

The Worldwide Growth of National Policies for the Protection of Human Rights Defenders

A current overview and the challenges ahead

August 2022

By: **Quique Eguren, Daniel Barrera,
Meredith Veit, Megan Thomas**





INTRODUCTION

25 years of national public policies for the protection of HRDs

This year marks the 25th anniversary of the first national policy to protect human rights defenders (HRDs or defenders). The first policy on the protection of HRDs was enacted in Colombia in 1997. Such an anniversary is a good reason to reflect on the past few decades and analyse the outstanding growth in national policies for the protection of defenders worldwide. In many countries, HRDs and civil society organisations have been steadfastly putting pressure on states and governments to comply with their obligations to protect the right to defend human rights. Since the [United Nations Declaration on Human Rights Defenders](#) was issued in 1998, United Nations (UN) bodies, the UN Special Rapporteur on the situation of HRDs and regional bodies, such as the [Inter-American System on Human Rights](#), have recommended that states worldwide adopt national legislation for the protection of defenders.

Since 2005, Protection International (PI) has been monitoring, supporting and contributing to these developments in a number of countries. From our point of view, national public policies for the protection of defenders are an essential step in building an enabling environment for the protection of the right to defend human rights. PI believes that this anniversary is the right time to take stock of the processes that have been initiated thus far at the national level, while also looking critically at the challenges that lie ahead.





DEFINITIONS

Public policy. For the purposes of this work, it is broadly understood that public policies for the protection of HRDs includes any piece of legislation, decree, policy or protocol issued by a government or a state authority to respond to their obligation to protect HRDs and/or the right to defend human rights. Public policies can be best understood as “a system of laws, regulatory measures, courses of action and funding priorities concerning a given topic promulgated by a governmental entity or its representatives”¹. Unlike individual measures, a course of action within the framework of a public policy is “established to address the problems of the society at large, rather than individual needs on a smaller scale”².

Draft laws. Draft laws are initial versions of legal documents that are under discussions, usually before they are formally introduced to authorities. In the case of draft laws aimed at the protection of HRDs, they are often drafted by civil society organisations with varying degrees of collaboration by authorities.

Human rights defenders. A term used to describe people who, individually or with others, act to promote or protect human rights³.

National Human Rights Institutions (NHRIs). We understand NHRIs to be “state-mandated bodies, independent of government, with a broad constitutional or legal mandate to protect and promote human rights at the national level. NHRIs address the full range of human rights, including civil, political, economic, social and cultural rights.”⁴



CATEGORIES

Enacted policy / adopted. A formal law or policy has been approved at the local or national level by the government or authorities.

Debates in progress. Two scenarios are considered:

1. The topic of human rights defenders’ protection legislation is being discussed amongst civil society actors with tangible actions and requiring specific actions of the state. At this stage, government authorities may or may not have commented on the topic, but there is no formal commitment to begin developing a public policy for the protection of HRDs.
2. Authorities have demonstrated a commitment to address HRDs’ protection by enacting laws or implementing protection policies. This commitment, however, is in the process of being concretized into policy.

Although the passing of a public policy takes time, debates are considered ‘in progress’ if there has been notable movement within the past two years.

Stalled/abandoned process. The policy or procedure in question has been effectively stalled or abandoned, either due to a lack of movement or progress (beyond a period of two years), the nullification of the legislation through judicial or other legal means, discontinuation of a policy due to a change of government, or illegal seizures of power that render an existing policy to be effectively voided, such as a coup d’état.

¹ Kilpatrick, n.d. / <https://mainweb-v.musc.edu/vawprevention/policy/definition.shtml>

² Legal Dictionary, n.d. / <https://legaldictionary.net/public-policy/>

³ United Nations

⁴ The European Network of Human Rights Institutions (NHRIs)



1

A panoramic look at the data

As of 15 July 2022, **45 countries (23% or almost a quarter of the UN member states)** are currently or have previously been involved in debating or enacting public policies. Ten of those countries have previously debated, or even adopted, a policy, but the processes have been effectively stalled or abandoned, due to different reasons. In the table below, countries are sorted by their progress, including those which have already enacted a policy, those with ongoing debates on the topic, and those with stalled or abandoned processes.

Region	No. of countries	Countries with an enacted policy	Countries with debates in progress	Countries with stalled or abandoned processes
AFRICA	 22 of 54	Côte d'Ivoire, Niger, the Democratic Republic of the Congo ⁵	Benin, Cameroun, the Central African Republic, Kenya, Liberia, Madagascar, Mauritania, Nigeria, Rwanda, Senegal, Sierra Leone, Tanzania, Togo, Uganda, Zambia	Burkina Faso, Djibouti, Guinea, Mali
AMERICAS	 10 of 33	Brazil, Colombia, Ecuador, Honduras, Mexico, Peru	Chile, Paraguay ⁶	El Salvador, Uruguay
ASIA	 10 of 45	Mongolia, Nepal, Pakistan	Georgia, Kazakhstan, Philippines, Thailand	Afghanistan, India, Kuwait
EUROPE	 3 of 46 ⁷	0	Greece, Moldova	Albania
GLOBAL TOTAL	 45	 12	 23	 10



Disclaimer: processes around public policies are dynamic, change quickly and are not always carried out in a public or transparent manner. If you have any additional information that should be included, please send an email to: focus@protectioninternational.org.

⁵ In the Democratic Republic of the Congo, two edicts have been adopted on a local level, but a policy has not been adopted at the national level. Although debates are currently ongoing for a national law on human rights defenders, the DRC has exceptionally been classified as a country with an enacted policy.

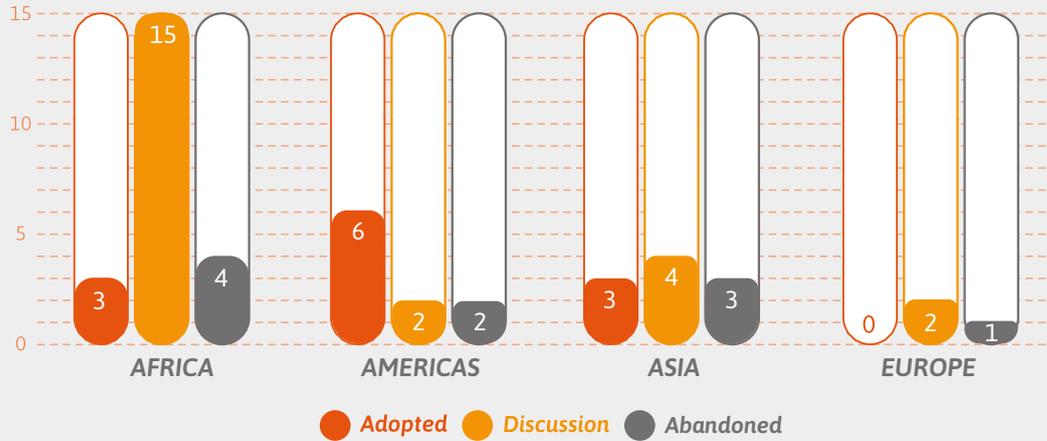
⁶ Paraguay has a policy for the protection of journalists in place, but there are now ongoing discussions concerning a law for the protection of human rights defenders at the national level.

⁷ In Europe, and in western countries more broadly, diplomatic guidelines are typically aimed at the protection of defenders from third countries where Foreign Ministries or State Departments operate. Therefore, they do not fall within the category of national public policies, which have a domestic scope. An example is Finland's Public Guidelines of the Foreign Ministry of Finland on the implementation of the European Union Guidelines on Human Rights Defenders (adopted in 2014).



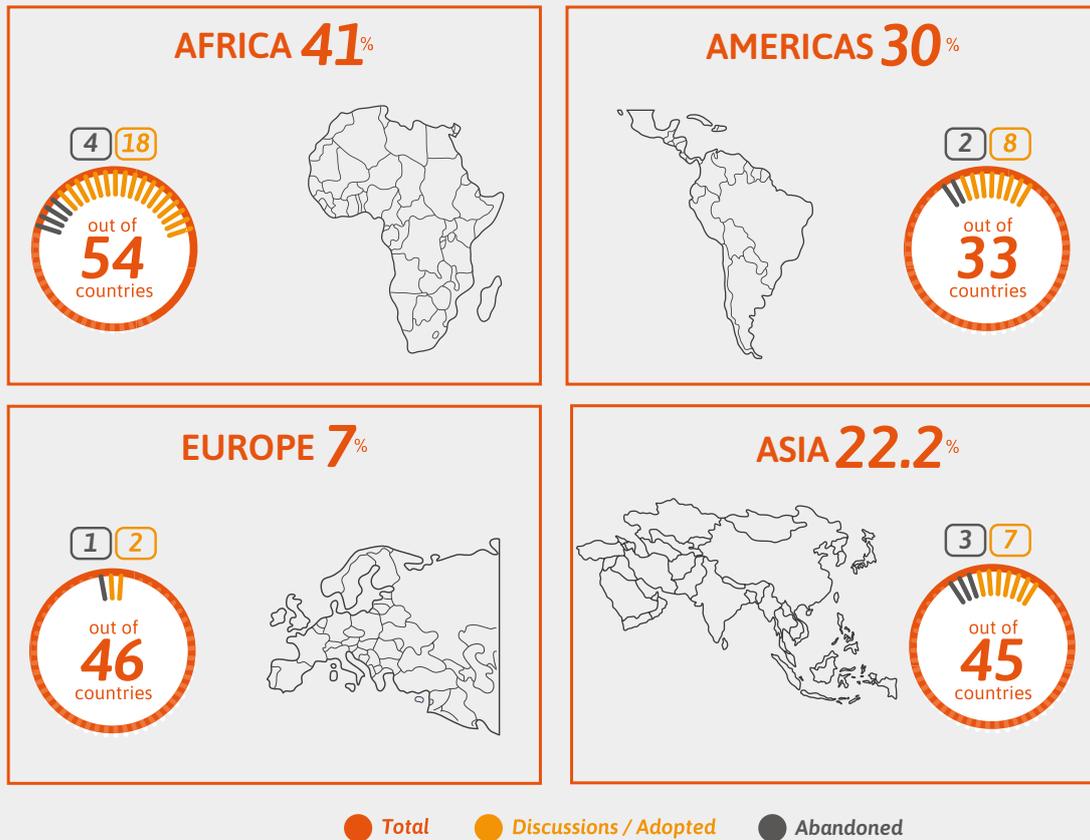
The Current Status of Public Policies by Region

Processes for adopting public policies for the protection of HRDs



Africa is the region with the highest total number of processes on public policies, and the highest number of countries currently undergoing debates (15 out of 54 countries), followed by Asia (4 out of 45 countries) the Americas (2 out of 33 countries) and Europe (2 out of 46 countries).

Countries per region with processes around public policies for the protection of HRDs



The Americas is the region with the most countries having enacted policies (6 out of 33 countries), followed by Africa (3 out of 54 countries) and Asia (3 out of 45 countries).



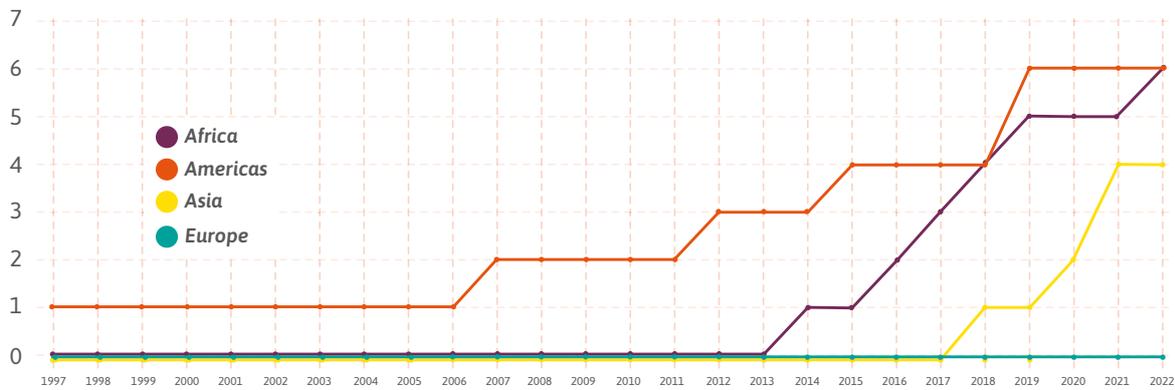
The growth of public policies



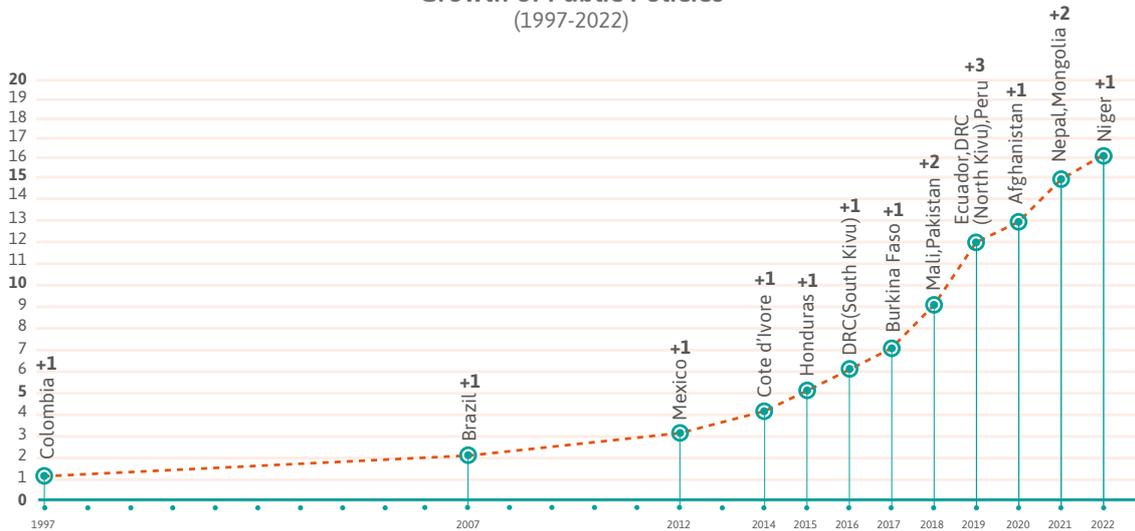
The growth in national policies was slow after the **United Nations Declaration on Human Rights Defenders** was issued in 1998. Ten years later, in 2007, only 2 countries, Colombia and Brazil, had adopted protection policies or initiated discussions on the issue. From 2012 onward, however, one or several national public policies for the protection of defenders were adopted almost yearly, resulting in a total of 15 national policies by 2022. A similar growth could be witnessed in the number of discussions about the topic involving authorities and civil society organisations. The initial processes were mainly in Latin American countries, but since 2014, there has been a sharp growth in African countries, and, to a lesser extent, in Asian countries.



Growth of Public Policies per Region
(1997-2022)



Growth of Public Policies
(1997-2022)



Attention: The above graphs include policies that have later been abandoned. Policies have been abandoned in Burkina Faso (2022), Mali (2020) and Afghanistan (2021) due to illegitimate changes in power (coups d'état).



More research is needed to understand this sharp growth of processes in Africa and the circumstances by which these processes are instigated or accelerated. It is possible that the diffusion of policies in Western Africa and Central Africa are a result of a “cascade model”⁷ in French speaking countries, which proposes that local civil society organizations and governments of neighbouring countries inspire other processes around drafting and passing protection laws. There are significant similarities between legislation adopted by **Côte d’Ivoire, Mali, Burkina Faso and Niger**, for example, with one strongly inspiring the other. However, this “cascade” can be seen in other parts of the world as well. Following the federal law in **Mexico**, for example, policy proposals on the protection of HRDs were adopted in 12 states in the country. Overall, the adoption of public policies in one country seems to incite other countries to follow their example.



Case study: Niger

In Niger, a law on human rights defenders was adopted on 15 June 2022. This process was largely inspired by existing national protection policies in the region. Hamani Assoumane, a representative of the Nigerien Coalition of Human Rights Defenders, confirms this inspiration: “We realised that other countries like Mali and Côte d’Ivoire already had such laws. [...] We have made several visits to Côte d’Ivoire to obtain more expertise on the subject.” The newly adopted Nigerien law bares great resemblance to the law adopted in Côte d’Ivoire in 2016. Although the processes for adopting a law are unique to each country context, it is often witnessed that new proposals for HRD protection laws are entirely based on, sometimes with the exact wording of, existing laws in other countries.

A more in-depth analysis on the adopted law in Niger is available on our **FOCUS Observatory**.

⁷ Finnemore, Martha, y Kathryn Sikkink. 1998. «International norm dynamics and political change». *International organization* 52 (04): 887–917.



2 A closer look at the data

Current Country Status Regarding National Policies



26.7%
Adopted



51.1%
Ongoing
Debates



22.2%
Abandoned
processes

45 Total processes 12 Adopted 23 Ongoing debates 10 Abandoned

Within the overarching umbrella of “protection policies” it is possible to distinguish different categories:



NATIONAL LAW

Official legislation passed by a legislative chamber and enacted by a government.

Examples: The Law 2014-388 on the Promotion and Protection of Human Rights Defenders (2014) in Côte d'Ivoire or the Law of Mongolia on the Status of Human Rights Defenders (2021).



NATIONAL DECREE

Official document approved and enacted by a government. A decree has different meanings according to countries and legal systems, but generally it effectuates an existing law through the creation of an implementation mechanism. There can be several decrees for one law.

Examples: Decree 2137 of 2018 in Colombia on the creation of a Commission of the Plan of Timely Action for human rights defenders, social leaders, community leaders, and journalists or Decree 9.937 of 2019 in Brazil on the creation of a Protection Programme for Human Rights Defenders, Communicators and Environmentalists.



SUB NATIONAL LAWS AND DECREES

Same definitions as above, but enacted at a sub-national level only.

Examples: Edict No. 001/2016 on the protection of human rights defenders and journalists in the South Kivu province of the Democratic Republic of the Congo or Decree 848 or Law for the Protection of Human Rights Defenders in the State of Coahuila of 2016 in Mexico.



A POLICY OR PROCEDURE ENACTED BY A NATIONAL HUMAN RIGHTS INSTITUTION (NHRI)

This can be a public policy when the document has a binding effect on a national or subnational level. However, not all documents proposed by National Human Rights Institutions are binding, and so not all are considered public policies.

Examples: Resolution 077-DPE-CGAJ-2019 adopted by the The National Ombudsperson Office in Ecuador in 2019, or the Policy guidelines on the protection of human rights defenders proposed by the National Human Rights Commission in Pakistan.



LOCAL AGREEMENT

A local agreement is signed by authorities at local level and civil society organizations (as an implementation-oriented Memorandum of Understanding).

Example: Oaxaca State (Mexico), the Agreement on the Recognition and Protection of Human Rights Defenders (or Memorandum of Understanding) signed in 2020 among the state government, Ombudsperson Office, the Prosecutor's Office and the NGO Código DH (renewed in 2021).



The data in this report focuses mainly on national laws, and to a lesser extent on decrees, sub-national decrees and policies proposed by National Human Rights Institutions (NHRIs). PI is working to obtain a more detailed view on different types of policies (including all categories mentioned above). If anyone is currently researching subnational decrees, policies brought forward by National Human Rights Institutions or local agreements, please reach out to us by sending an e-mail to focus@protectioninternational.org.

3 Sub-national policies

Sub-national policies only apply to specific areas within the country and are tied to a certain municipality or province. For example, two provincial edicts have currently been adopted in the Democratic Republic of the Congo (and a few more are under discussion), numerous laws and proposals have been introduced by states in Mexico and several states in Brazil have their own protection mechanisms.

In the cases of Mexico and Brazil, sub-national policies are being developed by the different states within their federal systems. All states in Brazil and Mexico have autonomy to decide on the adoption and the form of their laws, but may receive (non-binding) requests from their federal districts or capital district to adopt similar laws to an initial model proposed coming from the capital. In Mexico, for example, 12 states out of 31 have adopted a law on human rights defenders, following the law enacted by the federal government in 2012.

4 Protection International's participation in the growth of public policies

Since 2005, Protection International (PI) has been advising and training civil society organizations, human rights defenders, state officials and several regional and international institutions in **Brazil, Côte d'Ivoire, the Democratic Republic of the Congo, El Salvador, Guatemala, Honduras, Kazakhstan, Mali, Mexico, Nepal, Paraguay, Peru, Niger, and Uganda.**

PI has provided services on the topic to the Inter American Commission of Human Rights and has provided technical advice to cases before the Inter American Court of Human Rights. Parts of this technical advice have been incorporated into the jurisprudence of the Inter American Court concerning protection policies for HRDs⁸.

⁸ Read more about these activities in our [FOCUS report 2014](#), pages 12 to 14.





In Mexico, PI contributed content to the initial draft law on the protection of HRDs that is now enacted at the federal level. PI was also very active in developing its regulations (detailed instructions for enacting and ensuring the application of the law) and has been advising on policy linked to this law since 2012. Furthermore, PI has provided extensive advice and training to Mexican officials and civil society organizations about the federal protection mechanism (2012-2019). In relation to Mexican states mechanisms, PI has been providing advice and training to the National Ombudsman of Human Rights of the state of Oaxaca (among other initiatives) since 2020.



In the Democratic Republic of the Congo, PI assisted in developing the local edicts which were adopted in the South Kivu province in 2016 and in the North Kivu province in 2019. Human rights defenders were directly involved throughout the process which involved the elaboration of priorities and strategies on how to influence public policies, the organisation of panels and workshops, the drafting of the document and carrying out advocacy activities to push the drafts forward.

As state and national legal frameworks continue to evolve, Protection International has been documenting developments around public policies worldwide. In 2011, PI began compiling best practices and challenges surrounding public policies, from their drafting to their implementation. In 2019, PI started developing the **FOCUS Observatory on Public Policies for Human Rights Defenders**, which was launched in 2021. On this platform, you can access information on developments surrounding public policies for human rights defenders worldwide, including **relevant resources**.



Protection International Publications on Public Policies

- » **Protection of Human Rights Defenders, Best Practices and lessons learnt (2011)**
- » **FOCUS report (2013)**
- » **FOCUS report (2014)**
- » FOCUS REPORT
Public policies for the protection of Human rights defenders: global trends and implementation challenges (2017)
- » The Time is NOW!
Effective public policies for the right to defend human rights (2018)



5 Overall assessment and challenges ahead

The sheer growth in laws and public policies is an important step, as they domesticate the [United Nations Declaration on Human Rights Defenders](#) into national legislation and policies. They also provide a foundational point of reference for those advocating for improved human rights defenders' protection. In practice, however, the adoption of a protection policy for defenders is not inherently indicative of major positive change.

The major challenge ahead is determining whether these laws and policies have an actual positive impact on the right to defend human rights and, especially, on the protection of HRDs. Until we conducted have a proper assessment on their impact, it will not be possible to claim that the described growth is a truly positive development. The following challenges in relation to protection national laws and policies have been identified:



A lack of comparative analyses about the strengths and weaknesses of different approaches

Existing laws and public policies come in different shapes and forms. A number of them deal almost exclusively with protection measures to enhance the security of human rights defenders at risk (i.e. most of the protection mechanisms in the Americas). Other policies—principally in Africa and Asia—rely mostly on laws about the rights and duties of defenders, sometimes overlapping with the rights of citizens in general. Especially concerning the duties of defenders, these documents may include alarming articles that restrict the freedom of defenders.

PI contribution

PI believes that comparative, in-depth analyses of the different existing national policies will be useful for providing shared analytical frameworks and benchmarks to pin down the better policy approaches.



Please check the [FOCUS Observatory on Public Policies for Human Rights Defenders](#) for a growing compilation of the existing policies, updates on ongoing processes and a collection of analytical documents.



A lack of evaluation tools and measurable results of protection policies

The evaluation of public policies is a rather scarce and challenging task, and national protection policies are no exception. They deal with complex problems, often do not have clear objectives, and contain no explicit theories of change. There is no standardised strategy for evaluating protection policies, and in many cases their evaluability⁹ is not clear.

PI contribution

Evaluability assessments of existing policies are important to design better policies for improved results. PI has embarked on long-term research around evaluability and the evaluation of protection policies. Please check our publication on the [Evaluability and Reconstruction of Theories of Change of Protection Policies](#)

⁹ Evaluability refers to the extent to which these policies can be appraised in order to produce clear and applicable evaluation results.





A lack of training of state officials and other key stakeholders on how to adopt a defender-centric approach to protection

Though there have been advancements in the way governments and practitioners approach protection, including the formal establishment of protection mechanisms, there often lacks an understanding on how to effectively apply the risk approach to the protection of HRDs. For example, it is not enough to merely conduct a risk analysis and wait for additional incidents to arise. Practitioners need to use contextualised risk analyses as a foundation to build an intersectional, situated and realistic protection plan.

PI contribution

In 2021, PI brought together over 65 human rights defenders and experts from the Americas, Europe, the Middle East and North Africa, Sub-Saharan Africa, and Southeast Asia to create the [Risk Analysis and Protection Plan Principles](#). These principles act as minimum standards for how key stakeholders involved in HRDs' protection should approach this work in a way that puts the defenders' needs first.

PI also provided extensive trainings for government and state officials in Mexico and Peru about around risk analysis, protection plans and the design and implementation of protection policies. This included personnel from the Federal Government, the Federal Police, the Prosecutor Office and the National and State Commissions of Human Rights.



In order to address this issue, **Synergie Ukingo Wetu (SUWE)** and the **Coalition of Volunteers for Peace and Development (CVPD)** organised workshops on public policies for human rights defenders for authorities in North Kivu. The main obstacles that were found during the workshops were a lack of awareness and a hostile attitude towards defenders. The workshops focused on these issues and allowed for defenders and authorities to engage in discussions and address concerns together.



Gaps in the implementation of existing public policies

An implementation gap is the difference between the objectives of a public policy and its concrete results. These gaps in implementation are not exclusive to HRDs' protection policies but are common to most public policies dealing with complex problems.

PI contribution

PI is planning to research more about cases where defenders may or may not have access to existing protection policies, as well as the ways in which different officials interpret public policy for the protection of defenders in a variety of working contexts. This research will pay particular attention to the implementation gap that exists between urban, decision-making centres and more isolated rural areas and inquire further about how to create the necessary political will to close the implementation gap. PI's direct work with HRDs and state officials also allows for a better understanding of the intricacies and complexities around the governance and implementation gaps of protection policies. Past publications on the implementation gap concerning public policies include [The Time is Now](#) (available in English and Spanish) and our [2017 FOCUS report](#) (available in English, Spanish and French).





A lack of understanding about what works best for which groups of HRDs

For national policies, a more sophisticated understanding of what protection aspects are working for each defender or group of defenders is needed. It is not reasonable to assume that a single approach to protection will fit for all contexts and situations. Rural and environmental defenders face very different situations than the ones faced by urban defenders, gender and intersectional issues affect defenders in different ways, and all these situations vary from country to country. The characteristics and conditions of each context should be incorporated into protection plans.

PI contribution

PI continues to carry out a long-term effort to (i) create actionable knowledge and tools to better analyse the role of perpetrators, varying interests of key stakeholders, conflicts, the willingness and capacity of local authorities, and the ways in which they interact with the diversity of HRDs; and to (ii) create a fully-fledged theory around protection that will help design outcome-oriented protection interventions. Our direct involvement with HRDs and officials in charge of protection policies contributes to laying the groundwork for and further sustaining the results of this research.



A lack of understanding concerning accessibility and the interpretation of obligations

In many cases, specific state and government actors (at national or local level) are behind the aggressions against human rights defenders. In others, they simply omit to respond to those aggressions. This is often due to a lack of awareness around their obligations or a negative attitude towards defenders: authorities often consider human rights defenders as ‘troublemakers’ or ‘unprofessional’. It is essential that governance structures for protection policies are capable of promoting and coordinating government and state actors who have the political will to drive positive change and who adopt a protection-oriented and human rights-based approach. These state officials should:

- (i) Generate political will and coordinate the obligations and concrete actions of all actors involved, promoting synergies and accountability.
- (ii) Effectively deal with the ambiguity and resistance that may hinder the implementation of these public policies.



Acknowledgement

While researching for this report, Protection International used several publicly available primary and secondary sources online, including government websites, UN reports and civil society publications. PI also conducted interviews with experts who have been working on the subject of public policies in their respective countries, including PI staff and partners. These interviews are being periodically uploaded to the FOCUS website. Thank you to the other organisations and human rights defenders who are contributing to this body of knowledge.

Publications referred to in this document

- » Protection International (2013). [FOCUS Report 2013](#): “Public Policies for the Protection of Human Rights Defenders: The State of the Art”
- » Protection International (2014). [FOCUS Report 2014](#)
- » Protection International (2017). 2017 FOCUS REPORT | [Public policies for the protection of Human rights defenders: global trends and implementation challenges](#)
- » Protection International (2018). [The Time is NOW! – Effective public policies for the right to defend human rights](#)
- » Protection International (2019). Global Strategy 2019-2022. Available [here](#)
- » Protection International (2021). [Redefining the Risk Approach: Designing and implementing a human rights defender-centric approach to protection](#). Available in English, Spanish, French, Portuguese, and Arabic

Contact Us

If anyone is currently researching any of the above points, or is interested in collaborating with Protection International on further advancing this body of knowledge, please reach out to us by sending an e-mail to:

focus@protectioninternational.org

