

QUICK GUIDE TO A MODEL LAW

FOR THE RECOGNITION
AND PROTECTION OF
HUMAN RIGHTS
DEFENDERS



Introduction

The legal recognition and protection of human rights defenders is crucial to ensuring that they can work in a safe, supportive environment and be free from attacks, reprisals and unreasonable restrictions.

A Model National Law on the Recognition and Protection of Human Rights Defenders¹ was developed in collaboration with over 500 defenders from every region, settled and adopted by 28 of the world's leading human rights experts and jurists in 2016. It is intended to guide and assist States, human rights defenders and other actors to ensure the full and effective implementation of the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (the UN Declaration on human rights defenders) at the national level.

The Model Law is a long, comprehensive and technical document that includes both model legal provisions and commentary stipulating the sources and basis for each provision. This Quick Guide, accompanying the Model Law, has been developed to communicate the sections of the Model Law, including the rights of human rights defenders and obligations of States, in an accessible manner. This Quick Guide should be read in conjunction with the Model Law.

We are thankful to Front Line Defenders for its support in the development of this Guide.



¹ <https://ishr.ch/defenders-toolbox/model-law/>



SECTION 1

Purpose:

To promote and protect those who work to promote or protect the rights and freedoms of everyone.

Part I

SECTION 3

Right to promote and protect human rights and fundamental freedoms:

Everyone can work towards protecting rights and freedoms in their region, country and globally.

Part II



SECTION 2

Definition of human rights defender:

Anyone promoting, protecting or striving for the protection and realisation of human rights on their own or with others anywhere.

Part I

SECTION 4

Right to form groups, associations and organisations:

Everyone can create, join and participate in formal or informal groups, associations and organisations formed to protect and realise human rights and fundamental freedoms.

Part II





SECTION 5

Right to solicit, receive and utilise resources:

Everyone can use various resources to protect and realise human rights.

Part II

SECTION 7

Right to develop and advocate for human rights ideas:

Everyone can develop and promote their ideas about human rights and freedoms.



Part II



SECTION 6

Right to seek, receive and disseminate information:

Everyone can receive information about human rights and fundamental freedoms, including from the government and business that can be freely shared.

Part II

SECTION 8

Right to communicate with non-governmental, governmental and intergovernmental organisations:

Everyone can communicate with organisations and bodies dealing with human rights and fundamental freedoms around the world.



Part II



SECTION 9

Right to access, communicate with and cooperate with international and regional human rights bodies and mechanisms:

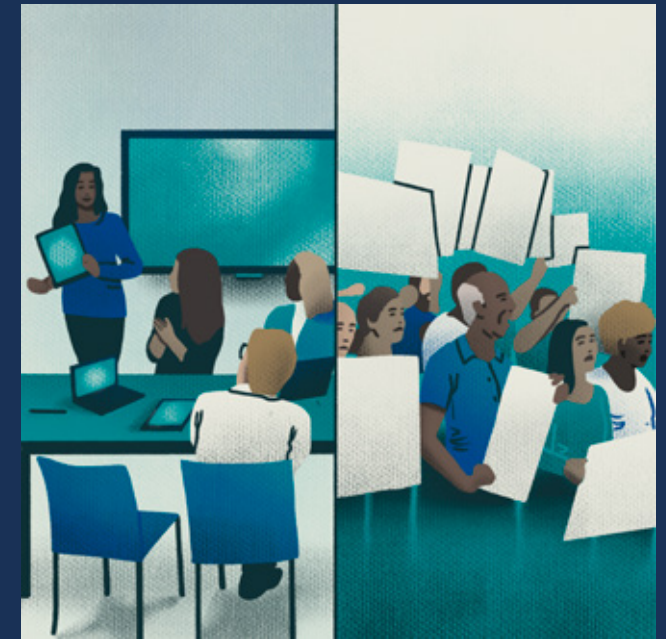
Everyone can communicate and engage with human rights bodies, mechanisms and procedures.

Part II

SECTION 11

Right to peaceful assembly:

Everyone can plan, organise, meet or assemble peacefully, participate in and share information about peaceful activities concerning human rights in private and public spaces.



Part II



SECTION 10

Right to participate in public affairs:

Everyone can share their views, participate in public affairs and government of their country regarding human rights and fundamental freedoms.

Part II

SECTION 12

Right to represent and advocate:

Everyone can individually and with others help, represent and act on behalf of others or groups to promote and protect fundamental rights and freedoms.



Part II



SECTION 13

Right to freedom of movement:

Everyone can move freely, choose residence and conduct peaceful human rights activities in their country without being expelled due to human rights activity.

Part II

SECTION 15

Freedom from intimidation or reprisal:

No one can be threatened or punished for status or work as a human rights defender.

Part II



SECTION 14

Right to privacy:

Everyone must be free from unlawful interference with their privacy in their family, home, workplace and communications.

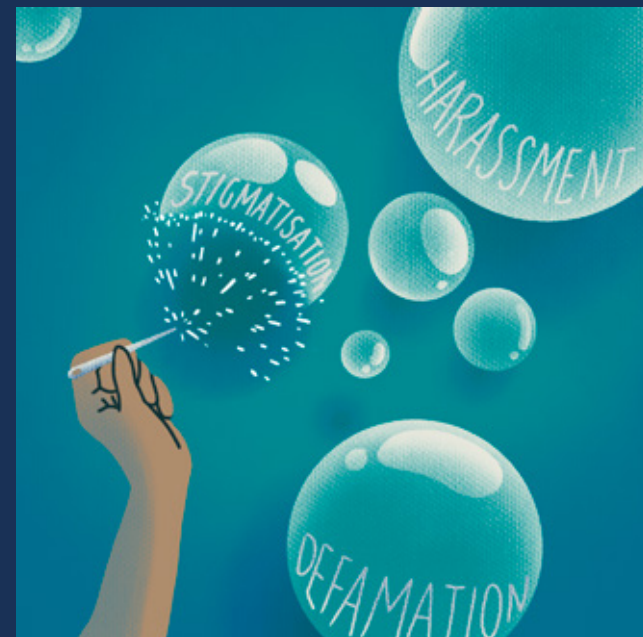
Part II

SECTION 16

Freedom from defamation and stigmatisation:

Everyone must be free from defamation, stigmatisation and harassment online and offline regarding your human rights activities.

Part II





SECTION 17

Right to exercise cultural rights and to development of personality:

Everyone can exercise cultural rights including challenging practices that violate human rights and fundamental freedoms.

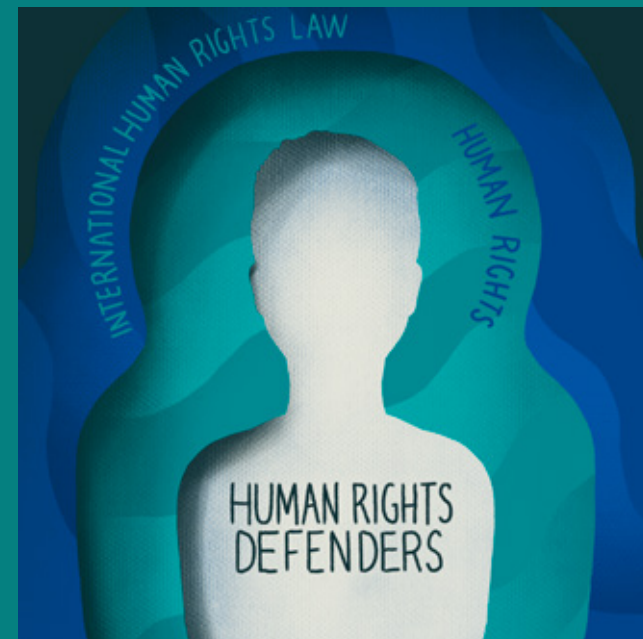
Part II

SECTION 19

Limitations on the rights of human rights defenders:

Rights as a human rights defender can only be limited by international human rights law and standards.

Part II



SECTION 18

Right to effective remedy and full reparation:

If rights in this law are denied, anyone can go to court or tribunal for remedy, that can be filed by themselves, associates, representatives, family or organisation.

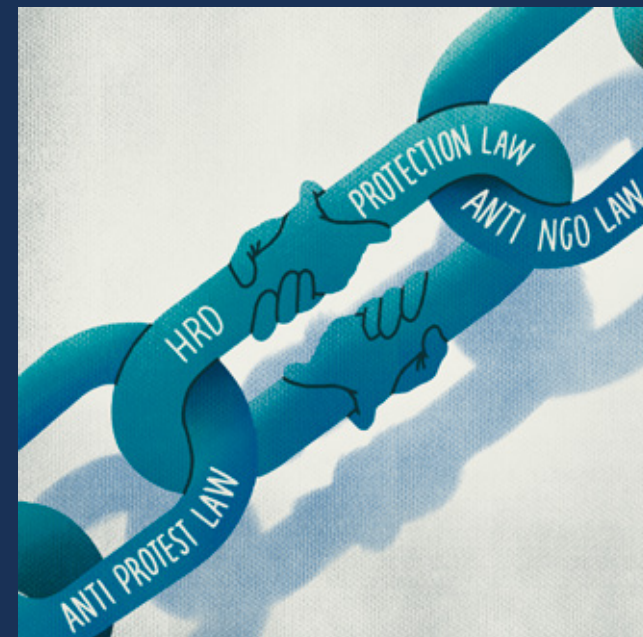
Part II

SECTION 20

Other rights and freedoms not affected:

This law cannot limit stronger laws or instruments protecting human rights defenders.

Part II





SECTION 21

Responsibility to defend human rights and fundamental freedoms:

Everyone has a responsibility to defend human rights and fundamental freedoms and to not undermine democratic societies, institutions and processes.

Part II

SECTION 23

Obligation to facilitate the activities and work of human rights defenders:

Public authorities must support access to places and information required by defenders to exercise their rights under this law.



Part III



SECTION 22

Obligation to respect, promote, protect and fulfill the rights of human rights defenders:

Public authorities must ensure that human rights and freedoms are fulfilled, protected by laws and that defenders can work in a safe environment.

Part III

SECTION 24

Obligation to provide free access to materials relating to human rights and fundamental freedoms:

Public authorities must make materials relating to human rights and fundamental freedoms available and accessible online and offline.



Part III



SECTION 25

Obligation not to disclose confidential sources:

No one is required to disclose the identity of sources. Public authorities may only disclose sources with consent of the source or if required by a court in compliance with international standards.

Part III

SECTION 27

Obligation to ensure protection against arbitrary or unlawful intrusion and interference:

Public authorities must ensure protection against unlawful interference online and offline.

Part III



SECTION 26

Obligation to prevent and to ensure protection against intimidation or reprisal:

Public authorities must take measures to prevent and protect defenders against intimidation and reprisal.

Part III

SECTION 28

Obligation to conduct investigation:

When the right of a human rights defender appears violated, a proper investigation must be conducted in consultation with the mechanism for human rights defenders, keeping the victim or their family informed of the status of the investigation.

Part III





SECTION 29

Obligation to ensure effective remedy and full reparation:

Public authorities must make available effective remedies for violations of rights under this law.

Part III

SECTION 31

Obligation to promote and facilitate human rights education:

Public authorities must promote and fund training on human rights, human rights defenders and this law.



Part III



SECTION 30

Obligation to make intimidation and reprisal an offence:

Any intimidation or reprisal due to status or work as a human rights defender should be an offence and prosecuted by the authorities.

Part III

SECTION 32

Obligation to implement protection and urgent protection measures:

Authorities must implement protection measures under this law.



Part III



SECTION 33

Assistance to human rights defenders abroad:

Public authorities must assist human rights defenders abroad threatened or punished because of their work as defenders.

Part III

SECTION 35

Consultation with civil society:

Competent authority must consult with civil society and defenders in its work.



Part IV



SECTION 34

Establishment of mechanism for the Protection of Human Rights Defenders:

Competent authority must establish a mechanism responsible for the protection of human rights defenders.

Part IV

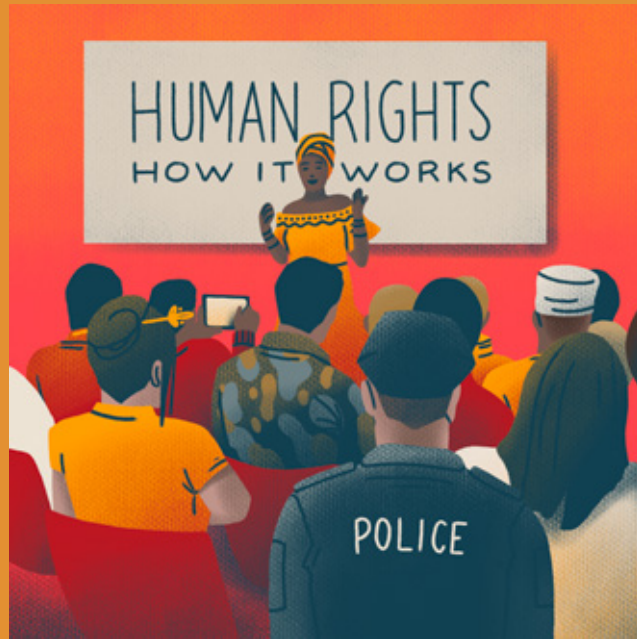
SECTION 36

Resources:

Protection Mechanism must be given adequate resources to function effectively.



Part IV



SECTION 37

Training and vetting:

Persons working with the protection mechanism must be trained on the situation of defenders.

Part IV

SECTION 39

Non-discriminatory application:

This law applies to all human rights defenders.

Part V



SECTION 38

Definitions:

'Human rights' in this guide refers to 'human rights and fundamental freedoms' as defined in the Model Law.

Intimidation or reprisal in this guide refers to 'intimidation and reprisal' as defined in the Model Law.

Other definitions in the Model Law are "associate," "Fund," "Mechanism," "protection measures" and "public authority."

Part V

Additional provisions for Protection Mechanisms

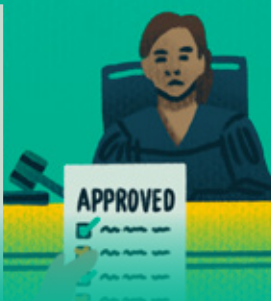
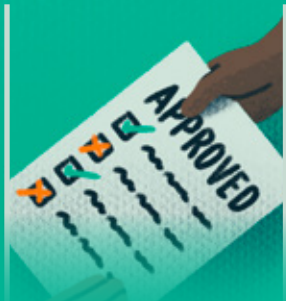
PROCESS FOR SEEKING PROTECTION FOR HUMAN RIGHTS DEFENDERS

A human rights defender or anyone associated can apply for protection measures.

In cases where there is an apparent immediate risk of intimidation or reprisal, the Mechanism shall decide within six hours whether there is a real risk. In all other cases, it can take up to two weeks.

The Mechanism's decision must be communicated with reasons in writing to the applicant. Approved cases must provide details regarding protection measures.

Mechanism can reassess decisions on protection measures periodically. Applicant can apply for review of decisions on protection measures to a court or tribunal.



Annexure 1 Sections 1-7

SECTION 2

Declaration of incompatibility:

Courts and tribunals have the power to declare provisions of other laws incompatible with this law.



Annexure 2
Section 2

SECTION 1

Interpretation consistent with this Law to be preferred:

A statutory provision should be interpreted and applied consistently with rights in this law.

Annexure 2
Section 1

SECTION 3

Effect of declaration of incompatibility:

If a provision of another law is declared incompatible, the relevant Minister must present a report advising on the government's response.

Annexure 2
Section 3



SECTION 4

Statement of compatibility:

A statement of compatibility must be developed for provisions of laws developed after this law.



Annexure 2
Section 4

SECTION 5

Review of legislative compatibility:

Within three years of passage of this law, a report reviewing compatibility of existing laws must be prepared.



Annexure 2
Section 5

For more information about our work
or any of the issues covered in this
publication, please visit our website: www.ishr.ch
or contact us: information@ishr.ch



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GENEVA OFFICE

Rue de Varembé 1, 5th floor
P.O. box 16
CH-1211 Geneva 20 CIC
Switzerland

NEW YORK OFFICE

777 UN Plaza, 7th floor
New York, NY 10017
USA