

Steven Kleemann

# Human Rights Defenders under Pressure

'Shrinking Space' in Civil Society

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With a Foreword by Pablo Pareja-Alcaraz

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Steven Kleemann

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## List of Abbreviations

ACHR	American Convention on Human Rights
ASEAN	Association of South East Asian States
AU	African Union
CDCJ	European Committee on Legal Co-operation
CEJIL	Centre for Justice and International Law
CJ-S-ONG	Group of Specialists on the Legal Status of Non-Governmental Organisations
CLR	Centre for Legal Resources
CoE	Council of Europe
COHOM	Working Party on Human Rights
Convention No. 124	The European Convention on the Recognition of the Legal Personality of International Non-Governmental
CSO	Civil Society Organization
ECHR	European Convention on Human Rights
ECOSOC	Economic and Social Council
ECtHR	European Court of Human Rights
EHRAC	European Human Rights Advocacy Centre
EU	European Union
EU Guidelines	European Union Guidelines on Human Rights
FRA	European Union Agency for Fundamental Rights
FRP	Fundamental Rights Platform
G8	Group of Eight
HRD	Human Rights Defender
HRD Declaration / UN Declaration	Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental
IACHR	Inter-American Commission on Human Rights
ICCPR	International Covenant on Civil and Political Rights



ICESCR	International Covenant on Economic, Social and Cultural Rights
ICNL	International Centre for Not-for-Profit Law
IGO	International Governmental Organization
IHRL	International Human Rights Law
ILO	International Labour Organization
KAPA	Kampala Plan of Action
NGO	Non-Governmental Organization
NHRI	National Human Rights Institution
NPO	Nonprofit Organization
OAS	Organization of American States
ODIHR	OSCE Office for Democratic Institutions and Human Rights
OSCE	Organization for Security and Co-operation in Europe
OSCE Guidelines	OSCE Guidelines on the Protection of Human Rights defenders
PVO	Private Voluntary Organization
TSO	Third Sector Organization
UDHR	Universal Declaration of Human Rights
UIA	Union of International Associations
UK	United Kingdom
UN	United Nations
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNGA	United Nations General Assembly
UPR	Universal Periodic Review
VDO	Voluntary Development Organization
Venice Commission	European Commission for Democracy through Law

## Foreword

The work of human rights defenders aims to improve societies and contribute to peace and democracy. They are advocates for positive change and progress. Human rights defenders are key figures for protection against fundamental rights violations and in the promotion of universal human rights.

2018 marked not only the 70th anniversary of the Universal Declaration of Human Rights, it was also the 20th anniversary of 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 (Declaration on Human Rights Defenders). With this Declaration, the term “human rights defender” (HRD) became more common and is today a prevalent notion amongst human rights communities around the globe. There is not simple answer to the question “Who is a human rights defender?”. The Declaration on Human Rights Defenders and other relevant regional or national documents conceptualise them largely as anyone who defends and promotes human rights in a peaceful manner. This broad definition leads to a lack of clarity, potentially leaving various actors without of protection. As a result, a scientific examination of the subject is necessary. The following work will begin by focusing squarely on the question of how human rights defenders are defined and, through the analysis undertaken, the exceptionally important work of HRDs will be highlighted.

Unfortunately, throughout the past decade the world has witnessed the imposition of gradual restrictions on the freedoms of human rights defenders (the so called “shrinking space”). These restrictions are not confined to authoritarian countries, where severe violations of human rights are common, but, also in countries where democracy is considered strong. Therefore, it is necessary to address the (growing) constraints that human rights defenders face in all environments, includ-

ing the limits of existing legal mechanisms and norms to protect their work. While actions and opinions should be open to free and frank debate, many State officials are growingly critical of HRDs. All too frequently, the debate is inappropriately focused on the legitimacy of HRDs themselves, which creates a hostile environment for their work. A dangerous, shrinking space.

While the general conflict between human rights defenders and authoritarian or illiberal regimes is not new and is familiar from contexts where there has been larger scale of repression, recent developments in liberal States are somewhat new. The legal restrictions on the operation of individuals and organizations have risen in recent times. Criminalization of lawful activities, registration laws for non-governmental organizations (NGOs) or the restriction of foreign funding are only some of the ways in which human rights defenders are put under pressure. Threats of violence, actual physical attacks, disappearances and killings of HRDs are the most severe methods.

It becomes clear that, to support the important practical on the ground work of human rights defenders, it is necessary to analyse the general situation and the legal improvement opportunities from an academic perspective.

The following piece of work starts with the broader concepts and categories of civil society and human rights defenders, including the role of NGOs and giving a definition of human rights defenders. Afterwards, the existing international legal framework for the protection of HRDs is examined, with a focus on the European region. The following chapter elucidates the shrinking space phenomena and especially highlights the States crack-down on civil society and HRDs within Europe, setting out the uniqueness of their work in the region. Finally, the identified shortcomings are presented, analysed and confronted.

The content of this Master thesis leaves no doubt as to the author's capacity to convey his ideas in a concise yet nuanced manner. The work proves the author's familiarity with the topic and the existing academic literature. The choice of the European context to illustrate the main argument -the gradual loss of space for the effective defence of human rights- deserves special recognition, for it makes a relevant contribution to current debates that put too much of an emphasis on the situa-

tion in countries with feeble democracies or persistent authoritarian practices.

Thus, it is a very timely and interesting Master thesis that addresses the (growing) constraints human rights defenders face in most environments, the potential for change and the limits of existing legal mechanisms and norms to protect their work. A critical and well-informed analysis of the main international and regional instruments used to protect the work of human rights defenders, with emphasis on the case of European region will be of particular interest to the reader. In addition, balanced suggestions are offered that allow for shortcomings to be addressed.

Overall, this is an outstanding piece of work that evidences the author's capacity to conduct independent and rigorous research, as well as his familiarity with the many constraints surrounding the activity of human rights defenders. Alternate avenues and mechanisms are required to improve the situation for human rights defenders. This thesis will explore how this can be achieved – leaving the reader armed with knowledge to change the course of history for human rights defenders.

Pablo Pareja-Alcaraz

Barcelona, 20 October 2020

