

EXECUTIVE SUMMARY

Around the world, people are speaking up and working to defend human rights, frequently at risk to their safety, freedom or life. All too often, these human rights defenders (HRDs) are labelled as “criminals”, “foreign agents”, “terrorists” or threats to “development” or “traditional values”. Many suffer violations of the very rights they defend. They are harassed and intimidated, unjustly prosecuted and imprisoned. Some are tortured, killed or forcibly disappeared.

Many states have introduced restrictive laws to silence and repress HRDs and attack the civic space in which they work. Some states have turned their back on previous commitments to the international human rights framework, even questioning the definition of a human rights defender.

Simultaneously, challenges around specific human rights issues, and for the HRDs working on them, have intensified. Social media threats, smear campaigns and surveillance are an everyday reality for HRDs worldwide. At heightened and intersecting risk are women HRDs as well as those working on the rights of lesbian, gay, bisexual, transgender or intersex (LGBTI) people, Indigenous communities and refugees and migrants.

In this changing world, the European Union (EU) and its member states are increasingly called on to exercise leadership on human rights and HRDs. The EU’s global status, along with its broad range of policies and instruments on human rights, means it can exert significant influence through its relations with third countries and its role in multilateral fora.

1.1 AMNESTY INTERNATIONAL’S RESEARCH

This report focuses on EU and member state action for HRDs in line with their human rights commitments, above all the European Union Guidelines on Human Rights Defenders (EU Guidelines on HRDs). It is based on research by Amnesty International focusing on implementation of the Guidelines between January 2014 and April 2019 in Burundi, China, Honduras, Russia and Saudi Arabia, and draws on compelling testimony of individual HRDs from these countries.

This report looks at how the EU and its member states have acted practically and politically to:

- protect individual HRDs and promote their work;
- engage governments and other key stakeholders on HRDs’ working environment and civil society space; and
- validate human rights concerns raised by HRDs by giving them full political backing and supporting their efforts to address these issues.

The report provides background on the EU and HRDs, including key commitments and challenges in implementing the EU Guidelines on HRDs.

The report focuses on EU and member state action on HRDs in Burundi, China, Honduras, Russia and Saudi Arabia. These countries were selected for their geographical diversity, their diverse relations with the EU and, above all, the serious challenges faced by HRDs working in them. The report provides an overview of EU action by looking at: closed-door diplomacy; public action; trial monitoring; engagement with HRDs; financing, training and capacity building; relocation and visa support and engagement with regional and international fora. Each chapter concludes with country-specific recommendations to the EU and its member states.

1.2 FINDINGS

Amnesty International found an apparent lack of overall strategy and consistency in EU efforts to support HRDs, insufficient visibility of EU actions and channels of support and the absence of a targeted and impact-oriented approach to public action. The findings of this report do not point to an outright failure to deliver on EU human rights commitments but rather to an inconsistent implementation of the EU's HRD policy.

Indeed, clear disparities in EU action emerged both between and within the different countries analysed, for example with robust public messages in support of HRDs in China contrasting with limited or weak support for HRDs in Saudi Arabia. Factors such as the state of the EU's relations with a third country, the level at which public messaging is issued, the individual HRD involved and the personal engagement of EU or member state staff all appear to play a role in determining how action under the EU Guidelines on HRDs is pursued. Such unwarranted disparities suggest a lack of overall strategy and predictability in the EU's efforts to support HRDs and risk being perceived as arbitrary at best and politically motivated at worst. These inconsistencies could undermine the credibility and robustness of the EU's HRD policy at the global level.

This report also finds that EU action is primarily reactive, often responding to escalations in human rights violations impacting HRDs rather than anticipating them. Key areas of action like trial observation, relocation support or even public statements, regularly lack visible follow up once action is taken.

More could also be done to ensure that the EU's public actions and commitments to HRDs reach their target audience in a strategic and results-oriented way. Similarly, it deserves more critical and strategic thinking about whether and how the EU should publicize its quiet diplomacy and how such a step could enhance support to HRDs. The lack of visibility given to certain EU actions risks limiting their positive impact for HRDs and obscures what type of support HRDs can expect from the EU.

At a moment when women, LGBTI and Indigenous human rights defenders, as well as those working on issues related to the land, territory and environment, are particularly at risk, the EU Guidelines on HRDs urgently need to be joined up with other EU policies and instruments.

The report also identifies several recurring debates and perceived challenges for EU action on HRDs. These include debates around the benefits of private diplomacy versus public messaging in support of HRDs, the impact of a lack of unity among EU member states on the EU's HRD policy and the scope for EU action in the absence of formal dialogue or strained relations with specific third countries. However, the report's findings point to thoughtful and innovative approaches that have emerged in response to these challenges. Systematizing, sharing and propagating these approaches across different countries, and cultivating good practices, will be essential to overcome internal debates and systemic challenges in the areas where the EU continues to punch below its weight. Further work will be essential to embed the range of actions, tools and instruments at the EU's disposal within a broader, strategic vision of how best to support and protect HRDs in practice.

1.3 RECOMMENDATIONS

The sole way forward to confront the rapidly evolving challenges HRDs face today, will be for the EU and its member states to adopt a more strategic, visible, innovative and impact-oriented approach to protect HRDs and promote their crucial work.

In light of this report's findings, Amnesty International believes that the EU needs to develop a strategy in response to the burgeoning challenges that HRDs face worldwide. This strategy could take the form of Council Conclusions on HRDs and should be results-oriented, seek to bolster the visibility of EU and member state action for HRDs and aim to foster innovative approaches in response to the constantly evolving restrictions and threats they face. The EU and its member states must take this overall strategy forward along with local HRD strategies tailored to the specific circumstances in each third country. Given political backing up to the highest level, such a two-pronged approach can more effectively link individual EU actions with global work to support and protect HRDs and will go a long way to address some of the EU's key policy shortcomings.

The report ends with two sets of detailed recommendations aimed at achieving a proactive policy on HRDs in the spirit of the EU Guidelines.

Key recommendations include:

AT THE GLOBAL LEVEL

- Issue annual Foreign Affairs Council Conclusions on EU action to promote and protect HRDs in its foreign policy;
- Ensure that the Foreign Affairs Council systematically considers the situation of HRDs; and proactively address EU member state disunity on human rights.

AT THE THIRD COUNTRY LEVEL

- Develop results-oriented country level strategies for EU action on HRDs;
- Regularly assess the impact of EU actions in support of HRDs, based on clearly defined benchmarks;
- Align all EU external action in third countries with EU action to protect HRDs and promote their work.

IN RELATION TO KEY AREAS OF CONCERN

- Reinforce EU and member state efforts on trial observation;
- Systematize the EU and member state response to legislation that unduly restricts the work of human rights defenders; and
- Reinforce strategic thinking and concrete policies to respond when human rights defenders face reprisals for engaging with the EU.

IN RELATION TO COMMUNICATIONS AND VISIBILITY

- Develop a global public communication strategy on HRDs;
- Improve the visibility and accessibility of EU commitments and channels of support to HRDs; and
- Use targeted social media to boost the visibility of HRDs and EU action for HRDs.

In terms of moving beyond established policies and practices, Amnesty International's key recommendations include:

AT THE GLOBAL LEVEL

- Counter the current pushback to weaken the international human rights framework; and
- Publicly reaffirm support for HRDs in EU policies and in the EU's joint statements with third countries.

AT GLOBAL AND THIRD COUNTRY LEVELS

- Increase consultation with HRDs in third countries and at a higher political level in Europe and multilateral fora; and
- Seek channels for meaningful EU action even when formal channels of dialogue are closed.

AT THIRD COUNTRY LEVEL

- Expand good practices to access HRDs in regions, using consulates or visits to development projects as points of entry; and
- Explore alternative ways to promote human rights and the work of HRDs in third countries, including through cultural events, marches, social media and prizes.

IN RELATION TO KEY AREAS OF CONCERN

- Develop a concrete strategy to achieve EU impact for HRDs with intersectional concerns and facing specific challenges and risks as a result;
- Reinforce the EU response for HRDs in human rights crises and conflicts;
- Develop concrete strategies to protect and support HRDs in exile; and
- Boost EU capacity to counter smear campaigns against HRDs and address targeted digital surveillance.

With this report, Amnesty International aims to provide constructive analysis and practical ways forward at this crucial and challenging moment for human rights defence. Above all, it aims to highlight good practices and innovations with a view to advancing debate and a more ambitious, unified and strategic approach for HRDs by the EU and its member states.

BACKGROUND

1.4 THE EU AND HRDS

The EU and its member states have a wide range of commitments and instruments¹ on HRDs that guide their foreign policy and actions to promote and protect HRDs in third (i.e. non-EU) countries.

Above all, in the 2009 Lisbon Treaty,² the EU and its member states commit to place human rights at the centre of their foreign policy by undertaking “action on the international scene... guided by the principles which have inspired [the EU’s] own creation, development and enlargement and which it seeks to advance in the wider world... the universality and indivisibility of human rights.”

The EU has committed to ensuring the protection and promotion of the work of HRDs as a cornerstone of its human rights policy. The EU Guidelines on Human Rights Defenders (EU Guidelines on HRDs)³ are the key instrument as they intend to:



...provide practical suggestions for enhancing EU action in relation to [support to HRDs]... in contacts with third countries at all levels as well as in multilateral human rights fora, in order to support and strengthen ongoing efforts by the Union to promote and encourage respect for the right to defend human rights.

The Guidelines also provide for interventions by the Union for human rights defenders at risk and suggest practical means of supporting and assisting human rights defenders.

The commitments in the Guidelines are reaffirmed in the Strategic Framework on Human Rights and Democracy (2012),⁴ in which the EU commits to “intensify its political and financial support for human rights defenders and step up its efforts against all forms of reprisals” and to “[support] human rights defenders under the European Instrument for Democracy and Human Rights and make funding operations more flexible and more accessible.”

Similarly, the EU’s 2016 Global Strategy for Foreign and Security Policy sets out the EU’s ambitions as a global actor in a dynamically changing world. It recognizes the need for the EU to: “reach out more to... human rights defenders and speak out against the shrinking space for civil society including through violations of the freedoms of speech and association”.⁵

¹ For a more detailed account of EU and member state commitments, policies and instruments relating to HRDs, see Appendix II.

² *Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community*, 13 December 2007, <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A12007L%2FTEXT>.

³ *Ensuring protection – European Union Guidelines on Human Rights Defenders*.

⁴ Council of the EU, *EU Strategic Framework and Action Plan on Human Rights and Democracy*, 25 June 2012, https://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/131181.pdf.

⁵ EEAS, *Shared Vision, Common Action: A Stronger Europe. A Global Strategy for the European Union’s Foreign And Security Policy*, June 2016, http://eeas.europa.eu/archives/docs/top_stories/pdf/eugs_review_web.pdf. For further analysis of the Global Strategy from a human rights perspective, including its importance for HRDs, see also Amnesty International, “Securing universal human rights through the new EU Global Strategy” (News, 27 July 2016), <https://www.amnesty.eu/news/securing-universal-human-rights-through-the-new-eu-global-strategy/> and “EU Global Strategy must keep human rights at its centre” (News, 15 February 2016), <https://www.amnesty.eu/news/eu-global-strategy-must-keep-human-rights-at-its-centre/>.

With this wide range of commitments, instruments and policies at their disposal, the EU and member states are well-equipped to act for HRDs. Nonetheless, challenges remain in the delivery of their stated commitments in practice.

1.5 THE CHALLENGES

Recent years have seen a widespread questioning of existing human rights norms – including the very definition of an HRD⁶ – by countries such as China and Russia,⁷ as well as within the EU itself. New initiatives on “win-win cooperation” or “human rights with Chinese characteristics” are emerging alongside a long-standing debate about human rights as a “Western” construct. These challenge the universality and indivisibility of human rights, as well as the EU’s own positioning on human rights as a “Western” actor.

At the same time, challenges around specific human rights issues and for the HRDs working on them, have intensified. At heightened and intersecting risk are women human rights defenders (WHRDs),⁸ Lesbian, gay, bisexual, transgender or intersex (LGBTI) and Indigenous defenders, as well as HRDs working on issues related to the land, territory and environment,⁹ on the rights of migrants and refugees,¹⁰ or on business and human rights.¹¹ Engaging on their behalf is more challenging in practice, especially when their situation lies at the intersection of different EU instruments (for example, Guidelines on LGBTI rights and HRDs), or between conflicting EU interests.

Finally, just a few of the other developments that challenge the EU to support and protect human rights defenders include:

- The proliferation of restrictive legislation aimed at NGOs and civil society,¹² including in four of five of the countries surveyed in this report;
- HRDs in acute and protracted conflict or crisis situations;
- Communities of exiled HRDs and/or countries with few or no HRDs remaining on the ground (for example Burundi and Saudi Arabia);
- Social media threats, smear campaigns or digital surveillance of HRDs, demanding continued update to EU action in responses to continually evolving threats;
- Situations where EU relations with a third country break down or either lack or lose regular, formal channels for human rights exchanges;
- HRDs or other individuals at risk with dual EU nationality and/or under pressure of *refoulement* from one third country to another (for example, China);¹³ and

⁶ International Service for Human Rights, “UNGA 72: Third Committee adopts resolution on human rights defenders by consensus”, 21 November 2017, <https://www.ishr.ch/news/unga-72-third-committee-adopts-resolution-human-rights-defenders-consensus..>

⁷ *Inkstone News*, William Nee, “With the US gone, the world must keep an eye on China’s human rights”, 22 June 2018, <https://www.inkstonenews.com/politics/william-nee-us-pulls-out-unhrc-other-nations-must-be-guard-against-china/article/2152008>;

International Service for Human Rights, “General Assembly adopts important resolution on human rights defenders in face of opposition from China and Russia”, 25 November 2015, <https://www.ishr.ch/news/general-assembly-adopts-important-resolution-human-rights-defenders-face-opposition-china-and->

[defenders-face-opposition-china-and-](https://www.ishr.ch/news/general-assembly-adopts-important-resolution-human-rights-defenders-face-opposition-china-and-)
⁸ The term WHRDs (women human rights defenders) refers both to female HRDs (who may work on any human rights issue), and to defenders (not necessarily women) who work on women’s rights or on gender-related issues. See UNGA, *Report of the Special Rapporteur on the situation of women human rights defenders*, 10 January 2019, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/004/97/PDF/G1900497.pdf?OpenElement>.

⁹ See UN HRC, *Resolution recognizing the contribution of environmental human rights defenders to the enjoyment of human rights, environmental protection and sustainable development*, 20 March 2019, http://ap.ohchr.org/documents/E/HRC/d_res_dec/A_HRC_40_L22_Rev1.docx; and UNGA, *Report of the Special Rapporteur on the situation of environmental human rights defenders*, 3 August 2016, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N16/247/09/PDF/N1624709.pdf?OpenElement>.

For the Americas specifically, see Amnesty International, *We are defending the land with our blood: Defenders of the land, territory and environment in Honduras and Guatemala* (Index: AMR 01/4562/2016), 1 September 2016, <https://www.amnesty.org/download/Documents/AMR0145622016ENGLISH.PDF>; and *A recipe for criminalization: Defenders of the Environment, Territory and Land in Peru and Paraguay* (Index: AMR 01/8158/2018), 26 April 2018, <https://www.amnesty.org/download/Documents/AMR0181582018ENGLISH.PDF>.

¹⁰ See UNGA, *Report of the Special Rapporteur on the situation of human rights defenders defending the rights of all people on the move*, 16 January 2018, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/008/51/PDF/G1800851.pdf?OpenElement>.

¹¹ Global Witness, *At what cost? Irresponsible business and the murder of land and environmental defenders in 2017*, 24 July 2018, <https://www.globalwitness.org/en/campaigns/environmental-activists/at-what-cost/>.

¹² Amnesty International, *Laws Designed to Silence*.

¹³ Amnesty International, “China: Government claims on Gui Minhai ‘ludicrous’” (News, 6 February 2018), <https://www.amnesty.org/en/latest/news/2018/02/china-government-claims-on-gui-minhai-ludicrous/>;

Thailand: Chinese refugees at risk of refoulement (Index: ASA 39/9180/2018), 28 September 2016, <https://www.amnesty.org/download/Documents/ASA3991802018ENGLISH.pdf>.

- HRDs in the EU itself, or HRDs from third countries under surveillance, threat or risk within the EU.¹⁴

Alongside these challenges, EU member states themselves have increasingly divergent positions on human rights in third countries. This EU disunity on human rights was most strikingly witnessed in the failure to agree on a joint EU position on China at the UN Human Rights Council (HRC) in June 2017.¹⁵ The question of EU unity comes against the backdrop of long-standing tendencies towards finger pointing in EU human rights debates – the EU may blame member states for blocking action, while member states may “hide behind” EU action.

In a changing world where human rights are coming under assault and states are increasingly disengaging from the international human rights framework, the EU and its member states are increasingly called upon to exercise leadership on human rights and HRDs.

Recognizing the critical situation of HRDs worldwide and the ever more challenging environment for human rights, this report hopes to contribute analysis and practical ways forward at this crucial, challenging moment for human rights defence.

In this constructive spirit, it points out challenges, gaps and open questions, as well as highlighting good practices and innovations with a view to advancing debate and a more ambitious, unified and strategic approach for HRDs in EU external action.

¹⁴ See, for example, “Amnesty International condemns constant death threats against employee of Palestinian human rights organization in the Netherlands” (News, 10 August 2016), <https://www.amnesty.nl/actueel/amnesty-condemns-constant-death-threats-against-employee-of-palestinian-human-rights-organisation-in-the-netherlands>.

¹⁵ *Reuters*, “Greece blocks EU statement on China human rights at UN”, 18 June 2017, <https://www.reuters.com/article/us-eu-un-rights/greece-blocks-eu-statement-on-china-human-rights-at-u-n-idUSKBN1990FP>.

CONTACT US



eio@amnesty.org



+32 (0)2 5021499

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