



September 30<sup>th</sup>, 2015  
Civil Society Section  
Office of the United Nations High Commissioner for Human Rights  
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Re: Consultation - How to create and maintain civil society space? What works? Submission to the Office of the High Commissioner for Human Rights

Distinguished High Commissioner,

Peace Brigades International (PBI) is an international NGO that has been promoting nonviolence and protecting human rights since 1981. Through our international presence, we work to open spaces for peace and the protection of human rights. We act at the request of local groups working via non-violent means to promote human rights and social change in regions where there is oppression and conflict. We currently have field projects in Colombia, Guatemala, Kenya, Mexico, Honduras, Nepal and Indonesia.

We write in response to your request for input on how to create and maintain civil society space: what works?

Our work and analysis has identified the following tools, which we elaborate on throughout the document:

- Providing international protective accompaniment to (W)HRDs to expand and maintain their workspace
- Presence and visits of the international community
- Access to international mechanisms
- Strengthening (W)HRDs' own capacities to expand and protect their workspace
- Recognition of CSO's work by government authorities and the international community
- Inclusion of Civil Society organizations in decision-making processes
- Ensuring strong legal safeguards to defend rights by countering criminalization and impunity

This submission has a particular focus on human rights defenders and women human rights defenders [(W)HRDs] and builds on PBI's experience working to provide protective accompaniment to (W)HRDs at risk for over 30 years. The protective accompaniment provided by PBI cannot be understood without first understanding what we refer to as the concept of socio-political workspace. PBI's activities attempt to expand and maintain this workspace by deterring attacks and encouraging and empowering defenders. We believe that this concept, along with PBI's over-30-years of experience applying it in the field, can help

provide insights for defining the concept of “enabling” and illustrate what “creating” and “maintaining” space for civil society to work freely and independently can mean. (W)HRDs are indeed key civil society actors, whose work contributes every day to the promotion, protection and advancement of human rights. We therefore consider that successful experiences expanding and maintaining their workspace can give valuable insights on effective ways to create and maintain civil society space.

By socio-political workspace, PBI considers that each (W)HRD “*perceives a broad array of possible political actions and associates a certain cost/benefit or set of consequences as acceptable, some not acceptable, thereby defining the limits of a distinct political space [...] The notion of ‘acceptable’ consequences can be fluid over time and will vary greatly among individuals or organizations. For some, the torture or death of a family member might be the most unbearable consequence. For others a threshold might be crossed at the first threats. An organization might be willing to risk the death of a member, but not the annihilation of the whole group. [...] But no one knows where the borders are. People base their decisions on their own perceptions and projections of what consequences they might suffer. These projections might be based on substantial historical or political analysis, on simple prejudices, on an emotional reaction to a past trauma, or on any number of other psychological factors.*”<sup>1</sup>

The makeup of this workspace depends on the capacities and vulnerabilities of the defender, on the specific threat he/she is facing and on his/her perception of the risk. It is also sensitive to changes in the surrounding political context; it is therefore extremely relative and changeable.

Despite this relativity and volatility, PBI has identified some elements that ensure a wider workspace for (W)HRDs, informed by specific examples from the countries in which we work:

**- Providing international protective accompaniment to (W)HRDs to expand and maintain their workspace**

This is the main objective of PBI’s work and it has shown positive results in all the countries where PBI has worked over the years. This mechanism not only provides security to (W)HRDs at risk, but also empowers them and aids them in doing more than they could have without accompaniment. Claudia Julieta Duque, correspondent for the Colombian human rights Internet radio station Radio Nizkor, affirms this: “*I am sure that without PBI I wouldn’t be able to do many of the things that I do*”. Colombian lawyer and HRD Jorge Molano agrees: “*PBI’s accompaniment enables many defenders to stay in the country and not have to abandon our work.*”

Indeed, “*by providing encouragement to these activists and organizations, protective accompaniment reduces the fear, reduces the stress and promotes increased participation and organizing. Activists and groups begin to choose tactics and actions they would otherwise fear to try. They travel where they would otherwise fear to go. New members join their organizations that might otherwise stay away in fear. The sense of isolation that was inspired by fear is broken by international solidarity.*”<sup>2</sup>This international solidarity, embodied by international physical presence, means a moral support which is often critical for (W)HRDs

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<sup>1</sup> Liam Mahony: “Side by Side: Protecting and encouraging threatened activists with unarmed international accompaniment”, New Tactics Project, Centre for Victims of Torture, 2004, p.14-15.

<sup>2</sup> Liam Mahony: “Side by Side: Protecting and encouraging threatened activists with unarmed international accompaniment”, New Tactics Project, Centre for Victims of Torture, 2004, p.11

who frequently feel isolated in a hostile environment. Breaking this sense of isolation and fear is an essential step towards a more open civil society space.

An example of how international protective accompaniment can help civil society actors to be more active while feeling safer is PBI's accompaniment to the Mexican **Human Rights Centre Paso del Norte**. Based in Ciudad Juarez, the Centre dedicates its work to the legal defence of victims of torture and disappearance. In 2011, the organization was subject to an illegal office raid by members of the Federal Police. Furthermore, Centre staff members have reported harassment, threats and surveillance by federal and state authorities. Since 2013, PBI's accompaniment has focused on providing greater protection and visibility to the Paso del Norte HRC, through meetings with authorities, workshops on security and advocacy, publications, strengthening support networks and physical accompaniment. The results are quite positive, as the HRC was able to expand its activities to new regions and to successfully advocate for the release of eight young people detained and tortured in two different cases<sup>3</sup>, while there has been a considerable reduction in security incidents against the Centre's members. Father Oscar Enríquez, Paso del Norte Founder, expressed: "We value also the presence and solidarity of international human rights organizations such as Peace Brigades International accompanying our work as human rights defenders. Their presence brings more security and visibility for the work of our centre with authorities of the city and of the state."<sup>4</sup>

In Guatemala, the **Unión Verapacense de Organizaciones Campesinas**, an indigenous and campesino organization which focuses on defending and enabling access to land for campesino people in the departments of Alta and Baja Verapaz, and who is suffering threats, attacks and criminalization processes, confirms: "... we very much appreciate the accompaniment to meetings with authorities. (When PBI is present) the authorities have more respect for us. The work of UVOC would be suffering without the accompaniment... the indifference of authorities towards the community members and UVOC would increase..."; "The accompaniment gives us strength and courage, it helps us feel safer. The community leaders have more hope and feel that they are not alone..."

Another example is the creation of **Buenaventura's humanitarian space** (Colombia):

The shockingly high levels of violence, including displacement, disappearances, killings, torture and dismemberment, the majority of which are believed to have been committed by neo-paramilitary groups, in Buenaventura, Valle de Cauca, Colombia, have been documented by many national and international organizations and different UN agencies. In response to this widespread violence, on 13 April 2014 dozens of families, with support from the Colombian NGO Inter-Church Justice and Peace Commission (CIJP) and with accompaniment by PBI, created a humanitarian space in Puente Nayero Street in the Playita neighbourhood, one of the most violent areas in the city. With the creation of the space, the community hopes to protect its civilian residents by prohibiting the entry of illegal armed groups.

This first experience of a Humanitarian Space within an urban context was inspired by the Humanitarian Zones in the areas of Cacarica and Curbaradó in the Urabá region. See more about these Zones on chapter "Access to international mechanisms: Access to the Inter-American System of Human Rights".

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<sup>3</sup> Five men who were victims of torture and arbitrary detention in the "coche bomba" (car bomb) case were released in March 2014, while three other young men arrested on aggravated extortion charges in a case known as "The Figueroa Case" were released in June 2014.

<sup>4</sup> PBI Mexico, [Interview to Padre Oscar Enríquez](#), 07/07/2015

This initiative, with the support of national organizations and with accompaniment by international NGOs, has achieved that currently the presence of neo-paramilitary groups in the Puente Nayero Humanitarian Space is almost nil. The neo-paramilitary presence itself continues in the nearby streets and unfortunately, despite the permanent presence of army and police, on July 19, two children were killed 500 meters from the entrance to the humanitarian space. One of them, Christian Aragon, lived within the space.<sup>5</sup> Despite this, the families believe that the initiative, and the international presence, has helped them to recover their dignity and their community space.

- **Presence and visits of the international community**

This protective effect can also be expanded to field presence and visits of the international community in general. Indeed, as explained by former PBI member Liam Mahony, *“the key impact of international presence is that it expands both the real and perceived range of acceptable action for civilians. The presence lowers the costs of some previously dangerous actions by deterring abuse. It encourages civilians to be less fearful or inhibited, and thus to carry out actions that were not dangerous but were previously thought to be dangerous. Field presence also counteracts the isolation and stigmatisation that often weakens civilians in the face of threats. The role of a mission as a first-hand witness strengthens the visibility and perceived legitimacy of local civilian communities and organisations, adding to the overall international effort to protect them, and thus adds an additional cost to be considered by those who threaten these communities. For civilians, as for perpetrators, the impact of international presence is incremental, not total. But if the ability to attack has been limited, then presence is a real protection. If civilians can carry out significant political activities that they would otherwise have avoided, then the presence has encouraged non-violent civil society.”*<sup>6</sup>

Visits of **International Delegations** to the field provide a good example of how the international community can encourage civil society activities, while providing them protection. In the past years for instance, a caravan of British lawyers regularly visited Colombia, informing on the local situation and providing advocacy and legal support to Colombian lawyers<sup>7</sup>; an independent mission of human rights experts carried out a civilian observation mission to Mexico<sup>8</sup>; and PBI UK facilitated visits of lawyers' delegations to Guatemala and Kenya.

**Example of a High Profile legal sector delegation to Kenya**

In December 2014 PBI UK organised an Alliance for Lawyers at Risk delegation to Kenya, led by former Law Lord, Lord Scott, and including Tony Fisher, former chair of the Law Society Human Rights Committee and Mark Cunningham QC. The delegation met with key members of the legal sector and judiciary including the Deputy Chief Justice and Attorney General, the Director of Public Prosecutions (DPP) as well as high-ranking members of the police and government. They also met with the UN Special Rapporteur of Freedom of Association and Peaceful Assembly, the Kenya National Commission of Human Rights, and human rights NGOs including various grassroots defenders.

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5 CIJP, [“Paramilitares matan al niño Christian Aragón,”](#) 20 July 2015

6 Liam Mahony: “Proactive Presence, Field strategies for civilian protection”, Centre for Humanitarian Dialogue, 2006, p. 26.

7 For further information see: <http://www.colombiancaravana.org.uk/>

8 For further information see : <http://cmdpdh.org/2014/11/mision-de-observacion-civil-internacional-vendra-a-mexico-para-visibilizar-el-trabajo-de-las-y-los-defensores-de-ddhh/>

The delegation succeeded in its key objective of helping PBI's Kenya project to open doors within the Kenyan Government and to raise the profile of PBI in Kenya (thus helping PBI to further protect accompanied HRDs). Much of the success of the delegation was due to the high profile and expertise of the delegation members.

### **Example of an independent expert delegation to Guatemala**

In May 2015, at the invitation of The Nuevo Día Ch'orti' Indigenous Association (CCCND), PBI UK facilitated a delegation of lawyers and leading academics from the UK to visit the Department of Chiquimula in Guatemala. The delegation held meetings with representatives of Ch'orti' indigenous communities and leaders of the CCCND, representatives of Guatemalan civil society, Guatemalan authorities at national and local level and the hydroelectric company present in the region. The delegation also visited the prison where criminalised community leaders and members of CCCND are being detained. The delegation also explored ways in which support could be provided for CCCND, through partnerships with the international legal community, to help them address criminalisation, as well as other issues such as lack of consultation.

The mission is publishing a report on its findings, which will be used as part of PBI's advocacy strategy. On 24 June 2015 the delegation's preliminary findings were presented at a public event in London. The event, "Community Consultation and Megaprojects; Addressing the Gaps", attracted over 40 attendees including MPs, representatives from the NGO and legal community and academics. At the event, Omar Jeronimo of the CCCND spoke of the Maya Ch'orti's struggle to reclaim and defend their rights as indigenous peoples. Following the delegation, the CCCND were invited to present their case at the EU embassy filter group in Guatemala.

In the same vein and on two occasions, different members of the European Parliament visited Buenaventura's humanitarian space. As part of its activities, PBI projects also regularly facilitate visits from embassies' officials to the field (see example below in the "Access to international mechanisms" section), meetings between embassies and (W)HRDs, and invite representatives of the international community to attend and monitor judicial processes against (W)HRDs or to visit them in prison. *"We had the opportunity to meet with diplomatic representatives in the country because of the actions taken by PBI in our situation. This was important because government authorities in the area saw that there was an international presence, and both the police and the human rights ombudsman began to investigate the facts very quickly and even provided us with a case file containing our complaints. We really value these opportunities,"* said a member of an organization accompanied by PBI in Guatemala.

### **Example of a visit of Embassies to the State of Oaxaca in Mexico**

In December 2013, representatives of the Embassies of Germany, Switzerland and Norway visited the Isthmus of Tehuantepec, a region with a high potential of wind energy and a transit area for migrants coming from South and Central America. The implementation of large-scale development projects has presumably caused deep conflicts within the indigenous and campesino communities. In particular, grassroots organizations that peacefully oppose the construction of wind farms have reported several attacks and death threats. Within a context of violence rising, a group of embassies decided to visit this region with the aim of hearing first-hand the testimonies of the community's defenders and their concerns

about the human rights situation.<sup>9</sup> The visit helped bring visibility to (W)HRD's demands and to give a firm message that the international community is monitoring the situation of human rights in the Isthmus of Tehuantepec. Human rights organisations had the opportunity to increase their visibility and to address their concerns with these embassies. This elevated the political cost of attacks against these (W)HRDs.

- **Access to international mechanisms**

Access to international mechanisms and to the international community in general has shown to enhance the workspace of (W)HRDs. In PBI's experience, three mechanisms seem to be especially useful:

- Contact with a network of international contacts

PBI regularly organizes tours in Europe and North America, which enable (W)HRDs to raise international awareness about, and support for, their important work. The tours empower defenders to develop and build relationships with key allies ranging from parliamentarians and Foreign Affairs Officials to grassroots activists, and gain much needed political, moral and financial support<sup>10</sup>.

- Access to the Inter-American System of Human Rights

Of particular utility to the organizations we accompany have been the Precautionary Measures issued by the Inter-American Commission, the Provisional Measures issued by the Inter-American Court (CoIDH) and also the judgment rendered by the CoIDH, which, in accordance with PBI's experience, have been very useful for supporting and legitimizing alternative proposals for peace and mechanisms for self-protection in the midst of conflict.

As an example, we note the cases of the San José de Apartadó Peace Community and the Humanitarian Zones of the Curbaradó, Jiguamiandó and Cacarica River Basins in Colombia. In order to protect themselves from the conflict, these communities decided to create "humanitarian zones" and "peace communities," based upon the Principle of Distinction, prohibiting the entrance of armed actors in an attempt to keep the conflict off of their lands. Although these figures are not legally recognized by the Colombian State, the communities were able to form, and to continue to exist, thanks in large part to the Precautionary Measures granted by the Commission. In addition, the Precautionary Measures have permitted local organizations and PBI to have legal backing in supporting these communities, and have facilitated our work with these communities as well as with other at-risk communities and organisations that we accompany.

We underscore the collective character of these Precautionary Measures, which has allowed for the protection of the life and physical integrity of small-scale farmer, Afro descendant and indigenous communities. This can also be seen through our experience in Guatemala, a context in which the conflict between economic interests and the respect of human rights can have dramatic effects, like the violent displacement of communities. To illustrate this, we mention the 14 Q'eqch'ies Mayan communities displaced

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<sup>9</sup> German Embassy's statement: [http://www.mexiko.diplo.de/Vertretung/mexiko/es/0A/2\\_temporal/2013-12-16\\_20Tehuantepec.html](http://www.mexiko.diplo.de/Vertretung/mexiko/es/0A/2_temporal/2013-12-16_20Tehuantepec.html)

<sup>10</sup> For examples of speaking tours see: PBI, [Annual Review 2014](#) (2015), p.5 and 8; and PBI Mexico, "[Alma Garcia speaks to European audiences about the defense of human rights, disappearances and the violations committed against the migrant population in Coahuila](#)", 1 October 2013.

from the Polochic River Valley in March 2011, who in the months following suffered from grave health and diet conditions<sup>11</sup>.

In this case, the measures granted by the Commission contributed to the protection of the displaced communities, given that they:

- Bring attention to the protection needs of all the community members in their totality;
- Mobilized State institutions to adopt specific measures, agreed upon with the communities, aimed at their protection and the investigation of the incidents;
- Reminded the State of its obligations with respect to human rights and International Humanitarian Law standards.

- European Union Guidelines for Human Rights Defenders

The European Union Guidelines on human rights defenders were created to help staff in the Embassies of EU member states to proactively protect threatened (W)HRDs. The guidelines advise EU diplomatic missions to act through the diplomatic condemnations, demarches and public statements but also a broad range of actions:

- Produce periodic reports outlining the broad human rights situation, noting specific cases of concern;
- Take urgent local action when needed and make recommendations for further EU involvement;
- Prepare local strategies in co-ordination with (W)HRDs, with special attention given to the protection of women defenders;
- Organise regular meetings between (W)HRDs and missions diplomats;
- Maintain contact with (W)HRDs through receiving them in the missions and visiting their areas of work;
- Publicly recognise (W)HRDs and their work through use of traditional and new-media methods of communication;
- Visit, where appropriate, (W)HRDs in custody or under house arrest and attend trials as observers;
- Raise specific cases with third country governments;
- Involve (W)HRDs in the preparation, follow-up and assessment of human rights discussions with third country governments;
- Provide measures for swift assistance of (W)HRDs in danger, including the issuing of emergency visas and the offer of temporary shelter in EU member states;

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11 PBI Guatemala, "[Interview with Carlos Morales, UVOC: On land, agrarian conflict and human rights in the Verapaz region](#)", Newsletter N° 25, 2011.

- Provide access to financial support where necessary.

As an example, in Mexico, representatives of Embassies of the EU Members visited the State of Guerrero in 2009 after the murder of two indigenous (W)HRDs and in 2011 conducted a follow up visit to observe the situation of (W)HRDs in that State. The delegates also met local authorities responsible for their protection, and encouraged them to fulfil more effectively their obligations to protect (W)HRDs and investigate attacks against them.<sup>12</sup> In 2010, EU representatives observed the trial of Raúl Hernández, a HRD member of the OPIM (Organización del Pueblo Indígena Me'phaa), whose case was part of the same pattern of harassment and who was declared a prisoner of conscience by Amnesty International. Ultimately, Raúl was released, thanks in part to the diplomatic pressure created by these visits.<sup>13</sup>

In Guatemala during July 2015, members of the so-called Filter Group (formed by the EU delegation and Member States embassies in order to inform themselves and coordinate actions on human rights issues in the country<sup>14</sup>), visited the Coordinadora Campesina Chorti Nuevo Día in western Guatemala in order to inform themselves *in situ* about the high number of threats suffered by the organizations. The visit was highly appreciated by the organization because they believe that it heightened visibility of their plight and thereby helps prevent attacks against local communities. The Filter Group also talked to local Public Ministry officials, informing themselves and giving visibility to their interest in due process for accused community leaders.

#### **- Strengthening (W)HRDs' own capacities to expand and protect their workspace**

Since the makeup of (W)HRDs' workspace depends on their capacities and vulnerabilities, a strategy used by PBI in many of its projects is to provide training to (W)HRDs to help them reduce their vulnerabilities and reinforce their capacities. PBI, in collaboration with other organizations, regularly trains (W)HRDs with a focus on their ability to increase their personal and collective security, to advocate to their local government and internationally and to build their own support network.<sup>15</sup>

Through the workshops, PBI promotes and strengthens organizational processes and resistance communities in terms of self-care and self-protection tools, psychosocial care, institutional strengthening and information security. This work is part of an integral protection model provided by PBI, which includes methodological and pedagogical tools that increase the possibilities that organizations and communities are strengthened in the areas of self-protection and psychosocial support.

#### **Examples from Guatemala and Mexico of how security protocols can enhance (W)HRDs' Workspace**

Several examples from Latin America demonstrate that the use of security protocols (for communications but also transportation, demonstrations, office protection etc.) can have a positive effect in the security of (W)HRDs. Organizations such as Udefegua in Guatemala<sup>16</sup> or the Cerezo Committee and Acuddeh in

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12 For more information on this case see: PBI- Mexico, "[Silenced: violence against Human Rights Defenders in the South of Mexico](#)", Bulletin n°26, May 2009, p.10; PBI Mexico, "[Working group from the EU visits Chilpancingo \(Guerrero\)](#)", 10 August 2011

13 PBI México, "[Raul Hernandez: free and exonerated](#)", 1 September 2010.

14 For further information see: PBI, "[Ten years of the European Union Guidelines for Human Rights Defenders: an assessment from the field](#)", May 2014.

15 For examples of these workshops, see: PBI, [Annual Review 2014](#) (2015), p. 4.

16 For further information see: <http://www.udefegua.org/>



Mexico<sup>17</sup> have been training other (W)HRDs in assessing their risk and accordingly, designing security protocols in order to increase their capacities and diminish their vulnerability to threats. The Mesoamerican Initiative for W(W)HRDs has also encouraged sharing experiences in order to generate measures of self-care and self-protection. When the State cannot guarantee HRD protection, it seems fundamental that civil society alternatives, such as the one mentioned, can freely develop.

#### **- Recognition of CSO's work by government authorities and the international community**

Defamation campaigns, stigmatization and slander have serious effects on the legal and legitimate work carried out by human rights organizations. Defamations can come from different sources (state, government, business, etc.), and have the effect of increasing the risk of those defamed, and can result in a progressive closure of their workspace. The effects may include:

- Increased risk to the life and physical integrity of defamed person/organizations. For example, they may become targets for illegal armed groups;
- Reduced advocacy capacity: being publicly defamed, persons/organizations may lose credibility and access to certain spheres of influence;
- Financing problems: some donors may decide to reduce or freeze funding to defamed NGOs until the charges have been cleared up;
- Criminal prosecutions: In our experience, it is common that (W)HRDs who are prosecuted have been the targets of various kinds of attacks including defamation and stigmatization campaigns.

PBI as an organization has itself also been the direct victim of slander, and we have accompanied human rights organizations that have been and continue to suffer this kind of aggression, with all the consequences that this implies.

For these reasons, at PBI we consider it essential that:

- Government officials publicly reject and refrain from any kind of stigmatization and/or slander of (W)HRDs; it is also essential that Governments take all necessary measures to prevent these stigmatizations;
- Prosecutor General's Offices investigate and suspend government officials who make defame or slander (W)HRDs;
- The international community strongly condemns every kind of slander against (W)HRDs.

#### **Example of official pardon issued by Colombian President Juan Manuel Santos to the Peace Community of San José de Apartadó**

The Peace Community was established in 1997 when its members declared themselves neutral in the armed conflict and rejected the presence of all armed groups in their territory. Since it was created, the Community's members have suffered numerous attacks, forced displacements, murders, threats and

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17 For further information see web pages of ACUDEH (<http://acuddeh.org/>) and Comité Cerezo (<http://www.comitecerezo.org/>)

massacres, and other kinds of harm. One particularly serious incident of stigmatization was the 2005 affirmation by then-President of Colombia Álvaro Uribe that members of the Community were guerrillas.<sup>18</sup> These claims occurred after the murder of 8 members of the community carried out by armed forces and paramilitary groups.

Nine years later, and in fulfilment of Order 164/12 by the Constitutional Court, President Santos asked to be forgiven by the Community; nonetheless, he did not order the creation of a procedure to avoid further hostile statements, as had also been ordered by the Court, nor did he invite the community members to the public act of pardon.<sup>19</sup>

Far from decreasing after the President asked for forgiveness, the public smears continue. During the last year, the commander of the 17th Brigade of the Army accused the Community in the regional and national media of being a refuge for the FARC guerrillas and having links to the illegal organisation. In parallel with these statements, there are reports of an increase in Community members being followed and receiving threats.

### **Example of Mexican civil society organizations' strategy to overcome the lack of recognition from Mexican authorities**

Human rights defenders in Mexico have for instance asked authorities to refrain from defaming them, and instead to launch campaigns of recognition in order for society to understand the importance of (W)HRDs and the risk they face. Since no such policy has yet been implemented, the National Network of Civilian Human Rights Organizations (Red Nacional de Organismos Civiles de Derechos Humanos "Todos los Derechos para Todas y Todos" – Red TDT) – a network formed by 75 Mexican human rights organizations, launched its own campaign of recognition and began publicizing the work of (W)HRDs in Mexico.<sup>20</sup>

### **Example of the Martin Ennals Award for Human Rights Defenders**

The Martin Ennals Award for Human Rights Defenders is a good example of how an international award can increase the visibility and perceived legitimacy of (W)HRDs, allowing them to expand their workspace. It was created in 1993 to honour and protect individuals around the world who demonstrate exceptional courage in defending and promoting human rights. Its principal aim is to provide special protection ("protective publicity") to (W)HRDs who are at risk by focusing international media attention on their plight, mainly through internet, particularly in their country of origin. This international award gives recognition and encouragement at the moral and psychological levels to (W)HRDs, which are often critical as activists defend causes that can be unpopular and generally work in environments that are not appreciative of their efforts. The award also comes with a direct financial support, which can be of great importance for organizations struggling to find funding. In 2014, its laureate was a Mexican lawyer and activist Alejandra Ancheita, the founder and Executive Director of the Mexico City-based ProDESC (The Project of Economic, Cultural, and Social Rights). It was awarded in 2003 to Alirio Uribe Muñoz, who at the time was a member of the José Alvear Restrepo Lawyers' Collective (CCAJAR) and being accompanied by PBI.

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18 Semana: [Uribe mancilló la honra de Apartadó](#), 29 May 2013

19 Peace Community of San Jose de Apartado: [El Presidente nos pidió perdón](#), 16 December 2013

20 Campaign Page: <http://defendamoslaesperanza.org.mx/acerca-de-nosotros/>

### **Example of Embassies Recognition to Mexican Human Rights Organisations**

The Mexican organization “Comité de Defensa Integral de Derechos Humanos Gobixha” (Código-DH) and the lawyer Alba Cruz received an honourable mention in 2013 from the German and French Embassies<sup>21</sup> for their promotion of human rights in public policy in Oaxaca. Both embassies made public declarations recognizing the vulnerability and special need for protection of the community of (W)HRDs in Oaxaca. Since 2009, Código DH has provided legal and psychological accompaniment to victims of torture, illegal detentions and extrajudicial executions as well assuming the legal representation of threatened human rights defenders who work within the context of large-scale development projects in the Isthmus of Tehuantepec.

#### **- Inclusion of Civil Society organizations in decision-making processes**

Participation of Civil Society in high-level meetings with authorities and in decision-making processes is also crucial to strengthening their perceived legitimacy (since it is more difficult to defame an organization you have been working with) and ensuring that their voices can be heard and taken into account.

### **Example of the utility of and difficulties with the Guarantees Roundtables in Colombia**

In April 2009, the Colombian government and coalitions of human rights and community organizations initiated a dialogue process known as the “National Guarantees Roundtable” in an effort to agree upon strategies and actions that improve security and other conditions for human rights organizations and social and community leaders.

The Roundtables have included representation from multiple government agencies, the Interior Ministry, the Human Rights Ombudsman, etc., as well as the armed forces. The Office of the U.N. High Commissioner for Human Rights, the U.N. Program for Development, and the embassies of Spain and Sweden have also participated as observers and guarantors. The Roundtables have taken place both on the national level as well as in various regions of the country. The Roundtables have resulted in important advances including the design of the National Protection Unit, the agency established in 2011 to provide protection for (W)HRDs, journalists, trade unionists, politicians, and others.

However, the participating civil society coalitions have had some serious concerns about how the process has taken place. In June 2011, for example, the coalitions suspended their participation after the murder of land rights activist Ana Patricia Córdoba, who had requested protection measures, and the fact that at least 20 other (W)HRDs had already been assassinated so far that year. In suspending their participation, the coalitions highlighted several ways in which they believed the government had not fulfilled promises made during the process.<sup>22</sup>

The Roundtables have been reinitiated, however, and in April 2013, government officials and civil society coalitions, with the presence of U.N. and embassy officials, carried out an evaluation and planning session. All sides recognized the importance of the Roundtables and the need to continue, particularly given the

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21 PBI Mexico: [Franco-German acknowledgment of the work of Alba Cruz and Código-DH: Ambassador calls on the Mexican State to protect community human rights defenders](#), September 2013

22 Techo Común: [“Plataformas de DDHH suspenden Mesa Nacional de Garantías con el Gobierno”](#), 15 June 2011.

continued high rates of aggressions against (W)HRDs in Colombia.<sup>23</sup> Members of national NGOs have expressed that the Roundtables have contributed to providing visibility and support for the work of the (W)HRDs. However, many of them affirm that on the regional level the experience has been different and that governmental declarations at the national level are of little use if they do not materialize in actions that induce the regional authorities to implement the agreements.<sup>24</sup>

### **Example of civil society participation in the creation of the Protection Mechanism of Human Rights Defenders and Journalists in Mexico**

In 2010, the concerning rates of attacks in Mexico against (W)HRDs and the incapacity of the Mexican State to implement the protection measures granted by national Human Rights Commissions or the Inter-American Human Rights System motivated civil society to develop a proposal for a Protection Mechanism. After years of discussions and debates and based upon the civil society proposal (this level of participation and cooperation was never seen before in any other process of human rights policy definition), the Law for the Protection of (W)HRDs and Journalists was finally approved in 2012, and the Mexican Interior Ministry created a Protection Mechanism for (W)HRDs and journalists.<sup>25</sup> The law has respected the criteria defined by (W)HRDs as fundamental for protection to be achieved (Broad definition; Coordination; Participation; Preventive and urgent measures; Justice). The Mechanism also provides that beneficiaries of protection measures should be included in their definition and implementation. For example, the structure of the Mechanism includes a Consultative Council made up of nine volunteer members of civil society elected by (W)HRDs and journalists. This Council monitors the mechanism and represents (W)HRDs and journalists in the sessions of the Governing Board of the Mechanism.

Despite these positive steps, the Mexican government has not yet properly implemented the Mechanism. In particular, the Mechanism lacks properly trained staff, clear and approved rules regarding the management of its resources, and a guaranteed efficient response.<sup>26</sup> Nonetheless, a large part of Mexican civil society continues to believe that the structure of the Mexican Mechanism is unique and that an effective implementation could improve the (W)HRDs situation. Civil society organizations have repeatedly asked for its strengthening.<sup>27</sup>

### **- Construction of official historical memory that documents violence against civil society actors**

Construction of official historical memory is one of the mechanisms that can help societies and groups come to terms with a past of violence and move societies towards empowerment, action, and change. Indeed, it means a possibility of recognition and dignity for those victims of violence, since what is not named is usually only recognized with difficulty. It is a way to resist to impunity and repetition of violence, thus a way to protect civil society actors in the future. Memory work can also serve as a tool for the reaffirmation of those identities that are undervalued and persecuted and as a space for dialogue amongst voices that often do not know each other.

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23 Somos Defensores: [Héroes anónimos. Informe Enero-Junio 2013](#), August 2013.

24 Somos Defensores: Informe especial "Protección al Tablero", febrero de 2014

25 PBI Mexico, "[Protection Mechanism](#)" webpage

26 PBI Mexico and Wola, "[The Mechanism to Protect Human Rights Defenders and Journalists in Mexico: Challenges and Opportunities](#)", January 2015

27 See [Letter sent by Mexican civil society to the Interior Minister Miguel Osorio Chong on the occasion of the first anniversary of the publication of the Law for the Protection of Human Rights Defenders and Journalists](#), June 2013

### **Example of the National Centre for Historical Memory in Colombia**

The National Centre for Historical Memory (NCHM)<sup>28</sup> was created under a 2011 law designed to indemnify victims of the conflict and return stolen land. Its purpose is to contribute to the comprehensive reparation and to the right to the truth for the victims of the Colombian armed conflict as well as society in general. The Centre accomplishes this by reconstructing, through the testimony of victims, the serious human rights violations that occurred in the framework of the conflict, searching for truth, justice, reparation, and the construction of a sustainable and lasting peace. The collective construction of memory is enabled both through dialogue with inhabitants of the regions where episodes of violence happened and by engaging them through workshops, talks, interviews, research, exhibitions, and photographic and audio-visual explorations. The NCHM also serves as a platform for the articulation, compilation, inclusion, and increased visibility of the plural memories of Colombia's armed conflict, emphasizing the victims' perspective, in order to contribute to the historical clarification and to provide assurances of non-repetition.

### **Example of the Office for the Investigation of Transcendental Social Crimes in Mexico**

In 2011, the governor of Oaxaca issued an agreement which created the Office for the Investigation of Transcendental Social Crimes (Fiscalía de Investigación de Delitos de Trascendencia Social-FIDTS) as a means of responding to the organized civil society's demand of improving the access to justice and reparation for victims of grave human rights violations committed during the social crisis of 2006-2007. Most of these crimes were against social leaders, education trade-unionists, and (W)HRDs in general and still remain unresolved. Not a single case of attacks against individuals legally represented by a PBI accompanied organization has seen a guilty party brought to justice.

Currently, and at the request of the victims, cases of crimes committed against (W)HRDs can be transferred from other areas of the Oaxaca State Prosecutor General's Office to the FIDTS. This transfer has already been requested by a large number of at-risk (W)HRDs in the state in the hope of seeing more effective progress made. Although the FIDTS is considered as an advance, since its establishment local (W)HRDs have had to exert constant political pressure in order to ensure that the FIDTS has been even partially equipped with the resources and trained staff necessary to properly carry out its functions. (W)HRDs have pointed out several weaknesses: a lack of human resources and financing, lack of properly trained special investigators, lack of protocols for investigations into crimes against (W)HRDs developed in consensus with them, lack of police trained in human rights, and treatment of victims, among others.<sup>29</sup>

### **- Ensuring strong legal safeguards to defend rights by countering criminalization and impunity**

PBI has observed an increasing criminalization of (W)HRDs by means of specious detentions and prosecutions. The UN Special Rapporteur for (W)HRDs asserts that basic procedural rights "are often ignored,"<sup>30</sup> pointing to excessively long periods of detention, the filing of investigations and charges without evidence, and the use of unreliable or uncorroborated evidence. Legal persecution is a burden on (W)HRDs

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28 For further information see : <http://www.centrodememoriahistorica.gov.co/>

29 For more information see: PBI- Mexico, "[The protection of human rights defenders \(\(W\)HRDs\) after two years of Gabino Cué's government](#)", November 2012.

30 Minimum standards regarding legislation, p.18 A/67/292, Report of the Special Rapporteur on the situation of human rights defenders, 10 August 2012

and their organization in terms of financial and human resources, reputational damage, and personal wellbeing, and can serve to impede or even paralyze their work.<sup>31</sup>

States need to take tougher action to combat the criminalization of (W)HRDs working on business and human rights issues. Diplomatic missions are often reluctant to intervene in cases of criminalization in case their actions are regarded as political interference. While by its nature criminalization is a complex issue to address, if left unchallenged it undermines both judicial independence and the rule of law. Equally, the inability of many states to investigate and prosecute attacks against (W)HRDs exposes the fragility of the justice system and leaves the door open for further violations. To address this situation, States should:

- Increase efforts to promote and embed the right to a fair trial and due process of law as fundamental rights, especially where the rights of (W)HRDs are violated;
- Promote more effective monitoring and oversight mechanisms to identify, eliminate, and redress common abuses of due process and right to a fair trial;
- Clearly outline the responsibility of business enterprises to respect the work of (W)HRDs, including by respecting their right to freedom of expression, assembly, and association.

Similarly, we observe high levels of impunity for threats and attacks against (W)HRDs: of the 317 (W)HRDs assassinated between January 2009 and June 2015, 95% of cases remain in impunity,<sup>32</sup> impunity is 100% for cases of death threats.<sup>33</sup>

### **Example of successful unification of investigations leading to prosecutions in attacks against (W)HRDs in Colombia**

In December 2014, the first conviction was handed down in a case involving a psychological torture operation targeting investigative journalist Claudia Julieta Duque, her young daughter, and other members of her family. The torture operation was carried out by officials of the former presidential intelligence agency (known as “DAS”).<sup>34</sup> The operation began in 2001 after Ms. Duque published results of her investigation into the 1999 murder of the renowned political satirist Jaime Garzón, in which she demonstrated that DAS agents had been involved in a cover-up in order to divert the Prosecutor General’s investigation into Garzón’s murder.

The conviction came on the heels of charges issued in early October 2014 by the Analysis and Context Unit of the Prosecutor General’s office against four other former directors at DAS; the trial began in early 2015.<sup>35</sup> The same prosecutor also issued an investigation request into the potential role of former President Alvaro Uribe in the operation against Ms. Duque, saying there are indications that Uribe, as head of the presidential agency, knew about the operation.<sup>36</sup>

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31 See, for example: PBI-Mexico, “[Lack of recognition, criminalization and impunity, the reality for \(W\)HRDs in Mexico: International Experts](#)”, 24 November 2014.

32 We Are Defenders Program: [La divinacomedia, Informe anual 2014](#), 18 February 2015, We Are Defenders Program: [Los Nadies](#), 18 August 2015

33 We Are Defenders Program: [Informe Siaddhh 2013: D de defensa](#), 21 February 2014

34 El País, “[Condenan al exdirectivo del DAS por tortura psicológica a periodista Claudia Duque](#)”, 18 December 2014

35 Blu Radio, “[Llaman a juicio a ex subdirector del DAS por presunta tortura a periodista](#),” 2 October 2014.

36 El Tiempo, “[Piden investigar a Uribe por expediente de chuzadas](#),” 3 October 2014.

The Analysis and Context Unit of the Prosecutor General's office was created in 2012 in response to calls for a more context-based analysis of emblematic crimes. Part of the strategy of the Unit has been to unify separate but apparently related investigations into joint investigations and prosecutions, ideally under the same prosecutor, in order to produce a more complete case and identify intellectual, not just material, authors. Ms. Duque's case was one of the first taken up by the Unit and this is believed to be a principle reason behind the advances in her case.

Nonetheless, as the case has advanced, Ms. Duque continues to report receiving threats and endure concerning security incidents, some of which have also targeted her daughter.<sup>37</sup> Furthermore, this methodology of combining investigations is not one that has been broadly applied for cases of aggressions against (W)HRDs.

Thank you for your work on these important issues and for considering this input from PBI.

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<sup>37</sup> Equipo Nizkor, "[Con nuevos ataques intentan frenar batalla de Claudia Julieta Duque por obtener justicia en su causa contra el DAS](#)," 10 August 2015