

# POLICY AND PRACTICE NOTE

---

## Protesting for Human Rights in the Occupied Palestinian Territory: Assessing the Challenges and Revisiting the Human Rights Defender Framework

RAGHAD JARAISSY AND TAMAR FELDMAN\*

### Abstract

Addressing the special challenges human rights activists and promoters are faced with in the West Bank has been one of our major tasks as human rights attorneys working intensively on human rights issues, including the right to protest, in the occupied Palestinian territory. This policy and practice note sets out a detailed analysis of some of the challenges we initially faced while trying to apply the human rights defenders framework to protest actions taken by Palestinians to promote and protect their and their communities' human rights as part of their struggle against the occupation and towards self-determination. These challenges were experienced on a principled level of identifying and defining 'human rights defenders' as such, and on the practical level of both selecting effective tools to support and protect the human rights promotion activities that these activists conduct on a daily basis, and assessing the implications of the human rights defenders framework for the construction and functioning of grassroots movements and solidarity-based groups.

*Keywords:* human rights defenders; occupation; peaceful; protection; solidarity; universality

### Introduction

The Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human

---

\* Raghad Jaraisy (raghad@acri.org.il) is an Attorney in the Human Rights in the Occupied Territory Department of the Association for Civil Rights in Israel (ACRI) and coordinator of a joint project of ACRI and B'Tselem, the Israeli Information Center for Human Rights in the Occupied Territory, on Human Rights Defenders and the Right to Protest in the West Bank. Tamar Feldman (tamar@acri.org.il) is Attorney and Director of the Human Rights in the Occupied Territory Department of ACRI. This policy and practice note is based on the findings of practical and theoretical research work conducted by the authors as part of the joint ACRI – B'Tselem project from January 2011 – June 2012. Nevertheless, the positions and analysis expressed in this paper represent the positions and opinion of the authors alone, and should not be attributed in any way to either of the organizations.

Rights and Fundamental Freedoms (1998)<sup>1</sup> (henceforth, ‘Declaration on human rights defenders’ or ‘Declaration’) marks an evolution of the human rights regime, as it goes beyond protecting rights and rights bearers to protecting the agents who protect and promote those rights. Though it has yet to become ‘hard law’, the message of the Declaration spread fast and far and the term human rights defender (henceforth, ‘HRD’), has become prevalent among human rights communities around the globe. Fifteen years into its existence and with hundreds of HRDs recognized by the United Nations (UN) and other international organizations, the HRD framework is already well established. Based on the experience accumulated so far, we now have the opportunity to examine both the strengths and weaknesses of the HRD framework and re-evaluate it in light of its objectives on the one hand, and the results of its application and the scope of its protections on the other.

In this paper, we would like to build on our own experience applying the HRD framework in the context of the occupied Palestinian territory, and particularly in relation to demonstrators in the West Bank. Our hands-on experience has confronted us with many questions, such as: Who is a human rights defender? How should key language delineating criteria related to HRDs be defined and understood? And what would be the implications of acknowledging an activist as a HRD regarding group(s) of which he or she may be a part? In this paper, we expand on, probe and address each of these quandaries and dilemmas. First, we discuss the phenomenon of demonstrations in the occupied Palestinian territory and explain why these demonstrations are relevant, significant sites for the exploration of the HRD framework. Then we discuss the specific cases of Abdullah Abu Rahmah and Bassem Tamimi, two well-known Palestinian activists who were awarded recognition as HRDs by the European Union (EU) and other international bodies following their arrests and prosecutions by the Israeli military forces. In the second part of the paper, we examine dilemmas concerning the definition of a HRD and its applicability in different contexts, as well as the implications of its applicability for the scope and nature of protection provided to recognized HRDs, and the benefits and costs of receiving the HRD title. We conclude with ideas about how the valuable instrument of the Declaration, and the framework that is centred around it, may be improved to better achieve its underlying objectives.

### **Protest actions in the West Bank**

For over 45 years, millions of Palestinians have been living under Israeli military occupation, which by its nature excludes them from taking part in decisions affecting their fate. The occupation permeates every aspect of Palestinians’ daily lives and infringes on their basic rights: first and foremost their right to self-determination, but also their rights to life, dignity, property, freedom of movement, and freedom of expression, to name but a few.

---

1 Adopted by UN General Assembly resolution 53/144, 9 December 1998, A/RES/53/144.

Throughout the years, Palestinian residents of the occupied Palestinian territory have been fighting against such violations of their rights in various ways, both violent and non-violent, including petitions to both Israeli and international courts and tribunals, and lobbying and advocacy with foreign government and international bodies.

Demonstrations have always been part of the struggle, yet the past decade has seen a rising role for this tactic as part of the new popular resistance movement's strategy of 'non-violent' resistance. Geared toward the realization of Palestinians' rights under occupation, and ultimately toward ending the occupation itself, this movement has gradually spread from village to village, making weekly demonstrations a common sight, primarily in areas affected by the Separation Barrier and the settlements.

It should be noted that there is a sizeable gap between the notion of non-violent resistance in theory and the manner in which the struggle is carried out in practice. The weekly demonstrations have become a site of continual confrontation between demonstrators and military forces on the ground, with both sides exercising violence at some point or another: the military uses force, often excessive force, to disperse the demonstrations,<sup>2</sup> and some of the demonstrators, mostly the youth ('Shabab'), throw stones at the soldiers. In this almost routine ritual, it is very difficult to locate the specific source of the violence. From the demonstrators' point of view, they are exercising their legitimate right to protest against an illegitimate regime and its illegal actions that violate their basic human rights, while from the point of view of the military, almost every act of protest is considered a 'disruption of public order', since under military rule in the West Bank the right to protest does not exist, on either the normative or the practical level.

We identify three levels of restriction on the human right to freedom of expression, including the right to protest, in the West Bank. The first is legislative, arising from the military law that applies to the territory: in August 1967 the Military Commander signed Order 101, 'The Order on the Prohibition of Incitement and Hostile Propaganda Actions', that is still in effect and has been used, to a large extent, as an instrument for the suppression of the right to protest in the West Bank. According to Order 101, every assembly of 'ten or more persons gathering for the purpose of a speech or discussion on a political topic' requires a permit; otherwise, the assembly is deemed illegal. In practice, Order 101 creates a reality where all gatherings, assemblies and protest

2 There are two main problems with the dispersal of demonstrations using crowd control weapons in the West Bank. First, the wording of the open-fire and safety regulations is problematic and deficient, making the regulations difficult to follow. Second, the regulations are extensively and systematically violated, and the military does not take the necessary action to end these violations. Senior-ranking officers deny that violations of the open-fire regulations are the norm and classify injury to civilians from crowd control weapons as 'exceptions' (B'Tselem, 2013).

actions of Palestinians in the West Bank are deemed illegal regardless of their purpose and nature.

The second level of restriction is operational, or pertaining to law enforcement activities. These activities comprise the military forces' practices regarding demonstrations and demonstrators, starting with excessive use of force, sometimes lethal, to disperse demonstrations and protest actions, and ending with arrests, detentions and prosecution of activists.

The third level is the judicial level, that is, the level of restriction created by the military justice system and its attitude toward demonstrators who are brought to trial. Military courts make a crucial contribution to preserving the status quo of ongoing and sweeping suppression of the right to protest in the West Bank. They do that by choosing to avoid judicial review over military forces' actions and practices, such as the means used for dispersal of demonstrations, despite the fact that they encounter these issues on a regular basis, as tens of leading Palestinian activists and members of popular committees have been prosecuted in military courts for organizing and participating in demonstrations.

Despite all these obstructions, the weekly demonstrations continue, and the sites of these demonstrations are still among the most significant sites for Palestinians to resist the occupation. The demonstrations therefore present an equally relevant, significant situation to which we can apply, or explore the application of, the HRD framework.

### *The cases of Abdullah Abu Rahmah and Bassem Tamimi*

One of the most well known and prominent figures in the Palestinian popular resistance movement is Abdullah Abu Rahmah, a high school teacher, a member of the popular committee<sup>3</sup> in the West Bank village of Bil'in,<sup>4</sup> and one of the organizers of the demonstrations in the village. Abu Rahmah was arrested on 10 December 2009, and on 21 December he was served with an indictment including three charges: stone throwing during weekly protests, possession of weapons, and incitement to violence. On 18 January 2010 an additional charge of organizing illegal demonstrations, allegedly on dozens of occasions in the village of Bi'lin, was added.

The charge of possession of weapons was based on an allegation that Abu Rahmah had collected weapons used by the military forces against the

3 Popular committees are a community-based resistance. These diverse, non-partisan, committees lead community resistance to Israeli occupation in various forms, such as marches, demonstrations, direct actions and legal campaigns.

4 Bil'in is a Palestinian village located in the Ramallah Governorate of the West Bank, just north of Jerusalem. Since January 2005, the village has been organizing weekly protests against the occupation and the construction of the Separation Barrier. A film portraying the protests shot from the perspective of the people of Bil'in over many years starting in 2005 called *5 Broken Cameras*, by Emad Burnat and Guy Davidi became popular after being shown at the 2012 Sundance Film Festival, winning the Festival's World Cinema Documentary Directing Award.

demonstrators in his village in order to stage an exhibition showing the violence used against demonstrators by military forces. The charges of organizing of illegal demonstrations and incitement to violence were based on an allegation that he organized and led processions toward the Separation Barrier on Fridays, and incited the demonstrators to harm the military forces.

After a long trial, the military court acquitted Abu Rahmah of stone throwing and possession of weapons, and convicted him of incitement to violence and organizing illegal demonstrations. His convictions on these charges were based primarily on testimonies of minors who were arrested in the middle of the night and denied their right to legal counsel, despite the court's acknowledgement of those flaws in their interrogation and arrest.

On 11 October 2010 Abu Rahmah was sentenced to 12 months' imprisonment including time served. Following the prosecution's appeal, the military court of appeals extended his sentence to 15 months' imprisonment. Abu Rahmah was released on 14 March 2011.

Abu Rahmah's case exemplifies a range of core violations of Palestinians' rights in the West Bank, including the right to due process of law, as well as the right to protest. Relevantly, Abu Rahmah's case epitomizes the military court's inherent difficulty with carrying out effective judicial review of the use of military power and authority against demonstrators and activists.

These phenomena are also present in the case of Bassem Tamimi, a school-teacher and coordinator of the popular committee for the West Bank village of A-Nabi Saleh.<sup>5</sup> Tamimi, like Abu Rahmah, is a well-known activist and a leading organizer of the weekly demonstrations in his village. As a consequence of his activity, Tamimi was arrested in March 2011 and eventually indicted by the military prosecution on five separate charges: inciting and supporting a hostile organization, organizing and participating in unauthorized processions, incitement to stone throwing, failure to respond to a summons to attend a police interrogation, and disruption of legal proceedings. On 29 May 2012, the military court's verdict was handed down. Tamimi was acquitted of three charges and convicted of two: protesting without a permit, and incitement to stone throwing. He was sentenced to 30 months' imprisonment, 13 of which he had already served. The remaining period was to be served on probation. He was released on bail on 27 April 2012.

In similar fashion to the case of Abu Rahmah, the case against Bassem Tamimi was largely based on the evidence of a 14-year-old minor (known as 'I.'), also from A-Nabi Saleh. The defence contended that the statements made by I. should be ruled inadmissible. They argued that the violent, demeaning and illegal nature of his detention, combined with the crude violation of his rights during interrogation, impaired the findings of that interrogation, and that his

5 A-Nabi Saleh is a Palestinian village of around 500 residents in the Ramallah Governorate. A large portion of the village land is agricultural, sustained by a nearby natural spring named Ein al-Qaws. In 2009, this spring was taken over by the illegal Israeli settlement of Halamish. In response, the villagers began protesting against the occupation.

confession could not be considered free and voluntary. The court, while concurring that there were indeed clear violations of the minor's rights, particularly the right to remain silent, and the right to counsel, nevertheless rejected the request to declare his evidence inadmissible.<sup>6</sup>

The suppression of demonstrations in the West Bank harms the ability of individuals and groups to protect and to promote human rights. This suppression exerts harm not only in specific ways in each case, but on a broader level as well: after all, the particular struggle of Abu Rahmah, Tamimi and others against the Separation Barrier, and its far-reaching implications for their lives, is also a general struggle against the occupation itself.

It is precisely because of this symbolism that Abu Rahmah and Tamimi, alongside other prominent activists, have become symbols of the non-violent struggle, and have garnered support not only from their communities but also from many in the international community. In an attempt to support Abu Rahmah in his legal proceedings, the European Union declared him a HRD, stating:

The High Representative [of the Union for Foreign Affairs and Security Policy] is concerned by the conviction of 39-year-old Abdullah Abu Rahmah in an Israeli military court on charges of incitement and organising and attending demonstrations. He is due to be sentenced shortly. The EU considers Abdullah Abu Rahmah to be a Human Rights Defender committed to non violent protest against the route of the Israeli separation barrier through his West Bank village of Bil'in. (European Union, 2010)

The EU's declaration was joined and followed by statements from other national and international organizations recognizing Abu Rahmah's leading role in the Palestinian non-violent struggle for rights and freedoms, with some statements adopting the HRD title. A similar EU statement was issued in the case of Bassem Tamimi (European Union, 2012).

This international display of support was meaningful and heartening for Abu Rahmah and Tamimi, for their families, and for their fellow activists in the Palestinian popular struggle. It was also very significant for us as human rights attorneys who focus on human rights issues in the West Bank. These declarations have spurred vigorous discussions and comprehensive research on the Declaration on human rights defenders and its implementation, in an attempt to find ways for local human rights organizations to use this instrument to broaden the protection awarded to activists and protests in the occupied Palestinian territory. This exploration, however, confronted us with considerable challenges regarding the criteria for deeming a person a HRD and for applicability of the HRD framework, with both being derived from

6 For more information on the case of 'Minor I.', see ACRI case briefing document, <http://www.acri.org.il/en/wp-content/uploads/2012/02/Minors.pdf>.

the definition of a HRD. It also raised questions as to the potential price such a declaration could have in our context — a price that could influence the effectiveness of the Declaration on human rights defenders as a means of increasing protection for HRDs.

### **From theory to practice: the application of the human rights defender framework**

#### *Who is a human rights defender?*

UN Fact Sheet No. 29, ‘Human Rights Defenders: Protecting the Right to Defend Human Rights’ (henceforth, ‘Fact Sheet 29’) provides explanations, offers analysis and highlights the context and purposes of the Declaration on human rights defenders (Office of the UN High Commissioner for Human Rights (OHCHR), 2004). Fact Sheet 29 states: ‘There is no specific definition of who is or can be a human rights defender . . . Defenders can be of any gender, of varying ages, from any part of the world . . .’ (ibid: 6).

Although for strategic reasons the Declaration on human rights defenders and its explanatory documents avoid formulating a clear definition of the term HRD, Fact Sheet 29 refers to three minimum standards required of HRDs: *accepting the universality of human rights*; *presenting valid arguments*; and *conducting peaceful actions* (OHCHR, 2004: 9–10). Despite the apparent simplicity of these standards, they leave many questions unanswered and their application in the specific context of the occupied Palestinian territory raises many difficulties, particularly the first of these three, relating to the beliefs of the person, and the third, referring to the nature of his or her actions.

#### *Exploring the first standard: ‘accepting the universality of human rights’*

This seemingly straightforward criterion triggered many quandaries as we tried to put it into practice and explore the scope of its application.

Our experience in the occupied Palestinian territory has taught us that the term, ‘universality of human rights’ may be quite alien for many activists: either because they are unfamiliar with the human rights discipline and the notion of universality, or because they oppose this notion, for example because they find it patronizing, or simply inappropriate. Even when activists do not explicitly contest the ‘universality of human rights’, as is more often than not the case, how does one show a positive ‘acceptance’ of this idea? Fact Sheet 29 explains in that regard that a defender ‘cannot deny some human rights and yet claim to be a human rights defender because he or she is an advocate for others’ (OHCHR, 2004: 9). This would-be answer merely rephrases the question: What, then, is considered a ‘denial’ of human rights? Does it have to be a vocalized denial of certain rights? Or does silent acceptance of social norms and practices that violate human rights constitute denial of those rights?



These dilemmas are pertinent to the occupied Palestinian territory for two main reasons. The first reason is because the Palestinian national liberation struggle often outshines other struggles for human rights and social change. Many activists believe that all efforts must focus on national liberation as the primary struggle, and they thus promote national unity at the expense of some groups in Palestinian society, such as women who face deprivation of liberty, lack of personal and financial security, and other forms of severe discrimination,<sup>7</sup> as well as people of both genders who oppose such human rights violations. For example, the popular committee in Bil'in is composed of men only. Though women take part in the resistance, they do not take part in the decision making and do not hold any official positions. Prioritizing the national fight for self-determination over the battle for women's human rights, whether intentionally or not, in effect legitimizes the ongoing violations of women's human rights, and undermines female HRDs' ability to promote and to protect these rights.

The second reason why these dilemmas are germane to the occupied Palestinian territory is that many human rights activists there live and operate within conservative communities, where social norms and religious beliefs sometimes contradict basic rights of individuals or groups who live among them: either on the basis of the complete denial of the existence of such rights (e.g. lesbian, gay, bisexual and transgender (LGBT) rights), or based on a different interpretation of the rights and their scope, as a result of their cultural background (e.g. women's rights).

In this situation, we should ask ourselves whether silence on certain violations of human rights should be interpreted as denial of those rights, and, therefore, as a rejection of the universality of human rights. Naturally, we should not expect activists to 'act on all fronts' and actively work against every violation of every human right in their community. But at the same time, we ask ourselves: how are we to know that they do, in fact, accept the universality of human rights when they do not step up, acknowledge such violations and publicly speak up against them? In such circumstances, should it be required of a would-be HRD that he or she publicly acknowledge other serious human rights violations and at least speak out against them?

The relevant UN bodies should consider these questions, and clarify this criterion. Broadening the criterion to include anyone who does not actively support the denial of other human rights would bring more people under the protection of the HRD framework, but could possibly decrease protection of other human rights—and legitimize such a decrease—and thereby undermine activities of other HRDs. The international community must be aware of

7 Palestinian women currently face two major types of obstacles to their rights: those arising from within their own culture and society, and those imposed as the result of occupation. On the domestic front, and in addition to the restrictive personal status laws, domestic abuse remains a significant problem, and violence against women, including 'honour killing', has increased in recent years (Azzouni, 2010).



these potential prices in situations where there is evident competition between human rights battles.

*The nature of the action: peaceful, lawful and the space between*

Many international diplomatic statements concerning the human right to protest place heavy weight on the nature of that protest—such as whether it is peaceful, and whether it is lawful. For example, the UN Special Rapporteur on the situation of human rights defenders addressed the challenges facing peaceful assemblies in a commentary to the Declaration on human rights defenders in July 2011, stating: ‘States have a positive duty to actively protect assemblies that are lawful and peaceful’ (UN Special Rapporteur on the situation of human rights defenders, 2011: 26). In addition, the Special Rapporteur raised concerns regarding the role of ‘disproportionate use of force by the police or army during peaceful demonstrations’ in provoking violent reactions from an otherwise peaceful assembly (ibid: 25).

Yet neither the above-quoted language nor other emerging documents analysing the Declaration address or offer solutions to the challenges inherent in defining the character of demonstrations. These documents do not examine the relationship between demonstrations’ lawfulness and demonstrations’ peacefulness—a relationship that is complex when regimes such as the military occupation in the West Bank make demonstrations illegal regardless of the nature of those actions, such that even peaceful demonstrations might be deemed illegal. Under such regimes, the gap between what is legal under the ruling regime and what is legal under international law becomes crucial to applying the HRD framework. The flipside of this problem is that even someone who seeks to make a peaceful protest could, under a repressive regime, become part of a violent situation. In the occupied Palestinian territory, there is a significant gap between the principle of non-violent resistance and the way this resistance is carried out in practice. As discussed above in the section on protest actions in the West Bank, it can be challenging to distinguish the violent from the peaceful and the activist from the fighter, and to determine the precise source of the violence. Under these circumstances, the definition of ‘peaceful action’ may be a disputed issue.

The cases of Abu Rahmah and Tamimi exemplify these quandaries, confronting us with serious questions regarding the definition—and the very ability to define—the nature of their actions. The first quandary arises from the fact that both men were convicted in military court for violent acts related to demonstrations. We asked ourselves: How should we relate to a court’s factual finding that an activist acted violently, or incited violence? This question may be easy if the court is believed to be impartial and fair; or alternatively if the judicial system, or the specific trial, is believed to be irredeemably flawed. But when the situation is not so clear-cut, what do we make of such determinations?

One could argue against the legitimacy of the military justice system and the impartiality of its rulings concerning Abu Rahmah and Tamimi. On this note, for example, some may distinguish between legal rulings that come from the Israel Supreme Court sitting as the High Court of Justice (HCJ)—a civilian Israeli court that sits atop Israel's judiciary and exercises judicial review over Israel's military authorities—and military courts that are part and parcel of the occupation regime.

One could also argue against the occupation regime's suppression of the right to protest in the West Bank in the first place. This suppression is effected through, for example, military courts' interpretations of offences such as incitement and organization of illegal demonstrations, and these courts' decisions are based on military legislation that infringes on human rights.

Nevertheless, the military court system is a functioning judicial system that cannot be unequivocally discarded, and therefore our quandary remains unanswered.

The second quandary regarding the definition of violence, as exemplified by the above mentioned cases, concerns the fact, as noted above, that in many conflict situations, such definitions are hotly disputed. For example, while the military forces deem certain protest actions to be incitement to violence, those same actions are, to the Palestinian grassroots movement, legitimate non-violent popular resistance against the occupation. Similarly, while the military does not distinguish between throwing stones at moving vehicles and at the Separation Barrier, deeming both actions violent, activists might condemn the first while defining the latter as a protest action that is intended not to cause any harm to life or limb (unlike live ammunition) but to express opposition to the occupation. The question is where to draw the line between violence or incitement to violence, and legitimate exercise of the right to protest. The practical goals in such line-drawing should be to include and protect as many activists as possible under the HRD framework, yet also to ensure that the HRD framework does not promote or encourage any kind of violent actions.

What would provide necessary legal clarity in this fog of ambiguity is a concrete statement, in the language that makes up the HRD framework, that accounts for the possible tension between the demand for peaceful action and the violent reality in which human rights activists sometimes operate. This account should consider the gap between lawfulness and peacefulness, and offer guidelines for how to evaluate an action as 'violent' or 'peaceful' when the relevant domestic law fails to do so reliably.

### *Empowering leaders at the risk of weakening solidarity*

Even if an activist can be confidently declared a HRD, what might be the implications of such a declaration—for the group of activists to which the HRD belongs, and for the unity and solidarity of their struggle? This question demands consideration of the concept of collective identity. Collective identity is most simply defined as a shared status or relationship between and among

individuals and a broader community. This relationship is based on, among other things, emotional investment, enabling individuals to feel part of a common whole. And collective actions provide a way for individuals to define themselves and their relationship with their environment (Melucci, 2004: 43–4). The term ‘collective identity’ has been used to describe many different dimensions of social protest, including the activists’ shared definition of their situation, and the experience of unity within groups of activists and solidarity-based movements (Polletta and Jasper, 2001: 284).

Differentiating one individual from his or her group by changing his or her status is, whether for better, for worse, or both, a disruption to the status quo of the group’s collective identity. This disruption may have positive effects, such as creating a role model, and providing the entire group with a sense of accomplishment, recognition, and pride. But it also might interfere with the group dynamic in less favourable ways, by undermining the sense of unity or shared destiny, thereby diminishing its ability to act as a group for its members’ shared goals. These problems may be especially pertinent when the singling out of individuals is done by powerful actors from outside the group, as in the cases of Abu Rahmah and Tamimi. Both are leading activists in their villages, but at the same time, there are tens of other leading activists in the various villages of the West Bank who have been arrested and prosecuted by the military forces, yet did not get the international recognition that Abu Rahmah and Tamimi received.

As mentioned above, one of the Declaration’s most important roles is encouragement: it encourages individuals and groups to adopt a culture of human rights, and to become part of a worldwide community that promotes and demands the enforcement of human rights everywhere. The Declaration therefore strives to create and enhance solidarity, and to establish a common identity around human rights. But here again, the universal and the particular might collide, as the attempt to unite individuals from different cultures around human rights may compete with, and even undermine, local groups’ goals and struggles.

In the context of the occupied Palestinian territory, given the strong sense of solidarity that holds the Palestinian grassroots popular movement together, we have faced serious dilemmas concerning the possible costs of awarding one or some members of the movement a special status. In our conversations with activists, some of them raised concerns about the implications of such an award for the unity of the group, worrying that it might create undesirable hierarchies, and with them, destructive political struggles. At the same time, some argued, based on their experience, that in some cases the positive effects that declaring a HRD would have for that HRD’s group and its struggle would outweigh the risks of impairing group solidarity.

As a Palestinian activist and member of the popular committee in one of the Palestinian villages conducting weekly demonstrations against the occupation put it:

I came from the grassroots movement . . . When we started the popular resistance in 2003 we initiated the first popular committee—we wanted to use a non-violent/unarmed resistance to achieve our goals—freedom and justice and peace . . . Since that time, thousands of Palestinians have struggled in the same way—they entered the Israeli prisons—28 have been killed. But everybody in the grassroots movement is aware of the price because freedom is not easy. Paying the price will not depress people because they want to achieve freedom. *The decision to label some people HRD raises questions within the Palestinian popular committee leaders, and raises jealousy—why Abdullah was declared a HRD and Ni'ilin leaders weren't? . . . No Palestinian leader thinks of himself as a follower—why is one considered a human rights defender and another not?*<sup>8</sup>

This statement exemplifies the phenomenon in which using the HRD framework to encourage solidarity-based actions to promote and protect human rights actually backfires, by shifting the focus from the action to the activist, indeed from the community of activists to the lone activist, and from the common cause to more individual ones. In order to address this challenge, we need, first of all, to acknowledge its existence, and to factor it into each decision about awarding an individual the HRD title. The approach should be contextual and take into account the full set of broad-ranging implications of such a decision, including its impact on the social fabric in which the potential HRD exists, and on his or her ability to promote human rights.

### Conclusion and recommendations

Our experience with the application of the HRD framework in the occupied Palestinian territory, as described in this paper, has revealed a host of challenges to the HRD framework and its application. Some challenges are conceptual, relating to the definition of 'human rights defender' and the criteria that must be satisfied to meet that definition. Others are concrete or contextual challenges that arise from the consequences of applying the HRD framework in a particular set of circumstances—the consequences both for the HRD, and for solidarity-based groups.

In conclusion, we would like to offer a few thoughts about how these challenges can be overcome in the occupied Palestinian territory and similar contexts. First, regarding minimum standards for recognition of HRDs, we suggest that the standard of 'acceptance of the universality of human rights' be fleshed out, to clarify the meaning of the term 'universality of human rights' and of what would constitute its 'acceptance'. These clarifications

8 This statement was given during a round table addressing the question: 'Who is a Human Rights Defender?' organized by ACRI and B'Tselem on 13 September 2011 in Beit Jala, occupied Palestinian territory, as part of their joint project on Human Rights Defenders and the Right to Protest in the West Bank. (No summary of the round table was published.)

should be mindful of social and cultural considerations and aware that broadening the definition and increasing protection for some may come at a price of diminishing protection for others.

Second, an empirical study should be undertaken to explore the hundreds of cases of activists who have been recognized by the United Nations and other international bodies as HRDs since the establishment of the Declaration, in order to identify common characteristics that led to the recognition in many or in all cases. Such research may contribute greatly to our understanding of what it means in practice to be a HRD, from which we can reverse-engineer a more robust legal definition of HRD that would better serve the needs of HRDs and enhance overall protection for them and their goals.

Third, to address concerns relating to the implications for solidarity-based groups of declaring HRDs, and to safeguard their unity, we suggest that a contextual approach be adopted and integrated into the HRD evaluation processes, including a broad-ranging risk assessment concerning the effects that declaring the person a HRD may have on the unity of the group and its ability to realize its goals. Such assessments should be done through dialogue with the relevant groups or organizations, such as the local popular committees and the relevant human rights organizations in the case of the occupied Palestinian territory.

### Acknowledgements

Many thanks to the participants and organizers of the Research Workshop on Human Rights Defenders for their valuable feedback on the previous versions of this paper, to Noah Lawrence and Ryan Shandler for their helpful edits and to Daniela Raveh and Maitreyi Misra for their assistance in the background research. We are also grateful to our colleagues at ACRI who contributed to the discussions and work that led to this paper.

### References

- Azzouni, S. 2010. Palestine, Palestinian Authority and Israeli-Occupied Territories. In S. Kelly and J. Breslin (eds). *Women's Rights in the Middle East and North Africa: Progress Amid Resistance*. New York: Freedom House; Lanham, MD: Rowman & Littlefield, 359–96. Available online at <http://www.freedomhouse.org>.
- B'Tselem. 2013. Crowd Control: Israel's Use of Crowd Control Weapons in the West Bank. [http://www.btselem.org/download/201212\\_crowd\\_control\\_eng.pdf](http://www.btselem.org/download/201212_crowd_control_eng.pdf).
- European Union. 2010. Statement by the Spokesperson of High Representative of the Union for Foreign Affairs and Security Policy on Conviction of Human Rights Defender Abdullah Abu Rahma. Brussels, 24 August. [http://www.consilium.europa.eu/uedocs/cms\\_Data/docs/pressdata/EN/foraff/116232.pdf](http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/116232.pdf).
- . 2012. Statement by the Spokesperson of High Representative Catherine Ashton on the Case of Bassem Tamimi. Brussels, 22 May. [http://eeas.europa.eu/delegations/israel/documents/press\\_corner/120522\\_en.pdf](http://eeas.europa.eu/delegations/israel/documents/press_corner/120522_en.pdf).

- Melucci, A. 2004. The process of collective identity. In H. Johnston and B. Klandermans (eds). *Social Movements and Culture* (3rd ed.). Minneapolis, MN: University of Minnesota Press: 41–63.
- Office of the UN High Commissioner for Human Rights (OHCHR). 2004. Human Rights Defenders: Protecting the Right to Defend Human Rights. Fact Sheet No. 29.
- Polletta, F., and J. Jasper. 2011. Collective identity and social movements. *Annual Review of Sociology* 27: 283–305.
- UN Special Rapporteur on the situation of human rights defenders. 2011. 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. Geneva: OHCHR.