



BILBAO DECLARATION ON HUMAN RIGHTS DEFENDERS

9 September 2023

As we commemorate the 75th anniversary of the Universal Declaration of Human Rights (1948) and the 25th anniversary of the United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (1998), also known as the Declaration on Human Rights Defenders (the Declaration on HRDs), we, the Association of Human Rights Institutes (AHRI), meeting at the University of Deusto with the participation of a relevant number of HRDs, call for unwavering support for the vital role that HRDs play for a robust democratic society. We emphasize the legitimacy of their work in the face of a deteriorating environment in many parts of the world. As we proclaimed in the AHRI Edinburgh Declaration (2018), we are “deeply disturbed by the attacks against human rights defenders”. Unfortunately, this proclamation is more than ever warranted.

The adoption of the Declaration on HRDs by the UN General Assembly 25 years ago marked a turning point, enshrining the right to defend human rights together with many other rights necessary for HRDs in their work to promote all human rights for everyone. Among these rights, we stress the rights to freedom of assembly, association, opinion and expression, the right to develop and discuss new human rights ideas, the right to access and communicate with international bodies, the right to an effective remedy, the right to access funding to develop their work, and the right of HRDs to be protected.

The Declaration on HRDs has also paved the way for significant legal, institutional, and jurisprudential developments for the protection of HRDs. A significant number of norms have been adopted both at domestic and at international level. The first treaty in this area was the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (the Aarhus Convention, 1998).

Deepening the path initiated by the Aarhus Convention, the most recent example is the adoption of the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (the Escazú Agreement, 2018). This is the first international treaty that establishes specific protections for environmental defenders. Some relevant institutions have been created to support the work of HRDs. In 2000, the former UN Commission on Human Rights created the mandate of the Special Rapporteur on HRDs, who has contributed immensely to the implementation of the Declaration on HRDs. Similarly, in 2004 the African Commission on Human and Peoples' Rights established a Special Rapporteur on HRDs to monitor the situation of HRDs in Africa and to recommend effective measures to better protect them. Inspired by these examples, in 2011 the Inter-American Commission on Human Rights created a Special Rapporteur on HRDs to protect them and to give greater visibility to the important role HRDs play in building a democratic society. The latest such institutional development is the world's first Special Rapporteur on Environmental Defenders who was elected under the Aarhus Convention in June 2022.

Another positive impact of the Declaration on HRDs has been the emergence of progressive jurisprudence on the legitimate role played by those who work for the promotion and protection of all human rights. We underline the relevance of some recent decisions by the Inter-American Court of Human Rights for creating an enabling environment for the work of HRDs. This far-reaching jurisprudence can influence other domestic and international judicial and quasi-judicial bodies in an inspiring and forward-looking process of cross-fertilisation.

In spite of the importance of the adoption of the Declaration on HRDs, we recognize some gaps and limitations due to the State-driven nature of the process of negotiation and consensus decision-making. For instance, the Declaration does not contain any specific provision on the increasing stigmatisation and criminalisation that HRDs face. The Declaration is incomplete in its articulation of State obligations, particularly the obligation to investigate and ensure accountability for threats and attacks against HRDs. The Declaration is also silent on the complex transnational character of activism and repression increasingly manifest in the world and implicating duties of States to protect or support defenders and other activists-in-exile. It also fails to address the fact that certain groups of HRDs face particular threats and risks, as illustrated by the situation of women human rights defenders (WHRDs), LGTBIQ+ activists, environmental defenders,

journalists, scholars, indigenous peoples' defenders, child rights defenders (particularly in the context of their contribution to global environmental justice), or defenders with disabilities. Such groups need enhanced protection taking into account the multiple and intersecting forms of oppression and various vulnerabilities that affect them. Finally, the Declaration does not refer to the duties of non-State actors, particularly armed groups and private companies. The 25th anniversary of the Declaration is the right moment to address these shortcomings.

The need to revisit the Declaration on HRDs to overcome some of its gaps and limitations is particularly necessary in the face of the increasingly worrying scenario where HRDs develop their work. According to the UN Special Rapporteur on HRDs, they face “unprecedented” restrictions and attacks including intimidation, threats, killings, disappearances, torture and ill-treatment, arbitrary detention, surveillance, administrative and judicial harassment, stigmatisation and criminalisation by State authorities and non-State actors. They are also affected by illegitimate restrictions to their rights to freedom of opinion and expression, access to information, access to funding, and freedoms of association, peaceful assembly and movement. All these violations of the very basic rights of HRDs take place in a climate of impunity. States must fulfill their obligation to guarantee the investigation and prosecution of the violations of the rights of HRDs and their right to an effective remedy including full reparation.

We, as a global network of academic human rights institutes, call on the international community, international organisations, States, regional and local governments, non-State actors and academia to take responsibility for effective measures to protect HRDs, to support their activities, and to create and secure an enabling environment conducive to the full exercise of their rights, their effective protection, and their vital contribution to society.