

The right to be a human rights defender

“The Human Rights House concept strengthens cooperation and coordination between human rights defenders, improves the sharing of information, heightens defenders’ visibility and provides them with a cost efficient framework within which to work. Most importantly, it helps to provide them with a measure of protection from the violations.”

Hina Jilani in her support letter to Human Rights House Network at the time Special Representative of the Secretary General of the United Nations on the situation of human rights defenders

Human rights defenders are individuals who promote and protect all human rights through peaceful means without discrimination. Human rights defenders can join groups of people with or without structure, or organisations such as associations or foundations. Anyone, regardless of their occupation, can be a human rights defender; they are identified primarily by what they do rather than by their profession. Some human rights defenders are professional human rights workers, lawyers working on human rights cases, journalists or media workers, trade unionists or development workers. Other human rights defenders are not earning a salary from their work in favour of human rights.

The right to be a human rights defender ensures that all human rights defenders are able to carry out their work unhindered, and under the protection of national law if needed, and includes the work on all human rights, as well as rights which are not yet recognised – in other words “to develop and discuss new human rights ideas and principles and to advocate their acceptance” (Declaration on Human Rights Defenders, § 7).

Nobody is to say which methods are work methods of human rights defenders. They might advocate for human rights through peaceful protests, social media or other forms of awareness raising, by establishing human rights organisations or not, by working on legal cases or not.

The independence from the government is a key principle of human rights defenders. State authorities or any non-State actor cannot outline that those who work independently or are critical toward State policies, do not seek funding from their government or registration for their activities, are not human rights defenders.

Human rights defenders play an invaluable role in society. The Human Rights Council called upon State authorities to acknowledge publicly the important and legitimate role of human rights defenders in the promotion of human rights, democracy and the rule of law as an essential component of ensuring their protection, including by respecting the independence of their organizations and by avoiding the stigmatization of their work (Human Rights Council resolution 22/6, § 5). The Council also called upon leaders in all sectors of society and respective communities, including political, social and religious leaders, and leaders in business and media, to express public support for the important role of human rights defenders and the legitimacy of their work (Human Rights Council resolution 22/6, § 18).

Human rights defenders can therefore also be advocates and agents for change. Changing public policies is a role which carries as much legitimacy and deserves as much protection as any other work carried out by human rights defenders, including when they peacefully advocate “dissenting views” (Human Rights Council resolution 22/6, § 11i).

Human rights defenders are however often punished for their criticism of authorities and of non-State actors through repressive measures such as defamation, harassment, arbitrary detention and hence becoming political prisoners, physical abuse, torture or murder, all aiming at intimidating and impeding

them and other human rights defenders from continuing to carry out their work. Some defenders are even more targeted than others, such as women human rights defenders, minority rights defenders, defenders from the periphery, LGBT people rights defenders, and human rights defenders working on corruption issues. Human rights lawyers and journalists covering human rights violations are also targeted by such retaliation.

Hence, the respect of the rule of law in all States is key to the work of human rights defenders and the judiciary should be independent, impartial and competent to review effectively legislation affecting the work and activities of human rights defenders.

HRHN firmly stands behind the principles established by the United Nations Human Rights Council in its resolution 22/6 of 21 March 2013.

Protect – Empower – Support human rights defenders

The right to be a human rights defender stands alone, as core to any society and no one shall be victim of interference by the State or by any non-State actor for carrying out activities or work aiming at promoting human rights. Hence, it is a right, which has to enjoy just as much protection as any other right enriched in international human rights law ratified by States.

HRHN's believes that all human rights defenders deserve protection. HRHN's Code of Conduct clearly states that the "safety of human rights defenders is the first and foremost consideration upon which all our activities and decisions are based."

Not only activities of human rights defenders shall enjoy the highest possible protection but also the work itself of human rights defenders, including their right to access domestic and international funding without hindrance and to legally perceive a salary for their work. It is a condition to grow a sustainable civil society in each country.

We believe that legal restrictions against the activities and the work of human rights defenders, such as their criminalisation, as well as systematic intimidation and attacks against human rights defenders constitute a factor of instability within a country and more generally a threat to the promotion of human rights set out as a joint objective in the Charter of the United Nations.

Reprisals against human rights defenders

To promote the right to be a human rights defenders, non-governmental organisations use international and regional institutions, such as the United Nations, the Organisation for Security and Cooperation in Europe or the Council of Europe.

Nobody should be victim of any act of intimidation aiming at preventing the presentation of human rights violations at an international organisation and nobody should be victim of acts of punishment for doing so. Those cooperating with international mechanisms should enjoy even more protection. Human rights defenders however face intimidation and reprisals by State and non-State actors, which acts should be investigated and those found guilty punished.

Indeed intimidations and reprisals are not only an unacceptable attack against a human rights defender or a human rights organisation but also against the international organisation itself. Acts of reprisal specifically violate the right to communicate with international organisations, recognised in various international texts.

» Geneva Academy briefing note on reprisals

Reporting mechanisms on human rights defenders

The Declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms (in short, Declaration on Human

Rights Defenders) is the universal legal recognition of the importance and legitimacy of the work of human rights defenders, as well as their need for better protection. The Declaration on Human Rights Defenders is an important addition to the current body of international human rights standards. It was adopted by the United Nations General Assembly by consensus, and constitutes a clear commitment on the part of all United Nations member states to respect the rights of human rights defenders at the national and international levels. Although the Declaration is not legally binding, it draws together provisions from other conventions and covenants which are relevant to human rights defenders, and that are legally binding.

In 2000, the United Nations created the position of Special Rapporteur on the situation of human rights defenders. Hina Jilani who endorsed the work of HRHN has been the first mandate holder, after being the United Nations Secretary General's Special Representative on the situation of human rights defenders. Margaret Sekaggya has held the position from 2008 to 2014. In 2014, the Human Rights Council appointed Michel Forst to be the new Special Rapporteur.

The Special Rapporteur submits annual reports to the Human Rights Council and the General Assembly on particular topics or situations of special importance regarding the promotion and protection of the rights of human rights defenders.

The Parliamentary Assembly of the Council of Europe also nominates within its members a rapporteur on the situation of human rights defenders. The position is today occupied by the Estonian Member of Parliament Mailis Reps (Alliance of Liberals and Democrats for Europe). Although this mandate does not have the competence to react to individual cases, Mailis Reps presents a report on the situation of human rights defenders in Council of Europe Member States and can, within her mandate, visit countries during the year.

Within the Council of Europe, the Commissioner for Human Rights also has a strong mandate to monitor the situation of human rights defenders and report on it, to both the Parliamentary Assembly and the Committee of Ministers. Although he does not have the competence to react on individual cases, he can document them and highlight them, aiming at putting public pressure on States and non-State actors for their actions targeting human rights defenders.

Within the Organisation for Security and Cooperation in Europe (OSCE), the Office for Democratic Institutions and Human Rights (ODIHR) does monitor the situation of human rights defenders. OSCE has also recently adopted guidelines on the protection of human rights defenders.

The European Union (EU) has its own guidelines on human rights defenders with the aim of impacting on the protection of human rights defenders on the ground. These guidelines are also meant as a practical tool for the EU to interact bilaterally with partner countries and multilaterally in international fora to intervene in defence of human rights defenders' rights. In this context, EU missions in third countries play an important role: they are responsible for consulting with human rights defenders, preparing local strategies for the implementation of the guidelines and providing visible recognition for human rights defenders.

When it comes to financially support human rights defenders, the EU uses its European Instrument for Democracy and Human Rights (EIDHR). The goal is to provide urgent and direct assistance to human rights defenders at risk, but also to reinforce their capacities to carry out their work in the longer term.

Finally, various States have adopted their own guidelines on the protection of human rights defenders, such as Switzerland and Norway.

The right to freedom of association

There are no countries in which associations are more needed, to prevent the despotism of faction or the arbitrary power of a prince, than those which are democratically constituted. [...] In countries in which these associations do not exist, if private individuals are unable to create an artificial and a temporary substitute for them, I can imagine no permanent protection against the most galling tyranny.

*Alexis de Tocqueville
Democracy in America, 1831*

The right to freedom of association is one of the most basic rights enjoyed by humans: the right to freely associate with others. It ensures that every individual is free to organise, free to form and participate in groups either formally or informally, and free not to be compelled to belong to any association. Hence, the right to freedom of association is core to any society and essential in building a democratic society. It is an indispensable right to monitor the human rights situation in any country and to implement human rights policies. Hence, the right to freedom of association is key for human rights defenders.

The right to freedom of association covers organised and professional organisations, such as political parties, trade unions, public associations and non-governmental organisations with employees. It also covers organisations having a legal personality and based on volunteers. The right also covers groups and entities, which do not have a legal personality.

States have an obligation to ensure that people are free to form and participate in associations of any type and to engage independently in any legal and lawful activity. This includes being able to seek and receive resources, to organise and to peacefully promote and protect human rights.

We do not believe that States have a duty to establish a registration system for NGOs. International human rights law does not foresee that States have the duty to register NGOs in order for them to have a recognised legal personality. Indeed, a few countries in the world, do not request from NGOs to register as a prerequisite for them to be able to work and engage in public activities and receive funding. As the Special Rapporteur on the rights to freedom of peaceful assembly and of association Maina Kiai recommended in his first report to the Human Rights Council, “a regime of notification to establish an association should be in force” (report A/HRC/20/27, 21 May 2012, § 95).

Laws requiring NGOs to register are acceptable when applied properly, as an administrative procedure. The Human Rights Council specified that if procedures governing the registration of civil society organisations exist, ensure that they are transparent, accessible, non-discriminatory, expeditious and inexpensive (Human Rights Council resolution 22/6, § 8). However, governments often use such laws as a tool of repression. Denying registration to NGOs that challenge or criticise the government is a violation of the right to freedom of association which forces civil action underground and delegitimises NGO work. Registration as a form of repression also hinders the formation of an open and pluralistic society, by excluding civil society from public dialogue.

States more and more have the tendency to restrict the space of civil society by adopting increasingly restrictive legislation on non-governmental organisations. States aim at controlling their work, their funding and thereby restrict their advocacy possibilities.

Violations of the right to freedom of association are often inflicted upon NGOs and other organisations or groups, which challenge or criticise governments on human rights issues, or which defend issues authorities disagree with.

In this context it is clear that violations of the right to freedom of association have a heavy impact on human rights issues, because the oppression of civil society mechanisms of advocacy and awareness raising will be detrimental to the promotion and protection of human rights.

Funding of human rights organisations

In order to impede the work of human rights defenders, more and more States have resorted to measures aiming at diminishing their access to funding, depending on the origin of such funding. Following models from Ethiopia and the Russian Federation, more and more governments aim especially at limiting access to funding from abroad.

The Special Rapporteur on the rights to freedom of peaceful assembly and of association Maina Kiai extensively reported on the kind of steps taken by States to limit access to funding for association in his 2nd report to the Human Rights Council: “The ability to seek, secure and use resources is essential to the existence and effective operations of any association, no matter how small. The right to freedom of association not only includes the ability of individuals or legal entities to form and join an association but also to seek, receive and use resources – human, material and financial – from domestic, foreign, and international sources” (report A/HRC/23/39, 24 April 2013, § 8).

In most situations, those in power particularly aim at limiting access of funding for human rights defenders. The Human Rights Council hence called upon States to ensure that laws do not impose restrictions on potential sources of funding to human rights activities, other than those ordinarily laid down for any activity unrelated to human rights to ensure transparency and accountability (Human Rights Council resolution 22/6, § 9). Hence, no law should criminalise or delegitimise human rights activities based on the geographic origin of funding.

HRHN believes that not only activities of human rights defenders shall enjoy the highest possible protection but also the work itself of human rights defenders, including their right to access domestic and international funding without hindrance and to legally perceive a salary for their work. It is a condition to grow a sustainable civil society in each country and hence the right to freedom of association is essential for human rights defenders.

Reporting mechanisms on the rights to freedom of association

In its resolution 2005/37, the United Nations Commission on Human Rights had failed to establish a specific mandate in relation to the right to freedom of association, however fully recognising the right as such. HRHN strongly participated in the advocacy leading to the adoption of the resolution 15/21 by the Human Rights Council in October 2010, by which it established the mandate of the Special Rapporteur on the rights to freedom of peaceful assembly and of association.

Since then, Maina Kiai holds the mandate. The Special Rapporteur submits annual reports to the Human Rights Council and the General Assembly on particular topics or situations of special importance regarding the promotion and protection of the rights to peaceful assembly and of association.

The Parliamentary Assembly of the Council of Europe established a temporary rapporteur on the prevention of inappropriate restrictions on NGO activities in Europe. The Member of Parliament from Luxembourg Yves Cruchten (Socialist Group) has been nominated as rapporteur.

Within the Organisation for Security and Cooperation in Europe (OSCE), the Office for Democratic Institutions and Human Rights (ODIHR) has published guidelines on the right to freedom of association.

Finally, the principle of freedom of association is at the core of the International Labour Organisation. It is enshrined in the ILO Constitution of 1919, the ILO Declaration of Philadelphia of 1944, and the ILO Declaration on Fundamental Principles and Rights at Work of 1998. In 1951 the ILO set up the Committee on Freedom of Association for the purpose of examining complaints about violations of freedom of association, whether or not the country concerned had ratified the relevant conventions.

The right to freedom of assembly

The right to express grievances or aspirations for change through peaceful protest lies at the heart of any democratic society.

Maina Kai

*United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association
Report to the United Nations General Assembly, 7 August 2013*

The right to freedom of assembly ensures that people can gather and meet, publicly and privately. Peaceful assembly provides an important platform for people to advocate for issues they wish to raise and is indispensable to allow anyone to meet with anybody else. Assemblies can be platforms to advocate for change, and to make the voices and views of many heard. This right is important for the protection and promotion of human rights, as it allows people to raise awareness or demand change on human rights issues.

States have a responsibility to ensure that the right to freedom of assembly is protected, even and especially when those who assemble protest against public policies and challenge the State.

The right to peacefully assemble belongs to all individuals, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights (Human Rights Council resolution 15/21, § 1). The right to peacefully assemble comprises the right to freely choose the location and the timing of the assembly, including public streets, roads and squares.

Governments often violate the right to freedom of assembly as a method of suppressing dissent and critical voices. The right to peaceful protest is indeed a core component to the right to assemble peacefully. However in many circumstances, peaceful protestors are subject to arrest, violence, threats or intimidation. In some cases, legal provisions criminalise organisers and participants to peaceful assemblies, and in other cases, the interpretation of the law may be manipulated to legitimise the arrest of peaceful protestors. Examples of arrest and violence by authorities during protests demonstrate the real impact of the violation of the right to freedom of assembly; intimidation techniques such as these often engender a culture of self-censorship.

Violations of the right to freedom of assembly therefore have serious implications for society as they deny an open and pluralistic dialogue and repress one of civil society's core measures for challenging authorities.

In any country, no restrictions are allowed to the right to peaceful assembly other than those foreseen by international law, such as article 21 of the International Covenant for Civil and Political Rights of 16 December 1966. Such restrictions must be exceptional measures and have to be prescribed by law and necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others (Human Rights Council 15/21, § 4). Such legislation on public morals must be in line with international human rights law. As highlighted by the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association Maina Kai in his first report to the Human Rights Council, such restrictions have to be seen within a general legal framework in which "a presumption in favour of holding peaceful assemblies should be established in law in a clear and explicit manner" (report A/HRC/20/27, 21 May 2012, § 88).

The right to assemble on-line must also be fully guaranteed. More and more States try to control the possibility for organisers to call upon participation to a peaceful assembly on-line and to block social media and technology tools to gather. No such restriction is allowed.

Prior authorisation to organise an assembly and responsibility of organisers

Many countries have established a system of prior authorisation to organise assemblies. Concretely, organisers of assemblies are to request authorities to authorise them to assemble peacefully at a given time in a given place. These practices *de facto* ban the right to spontaneously assemble.

HRHN's believes that no one should be required to receive an authorisation prior to organising a peaceful assembly or a peaceful protest, at the freely chosen location and timing by the organisers.

Firstly, any indoor or online peaceful assembly is to be allowed and does not need approval from governmental officials. Such events can only be prevented in a restrictive application of the allowed restrictions, and especially to prevent hate speech, promotion of discrimination, intolerance and racism. However, human rights defenders should never be prevented from gathering online or indoor.

Secondly, most peaceful assemblies do not present in any way a threat to security. Human rights defenders should indeed notify competent State agencies of their assembly, including the location and time and number of expected protestors. However, such a notification should never serve to ban an assembly preventively. It is the State's responsibility to protect the assembly and take appropriate measures needed in regard to the use of the public space by others. As outlined by the United Nations Special Rapporteur, "spontaneous assemblies should be recognized in law, and exempted from [such] prior notification [procedures]" (report A/HRC/20/27, 21 May 2012, § 91).

Finally, we do believe that the State should be proactive in reaching out to organisers of mass events in order to ensure that the security of all protestors is guaranteed. However, organisers and participants to such events cannot be held accountable for the behaviour of all protestors. The initiative of the cooperation should come from competent State agencies within their duty to protect the right to freedom of assembly and should not infringe on the right of the organisers to freely choose the location and the timing of the assembly, within usual boundaries.

Right to freedom of peaceful assembly in the context of elections

In his first report to the General Assembly in October 2013, the United Nations Special Rapporteur outlined the particular need to take specific measures to protect the right to peaceful assembly in the context of elections (report A/68/299).

Again and again, those in power believe that when running for an election they can restrict the space for public dialogue. Unlike those running for elections, civil society is not on a ballot and does not participate to typical election moments, such as public debates. Hence, its right to use the public space to express its opinion and input in the election procedure is essential. As the United Nations Special Rapporteur on the human rights situation in Belarus put it in his report to the General Assembly focused on elections, "in any country, elections are the focal act of the expression of public will, culminating in the appointment of legislators and the holders of the highest State positions. Elections are not simple administrative techniques; they are the strongest link between universal human rights and national democracy" (report A/68/276, § 11).

The right to peacefully assemble is the condition to ensure that an electoral process is not only about choosing a candidate, but about choosing a future for a country or a region. It is the way by which the right to participate to the public life is ensured, as outlined in article 25 of the International Covenant on Civil and Political Rights of 16 December 1966.

The right to assemble must also be protected for all those supporting candidates running for election, and for the candidates themselves.

Peaceful intentions core to the democratic use of assemblies

The people of the United Nations, when establishing the organisation, expressed in the Charter of the organisation their will to unite to practice tolerance and live together in peace with one another as good neighbours. Since, and throughout international law, the peaceful intent has always been core to undertaking activities. International human rights law protects the right to peaceful assembly, whilst a democratic society excludes the use of violence.

Non-violence is one of the values expressed in HRHN's Code of Conduct.

We indeed strongly believe in the right to assemble peacefully, even to powerfully oppose those in power, strongly argue for change in public policies, sturdily engage for human rights, and in the right to peacefully dissent.

To assess whether an assembly is a peaceful assembly, one must consider the intent of the organisers. Their intention clearly expressed to the participants is the gauge. Whether some participants use violence or whether the assembly becomes violent does not transform the assembly itself from having the aim at being peaceful, given the organisers wish. Hence, "[organisers and participants should] never be held responsible and liable for the unlawful behaviour of others" as recommended by the United Nations Special Rapporteur.

Reporting mechanisms on the rights to freedom of peaceful assembly

In its resolution 2005/37, the United Nations Commission on Human Rights had failed to establish a specific mandate in relation to the right to peaceful assembly, however fully recognising the right as such. HRHN strongly participated in the advocacy leading to the adoption of the resolution 15/21 by the Human Rights Council in October 2010, by which it established the mandate of the Special Rapporteur on the rights to freedom of peaceful assembly and of association.

Since then, Maina Kiai holds the mandate. The Special Rapporteur submits annual reports to the Human Rights Council and the General Assembly on particular topics or situations of special importance regarding the promotion and protection of the rights to freedom of peaceful assembly and of association.

The Human Rights Council has also gone further in establishing new standards in regard to the right to peaceful protests, following the so-called Arab Spring. Peaceful protests are part of the peaceful assemblies and are characterised by the fact that the participants express a specific disagreement with those in power and protest their policies, hence are even more at risk of violent retaliation by law enforcement bodies.

In his report to the Human Rights Council session of June 2011, the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions Christof Heyns reviewed the legal norms applicable to the use of lethal force during demonstrations (report A/HRC/17/28).

Within the Organisation for Security and Cooperation in Europe (OSCE), the Office for Democratic Institutions and Human Rights (ODIHR) does monitor the respect of the right to peaceful assembly. ODIHR issued guidelines on the right to peaceful assembly. ODIHR has established a 12-member advisory and consultative body on freedom of peaceful assembly in 2006.

The right to freedom of expression

In the life of the human spirit, words are action, much more so than many of us may realize who live in countries where freedom of expression is taken for granted. The leaders of totalitarian nations understand this very well. The proof is that words are precisely the action for which dissidents in those countries are being persecuted.

President Jimmy Carter

Address at Commencement Exercises at the University de Notre Dame, 22 May 1977

The rights to freedom of opinion and expression (hereinafter called only freedom of expression) grant all people the right to express themselves, and to seek, receive and impart information through any medium. The United Nations Human Rights Committee qualified freedom of opinion and expression as “indispensable conditions for the full development of the person” (General Comment Nr 34, § 2). Freedom of expression is essential in informing and facilitating the realisation of other fundamental human rights.

Freedom of expression is particularly important in situations where human rights abuses are occurring. It allows a pluralist dialogue and creates a secure platform for critical voices. Freedom of expression ensures that people have the right to seek, obtain, receive and hold information about human rights and human rights violations. States should ensure that people are able to peacefully protest, publicise and circulate information and criticise the failure of governments to protect or promote human rights.

Violations of the right to freedom of expression have wide implications for society as a whole. Freedom of expression is fundamental to the underlying values of democracy, and is essential for a free and independent media space. This includes the right of anybody, especially human rights defenders, to have access to and use of information technologies and the media of one’s choice, including radio, television and the Internet, as stated by the Human Rights Council (resolution 22/6, § 7).

Human rights defenders do not have more rights than other people but, as with journalists and media workers or lawyers, those holding power often aim at silencing them. Hence, they need higher protection to be able to express their opinions and promote any human right. This applies even more for those defending the rights of persons belonging to minorities or espousing minority beliefs.

Violations of the right to freedom of expression occur in many countries; states use different methods to restrict the freedom of speech and expression. Apart from prior restraint and censorship, these can be:

- Strict defamation laws (to protect powerful people from scrutiny);
- Broad and vague restrictions against advocacy;
- The criminalization of dissent.

Through these measures, people simply using their right to free expression are arbitrarily detained, harassed, or subjected to abuse. Such intimidation techniques often lead to a culture of self-censorship, where critical voices are silenced through fear.

Limitations to the right to freedom of expression are permitted to respect the rights or reputation of others or for the protection of national security, public order (*ordre public*) or public health or morals. HRHN

strongly believes that the State should intervene to limit those who abuse of their right to freedom of expression to promote discrimination against minorities and promote hatred, if such limitations fall within the conditions set in the International Covenant on Civil and Political Rights, as detailed by the Human Rights Committee (General Comment Nr 34, § 22 and following).

Reporting mechanisms on the promotion and protection of the right to freedom of opinion and expression

Since 1993, the United Nations has a mandate devoted to the promotion and protection of the right to freedom of opinion and expression. The first Special Rapporteur was Abid Hussain and the mandate has been assumed by Frank La Rue from 2008 to 2014. Since 2014, David Kaye has taken over the mandate of special rapporteur.

The Special Rapporteur submits annual reports to the Human Rights Council and the General Assembly on particular topics or situations of special importance regarding the promotion and protection of the right to freedom of opinion and expression.

The Organisation for Security and Cooperation in Europe established a Representative on Freedom of the Media. The position is now in the hands of Dunja Mijatović, who followed Miklós Haraszti. The representative's role is to observe media developments, as part of an early warning function, and to monitor how States abide by their commitments to freedom of expression and free media.

On 12 May 2014, the European Union adopted, through its Council, the EU Human Rights Guidelines on Freedom of Expression Online and Offline. These are meant to “provide political and operational guidance to officials and staff of the EU Institutions and EU Member States for their work in third countries and in multilateral forum as well as in contacts with international organisations, civil society and other stakeholders” (§ 9). These guidelines also serve as a practical tool to prevent violations of freedom of opinion and expression, analyse concrete cases and react effectively when violations take place.

Freedom of opinion and expression to hold those in power accountable and to dissent

Freedom of expression needs to enjoy particular protection when aiming at holding those in power accountable. In too many countries, including the Russian Federation, the criminalisation of defamation aims not at protecting citizens from defamatory actions and words from others, hurting their privacy and honour, but at protecting those in power from critics.

Human rights defenders are often victims of such laws, as they hold leaders accountable of human rights violations, and criticise policies of their governments.

The Human Rights Council has welcomed the decriminalisation of defamation and called upon States to ensure that penalties for defamation are limited in order to ensure proportionality, and provisions do not prevent public officials from being held accountable.

HRHN believes that defamation should not protect those holding the power, as they have enough means to campaign against defaming comments, and indeed use the protection against defamation to silence critical voices. Human rights defenders must be able to hold those in power accountable for human rights violations in a respectful manner and without insults, but still clearly and loudly.

The Human Rights Council established a right to peacefully dissent in its resolution 22/6 of 21 March 2013. This right to peacefully express dissent with the government is key within the right to freedom of opinion and expression.

Freedom of expression and whistle-blowers

In so many cases, whistle-blowers have been an essential component to exposing human rights violations,

especially massive human rights violations. The concept became well-known with the Larisa Kondracki film “The Whistleblower” starring Kathryn Bolkovac, a Nebraska cop who served as a peacekeeper in post-war Bosnia and Madeleine Rees at the time working for the United Nations in ex-Yugoslavia. They outed the United Nations for covering up a sex scandal, human trafficking and killings. Since the great public visibility of WikiLeaks and Edward Snowden, whistle-blowers entered into public knowledge.

Human rights defenders make information about human rights violations public on a daily basis. Often they act against the will of a government. Their role in doing so should enjoy the highest protection and recognition.

Revealing information, which a government or an international organisation would rather keep secret, further increases the danger faced by a person doing so.

HRHN believes that revealing information is not enough to enjoy further protection as a whistle-blower. One needs to be revealing information about human rights abuses or about illegal behaviour of a person holding power within the State, a State-agency or a non-State actor. The whistle-blower must be acting in good faith and to safeguard the public interest, i.e. not in his or her own interest.

Those are boundaries protecting those human rights defenders that can be qualified as whistle-blowers and aiming at pushing for more protection for them. We indeed believe that within those boundaries, a whistle-blower is simply using his right to freedom of expression, and making good use of it.