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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: Executive Summary and Commentary

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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 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) through a commitment to action, better coordination 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 2019.¹ 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-

¹ 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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UN Photo/Laura Jarriel
Students carry flags at the national Peace Bell Ceremony at the UNHQ

