

Chapter 4: State structures and mechanisms for the protection of human rights defenders

An important statement to start with: much as the existence of protection within the state machinery might reflect real political will, and in some cases has led to substantial progress in this field, it in no way guarantees any improvement in the situation of human rights defenders. Several countries in this survey have sophisticated protection legislation, yet human rights defenders continue to suffer attacks that go unpunished. In the final analysis it is clear that protection depends on political will and action as well as effective cooperation between the authorities involved, especially the government, the security forces and the judiciary.

On a more technical level problems such as the allocation of insufficient resources or the deployment of poorly trained civil servants may lead to an ineffectual state protection office. The Peruvian ombudsman has stated that *“any attempt to improve the system of protection requires sufficient economic and specialised human resources to enable it to efficiently implement and adopt the right protection measures.”*¹ Human rights organisations have made similar criticisms of the federal programme in Brazil. Obstacles such as these (problems with training and resources) have led to many considering these initiatives as window dressing by the state for the benefit of the international community. The detractors of these institutions feel that in the absence of the will to deal with the problem, the role of these offices is simply to improve the country’s image and that they contribute little if anything to protection. In many cases it has even been claimed they have made things worse by rendering international pressure less effective.

The mistrust some defenders feel towards the state also hinders many from joining these programmes. One of the main reasons is that the information the police obtain from human rights defenders may end up being used to attack them instead. The increasing flow of information on the dirty war waged by the Administrative Department of Security (DAS) in Colombia against large sectors of defenders (among other social groups) is striking, especially when it was the DAS that was supposed to be protecting them.

In spite of this, responsibility for protection must lie first and foremost with the state and as we shall see in some cases, a state programme may provide adequate protection simply owing to the economic, human and logistical resources available to it.

We shall therefore analyse the processes involved in establishing state protection offices and the best practices for an effective response.

Background to state protection offices

Some of the bodies providing protection to human rights defenders were set up with this objective in mind, as is the case with Colombia, Brazil or the proposal in Nepal, while others have been created within structures already in existence. Creating something from scratch means it can be designed to match the protection needs of the human right defenders and can do its job without the inertia and red tape of an existing body. However, it then has to find its place on the global scene and get enough funding, etc. On the other hand, the use of already established state structures can be a good opportunity for state institutions doing

1 Office of the Ombudsman of Peru. Ombudsman’s report N° 112. December 2006.

similar work to do something for human rights defenders. The specific nature of protection for human rights defenders must of course be catered for. In certain political circumstances there may be less resistance to the setting up of an office for the protection of human rights defenders under an existing structure. As we have seen, in the case of Peru, human rights defenders at risk were handled through witness protection legislation during the court cases from the Truth Commission. In the case of the Mexican National Human Rights Commission their protection emerged from a programme for journalists.

In all the cases studied the state protection offices were set up due to political pressure from human rights organisations, generally over several years. In fact some of these offices such as those in Guatemala and Colombia were set up to mirror the setting up of protection bodies by the human rights defenders themselves (the Defenders Unit in Guatemala and the Non-Governmental Protection Programme for Human Rights Defenders - see Part II of this study).

Another important point as far as the background to the setting up of these offices is concerned is the political moment at which this takes place. For example in Mexico a change of government, national and international demands for an explanation of the murder of the human rights defender Digna Ochoa and subsequent threats against known defenders turned the safety of human rights defenders into an important item on the political agenda. Human rights organisations seized upon this and, using the tools provided by the First Latin American Conference of Human Rights Defenders, demanded the establishment of a protection office. The presidency's human rights unit was subsequently set up.

*It is important for civil society
and other relevant experts to participate
in the setting up of the office*

As well as the importance of national participation, international experts should be involved in the creation of these offices. In Brazil national civil society organisations and international experts contributed to drafting the legislation for the programme. This type of participation can set useful standards for programme development, especially when sharing experiences and best practices to be applied in countries which have not tackled this problem yet.

Objectives of the protection offices

In general, the main objective of all the protection offices studied was protecting a relatively large group of human rights defenders. The biggest differences lay in the mechanisms they use or in the scope of their work. The other common factor is that in all the countries studied many critics of defenders felt the offices were set up in a bid to ease international pressure brought to bear on the states in response to violence against human rights defenders.

The objective of the Human Rights Protection Programme of the Ministry for Home Affairs and Justice in Colombia is to:

"[...] support the National Government in safeguarding the lives, integrity, freedom and security of the programme target population which faces certain, imminent and exceptional risks as a direct consequence of their political, public, social or humanitarian work."²

2 Decree No. 2816 2006. 22 August 2006 "through which the Human Rights Protection Programme of the Ministry of Home Affairs and Justice is drafted and regulated, and other provisions adopted".

The Public Policy Proposal in Guatemala makes a similar suggestion in its second objective³; however this proposal is much more ambitious in that it has a wider overall objective:

“To ensure a favourable environment in which human rights defenders, trade unionists, officers of the law, persons appearing in court, victims of crime, journalists, media personnel and other vulnerable groups may perform their tasks.”⁴

The specific objectives suggested by this proposal are therefore the fight against impunity and the promotion of a human rights culture, as well as the design and implementation of a national plan of action for protection, the establishment of an early warning system, without forgetting the improvement and strengthening of human rights protection mechanisms and programmes.

The bill of the Democratic Republic of Congo contains a magnificent example of how to transpose the declaration on human rights defenders into national law:

“The State has the responsibility and the duty to protect, promote and render effective all human rights and fundamental freedoms, in particular by adopting measures to create the right conditions and legal guarantees, so that everyone under its jurisdiction, including human rights defenders, may individually and collectively put these rights and freedoms into practice.”⁵

This is an ideal framework for a protection programme; the obligations in it are likely to lead to a programme that meets the protection objectives of the declaration. The protection office then introduces measures to ensure that the appropriate authorities protect the defenders,⁶ investigate specific cases,⁷ fight impunity⁸ and prevent the expulsion of human rights defenders fleeing persecution in other countries.

Where are the protection offices housed?

Traditionally, state protection activities emanated from several sources: human rights commissions, the Ombudsman, the Attorney General’s office and human rights bodies linked to the Executive usually under the Ministry of the Presidency or Home Affairs (or its equivalent). In almost all the cases studied the protection office was set up by the government and housed within government structures. There are also cases such as Mexico and Brazil however where ad hoc bodies for human rights defenders are housed at the ombudsman’s office.

3 Objective 2 of the Public Policy Proposal for the Prevention and Protection of Human Rights Defenders and other vulnerable groups in Guatemala. *“To develop prevention mechanisms for the improvement and strengthening of the existing mechanisms and programmes for human rights defenders, those appearing in court, media personnel and other vulnerable groups under threat or in situations of imminent risk to their lives, physical integrity, safety and other universal freedoms, intended to protect them from violence, that is to say ordinary violence, organised crime, illegal, clandestine and parallel security groups”.*

4 Overall objective of the Public Policy Proposal for the Prevention and Protection of Human Rights Defenders and other vulnerable groups in Guatemala.

5 See annex.

6 Art. 26: the state shall take all necessary measures to ensure the competent authorities protect human rights defenders, individually or in association with others, from violence, threats, retaliation, de facto or de jure discrimination or any other arbitrary action as a consequence of his or her legitimate exercise of the rights and freedoms guaranteed by national and international human rights instruments.

7 Art. 25: The state shall conduct a prompt and impartial investigation when a complaint about violence has been made or when it has grounds to believe that a violation of the rights of a defender has occurred.

8 Art. 29: Emphasize the need to combat the problem of impunity by carrying out in-depth independent investigations and bringing to an end the violence perpetrated against human rights defenders.

When analyzing the pros and cons of where to place protection offices we can distinguish between a government structure (a ministry for example) or an independent body (such as the ombudsman's office).

There are several reasons in favour of an ombudsman's office having a department for the protection of human rights defenders. The independence it enjoys makes it, at least in theory, an ideal place for this work. Independence is a key element in protection work and for gaining the trust of human rights defenders, who in many cases refuse contact with government offices. Although the office's resolutions might not entail sanctions, they may force state institutions to respond. There is also the advantage of stability over time. These are the positive points of basing protection offices in an institution of this type.

On the other hand, a government office does not only spell disadvantage compared to the ombudsman, since it can also make important contributions to protection work e.g. access to government structures and chains of command (such as the Ministry of Home Affairs and the security forces for example), contacts with the Executive with the prospect of political agreements and even the possibility of doing comprehensive work involving different ministries, secretariats and local authorities. The government also has economic and human resources as well as the possibility of amending legislation.

Finally, it is possible to create a mixed programme that includes contributions from the government and the ombudsman. For example, in the State of Pará (Brazil) the department responsible for the government's programme for the protection of human rights defenders is housed and coordinated by the ombudsman's office and civil society participates fully. Initiatives like this one that lead to a collective response imply combined effort and diverse contributions that can substantially enrich the approach to protecting human rights defenders.

Who participates in the management of the protection programme?

The legislative obligations arising from international instruments are aimed at countries as a whole and not solely at governments, so in seeking to meet their commitments they should involve the different state authorities and institutions. With that in mind and from an operational point of view, the work of an office for the protection of human rights defenders requires solid cooperation with other institutions – government and state as well as non-state institutions. Working relations are often established with ministries, offices attached to the presidency or the Home Office as well as other high ranking positions in the security forces and the public prosecutor's office, etc. It is thus important that the laws governing protection offices take the need for this network of institutional relationships into account.

Although in some instances this type of coordination has not been formally established, there have been cases where these institutions and others participate directly in the programme's decision-making processes. Thus in Colombia, the CRER (Comité de Evaluación de Riesgos – risk assessment committee) is chaired by the Deputy Minister for Home Affairs or his representative⁹ and composed of the director of human rights at the Ministry of Home Affairs and Justice, the director of the Presidential Programme for the Promotion of Human Rights and the Application of International Humanitarian Law, the director general of the DAS or his representative from the Protection Directorate, the director of the National Police,

⁹ All the CRER posts may be deputised by alternates and this may dilute its executive powers at certain times.

the director of the Social Solidarity Network, a representative from the Attorney-General's office, a representative of the ombudsman and a treasury representative. The Guatemalan Public Policy Proposal for Prevention and the Protection of Human Rights Defenders and Other Vulnerable Groups also provides a Committee for Risk Assessment and Protection Measures and proposes a similar structure, adapted to the state's institutions, with the addition of a delegate from the public prosecutor's office.

The participation of organisations supporting human rights defenders in these structures is crucial. Among the various laws analysed, of special interest are those in Colombia, Brazil and Guatemala's Public Policy Proposal, because they cater for civil society participation. Four representatives of the target population sit on Colombia's Committee for Regulation and Risk Assessment.¹⁰ They recommend the adoption of appropriate measures for each case.

In Guatemala, the public policy proposal allowed delegates from civil society organisations and others from the journalism and media sector to join the Committee for Risk Assessment and Protection – who then participated in the assessment of risk levels, formulating recommendations and adopting protective measures.

In Brazil, the draft bill presented to the presidency on 30 October 2008 provides for civil society participation within the highest authority in the programme - the National Deliberation Council. Participation is therefore possible in the deliberations on setting up a National Protection Policy and on which cases the programme should cover. Civil society organisations decide on appeals against decisions by local councils or other decision-making bodies in the programme. They support the implementation of the programme in the various states and participate in other matters according to the new powers given to the Council by its regulations.

However, in the Nepali proposal the four defenders on the National Commission are there in an individual capacity, appointed by the government following a proposal from another body (the National Human Rights Commission). They must be between 25 and 70 years old and have a university degree, which excludes many defenders.

The intervention of defenders' organisations not only enables them to participate in discussions and decisions on cases brought before the programme, but also in planning and procedures. In the Colombian programme, protection polices were initially agreed with the target population, but in the years since the programme began one of the main recommendations following criticism on how it could be improved has been the need for better coordination on protection measures. As well as offering criticism, civil society organisations that join the programme may bring it closer to its members, and this can win the defenders' trust.

Although strictly speaking only the above-mentioned programmes permit the participation of civil society, others allow a form of cooperation which is not so clearly defined but which

¹⁰ **Trade union leaders:** A representative each for CUT, CGT and CTC. **Human rights leaders:** A representative from MINGA. **Mayors, councillors, proxies and MPs:** A representative each from the Colombian Local Government Federation, the Colombian Local Councillors Federation, the National Association of Legal Proxies and from the National MPs Association. **Journalists:** A representative each from the Foundation for the Freedom of the Press-FLIP, ANDIARIOS, ASOMEDIOS and Media for Peace. **UP-PCC:** A representative of REINICIAR, two from the PCC and one from the UP. **Displaced Persons:** A representative each from ASODESAMUBA, the Foundation for Women and Labour and the National Coordination Committee for Displaced Persons. **Indigenous and Afro-Colombian leaders:** A representative of the indigenous and Afro-Colombian communities respectively.

functions as a channel for information exchange and a focal point for reaching out to human rights defenders. It would obviously be preferable for civil society participation to be explicitly provided for, since otherwise they have no decision-making powers, and changes in the programme's staff coupled with the political atmosphere can close down these channels of communication.

The participation of international institutions can also be very useful. In the Colombian programme, the office of the United Nations High Commissioner for Human Rights (UNHCHR) sits on the Risk Assessment Committee and although it has no voting powers it has made several technical contributions and brought cases to the programme's attention. The office monitors the country, records cases and receives complaints. In Guatemala, even though the UNHCHR is not yet established as an assessment body for the government programme, it has participated in some successful initiatives. For example the UNHCHR organised a defenders' workshop on views of protection mechanisms where proposals from the government's presidential commission for human rights were submitted so that new legislation could take experience into account. Along the same lines, a representative of an international body sits on the recently created Agency for the Analysis of Attacks against Human Rights Defenders.

It is to be noted that the attendance of the UNHCHR (or other institutions) can provide an external perspective that can act as a kind of informal monitoring and when necessary, a meeting point for state institutions and non-governmental organisations.

The draft legislation in Brazil, Nepal and the Democratic Republic of Congo does not include international participation in the monitoring or management of protection programmes.

*The participation of international
human rights organisations
and civil society in the programmes
can be beneficial*

The following bodies should participate in the programme

- The security forces and Ministry of Home Affairs
- Specialist protection forces
- Civil society
- Delegates from the protected sectors
- International institutions
- Representatives of protected groups
- Representatives of the Executive's human rights office
- Ministry of Justice
- The prosecution service and other investigation and intelligence bodies (and bodies specialising in investigating these cases)
- Ministry of Social Security, Welfare or the equivalent
- Judicial bodies
- Ministry of Health
- For monitoring purposes
 - Ombudsman's Office
 - Public Prosecutor's Office
 - Treasury

Protection programmes and relations with other institutions participating in the protection of defenders

All these institutions are not working alone in this field, because as has been previously explained, protection work requires coordination between different state institutions and this should feature in their guidelines for action. As such several institutions have worked together. Here are some examples of coordination with the security forces or the judiciary.¹¹

Coordination with the security forces

In all the programmes we studied organisations of human rights defenders constantly underlined the need for coordination with the security forces and getting them to prevent and respond to attacks against human right defenders.

Police escorts for human rights defenders at risk have become the main form of security provided by the state. Not all human rights defenders agree with this measure, irrespective of whether they use it or not. For some defenders the use of weapons even by the state is at variance with their ethics. In other cases this type of protection has been described as ineffective or counterproductive. Indeed, there are many cases in which a human rights defender has declined this type of security on the grounds that contact with other defenders or grass roots organisations becomes difficult with a police escort, or because the escort itself becomes a source of information on his or her activities which could be used for a direct attack (there are many documented cases) or for campaigns and other activities against them.¹² Note that defenders emphasize that declining a police escort should not be construed as freeing the state from its responsibility to protect the defender concerned.

One of the negative experiences observed with the use of police escorts is the lack of proper preparation for the police officers, much to the discontent of the users of the service. On other occasions the service is provided by specialist bodies which provide more effective protection, with the result that the defender feels much less vulnerable. This is the case of the Brazilian programme where organisations are calling for a police force trained by the National Public Security Agency to provide specialised protection to human rights defenders.

In Guatemala the DIPROSE - Division for Protection and Security - handles these cases as well as the DPP - the Directorate for VIP Protection - bodies which were formed to protect persons at risk. However a new proposal (opposed by the Interior Ministry) involves the creation of an Elite Body for Security and Protection known as CESP to provide escorts both for personal security as well as at home and at work. Members are to be selected from personnel already serving in state security forces, not involved in intelligence and counterintelligence activities, and they must have the right training, including in human rights and international state responsibility. Furthermore, they must devote themselves exclusively to this task and representatives of the target population are to participate in their selection.¹³

11 Part II of this study includes an in-depth analysis of the operational protection programmes.

12 For example, the Special Rapporteur Margaret Sekaggya raised this issue in the preliminary report on her visit to Colombia in September 2009: "The issue of spying on human rights defenders by escorts detailed for their protection must be resolved..." http://www.protectionline.org/IMG/pdf/A-HRC-13-22-Add3_advance_edited_version_.pdf

13 See: Schedule of preventive and protective measures for human rights defenders and other vulnerable groups - Hugo Enrique Martínez Juárez. Coordination Committee for the Protection of Human Rights Defenders, Administrators, Legal Officers, Journalists and Social Communicators, COPREDHE, Guatemala.

The Guatemalan proposal also allows for the possibility that escorts may not meet the protection needs of certain clients and for this reason – as long as there is a justification for it – people trusted by the human rights defender can be hired and trained by the state (this experiment was applied in Colombia where rehabilitated ex-guerrillas were trained by the Administrative Security Department prior to deployment as escorts. This is no longer the case).

Similarly, in Peru a proposal was made to set up a specialised police protection unit, separate from the National Police. However the Peruvian People’s Ombudsman stated that the application of protection measures for victims, witnesses and family members of victims of human rights violations should be handled by a mixed entity, with the participation of both the state and civil society organisations.¹⁴ In addition, the ombudsman’s office also pointed out that the effectiveness of any protection measures will depend among other things on the fear in both victims and their families of members of the police and army.¹⁵

However, police intervention should not only be limited to these measures. In Guatemala, the emergency hotline 110 for use by all citizens led to a specialised service for human rights defenders being set up. It offered for example to respond to cases of observation and persecution (which it normally would not have responded to) as well as immediately informing specialised police units in the event of offences against human rights defenders, such as murder and robbery.¹⁶

Likewise, the Guatemalan police, through its human rights unit at the Criminal Investigations Division (CID), set up a unit to respond to offences perpetrated against human rights defenders in order to assist investigations. The unit responds to requests from the Prosecutor’s Office or from the human rights defender at risk, then offers assistance to the prosecutor in charge of the investigation. This means that the unit, like all other institutions of this type, not only requires training and resources but also prior coordination with the prosecutor’s office, with clearly defined powers and technical investigation requirements.¹⁷

Another innovation is the Committee for the Analysis of Attacks against Human Rights Defenders in Guatemala which includes the interior ministry, the Directorate General for Civil Intelligence, the Criminal Investigations Division (DINC) - PNC, national and international human rights organisations, the Office of the Prosecutor and lately the Office of the United Nations High Commissioner for Human rights. The function of the committee is to “analyse patterns of attack, where they occur, using a scientific methodology defined, approved and agreed on by the committee members,”¹⁸ in order to develop prevention policies and possibly support investigation efforts undertaken by the relevant institutions¹⁹ (N.B. this Committee for Analysis does the same analytical work on attacks against human rights defenders which the non-governmental Guatemalan Defenders Unit has been doing for years).

14 Office of the Ombudsman for the People of Peru. Ombudsman’s report N° 112. December 2006.

15 Office of the Ombudsman for the People of Peru. Ombudsman’s report N° 112. December 2006.

16 Unidad de Protección de Defensoras y Defensores de Derechos Humanos de Guatemala (Unit for the Protection of Human Rights Defenders of Guatemala - UDEFEGUA). *Venciendo barreras* (Overcoming barriers) - Report on the situation of human rights defenders. January to December 2007.

17 Unidad de Protección de Defensoras y Defensores de Derechos Humanos de Guatemala (Unit for the Protection of Human Rights Defenders of Guatemala - UDEFEGUA). *Venciendo barreras* (Overcoming barriers) - Report on the situation of human rights defenders. January to December 2007.

18 Ministerial order No.103-2008. Guatemala, 10th January 2008.

19 Unidad de Protección de Defensoras y Defensores de Derechos Humanos de Guatemala (Unit for the Protection of Human Rights Defenders of Guatemala- UDEFEGUA). *Venciendo barreras* (Overcoming barriers) - Report on the situation of human rights defenders. January to December 2007.

A source of alarm for Colombian organisations of human rights defenders is the possibility that the state might contract private security firms to protect defenders instead of the national security forces.²⁰

Coordination with the Office of the Prosecutor

The Office of the Prosecutor as the body responsible for investigations is also an important element in this field - not only in terms of ending impunity but also as an essential element in avoiding the criminalisation of social protest, since it has the power to initiate criminal law reform. The importance of the Office of the Prosecutor can be seen in Guatemala, where they have a unit dealing solely with attacks against human rights defenders – the Unit for the Prosecution of Attacks against Human Rights Activists - that answers to the department for human rights. Although the work of these units has not been considered successful in view of the results, the very existence of the department staffed with qualified personnel and resources can be essential in fighting impunity. Analysing patterns of attack and placing all cases under one unit at the prosecutors' office can improve its ability to investigate these cases.

Coordination with the judiciary

Cooperation between protection offices and the judiciary can be of great relevance in protection work and not only as a means of bringing the perpetrators of attacks against human rights defenders to justice. A good example of this is the ruling by the Colombian Constitutional Court of 20th October 1998,²¹ which establishes the duty of the state to protect human rights defenders. The Court held that the activities of human rights defenders in Colombia are fraught with numerous dangers, making them a vulnerable social group, and that the State was therefore obliged to prioritise their protection.²² It further stated that, *“the lack of protection for human rights defenders by the State led to an unconstitutional state of affairs.”*²³ Case law stipulated that an unconstitutional state of affairs occurs when *“(1) the fundamental rights of many persons are repeatedly violated - persons who might subsequently resort to legal action to fight for their rights, thus congesting the law offices and (2) when these violations are not caused solely by the authority in question but also by structural factors.”*²⁴

In the above-mentioned appeal for legal protection the Court decided to appeal to all the country's authorities to end this situation and called upon the Prosecutor General of the Nation and the Ombudsman to act. They then prioritised the protection of the lives of defenders, since under the Constitution it is their duty to safeguard, protect and promote human rights. The Court likewise called on all persons resident in Colombia to comply with article 95 of the Constitution, which obliges them to defend and disseminate human rights as the foundation of peaceful coexistence.²⁵

20 These and other operational matters are to feature in an in-depth analysis in Part II of this study.

21 Ruling on case T-590 by the Constitutional Court of Colombia, 20th October 1998.

22 Ruling on case T-590 of the Constitutional Court of Colombia. Summary of the ruling of the Inter-American Court on human rights in the case of Valle Jaramillo and others vs Colombia, 27th November 2008.

23 Ruling on case T-590 of the Constitutional Court of Colombia. Summary of the ruling of the Inter-American Court on human rights in the case of Valle Jaramillo and other vs Colombia, 27th November 2008.

24 See ruling SU-250 of the Constitutional Court of Colombia, 26th May 1998. Summary of the ruling of the Inter-American Court on human rights in the case of Valle Jaramillo and other vs Colombia, 27th November 2008. Note 41.

25 Ruling T-590 of the Constitutional Court of Colombia, *supra* nota 39 (f. 1409). Summary of the ruling of the Inter-American Court on human rights in the case of Valle Jaramillo and other vs Colombia, 27th November 2008. Para 84.

Coordination with other bodies

As regards cooperation in the area of, for example, medical care for human rights defenders, methods such as those of the Mexican Human Rights Commission should be taken into account. They refer human rights defenders to public health institutions for treatment for physical and psychological wounds following attacks.

Finally, it is important to note that even though up until now we have only referred to institutions that are specifically involved in the protection of human rights defenders, there are other bodies which protect human rights defenders in some way or other as part of their work. Indeed some ombudsman offices and government human rights programmes may not have special defender departments but have nonetheless been known to intervene in cases of violations of defenders' rights.

The efficiency of the work done by the protection offices

The **Paris Principles**²¹ cover a broad international consensus on the features which national human rights institutions should possess. These principles set out the steps necessary for increased efficiency, quoted in a document entitled *Assessing the effectiveness of national human rights institutions*.²⁶ When applying the document to national protection offices two things must be born in mind:



Factors contributing to the efficiency of protection offices

- Public legitimacy
- Accessibility
- Open form of organisation
- Consultations with civil society
- Ensuring the integrity, quality and diversity of staff
- Broad mandate
- Effective international links
- Speedy and effective handling of complaints
- Powers covering all sectors
- Power to monitor compliance with their recommendations
- Systematic handling of human rights
- Adequate budgetary resources, accountability.

First of all that the Paris Principles apply to national human rights institutions and this survey only analyses one type - the protection offices - and secondly, the Principles only apply to independent institutions and therefore do not include government bodies. (Note that Part II of this study includes a more operational analysis of the performance of protection programmes and offices).

So both the Paris Principles and the above-mentioned assessment document make useful contributions to analysing the work of protection offices, be they part of an independent institution, the government or even non-governmental agencies. According to these documents, in order for protection offices to be effective they must display the following features:

²¹ <http://www.nhri.net/pdf/ParisPrinciples.english.pdf>

²⁶ International Council on Human Rights Policy and the Office of the United Nations High Commissioner for Human Rights: *Assessing the effectiveness of human rights institutions*. 2005.

Public legitimacy

The first criterion is whether the protection office enjoys public or popular legitimacy. To a large extent this will depend on the institution within which it is based, whether it has legal or official status, is perceived as a body that protects the rights of the defenceless against more powerful interests and whether it acts in a just manner when addressing issues within its remit.²⁷

Accessibility



The accessibility of the offices depends on:

- *Publicity regarding its work*
- *Easy contact*
- *Proximity to the most vulnerable*
- *Decentralising work through its own offices or through coordination with other institutions.*

Protection offices need to disclose what they do and be open to the public as well as to official bodies and non-governmental organisations. As such, their offices should be easily accessible and the most disadvantaged groups should be encouraged to visit them.²⁸

Decentralisation

Broadly speaking, access to the office will depend on its capacity to decentralise its operations. Locating offices and staff in various regions of the country will provide access to people who do not work in the capital city or who live in rural areas.

Local government authorities are consequently of key importance for human rights work, as pointed out in the document entitled, *“Local government and human rights: doing good service.”*²⁹ They provide citizens with access to their own rights. Public human rights bodies at local level with special provision for the protection of defenders are therefore to be highly recommended.

Decentralisation of protection work is not only important in facilitating access to the programmes. When the work is decentralised any measures taken tend to be more efficient, since proximity to the users makes for better knowledge of their circumstances, which in turn allows their needs to be met more effectively. The Peruvian Ombudsman states that, *“the effectiveness of the protection measures in each case will depend on the specific social and cultural background of the subject; [...] there are special circumstances that should be considered when assessing possible protection measures, such as the remoteness of where they live.”*³⁰

However experience shows that, on the contrary, the work of protection offices tends to be centralised, with offices only in the capital or in large cities and staff only occasionally travelling to other areas.

27 Ibid.

28 Ibid.

29 International Council on Human Rights Policy. *“Local Government and Human Rights: Doing Good Service 2006. “In this sense human rights and local governance are both essentially concerned with the provision of certain entitlements, including participation in local political processes and access to essential services.”*

30 Ombudsman of the People of Peru. Ombudsman’s report N° 112 December 2006.

This type of work is done more easily in federal states, since their structure generates the decentralisation of public offices. In Brazil for instance the national programme for the protection of human rights defenders has three offices with staff in three priority states (Pará, Espírito Santo and Pernambuco). However, when assessing the programme human rights defenders point out gaps in responsibility and conflicts of powers, caused by inadequately planned decentralisation.



Decentralisation can be:

- *Direct:*
 - *Through the different protection offices*
- *Indirect:*
 - *Through the headquarters of institutions in which they are located*
 - *Through civil society:*
 - Protection organisations working with provincial human rights defenders*
 - Rural based organisations.*

Similarly, the work of the Mexican ombudsman is not only done through the National Human Rights Commission, but also through the ombudsman offices of the federal states. However, despite the fact that the state commissions may provide the means of replicating this system, only the Federal District Commission has a Rapporteur on Freedom of Speech and Human Rights Defenders.

In both Colombia and Guatemala, although the protection offices are located in the capital cities, other

mechanisms have been developed to extend protection work to the countryside. Even in the absence of qualified personnel, Colombia has 16 people entrusted with the 16 departments handling the prevention of human rights violations, while Guatemala depends on offices of the government-run Presidential Commission on Human Rights (Comisión Presidencial de Derechos Humanos - COPREDEH) to verify cases relating to defenders or to monitor measures adopted in the region.

Decentralisation is also possible through participation in the programme for civil society organisations. In the case of Guatemala, the governmental protection office has highlighted the fact that the work of civil society has given them greater access to defenders in rural areas.³¹

Clearly, of all the proposed alternatives the best is a protection office with branches in various areas of the country, capable of dealing directly with the defenders in its care.

Open form of organisation

For institutions of this nature to be effective and able to respond adequately to the needs of the target population and identify shortcomings in their own practices, there is a need for constant communication with existing and potential clients. It is therefore important for clients and their respective organisations to feel welcome in the protection offices and confident of being taken seriously.

A major factor in improving the effectiveness of the office is its accessibility to civil society and the target population

31 Interview with Hugo Enrique Martínez Juárez. Director of the Coordination Committee for the Protection of Human Rights Defenders, Administrators, Law Enforcement Officers, Journalists and Media personnel, COPREDHE, Guatemala.

However the mistrust of many human rights defenders towards government or state institutions, the existence of tightly closed institutions and of bodies unwilling to cooperate or to exercise self-criticism has meant there have been very few cases of constant communication, analytical thinking and constructive criticism.³²

Consultations with civil society

In our area of interest, consultations with civil society and the target population of male and female human rights defenders is of special relevance in ensuring effective links between national institutions and the defenders, especially the most vulnerable. These consultations can also influence programme design and implementation in such a way that the measures are more efficient and meet the protection needs of the defenders.

Ensuring the integrity, quality and diversity of staff

The quality and efficiency of the work of these offices depends largely on the staff. As such, steps should be taken to adopt procedures to guarantee staff are selected on merit and that independent professionals are appointed.

In the interests of openness and accessibility, the office staff should reflect the social, ethnic and linguistic composition of the society it serves as well as guaranteeing gender balance.³³

Broad mandate

Article 2 of the Paris Principles³⁴ stipulates that national institutions for the protection and promotion of human rights should have as broad a mandate as possible. As we have seen, this also applies to the offices for the protection of human rights defenders. It is therefore especially important for their mandate to include not only protection but also preventive action (see paragraph below on preventive vs. reactive action). The definition of a human rights defender is also of great importance, as this will substantially influence the office's scope of action (see discussion on the definition of human rights defender above).

The effective application of the office's mandate may be restricted by budgetary or human resource issues. However, the lack of resources could be a purely cyclical matter that should not have a bearing on the definition of its mandate, as this can open up future areas of activity for a later stage.

Powers covering all sectors

It is important for the institution to have powers to include all sectors in its work, since the credibility of human rights institutions can be jeopardised if certain authorities with a potentially major impact on human rights (such as the security forces) are excluded from its remit.³⁵ For example, the Mexican National Human Rights Commission does not exclude any

32 See the International Council for the study of human rights policy and the Office of the United Nations High Commissioner for Human Rights: *Assessing the effectiveness of human rights institutions*. 2005.

33 International Council for the study of human rights policy and the Office of the United Nations High Commissioner for Human rights: *Assessing the effectiveness of Human rights institutions*. 2005.

34 United Nations Commission on Human Rights. *The Paris Principles: principles relating to the status and functions of national institutions for the protection and promotion of human rights*. March 1992. Art 2 "A national institution shall be given as broad a mandate as possible, which shall be clearly set forth in a constitutional or legislative text, specifying its composition and its sphere of competence."

35 See: International Council on Human Rights Policy and the Office of the United Nations High Commissioner for Human rights: *Assessing the effectiveness of human rights institutions*. 2005.

type of civil servant, but as already mentioned it only deals with those defenders whose rights have been violated by agents of the state, a fact that is not always easy to establish. Furthermore, attacks on defenders are perpetrated by a vast array of groups, which as with organised crime do not necessarily have formal links with the state. However, should the perpetrator be a private individual, the National Human Rights Commission cannot intervene immediately following the attack. It only does so subsequently if the state fails in fulfilling its obligations to investigate the circumstances or to protect the victim.

The approach adopted by this institution has however proved limited in the face of systematic violence against human rights defenders. As the Colombian Constitutional Court states in the above-mentioned ruling,³⁶ the violence is not committed by any particular authority as such but is rooted in structural factors³⁷ for which the state is indeed responsible.

Develop international links

The protection office can become an interface between the national system and the international and regional mechanisms protecting defenders and can even function as a coordinating and supervisory body for measures adopted at international level. However conflicts of powers may occur as this is usually a task for the Ministry of Foreign Affairs. On the other hand, the coordination or supervisory role of the protection office should not serve as a pretext to absolve other parts of the state, such as the security forces, from responsibility and from being held accountable.

Preventive vs. reactive action

One of the main complaints from civil society is that the mandate of the protection offices does not cover preventive action and even if it does, this action is not taken. In some cases such as Colombia the idea was contained in the initial programme but was promptly discarded and emphasis placed on reactive action, meaning the state could only intervene after attack had been perpetrated.

Although some legislation allows preventive action, this usually focuses on self-defence training intended merely to avoid future attacks on those who have already been victims. Budgetary constraints also mean priority is given to providing direct support and physical protection for human rights defenders who have already been attacked (and this includes threats and intimidation as well as physical violence).

Some elements of prevention which civil society considers important have been overlooked. For example, protective action following serious threats *prior* to any attack, campaigns to legitimise the defence of human rights and to forestall and penalise campaigns by civil servants to discredit defenders as well as training in protection and self defence for those at risk but who have not actually been attacked.

Human rights defenders feel that the best way to prevent violence against them is to punish the perpetrators of previous attacks, i.e. combat the impunity they enjoy. This however barely features in these programmes and where it does it has proved largely ineffectual.

³⁶ Ruling on case T-590 by the Constitutional Court of Colombia, 20th October 1998.

³⁷ See ruling SU-250 of the Constitutional Court of Colombia, 26th May 1998. Summary of the ruling of the Inter-American Court on Human Rights in the case of *Valle Jaramillo and others vs Colombia*, 27th November 2008. Note 41.

In response to this, with prevention in mind, a mechanism has been set up in Guatemala - the Committee for the Analysis of Attacks against Human Rights Defenders (see above). Its task is to develop preventive policies and provide support to ongoing investigations.³⁸ The Early Warning System (EWS) is also sign of progress and is up and running in Colombia, with attempts to set it up in Guatemala in connection with the above-mentioned committee. The objective of the EWS is to identify risks and threats to protected subjects in given regions, in the light of the social, political and cultural context.³⁹

Preventive action leads to more effective protection and indicates greater commitment by the state towards human rights defenders

However it cannot be said that the outcome of these attempts has led to major progress in preventive action.

Summing up, responding to attacks through protection is a first step but should not be the only one. It is therefore necessary to prevent the attacks while addressing their causes and the reasons they continue.

Speedy and effective handling of complaints

For a protection office to be effective, the work it does should be simple, accessible, economic (preferably free of charge) and speedy. The office itself should be efficiently run.

When human rights defenders approach national institutions, they expect the latter to be vested with the authority to address the organisations responsible for their protection – otherwise the effectiveness of the office is limited. Similarly, it is vital for the office to ensure its recommendations are implemented. For example, it should have the power to refer the outcome of its investigations to the specialist courts judging its cases, in the event that its good offices produce no results. An example of ineffectiveness raised by UDEGEGUA⁴⁰ is the case of the human rights prosecution service. Although it has supported defenders in specific cases, they only rarely get any feedback on how their complaints have been handled and say that the prosecution service is just another formality which provides neither answers nor results. Defenders' organisations in Colombia also feel that it is crucial to reduce the response time in a protection case and even ensure protection is immediately available while the defender's file is being drawn up. Similar criticism has been expressed by human rights defenders in Brazil and Mexico.

³⁸ Unidad de Protección de Defensoras y Defensores de Derechos Humanos de Guatemala (Unit for the Protection of Guatemalan Human Rights Defenders - UDEFEGUA). *Venciendo barreras* (Overcoming barriers) - Report on the situation of human rights defenders. January to December 2007.

³⁹ See list of preventive and protective measures for human rights defenders and other vulnerable groups, Hugo Enrique Martínez Juárez. Coordination Committee for the Protection of Human Rights Defenders, Administrators, Law Enforcement Officers, Journalists and Media Personnel, COPREDHE, Guatemala.

⁴⁰ See *In the Knot of Impunity* – report on the situation of human rights defenders, Jan-Dec 2008. Protection Unit for Human Rights Defenders (UDEFEGUA).

Power to monitor compliance with their recommendations

Closely linked to the above is the need for protection offices to monitor the degree to which the relevant authorities follow their advice and recommendations. Without monitoring compliance in this way there is little point having an office. Monitoring should also be a permanent exercise.

Systematic handling of human rights

As already stated, office efficiency depends largely on its host institution and the work that institution does. Protection departments should therefore be placed in institutions working with human rights which identify and address issues of general concern. They should also use appropriate methodology, such as investigations and reports on public policies.

Adequate budgetary resources

Protection offices can be ineffective due to lack of resources. State institutions should therefore ensure that they receive an adequate budget. At the same time control over the budget should be independent of the government in power to ensure the office retains its independence.

International donors often fund these offices and this can become controversial. Exactly this happened in Colombia. According to Jorge Cubides (inter-institutional coordinator of the government protection programme) the figures for 2007 show that over 75% of the budget for the human rights protection programme at the Ministry of Home Affairs and Justice came from the state budget and only a small percentage from donors.⁴¹ However human rights organisations claim that the bulk of the above programme's budget (which reached 40 million dollars in 2009) comes from international cooperation, especially from the United States Agency for International Development (USAID). Both versions are possible since international funds end up in various sections of the state budget.

For the office to earn its legitimacy, steps must be taken to ensure that the resources at its disposal – be they generous or inadequate – are used sensibly and that there is accountability.

This should include the source of the funds, which may depend to a large extent on the institution's degree of independence. For this reason as well as the above controversy it would be unwise to allow the possibility that Nepal's draft decree proposes of accepting dubious sources of finance such as 'fees' from the defenders themselves or funds from 'any other source' (*sic*).

The specific functions of a protection office

The functions to be carried out by the office will largely depend on its mandate (see above).

However the functions of a protection office should not only be analysed in the light of the Paris Principles, which spell out the powers and the working methods of national institutions for the promotion and protection of human rights. The declaration on human rights defenders should also be taken into consideration, given that its articles 2, 9, 12, 14 and 15 place obligations on states which logically speaking should in part be the responsibility of protection offices.

⁴¹ Information from our personal interviews.

Since the declaration includes the obligation to protect, promote and render effective all human rights and to guarantee their application through legislative, administrative or any other measures that may be necessary,⁴² some of these steps should be taken by the protection offices based within national human rights institutions. Under the Paris Principles, this may entail:

- Preparing reports on the national situation of defenders
- Submitting opinions, recommendations, proposals and reports on matters concerning the protection of defenders to the government, parliament and any other competent body for advisory purposes, which may be made public
- Promoting and ensuring national legislation, regulations and practices are implemented and that they comply with the international instruments relating to defenders to which the state is a party. The ratification of these international instruments or compliance with the texts and their subsequent application should also be encouraged.

The declaration also indicates that states should provide adequate resources to persons who have reported human rights violations against them and investigate the complaints in a prompt and impartial manner.⁴³ Likewise section C of the Paris Principles states that the institution should:

- Freely consider any issues falling within its competence, whether they are submitted by the government or whether it acts on its own authority following a proposal from its members or any petitioner
- Collect evidence and obtain any information and documents necessary to assess situations falling within its remit.

The Paris Principles state that should there be no response from the state, the institution shall resort to international protection mechanisms which, in the case of defenders, implies that the institution should also:

- Contribute to the reports which states are required to submit to United Nations bodies and committees or to regional defender institutions and, where necessary, submit an opinion on the subject
- Cooperate with the United Nations and other international organisations, regional institutions and institutions in other countries responsible for the right to defend human rights.

The declaration on human rights defenders calls for steps to guarantee the protection of anyone facing violence, threats, reprisals, adverse discrimination, pressure or any other arbitrary action arising from the legitimate exercise of their rights.⁴⁴ Under the Paris Principles state institutions protecting defenders shall therefore:

⁴² Article 2 of the UN Declaration on human rights defenders.

⁴³ Article 9.5 of 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.

⁴⁴ Article 12.2 of 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.

- Ensure the safety of defenders, drawing the government's attention to situations in any part of the country where the right to defend human rights is being violated. They shall propose measures to resolve them and publish opinions on the government's position and reaction.

The declaration includes an obligation to promote public understanding of civil, political, economic, social and cultural rights, and promote and facilitate the teaching of human rights at all levels of education and official professional training.⁴⁵ Under the Paris Principles the protection office should therefore:

- Publicise the work of human rights defenders by raising public awareness of the importance and legitimacy of their work.

Experience shows that these principles have not been applied in this way because in most cases the role of these offices is severely limited and basically revolves around practical action to try to guarantee the defenders' physical safety including:

- Receiving and handling requests and information on violations of the right to protect human rights
- Analysing and verifying relevant documentation and requesting further information to investigate the particular situation of the petitioner. This may involve an interview with them to collect additional information on their personal circumstances
- Coordinating enforcement of prevention and protection measures with the relevant authorities once approved
- Transmitting requests or information for which the programme is not responsible to the relevant authorities
- Providing information required by government inspection bodies and other relevant authorities
- In other cases the offices may also:
 - Ensure appropriate use and storage of devices provided for personal protection
 - Monitor the implementation of current and pending protection measures
 - When programmes involve risk assessments of defenders, as is the case in Colombia, carry out the following tasks:
 - Ask the National Police or an equivalent institution for studies on risk levels and degrees of threat for those seeking protection under the programme
 - Submit requests for protection with supporting documents to the Committee on Regulation and Risk Assessment so that relevant recommendations can be made
 - Act as technical secretariat to the committee
 - Notify beneficiaries of the committee's recommendations
 - Implement the protection measures recommended by the committee.

⁴⁵ Article 15 of 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.

Some protection offices have gone beyond risk assessment and coordinating protection measures and have for example contributed to introducing and drafting public policies on human rights defenders.

Functions of protection offices

- Freely consider any issues falling within its competence, whether they are submitted by the government or whether it acts on its own authority following a proposal from its members or any petitioner
- Collect evidence and obtain any information and documents necessary to assess situations falling within its powers
- Prepare reports on the national situation of defenders
- Submit opinions, recommendations, proposals and reports on matters concerning the protection of defenders to the government, parliament and any other competent body for advisory purposes, which may be made public
- Promote and ensure national legislation, regulations and practices are implemented and that they comply with the international instruments relating to defenders to which the state is a party. The ratification of these international instruments or compliance with the texts and their subsequent application should also be encouraged
- Contribute to the reports which states are required to submit to United Nations bodies and committees or to regional defender institutions and, where necessary, submit an opinion on the subject
- Cooperate with the United Nations and other international organisations, regional institutions and institutions in other countries responsible for the right to defend human rights
- Ensure the safety of defenders, drawing the government's attention to situations in any part of the country where the right to defend human rights is being violated. Propose measures to resolve them and publish opinions on the government's position and reaction
- Publicise the work of human rights defenders by raising public awareness of the importance and legitimacy of their work.

Commitments by the beneficiaries

In most cases, clients not only benefit from the advantages of the protection programmes but also need to make several commitments. Although many programmes have no actual rules, the Colombian programme has worked out in minute detail the duties expected of its beneficiaries:

1. Inform the state security or inspection forces of the circumstances causing them to fear for their lives, integrity, freedom and safety
2. Comply with the recommendations of the state security forces and the human rights protection programmes of the Ministry of Home Affairs and Justice

3. Not request or accept registration in any other state protection programme
4. Keep all items provided in good condition
5. Use all items provided exclusively for personal protection
6. Adhere to established procedure regarding the items provided
7. Cooperate with the state investigation, inspection and security forces when clarifying the facts behind the threats
8. Refrain from any conduct that could jeopardise their safety
9. Attend self-defence and personal safety courses
10. Give prior notification of any travel that might require inter-institutional coordination
11. Report immediately any loss, theft or damage to any item provided by the programme
12. Pay the insurance value of any item provided by the programme in the event of the need to replace it due to loss, theft or damage
13. Return all items provided for protection in good condition
14. Cooperate with the state security forces when carrying out studies on risk assessment and degree of threat
15. Safeguard personal details
16. Sign the document of commitment
17. Abide by any other commitment arising from his/her status as programme beneficiary and any recommendations from the Committee for Regulation and Risk Assessment.

In the Guatemalan programme the only written justification for withdrawing the measures is using them for means other than those originally intended.

The Nepali project requires defenders to “take due care when compiling and disseminating information linked to national security, sovereignty, indivisibility, social and religious harmony and unity” – which seems to entail commitments on the part of the human rights defender which go beyond protecting human rights.

Normally the obligations are restricted to the signing of a commitment by both parties when the measures are enforced or escorts made available. However the document does not always detail what obligations the beneficiary has taken on and as such they should be included in legislation governing protection programmes.⁴⁶

⁴⁶ Part II of this study contains a more detailed analysis of all the operational issues on protection programmes for human rights defenders.

Prototype legislation for protection offices

In conclusion and as a summary to this section, legislation that governs the establishment and work of protection offices should include the following elements:

- **Source of legislation**
 - The programmes may emanate from amendments to laws governing action taken by the state to protect other groups, or new laws may be drafted. In the first case it is important for the amendment to include specific mention of the protection of defenders
 - It is important for the laws governing the functioning and structure of the protection offices to include the participation of civil society and experts in the field (national and international)
 - Certain circumstances and periods may be useful for promoting state approval of these laws and programmes. The role of civil society is crucial for generating the necessary political will during the process.
- **Objectives of the protection offices**
 - The protection laws and mechanisms the offices set in motion need to address wider objectives beyond the physical protection of defenders. These objectives should include the quest for an environment conducive to human rights defence work which will involve:
 - The elaboration of a national plan of action for protection to address the issue from all angles and which includes different state institutions
 - The setting up of a preventive system (early warning, training, etc.)
 - The fight against impunity
 - The promotion of a human rights culture and the legitimisation of the work of human rights defenders.
- **Location of the protection offices**
 - Protection work may require bodies set up exclusively for the protection of human rights defenders
 - The offices are usually housed in institutions specialising in human rights. Offices of the ombudsman or human rights directorates attached to the Executive are the most common but there is always the possibility of mixed offices, which pool the efforts of various bodies including those from civil society.
- **Programme participants**
 - Protection work requires that a large number of institutions each with different capacities join forces. To this end, legislation should create areas where different state institutions converge. These may include:
 - The security forces and the Ministry of State
 - Security agencies specialising in protection

- Civil society
- The protected groups
- International human rights institutions
- The human rights office of the Executive
- The Ministry of Home Affairs or Justice
- The Director of Public Prosecutions (or bodies specialising in the investigation of cases of this nature, where they exist)
- The Ministry for Social Security, Social Solidarity or the equivalent
- The judiciary
- The Ministry of Health
- Inspection/audit bodies
 - ◆ Office of the Ombudsman
 - ◆ Office of the Prosecutor General
 - ◆ Treasury.
- **Other institutions involved in protection**
 - Legislation should include coordination with other institutions also involved in protection without necessarily being part of the structure such as:
 - Other security forces linked to protection work
 - Services providing rapid response to high-risk situations
 - Other investigative bodies such as the intelligence services
 - Medical care services
 - The judiciary.
- **Ensuring effective work**
 - To function effectively, legislation should ensure the offices display the following features:
 - Public legitimacy
 - Accessibility
 - Open form of organisation
 - Consultations with civil society
 - Ensuring the integrity, quality and diversity of staff
 - Broad mandate
 - Effective international links

- Speedy and effective handling of complaints
 - Powers covering all sectors
 - Power to monitor compliance with their recommendations
 - Systematic handling of human rights
 - Adequate budgetary resources, accountability.
- Functions
 - Legislation should stipulate the following functions:
 - Freely consider any issues falling within its competence, whether they are submitted by the government or whether it acts on its own authority following a proposal from its members or any petitioner
 - Collect evidence and obtain any information and documents necessary to assess situations falling within its powers
 - Prepare reports on the national situation of defenders
 - Submit opinions, recommendations, proposals and reports on matters concerning the protection of defenders to the government, parliament and any other competent body for advisory purposes, which may be made public
 - Promote and ensure national legislation, regulations and practices are implemented and that they comply with the international instruments relating to defenders to which the state is a party. The ratification of these international instruments or compliance with the texts and their subsequent application should also be encouraged
 - Contribute to the reports which states are required to submit to United Nations bodies and committees or to regional defender institutions and, where necessary, submit an opinion on the subject
 - Cooperate with the United Nations and other international organisations, regional institutions and institutions in other countries responsible for the right to defend human rights
 - Ensure the safety of defenders, drawing the government's attention to situations in any part of the country where the right to defend human rights is being violated. Propose measures to resolve them and publish opinions on the government's position and reaction
 - Publicise the work of human rights defenders by raising public awareness of the importance and legitimacy of their work.
 - The commitments of the beneficiaries
 - Legislation should include a clear statement of the commitments that beneficiaries enter into on accepting the protection measures
 - Commitments that go beyond those directly relevant to the protection of the rights of human rights defenders should be avoided.

Some final reflections on Part I

Finally at the end of Part I we offer some thoughts we hope will encourage an open dialogue in Focus,⁴⁷ the observatory on national policies, or in direct correspondence with interested human rights defenders:

- ✓ Although the UN declaration on human rights defenders was adopted in 1998, there is little experience of the introduction of national laws and authorities for the protection of human rights defenders. The overwhelming majority of defenders are to be found in Latin America. If we were to venture an explanation, we would probably say that this is due to the pressure exerted by a powerful civil society with high expectations of human rights as well as the existence of a structured regional human rights system. Perhaps this combination has enabled national governments to generate the necessary political will for this to be the case.
- ✓ In all the cases studied there is much room for improvement in the protection programmes. Some have already accumulated valuable experience and we hope that this study contributes towards that.
- ✓ It is probably fair to say that none of the cases studied have moved from a tactical level of protection (provision of protective measures alone) to a more strategic level of protection (prevention of attacks instead of reactive measures, investigation and trial of the perpetrators of attacks against defenders, institutionalisation of a democratic human rights culture, etc) despite the fact defenders' organisations are constantly calling for this and are willing to cooperate in achieving it.
- ✓ As we said in the introduction to this part, the challenge is still what it has always been: how do we recognise and make more effective the responsibility of the state for providing human rights defenders with protection and for the fight against impunity? With this in mind, beyond assessing the immediate results of the national protection programmes, we should assess civil society's ability to trigger an appropriate response from the state. Of course the creation of a protection programme is part of the answer, but probably not all of it.
- ✓ The increasing flow of information on the involvement of Colombia's Administrative Security Department in a "dirty war" against human rights defenders is a direct attack on the Colombian protection programme. At the time of writing we do not know what the final consequences of this will be, given that this is the largest programme with the most resources of all our case studies.
- ✓ The devil may lie in the detail, but nonetheless the next part of this study will include an in-depth analysis of the operational aspects of the protection services provided to human rights defenders, i.e. the day-to-day work of the programmes.

⁴⁷ See: <http://www.protectionline.org/>