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To cite this article: Luis Enrique Eguren Fernández & Champa Patel (2015) Towards developing a critical and ethical approach for better recognising and protecting human rights defenders, The International Journal of Human Rights, 19:7, 896-907, DOI: [10.1080/13642987.2015.1075302](https://doi.org/10.1080/13642987.2015.1075302)

To link to this article: <http://dx.doi.org/10.1080/13642987.2015.1075302>



Published online: 20 Aug 2015.



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Towards developing a critical and ethical approach for better recognising and protecting human rights defenders

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The Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms passed in 1998 by the United Nations General Assembly marked a milestone for the defence of human rights. This article considers some of the limitations around the concept of and term ‘human rights defenders’, and sets out some considerations for the development of a critical and ethical approach elaborating on criteria in the declaration of how to better understand and define human rights defenders through their practice. This article argues that such an approach, utilising insights from relevant critical theory, should be developed on the basis of the principles and values that recognise that although rights are universal, they are not applied everywhere in the same way or for all individuals equally. This article posits an approach in which the defender is understood, and constructed, as a *relational* agent situated in human rights work. Such a focus, this article argues, can not only help defenders, and those who work with them, to better understand and reflect on their experiences and improve their praxis, but can also lead to tangible improvements in the practices and policies employed for protecting human rights defenders throughout the world.

Keywords: agency; critical theory; human rights defenders; protection; relational approach

Historicising the figure of the human rights defender

Since the turn of the twentieth century, and particularly since the inception of the United Nations (UN) in 1945, there has been a rapid expansion of the international governance and human rights system. During this time, countless courageous individuals, organisations and movements have fought for equality, social justice and human rights from early women’s rights movements at the turn of the twentieth century, through the decolonisation and civil rights movements of the late 1940s and 50s and the independence movements of the 1960s to the more recent anti-apartheid movement of the 1980s, right up to the Arab Revolutions of 2011–2012. In this respect, it is critical that we understand the emergence and solidification of human rights as a historical phenomenon, which is the product of the interaction of different cultural, political, social and historical situations that have confronted humanity over differing periods of time.¹

In this context, the figure of the human rights defender (HRD or defender) emerged following protracted political discussion within the UN, a debate that was fuelled by many

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different actors from outside the institution on the recognition that there was a need to protect those undertaking human rights work often in very difficult environments. When it was ultimately passed by the UN General Assembly in 1998, the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms² (the UN Declaration on HRDs) was instrumental to institutionalising an understanding of human rights defenders as key agents of human rights change.

Fact Sheet No. 29³ elaborates on the UN Declaration on HRDs, defining HRDs as:

a term used to describe people who, individually or with others, act to promote or protect human rights. Human rights defenders are identified above all by what they do and it is through a description of their actions and of some of the contexts in which they work that the term can best be explained.⁴

Interestingly, the document then states that while ‘many professional activities do not involve human rights work all of the time’ they ‘can have occasional links with human rights’. As such, ‘they can nevertheless act as defenders on *some occasions* [our emphasis] by working on cases through which they contribute to the promotion or protection of human rights’.⁵ It is clear from this definition that the work of human rights defenders cuts across a broad spectrum of interventions by a wide range of actors promoting and protecting civil, political, economic, social and cultural rights. More interesting, however, is the assertion that theoretically every individual could be a human rights defender at any given time. This gives rise to a situation where it is conceivable that someone be actively understood as a human rights defender solely for a specific piece of work or action undertaken rather than the entirety of what they do. Fact Sheet No. 29 further notes that although the ‘standard’ required of a human rights defender is ‘a complex issue’, it should meet three requirements: first, the HRD should accept ‘the universality of human rights’, second, it is not important necessarily ‘who is right and who is wrong’ (the test is whether the person is defending a human right or not), and finally defenders should aim to engage in ‘peaceful action’.⁶

On the one hand, the broad formulation in Fact Sheet No. 29 is advantageous as it recognises the different role of individuals with regard to human rights and allows for wide application in response to diverse political and historical contexts within varying geographical areas. However, the definition is so broad that it is actually a difficult exercise to be clear on who is or who is *not* a defender. It is our contention that the definition and standards outlined in Fact Sheet No. 29 fall short of what is needed to interpret who exactly is a defender and what they do, and this ambiguity may actually hinder defenders’ protection. Given the broad scope for definitional interpretation, states have in some instances defined HRDs as those inimical to their own interests or excluded those who are seen as a threat to state practices.

For example, Alvaro Uribe, an ex-president of Colombia, branded some HRDs ‘terrorism spokesmen’ when they pointed to the human rights violations committed by his security forces.⁷ Similarly, in Guatemala, draft public policies arguably define who the state is willing to recognise as defenders in a narrower manner than that allowed by the UN declaration. Such approaches risk exclusion for those who may be legitimately recognised by their actions as defenders under international standards but not within the categories recognised by the state.⁸ Likewise, in a similar draft bill proposed for Nepal, there is a reference to a ‘code of conduct’ to be developed, which might also exclude certain groups of defenders.⁹ Although HRDs should be granted formal access to protection mechanisms if they meet the

requirements of the UN declaration (i.e. accepting the universality of human rights and not using violence to achieve their objectives), states can exclude HRDs from such mechanisms by setting tight parameters on what activities may be deemed ‘right’ and ‘wrong’ – counter to Fact Sheet No. 29.

Such manoeuvres add confusion to an already heated discussion in the media about the defence of human rights, particularly in a context of heavy repression against HRDs. Arguably, having a clearer definition of what constitutes HRD practice would not stop Uribe’s politicisation. However, it would provide HRDs with a more solid rebuttal that their activities fall within the scope of the UN Declaration on HRDs and they are eligible for protection mechanisms.

In order to tackle these limitations around the concept of HRDs, this article sets out some considerations to help support the development of a critical and ethical approach, which elaborate on the criteria in the UN declaration and Fact Sheet No. 29 to better understand and define human rights defenders through their practice. This suggested approach could be utilised to better support tailored effective protection strategies rooted in the tangible experiences of HRDs. A more critical and ethical approach could help get past inclusion/exclusion approaches, shifting the focus from who is or is not a defender to analysing what a defender does or does not do in context. By understanding the work of HRDs as a *relational* activity situated in their specific contexts, rather than an identity, we are then able to examine some of the challenges for those working with defenders on recognising who exactly is a defender and what protections they require.

A critical theory approach to human rights practice

But why is a focus on localised human rights practice important to developing more effective protection mechanisms? First, HRDs are key interlocutors in the diffusion of human rights norms from global spaces to local realities. Herrera’s concept of ‘relational relativism’¹⁰ provides a useful starting point when considering the relationship between human rights policy and practice. According to Herrera, human rights are best understood as:

A set of dynamic processes of conflicts of interests that strive to have their propositions recognised starting from different positions of power. Human rights should therefore be defined as object systems (values, norms, institutions) and action systems (social practices) that allow arenas of struggle for human dignity to be opened up and consolidated.¹¹

Within this relational understanding, the defender is a complex constellation of global norms and local knowledge, constantly constructed and facilitated through local, regional, national and sometimes international networks.

Locating our analysis within such a relational context it is useful to draw on Sikkink’s notion of ‘agentic constructivism’¹²:

Social processes where new actors take on and challenge (and sometimes change) existing logics of appropriateness ... These actors don’t mindlessly ‘enact’ or ‘perform’ scripts, but question them. At rare times, they are capable of not simply ‘instantiating structures’ but transforming structures. Their actions may be transgressive of existing logics of appropriateness, sometimes intentionally inappropriate. In the end, agency requires the possibility of intention and the possibility of the freedom of subjectivity. This does not mean that all agents are constantly *fully intentional and freely subjective*. The challenge for agentic constructivism in explaining change is to understand which taken for granted structures motivate and inform

agency, at the same time as we understand which other structures are challenged and sometimes changed.¹³ [our emphasis]

Sikkink's analysis has two considerations that are critical to understanding HRDs' work: first, that HRDs' identities are shaped by structural forces interacting dynamically with local, personal experiences; second, that in the process of HRDs' work, they have the ability to redefine those same structural forces through their human rights work. Through this process we see the translation of global norms into local realities – appropriating local languages/cultures and practices into their work in the act of engaging others in human rights work. This is critical to understanding HRD practice in its context as a dynamic, ever evolving dialogue between global norms and local specificities. However, we should be careful not to over-privilege agentic constructivism as an analytical approach. Utilising this mode of enquiry needs to be married to an equal consideration of the ways in which power is constructed, maintained and exercised through structural constructivism. Power dynamics can play out at differing levels (whether it is international or at state level or by third parties such as international non-governmental organisations (INGOs) or donors). What is critical is to locate agentic constructivism within the structural power dynamics in which it operates.

Mark Goodale's concept of 'transnational normativities' provides one way in which to understand some of the structural and ideological tensions that shape HRD practice.¹⁴ He positions 'transnational normativities' as:

The relationship between the epistemology of human rights practices and the local ontologies in which they are necessarily embedded; the disjuncture between the universalism that anchors the idea of human rights conceptually, and the more modest scales in which social actors across the range envision human rights as part of pre-existing legal and ethical configurations.¹⁵

For Goodale, human rights are always embedded in 'pre-existing relations meaning and production'.¹⁶ As such, the HRD is constantly mediating and navigating differing transnational norms, which may or may not be in conflict with global human rights norms. While this provides a compelling lens through which to understand the competing narratives and the dynamics and tensions that impact on localised human rights practice, Goodale is less clear on how one would analyse such practices.

Sally Engle Merry offers some insights, from an anthropological perspective, which potentially address this oversight.¹⁷ While Sikkink's agentic constructivism positions international human rights norms as static, against which we measure local actors' practice, Merry, in contrast, argues that international human rights principles and values are redefined and made relevant through local processes of 'translation' and 'framing'. She argues that intermediaries at local levels function as translators and 'refashion global rights agendas for local contexts and reframe local grievances in terms of global human rights principles and activities'.¹⁸ In order to do so, translators 'hold a double consciousness', combining both 'transnational human rights concepts and local ways of thinking about grievances'.¹⁹ She defines framing as a mode of enquiry which considers 'ways of packaging and presenting ideas that generate shared beliefs, motivate collective action, and define appropriate strategies of action'.²⁰ To extend her approach allows us to bridge Goodale's recognition of the differing ontologies and narratives that can impact on the HRD by providing a frame of reference through which we can understand the HRD as a translator and framer between global norms (human rights or otherwise), competing narratives and local cultural norms and realities.

However, while making a compelling argument for a more dynamic understanding of human rights practice, her scope of enquiry is narrow and focuses on the institutions that facilitate international global norms (mostly states and the UN system) and fails to consider the ethical responsibilities of those who work with HRDs and the role they play in translating and framing human rights norms. I/NGOs, regional entities (such as ASEAN, the African Union and the European Union) and donors can all have an inadvertently negative impact on HRDs. Some of the key challenges include the differences in capacity between often small and voluntary led HRD organisations and large well-funded and well-resourced INGOs, regional organisations and other actors. This difference in capacity is exemplified by negative equality and power dynamics whereby other international actors – because of their own competing missions, agenda and focuses – may create limited spaces for meaningful engagement with HRDs. Yet, HRDs and other local civil society actors may often be approached precisely by these same actors, to provide intelligence and access to the most vulnerable and marginalised groups. As such, we think it is critical to also consider the impact of these actors, who arguably also translate and frame international human rights norms, in the same space as HRDs' localised practices.

With each of the above perspectives, there is a danger of positioning the localisation of human rights practice, whether through an understanding of agentic constructivism, located in transnational normativities mediated through processes of translation and framing, as a coherent framework that sets conceptual boundaries around what are in reality, complex, multi-dimensional and often highly locally specific processes. However, mitigating the limitations of the differing models, it is possible to utilise aspects of Sikkink, Merry and Goodale's thinking to consider HRDs through an agentic constructivism lens (but for this to be understood vis-à-vis an analysis of structural power).

Locating an understanding of HRD practice within such analytical perspectives provides a solid foundation from which to understand HRD practice in context and by extension better understand and meet their protection needs. This can be framed through contextualising and understanding that defenders' experiences are grounded in dense relationships within particular political, social and cultural specificities: HRDs are agents of change and their work both shapes and is shaped by other structures, norms and practices that promote or oppress human rights (whether at the level of individuals, states or the international system). It is at the intersection of these considerations that we begin to analyse the ethical considerations that arise from HRD praxis.

Human rights practice and ethics

While the above analysis enables us to understand HRD practice through a multi-faceted mode of enquiry, there is still a need to interrogate what constitutes ethical practice in such a context. Interestingly, the notion of ethics is only briefly mentioned in the declaration. It specifically states that the defender has to comply with the requirements of professional ethics, if they exist within their profession.²¹ A supplementary commentary again only refers in passing to ethics.²² As noted previously, Fact Sheet No. 29 states that the 'standard' required of a human rights defender has three particular requirements: first, HRDs must accept the 'universality of human rights', second, it is not important to know 'who is right and who is wrong', and finally defenders need to engage in 'peaceful action'.²³

These three requirements offer an implicit code of ethics for defenders and in practice this is the usual interpretation they receive. However this poses a contradiction between having a loose definition of who can be a human rights defender (based on their actions

as and when they occur) and the requirement that a defender should meet all three strands delineated above (or at least not be inconsistent in doing so) at all times. If we were to take the three criteria proposed as the basis for an ethical framework, this could lead to numerous difficulties in trying to apply the criteria to the lived experience of human rights work as 'not all ethical relations are reducible to acts of judgement and that the very capacity to judge presupposes a prior relation between those who judge and those who are judged'.²⁴ Through considering the potential of the critical approach, outlined in the previous section, to enable a better understanding of who ethically behaves as a defender, we challenge a normative approach that applies an absolute interpretation of the three standards being met concurrently and at all times.

To consider this, it is important to first understand the power dynamics at play in who decides what HRD practice is. There are a number of key questions to be asked: Is it an identity that one chooses or that is designated – even if mutually agreed – by third parties? More pressingly, if the UN states that one does not need to be a defender all the time (as noted earlier), how likely is it in practice that someone would self-identify as a HRD based on isolated activities? We may assume that the other activities undertaken by the defender do not clash with the defence of human rights, but is this assumption a correct one? What about those individuals who would be considered defenders in one aspect of their practice but whose other behaviours may actually be inconsistent with rights they are defending? For example, the case of a lawyer who works for a pharmaceutical multinational that patents medicinal herbs belonging to indigenous cultures in the Amazon, which violates the rights of the indigenous, but who, in his free time, advises a group of women who have been abused.

There is more than one consideration to be taken into account in this instance. The first is the frequency of the defender's action or intervention and the second, whether the action taken undermines other rights. It is our contention that isolated activities are insufficient to make an individual a HRD. There is no established threshold or measurement for determining HRD practice, but intuitively a defender should demonstrate consistency over time using a rights-based approach in their actions to achieve human rights changes. Taking the same example, if the pharmacist patents the herbs with participation from the indigenous community and includes them as central to the process, taking into account impact on gender and vulnerabilities within community, and works toward patenting the herbs in accordance with the international norms and standards, these would be considered actions as a HRD. The human rights lens and approach are both critical here.

The above example touches on the tensions within the first standard in Fact Sheet No. 29: accepting the universality of human rights. The declaration states that 'all human rights and fundamental freedoms are universal, indivisible, interdependent and interrelated and should be promoted and implemented in a fair and equitable manner'. More difficult to navigate, however, is the assertion that '[a] person cannot deny some human rights and yet claim to be a human rights defender because he or she is an advocate for others'.²⁵ This is reinforced by the former UN Special Rapporteur for Human Rights Defenders, Margaret Sekaggya, who reports that HRDs have the right to protection 'as long as they accept and apply the principles of universality'.²⁶

Assuming that most defenders are not in a position, nor have the resources, to work across all human rights in a fair and equitable manner, how exactly does a defender demonstrate universality in practice? A critical first step is to distinguish that the universality of a norm is not the same as the universality of an approach. Locating HRD practices within local specificities could be one way to understand this criterion. Defenders could demonstrate universality through practicing what Tronto calls 'attentiveness', a reflexive tool

which requires being open to recognising that the *other* has needs and these should be recognised, acknowledged and responded to.²⁷ In the case of HRDs, this characteristic would mean that attentiveness towards the human rights violations and an appropriate reaction to them (though not necessarily action) could be expected. As previously noted, HRDs must consistently and holistically take this approach.

HRDs can also develop their skills to be more effective and ethical through a relational model and learn from past experiences. Another tool is to (self) analyse through a lens of otherness. Seeing one's actions through understanding the impact on others is profoundly relational and stems specifically from the defender's perception of the other. Augé points out that a distinction can be made between 'a sense of the other' (understanding what makes sense and is important for 'others', starting from or outside of one's self), and 'a sense for the other', which implies an emotional connection and predisposes a commitment to act (as a distinctive characteristic when compared with a victim, for example).²⁸

Another key challenge is where a defender may deny certain rights (towards others). This then raises the ethical question as to whether that person should still be considered an HRD as they no longer meet the requirement of working towards full realisation of all rights. That is not to say that their work has no value, or even that they are not deserving of protection as citizens, but if HRDs are held to a higher standard they must not undermine or deny other rights.²⁹ Through a focus on human rights practice rather than human rights principles, HRDs, and those who work with them, must recognise the differing external constraints within the operating environment that could limit HRDs' ability to demonstrate universality in practice but instil universality in the ethical approach.

Another requirement in Fact Sheet No. 29 is the need for HRDs to take 'peaceful action'. It should be clarified that while the declaration and Fact Sheet No. 29 talk about 'peaceful action', the Special Rapporteur's office has stated that 'non-violence' is a requirement for a HRD to be afforded the right to appropriate protection.³⁰ There could potentially be an immediate contradiction in that 'peaceful action' and 'non-violence' are not necessarily synonymous. Broadly understood, the first could refer to an action undertaken without involving violence, while the second could refer to a wider moral and strategic approach to social change.³¹ This issue is particularly difficult because human rights work may vary in different contexts in accordance with how the concepts of 'peaceful action' and violence (themselves both poorly defined in the relevant documents) evolve and change.

Relational context is key, as taking a position on just the action itself is of no use if we do not relate the action to the broader dynamics at play and the defenders' agency. For example, we may see throwing stones as a reaction to an overwhelming aggression (such as activists throwing stones against Israeli army tanks in the Palestinian Intifada) in which the direct objective of that action is not to hurt someone and there is no actual peace to be broken. It cannot be compared with throwing a stone with a clear and feasible expectation to harm somebody, as when targeting a nearby person. The intention of throwing stones against tanks as a reaction to previous aggressions is closer to an expression of anger and frustration than a clear expectation to stop such aggression by hurting Israeli soldiers.³²

In such a scenario, it is actually still feasible for a defender to be considered a defender despite the fact that he or she might engage in actions that could be considered ethically unacceptable in other contexts. In other words, it is not about losing the protection that a defender deserves, but about the ethical acceptance of such behaviour, which should be determined by understanding the broader relational context within which the defender works. The defender's agency in being able to translate, frame and shape the structures within which they operate and the power dynamics at play is what is important here.

The final issue is whether or not it is important to know ‘who is right and who is wrong’. Fact Sheet No. 29 is clear that:

It is not essential for a human rights defender to be correct in his or her arguments in order to be a genuine defender. The critical test is whether or not the person is defending a human right. Human rights defenders must be defined and accepted according to the rights they are defending and according to their own right to do so.³³

Ironically, the clarification as to whether defenders needed to be ‘right’ or ‘wrong’ was deemed necessary as HRDs are often repressed by the governments they criticise. Violations too often occur through national legal frameworks that criminalise HRDs. These frameworks and laws may be contrary to the legislation’s original intent. Or the laws (and the agents who enforce them) may target HRDs whose actions may conflict with government policies. Newly created ad hoc laws may also be used to restrain defenders’ work by necessitating compliance with complex administrative requirements. There are also strategies that effectively ‘criminalise’ HRDs, for example the imposition on HRDs of impossible situations of trying to comply with the regulatory demands placed upon them while still being effective in their actions.³⁴

It is paramount to counter these increasing attempts to criminalise genuine human rights activity by ensuring states comply with the international standard that a defender does not need to know if their action is ‘right’ or ‘wrong’ but that their work should be analysed through the lens of whether their actions are in defence of human rights. This could be not only through supporting legislation but also policies, practices and state engagement with defenders that create an enabling environment for their work. A deeper understanding of the operating environment for HRDs would increase understanding of the structural and cultural barriers that impact practice, and could help stakeholders reflect to what extent negative consequences could have been anticipated or mitigated for, in order to prevent future HRD violations or inform protection agendas. HRD agency, and understanding their role as dynamic interlocutors, could help highlight both the bias the defender is exposed to and the degree to which the HRD can actually shape those external structural forces. For example, while an activity may have a ‘bad’ outcome when seen as part of a range of interventions, it could still have shifted the ground forward in terms of securing human rights interventions.

Understanding HRD practice as processes of translating and framing, in this respect, could be crucial in locating an analysis of defenders’ actions within a spectrum of defending human rights. From a critical perspective, and recognising the difficulties of the working environment, HRD praxis may well be subjected to errors in determining who is ‘right’ and who is ‘wrong’ but from an ethical standpoint this could be counterbalanced to see such errors as part of an active process of continual learning and development to improve human rights practice. The bottom line would remain whether the activity was in the service of defending a human right, but analysing the scenario through the proposed critical and ethical approach can surface the particularities and specificities of any situation, which can in turn better define what support or protection strategies are appropriate.

In light of the above analysis of the UN’s three standards, we suggest that adopting a purely normative approach may be more limiting than empowering and may fall short of being directly applicable to the complexities of the working context for the HRD. The danger of taking this type of normative ethical approach to the work of defenders presumes that a rational and universal solution could be sought to any ethical issues that arise. In other words, we would have to assume that there can be an ideal and neutral observer

whose gaze is capable of encompassing the action taken, its circumstances and all its consequences.

Such an omniscient position does not exist. In the first place, neither the person who is taking the action, nor those observing it, have the ability to know in advance all of the circumstances surrounding the action or its consequences. In the second place, we cannot assume that a HRD is always an autonomous and rational individual, capable of assessing the consequences and impact of every action they take. Finally we cannot even assume that there is a stable external referent, since the logic of the realization of human rights is discursive, highly situational and constantly changing, as illustrated at the outset of this article. Conversely, it could be argued that these limitations actually *reduce* the ultimate responsibility of the HRD, who is faced with a process that is evolving and adapting and which is deeply influenced by context and power relations. It is then paramount to conceive HRDs as agents who evolve over time as their awareness of being a defender grows and they establish relationships with other actors in the context of their work.

Self-reflexive modes of working allow the defender to practice responsibility for the impact of their actions at both an organisational level and in political and social processes, as well as giving them the practical tools – based on experience – to challenge structures of power and privilege. In a relational model, the question shifts then from trying to understand any given situation in terms of ‘good’ or ‘bad’. As Gilligan notes, ‘the shift in moral perspective is manifest by a change in the moral question from ‘what is just?’ to ‘how to respond?’³⁵ Such an approach is to understand that HRDs will keep learning and being shaped by their actions on a daily basis and that mistakes may be made but they are part of a process of evolving towards a more effective and just human rights practice. This reflexivity is crucial to the establishment of a more critical and ethical approach to human rights work: it is the reflective subject, able, at certain moments, to separate him or herself and look at him or herself, who is going to be able to behave ethically when doing human rights work.

But at the same time we must bear in mind that the process of constructing the defender as subject is also emotional, given that he or she is continually confronted with competing ontologies as well as the fear and repression that HRDs themselves suffer because of their work. Such pressures can then make it difficult for the defender to have the space to reflect and for any set of rules or code of conduct to be applied normatively. Protection mechanisms should then ensure that defenders are supported to identify their own secure spaces, such as respite schemes, allowing them to be able to reflect and refine their work.

A way forward – towards developing a critical and ethical approach for HRDs

We believe there needs to be a dynamic, multi-faceted approach to understanding the specificities of HRD practice at the local level. This type of approach, which has critical and ethical considerations embedded at its core, could help HRDs and those who work with them to ensure better application of existing protection mechanisms as well as help support more nuanced discussions on HRD protection needs. This approach, we would argue, needs to locate any understanding of what is needed squarely on the analysis and understanding of human rights practice in context rather than only through human rights principles and commitments as outlined in the UN standards. Our analysis stresses that HRDs are active agents of change working within complex environments, which they may be able to shape and exercise power within to transform human rights agency, but their work can also affect them negatively. Such an exploration needs to increase understanding of the translating and framing processes that take place. HRDs make global

human rights norms applicable and relevant in a local context, and in the process, HRDs make difficult choices that may impact on their ability to meet the standards as set out in Fact Sheet No. 29.

We recognise that embedding a critical and ethical approach needs more critique and discussion. While we have outlined some considerations, there are some particularities we have not been able to explore: for example, how gender dynamics can positively or negatively impact HRD practice, or the degree to which HRDs can maintain their ‘representativeness’ if they are regularly part of transnational networks. There is also a need to further delineate the local realities within which HRDs work, to explore further the critical and ethical considerations in developing HRD protection mechanisms.

In this article we have outlined some initial considerations to better understand and support HRD practice that elaborates on the standards set out in the declaration, Fact Sheet 29 and UN commentary. Carmalt argues persuasively that while human rights law might set universal rules for conduct, what is needed is the ‘contextual thickening for their implementation’.³⁶ It is our hope that the considerations we have outlined in this article provide the beginning of this contextual thickening required in order to inform and improve the practices and policies employed for protecting human rights defenders throughout the world.

Acknowledgements

A former draft of this article was presented at the Research Workshop on Human Rights Defenders (15–17 May 2013), organised by the Centre for Applied Human Rights (York University), the Human Rights and Social Justice Research Institute (HRSJ) at London Metropolitan University, and Amnesty International. The feedback received in the seminar and from peer reviewers and colleagues at Protection International has been invaluable or improving the initial draft.

Disclosure statement

No potential conflict of interest was reported by the author.

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8. For example, if a national mechanism for the protection of HRD lists categories of defenders, such as ‘human rights defenders, women rights defenders, environmental defenders, etc.’ the difficulty is how to define each of the categories as people’s work can move fluidly between differing identities and the risk that the process of trying to be comprehensive may in itself end up being exclusionary and restrictive.
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20. *Ibid.*, 41.
21. UN General Assembly Resolution 53/144, 1998.
22. Margaret Sekaggya, *Commentary to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, 2011, <http://www.ohchr.org/Documents/Issues/Defenders/CommentarytoDeclarationondefendersJuly2011.pdf> (accessed 12 July 2013), 84.
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26. Sekaggya, *Commentary to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, 6.
27. J. Tronto, ‘An Ethic of Care’, in *Feminist Theory: A Philosophical Anthology*, ed. A. Cudd and R. Andreasen Malden (New Jersey: Blackwell Publishing, 2005), 251–63.
28. M. Augé, *A Sense for the Other* (Stanford, CA: Stanford University Press, 1998), cited in P. Cloke, ‘Deliver us from Evil? Prospects for Living Ethically and Acting Politically in Human Geography’, *Progress in Human Geography* 26, no. 5 (2002): 590–1.
29. Building on that understanding, it is then possible to also apply Levinas’ argument that ‘ethics arise first and foremost out of our fundamental responsibility for the other’. For Levinas this is a form of responsibility that is ‘unconditional, beyond any “political position” and outside of any social or geographical context’. It is interesting that Levinas stresses the importance of this responsibility, being outside of any context, bearing in mind that HRDs constitute a direct corporal link between the human rights violations that are taking place and the political action that is being taken to stop them. E. Levinas, *Ethics and Infinity: Conversations with Philippe Nemo* (Pittsburgh, PA: Duquesne University Press, 1985), 86; E.J. Popke, ‘Poststructuralist Ethics:

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