

[From restriction to protection: Report on ensuring a safe and enabling legal environment for human rights defenders](#)

20.11.2014

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[Read the report *From Restriction to protection*.](#)

[Lire le rapport *De la restriction à la protection* en français.](#)

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(Geneva) – All States should develop and implement specific laws on the protection of human rights defenders and conduct a comprehensive legislative audit to repeal laws which criminalise their work, according to a [major new report](#) released by the International Service for Human Rights today.

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The report, which examines the operation of laws affecting human rights defenders across 40 jurisdictions covering all regions, found that while there is a proliferation of laws which unduly restrict or criminalise the work of human rights defenders, there are also increasing examples of good practice, although only a very small number of States have taken the step of incorporating the Declaration on Human Rights Defenders into national law. The report is also available in [Spanish](#).

'It is regrettable that despite repeated calls by international and regional human rights experts, to date only Colombia, Côte d'Ivoire and Mexico have enacted specific laws on the protection of human rights defenders. We call on those States to ensure effective implementation of these laws and for other States to follow their lead,' said ISHR Director and report author Phil Lynch.

The report notes that, in the course of the Universal Periodic Review, almost twenty States, the vast majority of them from the European Union, have recommended to other States to enact a human rights defender law without adopting such laws themselves.

'States such as Ireland, Norway and Switzerland should ensure that the leadership they show on the protection of human rights defenders abroad is reflected in their national laws,' Mr Lynch said.

According to the report, 'specific laws on human rights defenders could assist not only to provide formal legal protection to their work, but also to give official recognition to the legitimacy of such work, educate law enforcement officers, public officials and the public at large about the importance of defenders and the protection thereof, and be a source of support and inspiration to defenders themselves both inside and outside the country concerned.'

In addition to providing guidance as to the consultative process for developing a human rights defender law, the report also advises as to the key provisions of such a law, recommending that it:

- enshrine the rights of defenders and the obligations of the State to promote, protect and respect those rights;
- mandate and ensure the adequate resourcing of programs and mechanisms to promote the importance and legitimacy of human rights defenders' work, and to protect human rights defenders and their families and associates who may be at risk, whether from State or non-State actors;
- oblige the State to investigate and pursue accountability for any violations of the rights of defenders, their families and associates; and
- provide for access to effective remedy for victims.

The law should also include provisions to:

- mandate research and analysis on threats and attacks against human rights defenders with a view to identifying underlying and causative factors and making recommendations aimed at prevention and the promotion of an enabling environment; and
- ensure that the law itself is systematically evaluated, including through consultation with human rights defenders, with a view to identifying the amendments or other measures that may be necessary to ensure its effectiveness.

'Through this report, we join the current and former UN Special Rapporteur on Human Rights Defenders, the African Commission on Human and Peoples' Rights, the Inter-American Commission on Human Rights, and human rights defenders from around the world in urging States to incorporate the international Declaration on Human Rights Defenders into national law,' Mr Lynch said.

In addition to recommending and giving guidance as to the development and enactment of a specific human rights defender law, the report also contains 25 concrete recommendations to States to give legal force and effect to the Declaration on Human Rights Defenders through legislative provisions in other areas, ranging from penal codes to tax law.

In this regard, and despite the low level of direct implementation of the Declaration, the report found good practice examples of implementation of aspects of the Declaration in many regions and countries:

- In the United Kingdom, the *Charities Act of 2011* specifically recognises that work to advance human rights is of public benefit and confers tax advantages and concessions on organisations undertaking such work.
- In Colombia, the *Criminal Code* increases the penalties for various offences – from threats to disappearances – where those offences are perpetrated against human rights defenders.
- In Uganda, the recently enacted *Prevention and Prohibition of Torture Act* imposes a legal responsibility on the State to protect any person alleging or giving evidence in relation to torture from any form of ill-treatment or intimidation. The Philippines' *Anti-Enforced or Involuntary Disappearances Act* imposes similar duties on the State to protect human rights defenders working on cases of enforced disappearance.
- In Sierra Leone, the *Right to Access Information Act of 2013* provides an enhanced right to access information, from both public and private bodies, where that information pertains to human rights. It also reduces the period within which information must be produced when it concerns the life or liberty of a person.
- In India, the National Human Rights Commission has established a dedicated Human Rights Defender Focal Point, providing advice and support to defenders at risk.
- In Australia and Canada, anti-discrimination laws provide explicit protection in relation to intimidation and reprisals against those who submit discrimination complaints.

The report also found that while examples of good practice can be found in most regions and many States, examples of laws which restrict or criminalise the work of human rights defenders in a manner that is incompatible with international human rights law can be found in *all* regions and in *all* States. Such laws range from counter-terrorism laws in Australia and Ethiopia, to NGO laws in China and Kenya, to public assembly laws in Egypt and Myanmar, to laws regulating journalists and freedom of expression in Italy and Russia. The report includes a checklist to assist States to identify and reform such laws.

'A conducive legal environment that protects and enables the work of human rights defenders, and which does not unduly restrict or criminalise such work, is vital for democracy, development and the rule of law,' ISHR's Phil Lynch said.

The report was prepared with the pro bono support of five of the world's leading law firms - Allens, Debevoise & Plimpton, DLA Piper, Reed Smith and Simmons & Simmons - with the findings and recommendations underpinned by over 2,500 pages of professional legal research. The governments of Ireland and Liechtenstein provided financial assistance for publication of the report.

The report was launched at an event at the Palais des Nations in Geneva with Sir Nicolas Bratza (former President of the European Court of Human Rights), Reine Alapini-Gansou (Commissioner with the African Commission on Human and Peoples' Rights) and Maryam Al-Khawaja (Co-Director of the Gulf Center for Human Rights).

The event also involved the launch of a [high-level legal advice](#) prepared by Sir Nicolas Bratza, together with Professor Egbert Myjer and leading international law firm Freshfields, on the legal obligations of the Human Rights Council, its President, Bureau and Member States to protect against and promote accountability for intimidation and reprisals against human rights defenders and others who cooperate or seek to cooperate with the Council and its mechanisms.

Este informe también existe en español, [aquí](#).

Ce rapport existe en français [ici](#).

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