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Introduction

In recent years several governments have developed specific national mechanisms to protect defenders, all of them in countries seriously lacking in protection for human rights defenders. These mechanisms (laws, action policies, offices) have been established under pressure from (and with the cooperation of) national and international human rights organisations, with essential legal support from the UN Declaration on Human Rights Defenders.

At Protection International, this development has led us to study these national initiatives: what are they and what do they consist of? How did they come about, how do they work and what is their impact on the protection of defenders? We set up a study group (made up of protection lawyers and experts) and carried out a large number of interviews with men and women defenders as well as government officials in 16 countries on three continents.¹ We also embarked on a process of compiling and analysing legal enforcement instruments at the national level (while examining existing universal and regional ones). During the study we only found national non-governmental initiatives of this type in Brazil, Colombia, Guatemala, Mexico and Peru (Central and South America), in Uganda and the Democratic Republic of Congo (Africa) and Nepal (Asia). While there may be several organizations working on protection-related matters and making important contributions, only Guatemala (UDEFGUA²), Uganda (EHAHRDP³) and Colombia (Somos Defensores Programme⁴) have three defender units specifically set up by civil society. They are pioneers in the field and together with the Protection Desks established by PI⁵ and supporting organizations (such as Peace Brigades International), are among those civil society groups whose sole mission is the protection of defenders on the ground.

Given the vast and complex nature of the results of the survey we decided to compile them in two parts under the general title, “Protection of human rights defenders: best practices and lessons learnt”. Part I is subtitled, “Legislation, national policies and defenders’ units”, and in it we analyse the legislative and structural aspects of these protection initiatives. Part II, “Protection Programmes for Defenders”, analyses the practical aspects of protection programmes: the measures they include, how they are structured, and their results. Part II focuses on the three countries whose protection programmes were examined, namely Brazil, Guatemala and Colombia.⁶

1 Africa (Uganda, Kenya, Democratic Republic of Congo), Central and South America (Brazil, Colombia, Costa Rica, Guatemala, Mexico, Peru), Asia (Indonesia, Nepal, Thailand) and Europe (Belgium, France, United Kingdom, Switzerland). These interviews were done by PI’s Protection Desk network in cooperation with national counterparts, and by a team researching the subject.

2 Unidad de Defensores y Defensoras de Guatemala <http://www.udefegua.org/>

3 East and Horn of Africa Human Rights Defenders Project <http://www.defenddefenders.org>

4 Somos Defensores programme <http://www.somosdefensores.org>

5 The Protection desks already established or in the pipeline are: Colombia (counterpart: Pensamiento y Acción Social), Guatemala (counterpart: UDEFEGUA), Nepal, Thailand, Democratic Republic of Congo, Uganda (counterpart: EHAHRDP), Turkey.

6 In Colombia, the recent Decree 1740 of 2010 defines the parameters of two programmes: the Human Rights Protection Programme of the Ministry of the Interior and Justice, and the National Police Protection Programme. This book concentrates principally on the Ministry’s programme because the Police programme concentrates principally on public figures and high ranking state and government officials.

As you will see in Part I, Defenders' Units (whether governmental or non-governmental) work in different ways to provide protection for defenders, employing different perspectives and objectives and with different budgetary availability; the units operate, also, in very varied organisational frameworks or coordinations. However, they all have in common that their work is carried out under the aegis of article 18 of the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, which indicates that:

1. Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.
2. Individuals, groups, institutions and non-governmental organizations have an important role to play and a responsibility in safeguarding democracy, promoting human rights and fundamental freedoms and contributing to the promotion and advancement of democratic societies, institutions and processes.
3. [By analogy] Individuals, groups, institutions and non-governmental organizations also have an important role and a responsibility in contributing, as appropriate, to the promotion of the right of everyone to a social and international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights and other human rights instruments can be fully realized.

Although the Defenders' Units are all different, Part II uses a focus that maintains a broad overview that may be applied to any of the varieties of Unit that exist, organising the analysis around their principal objective, that of providing protection. Having examined the work of the different Units we believe that this mixed approach makes it easier to focus on the question of protection. We also highlight, whenever necessary, the differences that may be observed between them. In order to simplify the text we refer always to "protection programmes" or simply "programmes". More detail is available in the annexes where the relevant texts are reproduced.

Clarification

The background to this debate needs to be addressed first. The issue that was repeatedly raised in the interviews we conducted in all these countries, as well as in documentation from international organisations,⁷ was whether it is necessary for the state to create mechanisms (laws, policies, offices) specifically for the protection of defenders or if it is better to ensure the institutions (the legal system and security forces) fulfil their obligation to guarantee protection for this group.

It is an important debate because the *ad hoc* mechanisms at the disposal of human rights defenders generally have few enforcement powers both legally speaking – secondary legislation – and practically, since these bodies lack the necessary resources and can neither launch an investigation nor wield any political power to ensure adequate protection for defenders.

Firstly, it is a fact that existing national instruments were only created in the wake of strong pressure by national (and occasionally international) defenders' organizations – which implies that there is a will to do so by large groups of defenders. However, the detractors opposed to

⁷ For example, 'For more effective protection in favour of human rights defenders in Africa – Strategy Note' - by the International Observatory for the Protection of Defenders (2009).

ad hoc instruments claim they are merely a formal response to this national and international pressure and are mainly used to ease it by displaying responses with no real impact while those attacking human rights defenders continue to act with equal or even increasing impunity. The other problem is that at times these instruments generate new bureaucratic barriers that make it more difficult for NGOs to carry out investigations or prosecute those acting against human rights defenders. It has also been suggested that the funding they get could have been used to improve the response by state institutions (e.g. the police and the judiciary).

On the other hand, those in favour of these bodies acknowledge the serious problems involved but feel they can open the door to enhancing protection - either by facilitating access to places that are traditionally off-limits such as inside the security forces, or by providing immediate support (such as relocation funds, means of communication or escorts) which can address serious protection gaps, at least in the short run. They claim that conscious use can be made of what these bodies have to offer while bearing in mind that it is the entire state apparatus (and not just one office) that is responsible for protection. The onus is above all on the Executive and the Judiciary to take the necessary steps to ensure proper protection for human rights defenders.

In the few countries with existing protection mechanisms of this nature the protection status of human rights defenders is nonetheless precarious within a national context characterized by extreme violations of human rights. We did not find any formal, far-reaching assessment suggesting the existence of instruments and *ad hoc* offices for the protection of human rights defenders has had any impact on the lack of security experienced by defenders. Although it is certainly very difficult to make any such assessment, the defenders interviewed tended to use this kind of *ad hoc* support in full knowledge of its limitations and problems.

Our job as an international NGO is to serve human rights defenders and we adopt a critical approach to state instruments and offices intended to offer protection to human rights defenders, without losing sight of the shared responsibility and duty of all its institutions, starting with the government. This is the reason for this study. In our view there is a need to better understand all the initiatives that have been taken in the world to this end and to show what the defenders think constitutes good practice and what we can learn. In our opinion this is a task for the medium term and we have therefore set up **Focus**, a global observatory for national policies and structures to protect human rights defenders. See <http://focus.protectionline.org/-Focus-> for regular updates on its progress. We are confident that in making these proposals to the international community of defenders we are taking a step in the right direction. New improved practices will give people, who on a daily basis are determined to defend human rights despite tremendous obstacles, the protection they need and deserve.

Additional notes: quotes, gender and defenders.

Save for a few exceptions, we have generally disassociated the content from the persons interviewed. We decided to do so from the start in order to allow for the frank exchange of ideas in the interviews. The latter are in the safekeeping of PI and form the basis of this report.

In this book the authors refer throughout to Defenders; this term should be taken to include women and men. In the Spanish version of the text the authors used the terms *defensora* and *defensor* interchangeably in specific response, as they put it, to the fact that “the adequate use of grammatical gender to reflect the participation of women is a question that remains unresolved in Spanish” and in the hope that “this tactic will make the work of women Human Rights defenders visible”...