

NORWEGIAN SUPPORT FOR HUMAN RIGHTS DEFENDERS –GUIDELINES FOR SYSTEMATISING AND STRENGTHENING THE EFFORTS OF FOREIGN SERVICE MISSIONS

Main objective

To support and protect human rights defenders who risk persecution or are otherwise hindered in their work.

Subsidiary aims

1. To raise the awareness of foreign service missions and encourage them to make more systematic efforts to observe, record and report on the situation of human rights defenders in the host country.
2. To improve the ability of foreign service missions to act quickly and effectively where appropriate.
3. To build competence and support-systems for these efforts in the foreign service.
4. To ensure that foreign service missions' support for human rights defenders is highlighted in their human rights reporting, where it can provide important input to the development of Norway's multilateral and bilateral international human rights policy.

International framework

The UN Declaration on human rights defenders was adopted in 1998 and forms the normative basis for our support for human rights defenders. The Declaration is enclosed with these guidelines. Norway chaired the UN working group that prepared the Declaration.

The UN adopts a resolution on human rights defenders every year. Norway is the main sponsor of the resolution.

In 2000, the UN Commission on Human Rights established a UN mandate for a special representative for human rights defenders, in response to a Norwegian initiative. Ms Hina Jilani (Pakistan) currently holds this post.

Definition of human rights defenders

The UN Declaration on human rights defenders refers to "individuals, groups and associations...contributing to...the effective elimination of all violations of human rights and fundamental freedoms of peoples and individuals". Human rights defenders can therefore be any person or group of persons working to promote human rights, ranging from individuals working within their local communities on a single human rights issue to intergovernmental organisations operating worldwide on a broad range of issues.

The most important factor in determining whether a person is a human rights defender is the nature of the work she or he undertakes. It is not essential for the person to be known as a “human rights activist”, or to work for an organisation that includes “human rights” in its name. Sometimes, people may only be able to carry out their work for human rights under cover of a different name and activity.

The UN Declaration stresses that human rights defenders have responsibilities as well as rights. Two conditions need to be fulfilled:

- ❖ Human rights defenders must accept the universality of human rights as defined in the Universal Declaration of Human Rights. A person cannot deny some human rights and claim to be a human rights defender. This does not mean that a human rights defender has to *actively promote* more than one specific human right in order to be called a human rights defender, but that he or she has to accept the universality of all human rights. For example a person who works to promote the right to education, but claims that girls do not have the same right as boys to education, would not come under the definition of a human rights defender.

- ❖ All actions taken by a person or a group of persons in the promotion and protection of human rights must be peaceful.

Human rights work does not have to be a full-time occupation. A human rights defender can be a judge, lawyer, journalist, politician, organisation, individual member of an interest group or an individual who focuses on a particular case or issue, to name just a few.

It is important to also note that it is not necessary for a person to be legally correct in his or her arguments in order to be a genuine defender. The point is whether or not a person is defending a human right. The key issue is always whether their concerns fall within the scope of human rights.

1. INTRODUCTION

Human rights defenders may be targeted or attacked both by public authorities and by non-state parties, including the business community and civil society groups, because of their human rights work. Violations committed against individual people include murder, physical violence, torture, harassment, imprisonment, fines, defamation campaigns, vandalism, eavesdropping, exclusion from education, and loss of employment.

Human rights defenders are active in all areas of human rights, including general political, civil, economic, social and cultural rights, and the rights of and non-discrimination of particular categories of people such as children, women, indigenous peoples, the disabled and homosexuals. However, these guidelines do not deal with Norwegian support for human

rights work in general (e.g. human rights measures within development cooperation or human rights approaches to development, see Norad's Development Cooperation Manual and supporting documents.). They focus on what foreign service missions can do when individuals or organisations experience problems because of their human rights work.

Human rights defenders can play a very important role in safeguarding and promoting human rights in a country or region. In addition, they often have intimate knowledge of their own society, particularly those aspects that in many places are concealed from the general public. Missions should therefore maintain contact with these people, preferably in cooperation with like-minded countries' foreign service missions and representatives of international organisations, such as the UN, OSCE, etc. When there is a change of staff at an embassy, arrangements should be made to ensure continuity and to maintain the network of contacts.

Norway has always been a promoter and strong supporter of human rights defenders in multilateral contexts, particularly in the UN. At national level, many Norwegian foreign service missions have already carried out individual projects and taken part in joint campaigns with other international actors to support human rights defenders. These guidelines are intended to encourage Norwegian foreign missions to intensify their efforts and work more systematically in this field.

2. SURVEYING THE SITUATION OF HUMAN RIGHTS DEFENDERS

A survey of the situation for human rights defenders is necessary for assessing whether a foreign service mission should give priority to efforts for this group. Undertaking a survey of this kind is also a useful means of building up a mission's competence and create a basis for its own assessments, targeting efforts, and reporting on the general situation in the country and the human rights situation in particular.

Missions are encouraged to obtain information on the following, particularly where there are grounds for concern:

- 1) Human rights defenders in the country, including voluntary organisations//NGOs, the media, and individuals, and assessments of their credibility
- 2) Any restrictions (direct or indirect) imposed by the authorities on the work of human rights defenders.
- 3) Any other reprisals by the authorities against human rights defenders.
- 4) Any failure by the authorities to protect human rights defenders adequately from attack by non-state parties.
- 5) The general level of awareness of human rights in the country and whether there is a culture of promoting human rights.

If there are no human rights defenders in the host country, the mission should investigate possible reasons for this. Experience shows that highly oppressive states and states with strong anti-terror legislation can make it impossible for human rights defenders to operate. In many countries, human rights have been pushed aside in the name of national security. These are complicated issues, but it can be useful to keep two things in mind. Firstly, no one may be

deprived of their human rights. This is true even if someone has been accused of a crime or has actually been sentenced. In other words, even a terror suspect has a right to protection against torture and degrading treatment. Secondly, in many countries anti-terrorism legislation has been used to an unreasonable degree, and often over a long period of time, as an excuse for restricting people's freedom of action in general and the activities of undesired political groups or special interest groups in particular.

Foreign service missions are advised to consult the following sources:

- Human rights reports from:
 - Office of the UN High Commissioner for Human Rights (OHCHR, see www.ohchr.org),
 - OHCHR's special rapporteurs, including the UN Special Representative of the Secretary General on Human Rights Defenders (see OHCHR website > Human Rights Bodies > Commission on Human Rights > Special Procedures),
 - OHCHR treaty bodies, which are responsible for monitoring implementation of the international human rights treaties (see OHCHR website > Human Rights Bodies > Treaty Bodies)
- Regional bodies, for example the Council of Europe, the EU, the Special Rapporteur of the Inter-American Commission on Human Rights, and the Special Rapporteur on Human Rights Defenders appointed by the African Commission on Human and Peoples' Rights.
- National research institutions and universities.
- National public institutions (ministries, ombudsmen, commissioners, etc.).
- The foreign service missions of like-minded countries.
- Norwegian and international organisations that operate in the country, such as Amnesty International, Human Rights Watch, International PEN, Helsinki Committees, the US State Department, local NGOs, etc. These can also be used as sources of information on other countries for which the mission is responsible.
- National human rights defenders, where they exist.

3. RESOURCES AND COMPETENCE-BUILDING

Missions should review their resources to assess whether it is possible to give greater priority to support for human rights defenders. If a decision is made to give these efforts greater priority, this should also be made clear in a mission's workplan and reports and be reflected in the annual letter of allocation.

Missions must give priority to courses/training in human rights for its staff. The Norwegian Foreign Service Institute offers e-learning courses in human rights and has developed a module focusing on support for human rights defenders. Resource use and competence-building initiatives in this field should be seen in connection with development cooperation work wherever appropriated. Regional meetings provide a good opportunity for discussing and exchanging experience of support for human rights defenders. The Foreign Service Institute will consider the possibility of arranging seminars or similar events in cooperation

with other countries' foreign service missions or international bodies that are present in the countries or regions in question. Other tailor-made training programmes are being developed. Missions are invited to contribute ideas and suggestions. The Foreign Service Institute will implement other competence-building measures based on input from the missions and relevant voluntary organisations.

Missions should assess the possibility of giving more effective support through closer cooperation with other countries' foreign service missions and international, Norwegian and national organisations. This will also be a means of increasing efficiency and making the best possible use of limited resources.

The Section for Human Rights and Democracy will cooperate more closely with the different sections of the Regional Department to facilitate the exchange of experience with the missions and provide them with guidance and advice.

4. RISK ASSESSMENT

In countries where human rights are threatened, giving support to human rights defenders can involve risks for the staff of the mission, human rights defenders and their families, and may be detrimental to the specific case. Missions must always assess the security situation thoroughly before deciding to initiate activities in support of human rights defenders.

Foreign service missions and their staff

Missions should regularly assess the danger and significance of political reactions by the authorities (being barred from official events, problems in meeting relevant officials) and the personal safety of their staff against the aim of improving the human rights situation in the country. Such reactions may have a negative impact on other interests the mission is required to safeguard, including those of other Norwegian actors such as the business community and humanitarian organisations. In critical situations, the Regional Department of the Ministry must be consulted.

There may also be a risk of physical reprisals (vandalism, theft, assault, etc.) or other forms of reprisal (threats, harassment, social exclusion, eavesdropping, fines, etc.).

Human rights defenders and their families

Missions must regularly assess whether providing support for human rights defenders puts them and their families at risk of physical reprisal (murder, torture, violence, imprisonment, vandalism, theft) or other forms of reprisal (threats, harassment, social exclusion, fines, eavesdropping, loss of employment).

Impact on human rights issues

Missions must regularly assess the extent to which their support for human rights defenders may be detrimental to the cases on which these people are working.

5. CHANNELS FOR INTERNATIONAL COOPERATION AT LOCAL LEVEL

International cooperation is important as a basis for drawing up strategies for effective and resource-saving measures to support national human rights defenders. Contact with other missions and international organisations is necessary to distribute and receive information and coordinate informal and formal protests and other contact with the authorities.

Missions of like-minded countries and international organisations

Missions should participate in regular or ad hoc forums with the missions of like-minded countries and international organisations with a permanent presence in the country (e.g. the UN, the Council of Europe, OSCE and ICRC), to discuss human rights questions. If no such forums exist, missions should consider whether to initiate this form of cooperation. There may also be other potential cooperation partners, for example Norwegian actors that are established abroad. The UN High Commissioner for Refugees can be worth consulting on general refugee rights questions, but its country offices deal primarily with refugees from other countries, and do not have formal expertise on the situation in the countries where they are located.

UN Special Representative of the Secretary General on Human Rights Defenders

The Special Representative draws up reports and recommendations on how the interests of human rights defenders can best be protected. In addition, she makes several visits each year to countries where the human rights situation is serious or has deteriorated. In their efforts to support human rights defenders, missions should make active use of information from the Special Representative, both by consulting published documents and by direct contact with the Special Representative.

Regional organisations

Missions should maintain an overview of regional organisations and mechanisms involved in the protection of human rights defenders, and take contact with them. Some examples are given below:

- Africa: Ms Jainaba Johm, Special Rapporteur on Human Rights Defenders, appointed by the African Commission on Human and Peoples' Rights.
- Latin America: Coordinator of the Unit of Human Rights Defenders, Inter-American Commission on Human Rights.
- Europe (EU):, Mr Michael Matthiessen, Personal Representative of the SG/HR on Human Rights.
- Asia: no regional mechanism for human rights and human rights defenders, but the Asian Forum for Human Rights and Development (based in Bangkok, Thailand) has its own human rights defenders programme and member organisations in a number of Asian countries.
- Middle East: Human Rights Division of the Arab League.

6. ACTIVITIES

A number of factors will determine which activities are necessary and appropriate. These include the human rights situation, security situation and political situation in the country in

question, the resources available to the mission, and what opportunities there are for cooperation with the missions of other countries and international organisations. This section give examples of activities that missions should consider if human rights defenders are believed to be threatened or under attack. Missions should also consider and carry out other activities as appropriate.

Dialogue with the authorities

Missions should consider raising the situation of human rights defenders with the authorities, both through informal dialogue and through official protests (démarches). Missions must consider carefully which form of dialogue is most effective in a given situation, and discuss this with the missions of other countries and the UN resident co-ordinator, if there is one. For example, it can be a good idea to join with others in requesting permission to establish a forum for dialogue and finding a dialogue partner from the relevant authorities. In many countries, discretion and confidentiality are an essential basis for a dialogue with the authorities on these issues.

A démarche requires prior authorisation from the Ministry. When sending home a report on a démarche, a mission should also consider whether it should be published on the Ministry website or the mission's own website.

Direct contact with human rights defenders

Regular direct contact with human rights defenders is needed to gain an understanding of the true conditions under which they are working. Such contact can also give some protection to human rights defenders, as well as lending moral support to their work, especially if it is coordinated with other countries' missions. Contact can be established and maintained by inviting human rights defenders to meetings at the mission or at more neutral meeting places, by visits or letters to human rights defenders, by joint participation in seminars (which need not have an agenda confined to human rights issues), attendance at annual meetings and press conferences, field trips, and prison visits. Many human rights defenders are also subjected to defamation campaigns and negative comments in the media. Missions can play a part in promoting a positive image of human rights defenders through comment in the media and public visits, but in some situations public attention from diplomats can have a negative effect and put people in danger. Mission staff are therefore urged to speak to their predecessors and to contacts at other missions in the country about how direct contact can best be established and maintained.

Observation of relevant court cases, storage of sensitive information

It is generally effective to be present at important court cases involving matters of principle, and to observe directly whether fundamental legal safeguards are respected. Missions must keep the Ministry (Regional Department or Section for Human Rights and Democracy) informed if such observation is considered necessary. In the interests of optimal resource use, it is sensible to coordinate such observation with like-minded countries' missions. Exceptionally, it may be appropriate to ask a local lawyer to act as an observer on behalf of the missions, or to ask for extra staff from the Ministry.

Human rights defenders may be in possession of sensitive information and evidence that they wish to protect in the event of a police raid or razzia. If asked, missions should recommend that such information/evidence is stored by international organisations the human rights defender trusts.

Dialogue with and support for regional and national human rights commissions and monitoring bodies

Regional and national monitoring bodies can be important sources of information, especially if they are independent. A regional authority is often seen as a neutral authority, and at the same time as having a more legitimate claim to take up such cases than a body from a Western country, which may be seen as interfering. Dialogue with and financial support for such bodies can be an effective way of improving the human rights situation. If a mission does not have its own funds for such purposes, it can apply for funding to the Section for Human Rights and Democracy, providing its assessment and recommendation as documentation.

Financial support for human rights defenders and their activities

Financial support and follow-up of such support are important in countries where human rights defenders themselves lack the resources to act. Funding can be provided for human rights projects, seminars, development of materials and other activities. In countries where human rights defenders lack access to office facilities, arranging for access to a PC, the internet and printing facilities could be considered. In exceptional cases, funding can be provided for office equipment and facilities. The UN Special Representative recommends support for developing and strengthening cooperation and networking between human rights defenders at both national and regional level. If a mission does not have its own funds for this type of support, it can apply for funding to the Section for Human Rights and Democracy, providing its assessment and recommendation as documentation. Applications can also be made to the Norwegian Human Rights Fund for projects in countries with low or average income and a difficult human rights situation. Support for human rights defenders can also be a relevant part of bilateral development cooperation. Measures to support human rights defenders and provide them with safe conditions are most important in this context.

The UN High Commissioner, special rapporteurs and UN country teams

If the situation is considered to be of particular concern, it may be necessary to contact the UN resident co-ordinator and/or the Office of the UN High Commissioner in Geneva together with other countries' missions, requesting a visit to the country by a representative of OHCHR or one of the UN special rapporteurs. Who is asked will depend on the issues a human rights defender is particularly concerned with. Norway provides both political and financial support for the UN human rights system. Missions can also send proposals to the Ministry about cases that should be taken up in international forums where Norway participates. It can be a good idea to coordinate such proposals with other countries' missions.

In particularly critical situations, it may be appropriate to work for the establishment of a OHCHR field office, provided that the country has first been on the agenda at the regular annual session of the Human Rights Commission in April-May. However, Norway's position is that as a general rule, the UN country team headed by the resident co-ordinator should be responsible for the UN's human rights engagement at national level. Norway is supporting UN Secretary-General's Action 2 programme, an initiative to strengthen human rights efforts through UN country teams. Missions should therefore urge UN country teams to take part in efforts to support human rights defenders, particularly in countries where the Office of the High Commissioner does not have a presence. The Ministry, particularly the Section for Human Rights and Democracy and the UN Section, is interested in feedback on the work of UN country teams and the extent to which they are organised to deal with cases involving

human rights defenders. The Ministry is also interested in information on how UN country teams respond when human rights defenders need assistance.

Cooperation with other international organisations

In countries that are suffering from war or internal conflict, missions should consider becoming involved in the establishment of country offices of relevant international organisations such as the International Committee of the Red Cross (ICRC). The ICRC has widespread support in Norway and is an impartial, neutral, and independent organisation with a mandate to protect the lives and dignity of victims of war and conflict and to provide them with assistance. Other relevant organisations with a particular focus on human rights include Amnesty International, Human Rights Watch, the Human Rights House Network, the International Service for Human Rights, and the International Federation for Human Rights. In addition, Peace Brigades International can escort and protect human rights defenders in particularly dangerous situations, and the Irish organisation Frontline has a telephone hotline for registered members.

Critical situations

From time to time, situations arise in which human rights defenders are in acute danger. One step that can be taken in such situations is to support the establishment of a safe house or crisis centre, preferably in cooperation with the UN resident co-ordinator and/or other like-minded actors. It may be necessary to allow human rights defenders who are in danger to seek shelter in the mission. However, this requires strict standards of verification, and cannot be done without clearance from the Ministry. A mission can also express its concern about the situation to the country's authorities. In many cases, informal contact is most effective, as this can prevent deadlock. Measures such as formal enquiries, public statements, use of the media and official meetings may be needed if informal dialogue is ineffective.

If the situation is so serious that there will be a lengthy period of time when it is dangerous for a human rights defender to stay in the country, a mission may consider supporting a stay in a neighbouring country. In such cases, the mission should request an organisation such as the International Organization for Migration to take formal responsibility for providing support. If the staff of the mission do not already know the human rights defender, they should as far as possible seek contact with someone who can verify the threat to life and health.

In less acute situations, possible measures include inviting human rights defenders to training courses or conferences abroad. However, there can be problems in obtaining visas for the host country.

In extreme cases, it may be appropriate to help a human rights defender to obtain residence in Norway. Such residence can only be granted within the framework of current Norwegian immigration law. As a general rule, asylum or residence on humanitarian grounds is only granted if the application is made by a person who is already in Norway. Refugee status can be granted without the person being in Norway, but only if the person is registered as a refugee with the UN High Commissioner for Refugees (UNHCR). If a human rights defender needs to leave the country for a limited period of time, the possibility of a shorter stay in Norway could be considered. In such cases, the human rights defender should be given an opportunity to upgrade competence and expertise through existing study programmes, a suitable research institution, or a relevant NGO.

7. REPORTING ROUTINES

Missions are required to report on human rights-related questions in accordance with sections 10 and 12 of Chapter 7 of the Instructions for the Foreign Service. Additionally, missions with a strong human rights focus and stations with responsibility for development cooperation report on their human rights-connected activities in their workplans. Specific departments of the Ministry can in addition ask individual missions to send separate human rights reports.

These reports must include an account of support for human rights defenders. Missions should also specify which rights they consider to have been violated through the authorities' treatment of human rights defenders or through failure to protect them. If a survey carried out in accordance with Chapter 2 indicates that there is cause for concern about the human rights situation in a country, this should be discussed in the mission's general country reports. The human rights situation can change quickly, and missions are therefore urged to be alert to developments and report to the Ministry if the situation gives reason for concern.

At the suggestion of the Regional Department, a review of reporting routines in various fields, including human rights, will be carried out during 2006.

Missions are requested to send copies of all reports that deal with human rights to the Section for Human Rights and Democracy.

Enclosures:

- I. UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms.
- II. List of other relevant human rights instruments.
- III. List of relevant websites.