



4 POLICE AND HUMAN RIGHTS DEFENDERS

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Cover photo:

Amnesty International Korea holding a one-person protest with a set of prison bars and a picket sign in front of the Turkish Embassy in Seoul (South Korea), 2018. © Amnesty Korea

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“In just 20 years, the world that witnessed the signing of the Declaration on Human Rights Defenders has undergone significant changes. Nevertheless, the hopes raised by that Declaration remain alive. The same is true of the legitimate aspirations of millions of people: to live in a society that is freer, more just, more egalitarian, and where every person is able to enjoy their human rights. Those who are fighting for this to become a reality should be recognized as the heroes of our time.”

United Nations General Assembly, Report of the Special Rapporteur on the situation of human rights defenders, A/HRC/34/52 (23 January 2017), para. 80.

Foreword

Across the world, more and more human rights defenders focus on policing related issues or come into contact with police while carrying out their human rights activities. In particular, human rights defenders increasingly engage in monitoring the work of police with a view to strive for greater respect of human rights of those who are affected by police actions. However, policing is a complex topic and working within its context without good level of knowledge and understanding of how police operate bears risks, both to the credibility of the defender and the effectiveness of their work as well as their safety and the safety of those whose rights they are seeking to promote and protect.

This paper aims to serve as a compact capacity building tool for human rights defenders who are new to, or have limited experience in, working in the context of policing. To that end, it provides an overview of different elements to consider when encountering the police, taking into account not only the human rights perspective but also the police perspective. It highlights where to exercise caution to avoid or mitigate risks for themselves or others, as well as how to effectively address human rights problems in relation to policing. For human rights organisations providing training to defenders on how to work on policing issues, this paper may also provide helpful guidance on elements to include in their training sessions. Even very experienced human rights defenders may find some new or interesting elements in this paper.

However, due to the complexity of the topic and the immense differences between countries and the circumstances human rights defenders are working in, the elements outlined in this paper do not represent an exhaustive list of what needs to be considered when coming into contact with police. Neither does this paper aim to serve as a security manual for defenders to protect themselves against police.

Introduction

“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.”

Art. 1 UN Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms [hereafter: UN Declaration on Human Rights Defenders]

Striving for protection and realisation of human rights is an essential element to ensure that indeed, all human beings can effectively enjoy the human rights recognised and set out in the Universal Declaration of Human Rights as well as numerous other international and regional human rights treaties and instruments. This has in recent years led to increased attention to, and recognition of, the work of human rights defenders and their important role in seeking the realisation and protection of human rights all over the world.

In line with the UN Declaration on Human Rights Defenders and the elaboration provided in the UN Fact Sheet on Human Rights Defenders¹ Amnesty International defines human rights defenders as follows:

The term human rights defender refers to anyone working for the promotion and protection of human rights, provided that they do not resort to or advocate hatred, discrimination or violence, deny the universality of human rights (all human rights for all) or take action that seeks to undermine the human rights of others. It includes professional as well as non-professional human rights workers, volunteers, journalists, lawyers and anyone else carrying out, even on an occasional basis, an activity to promote and protect human rights.



Health workers display their painted bodies which read 'Defend Civil Liberties' while shouting anti-government slogans during a protest in front of the Philippine General Hospital (PGH) in Manila March 28, 2006. © REUTERS/Romeo Ranoco

1 Office of the UN High Commissioner for Human Rights (OHCHR), Factsheet No. 29: Human Rights Defenders: Protecting the Right to Defend Human Rights (2004).

The issues that human rights defenders focus on, the means they utilise, and the circumstances they work in certainly vary considerably from one country and context to another. Yet, in carrying out their activities, the work of human rights defenders often intersects with the work of law enforcement officials.² Depending on the topic they are working on, the points of contact with law enforcement agencies will differ: In some cases, police might be the perpetrators of human rights violations, for example by actively discriminating against certain groups, using excessive force or even committing torture or extrajudicial executions. In other contexts, police might not be responsible for the human rights violations as such, but can play a crucial role in implementing the state's obligation of due diligence to protect human rights. Especially by taking practical measures, for example measures to counter certain crimes or to protect victims, they can address the problem and contribute to solutions. Human rights defenders in such cases might point police to problems and shortcomings, and act as intermediaries between the people whose human rights they are seeking to promote and protect and the police.

Even if the topic human rights defenders are working on is not directly related to actions of the police, they might come into contact with police as part of their daily work, for example during public assemblies or if they require protection. In some cases, the police might even pose a hindrance or threat to human rights defenders, for example by means of surveillance or intimidation, or by repressing their work through arrests or even carrying out attacks against them.

Regardless of the circumstances in which law enforcement officials and human rights defenders come into contact with each other, it is important for defenders to gain an understanding of whom they are dealing with in order to assess if, and how, problems can be addressed.

- Defenders need to thus familiarise themselves with the powers, obligations and procedures of the police. They need to develop a knowledge and understanding of how the police operate, including whether police are obliged by law to act in a certain way or whether and to what extent police have discretion as to how they carry out their work.
- Human rights defenders need to be acquainted with the structure of the law enforcement agency as well as the general way of thinking of police officers, including prevailing prejudices.
- When talking about police actions, either in public communications or in direct dialogue with police, defenders further need to carefully consider how to phrase their criticism and the calls they make. It is the role of human rights defenders to point out failures and shortcomings with regard to human rights compliance and defenders should by no means censor themselves when it comes to being critical. However, statements that are factually and legally accurate and consider the reality and challenges of the police profession will be more likely to at least be considered by police.
- Especially if the relationship with police is problematic, human rights defenders need to further consider the risks involved in approaching police directly – risks for their work, as well as in relation to their personal security. Considering these elements will enable them to take a conscious decision on the risks they are willing to take and / or to identify possible ways to circumvent or mitigate such risks.

This paper will look at the elements outlined above for the different situations in which human rights defenders might come into contact with police. After a brief outline of the international standards relating to the rights of human rights defenders in section 2, sections 3 to 5 will look at the different roles police can play vis-à-vis human rights defenders: As police fulfilling their day to day law enforcement duties; as violators of human rights; and as protectors of human rights defenders at risk. Section 6 focuses on the opportunities and challenges in engaging in constructive dialogue with police. Section 7 will present some final remarks and recommendations.

² The term law enforcement official includes any security forces, including military forces, who exercise police powers, especially the power of arrest and detention (cf. Art. 1, commentary a) and b) of the Code of Conduct for Law enforcement Officials). For reasons of readability, as an alternative, the term 'police' is also used, still in the broader sense to include other law enforcement personnel exercising police powers.

International standards

Since 1998, a number of instruments and legal documents were adopted at the universal and regional level that seek to promote, facilitate and protect the work of human rights defenders while at the same time placing a range of obligations on state authorities, including the police.

At universal level, the core document is the UN Declaration on Human Rights Defenders adopted by the UN General Assembly on 9 December 1998 (A/RES/53/144). It sets out a number of obligations of the state which can be grouped as follows:

1. **States should create an enabling environment in which human rights defenders can effectively pursue their endeavour for the protection and realisation of human rights.** This includes the possibility to meet, assemble and associate freely (Art. 5), to access and disseminate information (Art. 6), to participate in public debate and other processes related to human rights (Art. 6(c), 7, 8, 9(3a, b)), to offer and provide professionally qualified legal assistance (Art. 9(3c)), to interact with international bodies without hindrance (Art. 9(4)), and to access resources necessary for the promotion and protection of human rights (Art. 13). Furthermore, states are required to promote the understanding of human rights and fundamental freedoms (Art. 14, 15).
2. **There should be no undue interference with the work of human rights defenders.** Any limitation must be based on provisions established in domestic law, comply with the state's international obligations and be solely for the purpose of ensuring the rights of others and meeting justifiable requirements of public order and public welfare (Art. 17).
3. **Human rights defenders must have an effective opportunity to complain** and seek redress for any violation of their rights, including any unlawful interference with their work (Art. 9(1, 5)).
4. Whenever needed, **state authorities must provide effective protection for human rights defenders** against any violation of their rights (Art. 9(1)), as well as against threats, violence, and retaliation arising from their activities as human rights defenders (Art. 12).



Uganda's Margaret Sekaggya (4th L), United Nations Special Rapporteur on Human Rights Defenders, speaks during a meeting with members of civil societies in Srinagar (India), January 19, 2011. © REUTERS/Fayaz Kabli

At the regional level, a range of documents have been adopted in support of the UN Declaration, further emphasising the need to facilitate, promote and protect the work of human rights defenders. These include the General Assembly Resolution on Human Rights Defenders by the Organization of American States (OAS), the European Union Guidelines on Human Rights Defenders, the Council of Europe Declaration of the Committee of Ministers on Human Rights Defenders, and the African Commission Resolution on the Protection of African Human Rights Defenders.

At the national level, a number of countries have in recent years adopted domestic legislation that defines, regulates and aims to protect the work of human rights defenders. The extent to which these laws reflect the international standards however varies and so does the level of effective implementation.³

Law enforcement agencies play an important role in the implementation of the principles and recommendations set out in these documents:

- They should facilitate the work of human rights defenders, for example through the provision of relevant information, by facilitating public assemblies, or by directly discussing human rights issues with them.
- They should not unduly interfere with the work of human rights defenders, for example through surveillance measures, intimidation, harassment or unlawful acts such as arbitrary arrests.
- They must actively and effectively protect human rights defenders against threats, violence or other violations of their rights by others.

How these obligations are realised in practice, however, depends on the domestic context, including domestic legislation and the general security set-up in the country. Human rights defenders thus not only need to be familiar with the international standards but also need to pay due consideration to how human rights are implemented in national law, policy and practice, in order to be able to carry out their human rights work in a meaningful, effective and secure manner.

³ For a detailed analysis of national laws and policies on the protection of human rights defenders, see Protection International, Focus Report: Public policies for the protection of human rights defenders (2017), <https://www.protectioninternational.org/en/node/1537>

Human rights defenders and police enforcing the law

3.1. Introduction

Regardless of whether or not their human rights work directly relates to policing, human rights defenders may come into contact with police officers carrying out their law enforcement duties. Such encounters do not necessarily have to be a negative experience. When organising or participating in assemblies, for example, police may facilitate the event or protect defenders against counter demonstrations, hence adding to the safety of the human rights defenders and protecting their right to freedom of peaceful assembly.

Often, however, human rights defenders will find police interfering with, rather than facilitating, their work. Human rights defenders may find themselves being (arbitrarily) arrested, subjected to (excessive) police surveillance, or becoming subject to criminal investigations against themselves or as witnesses in investigations against the people whose human rights they are seeking to promote and protect.

It further has to be acknowledged that in many countries, domestic legislation becomes more and more restrictive with regard to the work of human rights defenders, placing their activities, and to an extent the defenders themselves, outside the law. Some examples are:⁴

- Laws that restrict the right to peaceful assembly, using notification requirements as de facto authorisation requirements, and criminalising those who attend unauthorised assemblies.
- Laws that introduce registration requirements for NGOs including conditions that are difficult or impossible to meet, or that are used to suppress organisations that represent a view not supported by the state, and – similarly – criminalising those who are considered to be part of an “illegal organisation”.
- Laws that limit freedom of expression, for example by enabling government censorship.
- Laws make criticism or insult of the government a criminal offence.
- Laws that criminalise the defence of certain rights, such as the rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) people.

While such laws might be in themselves in contradiction to international human rights standards, law enforcement officials have to enforce domestic legislation and are thus often the ones who have to intervene if human rights defenders act in breach of domestic law.

Regardless of the domestic framework they are working in, it is crucial for human rights defenders to have an understanding of the legal and operational framework of the police. This includes familiarity with the obligations that national law imposes on them as well as the level of discretion they have and how they use their discretion. This will help human rights defenders to assess what they can expect from police and to communicate effectively, to avoid or at least mitigate the negative effects of encounters with the police as well as to have a positive impact on police behaviour where appropriate and feasible.

4 For examples, see International Service for Human Rights, From restriction to protection: Research report on the legal environment for human rights defenders and the need for national laws to protect and promote their work (2014), Chapter 5. For more examples from the Americas, see also IACHR, Criminalization of Human Rights Defenders (2015), <http://www.oas.org/en/iachr/reports/pdfs/criminalization2016.pdf>

3.2. Knowing the legal framework

As their job title indicates, law enforcement officials are supposed to enforce the law and it is important to know what obligations the law imposes on them. As long as human rights defenders abide by the law, police will not have a (lawful) reason to interfere with their activities or intervene against them. Accordingly, as a general rule and as far as possible, it will be in the interest of human rights defenders to avoid breaching domestic legislation when carrying out their work. This requires a good understanding of the laws that directly or indirectly impact them and their work as well as the legal framework governing police actions.



Community police officers warn anti-government protesters to leave a roundabout on the main highway of Budaiya, west of Manama, March 26, 2012. © REUTERS/Hamad I Mohammed

There are multiple “**Know your rights**” guides available online which contain country-specific (or sometimes region-specific) information that can help defenders to get a quick and easy overview of the laws they are bound by and what behaviour is and is not allowed.⁵ If such guidance is not available for a given country or situation, human rights defenders or their organisations might want to consider developing such materials for reference for their fellow human rights defenders.

A common situation in which this can be helpful is during **assemblies**. When organising assemblies, human rights defenders need to, as far as possible, stick to domestic rules on, for example, notification periods, so as not to give police a reason to disperse the assembly as unlawful on mere administrative grounds. Participants in an assembly also need to be familiar with the specific rules governing assemblies and be aware what behaviour is and is not allowed within the domestic framework.

5 See for example for Chapter Four Uganda, A simplified guide to freedom of expression and assembly in Uganda: What you need to know about your expression and assembly freedoms (n.d.), http://chapterfouruganda.com/sites/default/files/downloads/What-You-Need-To-Know-About-Your-Expression-and-Assembly-Freedoms_0.pdf

The leaflet “Know your rights: What to do if your rights are violated at a demonstration or protest” by the American Civil Liberties Union (ACLU) of Indiana, for example, explains among other things what kind of free speech activities are permitted with or without a permit respectively, how to behave when coming into contact with police, and how to complain if your rights have been violated.⁶

Knowledge and the ability to apply international human rights law and policing standards in relation to public assemblies should also help to assess police behaviour and when possible to call on police to respect them: In the policing of assemblies, law enforcement officials should facilitate the holding of assemblies and this includes if assemblies are considered unlawful under domestic legislation; they should seek to solve problems through communication, de-escalation and peaceful settlement of conflicts, and they should distinguish between participants who are engaged in violent acts and those who are not and who keep their right to freedom of peaceful assembly despite the violent behaviour of others. In that regard a range of means and methods have been developed by law enforcement agencies around the world to ensure that assemblies take place without problems including in situations of political or other tensions.⁷ When organising or observing assemblies, these examples may help human rights defenders in analysing to what extent police are complying with their responsibilities under international human rights law and standards and help them in discussing problems (as well as possible solutions) with police.



A protester uses a mobile device to take a video of an anti-government protest in Manama (Bahrain), December 17, 2012.
© REUTERS/Hamad I Mohammed

Defenders attending assemblies as monitors furthermore need to inform themselves which monitoring activities are permissible and to what extent police are allowed to (lawfully) interfere with their activities. For example,

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- 6 <http://www.glaclu.org/wp-content/uploads/2017/02/KNOW-YOUR-RIGHTS-Protesters.pdf>; for another example see Canadian Civil Liberties Association, Know your Rights Guide to Protestng (n.d.), <https://ccla.org/cclanewsites/wp-content/uploads/2017/10/Know-Your-Rights-Guide-to-Protesting.pdf>
- 7 A selection of good policing practices from a large variety of countries can be found for instance in: Amnesty International (Dutch section), Policing assemblies, Short paper series No. 1 (2013); the United Nations General Assembly, Joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies, A/HRC/31/66 (4 February 2016) and the OSCE/ODIHR Human Rights Handbook on Policing Assemblies (2016) provide an in-depth description of a human rights compliant policing approach to assemblies; the OSCE/ODIHR Guidelines on Freedom of Peaceful Assemblies (2nd edition 2010) present the international human rights rules and standards to be respected in order to ensure the full enjoyment of the right to freedom of peaceful assembly, that have received widespread acceptance even beyond the OSCE members states.

international human rights law generally allows the filming of police, and police should not interfere in such activities – in particular, but not limited to, those who are not participating in the assembly but are present in order to monitor the event and how it is policed. The role of monitors should be respected and facilitated by police⁸ and human rights defenders might call upon the police to fulfil their responsibility in that regard. However, domestic legislation might impose restrictions on the way how monitoring is carried out. In the USA, for instance, capturing video is generally allowed; however, the rules on recording audio of police carrying out their duties vary between states.⁹ In Spain, it is often assumed that it is not allowed to film the police at all. The Citizen Security Law, however, does not forbid the filming of police as such but prohibits the unauthorised use of images that may endanger the safety of the officers or their families, or risk the success of the police operation. Human rights defenders who are aware of the specifics of such regulations will be in a stronger position to discuss the matter with police when being told to stop filming¹⁰, and where the domestic legal framework is not in obvious contradiction also refer to the rights granted to them under international human rights standards.

The “Guia Como Filmar a Violência Policial em Protestos” (Guide to Filming Police Violence during Protests) by the NGO Article 19 serves as a reference for human rights defenders recording the police during assemblies in Brazil. Besides offering advice on how to film in order for the material to be most effective, the guide also answers a number of questions about what is allowed, with reference to the applicable legal provisions. It further provides advice on how to react when confronted with unlawful police orders. When prompted to stop filming or to delete a recording, for example, the guide suggests that informing the police officer that the images are being streamed can help to prevent unlawful conduct.¹¹



Police officers detain protesters who tied themselves with long chains to their feet and wore prison uniforms on a police truck during a protest in front of the Cambodia National Assembly in Phnom Penh, July 26, 2015. © REUTERS/Samrang Pring

Human rights defenders might find themselves in a situation of being **arrested** and potentially **detained** by police, either in the course of an assembly or in the course of their work in general. International human rights law and standards provide for a range of safeguards and rules police are obliged to respect in this situation: Among others, they define a number of rights during arrest and detention, such as to be informed of the reason for the arrest, the right to legal counsel (also during police questioning) and the right to not incriminate oneself which

- 8 See for more details on this in the United Nations General Assembly, Joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies, A/HRC/31/66 (4 February 2016), para. 68-72.
- 9 Electronic Frontier Foundation: Want to Record The Cops? Know Your Rights (2015), <https://www.eff.org/deeplinks/2015/04/want-record-cops-know-your-rights>
- 10 Ley Orgánica 4/2015, de 30 de marzo, de protección de la seguridad ciudadana (2015), Art. 36.23, <https://www.boe.es/buscar/pdf/2015/BOE-A-2015-3442-consolidado.pdf>
- 11 Advogados Ativistas, Artigo 19 and WITNESS, Guia como filmar a violencia policial em protestos (2014), <http://artigo19.org/wp-content/uploads/2014/06/GUIA-WITNESS-R02-web.pdf>

includes the right to remain silent.¹² Defenders need to know whether and how these rights are translated into domestic legislation, to be able to claim their rights in that situation. This includes knowing what conduct might justify a (legitimate) arrest in national law (as distinct from arbitrary arrest) as well as what rights they have during an arrest according to the domestic legislation.



The “Know your rights when confronted by police” leaflet by the National Human Rights Society Hakam explains a person’s rights when stopped, questioned or arrested by police in Malaysia. The leaflet addresses among other things the police’s duty to identify themselves when not in uniform and explains the rights one has during arrest and detention. It also provides advice on how to behave and what information to disclose during police questioning, and explains the different types of body searches police are allowed to conduct without or upon arrest, and who (e.g. officer of the rank of inspector, medical officer) is authorised to conduct what type of search.¹³

“Know your rights when confronted by police” leaflet by the National Human Rights Society Hakam, 2016. Screenshot taken in May 2018.

Human rights defenders might become involved in **police investigations**. These could be investigations against themselves or their organisation in the context of their work, or investigations targeting those whose human rights they are seeking to promote and protect. In that context, it is important for human rights defenders to know what police are (legitimately) allowed to ask and to access and which information they have to disclose, for example during searches of their person or office.¹⁴

If cases result in or are connected to **judicial proceedings** defenders might be obliged to testify and **disclose their sources**. It is thus crucial for human rights defenders to know the level of legal protection that applies to them in their respective country: At international level, there is increasing support for according to human rights defenders the same type of legal privilege as journalists with regard to protection of sources, although in most countries, this is not reflected in domestic legislation. Some exceptions can however be found for example in the recently adopted laws in Cote d’Ivoire and Mali on protection of human rights defenders. These laws explicitly guarantee the confidentiality of sources of human rights defenders, and the law of Cote d’Ivoire even explicitly grants human rights defenders the right to not disclose their sources.¹⁵

Further, in one instance at least, NGOs doing human rights research successfully managed to be granted this privilege, on the basis that their public communication was similar to the work of journalists and that they needed the same type of protection of sources in order to be able to carry out their work.

12 For more information on international standards relating to arrest and detention, see Amnesty International, Fair Trial Manual (Second Edition), (2014), POL 30/002/2014.

13 <http://hakam.org.my/wp/index.php/sitemap/know-your-rights-when-stopped-by-police/>

14 See for example National Lawyers Guild, You have the right to remain silent: A Know Your Rights Guide for Law Enforcement Encounters (2015), <https://www.nlg.org/wp-content/uploads/2016/04/kyrpamphlet-Eng-May-2015-FINAL.pdf>;

15 Cote d’Ivoire Loi N° 2014- 388 du 20 Juin 2014 portant promotion et protection des défenseurs des droits de l’Homme (Art. 16) and Decret N° 2017-121 du 22 Fevrier 2017 portant modalites d’application de la Loi N° 2014- 388 du 20 Juin 2014 portant promotion et protection des défenseurs des droits de l’Homme (Art. 9, 10(e)); Mali Loi No 2018-005 du 12 Jan 2018 relative aux Defendeurs des droits de l’Homme, Art. 14; See also a recent overview of the international, regional and some domestic situations in Open Society Justice Initiatives, Amici Curiae to the Magistrate Court, Case No. 21184/01/16, State Attorney of Israel v. Breaking the Silence.

Special Court for Sierra Leone (Case No. SCSL-2004-16-AR73), 26 May 2006, Decision on prosecution appeal against decision on oral application for witness TF1-15- to testify without being compelled to answer questions on grounds of confidentiality.

“The reasoning behind the protection of journalistic sources can, it seems to me, be applied in principle to ... reports issued to the public by NGOs like Amnesty and Human Rights Watch. There is in my judgement little meaningful difference in this respect between an investigative journalist tracking a story in a war-torn country, a war correspondent reporting on the ebb and flow of the conflict, and a researcher for a human rights organisation filing information for an ‘in depth’ report ... All are exercising a right to freedom of expression, (and, more importantly, assisting their source’s right of free speech) by extracting information for publication from people who would not give it without an assurance that their names will remain anonymous.”¹⁶

Human rights defenders who are legally defending people as lawyers may also benefit from the legal privilege of confidentiality.

In some cases, human rights defenders may want to bring cases of human rights abuses or violations to the police for discussion (to be discussed in more detail in section 6). Where there is no domestic legislation setting out a privilege of confidentiality applicable to human rights defenders and courts have not provided any ruling in this regard, defenders need to carefully consider whether and how to approach the police. This is of particular importance especially if police have the power to exert pressure or even arrest defenders for hampering police investigations if they do not provide information that police have requested from them.

Regardless of whether human rights defenders intend to share certain information with police or may be forced to disclose information pertaining to the people whose human rights they are seeking to promote and protect, they will need to inform those people and obtain their informed consent before reporting any cases to the police. Victims of human rights violations or abuses may share their experiences with defenders in confidence, thus any bringing of their cases to the police can only be on the basis of informed consent.

While in most cases it will, as a general rule, be in the interest of human rights defenders to stay within the law when carrying out their activities, there are some contexts where the political climate and legislative regulation are so restrictive that this may not be possible. While in most cases such restrictions would be violating international human rights law, law enforcement officials have to apply domestic legislation.

Human rights defenders need to know precisely what type of conduct is still allowed within the framework of domestic legislation and what type of conduct is unlawful in this context. In countries with a very restrictive legal framework, staying within the law sometimes requires some creativity.

16 Special Court for Sierra Leone, Prosecutor v Alex Tamba Brima & Ors, Case No. SCSL-2004-16-AR73, Separate and concurring opinion of hon. Justice Geoffrey Robertson, QC (26 May 2006), para. 28.

In Russia, for example, some human rights defenders have resorted to one-picket protests - which is the only form of protest that does not require approval by the authorities - but with multiple one-picket protestors, standing at a certain distance from each other as to not form a crowd and hence not be classified as an assembly.¹⁷

In 2014, Amnesty International staged a one-picket protest and additionally put up placard-holding mannequins, to highlight the prohibition of peaceful street protest in Russia without express prior permission from the government.¹⁸



Mannequin Demonstration in Russia, still image from Amnesty International's film 'Don't be a Dummy' - Russia Freedom of Expression Action, 2015. © Amnesty International

Other Russian activists carry out "Silent protests" which incorporate protesting into every day routines, for example by displaying messages on backpacks they carry in public spaces.¹⁹

When acting outside of the law, human rights defenders need to carefully evaluate the potential consequences of their actions. This includes knowing the type of penalty that may follow. Some behaviour may only result in an affordable fine and thus constitutes an acceptable risk that does not significantly interfere with the ability of the human rights defender to continue their work. In other cases, however, actions may amount to a criminal offence punishable by a prison sentence, which would not only prevent human rights defenders from carrying on their human rights work but may also affect their personal safety (e.g. in countries where being arrested carries serious risks of being tortured or even killed). Possible penalties for holding an unlawful assembly, for example, may range from fines to multiple-year prison sentences depending on the country.²⁰ Human rights defenders, at the level of individuals and organisations, need to take a conscious and carefully considered decision as to how far they can defy the law in the given context and to what extent they are ready to take the associated risks.

17 There are however cases of one-picket protesters who have been arrested and prosecuted for their activities, e.g. for supposedly organising an "unlawful protest". See for example Amnesty International UK, Russia: one-person picket protesters locked up after Bolotnaya demo (2015), <https://www.amnesty.org.uk/press-releases/russia-one-person-picket-protesters-locked-after-bolotnaya-demo>

18 "Don't Be a Dummy", <https://www.youtube.com/watch?v=WODhMSfifTU>

19 Deutsche Welle, Russian opposition activists get creative (2016), <http://www.dw.com/en/russian-opposition-activists-get-creative/a-19550498>

20 In Russia, for example, holding a demonstration without permission of the authorities is punishable by a fine or up to 15 days' administrative detention. Three breaches are punishable by up to five years' imprisonment. See for example Amnesty International, Russia: Peaceful activist sentenced under repressive new law must be released (2015), <https://www.amnesty.org/en/latest/news/2015/12/Russia-Peaceful-activist-sentenced-under-repressive-new-law-must-be-released/>



Housing rights defenders shout from a window as they arrive to the appeals court in Phnom Penh (Cambodia), January 26, 2015.
© REUTERS/Samrang Pring

In the late 90s in Serbia, Otpor!, a civic youth movement at the time, faced frequent arrests of their activists by police during their protests against then-President Slobodan Milosevic. In order to encourage members to keep joining protests and limit the harmful effects of the arrests, Otpor! developed a tactic called “Plan B”, which involved holding a secondary protest in front of the police station once arrests had taken place. The activists who were to join the primary protest and were expected to be arrested were prepared for the arrest in advance. Based on the experience of others who had been arrested previously, they were provided with a list of questions police had asked and best possible answers, to prepare them for police questioning. The secondary protest was also planned in advance, with consideration of how many activists would not take part in the primary protest but would stay behind, as well as having lawyers on stand-by and contacts in the media and opposition parties to call upon. The lawyers would arrive at the police station first as their presence would prevent additional arrests to happen at the station. They would also discuss the release of the activists with police, while outside other protestors would draw attention to what was happening.²¹

3.3. Knowing the attitude

There are cases in which police are not obliged to act in a certain way but have a **level of discretion** in how to respond to a given situation, for example whether to arrest or to just issue an on-the-spot fine, or even not to intervene at all. In these cases it is very important to know the institutional policy and the overall attitude of the police in relation to the type of offence in question. It may be possible to obtain from the police some sort of understanding and tolerance – in particular if in other ways human rights defenders are not considered to show a hostile attitude or are not perceived by the police to be generally “criminal”.

21 New Tactics in Human Rights, Plan B: Using Secondary Protests to Undermine Repression (2003), <https://www.newtactics.org/sites/default/files/resources/PlanB-EN.pdf>

In Uganda, for example, police were arresting members of civil society organisations working on land rights relating to the oil and gas sector, when they visited oil production sites without the required permission from the Minister of Energy. During the arrests, the defenders continuously introduced themselves as human rights defenders and kept quoting the constitutional provisions that guaranteed their right to visit any part of the country. This persistence paid off as the authorities got “fed up” with arresting the human rights defenders and showed more tolerance towards them.²²

Human rights defenders (planning on) holding assemblies that are considered unlawful under domestic legislation need to consider how police may react to them. Under international human rights standards it is set out that failure to notify the authorities does not render an assembly unlawful and police should not disperse a peaceful assembly for the mere reason of being unlawful without any additional reasons.²³ In some countries police tend to facilitate assemblies as long as they are peaceful, even if they are not lawful in terms of national law.

The Armenian Police Act, for example, contains a provision obliging police to facilitate an unlawful yet peaceful assembly.²⁴ In Sweden, police tend to not report assemblies held without a permit, which is in certain circumstances required, if they are carried out in an orderly fashion.²⁵

In many countries, it will however be more likely that the police disperse the assembly, especially in contexts where there is a repressive political and legal climate and where it was not “authorised” to take place. In that case, human rights defenders need to consider how likely the police are to resort to force in order to achieve the dispersal and what kind of force they are likely to apply.



German riot police carry a protestor near Schanzenviertel ahead of the G20 summit in Hamburg (Germany), July 4, 2017. © REUTERS/Hannibal Hanschke

Human rights defenders may sometimes choose to resort to **civil disobedience** tactics in order to make their voices heard. For instance, in case of a struggle of indigenous people for their land rights vis-à-vis a multinational company, human rights defenders may decide to block the company's entry to the area. How this situation is going to evolve will now depend on the attitude on both sides. Given that the police will have the duty to ensure the company has free access, at least after a certain period of time and if requested by the company, there are different

options: police may disperse the assembly with heavy use of force, arrest the protestors, or may simply carry them away without any further negative consequences. Depending on the context, peaceful behaviour by human rights defenders may increase the likelihood that police will choose the softer approach.

- 22 The Human Rights Centre Uganda, Human Rights Defenders in Uganda: Understanding and overcoming potential violations of their rights, Vol. III (2013), <http://www.hrcug.org/publications/file/HRDs%20Report%202013.pdf>
- 23 United Nations General Assembly, Joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies, A/HRC/31/66 (4 February 2016).
- 24 Law on Freedom of Assemblies (2011), Art. 31, para. 2.
- 25 OSCE, Monitoring of Freedom of Peaceful Assembly in Selected OSCE Participating States (April 2015 – July 2016) (2016), p. 97, <https://www.osce.org/odihr/289721?download=true>

However, it must be acknowledged that in many countries of the world – independently of the conduct of the protestors – police display a very repressive attitude and immediately resort to excessive use of force when trying to ensure free access. So here again, it is absolutely crucial to have a full understanding of the context before deciding whether or not and to what extent to break the law.

3.4. How to communicate

As was outlined in section 3.2., there are various situations in which human rights defenders might come in contact with police fulfilling their duty. When they find themselves in such a situation, human rights defenders can communicate most effectively if they know their rights and are able to claim them confidently and legally accurately.

The leaflet “Police searches of NGO offices: What you need to know and do” published by the human rights organisation Chapter Four serves as a guide to members of civil society organisations in Uganda on how to behave during police searches and seizures by police. The leaflet provides advice on for example documenting the identity of the police officers, asking for the search warrant and what to check for on the warrant (e.g. must specify the alleged offence and what exactly can be searched), demanding to have the search conducted in the presence of a lawyer and advice on how to respond to police questions, and the right to receive a signed search certificate that details each item that has been seized.²⁶

If they feel that their rights or the rights of others have been violated by police, defenders may want to denounce the violation that has taken place, either in a **public statement** and/or by addressing a direct complaint to police or an external oversight body. While it is important for any human rights violations by the police to be denounced and for accountability to be sought, human rights defenders need to first carefully evaluate the entire situation and the circumstances of the case and ensure that their statements are factually and legally accurate. This will not only add to the credibility of the defender(s) but will also increase the likelihood that their complaints and recommendations will be taken seriously.

Human rights defenders need to first assess whether the conduct they are about to denounce is indeed a violation, taking account both of international human rights law and of applicable domestic legislation. Exaggerating events or accusing police of misconduct even though their behaviour was in line with domestic legislation will not only be misleading but can also have a negative impact on the credibility and perceived competence of the human rights defender. For instance, after violent clashes between police and protestors in the USA, some activists on social media blamed the police for having “used tear gas, a weapon that is even prohibited in war”. This statement is legally wrong and reflected a serious misunderstanding of the differences between the legal framework applicable to law enforcement and to the conduct of hostilities in armed conflict. Such statements can only negatively affect the overall acceptance and credibility of the entire work, findings and recommendations of human rights defenders, and to guard against this it is absolutely crucial to ensure that statements are legally and factually correct: In fact, the use of tear gas in law enforcement is not unlawful from the outset under international human rights law.

26 <http://chapterfouruganda.com/sites/default/files/downloads/KNOW-YOUR-RIGHTS%3AGUIDELINES-ON-POLICE-SEARCHES-OF-NGO-OFFICES.pdf>.

However, given that it has indiscriminate effects on violent and peaceful protestors alike, as well as on bystanders, police should only use this weapon when violence has become so widespread that it is not possible to deal with violent individuals any more. It should only be used for the purpose of dispersing the crowd, and therefore should not be used in settings where protestors do not have the possibility to escape. And in no circumstances should tear gas canisters be directly fired at persons.²⁷ These are the elements which – if not respected by police – provide sufficient opportunities for human rights defenders to appropriately criticise a police intervention in the course of an assembly without resorting to legally incorrect statements.



A counter-protester talks to police during a gathering after a report of a rally by white nationalists was disseminated over social media, in Durham, North Carolina (U.S.), August 18, 2017. © REUTERS/Jason Miczek

Very often human rights defenders are – very understandably – emotionally affected by what they see and want to immediately share their observations with the public. Defenders who are observing public assemblies can easily find themselves in such a situation. They may observe police resorting to the use of force which they perceive as excessive or otherwise unlawful at that moment. In such a situation it is very tempting to instantly share photos, videos or comments on social media. Particularly at such large events though, being placed at a specific location at a specific time usually allows observation of only a fraction of the entire situation and how it evolved. There is hence a risk that their message does not reflect what really happened and why. Such communication on social media is therefore very likely to negatively affect the ability of human rights defenders to engage in a constructive and effective dialogue with police or to have their criticism and statements taken seriously by police.

27 See Amnesty International (Dutch section), Guidelines for the implementation of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, 2015, p. 157, <https://www.amnesty.nl/actueel/use-of-force-guidelines-for-implementation-of-the-un-basic-principles-on-the-use-of-force-and-firearms-by-law-enforcement-officials>



Police firing tear gas to disperse a student march to the Ombudsman office in Caracas (Venezuela), 2014. © Carlos Becerra

The Organization for Security and Co-operation in Europe, Office for Democratic Institutions and Human Rights (OSCE/ODIHR) has developed a very useful Handbook on Monitoring Freedom of Assembly.²⁸ In some aspects it is shaped to the specific monitoring activities which OSCE itself regularly conducts in Member States. However, in many other respects its guidance is also relevant to other human rights defenders who are monitoring assemblies. Among other things, it recommends that “[m]onitors should not offer any formal opinions to the media or other agencies during an assembly. Any comments should be limited to identification of their role as independent human rights monitors”.

When evaluating police (mis)conduct, human rights defenders need to not only assess it in terms of international standards but also assess whether the police response was in line with or in breach of domestic legislation. In some cases, police actions may clearly constitute a breach of domestic law as well as violation of international human rights standards. This situation will be discussed in detail in section 4.

Human rights defenders may however find that police acted in accordance with domestic law, but that domestic law itself is not compliant with international human rights standards. In such cases, it is important to look at the level of discretion police have in applying certain provisions. If they are obliged to act in a certain way without being allowed any leeway, directing criticisms and recommendations at police will more than likely be redundant. In these cases, defenders’ statements are more likely to be effective if they highlight that the violation of international human rights law is in domestic legislation and, if they seek a discussion, if they approach the legislative body responsible for the law in question.

28 OSCE/ODIHR, Handbook on Monitoring Freedom of Peaceful Assembly (2011), p. 34, <https://www.osce.org/odihr/82979?download=true>.

If, however, the law grants police a certain degree of discretion, constructive criticism and, if appropriate in the situation, direct dialogue between police and human rights defenders will become particularly relevant for defenders seeking to change police behaviour.

Very often the law uses the wording “law enforcement officials may” rather than “must”. Such “may”-formulations present opportunities to discuss with police how they exercise their discretion, and to suggest a decision-making process shaped by human rights considerations. In the context of assemblies that are considered unlawful under domestic law, for example, the law might specify that the assembly can be dispersed, but not that it must be. Considering that the primary task of the police is to maintain peace and order, human rights defenders could present the case that dispersing an unlawful yet peaceful assembly that does not affect public order is likely to be counterproductive: Police will create disorder instead of maintaining public order and therefore should refrain from dispersing a peaceful assembly. This is today a recognised standard and considered good policing practice.²⁹



Pro-settlement activists sit on a rooftop of a house to resist evacuation of some houses in the settlement of Ofra in the occupied West Bank (Palestinian Territories), during an operation by Israeli forces to evict the houses, February 28, 2017. © REUTERS/Ronen Zvulun

Even if police are legally obliged to take a particular action, there may still be room for discussions about the way they carry out the task. If, for example, a court has issued an eviction order relating to an informal settlement, police are usually obliged to carry out that order. There is therefore little or no scope to discuss with the police the eviction itself. What can be a topic for discussion though is how the police implement such court orders:

- Police should duly verify that the court order is valid.
- They should wait for an appeal period to pass without any revision of the order before carrying it out.
- Police should give sufficient notice to the inhabitants prior to the eviction and respect the procedures established by domestic law.
- Police should decide on an appropriate time for carrying out the eviction, e.g. not at night time, not in weather conditions which might place people at risk.
- Police should not resort to excessive or otherwise unlawful use of force and should not destroy property.

29 OSCE/ODIHR, Human Rights Handbook on Policing Assemblies (2016), p.31.

In any case, human rights defenders seeking to influence police actions need to develop a strategy on how to approach the matter. As will be discussed in more detail in section 6, this includes considering whom to talk to within the police institution, to assess the likelihood that this will lead to the change they would like to see, as well as considering the risks that such contact entails.

3.5. Conclusion and recommendations

Most, if not all, human rights defenders will come into contact with police in the course of their work, even if the human rights issues they are focusing on are not directly related to police. There are a number of elements for human rights defenders to consider that may help to avoid any undue interference of police in their human rights work, or at least mitigate the negative impact of police encounters if they are unavoidable.

- **It will, as a general rule, be in their own interest for human rights defenders to operate within the law. This requires familiarity with the domestic legal framework relevant to their human rights work and actions. However, and especially for defenders operating in the context of a repressive legal and political climate and domestic legislation that in itself is in violation of human rights standards, staying within the law can be difficult if not impossible. In such cases, defenders need to carefully consider the potential consequences of their (unlawful) actions so as to take a conscious decision on what risks they are willing to take.**
- **Knowledge of the attitude of police towards human rights defenders and their work becomes especially important if human rights defenders decide to operate outside of the law, as it will allow human rights defenders to gauge how police may apply their discretionary powers, either in favour of or against them.**
- **In order to communicate effectively with the police, human rights defenders need to be familiar with the domestic legal framework applicable to the situation at hand. This will enable them not only to claim their rights during direct encounters with police but also to ensure that public communications are legally accurate. Moreover, identifying areas in which police have discretion provides opportunities for direct dialogue between police and human rights defenders on how to apply discretionary powers in a human rights compliant way.**

Police as human rights violators

4.1. Introduction

Human rights defenders are regularly subjected to risks and threats against them and may become victims of human rights violations as a result of their work. While it falls within the responsibilities of police to protect them in such situations, often it is police themselves who pose a risk to human rights defenders and are the perpetrators of those violations.

Depending on the country and context, the level of danger emanating from police and the violations they may commit differs. Violations faced by human rights defenders at the hands of police can range from arbitrary arrest, excessive surveillance, intimidation and harassment to torture and other ill-treatment or extrajudicial executions. Approaching police in such circumstances to report an incident or request protection could place defenders in an even more dangerous situation, exposing them to further harassment, risks of reprisal or making them a target of police investigations aimed against them or their work.

It is thus crucial for human rights defenders to be aware of the risks police pose to them and draw up protection plans to mitigate those risks. This section will outline some basic elements of what to consider in that regard. As mentioned before, however, this paper is not intended to serve as a safety manual for human rights defenders.



A member of the riot security forces (R) points what appears to be a pistol towards a crowd of demonstrators during a rally against Venezuela's President Nicolas Maduro's government in Caracas (Venezuela), June 19, 2017. © REUTERS/Christian Veron

4.2. Knowing the legal framework

There is a wide range of threats and violations that human rights defenders may face at the hands of police. In order to be able to assess whether police violated their rights, defenders need to be familiar with both the domestic law that governs certain police actions as well as with international standards.

Of course, some actions such as rape, kidnapping or killings of human rights defenders are obvious human rights violations and it does not need any detailed understanding of the law to recognise them as such. There are however scenarios which may not be so obvious, or in which human rights defenders may feel that their rights have been violated even though the action of police did not in fact constitute a violation.

If police use force against human rights defenders during assemblies, for example, it is necessary to consider the circumstances that led to the use of force and evaluate the means used before concluding whether it was excessive or unnecessary. This requires familiarity with the international standards and domestic laws and policies on the use of force and the police's powers and level of discretion in that regard.³⁰ The same applies to cases of arrest. In order to conclude that an arrest was arbitrary, it is necessary to be familiar with what constitutes an arbitrary arrest and under what laws and by what procedures police are allowed to legitimately make an arrest.



Police officers detaining a protester in São Paulo (Brazil) on June 18, 2013. © Mídia Ninja

The “Guidelines on the Documentation of Human Rights Violations by Police in Kenya” provide a framework for human rights defenders to capture and assess complaints against police reported to them. Even though the guidelines are not specifically aimed at documenting violations against human rights defenders, this kind of guidance can be useful for defenders in any case when dealing with (potential) police violations. Besides explaining documentation techniques and pointing out relevant information to collect, the guidelines further include a breakdown of international and national human rights provisions to help identify which right(s) have been violated. Each right is accompanied by a number of questions to help assess whether police infringed the law.³¹

Human rights defenders need to also be aware of the **level of protection that domestic legislation gives them** against police interference. Some countries, such as Cote d'Ivoire and Mali, for example, specify in their respective laws that defenders shall not be prosecuted, investigated, arrested or detained for opinions expressed and reports published in the course of their activities.³²

30 Amnesty International (Dutch section) has developed Guidelines for Implementation of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (2015), that can help human rights defenders to match police behaviour against international human rights law and standards.

31 Musila, Godfrey, Gitari, Christopher and Varney, Howard, Guidelines on the Documentation of Human Rights Violations by Police in Kenya (2016), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2956514

32 Cote d'Ivoire Loi N° 2014- 388 du 20 Juin 2014 portant promotion et protection des défenseurs des droits de l'Homme (Art. 5) and Decret N° 2017-121 du 22 Fevrier 2017 portant modalites d'application de la Loi N° 2014- 388 du 20 Juin 2014 portant promotion et protection des défenseurs des droits de l'Homme (Art. 12); Mali Loi No 2018-005 du 12 Jan 2018 relative aux defenseurs des droits de l'homme, Art. 5.

Human rights defenders need to furthermore be aware of the **possibilities to complain** if the police have violated human rights. In many countries there are external police oversight mechanisms that take complaints against police. Depending on the type of violation that has taken place and whether it falls within the mandate of the mechanism, human rights defenders can complain to the mechanism to have the violation investigated. There are however some factors for human rights defenders to consider before approaching an oversight mechanism with their complaint. For instance, some mechanisms utilise police units to investigate complaints. This may not only lead to an ineffective investigation but may also increase the risk of reprisal against the human rights defender. Especially the latter point needs to be carefully considered by defenders before approaching a complaint mechanism. In that regard, defenders need also to look at what protection the mechanism can offer to complainants and witnesses.³³

If complaining at the national level is either not effective or is not an option because it is too dangerous, human rights defenders have the possibility to submit a complaint to a regional or international body. Bodies accepting individual complaints are for example the Rapporteur on the Situation of Human Rights Defenders of the Inter-American Commission on Human Rights or the UN Special Rapporteur on Human Rights Defenders³⁴ and the attention given by such an international actor might offer some protection against risks of retaliation.

4.3. Knowing the attitude

Depending on their field of work and membership of a group, some human rights defenders are more at risk than others of becoming victims of threats and attacks by police. The nature of such risks varies from one country to another, although it is often pointed out that women human rights defenders in general as well as defenders working on LGBTI rights, minority or refugee rights, land and environmental rights, or governance issues, are most at risk.³⁵

Police attitudes often reflect the general attitudes of the population. However, this is not to say that police automatically pose a threat to defenders who work on topics that do not resonate well with the public. Other factors, such as the level of professionalism and the level of corruption within the police institution may play an important role in how police behave towards human rights defenders.

In assessing the attitudes of the police and the risk that they may pose, human rights defenders may find it helpful to draw on experiences of other human rights defenders working in the same field who have previously had encounters with police. Having a network in place and communication amongst human rights defenders and their organisations becomes of particular importance here.

It is also important here to make a distinction between generalised patterns of violations of the rights of defenders by the police and the conduct of specific officers or specific sections within the police force. Furthermore, human rights defenders need to assess whether violations are the result of a lack of knowledge about human rights defenders' work or a distorted view of what they are trying to achieve: If this is the case, it may be possible to address and improve the situation by engaging in dialogue with police to explain the purpose of human rights work, or by pushing police leadership to improve training and education of law enforcement officials on the topic.

33 For guidance on how to identify strengths and weaknesses of an oversight mechanism see Amnesty International (Dutch section), Police and Human Rights Programme, Police Oversight (2015), https://www.amnesty.nl/content/uploads/2017/01/ainl_police_oversight.pdf?x79902, which might help human rights defenders to determine whether it is advisable to make use of this mechanism or not.

34 See also Center for Reproductive Rights and Center for Constitutional Rights, What do I do if my right to defend human rights is violated? (n.d.), http://www.defendingrights.org/hrd_files/WhatDoIDo_Factsheet_CRR_CCR.pdf

35 United National General Assembly, Situation of human rights defenders, Note by the Secretary-General, A/70/217 (30 July 2015).

The Kenya National Commission on Human Rights (KNCHR) conducted a project at three sites in Kenya (Kwale County, Busia County and Marsabit County) which aimed at fostering mutual understanding between human rights defenders, police officers and the media. For that purpose, several training sessions were provided to the different groups, explaining the work of the others. Police officers were taken through the UN Declaration on Human Rights Defenders and the EU Guidelines on Human Rights Defenders to understand what a human rights defender is and does, were informed about the challenges they face from both state and non-state actors, and were encouraged to acknowledge how the work of human rights defenders links to the work of police: since police are meant to protect human rights, they should see the work of human rights defenders as being complementary to their own work. By helping to create a safe environment for human rights defenders this will make their own work easier. According to the KNCHR's interim report, there was a reduction in complaints from human rights defenders against police in the months after the trainings. The KNCHR also found that, unlike the year before, there were no reported arrests of human rights defenders in Marsabit County and at demonstrations in Kwale County and Busia County for the year under review (Sept. 2014 – Sept. 2015). After the trainings, Dialogue Forums were established between defenders, police officers and representatives from the media, to exchange experiences about challenges and suggest what support they would need from each other.³⁶

4.4. How to communicate

When human rights violations at the hands of the police have taken place, human rights defenders often may want to **publicly denounce** what has happened. In terms of seeking to influence police action, however, it is necessary to consider how such statements will be perceived, not only by the public but also by police. In particular, the way they voice criticism will considerably affect the likelihood of whether or not police will engage in an open discussion about problematic policing approaches or take seriously the criticisms and recommendations put forward.



A demonstrator protesting the shooting death of Alton Sterling is detained by law enforcement near the headquarters of the Baton Rouge Police Department in Baton Rouge, Louisiana (USA), July 9, 2016. © REUTERS/Jonathan Bachman/File Photo

36 Interim Narrative Report; September 2014 – September 2015, submitted by the Kenya National Commission on Human Rights (KNCHR), EIDHR 2014/348/866 (2015), <http://knchr.org/Portals/0/AllOtherReports/EU%20FINAL%20YEAR%20ONE%20INTERIM%20REPORT%20-%2010%20Dec%202015.pdf?ver=2016-01-26-155143-633>

This is not about self-censorship and does not mean refraining from publishing communications that denounce police misconduct. Rather, it is about being precise and careful about the form and wording of such statements. This also entails having complete and reliable information at hand before commenting on any incidents or events. Public communications that are based on unverified hearsay, are one-sided and heavily blame police, or which use insulting language, are likely to close doors for any constructive dialogue with police. Communications which are written in a way and terminology that remains factual and objective instead of emotional and potentially biased against police are more likely to leave the way open for dialogue.

Twitter messages under a hashtag such as *#policebrutality*, for instance, can be very counterproductive in this regard, likely to simply lead to blunt rejection of any recommendations brought forward for improvements. It would be more effective to give police an opportunity to tell their side of the story first before issuing any public communication, and if they take the opportunity, to correctly reflect their account of events in the communication, while remaining critical of any human rights violations that were indeed committed by police.

After a demonstration or public assembly, when commenting on police conduct, statements should be nuanced with regard to the events, not exaggerating or generalising what happened or understating any unlawful conduct of protestors. Denouncing police use of force during a “peaceful protest” while protestors in fact engaged in some sort of violence, for example, is counterproductive as it will only damage the validity of the statement and credibility of the defender. Acknowledging unlawful behaviour of some protestors, while holding that despite the violence police resorted to excessive use of force, will add to the credibility of the findings.

Publicly denouncing in a factual manner human rights violations committed by police can be made more difficult by the fact that not all violations are committed visibly by officers in uniform. In such cases, it is not always clear if or to what extent police were in fact responsible. Even if human rights defenders suspect that police were behind a violation, this may be difficult to prove. Under such circumstances, human rights defenders need to be careful what they are accusing police of and to differentiate between suspicion and confirmed cases of violations by police. It is important, however, to bear in mind that police officers should be recognisable as such and be individually identifiable (either through name or number tags for police officers patrolling or deployed in public order settings; or by providing an official police-ID for instance in case of plain clothes officers carrying out arrest or other activities related to criminal investigations). In contexts where this is not ensured human rights defenders might choose to call on the police to change their practice in that regard.

In some cases, denouncing police violations publicly may also entail a risk of reprisal. Depending on the context, publishing the account of events as an organisation without mentioning individual names or, if the defender’s organisation is part of a network, publishing in the name of the network can help to mitigate such risk.

Defenders may also consider **complaining directly to police** about human rights violations they suffered at their hands. Whether this is at all advisable or will put the defender in even greater danger will depend heavily on the context and the general relationship with police as well as on the level of professionalism within the police institution.

If discussing with police directly is an option, human rights defenders need to have an understanding of the responsibilities and decision-making capabilities at each level, to identify the best point of contact to approach (see also section 6.2. about deciding whom to talk to). Having a pre-established point of contact

with the police can become especially relevant in this regard as it is often not possible to simply report violations to a police station, as the same officers who are responsible for the violation or their direct colleagues may take the report and would have to investigate the violation. This may be at best ineffective or at worst dangerous to the human rights defenders concerned.

A human rights defender from Africa, for example, reported that a member of their organisation was abducted by police who threw him into the boot of their car. As he still had his phone, he called his organisation who in turn contacted the Chief of Police with whom they had previously established contact. The Chief of Police called one of the police officers involved in the abduction to let the human rights defender go.³⁷

Having a contact person within the police at a higher rank can help to address violations committed by officers at lower levels and might send a strong signal that attacks against human rights defenders are not tolerated, if that higher-ranked officer not only publicly supports the work of human rights defenders, but also effectively holds accountable officers who commit violations against human rights defenders.

4.5. Conclusion and recommendations

For many human rights defenders around the world, police pose an obstruction and sometimes an acute risk to their work as well as their personal safety. When operating in such a context, it is crucial for defenders to:

- **be familiar both with international human rights standards as well as the domestic legal framework they operate in to be able to judge what police behaviour amounts to a human rights violation and whether this violation is a result of domestic legislation that is not human rights compliant or is the responsibility of the police.**
- **know the attitude of police towards human rights defenders and their work as well as to be generally aware of the level of professionalism within the police institutions, so as to help gauge the risk to human rights defenders emanating from police.**
- **assess whether the police conduct they want to publicly denounce actually amounts to a human rights violation and ensure they are factually accurate in what they are complaining about.**
- **also assess the risk of retaliation not only before making any such public announcements, but also when considering approaching police directly or a complaints mechanism to seek redress.**

37 Front Line Defenders, Workbook on Security: Practical Steps for Human Rights Defenders at Risk (2016), p. 29.

Police as protectors

5.1. Introduction

Human rights defenders around the world face serious risks as a result of their work, ranging from harassment to physical attacks, kidnapping, death threats or even killings. Police have a duty to protect the human rights of the people they serve, including protecting human rights defenders at risk, and to ensure that they can carry out their work safely, as well as to investigate any such incidents to ensure that the perpetrators will be held accountable.

Depending on the country and context, however, the ability of human rights defenders to actually call on police varies. As discussed in the previous section, police themselves are in many cases the perpetrators of violations committed against defenders. This seriously hampers or even entirely excludes the possibility for defenders to receive effective and appropriate police protection or to report an attack against them.

Police are however not the only actors posing risks to human rights defenders. Depending on the topics they are working on and whose interests they are opposing, human rights defenders may become subject to threats or attacks by a range of non-state actors. Those denouncing impunity and violations committed by armed groups, for example, may be subjected to threats and harassment by those groups, while private corporations may obstruct the activities of defenders working on labour rights or on the exploitation of natural resources. Defenders working on domestic violence may receive threats from the perpetrators or family members. There have also been instances in which community leaders and faith-based groups have resorted to attacks against defenders working on LGBTI issues or on violence against women.³⁸



Activists covered in fake blood perform during a protest against the death of Semiao Vilhalva, a leader of the Guarani Kaiowa tribe, in Sao Paulo September 17, 2015. The organisers of the protest said Vilhalva was shot dead on August 29 during a confrontation with men trying to expel tribe members from land the tribe had earlier occupied in the municipality of Antonio Joao, Mato Grosso do Sul state. Police are investigating the case. © REUTERS/Nacho Doce

38 United Nations General Assembly, Human rights defenders, Note by the Secretary-General, A/65/223 (4 August 2010), para. 4-16.

When facing or having experienced such threats, human rights defenders may consider turning to the police for protection or investigation of attacks against them. Human rights defenders need to be aware to what extent police are able and willing to fulfil their duty to protect human rights defenders effectively, as well as of the risks contact with police might entail. This will enable them to make an informed decision whether and to what extent they can rely on police if the need arises as well as to create alternative protection plans beyond the police if necessary.

5.2. Knowing the legal framework

Several countries have adopted national legislation for the protection of human rights defenders, translating into domestic law their international obligations set out in the UN Declaration on Human Rights Defenders. While this is certainly a positive step towards giving the rights of human rights defenders legitimacy at the national level, it has to be acknowledged that the degree of effective implementation and practical impact on the situation of human rights defenders varies considerably from one country to another.³⁹



Police escort a group of environmental activists as they shout slogans while protesting against illegal fishing and sea pollution in conjunction with the World Ocean Conference in Manado (Indonesia), May 11, 2009. © REUTERS/Yusuf Ahmad

In Latin America, some national laws have also led to the establishment of a dedicated mechanism for the protection of human rights defenders, such as in Mexico, Brazil, Colombia and Honduras.⁴⁰ These mechanisms often make use of police when providing protective measures to human rights defenders.⁴¹ Looking at the measures available through such a mechanism, the criteria that need to be fulfilled to be awarded protective measures, and the experience of other defenders that were awarded protection in the past, can give human rights defenders an idea of the level of protection that they can expect in case the need arises.

39 Protection International, Focus Report: Public policies for the protection of Human rights defenders (2017), <https://www.protectioninternational.org/en/node/1537>

40 In other countries, such as Cote d'Ivoire, the National Human Rights Commission is mandated to fulfil the role of a protection mechanism.

41 For more information about protection mechanisms, see Amnesty International, Americas: State Protection Mechanisms for Human Rights Defenders (2017), AMR 01/6211/2017.

In 2016, the International Service for Human Rights (ISHR) published a “Model Law for the Recognition and Protection of Human Rights Defenders” which was developed in cooperation with leading human rights experts and jurists as well as over 500 human rights defenders from across the globe. The Model Law provides guidance to states on how to implement the UN Declaration on Human Rights Defenders at the national level and contains specific provisions regarding the obligations of states and public authorities to protect and enable the work of defenders and to prevent, investigate and remedy violations against them. It further foresees the establishment of a national mechanism for the protection of human rights defenders.⁴² According to ISHR, the Model law has largely inspired the text of the Malian national law on human rights defenders which was adopted by the parliament on 13 December 2017.⁴³

Besides domestic laws that are specifically aimed at human rights defenders, some domestic laws protect human rights defenders working on particular issues. The Anti-Enforced or Involuntary Disappearance Act of 2012 in the Philippines, for example, obliges the state to ensure the safety of persons involved in the search, investigation and prosecution of enforced or involuntary disappearance and protect them from intimidation or reprisal. Representatives of human rights organisations are explicitly listed as a group to be protected under this obligation.⁴⁴

Besides knowing what level of protection exists in theory, human rights defenders should assess what can be realistically expected in practice. Even if the legal framework is strong, it will be of limited or no use if the financial and human resources allocated to its practical implementation are insufficient. This applies to dedicated protection mechanisms as well as to police, who may be limited in their possibilities to offer effective protection due to insufficient resources, technical means or budget. Moreover, protection of human rights defenders might not necessarily be a high priority on the police agenda. This can result in police allocating insufficient resources towards it which hampers the effectiveness of the protection measure. For example, one officer deployed to protect a whole organisation contributes little to the overall security of the organisation, and even less of the individuals working for the organisation.

The absence of domestic legislation on protecting human rights defenders however does not release the state, including the police, of their duty to protect human rights defenders against attacks or other criminal acts. The police duty to prevent people from becoming victims of crime applies to human rights defenders as for anybody else and police should fulfil this responsibility without discrimination. The ability of human rights defenders to count on police for effective protection is thus not simply a matter of domestic legislation but depends on various other factors such as police capacity and their general willingness to provide effective protection to defenders, as will be discussed in the following sections.

An exception here applies to defenders whose human rights work as such is considered illegal within the national legal framework. While contrary to international human rights standards, some countries

42 Available at https://www.ishr.ch/sites/default/files/documents/model_law_english_january2017_screenversion.pdf

43 ISHR, Mali | Groundbreaking new law strengthens legal protection of human rights defenders (16 January 2018), <http://www.ishr.ch/news/mali-groundbreaking-new-law-strengthens-legal-protection-human-rights-defenders>

44 Section 24. http://www.lawphil.net/statutes/repacts/ra2012/ra_10353_2012.html; There are however serious doubts about the effectiveness of this Act due to President Duterte's “war on drugs”. See for example Amnesty International, Philippines: Impunity on the rise under the new government, Submission for the UN Universal Period Review (May 2017), ASA 35/5445/2017; For more examples, see “From restriction to protection: Research report on the legal environment for human rights defenders and the need for national laws to protect and promote their work”, International Service for Human Rights (2014), http://www.ishr.ch/sites/default/files/article/files/research_report_on_legal_environment_for_hrds_upload.pdf

implemented legislation placing certain human rights defenders outside of the law,⁴⁵ as was discussed in section 3. In such circumstances, approaching police for protection is likely to inadvertently lead defenders to incriminate themselves as they will have to disclose, at least partially, what they are doing or working on in order to explain to police the risk they face or the threats they received. In such cases, defenders need to carefully evaluate the potential consequences of police knowing about their activities, so as to gauge whether approaching police for protection might perhaps do more harm than good.

In case police fail to fulfil their duty to protect, either by providing ineffective or inappropriate protection measures, or by failing to provide any protection at all, human rights defenders may want to check if domestic law grants them the right to complain.⁴⁶ Depending on the country and accountability structure, it may be possible to address such a complaint to an internal police oversight mechanism or, if there is one and depending on its mandate, to an external body.

5.3. Knowing the attitude

In some countries, police may have little or no knowledge about the concept of human rights in general and/or what a human rights defender is or does. This may result in the perception of human rights defenders as troublemakers or obstacles to police work rather than acknowledging the legitimacy of their work and consequently their need for, and right to, protection:

Very often, police officers still consider human rights as being alien to their work, something that hinders them in doing a good policing job and, as a result, human rights defenders will be viewed with scepticism or even hostility.

In fact, police should see their own role as being protectors of human rights and they should see the work of human rights defenders not as an obstacle or a problem in their work, but as being complementary to their own role in protecting human rights. It is the responsibility of the police leadership to foster this understanding of human rights within the institution and to underscore the importance of human rights as being a key element and not a hindrance to good policing. This in turn includes the obligation to be supportive of the work of human rights defenders, in particular not to unduly interfere in their work (Art. 17 of the UN Declaration on Human Rights Defenders) and to protect them when necessary (Art. 12 of the UN Declaration).

On the other hand, it also has to be acknowledged that police are part of the society they live in and are likely to share the predominant views and bias of that society, including the views that may have led to the threat or attack against the human rights defender to begin with. This is especially problematic for defenders who work on sensitive topics that may be stigmatised in the country they operate in, or who themselves belong to a group facing social stigma or hostility. This may lead to ineffective protection, threats not being taken seriously, or refusal altogether to help human rights defenders at risk.

45 Human rights defenders working on LGBTI rights in Russia, for example, have been prosecuted under the “homosexual propaganda law” for sharing information on the internet (see for example the case of Evdokiya Romanova reported by Frontline Defenders (2017), <https://www.frontlinedefenders.org/en/case/evdokiya-romanova-found-guilty-gay-propaganda>); In Uganda, the NGO Act passed in 2016 prevents organisations whose objectives are deemed to be “in contravention” of Uganda’s laws from registering. The provision is likely to affect specifically organisations working on the rights of LGBTI individuals, sex workers or people who use drugs, as well as those advocating women’s sexual and reproductive health and rights, including access to safe abortion. The NGO Registration (Amendment) Act 2006 makes it illegal for NGOs to operate without registration. Amnesty International, Human Rights Defenders under threat - A shrinking space for civil society (2017), ACT 30/6011/2017.

46 The UN Declaration on Human Rights Defenders sets out the rights to complain and seek redress in Art. 9.



Anti-government demonstrators embrace riot police during a protest against Venezuelan President Nicolas Maduro's government in Caracas May 22, 2014. © REUTERS/Carlos Garcia Rawlins

This however does not mean that all police who personally disagree with the work of human rights defenders will consequently fail in their duty to protect them. It is here important to consider the level of professionalism within the police force and how well the police institution as such is functioning, to understand to what extent personal opinions may or may not interfere with police fulfilling their duties. Human rights defenders need furthermore to distinguish between individual officers displaying a negative or indifferent attitude and generalised problems emanating from the police institution as such.

Some human rights organisations have resorted to “supervising” the officers who are tasked to protect their offices. They agreed with police that they would maintain a register of dates and times of visits along with badge numbers, names and signatures of the officers, to ensure that visits are carried out more regularly and to have evidence on which officers do not fulfil their duty.⁴⁷

Sensitising police officers on the work of human rights defenders and underlining the responsibilities of police in creating a safe environment for human rights defenders to operate in can further help to reduce negative attitudes and make police more responsive to the needs of human rights defenders. Ideally, there should be a specialised unit within the police to provide protection to human rights defenders, with officers being particularly trained for that purpose. Even in the absence of such a dedicated unit, officers who are, or potentially will be, involved in the protection of human rights defenders should be trained on the topic, sensitising them to the work and needs of human rights defenders. If they do not take place yet, human rights defenders should push the police leadership to ensure that such trainings are provided by the law enforcement agency.

47 Protection International, Protection of human rights defenders: Best practices and lessons learnt (2012), p. 114.



Police stand guard during a protest by Buddhist monks and activists from Myanmar in front of the Thai embassy in Yangon, Myanmar, against the Thai military government invoking a special emergency law to let authorities search the Dhammakaya Temple in an attempt to arrest a former abbot, February 24, 2017. © REUTERS/Soe Zeya Tun

5.4. How to communicate

Human rights defenders who have been or potentially could become subject to threats or attacks may have several options for protection that police are able and willing to offer. Protection measures can range from physical protection in the form of officers accompanying individual defenders or guarding the office, to the provision of 'panic buttons' or cameras, to the provision of (bullet-proof) vehicles or mobile or satellite phones.

In Colombia, for example, a networked communication system was established that, using radio telephones, linked human rights defenders directly to a specially designated unit within the National Police. This enabled human rights defenders to easily request a police patrol in case of danger.⁴⁸

It is important that the protection measures are provided in a timely manner and are appropriate, effective and proportionate to the threat. What this entails will vary between defenders depending on their circumstances and needs. It is here important to acknowledge that the same measure might not provide the same degree of protection to all defenders facing the same threat. A panic button connected to police, for example, might be an effective measure in urban areas where police can respond quickly. In rural or remote areas, however, a panic button is rather pointless if it takes police a long time to get to the scene.

While police are responsible for assessing the risk on an individual basis and for tailoring protection measures to the needs of the defender, they should involve defenders in the discussion about whether protection is required, and which measures should be provided. Human rights defenders know their own situation best and their perception of a threat and its severity should thus be decisive for deploying protection measures which are appropriate, including in the eyes of the defender.

48 Ibid.

Physical protection by means of officers accompanying defenders during certain parts of the day or even around the clock, for example, can have an impact on the ability of the defender to carry out their work. In countries where the general level of trust of society in police is low, being seen by the public to be accompanied by police officers can have a negative impact on the reputation of the human rights defender, as people might consider defenders to be cooperating with police. The presence of police at their offices or homes might also give the impression that defenders are involved in criminal activity. If the defenders' work involves contact with the public or victims of human rights violations, the presence of police during those encounters might alienate such people and may prevent them from approaching or talking to the defender.

These risks can be mitigated by requesting officers in plain clothing rather than uniformed officers. Human rights defenders who are in contact with victims need, however, to consider not only the perception of the victim but also the actual risk of contact with victims while the defender is under police protection. Police officers accompanying the defender will thereby incidentally get access to certain information about the victims, such as their location and identity, which, depending on the issue that the defender is working on, can place the victim at risk. This is a particularly sensitive matter when the victim was subjected to a human rights violation by police. Human rights defenders thus need to consider whether certain tasks, such as contact with victims at risk, are better left aside while police protection is ongoing, and even if defenders deem it safe to be in contact with victims while they are under police protection, this can only be on the basis of informed consent from those victims.

Besides potentially leading to negative public perceptions, police accompaniment may even have an adverse effect by making human rights defenders more of a target for threats and attacks. For example, entering certain areas in police company where those areas are controlled by armed gangs, such as certain favelas (informal settlements in urban areas) in Brazil, may make human rights defenders a target of attacks by these armed gangs.

Defenders will need to discuss the terms of protection with police prior to starting any protective measures, and clarify what police are allowed to access or interfere with during protective measures. Further, human rights defenders will need to be aware of their own responsibilities and what limitations may be imposed on them. For example, dismissing the accompanying officers during certain tasks, such as interviews with victims, may not be tolerated by police and may lead to the withdrawal of the protection measure. The protection mechanism in Colombia, for instance, specifies what constitutes "improper use of protection measures" in that regard, which includes travelling without accompaniment or impeding attempts to provide accompaniment in closed or public places.⁴⁹

Regardless of the practical possibilities, human rights defenders might also encounter a general lack of willingness on the side of the police to offer (effective) protection. As was discussed in the previous section, this can be a result of opinions held by police on human rights defenders and their work, which may lead police to not take threats seriously or to blame (certain types of) human rights defenders for the threats they receive instead of recognising and responding to their need for protection. In cases where police protection is not an option, defenders could consider whether to engage an alternative security body to the police. There are other organisations which offer protection. Peace Brigades International (PBI) for instance provides teams of volunteers to accompany defenders or to offer protection to organisations, for example by means of being present at their offices or by doing regular check-up phone calls.⁵⁰

49 Protection International, Protection of human rights defenders: Best practices and lessons learnt (2012), Part II, Chapter 4.5. provides for an overview of the elements constituting such "improper use" as established by the respective protection mechanisms in Brazil, Colombia, and Guatemala.

50 Peace Brigades International, Protective Accompaniment, <https://www.peacebrigades.org/en/about-pbi/what-we-do/protective-accompaniment>

Whether or not human rights defenders seek protection from police, it is a separate decision whether, how, and to whom to report any threats or attacks against them.

Some defenders have for instance reported that they were harassed at the police station when reporting abuses or threats against them, or even that they themselves became a target of police investigation as a result of the report, rather than receiving the protection they were seeking. In that regard it is useful to be aware of the rights they are entitled to as victims of crime. Internationally, the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power established the human rights standards how victims of crime should be treated: in particular, victims should be treated with compassion and respect for their dignity and they are entitled to access to the mechanisms of justice and to prompt redress for the harm that they have suffered (Principle 4). And authorities should take measures to minimise inconvenience to victims, protect their privacy, when necessary, and ensure their safety, as well as that of their families and witnesses on their behalf, from intimidation and retaliation (Principle 6d).

Defenders need to be careful what information they reveal if there is a concern that police may not treat the information provided confidentially or even may use it against defenders and their organisations.

Human rights defenders from Bangladesh, for example, found that police passed on to the media the information they provided and that the threats they reported were published in the local newspaper the next day.⁵¹

In making the decision to report abuses or threats to the police, defenders will need to weigh up a range of considerations including the risks to themselves or others, and the need for investigations if perpetrators are to be held accountable, and for sending a signal that such actions are not met with impunity.

Aside from the specific case, they will also need to take into account broader considerations including that reporting can also help to disclose patterns of violations against human rights defenders and consequently inform the measures needed to counter such violations and protect human rights defenders on a wider scale.

In Guatemala, for example, an Analysis Unit was established by Ministerial Agreement to analyse attacks against human rights defenders, with the intention of studying patterns of violence. The unit is composed of representatives from the ministry of the interior, prosecution, and police as well as non-governmental organisations.⁵² While this is certainly a positive step, the law does not specify how findings are followed up. In order to be effective, the conclusions of the Unit need to be followed by action.

Some human rights defenders may hold the view that reporting incidents to police is pointless, as they will not do anything or take them seriously anyway. There are certainly cases in which such assumptions are justified. Even if defenders do not expect police to act, though, reporting incidents can nevertheless be important as, it will allow defenders to point out police's negligence, if the police do not respond in an adequate manner or not at all.

There are of course situations in which reporting an incident is not merely pointless but also dangerous and poses a risk to the (physical) safety of the human rights defender. Defenders in these cases will need to consider their own safety first and refrain from contacting the police if the risk is too great.

51 Frontline Defenders, *Victim Blaming: Bangladesh's Failure to Protect Human Rights Defenders* (2016), p. 16.

52 Ministerial Agreement no.103-2008 (10 January 2008), <https://www.congreso.gob.gt/wp-content/plugins/acuerdos/includes/uploads/docs/2008/gtamx103-2008.pdf>



A protester takes part in a demonstration aimed at calling attention to the high murder rate of Guatemalan Women outside the International Olympic Committee's (IOC) 119th session in Guatemala City July 3, 2007. The sign reads 'No more killing of women'.
© REUTERS/Daniel LeClair

5.5. Conclusion and recommendations

Police can play an important role in protecting human rights defenders against threats and attacks they face as a result of their work. When considering approaching police for protection, however, human rights defenders need to assess the level of protection they can expect as well as the risks involved. If police cannot or do not want to adequately protect defenders, or if the risks involved are too great, it becomes even more important for defenders to have their own protection network beyond police.

- Human rights defenders need to familiarise themselves with the level of protection granted to them in the domestic legal framework. Some countries have implemented specific laws on the protection of human rights defenders which in some cases also lead to the establishment of a dedicated protection mechanism. In those cases, defenders need to assess how effectively this has been implemented to gauge to what extent it can be relied on. The absence of domestic legislation however does not free police from their obligation to protect.
- Police may hold negative opinions or bias against human rights defenders. Defenders need to be aware of this, and also to what extent this impacts the police's willingness to offer (effective) protection.
- Police should actively involve human rights defenders in the discussion about what level of protection is required for them and what protection measures are most appropriate in light of the individual circumstances of the defender. In this context, it is important to consider not only which options are available in theory, but also what can be reasonably expected in practice, considering a potential lack of means or willingness on the side of police to offer (effective) protection.

Engaging in constructive dialogue: Opportunities and challenges

6.1. Introduction

As the previous sections of this paper have shown, the work of human rights defenders can intersect with the work of police in different ways. In some cases, defenders may experience or become the victims of problematic policing approaches or human rights violations at the hands of the police. Engaging in constructive dialogue with police can be an opportunity for defenders to address such problems and make an improvement to the human rights issues at hand.

The police can also serve as a relevant direct interlocutor for defenders who work on human rights issues relating to police. Human rights defenders working on land rights, for example, may often consider it important to talk to police if they are carrying out evictions. Defenders seeking to fight against discrimination affecting certain minorities may need to raise concerns with police about practices of ethnic or racial profiling by the police, or to report hate crimes committed against minority groups and to call on police to take steps to prevent, detect and investigate such crimes. In some situations, police may be part of the problem human rights defenders are working on, for example if they are harassing, arbitrarily arresting and ill-treating LGBTI-people.

In all such situations, human rights defenders may consider directly approaching the police for various possible purposes, for instance:

- To obtain more information about the issue at hand.
- To obtain the view of police on what happened and get a better understanding of the situation.
- To request concrete action from the police, such as to reveal the whereabouts of an arrested person, to release a person, or to carry out an internal investigation into allegations of misconduct by a police officer.
- To discuss a general problem related to the police and possible solutions to this problem, such as discontinuing certain stop-and-search practices, or reviewing policing approaches in certain types of operations, like policing assemblies or carrying out eviction orders.



Police officers walk over posters left by civil society activists calling on the police to question Maltese Economy Minister Chris Cardona, after some of the journalists from the Daphne Project initiative reported him as having met with one of the men accused of the murder of anti-corruption journalist Daphne Caruana Galizia, at the police station in Valletta (Malta), April 19, 2018. © REUTERS/Darrin Zammit Lupi

Engaging in constructive dialogue with police has the potential to add to the efforts of defenders to achieve their human rights goals. There are, however, several elements to consider before taking a decision to engage with police. Defenders need to carefully consider not only the opportunities but also the challenges and potential risks, to make an assessment whether and how initiating dialogue with the police is feasible and viable. It has to be acknowledged that in many cases, approaching police directly is not an option as the relationship with police is too difficult, and attempting direct contact would put at risk the defenders themselves and / or the people whose rights they seek to promote and protect. If a decision is made to engage with police, however, an understanding of the police is indispensable for making the dialogue as effective as possible.

6.2. Deciding whom to talk to

Law enforcement agencies are hierarchical structures. Depending on the issue at hand, there are different levels of the hierarchy or different departments to be considered for direct engagement. It is crucial for human rights defenders to familiarise themselves with the structure of the institution and gain an understanding of the “who is who” and “who does what”. This will help to identify the best interlocutor for a given issue who also has the necessary decision-making powers to implement the change that the human rights defenders are advocating for.

Lower operational level: In some cases, it makes sense for human rights defenders to talk to law enforcement officials working on the ground. For example, human rights defenders may wish to talk to the particular officials who were involved in certain policing actions that defenders seek to address. This can range from the use of force to stopping, searching or arresting certain individuals or recording or investigating a crime report from a victim. Such conversations can be useful to obtain first-hand information on a specific incident or situation, and to discuss individual cases, assuming, of course, that the police official in question is willing to talk and allowed to disclose the information that the human rights defender is seeking to obtain.

Mid-level commanding and superior level: In many cases, the human rights issues that defenders seek to address are not the result of decisions taken by individual officers on the ground but will have been based on orders that they received. The decision to disperse an assembly or to carry out an eviction order, for example, usually are taken at a higher level. It thus makes sense for human rights defenders to address issues with those who were involved in the decision-making process. This level within the police can further serve as an interlocutor for human rights defenders who want to address complaints against lower ranking police officials. In this context, dialogue can serve to ensure that police officials are being held accountable for misconduct, or to address the absence of effective accountability and oversight.

High-level: Human rights issues manifesting on the ground can be the result of policy issues or structural problems that are best addressed with the highest level within the police institution. This can include discussions about procedures or instructions which are considered inadequate and require improvement or clarification, insufficient consideration given to human rights during training, or hiring practices that result in a lack of diversity within the police force.

Training institutions: These are usually the parts of the police that are the easiest for human rights defenders to access. However, it must be borne in mind that training institutions are not part of the decision-making level with regard to how policing should be done in the relevant country. And often, being the head of a training institution is regarded as a dead-end in the career of police officers (even if possibly going with a

high rank in the ranking structure), leaving that officer with little or no influence within the law enforcement agency. Such officers may nevertheless be useful interlocutors in order to learn how police training is done and to what extent and how human rights issues are included in the curriculum.



A member of a citizens' initiative against violence speaks about cases of killings by police, as they call on Nigeria's Inspector-General of Police Solomon Arase to address excessive use of force by the police, in Abuja (Nigeria), September 18, 2015. © REUTERS/Afolabi Sotunde

Getting access to the appropriate level within the police is often not easy. Especially when it comes to engaging with the higher level, Human rights defenders are sometimes “sidelined” to meet simply with press officers, public liaison officers, human rights departments or training institutions, instead of meeting those who can actually take decisions on the matter at hand. While information provided by such interlocutors can still be useful for the work of human rights defenders, these are not the levels where actual problems and possible solutions can be discussed. Policies and instructions on how police are supposed to operate are defined in operational departments at the highest level. Like the rest of the rank and file, training institutions are usually only at the receiving end of these instructions and have no decision-making powers with regard to operational policies and instructions.

There are various ways for human rights defenders to approach police and establish contacts with the relevant interlocutor. What is feasible and most suitable will heavily depend on the situation and existing relationship with police. For example, human rights defenders may want to visit forums or other events attended by police in order to make contact with them, or they can invite police to events that they themselves organise. Another option is to make use of existing networks, for instance by asking other organisations already working on police-related issues to put them in touch or asking parliamentarians or embassy staff to do so.

A point to consider is that police may in some cases be more likely to respond to ideas that come from within the police. Thus, human rights defenders may want to consider whether in some circumstances, it would be beneficial to not advocate an idea for change to the institution as such but to instead to seek support from like-minded individuals within the institution to advocate and push forward an issue on their behalf.

In the late 90s/early 2000s, Citizens' Watch Russia identified the police, which have been regularly accused of gross human rights violations, among key agencies that needed to be reformed. To get this across, their first step was to identify police officials who were receptive to the idea as well as officials who were willing to collaborate on a regular basis. Their method to approach these officers was to not just impose their suggestion but to also offer them something in return, to assure them that the effort was not to make their work more difficult but to make it more effective.⁵³

Due consideration should also be paid to choosing the right person(s) from the human rights organisation to enter the communication. Those person(s) should have good general communication skills as well as, if possible, a good level of knowledge and experience with police, and be aware of police culture and attitudes and familiar with police vocabulary. Especially when talking to higher levels within the institution, a person of a certain reputation and ideally with already established contacts with police may be better perceived and make police more likely to listen.

If attempts to directly meet and discuss with police are unsuccessful, human rights defenders should consider making public their failed attempts to engage. This will ensure that police cannot claim retrospectively that defenders did not seek to talk to them or that they refused to hear their point of view. It further has the potential to generate enough public pressure for police to change their mind.

6.3. Knowing the attitude

Before meeting a specific interlocutor within the police, it is important to know the overall attitude of police, both at institutional and individual level with regard to the human rights issue to be discussed as well as with regard to the work of the defender. This will help human rights defenders to determine what can be achieved in a meeting, as well as to anticipate potential concerns or arguments and prepare for addressing them.



Washington Metropolitan Police Department Sergeant Jessica Hawkins (L), a transgender woman who leads the department's lesbian, gay, bisexual and transgender (LGBT) unit, speaks with transgender activist Ruby Corado at a home where Corado shelters transgender women of colour in Washington (USA), October 10, 2016. © REUTERS/Jonathan Ernst

53 New Tactics in Human Rights, *Making Allies: Engaging Government Officials to Advance Human Rights* (2003), <https://www.newtactics.org/sites/default/files/resources/Making-Allies-EN.pdf>

A first point to consider in that regard is the genuine willingness of interlocutors to engage in discussions. Human rights defenders need to assess to what extent police are generally (aiming to be) human rights compliant, self-critical about failures and shortcomings and willing to work on areas that can be improved. In some cases, defenders may be able to determine the police's willingness to engage in constructive dialogue prior to approaching them. In other cases, a first contact can help human rights defenders to get a better idea of how sincere the police's commitment to engaging in meaningful discussions actually is. Indicators of such willingness might be the openness with which interlocutors may share information (e.g. access to operational policies) or the ease of getting access to relevant high ranking officials. On the other hand, indicators of an absence of such genuine willingness can be, for example, constant difficulties in getting appointments with relevant decision-makers, and instead being side-lined to press-officers or training academies; interlocutors denying the existence of a greater problem (e.g. talking about a few "rotten apples only"); or playing "ping-pong" within the institutional set-up as human rights defenders are directed to different people to discuss a certain problem.

Quite often, police authorities refer to security when it comes to providing information on policies or instructions (they are "classified"). However, while it might be understandable and acceptable that police do not reveal tactics relating to a specific police operation, providing the public with access to general policies and instructions is a matter of transparency and accountability. Police should furthermore be open to discuss them and to consider concerns raised by human rights defenders with regard to whether or not those documents are human rights compliant. Hiding behind the argument of security can be an indicator that interlocutors are not really willing to engage in an open dialogue about shortcomings, failures and need for improvement in relation to the human rights compliance by police.

Another factor to consider is the potentially biased attitude of police when it comes to human rights defenders working on police-related issues. Police may assume that defenders do not know anything about the real problems and challenges of police work, or that they are "defending criminals". In order to manage or avoid this kind of attitude, the way defenders communicate with and about police issues becomes particularly important, as was discussed in more detail in sections 3.4. and 4.4.

If police display an attitude that is clearly hostile, either towards human rights defenders in general or in relation to the topic at hand, it is important to conduct a careful risk assessment before taking the decision to engage with them. Such a risk assessment would include considerations about what may be the worst outcome of any engagement attempt: whether the risk is that the discussion will be merely ineffective and will not have any outcome, or whether there is an actual risk of retribution or danger to the human rights defender or to the people whose human rights they seek to promote and protect. If it is the latter, human rights defenders need to decide whether they opt for safety first and will address the human rights issue in a different manner than engaging with police, or are willing to take the risk and try to talk to the police nonetheless.

Another point to consider in that regard is that in many cases, human rights defenders will need to disclose to the police some information about the people whose human rights they seek to promote and protect, in order to enable a meaningful discussion. When addressing arbitrary arrests of individual persons, for example, police will thereby become aware that the victims complained. This may lead to retaliation measures by police, placing the victims in additional danger. Defenders thus need to be careful in what they reveal to police, especially if the information they possess is sensitive. If the risk of retaliation is severe, defenders need to consider alternative approaches, such as discussing certain problems at a more abstract level and not based on specific cases from which individuals can be identified.

Human rights defenders may find that police behaviour is shaped by bias relating to people whose human rights the defender is seeking to promote and protect. This may be conscious or unconscious bias fed by personal opinion or experience which leads officers to perceive certain groups as threats. While human rights defenders can play an important role in addressing such bias and the resulting conduct, they should be careful in how to phrase and present their criticism. Even if biased opinions of the police are obvious, directly pointing them out to officers can easily result in a defensive reaction which will in turn hamper the opportunity for effective dialogue.

For instance, in a number of Western European countries, addressing the problem of ethnic profiling with police is highly sensitive and police officials can very quickly get extremely defensive (“I’m not a racist”). It is therefore very important in addressing such issues to obtain a constructive communication atmosphere. Using strategic argumentation might be helpful in that regard, e.g. engaging with police on elements such as effectiveness, for instance, might be easier than discussing any questions about racial bias or even racism with the police.

In 2007/2008, the Strategies for Effective Stop and Search (STEPPS) project by the Open Society Justice Initiative took place in selected police agencies in Spain, Hungary and Bulgaria in an attempt to reduce ethnic profiling in stop and search by introducing a number of reforms. Police and civil society together defined stop and search criteria on which police officers were then trained, stop forms and a system for data analysis were introduced and a dialogue with the community about stop and search practices was initiated. The number of stops in general as well as stops of ethnic minorities for most pilot locations went down during the six-month period that was monitored by the project.⁵⁴

Besides being aware of the attitudes of police, human right defenders should also be aware of their own attitudes and potential bias. Defenders who regularly encounter police violating human rights may tend to perceive police in a generalised way as “the bad guys”. In order to allow for constructive dialogue, defenders will have to manage this tension and should, if possible, adopt a more nuanced approach. Whether this is possible will obviously depend on the human rights problems at hand and the role of the police in them.

6.4. How to communicate and traps to avoid

There are different ways and settings in which communication between human rights defenders and police can take place. Which of them is most suitable will depend on what human rights defenders are trying to achieve as well as with whom in the institution they are engaging.

Meeting individual officers for bilateral dialogue, for instance, can be an effective way to discuss individual cases or to resolve a concrete problem at hand, such as gathering information about the whereabouts of an arrested person or discussing specific incidents of misconduct. Depending on who human rights defenders are talking to, this kind of direct dialogue can also be suitable for discussing patterns of police misconduct in a more general way.

Another option is for human rights defenders to organise round tables or seminars that bring together a number of relevant stakeholders including police personnel. Such round tables can serve to stimulate the debate on a specific topic or issue and raise awareness of a problem both amongst the attendees of the round table and publicly.

54 Open Society Justice Initiative, Addressing Ethnic Profiling by Police: A Report on the Strategies for Effective Police Stop and Search Project (2009).

Organising conferences which include national and/or international experts on a specific topic can stimulate the reflection process among authorities (in particular the law enforcement agency itself) on how to improve human rights compliance in the law enforcement work. In order for such an approach to be effective, the conference should be attended by the command leadership of the police agency who should engage with a genuine willingness to receive constructive recommendations by experts.

Workshops with the law enforcement agency can provide an opportunity for human rights defenders to discuss a specific area of police work with operational decision-makers in order to identify shortcomings in existing policies, procedures or instructions.

If police are willing to engage in constructive dialogue and demonstrate a genuine commitment to discussing their human rights compliance, human rights defenders will generally find it more effective to emphasise common ground and shared interests – as far as those exist - instead of only blaming and criticising police for failures or conduct. Police themselves (should) act as protectors of human rights when fulfilling their law enforcement duties, and focussing on how addressing problems can help police to do a better and more effective job may increase the likelihood that police take into account the recommendations that defenders put forward.

Even if the general relationship with police is difficult, entering a conversation with a hostile attitude can only be counter-productive. Even though it is the interest of human rights defenders to advocate for victims of human rights violations, defenders need to avoid giving the impression to police that they consider that the victim is always right, and the police are always wrong. Rather, they will be more likely to have an effective dialogue if they demonstrate their readiness to listen to police and try to understand their point of view as well as the challenges of police work.



Discussion between police and members of Controle Alt Delete, an initiative to stop ethnic profiling in the Netherlands, at the Controle Alt Delete #5 event at Amsterdam Melkweg (The Netherlands), 11 December 2017. Photo by Les Adu

There are of course situations in which this is not possible. If police commit serious and obvious human rights violations, human rights defenders cannot (pretend to) be impartial but can only take a critical stance. In some countries, police may function as the willing arm of a clearly oppressive government, repressing certain groups within society including, in some cases, human rights defenders and/or the people whose human rights they are seeking to promote and protect. If this is the case, defenders will need to carefully consider whether there is any point in talking to the police at all or whether this would be a wasted, if not dangerous, effort.

In any case, human rights defenders need to be transparent as to what they are working on and what they are trying to achieve. This includes being very clear from the beginning on what the police can expect from them. It is important for defenders to make police aware that cooperation does not serve to silence them and does not mean that they will be less critical towards the police or that they will stop denouncing police misconduct or violations.

Human rights defenders need also to make clear, both among themselves and to the police, that they will not substitute for police in their responsibilities. It is not their task to instruct police on what to do, and defenders need to be wary of any attempts of police to seek such input. In fact, quite often police tend to ask human rights defenders who are critical of police: “What shall we do instead?” and human rights defenders need to be aware that this is often a sort of “trap question” to draw them towards the police. Policing is a very difficult task with tough choices to be made on a daily basis. It is the responsibility of the command leadership of a law enforcement agency to decide how policing should be done and how they expect their subordinates to do their job.

Bearing in mind the risk of being co-opted by police, it is advisable for human rights defenders to limit their involvement to commenting on police work in view of its respect for human rights and to push police to improve human rights compliance. Human rights defenders can act as a watch dog and auditor, pointing at the problems identified and convincing those in charge to address them by adequate measures. What these adequate measures are and what exactly they should look like, however, is rather for the police than for human rights defenders to determine. Human rights defenders need to avoid assuming the responsibility of police to make operational choices on how to do police work.

Similarly, they need to avoid “approving” a choice made by police, for example regarding certain equipment to be used or the instructions established for certain situations.

In preparation for the G8-summit in 2007 in Heiligendamm, Germany and the expected protests, police invited staff members from Amnesty International to have a look at the detention facilities specifically set up for this event. The facilities were found well-conceived for the purpose. However, the problem which appeared later was that they were built for approximately 50 people, but many more people were detained as a result of the large number of arrests made. When Amnesty International criticised the police for the conditions of detention as a result of the overcrowding, the reply was: “but you accepted the facilities!”.

This example highlights a frequent problem: Any operational choice or decision can be implemented in a good and appropriate way, or in a problematic and harmful way in violation of human rights. Thus, the most well-intended operational advice by human rights defenders can lead to unexpected, negative consequences for which human rights defenders would then be given the responsibility, irrespective of the reasons why things went wrong. Providing operational advice to police on how to do the policing job is therefore a no-go for human rights defenders.

Defenders also need to be careful to avoid situations in which police engage with them purely as a “window-dressing”-activity. Police may try to convince defenders as well as the public of their commitment to human rights and use their interactions with human rights defenders to showcase this, without making any actual attempt to engage in meaningful discussions or address the human rights issue at hand.

In the Philippines in 2012, human rights NGOs asked by the human rights department of the police to participate in a project that sought to rank police stations according to their human rights compliance and to reward those that were performing well. The NGOs were asked to first approve a list of over 1,000 indicators to be used for that purpose and then approve or disapprove evaluations conducted in police stations with the use of these indicators. While seeking to create positive incentives for police stations to comply with human rights might be a good idea, both the concrete implementation as well as the implication of human rights NGOs were problematic in two aspects:

The indicators focused to a large extent on general knowledge of police officers about international human rights documents but did not consider the respect of human rights in the daily work of the police station, e.g. in regard to the treatment of arrested persons. This meant that a police station could get a good ranking despite serious human rights violations taking place.

Furthermore, simply given the size of the country and the number of police stations to be evaluated, the NGOs involved would not have had the capacity to check for themselves whether the findings of the evaluations were correct.

Both elements together would have also hampered the possibility for NGOs to report critically on a situation in a police station regarding human rights violations committed if that station got a good ranking.⁵⁵

When it comes to engaging with training institutions, defenders need to be careful to limit their involvement to commenting on human rights-related gaps in the existing training content. Assuming responsibility for drafting the content or even delivering training themselves is a risky undertaking which is not likely to result in the changes human rights defenders want to achieve through their work.

First of all, having staff adequately trained for the requirements of the profession is the responsibility of the police; if human rights defenders take over that responsibility by delivering training directly to operational staff members it can have serious negative repercussions for them. If the staff members who have undergone such training then show any kind of misconduct or otherwise act inappropriately, the defenders who delivered the training may end up being blamed for it. This not only allows the police institution to escape their own responsibilities in that regard but can also negatively impact the reputation of the human rights defenders in the eyes of the public.

Furthermore, human rights training provided by human rights defenders will have very limited to no impact on the behaviour of police outside of the classroom. Human rights training will only be effective if it is linked to established policies and instructions and tied to the development of the practical skills needed for policing. Thus, human rights should not be addressed in isolated sessions but should inform, and be incorporated into, the entire training agenda. This will help to ensure that police will be able to apply a human rights compliant approach in their day to day work.⁵⁶

55 The project was in the end not pursued due to other reasons internal to the human rights department of the Philippines National Police.

56 OSCE/ODIHR Guidelines for Human Rights Education for Law Enforcement Officials, Warsaw, 2012, p. 16: “Considering the pivotal role law enforcement officials play in respecting, protecting and fulfilling human rights, human rights should be an integral part of all training for law enforcement officials, such as in investigation and arrest, the use of firearms and force, and reporting and communication with the public. This is necessary in order to ensure human rights-based training does not become dissociated from operational reality. Thus, an integrated holistic approach, rather than just teaching human rights as a separate subject, is encouraged.” See also the critical analysis of isolated human rights training provided by NGOs in: Celermajer/Grewal, ‘Preventing Human Rights Violations ‘From the Inside’: Enhancing the Role of Human Rights Education in Security Sector Reform’, in *Journal of Human Rights Practice*, Vol. 5, No. 2, 2013, p. 243, 249.

For instance, when training how to use force or how to arrest a person, the relevant human rights considerations need to be included in the practical exercises and decision-making processes which are taught.⁵⁷ This is something human rights defenders should refrain from: It is not their responsibility to tell police when to pull the trigger or not, when and how (or not) to handcuff somebody. Thus, they may engage in dialogue with training institutions to advise on the human rights concerns they have identified when observing the daily policing practice in the country in order to help these institutions to include such issues in the curriculum. However, the concrete training should remain a responsibility of the police agency.

Human rights defenders need to avoid any systematic involvement with training institutions, such as committing to regular lectures or reviews of the training content. Such involvement runs the risk of creating a relationship of dependence between the institution and the defender and may negatively impact the defender's ability to criticise not only the training institution but the police as such (for example, police may want to end the cooperation if defenders denounce certain human rights violations). Further, if defenders are no longer able to fulfil their commitment, they risk being held responsible for problems that emerge after they decide to end their cooperation with police. And often requests for such an involvement are also a way of the leadership to avoid discussing the real problems, such as impunity for serious human rights violations.

It may however still be useful for human rights defenders to maintain some form of contact, for example by occasionally visiting guest lectures or attending human rights events hosted by police. This can be helpful to make contacts as well as to get an idea what human rights issues are being discussed and what opinions are held within the police, without assuming the role of police trainers.

6.5. Conclusion and recommendations

The police can be an important direct interlocutor for human rights defenders. For any engagement to be effective and contribute to the human rights goals of the defender, however, it is crucial for defenders to develop knowledge and understanding of and to assess the entire situation (including the domestic legal framework that police are bound by, as was discussed in the previous sections) to determine what matters can be discussed with police and to develop their strategy accordingly. Depending on the country and context, this may also result in the realisation that approaching police directly is pointless – and can sometimes be dangerous - and thus may not be a suitable approach for addressing the human rights issues at hand.

- **When planning direct approaches to the police, defenders need to familiarise themselves with the structure of the police institution in order to identify the best interlocutor(s) for the issue at hand. During discussions, defenders need to limit their involvement to commenting on failures and shortcomings with regard to human rights compliance and be careful to not engage in or provide advice on activities or decisions that fall within the responsibility of police.**

57 Bienert, A., Action, Not Just Words: The Practical Implications of Human Rights Law for the Use of Force and Firearms by Law Enforcement Officials, published in Security and Human Rights 27 (2016) 200-220.

- Human rights defenders need to assess the attitude of police with regard to both the issue at hand and the (work of the) human rights defenders. This will enable defenders to assess the genuine willingness of police to improve their human rights compliance, as well as to shape their approach and communication in consideration of potential bias or sensitivities. If defenders encounter a police attitude that is clearly unreceptive or even hostile, they will need to consider alternative approaches to addressing the human rights issue at hand, not only to avoid wasting their efforts but also for the sake of their own safety and the safety of the people whose human rights they are seeking to promote and protect.
- If police display a genuine willingness to engage in constructive dialogue, human rights defenders need to, as far as possible, try to understand the police point of view and the challenges they face. However, defenders need to be careful not to engage in activities that may endanger their credibility or compromise their role as critical “watch dogs”. Their involvement should be limited to pointing out shortcomings and failures, without taking over responsibilities from police such as approving policies or delivering training to police.

Final remarks and recommendations

Human rights defenders, when working on policing issues or coming otherwise in contact with the police, need to explore the possible opportunities as well as to understand the challenges, while keeping in mind some basic elements:

Knowing the law: Human rights defenders need to be aware of the domestic legislation applying to them and their work. This will also allow them to understand what obligations the law imposes on police and to distinguish between police acting in breach of domestic law and the domestic law itself being in breach of international human rights standards.

Knowing the attitude: Human rights defenders need to be familiar with the attitude of police towards them and their work. This will allow defenders to distinguish between police policies and individual officers being the problem and will help to assess how police may use their discretion in certain situations and evaluate if problems can be addressed by discussing with police.

How to communicate: Defenders need to keep in mind the reality and challenges of police work. This will allow them to issue factually and legally accurate statements and constructive recommendations. An understanding of the police institution will help defenders to identify the relevant person(s) with sufficient decision making-powers to approach and the best setting for the contact to take place. When in contact with police, defenders need to be careful not to endanger their credibility, get co-opted by police, take over responsibility from police or become dependent on police.

In the end, the relationship between police and human rights defenders differs considerably between countries and contexts, including the negative or positive impact of police on the work of defenders. In some cases, police pose an immense risk to human rights defenders, leading to a situation in which any encounter places defenders in danger. In many other cases, however, there are opportunities to mitigate the risks police pose or even to engage with police to address human rights issues.

The PHRP Team would very much welcome hearing from human rights defenders who have successfully engaged with police to address human rights issues. We encourage you to share your success stories with us by email: phrp@amnesty.nl

Tools for human rights defenders

International standards on human rights defenders

- African Commission on Human and Peoples' Rights, Resolution on the Protection of Human Rights Defenders in Africa (2004), <http://www.achpr.org/sessions/35th/resolutions/69/>
- Council of Europe, Declaration of the Committee of Ministers on Council of Europe action to improve the protection of human rights defenders and promote their activities (2008), https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805d3e52
- European Union, EU Guidelines on Human Rights Defenders (2008), https://eeas.europa.eu/sites/eeas/files/eu_guidelines_hrd_en.pdf
- Organization of American States (OAS) General Assembly, Human Rights Defenders in the Americas: Support for the Individuals, Groups, and Organizations of Civil Society Working to Promote and Protect Human Rights in the Americas, Resolution 1671 (1999), <http://www.oas.org/juridico/english/ga-res99/eres1671.htm>
- United Nations General Assembly, Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, A/RES/53/144 (1998), <http://www.ohchr.org/Documents/Issues/Defenders/Declaration/declaration.pdf>

Resources for human rights defenders on security

- Electronic Frontier Foundation, Surveillance Self-Defence; Tips, tools and how-tos for Safer Online Communication (n.d.), <https://ssd.eff.org/en>
- Front Line Defenders, Workbook on Security: Practical Steps for Human Rights Defenders at Risk (2016), <https://www.frontlinedefenders.org/en/resource-publication/workbook-security-practical-steps-human-rights-defenders-risk>
- Front Line Defenders and Tactical Technology Collective, Security in-a-Box – Digital Security Tools and Tactics (n.d.), <https://securityinabox.org/en/>
- Protection International, New protection Manual for Human Rights Defenders (2009), <https://www.protectioninternational.org/wp-content/uploads/2012/04/Protection-Manual-3rd-Edition.pdf>
- Protection International, Surveillance and Counter-Surveillance: For Human Rights Defenders And Their Organisation (2014), https://www.protectioninternational.org/wp-content/uploads/2015/10/Online-NO2_SURVEILLANCE-AND-COUNTER-SURVEILLANCE-FOR-HUMAN-RIGHTS-DEFENDERS-AND-THEIR-ORGANISATION-310315.pdf
- Safeguard Defenders, Practical Digital Protection (2017), <http://practicaldigitalprotection.com/#en>

Selected references for further reading

- Amnesty International (Dutch section), Police and Human Rights Programme, Guidelines for the implementation of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (2015), <https://www.amnesty.nl/actueel/use-of-force-guidelines-for-implementation-of-the-un-basic-principles-on-the-use-of-force-and-firearms-by-law-enforcement-officials>
- Amnesty International (Dutch section), Police and Human Rights Programme, Police Oversight (2015), Short paper series No. 2, <https://www.amnesty.nl/actueel/short-paper-series-no-2-police-oversight>
- Amnesty International (Dutch section), Police and Human Rights Programme, Policing assemblies, Short paper series No. 1 (2013), <https://www.amnesty.nl/actueel/short-paper-series-no-1-policing-assemblies>
- Bienert, A., Action, Not Just Words: The Practical Implications of Human Rights Law for the Use of Force and Firearms by Law Enforcement Officials, published in Security and Human Rights 27 (2016) 200-220, <http://booksandjournals.brillonline.com/content/journals/10.1163/18750230-02701002>

- ICRC, Professional Standards for Protection Work carried out by humanitarian and human rights actors in armed conflict and other situations of violence (2018), <https://shop.icrc.org/professional-standards-for-protection-work-carried-out-by-humanitarian-and-human-rights-actors-in-armed-conflict-and-other-situations-of-violence-2512.html>
- Office of the UN High Commissioner for Human Rights (OHCHR), Factsheet No. 29: Human Rights Defenders: Protecting the Right to Defend Human Rights (2004), <http://www.ohchr.org/Documents/Publications/FactSheet29en.pdf>
- OSCE/ODIHR, Handbook on Monitoring Freedom of Peaceful Assembly (2011), <https://www.osce.org/odihr/82979?download=true>
- OSCE/ODIHR, Guidelines on the Protection of Human Rights Defenders (2014), <https://www.osce.org/odihr/guidelines-on-the-protection-of-human-rights-defenders>
- OSCE/ODIHR, Human Rights Handbook on Policing Assemblies (2016), <https://www.osce.org/odihr/226981>
- Protection International, Focus Report: Public policies for the protection of human rights defenders (2017), <https://www.protectioninternational.org/en/node/1537>
- UN Special Rapporteur Maina Kiai, 10 Principles for the proper management of assemblies: Civil Society Guide (2017), <http://policehumanrightsresources.org/wp-content/uploads/2017/02/UN-Special-Rapporteur-10-Principles-for-the-proper-management-of-assemblies.pdf>
- UN Special Rapporteur Maina Kiai, 10 Principles for the proper management of assemblies: Implementation Checklist (2016), <https://www.ohchr.org/Documents/Issues/FAssociation/10PrinciplesProperManagementAssemblies.pdf>

For selected international publications, domestic legislation and international legal human rights documents in relation to policing, visit the **Police and Human Rights Resources** database: <http://policehumanrightsresources.org/>

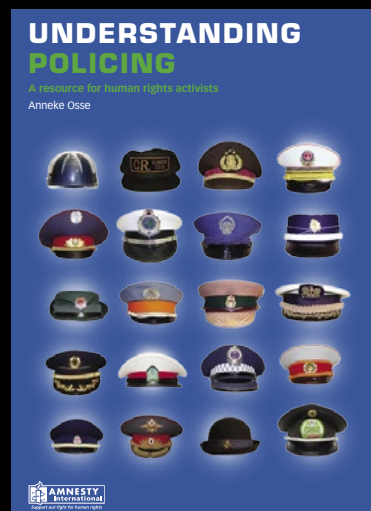
The Police and Human Rights Programme of the Dutch section of Amnesty International

The area of policing and human rights presents a dynamic and constantly evolving field of study. The human rights discourse has in recent years broadened its attention to include not only the negative functions of the State and its agents as human rights violators but also the positive obligations of the State. This presents an opportunity for the police to be seen as human rights protectors. At the same time, the notion has developed that human rights are not only abused by State officials, including the police, but by non-State actors as well. Both police and human rights advocates are (should be) striving for societies characterized by security and safety. This insight has opened up the possibility of police and NGOs working together rather than opposing each other.

However, the idea of police and NGOs working together is fraught with difficulties. Police officers tend to have a different perspective from that of most human rights advocates. They sometimes use different language when speaking of the same issue and will reach different conclusions about cause and effect. Sometimes this is the obvious result of the different roles they have in society; sometimes they may be the result of stereotypic assumptions.

The Police and Human Rights Programme aims to enhance knowledge and understanding of the police & policing within the Amnesty International movement – and the wider human rights community - in order to become more effective when targeting the police or police related issues. We also offer training to human rights advocates on Police and Human Rights and facilitate strategy workshops.

For more information, please consult the website of the Police and Human Rights Programme: www.amnesty.nl/policeandhumanrights.



Amnesty International is a global movement of more than 7 million people who campaign for a world where human rights are enjoyed by all.

Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations.

