Procedures and UPR.
- National follow up plans may also integrate recommendations from relevant regional and national bodies related to human rights defenders, as well as recommendations from GA and HRC resolutions and soft law standards.

Recommendations specific to Colombia

To Colombian State Officials

- The President of the Colombian State should provide leadership in regard to the implementation of resolutions and recommendations on human rights defenders, demanding effective, coherent and coordinated responses from his State officials.
- The President of the Colombian State and/or the Ministry of Foreign Affairs should ensure that Colombia participates in good faith in processes of reporting to UN human rights mechanisms, and that processes for providing input for government reports involve civil society.

⁶⁶ See: <http://uhri.ohchr.org/>

⁶⁷ See <http://www.ishr.ch/news/human-rights-implementation-un-mechanisms-should-draw-inspiration-treaty-bodies-improve-state>.

- As a priority, the President of the Colombian State should ensure the active presence of all relevant State agencies throughout the country, as a key component of ensuring the protection of human rights defenders, amongst other things.
- The President of the Colombian State and/or his ministers should ensure that a diagnosis of the underlying causes of risks faced by defenders is carried out and employed to inform decisions taken in regard to their protection.
- The President of the Colombian State and/or his ministers should ensure that before creating a new entity or process related to the protection of human rights, an evaluation of the utility and impact of similar initiatives should be undertaken to avoid creating bodies and parallel processes that can be duplicative and costly.
- The Ministry of Foreign Affairs and the Presidential Advisor for Human Rights should ensure that methods to systematise information related to the implementation of UN resolutions and recommendations, are publicly accessible to ensure transparency and encourage accountability.
- The Ministry of Foreign Affairs should ensure that an evaluation of the implementation of resolutions and recommendations made to Colombia in regard to human rights defenders is carried out with the participation of civil society to inform the design and implementation of strategies related to human rights defenders.
- The Ministry of the Interior should promote a human rights culture, including a component on the role of human rights defenders, within the ministries of the State to encourage understanding and buy-in in regard to the implementation of recommendations.
- The judiciary should pay attention to the particular status of defenders in their deliberation of cases where defenders are victims of threats or attacks.

► To State entities with mandates related to the protection of defenders

- The National Commission on Security Guarantees should use the opportunity it has with the President of the Nation to urge him to ensure the active presence of all relevant State agencies throughout the country, as a key component of ensuring the protection of human rights defenders, amongst other things.

► To the international community

- Demand clear indicators for success in regard to investments made in the peace-building efforts in Colombia, to encourage the construction of a culture of accountability and transparency; request that these efforts are regularly monitored and reported on. Ensure that the protection of human rights defenders and the promotion of their work is well integrated into projects that you are supporting.
- Ensure you do not replicate the Colombian model of protection without first ensuring that you understand its weaknesses and that you are promoting a model of comprehensive and integrated protection.

► To UN entities in Colombia

- Ensure that the international human rights frameworks are employed as references in dialogues with States officials to demand positive advances in the protection of human rights defenders.

► To civil society

- Representatives of civil society in the National Commission on Security Guarantees should use that space to push the President to ensure the active presence of all relevant State agencies throughout the country, as a key component of ensuring the protection of human rights defenders, amongst other things.
- Use the opportunity of Government interest in the membership of the Organisation for Economic Cooperation and Development (OECD) to try to leverage pressure on Colombia to improve its human rights record, including in regard to the protection of human rights defenders.



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