



Working Paper No. 3

## Exploring the Term 'Human Rights Defender' through the Lens of Professionalisation in Human Rights Practice: A Case-Study of Russia

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Polina Malkova is a final year PhD candidate in the Faculty of Law at the Chinese University of Hong Kong. Her doctoral thesis explores the situation of human rights defenders in Russia, focusing on how professionalised human rights defenders experience legislative and judicial harassment, and how they interact with society given this legal context. In part, her thesis analyses the effects of the 2012 Russian 'foreign agents' law on the human rights movement and the extent to which this has affected social attitudes towards human rights defenders. Polina also volunteers as a translator at the Moscow-based NGO Public Movement for Human Rights.

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## Executive summary

The concept of the 'human rights defender' (HRD) is central in initiatives to protect those who face risk as a result of their peaceful actions to defend human rights. However, protection organisations, donors, beneficiaries, researchers and HRDs themselves may often lack clarity in their understanding of this broad term when it comes to establishing HRD status in practice. Aiming to advance the understanding of the term 'HRD', this working paper discusses the criterion of professionalisation within human rights practice. In particular, rather than advocating for a catch-all approach to the term in question, this paper makes the case for a differentiated understanding of it. Focusing on the Russian context, the paper outlines the landscape of professionalised and non-professionalised defenders and discusses the implications of professionalisation with regard to HRDs' identification, self-identification, risks and, ultimately, protection. Based on the arguments presented in this paper, the following suggestions are made to stakeholders involved in HRD protection, including protection organisations, donors and researchers.

### Implications for practice

- Stakeholders can benefit from considering different categories of HRDs; such an approach can facilitate a focused and nuanced understanding of the HRD landscape and the risks facing HRDs, enabling stakeholders to better discern and analyse different cases and tailor protection efforts to HRDs needs.
- Where categories of HRDs are differentiated for operational or research purposes, this must be underpinned by robust analytical reasoning. Importantly, such reasoning should keep in mind the purpose of the broad and inclusive UN definition; differentiation which leads to the exclusion of groups of HRDs by preventing them from gaining recognition or access to resources and protection mechanisms must be strictly avoided.
- Donors supporting HRD protection programmes should critically assess internal mechanisms for defining HRD status and establish shared guidelines with grantees to ensure that inclusive criteria are used in such mechanisms. These criteria should not run contrary to the spirit of the UN Declaration on Human Rights Defenders and its broad approach to the term 'HRD'.
- Organisations and funders have a key role to play in fostering defenders' awareness of the UN definition of the term 'HRD' and its value with respect to protection. Further efforts to promote the UN definition are required, not only among HRDs, but also among the general public, whose acceptance and support of HRDs' work can contribute to the creation of a safe and enabling environment and counter discourses that aim to marginalise human rights defence.
- The issue of self-identification of HRDs has crucial implications for access to protection mechanisms. Further research could help increase stakeholders' understanding of this issue and explore the impacts of different modes of self-identification.

- In developing HRD protection mechanisms, stakeholders should observe and learn from tactics that professionalised and non-professionalised defenders use to protect each other. The strengths of each category of defenders, such as the expertise and organisational capacity of professionalised defenders and the mobilisation potential of non-professionalised defenders, should also be considered. Furthermore, it is imperative to develop and facilitate ongoing interaction and skills transfers between professionalised and non-professionalised HRDs, for example, through national and regional platforms.
- It is important to understand the gradual process of professionalisation of individuals and groups involved in grassroots initiatives. Where appropriate, funders and organisations should look to provide technical assistance, coordination and other forms of support to non-professionalised HRDs to facilitate the process of professionalisation and institutionalisation. Capacity building programmes may include training on key aspects of setting up and managing human rights organisations.

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## Introduction

The adoption by the UN General Assembly of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms (UN 1998) (hereafter 'the Declaration') on 9 December 1998 marked the international recognition of the role and status of those who strive to defend and promote human rights. With it, the term 'human rights defender' (HRD) was ushered into more common use. Today, this term has become prevalent among human rights communities around the world (Jaraisy and Feldman 2013) and is instrumental in initiatives to protect HRDs facing risks and obstacles in the course of their work.

Despite the fundamental importance of the term 'HRD', the question "Who is a human rights defender?" continues to preoccupy scholars and practitioners (Nah et al 2013; Bennett et al 2015; New Tactics 2015) and has no simple answer. The UN Declaration and relevant regional and national documents conceptualise 'human rights defender' broadly, as anyone who acts to promote and defend human rights. This all-embracing approach can lead to a lack of clarity and leave various actors, including HRDs themselves, unsure regarding the practical application of the term. As a result, stakeholders involved in HRD protection may concentrate their efforts and attention on more obvious or traditional groups of HRDs. The NGO Protection International notes that some national protection programmes exclude certain categories of defenders, for instance, those not formally registered; this is exacerbated by the lack of training of civil servants on the definition of the term 'HRD' (Protection International 2011). As empirical data presented in this paper demonstrates, there may also be a lack of agreement on the definition between donors and grant recipients, whereby donors tend to pay more attention to 'traditional', professionalised defenders. Yet, the inclusive, coordinated understanding and application of the term is an important practical matter with regard to the protection of defenders at risk: the label has a key functional dimension and can enable individuals' access to existing protective mechanisms.

This working paper<sup>1</sup> aims to address the issue of the broad scope of the term 'HRD'. Building on Fact Sheet 29 (OHCHR 2004) and the parameters of professionalised human rights practice developed by O'Flaherty and Ulrich (2010), it considers and elaborates on the relevance of professionalisation within human rights practice to the conceptualisation of HRDs. While emphasising that professional titles or qualifications are not essential to HRD status, it argues that a differentiated approach to the term can help to operationalise it for practical use and research, and has important implications for assessing risk and developing appropriate protection mechanisms for HRDs. The landscape of professionalised and non-professionalised HRDs is explored in the context of Russia. An analysis of the current situation in Russia, in particular with regard to basic freedoms, is used to discern the diverse risks and obstacles experienced by the two categories of HRDs, and the ways in which these categories interact to manage risks.

<sup>1</sup> This working paper focuses on key themes that have emerged in the course of the author's PhD research on the protection of human rights defenders in Russia, and draws upon interviews conducted by the author in Spring 2017 in Moscow. Four further interviews with HRDs were conducted November 2017 in Moscow which focused specifically on the themes of this paper. Translations from Russian are the author's own.

First, the paper outlines the existing definition(s) of the term 'HRD' according to the key normative frameworks that offer recognition of HRDs' status and rights. It demonstrates that from the UN to domestic laws, the existing approach to the term is broad, and this broad scope entails both value and challenges for the understanding and application of the term. In response to some of these challenges, this paper introduces the criterion of professionalisation of human rights practice as a mode of differentiating HRDs, and discusses its key parameters, before exploring the utility of this criterion in the context of Russia and demonstrating its implications for HRDs' risks and protection.

## The existing definition of 'human rights defender'

The central provision of the Declaration is the express recognition of the right to promote human rights as a right in and of itself. Article 1 of the Declaration asserts that all human beings are entitled "individually and in association with others, to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels" (UN 1998). The specific recognition of this right confers legitimacy to HRDs in terms of their role and status. As Harding (2015) notes, the fact that the Declaration was adopted by the UN General Assembly through consensus means that defenders can claim that the validity of their work is recognised by the international community. In highlighting HRDs' legitimate role and "unique and precarious position" (Freedom House 2008: viii) and articulating the duties of state and non-state actors to ensure their security, the Declaration represents a commitment of the international community to uphold HRDs' rights. The adoption of this document has been characterised as a turning point in the evolution of the human rights regime as it "it goes beyond protecting rights and rights bearers to protecting the agents who promote these rights" (Jaraisay and Feldman 2013: 422). Yet while asserting the right to defend human rights, the Declaration does not explicitly define nor mention the term 'HRD'. Nevertheless, this term was instrumental during the 13-year long negotiations which preceded the Declaration (Jones 2015).

Furthermore, in April 2004, in order to elaborate on the Declaration and "provide guidance on the interpretation and application" of the term 'HRD' (Nah et al 2013: 404), the Office of the United Nations High Commissioner for Human Rights (OHCHR) published *Fact Sheet No. 29 - Human Rights Defenders: Protecting the Right to Defend Human Rights*. The Fact Sheet re-affirms the broad wording of the Declaration. It stresses that gender, age, professional qualifications, amount of time devoted for human rights activity or existence of a formal title 'human rights activist' or 'human rights organisation' are irrelevant to HRD status: what determines it is the human rights character of the work undertaken (OHCHR 2004:6). It thus highlights that a 'human rights defender' is an action- rather than status-based concept, and that human rights work can be undertaken in a variety of contexts. However, OHCHR does set forth three minimum criteria for HRD status: one has to (1) defend, promote or protect human rights; (2) do so in a non-violent manner; and (3) accept that no human right may be rejected (ibid: 8-9). Thus, apart from the requirement of action to defend rights, it establishes the important



criteria that these actions are non-violent and accord with the principle of the universality of rights.

Relevant regional documents echo the abovementioned texts. In particular, the European Union Guidelines on HRDs set forth that HRDs are “those individuals, groups and organs of society that promote and protect universally recognised human rights and fundamental freedoms” (European Union 2004: 1). It stresses that the scope of rights promoted by HRDs includes civil and political rights, as well economic, social and cultural rights and the rights of indigenous communities. Definitions of the term can also be found in the existing national legislation. For instance, the Brazilian Presidential Decree 6.044/2007<sup>58</sup> similarly defines HRDs as “all individuals, groups and organs of society that promote and protect human rights and fundamental liberties universally recognised” (Presidência da República 2007, cited in Pereira Tertto Neto 2016). Furthermore, organisations engaged in protection of HRDs have elaborated operational definitions which also define the term broadly.<sup>2</sup>

Yet, some attempts to narrow the definition have been noted, particularly in national laws. In its assessment of national legislation on HRDs, Protection International concludes that while, broadly speaking, existing national laws are consistent with international instruments, there have, nevertheless, been tendencies to narrow the definition of the term and “the lack of a written definition may lead to the exclusion of some defenders when certain institutions do not wish to include them or where civil servants do not have the right training” (2011: 33). According to country research by Protection International: in Colombia, defenders involved in teaching human rights in educational centres do not have access to protection programmes; Mexican legislation excludes non-registered NGOs; and, in Nepal, a Code of Conduct for HRDs can exclude some categories of defenders (ibid).


Overall, despite some variations in the interpretation of the term by different stakeholders, and some localised tendencies to limit the array of actors that fall under the definition of a ‘HRD’, a broad approach to the term remains an internationally accepted standard. The UN Declaration is a key point of reference for international actors engaged in the protection of HRDs (Harding 2015). According to its basic premise, the term HRD is to be viewed in the context of one’s actions and is a title which unites diverse actors – from those working on human rights issues on a day-to-day basis in NGOs, to those with less obvious profiles, including journalists, witnesses of human rights violations, whistleblowers, scientists, political party leaders, student campaigners and educators. Yet, this broad framing of the term entails both value and challenges which will be explored in the following section.

### Strengths and drawbacks of the broad definition

Given the potential value of the HRD label for often already marginalised and at-risk social actors who challenge elite agendas, it is important to adhere to the broad conceptualisation of the term in the Declaration and its fundamental rationale that anyone can be a human rights defender. In this light, the Declaration represents a historic step in upholding the legitimacy of defenders and the value of their role. As Harding (2015) explains, the UN General Assembly’s adoption of the Declaration by consensus, confers on HRDs recognition by the international community; thus, the HRD label can help in

<sup>2</sup> In particular, Front Line Defenders, an NGO, defines HRDs as “people who work, non-violently, for any or all of the rights enshrined in the Universal Declaration of Human Rights” (2017c).


asserting the validity of defenders' work and counter attempts by repressive regimes to portray their activities as illegitimate and illegal. Furthermore, this label can be used strategically to enable individuals access to existing protective mechanisms targeted at HRDs, such as relocation, training, grants and fellowships (ibid). A fixed definition can be interpreted restrictively (O'Leary) and lead to the exclusion of individuals. As the Special Rapporteur on HRDs Hina Jilani stated:

 Time and again, I was pressured by governments to define human rights defenders. I was wondering why there was this insistence. Then I understood that when you define, you can make it easy to exclude people. (Cited in Bronkhorst 2014b)

The definition, thus, rightly captures the wide scope of defenders' activities that can be characterised as "a truly wide-reaching enterprise that continues to grow" (Blitt 2007: 25).

Yet somewhat paradoxically, the broad conceptualisation of the term 'HRD', and the lack of clarity therein, may lead to the exclusion of some actors who defend human rights. The breadth of the definition creates challenges and as Bronkhorst argues, "is obfuscating rather than clarifying the human rights defender case" for protection organisations, donors, researchers, HRDs themselves and the general public (2014a:64). One of the key challenges is that it leaves much room for interpretation and conjecture. While some actors, such as individuals habitually or directly engaged in human rights work may be quite unambiguously categorised as HRDs, in other cases, human rights actions may not be quite as substantial or easily identifiable<sup>3</sup> and engagement in human rights activity may be one-time or sporadic. Establishing HRD status in such instances can cause confusion and encourage actors to create definitions that suit their own purposes.

Stakeholders engaged in HRD protection typically determine HRD status intuitively, rather than in accordance with a rigid standard. A lack of understanding of this term may also lead to lack of awareness on the part of HRDs about their status, which impedes their access to protective mechanisms. At the same time, the UN Special Rapporteur on HRDs, Michel Forst, stresses that ultimately, effective protection of defenders starts with their identification, and self-identification, as 'HRDs':

 Without being perceived by others or perceiving themselves as [HRDs], they may not be aware of their rights as defenders, not seek support from peer or support networks and may not receive protection from the State, civil society and the international community. (UN 2016: 7)

The way the general public understands this term is also important. Lack of public understanding of the role of HRDs makes it easy for opponents to stigmatise and discredit them either individually or as a class (Human Rights First 2009), and depict HRDs as 'terrorists', 'opposition' or 'traitors' (Protection International 2015, ISHR 2015, UN 2016), thereby inducing or exacerbating societal hostility towards defenders and adding to their vulnerability.

A separate challenge is operationalising the term HRD for the purposes of academic research, which may contribute to the existing paucity of research

<sup>3</sup> For a discussion of the expansion of human rights groups' mandates and the further blurring of boundaries between HRDs and other social actors see Bronkhorst 2014a.

on HRDs, as noted by Nah et al (2013). Given the expanse of relevant cases and types of actors, it can be difficult to clearly demarcate the research field and discern patterns in HRDs' risks. While keeping in mind the purpose of the broad scope of the definition, this challenge may be overcome by narrowing the research focus and defining specific categories of HRDs, provided that robust justifications for such methodological steps can be properly articulated and do not run contrary to the inclusive objectives of the UN definition.

In light of these challenges, stakeholders, researchers and HRDs themselves may automatically pay greater attention to 'traditional' or 'obvious' categories of defenders, while other categories and actors of other backgrounds are overlooked. While who is considered a 'traditional' HRD may also vary between contexts, it should be noted that the issue of professionalisation in human rights practice is often of core relevance in determining this attention bias. Thus, the following discussion seeks to highlight that it is important to afford equal attention to various categories of defenders. At the same time, to facilitate the practical application of this broad term, it also represents an initial attempt to demarcate categories within the broad conceptualisation of HRDs

## The criterion of professionalisation in human rights practice and the concept of HRDs

Promoting and defending human rights is not a question of formal titles, but an entitlement of all human beings. Fact Sheet 29 highlights that what determines HRD status is the action taken to defend human rights. One does not need professional qualifications or an association with a registered organisation "that includes 'human rights' in its name in order to be a human rights defender" (OHCHR 2004:6). Despite this important clarification, tendencies to narrow down the concept of HRDs to professionalised human rights workers exist. This trend has been noted with concern by Michel Forst, the UN Special Rapporteur on HRDs (Protection International 2015). Nah et al (2013) also observe the tendency of some actors to understand HRDs as those who demonstrate greater levels of professionalism. Furthermore, Jones notes that "[t]he term 'human rights defender' itself can be seen (and has been critiqued) as a 'professional' label and in keeping with the broader trend towards the professionalisation of human rights practice" (2015: 959). Indeed, the categories of professionalism are being increasingly used to describe human rights work (Bell and Coiscaud 2007). As O'Flaherty and Ulrich note, it has become commonplace to describe human rights work as a professional calling and the individual human rights worker as having a discrete professional identity (ibid).

It is noted in Fact Sheet 29 that some HRDs, "those whose daily work specifically involves the promotion and protection of human rights", are the most 'obvious', such as "human rights monitors working with national human rights organisations, human rights ombudsmen or human rights lawyers" (2004:6). In conditions of an increasing professionalisation of human rights practice, it is important that the notion of 'HRD' as a professional identity and as 'the most obvious' human rights actor does not inhibit the broader understanding of a HRD as anyone who acts to defend human rights, even on a one-time basis.

Importantly, the implications of such a narrow understanding can be seen in practice and are relevant to the issue of HRD protection. This was observed by an interview participant who leads a Russian NGO. He discussed an interaction with a donor regarding a HRD protection program:

“ There is such a program – ‘protection of human rights defenders’. We participate in it. And such a problem emerges. We defend civic activists. It is a grant program. [When reporting] we say, here, ‘we have defended civic activists’. They say: ‘no, they are not human rights defenders’. It is unfair, of course. So, the definition plays some role. (Interview, 8 November 2017, Moscow)

Asked which actors can be mentioned while reporting in accordance with this program, the defender held that:

“ Probably they look for a more long-term activity for human rights or belonging to some organisation. If it is a leader of some organisation, especially if it’s an NGO leader, then there are no questions. Or we try to identify a leader of a group of civic activists. He has been involved in this activity for many years, coordinates their activity. He acts in defence of interests of other, rank-and-file members of this group. So we can mention such cases for this program. (Ibid)

This demonstrates that in practice, in the absence of clear guidelines or agreement on this issue, donors may look to professional affiliations or a leadership position as proof of HRD status.

### What does professionalisation of human rights practice mean?

Scholars have devoted significant attention to identifying features central to understanding of the notion of a profession and discerning the requisite traits of professionals. Schein’s definition (1973), which is widely accepted as constructive of the notion of a profession (O’Flaherty and Ulrich 2010), distinguishes three key characteristics of a profession: an underlying theoretical base, a system for scientific application of the theory, and skills and values to implement this knowledge. Wilensky (1964) identifies the following key criteria: full-time occupation, the existence of schools for formal training, professional associations and the development of a code of ethics. More recent research is in line with this view (Covaleski et al 2003; Sajor 2005, cited in Kenis and Kruyen 2007). Brown adds an ethical component as central to the understanding of professionalism, suggesting that “professions are distinct in that they seek to perform some mission or service”, and in that a professional obligation carries a moral responsibility and is underpinned by ethical conduct (1980:18). Furthermore, Abbott provides a useful definition of professionals as persons applying “in their work a body of knowledge and techniques acquired through training and experiences, having a service orientation and distinctive ethics, and having a great deal of autonomy and prestige” (Abbott 1988, cited in Sharma 1997: 763). These features can be considered essential to the notion of a profession as distinct to other modes of work.

O’Flaherty and Ulrich, drawing upon Schein’s categorisation and discussing the

professional identity of a human rights field officer, note that specifically in the context of human rights, professionalised work is guided by (1) core values, (2) systematic theory and scientifically rigorous knowledge and (3) application of this knowledge and procedures for the realisation of human rights (2010). Thus, human rights professionals, first, should espouse commitment to and uphold in their conduct the ethical values underlying human rights (such as dignity, integrity and the equal worth of all human beings); furthermore, they should be guided by the more specific normative principles contained in international human rights instruments as well as rules enshrined in professional codes of conduct (ibid). Second, a body of scientific knowledge requisite for human rights professionals includes knowledge and understanding of international human rights law and knowledge of the national human rights framework, including States' relevant international obligations, constitutional order and the functioning of the judicial system (ibid). Third, systems and tools are required for the formal application of human rights knowledge. In this regard, O'Flaherty and Ulrich highlight the existence of entities or organisations that deploy human rights professionals and legitimise human rights work on the basis of mandates and organisational functions (ibid). As for the methods of human rights work, these include but are not limited to: monitoring and documentation, research and analysis, reporting human rights abuses, and capacity building (ibid).

### Discerning two categories of HRDs

The criterion of professionalisation in human rights practice allows us to distinguish two broad categories of HRDs: (1) those who act within the context of the human rights profession (most commonly within human rights organisations) and (2) those who act for human rights outside of this professional sphere. This criterion provides one of the key demarcation lines for the human rights movement and reflects the fabric of the human rights community. As Lawson and Bertucci note,



The human rights community is, admittedly, a nebulous concept," but at the core of it "is a mixture of 'pure type' NGOs and a multitude of other private associations, including trade unions, churches and 'peoples' organisations' that have exhibited active concern for, and involvement in, the human rights struggle." (1996: xxv)

As such, the term HRD exists both in a narrow sense, denoting an individual engaged in human rights work as a profession or occupation, and in a broad sense, as the technical, legal, all-embracing term established by the Declaration, meaning anyone who acts for human rights in any capacity. This approach can semantically explain the concept and its use in the media or NGO reports, such as "government critics, bloggers and human rights defenders" (Amnesty International 2016, emphasis added). Here the expression 'and human rights defenders' is used in a narrow sense to denote professionalised human rights work, yet all of the categories named in the context of Amnesty's report, more often than not, are HRDs in accordance with the Declaration.

It is worth highlighting that the criterion of professionalisation of human rights work differs from the duality of acting within/outside of any employment

context. OHCHR notes the following examples: (1) defending human rights in contexts of various professions (whether or not rights-related, eg a judge, a doctor, a NGO worker), and (2) defending human rights outside of any employment context (eg a student-campaigner or a witness of violations who cooperates with human rights bodies) (2004). The distinction suggested in this paper, however, focuses not on the existence of professional employment per se, but on explicitly working within the human rights profession. Further discussion will explore more specifically the criterion of professionalisation in the context of Russia and review it through some concrete examples.

## Exploring the HRD landscape in Russia

### Professionalised human rights practice

As has been noted above, professionalised human rights practice is predominantly comprised of work in the context of established institutional structures and organisations, which may include national human rights institutions as well as non-governmental organisations (NGOs). In Russia, a sub-category within the landscape of human rights professionals is those who work at national human rights institutions. In theory, such institutions are meant to be independent both from the state and non-governmental organisations, while developing good working relationships with both (Bindman 2016). For example, the Russian human rights protection framework includes the Ombudsman and the Ombudsman on the rights of the child, at the federal and regional levels. These institutions respond to complaints by citizens and organisations of unlawful action by the state (typically, the judiciary) and carry out investigations into such cases (ibid).

Also among such bodies is the Presidential Council for Civil Society and Human Rights. A look at the composition of this body, however, already raises some questions regarding HRD status. When it was established by President Putin in 2004 as a consultative advisory body, it included NGO leaders, prominent HRDs and public figures. However, in November 2012, several prominent rights defenders, including leaders of major NGOs, resigned in protest over flawed elections and restrictive legislation. Subsequently, they were replaced with a larger number of people “of a wider range of views”, which made the earlier criticism on key matters difficult to achieve (Gill 2015: 49). For instance, despite its attempts, the Human Rights Council has failed to prevent or mitigate the adoption of the controversial ‘foreign agents’ and ‘undesirable organisations’ laws (Bindman 2015). This situation raises questions regarding the extent to which the newly appointed members of the Council, clearly ‘establishment’ figures who play a role in defending the status quo and upholding the system of a ‘managed’ civil society, can be seen as HRDs. Further, it challenges the extent to which formally belonging to a human rights body unambiguously and automatically confers one HRD status, as it is arguable whether they truly perform a function of promoting human rights.

Beyond national bodies, professionalised HRDs most commonly work at human rights NGOs. In particular, it is these HRDs who often constitute the focus of attention for HRD protection mechanisms, given the considerable risks they face and, not least, given that they quite unambiguously can be



characterised and identified as HRDs. The Russian NGO sector is diverse and represented by a wide range of organisations, from multi-issue human rights centres such as the Moscow Helsinki Group or Memorial, to single-issue organisations such as the Committees of Soldiers' Mothers. International organisations such as Amnesty International are also present in Russia. NGOs' work in the promotion and protection of human rights centres around approaches of advocacy, legal assistance and representation, fact-finding and awareness raising. These methods determine the prevalence among professionalised HRDs of lawyers, analysts and researchers. The presence of such profiles who have gained expertise and use their strategic role in human rights work again demonstrates professionalisation according to the aforementioned criteria.<sup>4</sup>

HRDs working in such NGOs typically represent the interests of particular groups, such as prisoners, refugees, victims of police brutality, army conscripts, and other victims of abuses or inadequate protection by the state. In stepping in to provide pro bono advice, assistance and representation to individuals facing a bureaucratic or inadequate system, they act as a complement to or substitute for state failures to ensure adequate conditions. This determines the role of professionalised HRDs as mediators between an individual and the state; their role of advocacy and service delivery is key in helping the state to fulfil its functions vis-à-vis its citizens.

The category of human rights lawyers merits special attention as they are those "at the forefront of the human rights movement" (Bantekas and Oette 2013: 114). In accordance with the criterion of professionalisation in human rights practice, it is reasonable to distinguish between the work of a lawyer at a human rights NGO and the work of a lawyer at a law firm or Bar Association who occasionally takes up human rights cases. In the second instance, it is work in the context of the legal profession – not human rights – which provides the particular guiding values and principles to that individual. In Russia, it is not very common for lawyers outside of NGOs to specialise in human rights cases (Averkiev 2001) and lawyers who do specialise in them commonly work at or establish their own NGOs. Agora Association or Sutyazhnik are examples of organisations of professional human rights lawyers that specialise in human rights cases. As a lawyer from a Moscow-based NGO explained, human rights NGOs commonly employ lawyers to work on particular cases involving human rights issues (Interview, 9 November 2017, Moscow).

### Acting for human rights outside the professional sphere

According to the rationale of the UN definition, anyone can be a human rights defender in a particular context, or based on particular actions. Thus, actors within this category manifest in many guises. Methodologically, however, it may be useful to distinguish various sub-categories of defenders, including civic activists, citizen observers, protestors, and those who act for human rights in the context of various non-rights related professions. Commonly, HRDs in this category emerge from citizen initiatives in response to rights violations. Nascent initiatives constitute a more informal sphere of civic activism, which does not rely on institutionalised organisational structures, but is "based on liquid, often temporary, initiative groups of people which came

<sup>4</sup> Professionalisation implies expertise (knowledge and skills for the application of this knowledge). Although many of the Russian NGO staff do not have formal training in human rights and may have come from other areas (or have a general legal background, in the case of lawyers), they gain expertise from consistently working on human rights.

together spontaneously and by chance” (Frohlich 2015). Local initiatives and urban movements constitute particularly frequent forms of civic activism in Russia (ibid; Kolesnikov 2017; Volkov 2017). Typically, citizen activism initiatives concern social rights, housing rights and issues such as increased utility bills or construction projects at the expense of public spaces.

An example of such an initiative is the long-haul truckers who mobilised in March 2016 to defend their rights and protest the burdensome toll system for federal highways. They undertook a country-wide strike, demanding the abolition of the toll system and repressive laws, and the resignation of the government; their activities were met with repression and fines (The Moscow Times 2017). A similar situation concerns Kuban region farmers affected by land grabbing at the hands of large agrohholdings and the region’s corrupt judicial system (The Moscow Times 2016a).<sup>5</sup> Furthermore, in March 2017, cities across Russia witnessed mass anti-corruption protest rallies.

Grassroots activism, however, often focuses on localised, pragmatic issues and is not necessarily framed in human rights terms. Russian citizens have been described as rarely viewing their political rights as tools to resolve social problems (Vorozeikina et al 2008), yet insufficient rights guarantees often underlie the issues at stake. Such initiatives are typically accompanied by calls for social justice and may give rise to a larger human rights or political agenda. It has been observed that the more the authorities fail to address the issues raised by grassroots activism, the more politicised it is likely to become (Kolesnikov 2017).

Human rights activism can manifest both in attempts to defend one’s own rights and to defend the rights of others. Sometimes it takes the form of a challenge to the status quo; sometimes it is a reaction to injustice and witnessed violations. Even single instances of action can render one a HRD, as well as incurring the associated risk: consider the case of an ordinary Russian internet user who noticed a violation of rights while browsing the Internet and acted to report it, but herself fell victim to inadequate and repressive law-enforcement. Evgeniya Chudnovets, a kindergarten teacher, was active in Russia’s popular social media website Vkontakte and shared a three-second video showing the sexual abuse of a young boy at a summer camp in a private group with a call for the police to investigate. However, on 8 November 2016, she was charged with ‘distributing child pornography’ and sentenced to six months in prison. After serving four months in prison, the decision was eventually overturned (The Moscow Times 2016b).

Beyond single or stand-alone actions, many non-professionalised HRDs may only engage in human rights work sporadically or in their free time, as opposed to the direct, day-to-day human rights work undertaken by professionalised defenders. According to Fact Sheet 29, HRDs’ activities need not involve human rights work all the time, but they “can nevertheless act as defenders on some occasions” (OHCHR 2004: 7). For example, Russian cyberactivists (bloggers and video-bloggers) may comment on a variety of socially significant issues or provide critical assessment of the political situation, yet some issues they discuss involve human rights directly, some imply them and others are entirely divorced from them. Equally, in some cases, an individual’s protest and oppositional activity can be systematic and full-time, even when it does not allow them to make a living.

<sup>5</sup> To defend their rights, in August 2016, the farmers initiated a motorcade, traveling from Krasnodar region to Moscow in tractors and private cars to communicate their grievances to those in power. Yet, many of the farmers faced administrative fines and arrests.



While some individuals' activity in support of human rights can be a one-off reaction to a particular instance of injustice, others display a sustained commitment to human rights activism. Civic activists, a significant sub-group of HRDs in Russia, can be defined as individuals who engage in public activities and express their civic position to protect human rights and their own interests from unlawful actions of state authorities (Agora 2008). In the context of Russia, their activities vary – from defending historic buildings to anti-war marches, protests against rigged elections or the unconstitutionality of certain laws. The most common causes for activism in this category in Russia, and indeed from which the term 'civil rights activist' is derived, are civil and political rights – to vote, to exercise freedom of expression and association, and the rights to a fair trial and due process. Civic activists commonly express their position through protest activities: marches, demonstrations or one-person pickets. To draw upon the sentiments of Margaret Sekaggya, former Special Rapporteur on the situation of HRDs, if activities of peaceful protest are carried out in defence of human rights, the participants of such actions should be considered to be HRDs (OHCHR 2010, cited in Protection International 2016).

Other key examples of those who defend human rights outside the sphere of professionalised human rights in Russia include citizen observers of election monitoring commissions, members of Public Monitoring Commissions (for example, relatives of the imprisoned or anyone who wishes to be involved in the monitoring and protection of human rights in places of detention), members of political parties, academics, and journalists whose activity includes investigating and reporting violations. Furthermore, opposition politicians and elected representatives can be considered as belonging to this category as long as they engage in activity concerning the defence and promotion of human rights.

### The process of professionalisation

Grassroots initiatives often evolve and in fact, commonly represent the first step towards the formation of permanent human rights organisations and the commitment to human rights work as a professional endeavour. In Russia, numerous informal networks based upon shared citizen concerns appeared in the early 1990s, and over time (and with active support of Western donors) institutionalised into full-fledged, formal organisations. A characteristic example is the network of Committees of Soldiers' Mothers that emerged when soldiers' mothers joined forces to protect their sons from violations by the military system, and which later developed into a well-established organisation.

The leader of the Movement for Human Rights explained the process of 'NGO-isation' and noted that sometimes, ordinary people who defend human rights outside of a professional context approach the network to request ID cards in order to be able to show formal affiliation with it.



There are vast numbers of people throughout the country who defend human rights. Most commonly, these people had suffered themselves and they began to defend themselves, go to courts and so on. And then [other] people started to turn to them. If it's in accordance with their inner harmony, if it's interesting to them, they start to defend them. ...But these people

are generally not even educated. They just defend from arbitrariness of power. They can ask for IDs [of the Movement], because these IDs help them to interact with the authorities, to enter penal colonies. (Interview, 8 November 2017, Moscow)

Yet, the process of professionalisation and the implication of tighter bonds and more formalised structure is not always one-way: ties between individuals and groups, and the structures of NGOs can also become looser. Regional formal organisations often dissolve, but their former leaders continue to be members of human rights networks and act for human rights on an individual level. As the interviewee explained:

“Look what happens at our organisation. When we still had funding in the '90s, there were different legal entities in [each of] the regions. A separate legal entity, many people could work there, even with an accountant. One could call it a NGO. But now, there is no funding and we have one, two, three people left in many regions. It has become atomised. But they work. We give them these IDs [of our Movement]. We have given out about a thousand of them. So there are no NGOs on the regional level, but they are still members of the Public Movement [for Human Rights]. (Ibid)

This account demonstrates the inherent difficulties in tracing the formal moment of an individual's belonging to a human rights organisation and establishing whether he or she is a professionalised or non-professionalised HRD: often, the reality of the human rights movement is considerably more complex and fluid than the offered classification might suggest.

### Self-identification: 'HRDs' and 'activists'

Differences in self-identification between the two categories of defenders can be observed. In the course of the interviews, several respondents indicated that those acting for human rights outside of the professionalised human rights sphere in Russia commonly do not self-identify as human rights defenders.<sup>6</sup> One example is the case of a released political prisoner who served a two and a half year prison sentence for his peaceful protest activity. When asked whether he considered himself a human rights defender, he answered that he did not and said he is “rather, a civic activist” (Interview, 8 March 2017, Moscow). This is despite the fact that some of his protest actions concern human rights, conferring him HRD status per the rationale of the Declaration. This sentiment was echoed by another interviewee who herself has transitioned from non-professionalised to professionalised human rights practice; she stated, “Now I am connected to Memorial [an NGO]. But I started long ago *just as an activist*, simply an activist on medical issues.” Asked how she would self-identify now, she said: “Now, a human rights defender” (Interview, 9 October 2017, Moscow, emphasis added).

The lack of adoption of the HRD label by those who defend human rights outside of the context of professionalised human rights practice, and a tendency to self-identify as activists,<sup>7</sup> contrasts with an observable strong self-identification with the HRD label by those who belong to the professionalised human rights community in Russia (Malkova, personal field notes, February-

<sup>6</sup> While it should be noted that the sample for the empirical research was small, thus limiting the extent to which the findings can be generalised, several of the respondents in the key informant interviews demonstrated this pattern.

<sup>7</sup> For a discussion and empirical exploration of the tendency not to accept the label of 'activist' see Bobel (2007).

April 2017 and November 2017). While this issue merits further empirical research, two initial points can be made with respect to this observation.

First, this tendency can be explained by considering Greene's observation about sacrifice as an idea that shapes notions of what it means to be an activist. Describing the Russian NGO Public Verdict, a professional, non-profit organisation of paid 'activists' – both working full time and on a case-by-case basis – "brought together by a shared belief in a common cause" (2014: 130), Greene notes that the term 'activist' is appropriate despite the fact that the organisation's members receive a salary or honoraria for their work. He writes: "Invariably, the staff, most of whom are lawyers, could be earning considerably more if they were in commercial practice, and thus they are making a significant sacrifice for their cause" (2014: 130). Greene's point is important and can explain actors' self-identification as 'activists'.<sup>8</sup> It also demonstrates that the use of the label 'HRD' within the professionalised human rights community does not preclude use of the more common 'activist' label.

Second, in relation of the status of 'activist' as opposed to 'HRD', as an alternative to Greene's argument above, differences in the self-perception of professionalised and non-professionalised defenders may be explained by considering the tools of social change which each group engages. Activism is often viewed as acting 'outside of the system' (for example, through direct action or intervention such as a protest in favour of change), whereas advocacy usually denotes working 'within the system' (through an act of public speaking, writing or representing an individual) (Spring 2013). Following this activism/advocacy distinction, it can be noted that professionalised HRDs are more likely to follow the path of advocacy, through speaking on behalf of disenfranchised groups and formulating proposals for policy improvement,<sup>9</sup> while non-professionalised HRDs more commonly engage in the direct action associated with 'traditional' activism.

Generally, a lack of awareness can be observed among actors regarding the term 'HRD', and its conceptualisation based on the Declaration, particularly among those engaged in grassroots activism. Nevertheless, it is important that those acting for human rights outside of the context of the professionalised human rights sphere are aware of their status. Getting non-professionalised HRDs in Russia to identify with the HRD label, perhaps by using it as a secondary identity (eg 'civic activist and HRD'), would bring significant benefits as the HRD label is key in asserting the legitimacy of defenders' work and facilitating access to protective mechanisms.

## Limitations of the suggested approach

By its nature, the term 'HRD' is action-based and does not have clear boundaries; this makes any demarcation of the concept a challenging exercise. Nevertheless, operationalising the term by differentiating between categories brings its own set of limitations. Regarding the approach taken here, one of the questions that arises is the degree of association between an individual and a formal organisation that suffices for inclusion within a category of professionalised HRDs. Tracing the formal moment of belonging to an organisation and the degree to which an individual has

<sup>8</sup> At the same time, it should be noted that some scholars question the widespread assumption that a 'proper' activist needs to "live the issue, demonstrate relentless dedication, and contribute a sustained effort to duly merit the label" (Bobel 2007: 147). Bobel's empirical research demonstrates a widespread rejection by many actors of the 'activist' label, due to the high standards that this title is associated with.

<sup>9</sup> Although NGOs display differing levels of interaction with the state and play a role in criticising state violations, maintaining dialogue with state institutions is often central to their work. An example is the Union of Committees of Soldiers' Mothers which works closely with the Ministry of Defence to formulate and negotiate policy improvements and has made numerous achievements in this manner.

to be affiliated with an organisation to be considered a professionalised HRD is challenging. Take, for instance, political party leaders, academics or lawyers who may have either occasional or sustained links with NGOs. The degree of association of each defender with an organisation may vary and one individual may wear many hats.

Organisations themselves may also be quite loose, have no formal structure or official registration, and exist only as a group of individuals connected through the Internet. It is often difficult to say at which point social movements institutionalise and when, during the incremental process of professionalisation, a shift in the mode of work can be determined. As discussed in the previous section, some cases in Russia fall into a grey area whereby when HRDs are granted an affiliation to an organisation in the form of an ID card, but do not do not formally belong to it and act in their own capacity as individuals, lending further complication to the approach offered in this paper.

Beyond the difficulties in adequately differentiating categories of HRDs, it is important that the suggested approach is not used to shift the power balance within the human rights movement to favour one group or another, thereby reinforcing a situation wherein non-professionalised HRDs are overlooked or face additional challenges in securing sufficient resources for the continuation of their work and in asserting their legitimacy.

## Risks and obstacles for professionalised and non-professionalised HRDs in Russia

In recent years, and increasingly since 2011-2012, Russia has experienced a major clampdown on basic freedoms. The space for exercising civic freedoms began to reduce after large-scale electoral- and anti-government protests took place in December 2011 on Bolotnaya Square and civil society sought to engage in election-monitoring initiatives. As detailed below, this restrictive legal environment has affected human rights work differently for professionalised and non-professionalised defenders.

### Risks and obstacles faced by professionalised HRDs

Due to the organisational basis of their work, professionalised HRDs are mostly targeted through interference into their NGOs and restrictive NGO legislation.<sup>10</sup> Key developments limiting the space for NGOs included the 2015 Law on Undesirable Foreign and International Organisations,<sup>11</sup> which effectively restricted the funding of Russian NGOs by foreign donors, and the 'foreign agents' law enacted in July 2012<sup>12</sup> which brought a wave of challenges for human rights NGOs, not only increasing the bureaucratic burden on NGOs, but also allowing for the imposition of heavy fines of up to 300,000 rubles (around USD 6,000) for failing to register as a 'foreign agent'.<sup>13</sup> The new legislation has also led to a criminal case being brought against the leader of Women of the Don Union, resulting in a year of criminal investigations, judicial harassment and uncertainty, before the case was eventually closed in June 2017 (Front Line Defenders 2017b).

<sup>10</sup> The climate for Russian NGOs started to deteriorate in the mid-2000s, following the so-called 'colour revolutions' in Georgia, Ukraine, and Kyrgyzstan. The restrictive NGO law introduced in 2006 expanded the powers of the authorities to monitor NGOs and interfere in their registration and operation (Federal Law 'On amendments to some legislative acts of the Russian Federation' N 18-FZ, 10 January 2006, Amending Article 2 of Federal Law N 7-FZ, 12 January 1996). However, the main wave of legal restrictions over the third sector began in 2012. The clampdown targeting NGOs was accompanied by occasional semi-official statements accusing defenders of 'receiving foreign grants' and 'following the instructions of foreign governments'.

<sup>11</sup> Officially the Federal Law of 23 May 2015 No. 129-FZ 'On amendments of some legislative acts of the Russian Federation'.

<sup>12</sup> Federal Law No. 121-FZ on 'Introducing Amendments to Certain Legislative Acts of the Russian Federation Regarding the Regulation of Activities of Non-Commercial Organisations Performing the Functions of Foreign Agents'. This obliges all organisations receiving foreign funding and engaging in 'political activities' to register with the Ministry of Justice as 'foreign agents' and subsequently mark all of their publications as being produced by an organisation performing the functions of a foreign agent. Not only is the very label 'foreign agent' offensive and has negative historic connotations of a 'foreign spy' or 'traitor', but organisations deemed 'foreign agents' are required to follow burdensome reporting procedures, inspections and audits.

<sup>13</sup> Throughout 2013-2017, the NGO sector has been significantly undermined and weakened. It has been estimated that at the end of 2016, 149 NGOs were designated as 'foreign agents'; 126 administrative cases were open due to the absence of voluntary registration, with an additional 49 administrative cases for not

continued overleaf...

Apart from restrictive NGO legislation, professionalised HRDs are selectively criminalised on other pretexts such as fraud,<sup>14</sup> tax evasion,<sup>15</sup> and 'extremism'.<sup>16</sup> HRDs have also faced spurious charges and threats of prosecution on pretexts as diverse as 'industrial espionage',<sup>17</sup> 'child abuse and arms possession',<sup>18</sup> and 'subversion of constitutional order'.<sup>19</sup> Additionally, unscheduled inspections of NGO offices are common and physical attacks on defenders and mob violence are occasionally reported (Human Rights Watch 2017).

Thus, while various pretexts are used by authorities to harass HRDs in retaliation for their professional activities, it can be observed that the repression of professionalised HRDs is often channelled through restrictions on the NGOs into which they organise. A common repressive pattern emerges whereby they are harassed through NGO legislation that restricts the space for their human rights work targeting them with spurious criminal charges, commonly tax evasion or fraud. At the same time, criminal cases rarely reach trial: after prolonged judicial harassment, charges are commonly dropped or archived; while defenders have been subjected to fines and many have been forced into exile under threat of criminal sentence, it is not common that criminal proceedings against professionalised defenders result in a prison sentence (no such cases have been identified to date). However, such judicial harassment nevertheless discredits and stigmatises professionalised HRDs, affects their well-being and distracts them from their work; indeed often these effects are central aims of the repression.

### Risks and obstacles faced by non-professionalised HRDs

Given the wide array of profiles within this category, non-professionalised HRDs face a variety of risks. Commonly, however, they experience repression through legal action which typically results in harsher consequences than for professionalised HRDs. Civic initiatives to defend rights more directly challenge authorities, often, through acting 'outside of the system'. These techniques incur risks related to restrictions on freedom of assembly and expression, and while similarly to professionalised defenders, the legal system is instrumental in targeting non-professionalised defenders, different laws are utilised to this end.

The legal developments of 2012-2016 which targeted non-professionalised human rights work include a set of legislative amendments on 'anti-extremism' and 'anti-terrorism' known as the Yarovaya package (Federal Law Nos. 374-FZ, 14 July 2016, and 375-FZ, 6 July 2016); the expansion of the notion of 'high treason' (Federal Law No. 190-FZ, 12 November 2012); an increase in the state regulation and restriction of peaceful demonstrations with an increase of fines and penalties (up to USD 10,000 fines, 200 hours of community service or up to four years' imprisonment) (Federal Law No. 65-FZ, 8 June 2012); and a ban on "propaganda for non-traditional sexual relationships" (Federal Law No. 135-FZ, 29 June 2013). As a result of the enforcement of such restrictive legislation, legal cases against those who act and speak out for human rights in a non-professionalised context have burgeoned. Peaceful protesters are the primary targets of legislation governing public assemblies. Characteristic examples of this include the arrests and sentencing of participants of the 'March of the Millions' on Moscow's Bolotnaya Square on 6 May 2012 who gathered to defend the right to fair elections,<sup>20</sup> the protesting truckers and farmers discussed earlier in this paper, and the case of the civic activist Ildar Dadin, who

labelling material as published by a group 'recognised as a foreign agent'. 27 organisations chose to cease their activities. (Front Line Defenders 2017a). The law significantly affected NGO leaders: many individual HRDs were fined for amounts ranging from 100,000-500,000 rubles. (International Commission of Jurists 2015).

<sup>14</sup> For instance, in 2015 the head of the Samara branch of the election-monitoring organisation Golos, Lyudmila Kuzmina, faced criminal charges on the grounds of tax evasion for more than 2,000,000 rubles (USD 40,000). The grant received by Golos from USAID has been classified by tax authorities as 'profit' and Lyudmila Kuzmina was accused of having falsely declared it a grant (Rights in Russia 2015). Following a prolonged investigation, the case resulted in the confiscation of Kuzmina's property and suspension of her pension (ibid).

<sup>15</sup> In 2014, Lyudmila Bogatenkova, the 74-year-old chair of the Committee of Soldiers' Mothers of the Stavropol Territory was charged with fraud and faced investigation, arrest and a one year of suspended sentence with a one year probation period, before subsequently receiving amnesty (The Moscow Times 2014).

<sup>16</sup> See for example, the cases of Konstantin Golova, an LGBTI activist and coordinator of the Alternative Army Conscription (Front Line Defenders 2015) or Ivan Moseev, the President of the Institute of Indigenous and Minority Peoples, who was found guilty of humiliating the dignity of the ethnic group 'Russians' and sentenced to a fine of 100,000 rubles (USD 1700) (Sova-center 2013).

<sup>17</sup> Nadezhda Kutepova was forced into exile after being accused of 'industrial espionage' and plotting against the nuclear industry (FIDH 2015).

<sup>18</sup> For example, the case of Yuri Dmitriev, a historian and head of Karelian branch of Memorial Human Rights Centre, who was arrested on charges of abuse of his foster daughter and arms possession (Activatica.org 2016).

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was sentenced to three years in prison in 2015 for repeated violations of the established procedure on public assembly.<sup>21</sup>

Although the risks faced by this category of HRDs are diverse, it can be observed that anti-protest and anti-extremism legislation is key in restricting their ability to freely exercise their rights of assembly and expression, resulting in harsh fines, violent police responses and the use of force, arrests and prosecutions, and for many – actual prison sentences. Thus, while the legal system is used instrumentally against both categories of defenders, different laws are used to target different categories of defenders and have different consequences. Differentiating between professionalised and non-professionalised HRDs allows for closer observation of the full spectrum of laws and measures used to obstruct human rights work in Russia, and the different impacts these have. Taking this approach also allows for the development of a more nuanced protection strategy which responds to the risks different categories of HRDs face.

### Interaction between the two categories of defenders in the context of HRD protection

Monitoring and responding to the situation of basic civic freedoms is one of the key functions of Russian human rights NGOs. Various multi-issue professional human rights organisations and centres monitor basic civic freedoms and act to protect those who face risks exercising them. They report on the pressure facing professionalised HRDs (Moscow Helsinki Group 2016a) and monitor the situation of non-professionalised HRDs such as civic activists, bloggers and journalists at risk (Moscow Helsinki Group 2016b). There are also specific organisations engaged in the protection of civic activists, such as OVD-Info<sup>22</sup> which tracks detentions and arrests of civic activists and citizens participating in protest actions and reacts to provide them with information, advice and assistance.

Apart from monitoring and documentation, legal advocacy and representation is a key tactic of professionalised NGOs in supporting non-professionalised HRDs, such as civic activists who have been arrested or detained. For instance, Agora Association is a network that specialises in legal representation and advocacy for detained activists. Non-professionalised HRDs are also supported by NGOs which provide them with knowledge about their rights and ways to manage their risks. For instance, the Sakharov Center runs the 'School of Public Defenders', which offers advice about rights in the face of risk, ways to avoid arrest and how to counter police brutality, as well as developing participants skills in legal representation. Professionalised human rights organisations often act as leverage points and use their knowledge-base, networks and authority to exert pressure on key decision makers and responsible state institutions, for example, through writing letters to the Ombudsman. Furthermore, professionalised organisations often play a key role in forming solidarity networks with those targeted, and initiating public campaigns in support of them. They speak out on behalf of non-professionalised HRDs and declare their persecution as politically motivated and in retaliation for their legitimate human rights activities. In case of imprisonment, Memorial Human Rights Center may take the step of declaring someone who has been imprisoned a political prisoner.

<sup>19</sup> For example, the statements and position of Memorial regarding rights violations were deemed by the Ministry of Justice as "undermining the foundations of the constitutional order" and creating a negative public opinion regarding "the policy of the Supreme authorities of state power". Following the inspection, the case was archived (Refugee.ru 2015).

<sup>20</sup> Numerous individuals were arrested on allegations of mass rioting (Article 212 of the Russian Criminal Code) and violence against the Police (Article 318 of the Russian Criminal Code). More than 25 persons involved in the notorious 'Bolotnaya Case' were sentenced to various punishments, including house arrests and prison sentences of up to 4 years. Many continued to face criminal charges throughout 2013 and up to 2016.

<sup>21</sup> In December 2015, Ildar Dadin was sentenced under Article 212.1 of the Criminal Code of the Russian Federation on 'multiple violations of the procedure of picketing' to three years in a penal colony.

<sup>22</sup> <https://ovdinfo.org/>

While professionalised human rights organisations often spearhead international and domestic campaigns, and provide them with organisational weight, individual HRDs working outside of the professional context are a crucial component, using their mobilisation potential to advance these campaigns and build momentum behind them. Further, non-professionalised HRDs often act to support and defend professionalised NGOs as well as fellow-activists. For instance, when staff of the Committee Against Torture were attacked in Ingushetia, civic activists organized series of single-person demonstrations in their support (Open Russia 2016). Similarly, when Nadezhda Cherevatenko, the leader of Women of Don Union, was facing criminal charges, pickets in solidarity with her were organised by a professional NGO but attended predominantly by civic activists and ordinary citizens, who through this action fall under the definition of HRDs (Caucasian Knot 2016). Later, she also received supported from professionalised organisations through awards recognising her work (Rights in Russia 2017).

## Conclusion

This working paper, rather than arguing for a broad and catch-all approach to the term 'HRD', suggests that it can be useful to differentiate between and discern the diverse experiences of professionalised and non-professionalised HRDs and the risks that they face. Returning to the underlying premise of the Declaration, this paper has highlighted that 'human rights defender' is not merely a professional label, but is applicable to a much broader array of actors. Nevertheless, as illustrated at the outset of this paper, difficulties arise from the breadth of the UN conception of who can be considered a HRD, not least in terms of finding and operationalising working definitions for practice. Differentiating HRDs according to professionalisation offers a framework for better understanding the situations of diverse HRDs. While this approach is not without limitations, given the complex realities of the human rights movement and the huge diversity among human rights actors in terms of their approaches, identities and affiliations, this paper offers an initial attempt at discussing the questions that the criterion of professionalisation raises for the term HRD.

First, reaffirming that individuals acting for human rights in non-institutionalised settings are HRDs, particularly in contexts such as that of Russia where the tendency is to only afford professionalised HRDs this status, this paper once again highlights the UN position that anyone can be a human rights defender regardless of job title or affiliation. Further, the paper identifies that the criterion of professionalisation has important implications for observing and analysing self-identification among HRDs: in the context of Russia, and in contrast to professionalised HRDs, those acting for human rights outside of the professionalised human rights sphere tend not to identify as HRDs, potentially limiting their access to protective mechanisms and the additional legitimacy that use of the HRD label affords.

Second, the notion of professionalisation has implications for understanding the risks defenders face; it can facilitate both a more nuanced understanding of the strategies employed by different categories of HRDs and the development of protection mechanisms that are responsive to their specific

needs. Many HRDs face acute risks specific to their work and their identities, but the criterion of professionalisation and the consideration of whether HRDs act through institutionalised or non-institutionalised means provide a further measure for achieving a more subtle analysis of their situation. The analysis has confirmed that while both categories of HRDs in Russia are under threat as a result of the legislative clampdown on basic rights and freedoms, a pattern emerges that shows while professionalised HRDs face obstacles through restrictive NGO legislation, fines to their organisations and judicial harassment, non-professionalised HRDs commonly face arrest, hefty fines and dozens serve actual prison sentences. Yet, in the face of risk, the two categories do interact and defend each other by drawing on their own specific skill sets, tools and available resources.

The nature of the term 'HRD' as being action-based and not having clear boundaries will make any demarcation of this concept a challenging exercise. Nevertheless, this working paper has shown that while maintaining a broad and inclusive approach to the concept of the human rights defender, it is important to recognise their diverse identities, approaches and affiliations to better understand their experiences and the risks they face. It is hoped that the approach outlined in this paper can provide useful guidance for future research efforts for the protection of HRDs.



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