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20 Years On: Reinvigorating State Implementation of the Declaration on Human Rights Defenders through a Global Network

A Study assessing the Desirability and Feasibility of a Global Network of Human Rights Defender Focal Points

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Contents

Contents	2
Executive Summary	3
Key Findings	4
Commentary	6
1. Introduction	8
2. Background	10
3. Methodology	12
Limitations	12
4. Learnings from Existing National Focal Point Networks	13
Possible Benefits of Participation in Networks	14
The Importance of a Secretariat, Planning, and Sufficient Resources	16
Support for a Multi-stakeholder Model	17
Addressing Errant Behaviour amongst Members	17
5. Findings	19
The Feasibility and Desirability of a Global Network of National HRD Focal Points	19
Resources: Funding, Planning and the Need for a Secretariat	22
Structure, Participation and Membership	23
<i>The Case for a 'Multi-Stakeholder' Model</i>	23
<i>Flexibility in Constituting National Focal Point Delegations</i>	25
<i>Membership of the Network: Accountability, Legitimacy and High Standards of Protection</i>	29
<i>Multi-stakeholder Network Meetings</i>	30
Trust and Political Legitimacy	31
Positioning the Network Domestically and in the Context of Current Initiatives	33
Priorities and Activities for the Global Network and National Focal Points	34
The Value of Participation and Incentives	37
Areas of Concern and Possible Responses	38
6. Conclusion	40
Appendix 1: Process Recommendations on the Creation of a Global Network of National Human Rights Defender Focal Points	41
Appendix 2: Interview Guide	44

Executive Summary

Recognising the ever present and often worsening threats faced by human rights defenders (HRDs) around the world, in this report we consider how States can be supported to better implement the UN Declaration on Human Rights Defenders¹, more than 20 years after its passing. Specifically, we asked whether a Global Network of National Human Rights Defender Focal Points could be a useful and desirable vehicle to facilitate greater implementation of the Declaration at the national level; and if so, what form the Network should take.

Through interviews with 54 stakeholders and a focus on five countries as case studies for potential participation in such a Network – Brazil, Canada, Côte d'Ivoire, Indonesia and Mexico – we explored the benefits that such a Network could bring for human rights defenders, the factors that would increase or decrease the effectiveness of the Network, and the level of 'appetite' among members of government and civil society to participate in such a Network.

We found resounding support for the creation of a Global Network of National Human Rights Defender Focal Points. However, in contrast to existing focal point networks, a majority of participants strongly favoured a multi-stakeholder model in which delegations would comprise representatives of the government, national human rights institutions, and civil society. This represents a departure from existing networks in which the focal point is a single, designated individual within the government of each State. Participants noted a wide array of benefits of the multi-stakeholder model, including that it was a better approach for driving a truly defender-orientated agenda, ensuring accountability on the part of governments, and building trust with the wider human rights defender community.

Crucially, participants identified that a practical, action- and solutions-oriented approach to improved implementation must be the primary focus of the Network. Participants saw that improvements in the implementation of the Declaration could happen in two ways: (a) a commitment to action, better co-ordination and communication between state officials, National Human Rights Institutions (NHRIs) and civil society domestically, and (b) through sharing best practices and receiving support in an international forum. The establishment, by States, of well-functioning National HRD Focal Point delegations as the constituent parts of the Network was identified as key to achieving the goals of improved implementation, while clear opportunities were identified in establishing an international forum in which National Focal Point delegations could promote advancement in the protection of defenders.

The proposed Network was seen as a possible method for addressing existing challenges, including impaired cooperation between stakeholders within a State – identified by participants as a key barrier to the implementation of the Declaration on HRDs. The Network was also seen as an opportunity to raise the profile of the protection of human rights defenders as a policy area, and to encourage compliance with the Declaration by highlighting good practice in international fora. Participants also felt that the Network could strengthen and be strengthened by close connection and linkages at the national level with existing mechanisms and initiatives, such as the Universal Periodic Review (UPR) Process and the Sustainable Development Goals (SDGs).

¹ Formally 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 (A/RES/53/144).

Key Findings

- 1)** Participants saw value in having a National Focal Point that would facilitate the implementation of the Declaration, support governments in their delivery of existing commitments and shared goals, and provide a space for advocacy to hasten advancement on issues relating to human rights defenders domestically.
- 2)** Most participants favoured the creation of a multi-stakeholder National Focal Point delegation over a State-only Focal Point. This was linked to perceived advantages with regard to both increased likely effectiveness, accountability and trust. Most commonly, participants recommended that a multi-stakeholder National Focal Point should, at minimum, comprise of a tripartite delegation including representatives of the State, NHRI and civil society.
- 3)** Participants further supported the idea of a Global Network which could bring together representatives of different National Focal Point delegations and provide a platform for raising awareness and showcasing good practice, sharing challenges, informing policy, and encouraging compliance with the Declaration. The Network could be constructed to deliberately create and maximise other possible benefits for members, such as the improved reputation of States in the protection of HRDs; protection for individuals who participate in Network activities; the building of collective accountability; and the creation of good practices (not just the sharing of existing ones).
- 4)** In terms of constituting National Focal Point delegations, each State has different domestic architecture for the protection of HRDs, and a flexible approach is needed to allow for the participation of diverse, relevant institutions, roles and functions within each State.
- 5)** Participants also noted that it would be impossible to involve all State officials relevant to the protection of HRDs in the National Focal Point delegation, due to their significant number and positions at different levels of government. As such, the National Focal Point might also function as a point of contact through which relevant government officials are invited for participation in specific events corresponding to their area of work.
- 6)** Participants expressed that the creation of a multi-stakeholder National Focal Point delegation could help overcome some existing domestic barriers to implementation, but noted that it must be possible to adapt and shape any future structure to sit alongside existing local, national, regional and international mechanisms and modes of working to avoid the duplication of efforts.
- 7)** Participants commonly raised concerns about the importance of trust, in particular, the prevalence of distrust on the part of civil society towards the State in many national contexts. This had strong implications for both the preferred structure of the National Focal Points at the domestic level (i.e. multi-stakeholder delegation), and the need for robust accountability measures at the international level. These could include consultative mechanisms involving defenders and civil society, and transparency measures to ensure that the Network and its members are held to their commitments.

8) Participants strongly urged for the Network to be action- and solutions-oriented, focusing on supporting practice and implementation of the Declaration domestically. This sentiment was typically positioned in contrast to the establishment of a Network with a primary function of increasing inter-State dialogue, which was perceived as insufficiently useful in and of itself. This led participants to emphasise the importance of the establishment of well-functioning National Focal Point delegations by States, with the development of the Global Network framed as more robust for the strength of its constituent parts.

9) Participants proposed that the membership of the Network be limited to States that demonstrate firm commitment to the protection of human rights defenders, so that standards and expectations of protection remain high, and protection is not politicised.

10) Participants highlighted that the government in power and its commitment (or lack thereof) to the protection of human rights and HRDs was a critical factor. For example, participants in Brazil were sceptical that a Bolsonaro-led government would contribute positively to such a Network, while participants in Canada, Côte d'Ivoire and Indonesia were more optimistic about their current governments. Responses from participants in Mexico expressed mixed perspectives on this issue.

11) The importance of developing accountability mechanisms and appropriate responses in the case of 'backsliding' regimes, was stressed by participants, as continued membership (if errant behaviour is left unaddressed) could have negative ramifications for the credibility and legitimacy of the Network.

12) Participants highlighted that for some States, the protection of human rights defenders is considered a foreign policy area. They noted that while the Network could provide a useful platform for advocacy between States on the protection of defenders, all members must commit to progressively improving domestic implementation of the Declaration.

13) The involvement of respected independent experts such as the UN Special Rapporteur on the situation of HRDs, rapporteurs with a defender mandate in regional bodies, and international organisations working on the protection of HRDs would aid the development of the Network and help shape its mission and functioning. This could be through participation in a Steering Group as well as at Network events and meetings.

14) Participants noted that instilling a strong sense of ownership of the Network amongst States was a decisive factor for securing long-term commitment. They were supportive of the idea of convening a small number of committed States to drive the establishment of the Network in its early stages. Founding members should be geographically diverse to prevent a sense of 'Western bias' and ensure that the Network is representative of a wide array of experiences from the outset.

Commentary

This research was carried out by the Centre for Applied Human Rights at the University of York, between October 2018 and February 2019.² Based on our findings, we understand that there is strong appetite for the creation of a Global Network of National Human Rights Defender Focal Points, provided that it is structured in very specific ways, namely that:

- Its key objective is to support the implementation of the Declaration on Human Rights Defenders domestically, within States that are members of the Global Network. All structures, activities and priorities of the Network should be oriented towards the achievement of this objective. It should focus on norm-building and norm-implementation amongst members States.
- The National Focal Points play a key role in this, and should involve multiple stakeholders at the domestic level that coordinate and collaborate with commitment to action.
- The Global Network supports the National Focal Points through, inter alia, the provision of resources, forums for discussion, the sharing of information and the creation of good practice, and making visible member States' commitment to this policy area. The most useful Network activities are those that are needed by member States, and as such, they should be consulted on the types of activities that suit their needs best.

The realisation of such a Network would require:

- Medium to long-term commitment to the Global Network, of at least three to five years, to enable the building of National Focal Points and the creation of a Global Network itself.
- Leadership and ownership of the Global Network by States in both the Global North and South, specifically those that already demonstrate clear commitment to the protection of human rights defenders. While civil society actors can support, facilitate and participate in such an initiative, it is State commitment that enables the Global Network to fill key gaps in the international protection regime for defenders. A minimum of two States are needed to chair and lead the Network, perhaps on a rotating basis.
- Trust-building; genuine goodwill; the willingness to 'experiment' and to 'learn by doing'; a focus on practical solutions; and the commitment to create and maintain spaces and opportunities for multi-stakeholder collaboration both domestically and transnationally.

As a Network is aimed at norm-building and norm-implementation, membership should be initiated by invitation only and should only be extended to States:

- Which have demonstrated public commitment to the protection of HRDs as evidenced in concrete actions, and which are committed to progressively advancing implementation of the Declaration domestically as well as internationally.
- Where multiple stakeholders at the domestic level – State officials, civil society, and NHRIs – have sufficient trust, commitment and goodwill to work collaboratively to establish a National Focal Point. It is important to recognise that in some contexts, a pervasive lack of trust and cyni-

² The research team comprised Alice M. Nah, Hannah Dwyer Smith, Ulisses Terto Neto, and David Meffe.

cism between State officials, civil society, and NHRIs at the domestic level, might make it impossible for such collaboration to take place, for example on account of past experiences or histories. In this case, the State would not be a good candidate for membership of such a Network.

- Which are commitment to, and would find beneficial, participation in such a Network; which would be willing to contribute proactively to Network activities and to receive international support for domestic activities.
- Which are willing for their membership to be ended if their actions in relation to human rights defenders are deemed by the Network to be egregious and contrary to the spirit and objectives of the Network.

The Network should be supported by a dedicated, sufficiently-resourced Secretariat with technical expertise. The Secretariat would work with member States to develop and support the National Focal Points and the organisation of Network activities. Appendix I sets out a possible way in which this Network can be built

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I. Introduction

With the passing of the 20th anniversary of the Declaration on Human Rights Defenders in 2018, and in a global climate of closing space for civil society,³ the limited implementation of the Declaration by States has been thrown into sharp relief. Around the world, the unanimous commitment made two decades ago by the UN General Assembly to protect and uphold the rights of human rights defenders (HRDs) has been overshadowed and outpaced by restrictions to defenders' work and threats to their lives and livelihoods. At this critical juncture, how can States' reinvigorate their commitment to human rights defenders, delivering on their human rights obligations as reiterated in the Declaration? How can the international community support a renewed effort by States to create an enabling environment for human rights defenders?

Commissioned by the International Service for Human Rights (ISHR), this study explores the potential for the establishment of a Global Network of National Human Rights Defender Focal Points as a way of strengthening the implementation of the Declaration on Human Rights Defenders on the ground. This study picks up on a theme from a broader piece of research conducted by ISHR in 2018, looking at the implementation of the Declaration in Colombia and Tunisia.⁴ In that study, an initial question was broached as to whether the "designation of national focal points within the Executive could assist in encouraging coherence and effectiveness in the implementation of UN resolutions and recommendations on human rights defenders".⁵ This proposal was met with lukewarm responses from participants, with many raising concerns regarding the duplication of existing efforts, and the risk of 'whitewashing' – the use of national focal points for self-promotion above the advancement of protections for defenders. Bearing in mind this critique, this study has sought to dig deeper into the opportunities and challenges presented by the establishment of a Global Network of National HRD Focal Points, considering alternative models for such a Network in light of experiences and realities in different national contexts.

The concept of a network of 'National Focal Points' draws upon the example of several existing networks operating in different policy areas. This report looks to assess the potential for such a network to enhance protections for human rights defenders tangibly. To do so, we consider in turn: 1) Whether it is useful for states to establish a National Focal Point for HRDs; and, 2) What benefits arise from bringing National Focal Points together in the form of a Global Network? Within this we examine the desirability, feasibility, costs and benefits associated with the establishment of National HRD Focal Points and a Global Network, as well as models, approaches and key considerations for the formation of these bodies.

In response to these questions, we found broad support among actors in civil society, government and National Human Rights Institutions (NHRIs) for the establishment of a Global Network of National HRD Focal Points. However, echoing some of the concerns raised in the previous study, this support is clearly contingent on whether the Network can add value in achieving 'change on the ground' in terms of the protection of human rights defenders. Contrary to the precedent of existing models, those interviewed expressed a strong preference for a multi-stakeholder model for National Focal Points as the most viable way to ensure a focus on implementation and increase accountability.

In this report, we begin by exploring the normative framework for the protection of defenders and

3 Dwyer Smith, H. 2018. Broadening Local Constituencies: Strategies for Standing Together. Centre for Strategic and International Studies. Available at: <https://www.csis.org/analysis/broadening-local-constituencies>. See also: International Center for Not-for-Profit Law 2016. Survey of Trends Affecting Civic Space: 2015-16. Global Trends in NGO Law 7: 4; Carothers, T. and Brechenmacher, S. 2014. Closing Space: Democracy and Human Rights Support Under Fire. Carnegie Endowment for International Peace.

4 ISHR, 2018. 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. Available at: <https://www.ishr.ch/news/has-un-declaration-made-difference-lives-human-rights-defenders>

5 Ibid.

the current context of closing space which drives the need for new approaches to support improved implementation of the Declaration on Human Rights Defenders. We then elaborate on the methodology and limitations of the research. We consider the experiences of a number of existing global networks and what learnings can inform the eventual establishment of a Global Network of National HRD Focal Points. Following this, we explore the main themes and key concerns which emerged from interviews with stakeholders across five country contexts, as well as from a number of individuals with relevant expertise from among the international community. Drawing on the findings from the interviews, we elaborate on their implications in terms of the structure, participation and membership of the network and identify priorities for taking the concept forward.



2. Background

Adopted by consensus in 1998, the Declaration on Human Rights Defenders (hereafter 'the Declaration') articulated for the first time the specific duty of States to respect, protect and uphold the rights of human rights defenders. The Declaration builds on the aspirations of the Universal Declaration on Human Rights, and reaffirms rights previously articulated in human rights treaties, including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

Commitment to the Declaration has been periodically renewed under subsequent resolutions. Marking the 20th anniversary of the Declaration, at the 72nd session of the UN General Assembly in 2017, the Assembly adopted a resolution on defenders calling on the Secretary General to "undertake a comprehensive assessment and analysis of progress, achievements and challenges regarding the UN's promotion and implementation of the Declaration".⁶ The resolution further called for:

... partnerships and collaboration between States, civil society and other stakeholders in promoting, protecting and realizing all human rights and fundamental freedoms, including through consultative bodies, focal points within the public administration, national human rights mechanisms for reporting or follow-up, or measures aimed at enhancing the recognition in society of the valuable role played by human rights defenders, while fully recognizing the importance of the independent voice of human rights defenders and other civil society actors.⁷

Following the adoption of the Declaration, the mandate of the UN Special Representative (now Rapporteur) on the situation of human rights defenders was established in 2000 to support its implementation. In 2004, the African Commission on Human and Peoples' Rights of the African Union established the mandate of the Special Rapporteur on Human Rights Defenders, while the Inter-American Commission on Human Rights has appointed a Commissioner to the role of Rapporteur on the Rights of Human Rights Defenders since 2009.

Over the years, independent experts and international organisations have released a number of guidelines on the implementation of the Declaration. In 2004, the UN Special Representative released Fact Sheet 29 to increasing understanding of the term human rights defender and strengthening protections.⁸ The European Union (EU) issued guidelines in 2004 (updated in 2008) to direct the efforts of its members in third countries "to support and strengthen ongoing efforts by the Union to promote and encourage respect for the right to defend human rights".⁹ In 2014, the Organisation for Security and Co-operation in Europe (OSCE) also published guidelines to "serve as a basis for a renewed, genuine partnership between governments and human rights defenders... with the shared objectives of promoting respect for human rights and fundamental freedoms in the OSCE region".¹⁰ Parallel initiatives such as the UN Guiding Principles on Business and Human Rights¹¹ further support and reinforce the position

6 ISHR, 2018. UN Secretary General support the General Assembly resolution on human rights defenders. Available at: <https://www.ishr.ch/news/un-secretary-general-support-general-assembly-resolution-human-rights-defenders>

7 UN General Assembly, 2017. A/C.3/72/L.50 'Agenda item 72 (b) Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms'.

8 OHCHR, 2004. Fact Sheet No. 29, Human Rights Defenders: Protecting the Right to Defend Human Rights. Available at: <https://www.ohchr.org/Documents/Publications/FactSheet29en.pdf>

9 EU, 2008. Ensuring Protection – European Union Guidelines on Human Rights Defenders. Available at: https://cdn3-eeas.fpfis.tech.ec.europa.eu/cdn/farfuture/G0SkM0XAvuiDps_EYTI9c8-mQA_sEgMmhYKxvHxmMjg/mtime:1466504337/sites/eeas/files/eu_guidelines_hrd_en.pdf

10 OSCE, 2014. Guidelines on the Protection of Human Rights Defenders. Available at: <https://www.osce.org/odhr/guidelines-on-the-protection-of-human-rights-defenders>

11 OHCHR, 2011. Guiding Principles on Business and Human Rights. Available at: https://www.ohchr.org/Documents/Publications/GuidingPrinciples-BusinessHR_EN.pdf

of human rights defenders and the responsibilities of State and non-State actors in specific contexts.

In recent years, a number of States have adopted or begun drafting legislation on the protection of defenders domestically. These include Burkina Faso, Côte d'Ivoire, Guinea Bissau, Mali, Mongolia, and the Philippines. Some States have also established national protection mechanisms for human rights defenders, such as in Colombia, Honduras and Mexico.

Around these initiatives, a dedicated community of practice on the protection of human rights defenders has emerged at both the national and international levels. However, the 2018 World Report on the Situation of Human Rights Defenders, published by UN Special Rapporteur Michel Forst, paints a comprehensive picture of the dire reprisals faced by so many defenders.¹² It is not just an absence of adequate protections which is revealed in the World Report, but in many cases the active reversal and undoing of certain rights which undermines the work of defenders, including through the implementation of new restrictions, administrative burdens and the criminalisation of defenders' legitimate work.

It is in this context that a renewed commitment to the protection of defenders by States as the main duty-bearer is required; one which is grounded in the provisions of the Declaration and which builds on the many, although less visible, positive advances which have been made in the protection of defenders over the past two decades. In his 2017 report to the UN General Assembly, Michel Forst proposed to establish a network of "countries that have taken measures towards protecting human rights defenders" to "facilitate opportunities for dialogue between States to foster the sharing of good practices and to improve follow-up on recommendations".¹³

Within this Network, the Special Rapporteur noted that he would like to "explore the designation of focal points in ministries and embassies, who would be tasked with monitoring the situation of human rights defenders, and the inclusion of a section on defenders in all reports submitted under the Universal Periodic Review".¹⁴ Building on this recommendation, the purpose of this research is to establish the extent to which such a Global Network of National Human Rights Defenders Focal Points is both desirable and feasible, to gauge the interest of State and civil society actors, to explore anticipated costs and benefits, and to deepen understanding of whether and how the Network could meaningfully contribute to the implementation of the Declaration in diverse national contexts in light of existing efforts to this end.

¹² Forst, M. 2018. World Survey on the Situation of Human Rights Defenders. <https://www.protecting-defenders.org/sites/protecting-defenders.org/files/UNSR%20HRDs-%20World%20report%202018.pdf>

3. Methodology

The Centre for Applied Human Rights conducted in-depth interviews with individuals working within governments, NHRIs, non-State bodies, NGOs and human rights movements. The interviews took place over five months between October 2018 and February 2019. In total, 54 participants were interviewed, including stakeholders from across five countries (Brazil, Canada, Côte d'Ivoire, Indonesia and Mexico) and individuals with relevant expertise from international NGOs and networks.

The five countries in the study were selected in order to gather perspectives from a diverse array of national contexts and experiences, while prioritising States that have – through policy or practice – displayed an existing level of commitment to realising the aspirations of the Declaration on Human Rights Defenders.¹⁵ During semi-structured interviews, participants were asked a range of questions on the perceived desirability of a Global Network of National HRD Focal Points, extending to its feasibility, costs and benefits; possible structures for both the Network and the National Focal Points; factors that could increase or decrease the effectiveness of the Network; factors that could strengthen or weaken participation among members; and, the activities the Network should undertake (see Appendix 2). The majority of interviews were conducted in person; a small number were conducted remotely via teleconference.

In addition, through a literature review and interviews with individuals with experience of participating in and/or coordinating existing global networks, we explored 'lessons learned' from other networks that adopt a 'national focal point' approach (see Section 4, below).

Limitations

Among the limitations of this study are its size and scope. While efforts were made to include individuals from a range of relevant backgrounds, the sample size of respondents (between five and 14 per country) means that responses cannot be assumed to be fully representative of diverse perspectives amongst actors in these countries. Willingness to participate in this research may have been contingent on a broadly positive perception of the initial concept – although this was not the case for every participant. The research adopts a country case study approach which focuses only on five countries. While geographically, politically and socio-economically diverse, this again limits the extent to which the findings can be extrapolated across a wider array of countries. Participants were asked to give their personal insights based on their experience in their respective roles.

Beyond this, when considering the feasibility, desirability, potential costs and benefits of the proposed Network, participants were necessarily required to base their responses on a range of individual assumptions with regard to the design, functioning, configuration and aims of the Network. Many of these assumptions were discussed in detail in the course of the interviews, however they nevertheless differed from participant to participant and correspondingly informed their individual responses, extending to the desired or presumed scope of the Network itself. In the discussion of the findings, attention has been given to draw out some of these nuances and conditionalities with regard to the interplay between, for example, desirability, and a specific function or capacity in the eventual Network, while acknowledging that – if established – the shape of the Network will be dependent on an array of as yet undefined or unknown constraints, including financial and human resources, political will, changes in the political landscape (both nationally and internationally), and other unforeseen factors.

¹⁵ It should be noted that the country selection was made prior to the change of government in Brazil. However, especially in light of current trends on global politics, the research team felt it relevant to maintain Brazil as a case study despite the severely anti-human rights rhetoric of the Bolsonaro campaign.

4. Learnings from Existing National Focal Point Networks

We identified two key examples of focal point networks that can offer key learnings for the establishment of a Global Network of National HRD Focal Points. The first is the Global Network of R2P Focal Points (R2P),¹⁶ which was established by the governments of Denmark and Ghana together with the Global Centre for the Responsibility to Protect to work on the responsibility to protect from mass atrocities, and was launched in 2010. Second is the Women, Peace and Security Focal Points Network¹⁷ (WPS), which was established by the governments of Spain, Canada, Chile, Japan, Namibia and the United Arab Emirates and launched in 2016; it works on the implementation and coordination of the Women, Peace and Security Agenda. We also drew on the experiences of staff members at the secretariats of the Global Alliance of National Human Rights Institutions (GANHRI) and the Asia Pacific Forum of National Human Rights Institutions, as well as individuals who have participated in or have professional experience of other networks including the Community of Democracies, the Anti-Personnel Mine Ban Convention Implementation Support Unit and the Equal Rights Coalition.

Both the R2P and WPS networks seek to push forward the implementation of existing UN priority areas through the designation, by each State-member, of a senior level official as the National Focal Point. As one participant explained,

There is a very strong normative support for the WPS agenda but then the statements that are made within the WPS discussions at the Security Council don't translate to other thematics [policy areas] and then there's a big implementation gap between international commitments and local level implementation.¹⁸

Typically, individuals who are designated as Focal Points already work in a related position with a complementary mandate, and usually fulfil their role as a Focal Point in the context of their existing position. In the examples of the R2P and WPS networks, the National Focal Point is tasked with advancing the agenda domestically at the policy level while the network then serves as a forum where Focal Points can receive support, share best practices and jointly contribute to the furthering of the agenda regionally and at the UN level. The functioning of both networks is structured around an annual meeting of National Focal Points, with additional meetings for example in the form of regional gatherings and side-events to General Assembly meetings.

¹⁶ Global Network of R2P Focal Points: http://www.globalr2p.org/our_work/global_network_of_r2p_focal_points. See also: Global Network of R2P Focal Points, [No Date]. Global Network of R2P Focal Points Factsheet. Available at: http://www.globalr2p.org/media/files/r2p_focalpoints_factsheet.pdf

¹⁷ The WPS National Focal Points Network: <https://www.peacewomen.org/node/97093>. See also: Women's International League for Peace and Security, 2016. Women, Peace and Security National Focal Points Network Foundational Meeting Concept Paper. Available at: [http://www.peacewomen.org/sites/default/files/Nota%20de%20concepto%20Red%20de%20Puntos%20Focales%20WPS%20090916%20final%20\(1\).pdf](http://www.peacewomen.org/sites/default/files/Nota%20de%20concepto%20Red%20de%20Puntos%20Focales%20WPS%20090916%20final%20(1).pdf)

¹⁸ Dwyer Smith, H. 2019. Interview with staff member at the Women's International League for Peace and Freedom, 08 February 2019.

Possible Benefits of Participation in Networks

Participation in such Networks can provide a reputational benefit for States. In favour of this logic, one member working within the WPS network highlighted,

The interesting thing that has come out of it is that there's definitely an increasing competition for member states to take on that leadership role. Member states want to have the recognition of being Focal Point Network coordinators and it's interesting to see them sort of vie for that attention.¹⁹

Nevertheless, she also suggested a need for criteria to inform participation and ensure that States do not simply benefit from the reputational gains of membership without duly engaging in a meaningful way.

I think the major challenge is: how do you view this mechanism as a way for strengthening action without having it turn into just sort of a meaningless stamp of approval? How can you get concrete action out of [States] getting labelled as champions?²⁰

One example of such a response to this dilemma, she suggested, could be that States who seek to hold the position of Chair could commit to greater financial contribution to support the wider functioning of the Network.

Participants also highlighted a number of beneficial features built into some existing networks. For example, GANHRI is currently creating a knowledge management tool that will allow network members to interact outside of the meetings so that "people can really share, put up news, put up questions, ask for assistance and be connected with one another, and also with partners of that network so that you can really receive advice in a very easy and timely manner."²¹ Participants also discussed the benefit of having outcome documents following meetings, prepared by a Secretariat to support implementation and practical actions.

Participation in GANHRI was discussed positively in terms of information sharing, the circulation of ideas, and personal relationship building. A participant from the Canadian NHRI who participates in GANHRI events said,

We find active participation in GANHRI valuable really as an information sharing forum. It's really a great place for exchanging best practice. We get a lot of new ideas both from participation in GANHRI writ large, but from the network that we have built of officials in other NHRIs that we can pick up the phone or send an email off to, to talk about particular issues.²²

Reflecting on the experience of the Asia Pacific Forum of NHRIs, another participant noted that,

The type of benefits that we get from the network is the promotion of best practice amongst network members about tools, techniques, activities, approaches that they can take on particular thematic issues... the methodology that we take in the implementation and technical assistance very much is a case of trying to find that expertise residing in the network itself and utilising actors within the network, within our member institutions, as the kind of transmission vehicle for technical assistance.²³

Participants noted that it is crucial to prioritise the desired function of the Network – in our case, improved implementation of the Declaration on Human Rights Defenders – over the establishment of the Network for its own sake. A participant from the WPS Network advocated the importance of contin-

19 Dwyer Smith, H. 2019. Interview with staff member at the Women's International League for Peace and Freedom, 08 February 2019.

20 Ibid.

21 Dwyer Smith, H. 2018. Interview with staff member at GANHRI, 26 October 2018.

22 Nah, A. 2019. Interview with staff members at the Canadian Human Rights Commission, 25 January 2019.

23 Dwyer Smith, H. 2019. Interview with staff member at the Asia Pacific Forum for National Human Rights Institutions, 17 January 2019.

ually assessing the extent to which the aims of the network are being met: “Is [the network] realising its goals of accelerating national implementation? What are the gaps? How can those gaps be addressed?” She noted this with view to creating “more of a ‘how to’... a learning space and less of another place for member states to triumph their accomplishments, which is what happens in New York all the time.”²⁴

A staff member of the R2P network recommended focusing on the creation of good practice:

*If I were to create something new from scratch I would focus on creating good practice somehow... What is the implementation that you can support? As opposed to focusing on linking people and sharing good practices, because I think that's the easy part... I would suggest that your starting point [is to] focus on implementation and how do you create good practice within each individual State? The sharing of that experience will come naturally... networking will come naturally if you have a lot of these good examples that you've invested in.*²⁵

24 Dwyer Smith, H. 2019. Interview with staff member at the Women's International League for Peace and Freedom, 08 February 2019.

25 Dwyer Smith, H. 2019. Interview with staff member at the Global Network of R2P Focal Points, 17 January 2019.



The Importance of a Secretariat, Planning, and Sufficient Resources

The value of a well-functioning secretariat was expressed by a number of participants. In the case of the R2P network, one staff member highlighted that the secretariat aids not only the functioning and administration of the network, but also provides continuity in the face of turnover among the National Focal Points.

When it comes to topics that have been covered so far or co-hosts that have been engaged before in organising meetings or any other issue within the network, that benefits from having this continuity to it and having a bigger picture. [It] is definitely an important aspect of the secretariat role.²⁶

Turning to the Asia Pacific Forum of NHRIs, one participant reported, “Generally we’re seen as being the most effective of those regional networks. And I think that’s probably because we do have quite clear programmatic planning, monitoring and evaluation frameworks, governance structures to drive these things.” Reflecting on the converse, a participant from an international NGO with experience of other global networks reflected that,

Not to have a secretariat, to have to depend on rotating governments to chair and kind of provide de facto secretariats isn’t helpful, it leads to inconsistency... If you don’t have a clear method of engagement and clear decision making structure I think it can lead to a lot of lack of clarity.²⁷

Recognising an institutional time-lag in terms of implementation was also raised as an important consideration. In the case of NHRIs, each institution within a network may have differing strategic timelines and budget schedules, which can mean that it is not possible to immediately action the priorities identified by the broader network. This should be kept in mind when evaluating the achievement of individual members and relatedly, the contribution of the network. To make allowances for the diverse strategic planning and funding cycles of different States, the Asia Pacific Forum for NHRIs implements its strategy in five-year cycles.

A majority of participants stressed the resource-intensive nature of running an effective global network. The most common funding option discussed and which offers the greatest stability was member fees, with better resourced States typically providing voluntary contributions above the basic rate. In the example of GANHRI, only NHRIs with an ‘A’ accreditation pay membership fees, which can be waived in cases of insufficient resources on the part of the member. Additionally, grant-based funding was identified for supporting key initiatives. In the context of a multi-stakeholder network, and to ensure participation from a wide array of members, one participant highlighted the importance of ensuring funding is available to support participation in Network events by those who might not be able to self-fund. “People who are the most marginalised, whose voices most need to be heard, are least likely to be able to come otherwise.”²⁸

26 Dwyer Smith, H. 2019. Interview with staff member at the Global Network of R2P Focal Points, 17 January 2019.

27 Nah, A. 2019. Interview with staff member at Amnesty International Canada, 07 February 2019.

28 Ibid

Support for a Multi-stakeholder Model

Participants with experience of existing networks also came out in broad support of a multi-stakeholder model with respect to the creation of a network focused on human rights defenders. A staff member at the R2P network reported that she found the idea of a multi-stakeholder National Focal Point “much more flexible and probably be more useful” in the context of protection of human rights defenders.²⁹ Likewise, a participant working for an international NGO based in Canada noted:

I think really having the strong engagement of civil society and being mindful that civil society is not homogenous... Collaboration between government and civil society around banning landmines, not just in Canada but at the international level, was incredibly helpful... There was a really strong focus on having civil society and government there, and not just having Ministry of Foreign Affairs staff but really having the working level people who were focused in on a specific sub-issue. They were dynamic, they challenged everybody and it worked very well. It's one of the best examples I've seen of that dynamism that really led to concrete outputs.³⁰

Addressing Errant Behaviour amongst Members

A point of concern which has been raised by a number of participants relates to the reputation of the Network in the case of backsliding regimes. The example of the Community of Democracies was given, regarding the situation of Hungary, whereby, “no state wants to put itself forward to trigger the mechanism that would sanction Hungary in that context because they all know that none of them are actually implementing the Warsaw Declaration 100 percent.”³¹ This challenge has not been overcome in the networks considered here, but has been mitigated in a number of ways.

For example, a key feature of GANHRI is the accreditation system used for member NHRIs. Within this, NHRIs are accredited on a scale of ‘A’ to ‘C’ according to the Paris Principles, as compliant (A), partially compliant (B) or non-compliant (C). Only those accredited as fully compliant can participate fully in the network’s activities, while those accredited as partially compliant attain observer status. Nevertheless, key challenges were highlighted with regard to the system of accreditation too:

If they're certified not to be in compliance with the Paris Principles because there's also obviously impacts on that credibility internationally and nationally... we see there is really an incentive, and it's been ever growing, as a network with accredited institutions. But there's also obviously a little bit that tension between as many as possible wanting to be accredited, but at the same time you cannot accredit those that are not in compliance with the Paris Principles. That creates often a lot of frustration.³²

A member of the secretariat of GANHRI noted that accreditation also serves a protective function; “For example, when the national institution is under threat or there has been undue interference.”³³ The protective function of GANHRI membership was also highlighted by a participant from the Canadian Human Rights Commission with respect to reprisals against members, reporting that:

29 Dwyer Smith, H. 2019. Interview with staff member at the Global Network of R2P Focal Points, 17 January 2019.

30 Nah, A. 2019. Interview with staff member at Amnesty International Canada, 07 February 2019.

31 Dwyer Smith, H. 2019. Interview with staff member at the Fund for Global Human Rights, 21 January 2019.

32 Dwyer Smith, H. 2018. Interview with staff member at GANHRI, 26 October 2018.

33 Ibid.

There are some NHRIs who find participation in GANHRI to be protective almost, because there's someone watching. When your budget gets cut to \$20 USD, then there's someone who is going to respond to that and say, 'Yeah, we saw what you just did there, and that's not on'. For some NHRIs, that's a really important thing.³⁴

Beyond accreditation, collective accountability also functions as a motivating factor for members. One participant discussed how this effectively plays out in the experience of the Asia Pacific Forum of NHRIs:

What I find is there is probably a good third of our membership that sit quietly and look at that and don't do anything, and they've got nothing to report... As a result they become exceptionally embarrassed in that group because they clearly can see that their domestic context is no more difficult than the domestic context of the [other] institutions... and yet one institution has acted and another institution has not... Now, no institution in our membership wants to be in that situation ever, so it's quite an interesting powerful motivation to actually producing on-the-ground domestic activity.³⁵

34 Nah, A. 2019. Interview with staff members at the Canadian Human Rights Commission, 25 January 2019.

35 Dwyer Smith, H. 2019. Interview with staff member at the Asia Pacific Forum for National Human Rights Institutions, 17 January 2019.



5. Findings

This report seeks to answer two overarching questions: 1) Whether it is useful for States to establish a National Focal Point for HRDs; and, 2) What benefits arise from bringing National Focal Points together in the form of a Global Network? Through these questions we hope to assess the potential for a Global Network of HRD Focal Points to tangibly enhance protections for human rights defenders, and consider the desirability, feasibility, costs and benefits associated with the establishment of National HRD Focal Points and a Global Network.

In interviews across the five country contexts, and well as with a number of participants from the wider international community, a number of common themes emerged which were voiced or supported by a majority of respondents. In this section, we articulate the dominant findings from the research and explore their implications regarding the eventual formation of such a Network. Commonalities as well as divergences in opinion are discussed below in reference to key considerations for the establishment of the Network.

The Feasibility and Desirability of a Global Network of National HRD Focal Points

Participants were broadly optimistic about the concepts of both a National Focal Point (predominantly conceived of as a multi-stakeholder delegation, as elaborated further in this section) and the Global Network. In combination, these present a new approach which could be helpful in addressing existing challenges in the implementation of the Declaration at the national level. This formation could be likened to the relationship between GANHRI and member NHRIs. However, the desirability of the Network was strongly premised on the perceived effectiveness of the National Focal Points as its constituent parts – and those best positioned to drive implementation. An official within the Canadian government reasoned, “I encourage you to be practical, to be solutions-oriented. I really personally like the idea of a Network... I think there’s really a way where we can contribute but we can also learn from others”.³⁶

Participants stressed the importance of ensuring that the National Focal Point delegations were robust and well-functioning, with a clear mandate to act as a vehicle for advancing defender issues domestically. A commissioner at the Indonesian NHRI, Komnas HAM, reflected, “I think the issue is not about ‘network or not’, but the issue is how can we improve the national agenda, and how can a network enhance that... The real work is at the national level.”³⁷ In this sense, many respondents placed significant weight on the role of States in establishing highly functional National Focal Point delegations, as the pivotal factor in ensuring the success of the Network. Participants conceptualised well-functioning National Focal Points in terms of effective coordination within the Focal Point, reach across ministries and between State and non-State actors, capacity for implementation, and willingness to broach sensitive topics. In turn, they identified that the Network should exist to strengthen the efficacy of National Focal Points. A participant from a grant-making organisation reflected, “I don’t really want to see another [network] set up that is just another talking shop that gets political capital out of it, that finds it difficult to make progress. That said, I think there are potential ways of doing this in a more limited way that could be very useful”.³⁸

As one respondent from an International NGO commented, “In principle I think it’s a very good idea... I think that people sitting together is a way of putting pressure on them to deliver... The idea of forming

36 Nah, A. 2018. Interview with a government official at Global Affairs Canada, 21 December 2018.

37 Dwyer Smith, H. 2018. Interview with Commissioner at Komnas HAM, Indonesia, 12 December 2018.

38 Dwyer Smith, H. 2019. Interview with staff member at the Fund for Global Human Rights, 21 January 2019.

something with States in particular might just help improve implementation.”³⁹ Some participants even stated that it was “necessary”, with one commenting, “In Brazil, in the last twenty years, we have made many strides, but we still need to make much more progress. So, I assess the creation of this Network as necessary and timely, because we need to seek other fronts”.⁴⁰ Another added, “I think we need to promote human rights work within the Executive’s structures. So, I think the idea is very important”.⁴¹ As a participant in Mexico stated,

*The UN Declaration on HRDs itself promotes the existence of links between organisations of defenders at the domestic and international levels, and if this Network could help spread not only the Declaration, but also take to the international forum the situation that HRDs face in some countries, it will be of great utility.*⁴²

When interviewed, the Special Rapporteur on the situation of human rights defenders, Michel Forst, further affirmed his commitment to the establishment of the Network, “I’m very supportive of the idea to have more individuals or institutions involved in the protection of defenders”.⁴³ A staff member of the President’s Office in Indonesia responded, “It’s a good idea. We need international cooperation relating to protection for human right defenders, [at the] national level and locally.”⁴⁴

Participants suggested that the Network could advance protection in a number of ways, such as through:

- Facilitating the sharing of good practices, experiences, and ‘lessons learned’.
- Encouraging and providing support for the fulfilment of existing commitments.
- Creating a peer-to-peer forum where challenges in protection can be shared and discussed in an open and supportive environment.
- Coordinating joint responses to the emerging protection needs of defenders on the ground.
- Providing technical expertise and training to State and non-State actors.

National Focal Points could further improve protection at the national level by:

- Improving knowledge and understanding of the Declaration among ministers, officials, and other State authorities.
- Providing a forum for closer coordination between ministries, State and non-State actors.
- Providing a mechanism for investigating complaints.

Nevertheless, a small minority of participants were explicitly opposed to (or heavily sceptical about) the creation of the Network. This was most prominent in the context of Mexico, where three participants expressed concerns about the value of the Network in addressing local human rights issues. One participant observed,

I do not see the utility of having such a Network at the moment... I don’t see it clearly that the new government will keep the theme of HRDs as a priority in its agenda... I have profound doubts about the effectiveness of such a Network to produce concrete impacts on the situation of defenders. On the

39 Dwyer Smith, H. 2019. Interview with staff member at Amnesty International, 16 January 2019.

40 Terto Neto, U. 2018. Interview with staff member at the Brazilian Program for the Protection of HRDs, Brazil, 28 November 2018.

41 Terto Neto, U. 2018. Interview with staff member at Justica Global, Brazil, 12 December 2018.

42 Terto Neto, U. 2018. Interview with staff member at Comision Nacional de los Derechos Humanos, Mexico, 10 October 2018.

43 Dwyer Smith, H. 2019. Interview with UN Special Rapporteur, Michel Forst, 12 February 2019.

44 Dwyer Smith, H. 2018. Interview with staff member at the Office of the President, Indonesia, 12 December 2018.

*other hand, it could be useful, as it is always useful to have exchanges, isn't it?*⁴⁵

Similarly, in Brazil, participants expressed concern about the feasibility of the Network in the context of the Bolsonaro government specifically. However most were positive about the potential of the Network in a different political climate. They cited a scarcity of political dialogue between Brazilian public servants at the national level, as well as institutional weaknesses within the structures of government. As one participant elaborated,

*The first reflection that occurs to me is this: [membership] must be based on a State with strong democratic and law-abiding pillars. At present, the Brazilian context leads us to a fear that we are moving to a state of exception, where legal parameters are relativized at the mercy of private interests.*⁴⁶

Concerns regarding distrust in the constitution of government-only National Focal Points were prevalent among a majority of participants. As such, participants expressed that the desirability of the Network was heavily premised on a preference for a multi-stakeholder model. These issues are discussed in more depth in the following sections.

45 Terto Neto, U. 2018. Interview with former staff member at Red Nacional de Organismos Civiles de Derechos Humanos, Mexico, 24 October 2018.

46 Terto Neto, U. 2018. Interview with staff member at Sociedade Maranhense de Direitos Humanos, Brazil, 28 November 2018.



Resources: Funding, Planning and the Need for a Secretariat

Many participants were sensitive to the amount of funding and additional resources that such a Network would require. Participation will be contingent on funding and some members may find it difficult to self-fund their participation in Network activities. A staff member at the R2P Network elaborated,

You have to build it in from the start, who's going to pay for every single thing that you are envisioning. I cannot stress it enough how much work that is. Even for every meeting, somebody has to pay for that meeting, somebody has to fly people [in]... and pay for food and lodging, and all of that, right? And somebody has to support the secretariat.⁴⁷

As a member of an international NGO stressed,

If it's not resourced, if there's not a regular structure of meetings and ways of engagement, if there's not capacity to meaningfully engage some of the most marginalised defenders – and that includes for example translation support – you know, [name of coalition] has struggled when quite literally the people engaging don't have a common language and there's no support for that. Without having proper security protocols in place to make sure that people from different countries can engage in a safe way there's actually opportunities to do more harm or more direct harm.⁴⁸

Participants experienced in the running of similar networks reported that funding was predominantly sourced through member contributions, and supplemented by unilateral and multilateral State and private philanthropic funding sources. The approaches taken to funding by existing networks are discussed in Section 4.

Several participants noted that if the Network could become a vehicle for States to meet their human rights commitments and obligations, then existing budget lines (for example, those linked to National Action Plans) could be leveraged towards Network activities. "If the country has a national action plan, then it should be included in the national action plan. Why not? Then the government is committed, because commitment is not only written but has to be translated into budget."⁴⁹

In addition to financial resources, participants commonly identified a strong Secretariat as key to ensuring the effective functioning of the Network. Participants linked the potential scale and reach of the Network to the capacity, expertise and mandate given to this Secretariat. As a representative of the GANHRI Network discussed,

It would need to have obviously a strong, effective, but not bureaucratic secretariat probably, to be able to bring people together. To be able to link them up with one another. This is not only when it comes to meetings, but also certainly to have tools and systems and the resources available to these things like knowledge management and communications.⁵⁰

47 Dwyer Smith, H. 2019. Interview with staff member at the Global Network of R2P Focal Points, 17 January 2019.

48 Nah, A. 2019. Interview with staff member at Amnesty International Canada, 07 February 2019.

49 Dwyer Smith, H. 2018. Interview with member of the Human Rights Working Group, Indonesia, 08 December 2018.

50 Dwyer Smith, H. 2018. Interview with staff member at GANHRI, 26 October 2018.

Structure, Participation and Membership

The Case for a 'Multi-Stakeholder' Model

As highlighted earlier in the report, the initial conception of the Network draws upon the example of a number of existing focal point networks, in which a representative within the Executive of each State is designated the 'National Focal Point'. This model was presented to participants, as was an alternative model in which the National Focal Point would comprise of a multi-stakeholder delegation.

Participants expressed an overwhelming preference for the multi-stakeholder model within the National Focal Point. When asked what form a multi-stakeholder National Focal Point delegation might take, a majority of participants identified a tripartite constellation involving representatives of the government, NHRIs and civil society. Considerations which underpinned the preference for a multi-stakeholder model typically revolved around the sentiment that 'real change' in the situation of human rights defenders could only be effected through a collaborative effort. Nevertheless, participants also noted the importance of the Network being 'endorsed' by States to strengthen its legitimacy. Active participation by State representatives would facilitate – and be essential for – such endorsement.

Only a small minority of respondents – typically those who were themselves members of the executive or civil servants – expressing a preference for the State-only model. A human rights defender working closely with the government at the national level in Indonesia reflected, "bearing in mind the nature of this Declaration, [the] National Focal Point should involve civil society. It is not going to be one person like the R2P".⁵¹ A participant in Mexico reasoned that,

*This Network would not have enough force to give visibility to threats if we had only senior officials in it. We need to have two windows, a citizen window and a governmental one. This because it is the citizen window that exerts pressure over the governmental window in order for the latter to open.*⁵²

In Côte d'Ivoire and Indonesia, participation in the Network was seen as an opportunity for States to demonstrate leadership on the issue of human rights defenders regionally. A participant in Indonesia also noted,

*I think if government can be proud to be part of the Network, [if they can say,] 'Look, we are a serious government. We're committed to protecting our defenders. We know human rights violation is always taking place in any context, that's why we created the system.'... It's a plus point.*⁵³

All respondents in Côte d'Ivoire mentioned that, in contrast to other States in their region, the Ivorian government would be willing to participate in such a project without much pressure. As a government representative noted:

*"We are pro participation in all networks and organisations of this type".*⁵⁴

Staff of the Canadian Human Rights Commission highlighted a number of advantages of a multi-stakeholder delegation model, stating that NHRIs with 'A' accreditation could strengthen implementation in situations where State officials are disinterested.⁵⁵ Likewise, in Côte d'Ivoire, one participant noted that a delegation might be able to continue functioning effectively for human rights defenders even in case of a government crisis, which is arguably when protection is needed most. Nevertheless, he stressed the

51 Dwyer Smith, H. 2018. Interview with member of the Human Rights Working Group, Indonesia, 08 December 2018.

52 Terto Neto, U. 2018. Interview with staff member at the Comision Estatal de Derechos Humanos de Jalisco, Mexico, 19 October 2018.

53 Dwyer Smith, H. 2018. Interview with member of the Human Rights Working Group, Indonesia, 08 December 2018.

54 Meffe, D. 2018. Interview with government representative at the Ministry of Justice and Human Rights, Côte d'Ivoire, 07 December 2018.

55 Nah, A. 2019. Interview with staff members at the Canadian Human Rights Commission, 25 January 2019.

importance of including the government in any National Focal Point delegation, “It is better to be with them, to sensitise them, rather than excluding them and having them become enemies”.⁵⁶

In their reasoning against a State-only model for the National Focal Point, participants cited a range of arguments, from perceived effectiveness to issues of distrust. This finding echoed the concerns shared by participants in the earlier study conducted by ISHR in Colombia and Tunisia.⁵⁷ In Côte d'Ivoire, some participants expressed concern that if the National Focal Point was situated only within the executive, it risked simply becoming a more ineffective NHRI with less reach and authority, as well as potentially encountering issues regarding independence and impartiality.

In Canada, a civil society representative opined that a State-only model might not be as effective because States tend to act in their own interests:

Our government is very conflicted in its policies and in its practices... [it] will speak out of one side of its mouth about human rights and human rights defenders... and on the other half of its mouth... about... protect[ing] the interests of our multinationals operating overseas.⁵⁸

Given these competing demands, and based on recent experiences, she thought that Canada would act in the interest of its own corporations rather than the rights of human rights defenders.

More pressingly still, owing to the involvement or collusion of State actors in violations of defenders' rights in some contexts, as well as the prevalence of corruption, participants from across the countries included in the study expressed strong apprehensions regarding a model in which the State would be positioned as the sole or primary agent in the Network. This sentiment was particularly strong among participants in Mexico and Brazil. A respondent from Mexico stated,

We have officials at the federal and state levels that work within human rights programs officially... So, they might be interested in formally being part of this Network, but I don't think it is going to be useful because of the situation of corruption and collusion that there is in Mexico. So, if you make it official and commit to the government to building it, it's not going to work, not at all.⁵⁹

However, in the cases of Canada, Côte d'Ivoire and Indonesia, this was seen as an issue that could be managed with appropriate structuring of the Network, trust-building, and political will. Participants noted that existing disconnection between key actors, both within and outside of government, resulted in barriers to the implementation of protection initiatives. In response, they expressed that a multi-stakeholder National HRD Focal Point Network could help promote internal dialogue and communication among actors in each State.

Participants further highlighted that it was important for the Network to maintain operational independence, ensuring that the Network did not become politicised or overly influenced by States seeking only to advance of their interests. Some suggested that the strong involvement of NHRIs and civil society would help the Network to achieve these goals.

56 Meffe, D. 2018. Interview with member of the Commission Nationale des Droits de l'Homme de la Côte d'Ivoire, Côte d'Ivoire, 06 December 2018.

57 ISHR, 2018. 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. Available at: <https://www.ishr.ch/news/has-un-declaration-made-difference-lives-human-rights-defenders>

58 Nah, A. 2019. Interview with staff member at MiningWatch Canada, 24 January 2019.

59 Terto Neto, U. 2018. Interview with former member of the Mexican National Protection Mechanism for Human Rights Defenders, Mexico, 17 October 2018.

Flexibility in Constituting National Focal Point Delegations

Participants highlighted the importance of flexibility in how States seek to constitute National Focal Point delegations, as each State has different architecture for the protection of human rights defenders. They also noted the importance of foregrounding considerations of ‘outcome’ – i.e. improved implementation of the Declaration on HRDs – in the eventual constitution of National Focal Point delegations. For example, across various national contexts a number of participants expressed concern that only involving representation of the Ministry of Foreign Affairs on the side of the government would render the Network insufficiently capable of achieving its goal of domestic implementation, which typically lies with other ministries, as well as the legislature.

A participant working at a grant-making organisation reflected,

I think the full implementation of the Declaration goes well beyond the obvious ministries, it cuts across all those ministries I've mentioned... home, interior, justice, treasury, business, development aid, foreign affairs, etc... to have authority among all of those, either it needs to be an appointee that's sitting within... one of the more weighty ministries, or, maybe, a high-level official with that kind of cross-departmental brief that reports directly to the executive and carries authority to work between ministries.⁶⁰

Further, a participant working at an international NGO in Indonesia stated, “You have to include also the parliament in Indonesia... if they want to pass this legislation, for example, then we need the Member of



Parliament. Because without them, without their support, they can stop the advocacy. They can stop the efforts".⁶¹

Possible State members of such a delegation might include:

- Staff of the Ministry of Foreign Affairs with international human rights portfolios (in particular, for protecting human rights defenders in other countries); diplomatic staff in embassies and missions.
- Staff of the Ministry of Home Affairs, Ministry of Justice, Ministry of Law and Human Rights, respective ministries of relevance to pressing human rights concerns domestically (e.g. Ministry for the Environment).
- Officials involved in implementing protection mechanisms and/or initiatives for human rights defenders at different levels – federal, provincial, municipal, etc. – including those involved in temporary relocation and sanctuary cities.
- The police, the judiciary, public prosecutors.

Possible NHRI members might include:

- National human rights institution(s) with 'A' accreditation; witness protection agencies; ombudsman offices.

Possible civil society / human rights defender members might include:

- Representatives from human rights defender coalitions, NGOs, civil society, universities, human rights institutes, in particular, those appointed to or who participate in national and local protection mechanisms.

Among the non-State actors discussed in reference to the National Focal Point delegation, one category for which there was no conclusive agreement was that of business. One participant in Indonesia noted, "Corporate [sic] is also part of the actors. All conflict is taking place in the complexities of some corporation, we know about that. That should be part of it."⁶² However, while many participants identified that engaging with businesses is a key priority given the role of businesses play in violations of defenders rights and the common challenge of getting governments to prioritise human rights over investments, some were concerned that their involvement might obstruct or slow down efforts to protect HRDs because of their competing interests.⁶³ As a member of a Canadian NGO discussed,

*In our experience with the government of Canada and our embassies for example... we see... a much heavier emphasis on promoting and protecting the interests of Canadian corporations than on promoting human rights defenders... I think not just the Canadian government but I think governments in general have these conflicting mandates, these competing mandates.*⁶⁴

A commissioner at the Indonesian NHRI, Komnas HAM, discussed the range of members she foresaw participants within the multi-stakeholder model, but was unable to conclude regarding the merit of involving businesses. She reflected,

I think it would be good to involve the so-called multi-stakeholder at this time... We are more democratic at this time, so we can sit together with government, National Human Rights Institution, NGO,

61 Dwyer Smith, H. 2018. Interview with staff member of Protection International Indonesia, 23 October 2018.

62 Dwyer Smith, H. 2018. Interview with member of the Human Rights Working Group, Indonesia, 08 December 2018.

63 Nah, A. 2019. Interview with staff member at MiningWatch Canada, 24 January 2019.

64 Nah, A. 2019. Interview with staff member at MiningWatch Canada, 24 January 2019.

*and also the academic, the universities... [But] Corporations? I'm not sure at this stage.*⁶⁵

Especially in the case of a multi-stakeholder model, trust between the individuals and institutions who would be designated members of the National Focal Point was deemed of particular importance. Participants were asked to reflect on whether any tensions, for instance between government ministries, would affect the establishment or later functioning of Focal Points. Many respondents outside of government felt that there were tensions, but these were not typically seen as insurmountable. Relatedly, in Indonesia representatives of a number of different ministries were interviewed and responses to the question of which ministry(s) should be involved or represent the government in a multi-stakeholder model focal point were quite divergent, suggesting that careful considerations must be taken with regard to establishment of a Focal Point, and how it is situated.

As already mentioned, participants stressed the importance of ensuring that the structure of the National Focal Points and the Network itself is responsive to distinct institutional features within national contexts. Examples of this include federal systems of governance, the existence of autonomous and semi-autonomous regions, and differences in institutional architecture. A defender in Mexico noted,

*Considering the next federal government, I think that there are good conditions because the person who probably will be in charge of El Mecanismo Mexicano [the Mexican Protective Mechanism for HRDs] is someone who understands the problems and is convinced that the protection of HRDs and journalists is an important work.*⁶⁶

However, at the state level, he reported that.

*...there are some which will have interest in the theme and others with no motivation or interest at all... In the municipal level... there is a politics of confrontation against HRDs... but in [these] levels of government... [it] will be much more difficult to build up an interest or incentive to participate in the Network.*⁶⁷

Capturing the national dynamics in the makeup of the National Focal Point delegation and the participation of each State in the Network was considered key to making the Network function effectively and to strengthening its capacity for implementation. As such, while suggestions can be made regarding the broader shape of National Focal Point delegations, participants stressed that formation must be driven by domestic architecture and priorities. A defender in Brazil reported,

*Public security, for example, is a responsibility of the federal states. So, effective dialogue is needed. Even if you want to do a national intervention, as is the case in Rio de Janeiro, but otherwise it has to have a dialogue with the state governments. So, it might impact [the functioning of the Network].*⁶⁸

As will be discussed later, the issue of trust was identified as central, both to ensuring the support of human rights defenders towards the initiative, but also to enabling the good functioning of a multi-stakeholder National Focal Point delegation. This brings us to a key challenge: many participants noted that, particularly in reference to the government, trust tended to be found in key individuals. However, in light of staff turnover and for the continuous functioning of the Network, participants urged that membership in National Focal Point delegations be orientated towards institutions rather than individuals. As a participant in Brazil raised,

65 Dwyer Smith, H. 2018. Interview with Commissioner at Komnas HAM, Indonesia, 12 December 2018.

66 Terto Neto, U. 2018. Interview with staff member at the Instituto Mexicano de Derechos Humanos y Democracia, Mexico, 11 October 2018.

67 Ibid.

68 Terto Neto, U. 2018. Interview with staff member at Sociedade Maranhense de Direitos Humanos, Brazil, 28 November 2018.

*A big question is the stability of the bond of the person named as the Focal Point. Naming someone who has a prospect of staying for a long time in that position helps a lot to keep the Network up-to-date. Because one of the problems is exactly this, the need for constant updating if the Focal Points are changing a lot.*⁶⁹

A staff member at R2P Network reflected that turnover among designated Focal Points was a challenge. “So, it is frustrating when you develop a very good, committed Focal Point and then they leave for a different position and you have someone new who doesn’t understand what the issues are, doesn’t understand the concept, doesn’t understand just the realities that we’re dealing with.”⁷⁰

For a number of participants, this was viewed as a key advantage of taking a multi-stakeholder delegation approach. One participant interviewed in connection with her experience of working with government stakeholders to advocate for the adoption of a draft law on the protection of human rights defenders in Mongolia noted,

*In terms of the context nationally, the Mongolian public service is very unstable. In the past 10 years I think we had about nine cabinets changing every two years and with that all the public servants changing also with about the same frequency. So having just one focal point will make it very ineffective. [Whereas,] maybe it’s a tripartite or a slightly larger group – that would be more stable.*⁷¹

In Côte d’Ivoire, a member of the Commission Nationale des Droits de l’Homme noted, “One person is good and well, but if there is a crisis, the government will pull back, so having a delegation... three elements for sure: government, NHRI, and civil society. It would need to be part of their mandate to sensitise governments to protect HRDs.”⁷²

Additional to the stability of individuals designated to the National Focal Point, a further consideration from the domestic perspective was raised by a staff member of the WPS Network in reference to those individuals who might represent the State in the delegation.

*How do you have participation be something that is not just identifying a Focal Point but then supporting that Focal Point in actually strengthening the implementation and coordinating more broadly? How do you give them more seniority, how do you give them more staffing?*⁷³

Such considerations are key and it could be useful for prospective members of the Global Network to create an action plan on how they will ensure that National Focal Point delegations are set up and maintained in a way that is robust and fosters sustainability and internal capacity. The Secretariat could support this process by offering guidance on best practices and what factors States would want to consider.

Recognising that individuals within the National Focal Point delegation of a State might benefit from participating in the Network at different times, and that it would not be financially feasible to include all members of the delegation all the time, participants from Canada suggested that National Focal Points should be encouraged to select relevant people from within their numbers to participate in specific activities. In the case of one organisation discussed, the board membership is large and includes a range of stakeholders, however; “there’s a process for identifying through a call [or] discussion who will take rotational leadership roles over different time periods at those different levels”.⁷⁴ As another example of

69 Terto Neto, U. 2018. Interview with staff member at the Ministry of Justice, Mexico, 13 December 2018.

70 Dwyer Smith, H. 2019. Interview with staff member at the Global Network of R2P Focal Points, 17 January 2019.

71 Dwyer Smith, H. 2019. Interview with staff member at Oyu Tolgoi Watch, 15 February 2019.

72 Meffe, D. 2018. Interview with member of the Commission Nationale des Droits de l’Homme de la Côte d’Ivoire, Côte d’Ivoire, 06 December 2018.

73 Dwyer Smith, H. 2019. Interview with staff member at the Women’s International League for Peace and Freedom, 08 February 2019.

this, the participants suggested considering the way the Continuing Committee of Officials on Human Rights operates, as it coordinates Canada's input into the international human rights systems, selecting specific people to participate in certain activities.

Membership of the Network: Accountability, Legitimacy and High Standards of Protection

Participants stressed the importance of limiting membership to States with a demonstrated commitment to improving the protection of human rights defenders. Participants further highlighted the importance of ensuring that Network members comprise States from different regions around the world, and ensuring that it is not dominated by States in the Global North. In this regard, participants viewed it as an attractive prospect for States to be a regional leader in the protection of human rights defenders, for example, in the cases of Cote d'Ivoire and Indonesia. "Indonesia has the aspiration to be a world leader, so they have to show that, look, we are good on human rights... They really want to be seen".⁷⁵

Participants further noted that some States (typically those in the Global North) tend to view human rights defender issues as a foreign policy area. Given the expressed desire for a focus on improved domestic implementation, while they acknowledged that a key benefit of the Network will be in providing a useful forum for advocacy on a peer-to-peer basis, they recommended that all prospective members must commit at the outset to progressively advancing implementation of the Declaration within their own States.

In addition to the membership of States, participants felt it could be important to involve key stakeholders from the UN and international community, including independent experts such as the UN Special Rapporteur on the situation of human rights defenders. This was affirmed by Michel Forst, the mandate holder at the time, who saw a clear role for his mandate in the establishment of the Network:

I think that's clear, [it] would clearly part of the advisory force of the mandate... I will see the mandate as being part of this Network. A sort of advisor to this 'council' [steering group] and participating to some of the activities, meetings, assessment of the effectiveness of this Network, but clearly there should be a formal link between the mandate and this Network.⁷⁶

He further elaborated,

I think it would be valid also, to look at the possibilities to involve the mandate. And also with the mandate of other Rapporteurs at a regional level like the Rapporteur of the African Commission and the Rapporteur of the Inter-American Commission. Yeah, the Commission for Human Rights at the Council of Europe, OSCE and other actors, so that there would be not only a club of national actors but also involving also international actors."

This, it was suggested, could be achieved by arranging Network meetings to coincide with the Special Rapporteur's inter-mechanism meeting, an annual meeting of the representatives of the regional mechanisms held to discuss global strategies and actions. The Special Rapporteur viewed this as "a way to increase the visibility and the interaction between the different types of mechanism".⁷⁷

Participants also expressed a preference for a relatively small initial group of members, which would create a sense of exclusivity in the Network and help ensure a high level of compliance. The participation of non-compliant States and the negative impact this would have on the legitimacy of the Network was highlighted by participants as a key concern. Likewise, and in reference to the deterioration of the

75 Dwyer Smith, H. 2018. Interview with staff member of Protection International Indonesia, 23 October 2018.

76 Dwyer Smith, H. 2019. Interview with UN Special Rapporteur, Michel Forst, 12 February 2019.

77 Ibid.

human rights discourse in a number of States globally, they raised questions as to how the Network would respond to 'backsliding' members. In Brazil, the majority of participants, while expressing support for the concept of the Network in general, did not feel that it would be either feasible or desirable for Brazil to become a member of the Network at this current political juncture. As a participant working for a grant-making organisation noted,

I think a case like Hungary or Brazil is a starker case where I think the threshold would be clearer... But I think a more challenging and problematic context would be, say, the UK where you have a government, or a judicial system and a criminal prosecution service, that has just pursued a case against the Stansted 15, who are now convicted on terrorism charges and who are human rights defenders.⁷⁸

The question of maintaining accountability and addressing problematic behaviour among member States is a challenging one. Penalties and the potential withdrawal of membership must be available options in severe cases, however a strong peer-to-peer accountability mechanism should be the primary response, and requires cooperative development between the founding States during the phase of establishment. Further, and as is to be addressed in the subsequent sections, building and maintaining political legitimacy within the Network will nevertheless need to be carefully balanced, ensuring that States can both be held to account by fellow members, but are not deterred from joining for fear of being 'named and shamed'.

Multi-stakeholder Network Meetings

The final key point of consideration regarding structure and participation within a multi-stakeholder model relates to the format of Network meetings. When participants were asked to consider how regularly the Network should meet, most considered intervals of between six months and two years as appropriate, with annual meetings being the most commonly preferred option. Further to this, participants saw merit in potentially holding additional regional or thematic meetings, and side-meetings to events such as the General Assembly, as well as having open lines for members to communicate between meetings.

However, reflecting the preference for a multi-stakeholder approach, participants saw it as vital that meetings would be structured to allow for both all-party meetings, and closed-door peer-to-peer meetings. The motivation for this is to provide 'safe spaces' for participants of different types (government, NHRIs and civil society) to hold discussions with their counterparts from other States which might not be feasible or productive in the context of a meeting of all members. From the perspective of government representatives, this was seen as providing for an arena where they could engage in discussions of challenges faced without a fear of 'naming and shaming'. Likewise for defenders and representatives of NHRIs, it was considered beneficial to create closed-door environments for the discussion of sensitive issues.

Trust and Political Legitimacy

While trust-building has been suggested as one potential benefit of the Network and National Focal Points, an existing level of trust was identified as fundamental to the good functioning of the initiative, both domestically and internationally. As has already been touched upon, a sense of distrust towards the government (or parts thereof) was a common theme among the human rights community in a number of the countries studied. In Côte d'Ivoire, an independent human rights defender stated, "There needs to be a level of trust, and having government leading it erodes that. I prefer to keep myself safe. I don't have confidence in them".⁷⁹ Likewise, in Indonesia, a commissioner at Komnas HAM, the NHRI, reflected that even at the level of NHRIs, "it's important to hear from the defenders, who are among the commissioners that they trust? Because it's not automatic [that] human rights commissioners really defend the human rights defenders".⁸⁰

Trust can be thought of both as 'external', that of the community towards the National Focal Point delegation, as well as 'internal', that which supports the internal functioning and capabilities of the Focal Point. Participants highlighted that a sense of trust on the part of the broader human rights community towards the Focal Point as a whole, and also towards the individuals which constitute it, would in turn help to ensure the utility and effectiveness of the National Focal Point and to establish good working relations between it and the wider community. Indeed, one participant noted that a lack of trust in existing protective mechanisms, for example in Guatemala, Mexico and Colombia, had negatively affected their functioning and uptake.⁸¹

In Indonesia, a participant reflected "It's important to hear the nomination process from the human rights defenders themselves, because they know who are their advocates, who are their friends."⁸² Likewise, a participant in Mexico highlighted,

The participation of senior officials could be positive... Perhaps in relation to the new federal government there will be no problems because the person who will be responsible [for defenders] has a good level of trust in relation to HRDs. [...] [But] at State level this is more complicated since in some sectors there is a lack of trust concerning senior officials by HRDs... So, at the State level, for the senior officials to participate in the Network, they would have to be trusted by HRDs".⁸³

Also pertinent are considerations raised by participants with regard to ensuring trust between member States, and in the broader purpose and functioning of the Network. One clear aspect that was highlighted as sensitive was the possibility of 'naming and shaming'. While some participants from civil society who were interviewed felt that the Network should provide a forum for holding States to account publicly for violations and infringements of defenders' rights, participants closer to the government and public institutions feared that a strategy of 'naming and shaming' would deter States from wanting to participate. This did not mean that they sought to soften the purpose of the Network, but rather seek out routes to dialogue that would encourage improvement, rather than prevent engagement. As a staff member at the President's Office in Indonesia reflected, "If we use our advocacy using naming names or shaming, this is not very useful. To discuss with the government, in my experience, we need to discuss personally".⁸⁴

Ideas for how to approach this included the use of the UPR as a basis for advocacy, as well as providing

79 Meffe, D. 2018. Interview with independent human rights defender, Côte d'Ivoire, 05 December 2018.

80 Dwyer Smith, H. 2018. Interview with Commissioner at Komnas HAM, Indonesia, 12 December 2018.

81 Dwyer Smith, H. 2019. Interview with staff member at the Fund for Global Human Rights, 21 January 2019.

82 Dwyer Smith, H. 2018. Interview with Commissioner at Komnas HAM, Indonesia, 12 December 2018.

83 Terto Neto, U. 2018. Interview with staff member at the Instituto Mexicano de Derechos Humanos y Democracia, Mexico, 11 October 2018.

84 Dwyer Smith, H. 2018. Interview with staff member at the Office of the President, Indonesia, 12 December 2018.

a combination of open- and closed-door forums at Network meetings to facilitate honest discussions of challenges, while avoiding accusatory methods. Participants also emphasised the importance of the Network focusing on practical, solutions-oriented approaches to problems, rather than just dialogue.

Linked to external trust is the political legitimacy of the Focal Point at the national level and of the Network at the international level. Participants stressed that this should be a primary consideration within the design of the initiative. Indeed it was a perceived lack of political legitimacy stemming from the capacity of member States which led a small minority of participants to be sceptical about the potential of the Network as a whole.

One response to this was for a strong consultative mechanism with human rights defenders to be built into the functioning of the National Focal Point to maintain accountability, taking into account specific vulnerabilities, and ensuring the inclusion of marginalised voices. A defender in Mexico also recommended a commitment of transparency in the Network: "This way the Mexican government would feel obliged to implement what is worked on in the Network".⁸⁵

85 Terto Neto, U. 2018. Interview with former staff member at Red Nacional de Organismos Civiles de Derechos Humanos, Mexico, 24 October 2018.



Positioning the Network Domestically and in the Context of Current Initiatives

Of high importance to participants in this study was ensuring that the functioning of both the National Focal Points, and the Network as a whole, would complement and strengthen existing mechanisms, mandates, and national and international institutions, while avoiding the duplication of efforts. One participant stated, “Brazil has gone through great setbacks in human rights protection policies in recent years; I think this idea comes to be added to other initiatives which we hope will be taken in Brazilian civil society for the defence and promotion of HRDs in our country”.⁸⁶ The majority of participants felt that this was achievable given sufficient forethought, planning, and clearly articulated goals. A number of participants recommended that further research be conducted before States are invited to become members of the Network, including in-depth mapping of the institutional landscapes of future member States, as well as their existing commitments in the area of human rights.

In terms of function, National Focal Points are conceived as a vehicle for improving coordination on the implementation of the Declaration by providing a new channel for engagement between domestic actors, which would be supported by such a mapping process. Indeed, the Network could provide impetus for the formalisation of interactions between stakeholders at the national level. As discussed in the previous section on constituting National Focal Point delegations, the potential array of actors who it may be pertinent to involve is wide. The functioning of the Focal Point must be such that it is complementary to and involves or invites input from existing domestic mechanisms, such as national protective mechanisms or HRD desks situated in NHRIs. It will be the role of each State and its eventual National Focal Point delegation to establish modes of working that best compliment its own institutional architecture. Specific ideas for how a National Focal Point could support existing domestic initiatives and areas of work are noted in the following section on activities.

In Côte d'Ivoire, participants noted that the Network could work in tandem with other regional and national networks to streamline efforts. This, it was anticipated, would make it easier to coordinate defenders working throughout the country, and provide them an additional forum for high-level engagement. One defender working independently noted that, “If we have a Global Network, others can share my information without putting me at risk.”⁸⁷ Nevertheless, a small minority of participants were less convinced of the added value of the proposed Network. In Mexico, one participant expressed concern that the Network risked replicating previous negative experiences regarding encounters between public servants and civil society, and that there was already much work being done in this area.⁸⁸

In the context of current international initiatives, members of the Global Network should demonstrate a clear commitment to championing the cause of human rights defenders internationally as well as at home. Members would have a key role to play in strengthening the engagement of their States in international and inter-governmental efforts, for example through the National Mechanisms for Reporting and Follow-Up. Such mechanisms have been a focus of recommendations for aiding and improving State interaction with international and regional human rights mechanisms, such as the treaty bodies, and supporting the implementation and follow up on recommendations received. While not all States have established such mechanisms, there is a clear connection between the aims of such mechanisms and the projected aims of the National Focal Point delegations, as elaborated by participants in this study.

86 Terto Neto, U. 2018. Interview with former staff member at the Brazilian Program for the Protection of Human Rights Defenders, Brazil, 30 November 2018.

87 Meffe, D. 2018. Interview with independent human rights defender, Côte d'Ivoire, 05 December 2018.

88 Terto Neto, U. 2018. Interview with former staff member at Red Nacional de Organismos Civiles de Derechos Humanos, Mexico, 24 October 2018.

Likewise, National Focal Points have a role to play in driving a focus on human rights defender issues in UPR processes – both in terms of reviewing and issuing recommendations to other States, and also through supporting the acceptance and implementation of recommendations domestically. Some participants also suggested that the National Focal Point delegations could help States to deliver on existing commitments, for example, on relevant Sustainable Development Goals (SDGs). This could be achieved by aligning the strategic plan of the Network or the agendas of National Focal Points to relevant SDGs and considering points of convergence.

Participants also suggested that involvement with and endorsement by existing bodies would strengthen the Network and increase its credibility. A staff member at GANHRI noted,

I think the connection with the UN, [and what] would be really, really important are the regional mechanisms because that could give acknowledgment to the process... It would be good to look into ways somehow to make the connection to the UN and the regional wide mechanisms, an effective one, a meaningful one.⁸⁹

The development of a new set of guidelines to States on implementing the Declaration on HRDs has also been a discussion point at key international fora. Here the Network could work collaboratively to propagate their own best practices through establishing a framework for implementing the Declaration, which could be shared with non-members.

Finally, another opportunity for action would be to coordinate with existing networks. For example, GANHRI is currently implementing a three-year strategic focus on human rights defenders, as articulated in its Marrakech Declaration in October 2018. This includes a commitment to:

Establish a mechanism on human rights defenders within GANHRI, mandated to identify emerging global trends and challenges in the area of civic space and human rights defenders and provide advice and support to the strategic work of GANHRI, regional networks and individual NHRIs in that regard.⁹⁰

Priorities and Activities for the Global Network and National Focal Points

In 2018, the Human Rights Defenders World Summit was convened to mark the 20th anniversary of the Declaration on HRDs. At the Summit, an Action Plan was agreed upon, elaborating on the most pressing priorities and activities for States to undertake in the protection of human rights defenders.⁹¹ A first step for members of the Global Network could be to endorse this Action Plan and use it as a guiding document to establish priorities for the Network and its members.

The UN Special Rapporteur, Michel Forst, also noted that there is a key role for members to play in areas of UN functioning:

When it comes to discussion in Geneva or in New York on a draft resolution they would be clearly involved and could also consult with national partners on those elements... They would also have a pos-

⁸⁹ Dwyer Smith, H. 2018. Interview with staff member at GANHRI, 26 October 2018.

⁹⁰ GANHRI, 2018. The Marrakech Declaration: Expanding the civic space and promoting and protecting human rights defenders, with a specific focus on women: The role of national human rights institutions. Available at: https://nhri.ohchr.org/EN/ICC/InternationalConference/131C/Background%20Information/Marrakech%20Declaration_EN_%2012102018%20-%20FINAL.pdf?Mobile=1&Source=%2FEN%2FICC%2FInternationalConference%2F131C%2F%2F5Flayouts%2Fmobile%2Fview%2Easp%3FList%3D3664a5c6%252D28ad%252D40c5%252Ddad02%252D86f7c75a3dab%26View%3Dd5961835%252DDefef%252D44eb%252Da336%252Dc6be1f0315df%26CurrentPage%3D1

⁹¹ Human Rights Defenders World Summit, 2018. Action Plan. Available at: https://hrdworldsummit.org/wp-content/uploads/2018/12/EN_Action-Plan-2.pdf

sibility to give a say when it comes to also treaty bodies, especially in countries in which defenders are facing strong attacks and threats. So they could also probably be involved and make sure that there would be a specific paragraph dedicated to the security of defenders. Again with [the] UPR as well... there are, of course, many discussions that we could have with the first club of those Focal Points.⁹²

As discussed, effectiveness in terms of tangible improvements in protections and in the situations of defenders emerged as a key priority for participants, and as the foundation of their support for the network. Participants emphasised the importance of the Network supporting and stimulating 'real change' on the ground for human rights defenders, and stressed that a network based solely on events as 'talking shops' would not be credible. As such, identifying or establishing tangible avenues in which the Global Network, through the actions of the Focal Points, can instigate advances must be a primary objective, and should inform the structure, function, membership, and activities of the Network. A number of suggestions were put forward by participants with respect to activities which would be undertaken at the Focal Point level and the Network level.



Activities National Focal Points could engage in:

- Developing policies in response to UPR recommendations regarding HRDs.
- Advancing development of HRD-specific legislation (e.g. following the Model Law for the Recognition and Protection of Human Rights Defenders⁹³); reviewing existing legislation and suggesting amendments relevant to establishing and upholding protections for human rights defenders.
- Increasing understanding of 'Who is a human rights defender?' within government ministries and institutions.
- Ensuring that new and existing legislation does not infringe on defenders' rights.
- Supporting the establishment of a 'HRD desk' for emergency response within the appropriate domestic institution, e.g. NHRI, ombudsmen.
- Supporting the functioning of the National Mechanism for Reporting and Follow-Up.
- Contributing to the fulfilment of relevant SDGs.
- Providing or arranging training for civil servants, police and other relevant domestic institutions.
- Participating in national-level responses to human rights violations domestically or regionally; advocating on behalf of critical cases in high-level forums; establishing a 24 hour emergency response hotline.
- Providing a forum for national level dialogue on the situation of human rights defenders, involving a wide array of stakeholders, e.g. businesses, religious institutions, civil society.
- Convening thematic meetings to strategise around improving protections for key groups, e.g. environmental and land rights defenders, sexual orientation and gender identity rights defenders, defenders of the rights of religious minorities, and women human rights defenders.
- Supporting the strengthening of a community of practice in the field of HRD protection.

Activities the Network could undertake:

- Global conferences to form the primary point of interaction, with the option for regional and thematic conferences to be supported with the growth of the Network.
- Sharing of good practice with a view to supporting implementation, e.g. in issues of national policy.
- Enhancing knowledge and application of international laws, mechanisms, and declarations among National Focal Point delegations.
- Coordination of multi-State responses to prominent issues facing defenders or in cases of severe violations against individuals (e.g. urgent alerts, advocacy).
- Encouraging State reporting as part of the UPR process, with a focus on human rights de-

93 ISHR, 2017. Model Law for the Recognition and Protection of Human Rights Defenders. Available at: https://www.ishr.ch/sites/default/files/documents/model_law_english_january2017_screenversion.pdf

fenders; monitoring of trends affecting human rights defenders.

- Joint publication of practical guidance notes and documentation of best practices which can be replicated elsewhere.
- Provision of induction, training and technical support to members of National Focal Point delegations.
- Functional support to National Focal Points in the form of a Secretariat, with responsibility for member updates, coordination, secure communications, etc.

Participants highlighted the benefits of having regional as well as thematic focuses within the Network. Staff of the Canadian Human Rights Commission cited GANHRI as a good example regarding their organisation of working groups and discussions. They discussed how regional working groups focus on a theme, and then bring their deliberations into Network-wide discussions on that theme. In this respect, the UN Special Rapporteur on human rights defenders also discussed the potential of organising meetings to coincide with an annual meeting of regional mechanisms, convened by the mandate. In doing so, he noted, “they would have the possibility to meet all mechanisms together to discuss with us... this would also be a way to increase the visibility and the interaction between the different types of mechanism.”⁹⁴

Participants also suggested that the Network consider facilitating activities through teleconferencing facilities to enable greater participation, especially of people who are unable to travel.

The Value of Participation and Incentives

The primary incentive identified by participants with regard to States’ membership of the Network, was the prestige of being seen as a leader within the field of human rights protection. As stated above, ensuring that the reputational benefits gained through membership are underpinned by genuine engagement with and progress on the issues of defenders is critical to the success of the Network. Further benefits of participation for States include: forums for engagement and relationship-building with other States; technical support and examples of good practice for improving the implementation of their existing commitments, including but not limited to the Declaration on HRDs, as well as in progressing on their UPR commitments. Staff of the Canadian Human Rights Commission also highlighted that protection was one of the benefits that GANHRI members gained from their participation in that Network.

For individuals engaged in National Focal Point delegations, a number of incentives were suggested by participants, included opportunities for professional development, career advancement, networking, and international travel. In terms of achieving their professional mandates, technical support could improve their capacity to achieve goals within their professional functions. Failings in the network, such as poor organisation, the lack of tangible impact, or insufficient resourcing were seen as disincentives, which could result in low morale and poor motivation for individuals in the network. Conversely, progress which could be attributed to the Network and their participation in it would be empowering and could increase commitment on the part of individuals. The process of sensitising individuals who have not previously focused on human rights could also improve their commitment.

94 ISHR, 2017. Model Law for the Recognition and Protection of Human Rights Defenders. Available at: https://www.ishr.ch/sites/default/files/documents/model_law_english_january2017_screenversion.pdf

Areas of Concern and Possible Responses

Participants expressed a number of concerns regarding the Network. Primary among these is regarding effectiveness in terms of tangible improvements to the implementation of the Declaration. The logical conclusion drawn from this perspective by participants was that the National Focal Points would be the primary drivers of the implementation of the Declaration, while the Network should exist to support and facilitate the efforts of the National Focal Points. States will need to ensure that National Focal Point delegations are established with a clear function and mandate, as well as buy in from both delegates to the Focal Point and the wider human rights community.

Linked to the above point is a concern regarding low commitment or implementation. This may be especially true if the Network includes States that do not respect human rights and human rights defenders. As has been discussed, a preferred option is to start with a small group of States with a demonstrated commitment to human rights defenders. This does not however escape the possibility that attention and engagement with the Network may diminish over time, especially in the case that benefits or results of membership are not felt in the initial period following the establishment of the network. One participant suggested that it would be important to commence the Network as a pilot project to test the benefits brought by the Network in relation to its costs, before committing more permanently and on a larger scale.⁹⁵

As has already been discussed, the issue of backsliding regimes is a key concern for the future credibility of the network. The UN Special Rapporteur, Michel Forst, noted,

That's for me a matter to discuss amongst members of this Network. But, of course, we could hear, as you say, clear examples on the States that would be or have been in the past very supportive with defenders and then withdrew from the community of countries... To have a sort of an evaluation of those States would be clearly important.⁹⁶

In this light, while some respondents noted the example of GANHRI's accreditation system as a possible solution, many others expressed concern about the utility of this system in the case of the Global Network. Utilising the first period of the Network to establish and agree between States a code of conduct or similar document for participation in the Network received support from many participants. However it was stressed that such a document should be collaboratively developed between members and not be created pre-emptively by the Secretariat or Steering Group. This was also seen as a possibly useful process for instilling a sense of ownership amongst members of the Network.

Member States which, following a shift in their socio-political landscape, become less tolerant or positive towards the rights of human rights defenders and the State's obligation to protect them, will pose a serious challenge to the credibility and in turn the effectiveness of the Network if left unaddressed. A robust peer-to-peer accountability mechanism must be a foundational element of the Network and the possibility to withdraw membership must remain realisable in severe cases. Nevertheless, accountability based on naming and shaming will almost invariably deter potential future members, and in doing so may prevent the Network achieving its overarching aims. A balanced and appropriate accountability mechanism must therefore be developed hand in hand with the founding members of the Network to achieve sufficient buy-in and ensure its functionality. Key to this would be that accountability should be upheld between peers, and not in a top-down fashion from the Secretariat or Steering Group. Likewise, developing a strong sense of trust between members would facilitate early and constructive interventions on the basis of an agreed code of conduct.

95 Dwyer Smith, H. 2019. Interview with staff member at the Fund for Global Human Rights, 21 January 2019.

96 Dwyer Smith, H. 2019. Interview with UN Special Rapporteur, Michel Forst, 12 February 2019.

Funding was a recurrent topic and the network was understood by most to be a costly endeavour. Some concerns were raised as to whether in a context of finite funding, the Network is the most effective use of resources that could otherwise be levered in more direct support of defenders. This argument reinforces the need to ensure that the Network is geared towards tangible outcomes for defenders and that National Focal Points are constructed in a way that improves capacity for implementation of the Declaration at the national level. As one respondent put it,

I don't think there's much point in having a network for this unless it's going to be driving action. I think too many of these inter-governmental mechanisms... spend an awful lot of time and resource meeting up and discussing and working on their internal processes and structures, and not really focusing their energy on action, and being transparent and accountable for their action and the effectiveness of the action.⁹⁷

In light of the risk of reprisals felt by many defenders who engage with international mechanisms, including in some cases by NHRI representatives who have had their work curtailed by institutional reprisals, security considerations were also a key concern. These should be factored into any future, more fine-grained planning of the Network structure, its membership, communication methods, data storage and modes of engagement.

Concerns regarding the functioning of National Focal Point delegations centred around additional workload, added bureaucracy and reporting fatigue. Structural issues within States could prevent progress and lead to poor outcomes which might result in disengagement. A staff member at a Canadian NGO reflected "if they get bogged down in a multi-stakeholder debate about what's really going on and whether, you know, action should or should not be taken that would not be helpful."⁹⁸

Some participants also noted tensions between ministries, which might not prevent participation in the Focal Point delegation, but could result in problematic dynamics. As a representative from the Ivorian NHRI commented, "every minister wants to be at the head of the pack, no one wants their adversary to be in charge, there isn't always the same solidarity you would expect".⁹⁹ Nevertheless, other participants reported that such issues were usually overcome when representatives from different departments needed to come together for the sake of a common goal. It will be important for States to keep in mind such considerations when forming a National Focal Point delegation. Likewise, and as has already been discussed, it would be beneficial to identify some key goals which could be achieved within the initial period of the Network to motivate members and create an early precedent, consolidating the orientation of the body towards implementation from the outset.

97

Dwyer Smith, H. 2019. Interview with staff member at the Fund for Global Human Rights, 21 January 2019.

6. Conclusion

Two decades on from the adoption of the Declaration on Human Rights Defenders, we see that a vibrant community of practice has developed around the protection of human rights defenders, both within States and internationally. Worryingly, however, in recent years significant measures to close civic space has meant that more and more defenders find themselves in hostile environments, facing threats and repression on account of their practice. In many instances, defenders' rights have been actively undermined through restrictive legislation and violent clampdowns by State actors. This is compounded by the limited implementation of the Declaration by States.

In these circumstances, a new approach is needed to reinvigorate the commitment of States to the Declaration and to drive its implementation in ways that make a tangible difference in the lives of defenders. This report, based on interviews with 54 stakeholders, has sought to establish whether and to what extent a Global Network of National HRD Focal Points could provide such an approach.

In summary, we found broad-based support for a Global Network of National HRD Focal Points, comprised of multi-stakeholder national delegations. Participants identified improved implementation of the Declaration on Human Rights Defenders as the most relevant overarching goal. A multi-stakeholder model for National Focal Points was identified by participants as the most viable path to facilitating implementation at the national level. They stressed that the formation by States of robust and well-functioning National Focal Point delegations would be key to achieving the goals of the Network. Participants favoured a tripartite constellation, involving representatives from the State, NHRI and civil society.

Driving the focus on implementation was the overwhelming desire to avoid the creation of 'just another network'. In this, participants expressed that creating a forum with a primary function of increasing inter-State dialogue would be insufficiently useful in and of itself. Nevertheless, the goals articulated in this report set a high bar. To achieve them, the future establishment of a Global Network of National HRD Focal Points must be a carefully considered endeavour, involving only States which can demonstrate genuine commitment to the goals of the Network. A clear focus on implementation and strong accountability mechanisms to support this must be built in. The establishment of National Focal Point delegations should be initiated and lead by States themselves, with support of the Secretariat and other members of the Network; their agendas should be informed by national priorities and Focal Points should be constituted to reflect and strengthen, rather than duplicate, existing domestic institutional architecture in order to maximise their capacity for implementation.

As such, the success of the Network will be measured in large part in the achievements of its constituent parts – the National Focal Points. Establishing robust and well-functioning National Focal Point delegations will demand a significant and ongoing commitment by States. However, if this is achieved, a Global Network of National HRD Focal Points would have the potential to contribute to genuine advancements in the implementation of the Declaration, and produce tangible change in the situations of human rights defenders.

Appendix I: Process Recommendations on the Creation of a Global Network of National Human Rights Defender Focal Points

As established in this study, the primary goal of improving the implementation of the Declaration on Human Rights Defenders in national contexts could be supported through the establishment of National HRD Focal Points, the functioning of which could in turn be strengthened through participation in the Global Network. In creating the Focal Points, the first question that needs to be answered is whether these will be State-only or multi-stakeholder entities. As elaborated in the report, most participants indicate a strong preference for the latter. However, if a State-only model is pursued, at the minimum, the Focal Points must develop robust consultative mechanisms with civil society groups and human rights defenders to ensure legitimacy and accountability. Continuing on the premise of a multi-stakeholder delegation approach, while it would be possible to establish National Focal Points independently of a Global Network, based on the clear benefits identified with respect to the role of the Global Network, together with the impetus it would provide for the wider process, we recommend that both aspects are developed in parallel.

Establishing an Initial Steering Group

We recommend that ISHR identify and approach leaders from each type of stakeholder that can guide domestic processes towards the establishment of National HRD Focal Point delegations and steer the formation of the Network. For example, in a tripartite model, involving State authorities, NHRIs and civil society, possible leaders to participate at the international level could comprise:

- State: two or three States from at least two different regions from the Global North and South
- NHRIs: GANHRI
- Civil society: two or three organisations with expertise in fostering dialogue and cooperation between State and civil society actors

These actors could form an Initial Steering Group to guide the process during the development and establishment phase.

Alternatively, if it is a State-only Network, a Steering Group could be comprised of representatives of two or more States as Co-Chairs.

The Steering Group would also work collaboratively to determine the direction of the Network and to find resources for it. In terms of staffing in the initial stages of the Network, it may be more feasible to draw upon existing staff or to place new staff within the organisations of one of the Steering Group members. This dedicated resource would serve as the start-up Secretariat for the Network.

Under the multi-stakeholder model, States would need to initiate national processes to establish National Focal Point Delegations, taking into account institutional architecture, existing mechanisms and domestic priorities. This process would be informed by the Steering Group and supported by the Secretariat.

To ensure that participation is equal and balanced, all three types of stakeholders should be involved at every level of decision-making as it is feasible. However, it is important to ensure that States maintain a sense of ownership for the Network, and that it does not become a civil society-led Network.

The Steering Group might want to appoint a small Advisory Board comprised of independent experts

such as Special Rapporteurs from regional bodies, Human Rights Council special procedures, academics and leading figures from within civil society. This Advisory Board could serve as a sounding board for the Network's initiatives and plans and strengthen the legitimacy and the apolitical character of the Network.

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States would participate in the Network through National Focal Point delegations comprised either of State officials (in the State-only model) or of persons representing each type of stakeholder (in the multi-stakeholder model). Rather than comprising fixed members, these National Focal Point delegations might want to adopt a coordination mechanisms that enable them to choose the most appropriate participants for Network activities from a range of State and non-State actors.

The Network could also create Dialogue Mechanisms through which it engages with other types of relevant stakeholders, such as corporations.

Stages of Network Building

Stage 1: Constituting the Steering Group, Advisory Board, and Secretariat

- The Secretariat and Steering Group is constituted.
- The Steering Group discussed and agrees on the Terms of Reference for the Network, including its goals, outcomes, outputs, activities and resources.
- The Steering Group agrees on initial criteria for membership.

Note: Following the constitution of the Network, it may be beneficial for founding members to collectively agree on a Code of Conduct which may include criteria for existing and future members. This needs to be borne in mind from the beginning.

Stage 2: Building Consensus and Mapping Possible Stakeholders

- The Secretariat identifies States that might fit the criteria for membership. The Steering Group selects States that will be invited to be founding members of the Network. Membership is kept small, and by invitation only.
- Each member State, with the support of the Secretariat, engages in a mapping of their institutional landscapes to identify specific institutions, departments, units and positions that would be invited to form the National Focal Point delegation for that State. This will be informed by guidelines for constituting a National Focal Point delegation established by the Steering Group.
- Each member State creates its National Focal Point delegation.

Stage 3: Planning and Implementing Activities

- The Secretariat plans an Inaugural Conference with thematic and regional sessions, as well as closed-door sessions for different categories of delegates (State, NHRI and civil society). This Inaugural Conference will include specific sessions aimed at discussing the structure, membership

and activities of the Network. Network members will decide on a medium-term action plan for the Network (two or three years) based on the funds already raised. This might include: accredited training courses; smaller workshops in regions; the formation of Working Groups; the development of policies and guidelines; the building of online and offline resources; plans for how the Network should respond to emerging situations or urgent cases of violations. Activities should facilitate relationship building within National Focal Point delegations as well as between Focal Points.

- At the Inaugural Conference, the members formally endorse the Secretariat to act on its behalf. The members also consider and endorse leadership structures, such as a system of rotating Chairs.
- The Steering Group provides direction to the Secretariat, meeting every two or three months as necessary. The Chairs of the Steering Group will coordinate closely with the Head of the Secretariat. At the Inaugural Conference, the members formally endorse the Secretariat to act on its behalf. The members also consider and endorse leadership structures, such as a system of rotating Chairs.
- The National Focal Point delegations identify domestic priorities and create an initial strategic plan to guide their activities over a two to three year time period.
- The Secretariat provides technical expertise and support to the National Focal Point delegations. The Secretariat continues to raise funds for the Network, with the support of the Steering Group. In later stages of the Network, the Steering Group decides if the Network should be expanded to include more members.



Appendix 2: Interview Guide

THE UNIVERSITY *of York*

Interview Guide

Study on the Creation of a Global Network of National Human Rights Defenders Focal Points

Introduction

I am part of a research team at the Centre for Applied Human Rights at the University of York studying the potential of developing a Global Network of National Human Rights Defenders Focal Points (National HRD Focal Points) to enhance the protection of human rights defenders nationally and internationally.

This study is commissioned by the International Service for Human Rights (ISHR), an independent NGO dedicated to promoting and protecting human rights.

ISHR's idea for the Global Network is that it would comprise senior officials within the government (the executive).

The aims of the Global Network would be to:

1. promote and coordinate the effective implementation of the UN Declaration on Human Rights Defenders (and other relevant standards) at the national level
2. enable exchange on good practice, challenges and lessons learned between Focal Points

We are assessing the desirability, feasibility, costs and benefits of such a Network, and would like to interview you to find out your perspective.

Overview

1. What do you think about this idea of the Network?
2. What would we need to bear in mind if we were creating such a Network?
 - a. What would increase the effectiveness of the Network?
 - b. What would decrease the effectiveness of the Network?

Strengthening participation amongst members

One key issue we anticipate is that we need to get government officials to commit to participating in such a network, which might not be easy.

3. What do you think would encourage them to participate?
 - a. What benefits of participation should we try to 'build in' into this Network?
4. What would stop them from participating in such a Network?
 - b. How should we address these?

Membership

ISHR had the idea that the network would comprise of senior officials designated within the executive to promote and coordinate the effective implementation of the UN Declaration on Human Rights Defenders (and other relevant standards) at the national level.

5. What do you think of this?

6. Who do you think should be members of this Network? (which ministries/ departments or individuals)

7. How should we approach such individuals?

8. Are there tensions or issues between ministries or governments that we should bear in mind that might influence their participation in the Network?

Another possible model is to have delegations, comprising several government officials within different ministries and departments. These delegations might include a person from a NHRI or an independent entity, and human rights defenders / civil society leaders.

We could also have multiple networks (e.g. regionally based networks comprised of a few countries that connect to each other)

9. What do you think of these ideas?

Activities

To achieve its aims and keep its members engaged:

10. What activities should this Network focus on? (thematic issues, or types of activities)

11. How often should the Network meet and where?

12. How can we encourage members to implement in their home countries what they have gained through the Network?

13. How should we make sure that the perspectives of defenders are included? (e.g. should we have delegations that include them; should we have consultative mechanisms?)

Others

14. Are there any other issues we need to consider (in terms of the desirability, feasibility, costs and benefits of such a Network)?

15. Would you participate in such a Network? Why, why not?

