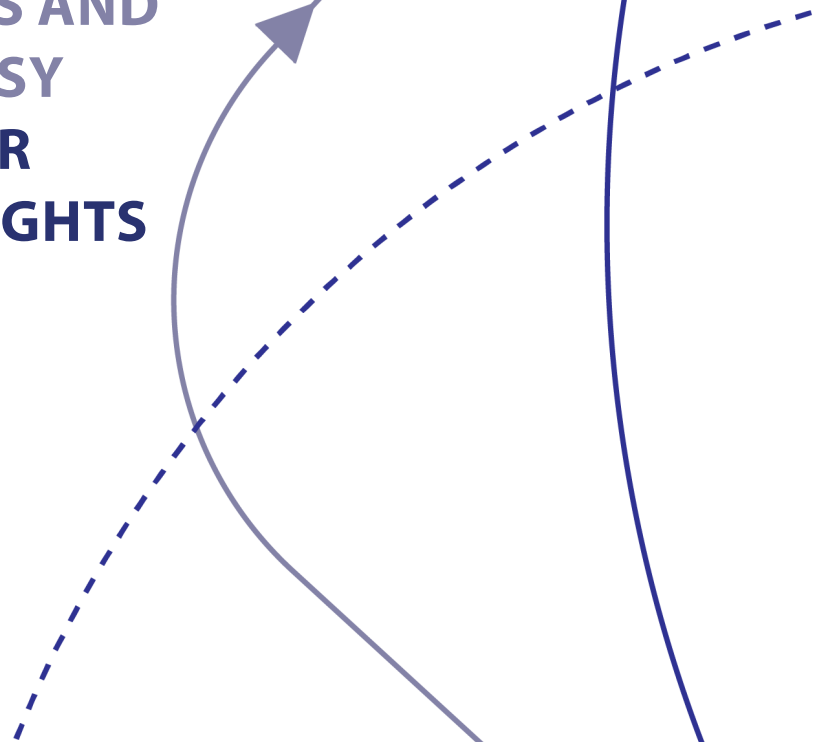
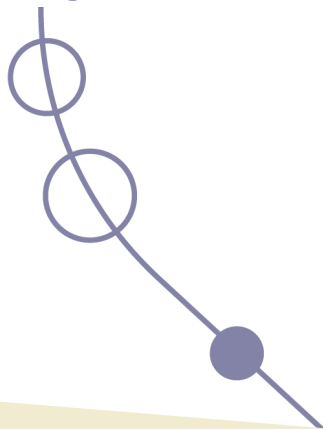


HRDN

Human Rights &
Democracy
Network

GOOD PRACTICES

**IN COMMUNICATING ABOUT
HUMAN RIGHTS DEFENDERS
(HRDS) AT RISK, FOR EEAS,
MFAS, EU DELEGATIONS AND
MEMBER STATE EMBASSY
PUBLIC STATEMENTS OR
LETTERS ON HUMAN RIGHTS
DEFENDERS**




The Human Rights and Democracy Network (HRDN) has written a best practice guide as a practical, examples-based illustration of some good practices in communicating about HRDs at risk, in a way that is helpful to them and to other defenders, and hopefully maximises chances of securing their release, the dropping of charges against them, and the end of other forms of harassment.

It also outlines unhelpful messages that can unwittingly undermine their protection. It also includes a 'baseline' asking the EU to always issue statements in case of the killing of a human rights defender, which should never be ignored. The EU and Member States committed to "improve public diplomacy and communication on its human rights actions" in the EU Action Plan on Human Rights and Democracy.



We call on the EU and Member States to stand, publicly and privately for human rights defenders, and to promote their work, whenever possible.

Who is a human rights defender?

 <https://www.ohchr.org/en/special-procedures/sr-human-rights-defenders/declaration-human-rights-defenders>

A human rights defender is any person who, individually or in association with others, or any group or organ of society that acts or seeks to act to promote, protect or strive for the protection and realisation of human rights and fundamental freedoms at the local, national, regional, and international levels. The actions taken by human rights defenders are always non-violent. They may at times be deemed illegal, especially when they are an act of civil disobedience, i.e. an act involving the premeditated breaking of a domestic law for reasons of conscience or because it is perceived to be the most effective way to raise awareness, express social or political dissent or to bring about change. An individual or a group can be a human rights defender, regardless of whether they self-identify as such.

An individual or a group can be a human rights defender, regardless of whether they self-identify as such. Examples of HRDs include journalists, bloggers, members of human rights NGOs, academics, lawyers, trade unionists, representatives of indigenous communities, disability activists, as well as collectives such as human rights associations or communities fighting for their land rights. HRDs stand up for the rights of others, which is why it is so essential to protect them, their families and collectives. They often do so at great personal cost. In standing against human rights violations committed by States and non-state actors, HRDs are increasingly exposed to serious threats, including physical attacks, harassment, smear campaigns, arbitrary detention, torture and killings.

Authoritarian governments are investing huge efforts and resources to close down, silence, restrict and discredit human rights defenders and independent civil society critical of government policies or other powerful interests. Human rights defenders should be supported in holding their own governments accountable for human rights violations: they are a 'local solution to a local problem'. But where governments obstruct their work and/or target them with criminalisation, harassment, threats of violence for doing their important work, the EU and the international community must publicly denounce abuses. The EU's Guidelines on HRDs specify that "The EU's objective is to influence third countries to carry out their obligations to respect the rights of human rights defenders and to protect them from attacks and threats from non-State actors. The overall objective should be to bring about an environment where human rights defenders can operate freely".

This is a crucial political moment. We need a more consistent and credible political response from governments active in the defence of democracy and human rights, who must give the same priority and resources to enabling civil society space that autocrats give to closing it down. The EU has made the protection of human rights defenders at risk one of its key priorities. It must renew and reinvigorate this commitment with: more high profile political leadership, a consistent strategy that integrates for the protection of human rights defenders across a number of policy areas as a matter of priority, and sustained practical support to those under attack on the front line.

AHEAD OF A TRIAL OR OTHER TYPES OF ILLEGITIMATE ACTIONS AGAINST HRDS (HARASSMENT, THREATS, IMPRISONMENT, INTIMIDATION, PHYSICAL ASSAULT, KILLINGS, ETC.)

DO

- ✓ Seek the informed consent of the HRD about the aspects of the statement that concern them to minimise the security risk to them and ensure they support the calls included in the statement. If this is not possible, seek the informed consent of their representative, such as a lawyer or family member;
- ✓ Describe the individual or the collective as a human rights defender (HRD): openly recognising them as such helps legitimise their work and can increase their protection; it further raises the issue of the state's commitment to protect them under the United Nations (UN) Declaration on HRDs;
- ✓ Refer to relevant wording within the UN Declaration on HRDs as well as the EU Guidelines on HRDs in the statement, as well as any relevant UN documents from Special Rapporteurs or treaty bodies; observations, statements, judgments from international human rights bodies, independent experts and regional human rights courts on HRDs;
- ✓ Consult international or regional sources that assess the legitimacy of the actions taken against the HRD (ICCPR commitments, UN Working Group on Arbitrary Detention, Council of Europe (ECHR..), African Commission on Human and People's Rights, Inter-American Commission on Human Rights, etc.) and cite them in the statement to increase its weight and legitimacy;

- ✓ Explicitly point out the connection between the actions taken (arrest, judicial action, harassment, intimidation, etc.) to the HRD's legitimate human rights work, as well as the adverse impact of violations on the HRD's ability to continue their work, on the country's other HRDs and civil society and finally on those benefiting from their work;
- ✓ Call for the immediate and unconditional release of the defender and the dropping of all spurious charges in case of arrest or detention; take advantage of your appeal to ask for the release of other HRDs;
- ✓ Call for the violations against the HRD to cease, and use the opportunity of your appeal to call for the state to ensure that similar actions against other HRDs (only name them if you have their informed consent) and civil society cease as well;
- ✓ Highlight the links between the individual case and the wider trends of HRD harassment and the closure of civil society space, and denounce this trend; infer what the repercussions of this case could be on the wider human rights situation (silencing of other HRDs, the shrinking of civil society space, restriction of rights for all, etc.); urge the government to repeal any harmful legislation restricting HRD work (rights to freedom of expression, association, peaceful assembly, expression, NGO financing...);
- ✓ Declare what the repercussions of the case could be on the international standing of the country and on relations with the EU and its Member State(s) including trade relations;
- ✓ Ask for specific actions from the authorities: ensuring the HRD's safety and facilitating their work and the work of other HRDs / civil society actors, an end to harassment, their release from detention, permission for the international community to visit them in detention, access to lawyers, medical care, etc; This can also include a call on the authorities up to highest level to take a public position on the case and in support of the work of HRDs and wider civil society in the country;
- ✓ Call for the adoption of policies and legislation, or to implement fully if they already exist for the comprehensive recognition and protection of defenders, and that any precautionary measures issued by human rights courts and bodies are implemented without delay;
- ✓ Call for the immediate and unconditional release of all HRDs detained solely for the exercise of their human rights. Where HRDs are in detention, also call for fair trial guarantees and the respect of international Standard Minimum Rules for the Treatment of Prisoners;
- ✓ Always issue a condemnation in the strongest possible terms in case of an HRD's killing; call for an immediate investigation and that all those responsible are held to account without recourse to the death penalty; for the protection of witnesses, of the HRD's friends, of community and colleagues, for the implementation of necessary measures to prevent the recurrence of an HRD killing, and for a guarantee that all HRDs in the country can carry out their legitimate human rights activities without fear of reprisals and free of all restrictions.

DO NOT

- ✗ Make vague or apologetic statements about raising the case and your concerns: states commit themselves to international scrutiny when ratifying international human rights agreements;
- ✗ Simply state your concern without calling for specific actions;
- ✗ Take positions on HRDs solely where they are emblematic or renowned HRDs. International attention is particularly needed for those defenders who are discriminated against and marginalised and who are less known or who have received less support.

EXAMPLES OF GOOD PRACTICE:

- *'We urge your government to fulfil its obligations under international law and immediately and unconditionally release all HRDs who have been arbitrarily detained in violation of their human rights.'*
- *'We condemn the use of administrative detention by the authorities as an instrument aimed at creating pressure, fear and uncertainty.'*
- *'The detention of human rights defender [insert name] resulted directly from their exercise of [insert human right e.g. freedom of expression or sexual and reproductive rights].'*
- *'[Such actions] curtail the exercise of the rights to freedom of expression, association and peaceful assembly in country X. We therefore call on country X to honour its international human rights obligations.'*
- *'We condemn in the strongest terms the killing of X, human rights defender. We call for the swift reaction of the authorities and to thoroughly investigate this murder and bring to justice those responsible.'*
- *'We urge the government to guarantee the protection of human rights defenders in full consultation with them, respecting their wishes, needs and perspectives, to provide an enabling environment for them, to facilitate their work and to publicly express their support for the work of all HRDs, their organisations and collectives.'*

WHEN AN HRD IS STANDING TRIAL

All of the above, and in addition:

DO

- ✓ Call for the trial to meet fair trial standards; mention that an official from the EU delegation, preferably from the highest level intends to monitor it in person;
- ✓ Where this is the case and where safely possible to do so, publicly denounce any blockage of access by third countries for EU or member state officials seeking to observe an HRD trial;
- ✓ Mention if there are violations of fair trial standards or other is clear evidence leading the EU to doubt the fairness of the trial, e.g., that the judiciary is not independent or if there have been flaws in previous similar prosecutions (flawed trials, trumped-up charges, excessive sentences, etc.);
- ✓ Denounce laws or practices that criminalise legitimate human rights work and are used to unfairly target HRDs and ask for repressive laws and policies to be amended or repealed as soon as possible and urge authorities to end all practices that are not in line with their obligations under international human rights law.

DO NOT

- ✗ Say that you will trust or await the outcome of the legal process in countries where the judiciary is not independent, or where the legislation is flawed, without making reference to fair trial standards;
- ✗ Ask for national laws to be respected or ask for the sentence to be proportionate to the scale of the supposed “crime”, if the legislation on which charges are brought is known to fall short of international human rights standards.

EXAMPLES OF GOOD AND BAD PRACTICE

DO say

‘The overly vague and broad offences established by law X constitute an unjustified restriction on human rights and on fair trial rights.’

‘We call on you to ensure that human rights defender, X, has full access to the assistance of legal counsel and that the proceedings related to this case are open to the public, the media, and members of the diplomatic community.’

DO NOT say

‘La Délégation reste attentive à la poursuite de la procédure engagée et se veut convaincue qu’elle aboutira à un jugement juste et équitable.’ (“We will remain vigilant to the continuation of the procedure and are convinced that it will result in a fair and equitable sentence.”)

IF AN HRD IS CONVICTED IN AN UNFAIR TRIAL

All of the above, and in addition:

DO

- ✓ Describe the outcomes of your trial observations and enumerate the flaws of the trial citing international and regional sources to reinforce your argument;
- ✓ Appeal to the authorities to re-examine the case; mention the rights of the HRD that have been violated and the state's international obligations; consult with the HRD and local civil society representatives for other case-specific calls – the HRD may not want you to issue an appeal on their behalf.

DO NOT

- ✗ Mention compassion, dignity or humanitarian concerns as the sole reasons for releasing an imprisoned HRD; only call for compassionate release if there is no other recourse for an HRD being released, and you have their explicit consent.

EXAMPLES OF GOOD AND BAD PRACTICE

DO say

'While your office has asserted that the prosecution of these individuals is unrelated to their work as journalists, independent inquiries have found that this is not the case. For example, the United Nations Working Group on Arbitrary Detention held that the imprisonment of X, violated your country's obligations under international law, and requested their immediate release.'

'The EU condemns the life sentence for alleged "charge Z" handed out today to human rights defender X, which is completely unjustified. The EU deplors that the due process of law was not respected, in particular with regard to the right to a proper defence. We call for their immediate and unconditional release as well as the release of all their supporters detained in relation to their case.'

DO NOT say

'La Délégation de l'Union européenne ... souhaite que tout puisse être mis en oeuvre pour que sa situation soit traitée avec humanisme et dans le respect des règles et procédures énoncées par les lois du pays X... Dans l'attente du prochain jugement...' ("The EP hopes that, while awaiting judgment, everything possible will be done to ensure that their situation is treated humanely and in accordance with the rules and procedures laid down by the laws of Country X... ")

IF AN HRD FACES REPRISALS FOR MEETING EU OR MEMBER STATE OFFICIALS

To minimise reprisals and their effects, the EU and Member States officials should take strong preventative measures in consultation with the HRD, abide by the principle of “do no harm” and adopt a zero tolerance approach towards reprisals.

For example, they should ensure thorough, victim- and survivor-oriented protection protocols are in place before, during and after visits or speaking events; maintain open communication channels by providing focal points for defenders, and ensure prompt responses when reprisals take place. These could include political support, including advocacy and diplomatic responses, demarches, public appeals as well as practical support such as: emergency assistance grants; expedition of visas and provision of relocation opportunities; support with safety and security training, etc.

IF AN HRD IS RELEASED

All of the above, and in addition

DO

- ✓ Reaffirm that the HRD should never have been detained/tried in the first place, that their rights have been violated by their detention/trial;
- ✓ Mention what remains to be done: free other HRDs (only name them if you have their informed consent), amend or repeal repressive legislation, reform the judiciary, end impunity, etc.
- ✓ Highlight and express concern if the release is conditional upon restrictions such as house arrest, ban on performing human rights work, loss of previously held positions (ex. teacher, public servant), etc.
- ✓ Call on the government to guarantee in all circumstances that all human rights defenders in country X can carry out their legitimate human rights activities without fear of reprisals and free of all restrictions.

DO say

- ✓ *The country X government has taken a positive step by releasing human rights defender X after almost X years of unfair imprisonment motivated directly by their legitimate and peaceful human rights work. This should be followed without delay by the release of all remaining detained human rights defenders and the reinstatement of their full civil and political rights.'*
- ✓ *'We call on the government to guarantee in all circumstances that all human rights defenders in country X are able to carry out their legitimate human rights activities without fear of reprisals and free of all restrictions.'*



WHEN AN HRD IS A WOMAN HUMAN RIGHTS DEFENDER (WHRD) OR A MEMBER OF THE LGBTQIA+ COMMUNITY

All of the above, and in addition:

DO

- ✓ Reference the UN General Assembly resolution 68/181 of 18 December 2013, focusing specifically on WHRDs; also recognise that WHRDs can be gender diverse women who work on any human right and people of all genders who defend rights relating to gender and sexuality;
- ✓ Acknowledge WHRDs and LGBTQIA+ defenders are more at risk of certain forms of violence (including gender-based violence) and restrictions, and are more vulnerable to prejudices, exclusion and public repudiation by state and non-state actors especially: when engaged in the defence of women rights, LGBTQIA+ rights and issues relating to gender, gender identity, disability, expression, and sexuality; when they are perceived to defy cultural norms and social constructs on gender, gender identity, expression and sexuality; or when they challenge social structures vested in economic interest or traditional practices;
- ✓ Express particular concern about systemic and structural discrimination and violence faced by WHRDs and LGBTQIA+ defenders of all ages, and call upon the government to ensure their protection and to integrate a gender perspective into their efforts to create a safe and enabling environment for the defence of human rights;
- ✓ Emphasise the need for the participation of WHRDs and LGBTQIA+ defenders in the development of effective policies and programmes related to their protection, recognizing their independence and expertise about their own needs, and the need to create and strengthen mechanisms for consultation and dialogue with WHRDs and LGBTQIA+ defenders.

DO NOT

- ✗ Ignore or perpetuate gender stereotypes, which stop women, girls and LGBTQIA+ individuals from fully exercising their rights, and allow customs, traditions or religion to be used to justify discrimination or harmful practices which contravene international human rights standards.
-  In all of these cases ensure that EU engagement on specific HRDs is mainstreamed across the European institutions and that both EU and Member States coordinate and relay the messaging (i.e., that member states do not rely on the EU to raise the case alone) and take concerted action on the case of the HRD.
-  FOR YOUTH HRDs, please refer to the recommendations in the UN Special Rapporteur on HRDs' report on child and youth HRDs: <https://documents.un.org/doc/undoc/gen/q23/267/64/pdf/q2326764.pdf>

Follow up

Follow-up on the EU's public statements and positioning is crucial to achieve positive impact for HRDs. In all HRD cases the EU and member states raise publicly and privately, act to ensure that there is follow-up on the case by officials up to highest level and no matter the institution or DG. In all exchanges with the third country including summits, visits, dialogues, etc, and ensure that HRD cases of concern are explicitly raised at multilateral human rights fora. Likewise, ensure briefings with civil society regularly before such interactions with third countries and ensure debriefings with civil society on actions taken on behalf of HRDs and their outcomes.

The Human Rights and Democracy Network (HRDN) is an informal grouping of NGOs operating at the EU level in the broader areas of human rights, democracy and peace.

HRDN's vision is that human rights and democracy are placed at the heart of the EU's internal and external policy agenda. This vision should manifest itself in an EU which effectively protects human rights at home and is a force for positive change in the world.

In pursuit of this vision, HRDN aims to influence EU and EU Member States' human rights policies and the programming of their funding instruments to promote democracy, human rights and peace.

Author Emma Achilli for <http://www.hrdn.eu/>

