



FOCUS 2013

Public Policies for the Protection
of Human Rights Defenders:

The State of the Art

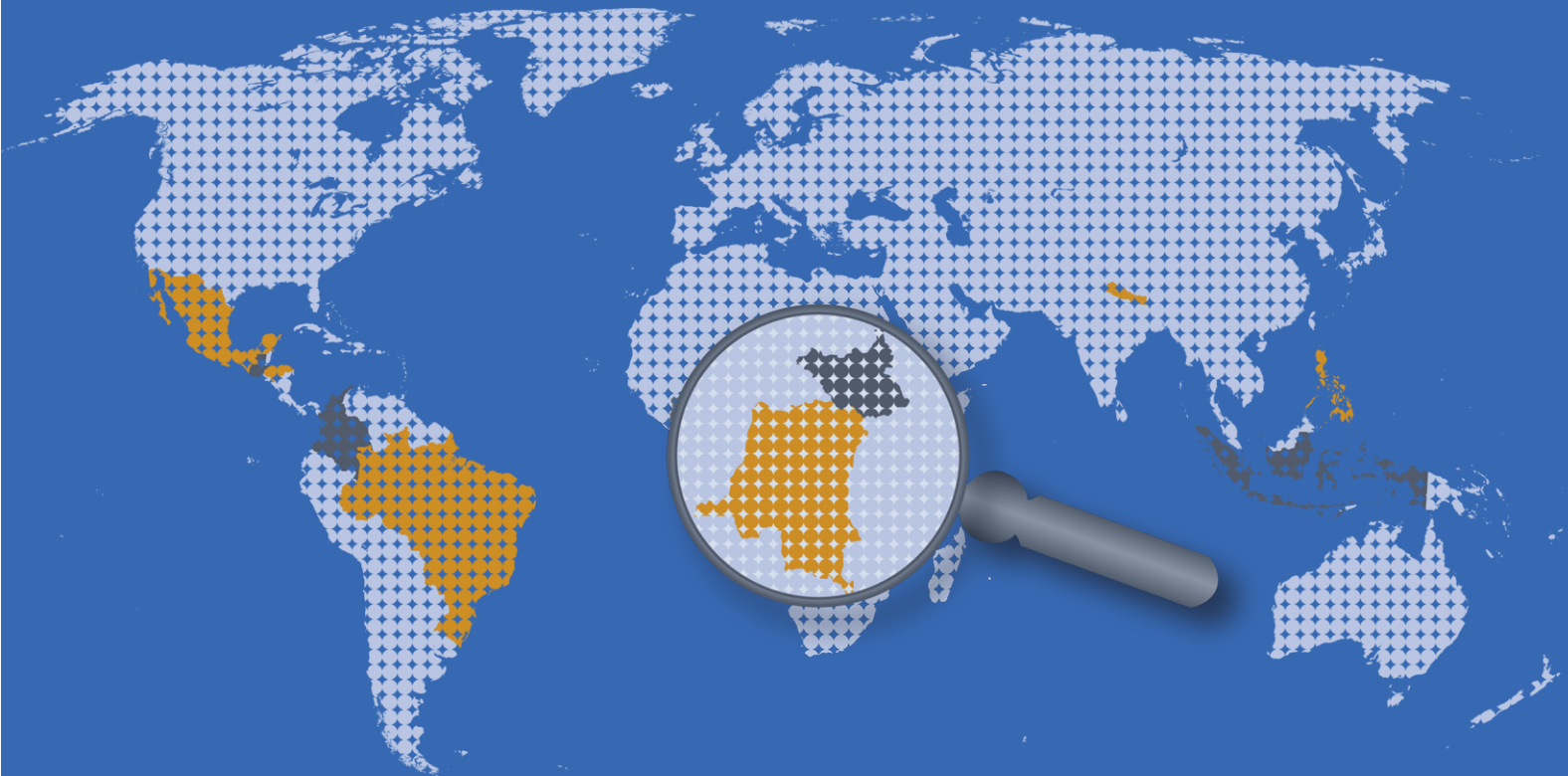


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1. Preface

Margaret Sekaggya, UN Special Rapporteur on the situation of human rights defenders, March 2013

It gives me great pleasure to write the foreword of the first issue of the *Focus Report*, 2013. Focus is a web-based global observatory of public policies for the protection of human rights defenders that Protection International has established to closely monitor any developments concerning national legislations and mechanisms to protect defenders.

As UN Special Rapporteur on the situation of human rights defenders, I have often voiced my concern about the reports I receive every day on violations and acts of intimidations and harassment against defenders. Such acts and violations prevent defenders from carrying out their activities, stigmatize their work and constitute considerable barriers to exercising their basic human rights and defending the rights of others.

Protection of human rights defenders is a key issue in ensuring a conducive and enabling environment for the defence and promotion of human rights. The ultimate responsibility to protect defenders lies with the State and

national mechanisms and public policies are important means of ensuring such protection in order for defenders to continue their important work.

I am pleased to note that there has been some progress in this area over the past months, notably in Mexico where the Law for the Protection of Human Rights Defenders and Journalists was enacted in June 2012. Other countries in Latin America, as well as in Africa, are considering the establishment of national protection programmes through the discussion of draft legislation.

The sharing of good practices and lessons learned in the area of protection facilitates reflection and can contribute to strengthen political will and improve the design and implementation of protection programmes. This is why I think that the establishment of Focus by Protection International is an excellent initiative which will help relevant stakeholders to keep track of and learn from the developments and experiences in this area.

Protection International (PI) is pleased to present its first FOCUS report. FOCUS is a global observatory on public policies for human rights defenders' protection.

To commemorate the 15th Anniversary of the **UN Declaration on the right and responsibility of individuals, groups and institutions to promote and protect universally-recognized human rights and fundamental liberties**, the report includes results from our research on public government policies to protect human rights defenders (HRDs) internationally.

As part of our mission, PI analyzes and promotes discussion on the development of public policy meant to protect human rights defenders. While acknowledging advances that have clearly enhanced existing regional and international mechanisms, we have adopted a critical approach since we realize that the States are ultimately responsible for protecting Human Rights Defenders, starting with governments.

We are aware of the as-of-yet unresolved debate between advocates for these policies and those who demand the State as a whole to fulfill its obligation in guaranteeing protection of Human Rights Defenders. Nevertheless, in PI we are encouraged by willingness expressed by many governments and international, regional and non-governmental organizations to continue exploring this area.

We hope this report will contribute to the discussion on how to improve existing public policies and spur discussion between civil society organizations and governments of countries where protection of human rights defenders is far from being ensured.

Research, Policy and Training Team
Protection International

2. Introduction

In recent years, various governments have developed public policies and protection mechanisms in countries where human rights defenders face major security risks. These legal frameworks (i.e. laws, decrees or regulations), created to guarantee the protection of human rights defenders were established under pressure of and in cooperation with national and international human rights organizations.

Since 2008, Protection International (PI) has studied the origin, implementation and impact of these public policies to protect human rights defenders in various countries on three continents. The PI team has researched, offered advice and actively participated in events where structural and operational aspects of legislative developments and human rights defender protection policies and entities were discussed.

It should be pointed out that even in countries with national public policies of this type, protection of human rights defenders continues to be precarious in national contexts characterized by major human rights violations. Nevertheless, we have found that active involvement of civil society in designing and implementing the mechanisms proposed helps to develop appropriate technical tools to assess risks and threats, and to adapt them to the specific needs of defenders.

The case of Mexico is particularly highlighted in this report. **The Law for the Protection of Human Rights Defenders and Journalists**, brought into force by the Federal Government on June 25, 2012 represented a paradigmatic example of how a civil society and Mexican legislators came together in recognition of the urgent need to offer protection to human rights defenders and journalists, and agreed upon a law that would include the design and implementation of an institutional mechanism for protection.

We should also mention the UN Special Rapporteur on the situation of Human Rights Defenders, Margaret Sekaggya, has mentioned this law on multiple occasions. In her report from December 30, 2009 for the Human Rights Council, she states that, *“The Special Rapporteur welcomes these initiatives and encourages other States that have not yet done so to consider developing similar measures and maximizing their efficiency. At the same time, she wishes to express her concerns about the efficiency and sustainability of the existing programmes”*¹. In her recent report on her visit to Honduras in February 2012, the Special Rapporteur recommends prioritizing the promotion of a national law on HRD protection in order to *“enhance and give legitimacy to their work, and contribute to the improvement and strengthening of the framework for national dialogue with civil society.”*²

Similarly, the Inter-American Human Rights Commission (IACHR) observed in its second report on human rights defenders that there is a *“failure to design a global policy of protection, thereby creating a situation of defenselessness that is detrimental to the work done by human rights defenders”*³. The IACHR further recommends that such a comprehensive policy should include *“an effective and exhaustive strategy of prevention in order to ward off attacks against human rights defenders. To do this, appropriate funds will have to be made available as will political support for the institutions and programs.”*⁴

1 *“Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya”, A/HRC/13/22, § 83, p. 15. 30 December 2009.*

2 *“Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya – Addendum Mission to Honduras”, A/HRC/22/47/Add.1, § 35, p.9, December 13, 2012.*

3 Inter-American Human Rights Commission (IAHRC), *“Second Report on the Situation of Human Rights Defenders in the Americas”*, § 472, p. 215, December 31, 2011.

4 *Ibid*, Recommendation 8, p. 241242. See also Recommendation 9, p. 242.

3. Concepts and definitions

Protection programs have received different names: “protection program”, “national mechanism”, “national programs”, etc. We think that the name that best encapsulates the concept while connecting it to governance practices is “**public policies on the protection of human rights defenders**”, as the response of a government to the specific protection needs of human rights defenders in a country. This response would take the form of an action program, with its objectives, laws, institutions, services, public goods and related services.

In actuality, State institutions in countries where repeated attacks against human rights defenders are frequent do not adequately respond to these attacks. Furthermore, it is a complex problem involving very different institutions and sectors. As a result, human rights defenders generally accept the need for a specific approach that a public policy can offer for their protection.

However, such a public policy cannot replace State authorities’ obligation to end attacks against human rights defenders. In other words, these public policies are only meant to play a role in protecting human rights defenders while States comply with their obligation (or generate conditions for compliance.)

At the same time, the design of a public policy to protect human rights defenders implies a process of negotiation and agreement with human rights defenders and other sectors of society (i.e. collaborative governance). This was the normal practice, for example, in those countries of the Americas where these public policies were adopted (i.e. Brazil, Colombia, and Mexico). This practice is even more salient if we look at the history of how these public policies arose and were developed. In all three countries, there was first a sustained demand from human rights defenders and civil society in general, to that extent that they even created non-government human rights defender units so as to get a broad-reaching response from their governments.

In a few words, how does a public policy for protection of human rights defenders work?⁵

- The human rights defender (or group) that feels at risk gets in contact with the program.
- The program analyzes whether the person(s) qualify for the program (broad criteria are usually applied, sometimes explicitly so, as in the UN Declaration on Human Rights Defenders (1998).
- If the human rights defender is admitted to the program, the risk of his/her specific situation is analyzed.
- After risk assessment and pursuant to the results, the relevant body (including officials from various institutions and human rights defenders representatives) determines the protection plan or protection measures to be implemented. These measures often include an emergency cell phone, bullet-proof vests, police bodyguards or escorts, armored vehicles, etc.
- These measures remain in place as long as the risk persists.
- These programs include other aspects of interest as mentioned in other parts of this report.

5 For more information on these programs, we recommend the study published by: María Martín and Enrique Eguren, *Protection of human rights defenders: Best practices and lessons learnt*, Policy, Research and Training Unit - Protection International, 2011.

4. National public policies: a world overview

Latin America



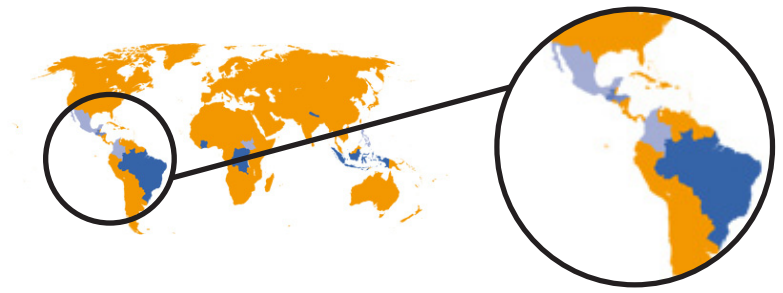
Africa



Asia



4.1 Latin America



Mexico

In Mexico, human rights organizations have repeatedly highlighted the need for appropriate State action to end assaults on HRDs. After some initial institutional steps⁶, the **National Human Rights Plan 2008-2012** defined the competencies of State bodies in the protection of human rights.

The report of the Mexican branch of the UN Office of the High Commissioner for Human Rights (UNHCHR) was published in 2010. It indicated, among other recommendations, that the State needed to create a national protection mechanism and adopt specific protocols for investigating attacks against HRDs⁷. This recommendation sparked the debate surrounding the need to adopt public policy to protect human rights activists and reporters. In May 2010, a group of HRD organizations submitted a Proposal for a Human Rights Activists Protection Mechanism to (SEGOB).

One year later, human rights organizations and journalists held multiple meetings with the Senate Foreign Affairs and non-Governmental Organisations Committee to discuss their dire situation. These meetings were also attended by international NGO representatives and the Mexican Office of the UNHCHR.

In July 2011, a public Senate hearing was held on the matter, with a view to raise awareness within the legislative body on the work of HR activists and the dangers to which they are exposed. It was also meant to facilitate a dialogue on the need for a national public

policy to protect HR activists and journalists. In the hearing, major party representatives promised to introduce a bill to that end.

After many work sessions between HRD and journalist organizations, consultants, Secretaries (Ministers) and even many senators, a bill (*proyecto de decreto*) was tabled to become the **Law for the Protection of Human Rights Defenders and Journalists**. Finally, the Law was discussed and passed by both chambers (Senate and Congress) and published into law on June 25, 2012.

After the bill came into force, the government, the Attorney General and other institutions on one hand, and human rights organizations, journalists, social communicators on the other (with the help of UNHCHR and other entities) showed remarkable unity over numerous meetings convened to define the content of the Regulation meant to enforce the law, as well as operational protocols for its implementation.

On October 19, 2012, the Consultative Council of the Mechanism was created: Four HRD organizations, four journalists, and two academicians. On November 12, 2012, the Government Board (steering organization) for the Protection Mechanism for HRDs and Journalists was officially set up.

After federal elections and the presidential changeover in Mexico (end of 2012), the Mechanism has moved to its reporting stage and is currently developing its first report. Furthermore, there are other programs in operation around the country such as the one set up by the authorities of Mexico City.

6 Such as the **Program on Attacks against Journalists and Civil Defenders of Human Rights**, 2005, which was based on a pilot program of the National Human Rights Commission—NHRC from 1997; or the **Special Rapporteur for Freedom of Expression and Assistance to Human Rights Defenders**, of 2007, the Mexico City Human Rights Commission. For further details, see María Martín and Enrique Eguren, Op. Cit. p.17. Annex 2.

7 Office of the High Commissioner for Human Rights (OHCHR), “Defender los derechos humanos: entre el compromiso y el riesgo”, §125-126, pp. 33-34, 2009.

Colombia

Colombia has been at the forefront in adopting HRD protection programs since it created the **General Program for Protection** of at-risk persons under the Human Rights Section of the Ministry of the Interior (Law 418 of 1997)⁸.

8 Law that was delayed and amended through Laws 548 (1999), 782 (2002) and 1106 (2006); and adopted through multiple regulatory agreements, resolutions, and directives from Ministries of the Interior, Justice, and Defense. See María Martín and Enrique Eguren, Op. Cit. p.12. Annex 2.

Thanks to constant pressure from Colombian and international human rights organizations to improve the program's shortcomings⁹, the Colombian government carried out a series of reforms, the last of which were adopted in 2011. It was in 2011 that the **National Protection Unit** (Decree 4065 of 2011) was created under the auspices of the Ministry of the Interior, to coordinate and effectively protect at-risk individuals and organizations. The decree specifically mentions NGO leaders, trade unions, and groups of people internally displaced due to armed violence. Afterwards, the **Program for Protection and Prevention of rights to life, freedom, integrity and security for people, groups, and communities** (Decree 4912 of 2011) was created under the aforementioned NPU. The Program sets out a number of responsibilities¹⁰, the measures to be applied by an ad hoc Committee for risk assessment among other specifics.

It is still early to make a comprehensive assessment of the effectiveness of this new policy and institutional framework for the protection of Colombian HRDs.

Non-government structures for the protection of Human Rights

Created by multiple human rights organizations in 2002, the **Non-Government Program for the Protection of Human Rights Activists** (PNGPDDH, Somos Defensores) has received support from social organizations, human rights networks throughout the world, the UN, the EU and cooperation agencies¹¹.

Somos Defensores developed a full-scale proposal to protect the lives of human rights defenders (temporary relocation, assistance) and prevent assaults (advisory mechanisms, self-protection plans, and lobbying activities).

In the regions, the program accompanies grassroots organizations and human rights advocacy associations: Caribbean coast (five departments), north-East (two) and south West (four).

Brazil

After strong pressure from national human rights NGOs and numerous working group meetings over more than a year, on October 26th, 2004 the Government of Brazil launched the **National Program for Protection of Human Rights Defenders** before the Human Rights Committee of the Lower Chamber of Parliament. The Program is under the auspices of the Special Secretariat for Human Rights (SEDH) of the Presidency of the Republic. Furthermore, it articulates the action of different ministries, the justice system, land ownership bodies and police and investigative authorities, among others.

The National Human Rights Protection Policy (Decree 6.044 of February 2007) establishes principles and guidelines for protection and assistance to individuals, organizations

9 Ibid, pp-13-15. See also Programa Somos Defensores, "Claroscuro: Informe Anual 2011", 2012.

10 Programa Somos Defensores, Op. Cit., pp. 10-12.

11 Protection International supports the work of the PNGPDDH. See <http://www.somosdefensores.org/index.php/quienes-somos>

or social movements which promote and protect human rights. The decree was enhanced through the adoption of Bill 4575/2009, to harmonize the Program for the Protection of Human Rights Defenders with laws and administrative procedures in states and municipalities.

The PPDDH also has a National Coordination Office in Brasilia. Additionally, there are State Coordinating Office in eight federal states; three pilot projects in Espirito Santo, Pará and Pernambuco, which was later extended to five additional states: Bahia, Ceará, Minas Gerais, Rio de Janeiro, and Rio Grande del Sur.

The National Coordination Office has a database of HR complaints. In tandem with federal entities it implements cautionary measures of international mechanisms and adopts measures with an aim to investigate threats and complaints. It responds to human rights cases of at-risk persons living in a state without its own program and works with or in the place of the State Coordinating Offices¹² if necessary.

The State Coordinating Offices are responsible for implementing the program, namely concrete actions in response to cases occurring within State jurisdiction. Every State Coordinating Office brings together the Legislative, Executive and Judicial Branches, the State Prosecutor and representatives of civil society. It offers trainings in security and self-protection for Human Rights Advocates. It monitors state regions for any increase in human rights violations. In some state programs, specialized NGOs can give support and legal counsel to human rights advocates.

Nevertheless, many human rights advocacy organizations have expressed concern over the lacklustre state of protection measures offered by some federal states to HRDs and their families¹³.

Guatemala

In line with the Global Human Rights Agreement (AGDH) signed in 1994 by the Government of Guatemala and the National Guatemalan Revolutionary Unit (URNG)¹⁴, and after considerable domestic and international pressure due to the on-going threats and attacks faced by human rights defenders, the Guatemalan government adopted Internal Agreement 11-2004 of the Presidential Human Rights Committee (COPREDEH). The President then created the **Coordinating Unit for the Protection of Human Rights Advocates, Justice System Administrators and Operators, Journalists and Social Communicators**. This Unit has the mandate to coordinate with other State entities to provide protection measures as foreseen by the Inter-American System or the United Nations¹⁵.

12 See <http://www.sedh.gov.br/acessoainformacao/acoes-e-programas/protecao-aos-defensores-dos-direitos-humanos>

13 See <http://racismoambiental.net.br/2013/01/carta-aberta-ao-coordenador-nacional-do-programa-de-protecao-aos-defensores-de-direitos-humanos-sr-igo-martini/#more-85964>

14 María Martín and Enrique Eguren, Op. Cit.

15 Ibid.

At the end of that year, the government submitted a proposal for a Public Policy of Protection and Prevention for Human Rights Defenders, Parties in Judicial Proceedings, Journalists and Social Communicators, a National Action Plan for Protection and a Catalogue of Protection Measures. Although in 2007, COPREDEH tried to implement them through the Government Agreement after debating and coming to an agreement with human rights organizations, the initiative did not come to fruition.

In 2008, the **Unit for the Analysis of Attacks against Human Rights Defenders in Guatemala** (Ministerial Agreement No. 103-2008) was set up with a four-year mandate. Its functions are as follows¹⁶.

- Analyzing patterns of attacks against human rights advocates;
- Developing recommendations for criminal investigation authorities and prosecutors on the investigation of attacks against human rights authorities;
- Recommending technical criteria for assessing risk, level of threat or vulnerability of human rights advocates; and
- Collecting information on compliance with protection and prevention measures and their effectiveness in risk reduction.

The Unit includes institutions in charge of criminal investigation (General Directorate of Civil Intelligence, The Prosecutor's Office, and the National Civil Police Corps), two national human rights NGO representatives and one international human rights NGO representative. The mandate of the Analysis Unit was renewed on January 16, 2012, six days after its expiration. Nevertheless, the Unit only met again eight months later, which raised questions about the current government's level of commitment¹⁷.

Non-government structures for the protection of Human Rights

The Guatemalan Human Rights Defender Unit (UDEFEUGA) was a trailblazer not just nationally, but internationally as well. The Unit gave rise to the **Network of Female Human Rights Defenders of Guatemala** (*Red de Defensoras de Derechos Humanos de Guatemala*), linked to the Mesoamerican Initiative for Female Human Rights Defenders. With an integrated gender perspective, the network seeks to define procedures aimed at protecting female human rights defenders and offers support through emergency funds, trainings, self-care and assistance regarding specific measures to protect women who are human rights defenders, including the publication of manuals on the subject¹⁸.

16 See <http://focus.protectionline.org/countries/guatemala/agreement-to-create-an-analysis-institution-2008/>

17 Open letter from international NGOs to the President of the Republic of Guatemala "Carta abierta de ONG internacionales al Presidente de la República de Guatemala", Otto Pérez Molina, November 12, 2012. See http://www.ciel.org/Publications/CartaInstancia_DDHH_Nov2012.pdf

18 María Martín Q., "Herramientas para la protección de mujeres defensoras de derechos humanos", UDEFEGUA, Guatemala, July 2012. http://www.udefegua.org/images/Informes/herramientas_defensoras.pdf

Honduras

The Government of Honduras designated the **Human Rights Unit** of the Secretariat (Ministry) of Security as the authority in charge of implementing and following up on precautionary measures issued by the Inter-American Human Rights System. Nevertheless, civil society organizations state that only a small number of people will participate in the program. It is not clear what series of protection measures will be available, nor what monitoring or risk assessment systems will be put in place. Furthermore, at least part of the cost of bodyguards will be charged to the beneficiary¹⁹.

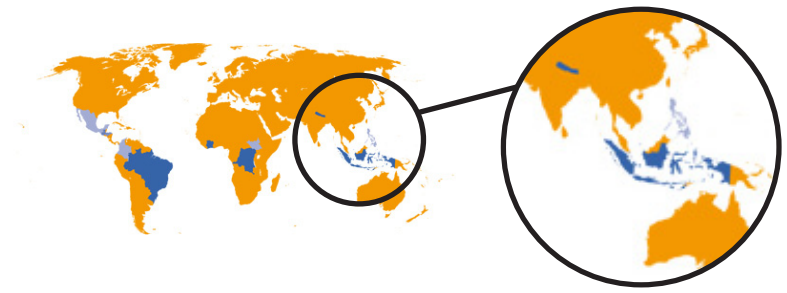
Faced with pressure from civil society and the international community to remedy these shortcomings, the national government through the Secretariat of Justice and Human Rights (SJDH) expressed interest in working with civil society representatives to develop a draft bill for the "Law on Protection Mechanisms for Human Rights Defenders, Justice System Officials, and Social Communicators" at the end of 2011. This bill includes, among other provisions, the creation of a National Council for the Protection of Human Rights Advocates, Justice System Officials and Social Communicators made up of representatives from government and human rights organizations. At the end of November 2012, the SJDH sent the bill and a draft National Protection Plan to various HRD organizations.

Nevertheless, the bill has not yet been sent to Congress, due to the lack of support from civil society. The mistrust of human rights advocates in the government's proposal has increased along with a growing number of violent incidents and murders of trade union leaders, rural dwellers, young and female HRDs, as well as increased criminalization of social protest and monitoring of HRD communication (i.e. Law on Interception of Private Communication, Decree 243/2011).

Nevertheless, wide sections of civil society still believe it necessary to pass a law to protect human rights defenders and continue to express their desire to introduce a draft bill that would broadly bring together grassroots organizations. To date there is a proposal, the draft bill titled "Human Rights Defenders Protection System Law", led by the Human Rights Defenders Space (E-Defenderh).

19 CIDH, Op. Cit.

4.2 Asia



Indonesia

In Indonesia, there are two parallel initiatives initiated by civil society. The first is the adoption of special legislation for human rights defenders. The first draft bill was written in 2009 by Imparsial, the Human Rights NGO with the help of legal experts from Brawijaya University (Malang, province in Eastern Java). Nevertheless, the bill has been stalled in Parliament since 2011.

The second initiative came from an NGO coalition that decided to work with the National Human Rights Commission (NHRC or Komnas HAM). The goal of the alternative initiative is to establish a human rights defenders protection unit in the NHRC. This unit could be established unilaterally; the NHRC green lighted the idea in 2011. Furthermore, in negotiations with the coalition, Komnas HAM agreed to integrate the protection of human rights defenders into the new law on the NHRC in 2012. Human rights defenders are prominently mentioned in this law, whose role and legitimacy is based on the UN Declaration on the Rights of Human Rights Defenders; and allows for an active role to be played by Komnas HAM in the protection of human rights defenders.

The Parliament also seems to have preferred this solution. Furthermore, the new Chairman and Sub-Director of Komnas HAM that were elected by the Parliament in August 2012 hail from human rights NGOs and have agreed to create a human rights defender protection unit. Nevertheless, the mandate of the chairmanship was drastically reduced down to one year only, which has generated concern in academic and human rights defender circles²⁰.

20 Hans Thoolen, "Tenure of Head of Indonesia's National Human Rights Commission reduced to one year", February 5, 2013.

Philippines

The government has taken steps to remedy the human rights situation of the archipelago. These include new laws such as the Anti-Torture Act from October 2012, the creation of Human Rights Units in the Armed Forces and the National Police, as well as a focal point for Human Rights Defenders in the Filipino Human Rights Commission, the situation of violence and impunity against human rights defenders remains²¹.

In October 5th, 2011, multiple legislators from the House of Representatives of the Filipino Congress introduced a bill that, if signed into law, would become the Human Rights Defenders' Protection Act, House Bill 5379. The text was prepared by civil society organizations such as Karapatan (human rights organization alliance) and the Tanggol Bayi (Defend Women) human rights defender organization of the Philippines.

Currently undergoing debate in Congress, the bill is meant to guarantee the rights of human rights defenders and punish any violation of those rights in connection with work to defend and promote human rights²².

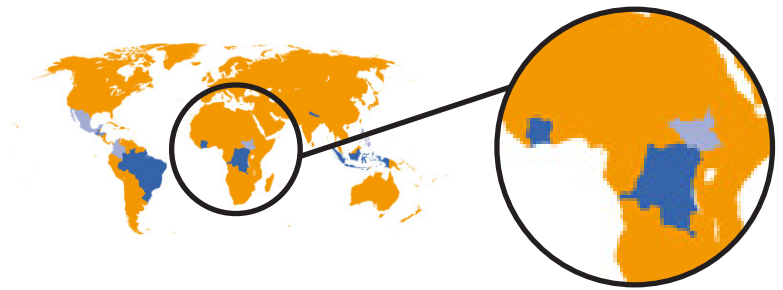
Nepal

The local organization Informal Sector Service Center (INSEC) submitted a draft decree on human rights defenders to the Nepalese authorities in 2009. The draft included an explicit reference to the UN Declaration on Human Rights Defenders and a definition of rights and responsibilities of human rights defenders as listed in that declaration. The draft also included the creation of a Human Rights Defenders Commission. After multiple debates, nothing substantial came of the draft.

21 Observatory for the Protection of Human Rights Defenders (OMCT), "Philippines: Alarm over attacks on human rights defenders in a climate of pervasive impunity - Preliminary findings of a fact-finding mission on the conditions and vulnerabilities of HRDs", November 23, 2012.

22 Scanned copy of House Bill 5379, sent to PI by Karapatan, February 8, 2013. See www.focus.protectionline.org for further information.

4.3 Africa



Democratic Republic of the Congo (DRC)

Existing public policy:

Liaison entity: Prime Minister Decree 09/35 (August 12th, 2009). Allows human rights defenders and authorities to discuss human rights issues, including the safety of human rights defenders. There is a national entity and a provincial entity in each province. Nevertheless, so far these authorities have lacked necessary resources and do not offer the services one might hope for. In South Kivu, the provincial government suspended its implementation due to recent security problems²³.

Human Rights Defenders Protection Measures: Decree of the Ministry of Justice and Human Rights, no. 219/CAB/MIN/JDH/2011 (July 13th, 2011). Domestic regulation was just established in April 2012. This new mechanism has a limited impact in the capital Kinshasa.

Among civil society initiatives, one of the most significant is the Early Warning System of the Human Rights House (*Système d'alerte rapide de la maison des droits de l'homme*, SAMDH), which has operated in Kinshasa since September 2010. It was created by eleven Congolese NGOs and is supported by international human rights organizations. PI trained its members. SAMDH is assessing the possibility of extending its operations to the Eastern provinces of the DRC.

NATIONAL BILL

After the failure of a first draft bill on protection of human rights defenders promoted by civil society in 2007²⁴, a new bill was submitted to the National Assembly on June 13th, 2011, supported by the Minister of Justice at the time. However, the bill has been stalled in multiple Senate committees since August 2011²⁵. Since July 2012, a Congolese NGO committee, accompanied by international human rights organizations²⁶, are trying to relaunch the process.

The work of this committee was vital for the passing of the law that created the National Human Rights Commission (CNDH), promoted at the end of January 2013.

PROVINCIAL LEGISLATION

In 2007, human rights defenders organizations in South Kivu, in the eastern part of the country put forward a first

proposal for regional legislation (*Édit provincial*), but was rejected by the Provincial Assembly (legislative body)²⁷. A new version of the provincial *Édit* was introduced in the Assembly on January 14th, 2011. Nevertheless, the legislative process remains stalled while progress on the bill is awaited from Kinshasa²⁸. Meanwhile, human rights defenders in North Kivu have expressed interest in working on a similar initiative.

South Sudan

Since its Declaration of Independence in July 2011, South Sudan has had a Transitional Constitution while a new one is drafted to come into force in 2015. The slow pace of legislative development is delaying ratification and accession to international human rights treaties²⁹. With the recent arrival of funds, the Constitutional Review Commission is expected to be able to regularly meet in 2013 and collect opinions from citizens as planned.

The Transitional Constitution adopted a broad bill of rights and established the South Sudan Human Rights Commission, which has worked positively with human rights defenders. Nevertheless, the judicial branch of the country is not yet solid enough to support them adequately.

Various organizations have united under the South Sudan HRD Network, SSHRDN, currently lead by the Community Empowerment for Progress Organization (CEPO). The Network offers advice on risk assessment and security management for HRD and journalists. At the end of 2011, the Network and SSHRC began to draft a bill together for the protection of HRD. The draft has not yet been finished while funds are awaited to continue progress

The situation for HRD has nonetheless deteriorated in recent months. A *negative development seems to be the introduction of the Voluntary and Humanitarian Organizations Bill No. 63/2012* in the middle of 2012. This initiative was withdrawn by the Ministry of Justice after strong mobilization by human rights organizations³⁰.

Côte d'Ivoire

In these past few months, multiple HRD organizations and academics have begun work on a revised draft bill for HRD protection drafted by the government. Discussions are still in the preliminary stage.

23 PI Interview with government official, Kinshasa, November 2012.

24 Martín and Eguren, Op. Cit.

25 Interviews carried out by PI with government officials and local NGOs, Kinshasa and Bukavu, 2012.

26 The committee is made up of the Congolese NGOs Groupe Lotus, Amis de Nelson Mandela pour les Droits de l'Homme, Association Africaine des droits de l'homme (ASADHO) and Forum de la Femme Ménagère (FORFEM). International organizations such as The Carter Center and PI have assisted in lobbying strategies to raise awareness about the need for the law.

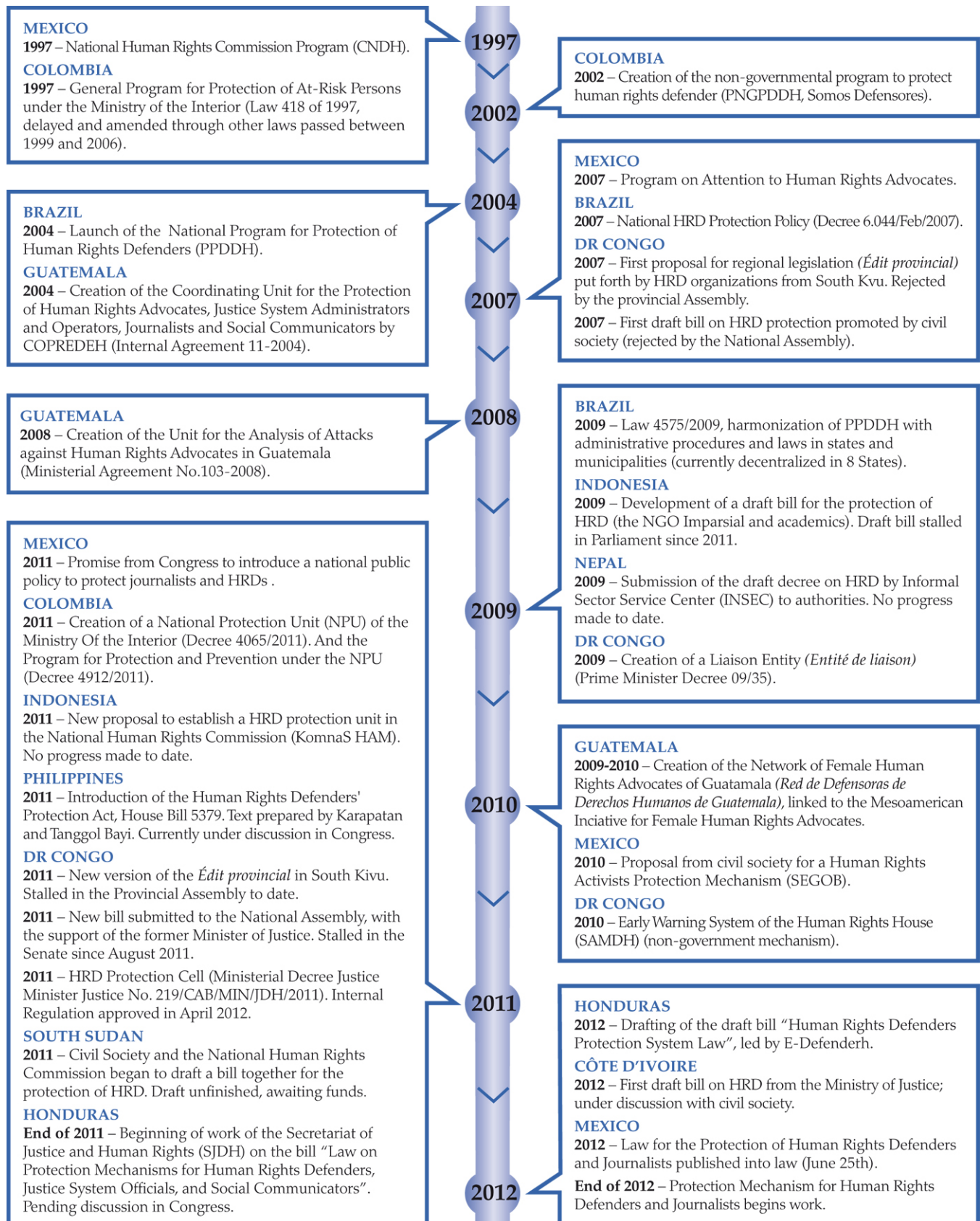
27 Initiative Congolaise pour la Justice et la Paix (ICJP), Press Release, February 17, 2009.

28 Interviews by PI with legislators of the Provincial Assembly of South Kivu, Bukavu, 2012.

29 Amnesty International, "South Sudan: Strengthen human rights and accountability mechanisms", September 21, 2012.

30 CEPO, "Civil Society expresses dissatisfaction over NGO and Humanitarian Bill", Press Release, November 16, 2012. Also see CEPO, "Lobby and Advocacy with the National Parliamentarians on the CSOs and NGOs Legislation", December 2012 to January 2013.

5. Timetable



6. Progress and Challenges in public policies for the protection of HRD

6.1 Progress on existent policies (to be considered as minimal standards)

HRD and civil society organization involvement

A fundamental requirement is firstly, to design a policy to respond to needs for protection and secondly, to obtain effective and efficient implementation of the public policy regardless of government changeovers or the wider sociopolitical backdrop of the country.

Furthermore, HRDs must be given seats on steering bodies of protection programs, because their participation:

- aligns public policy implementation with their reality and needs.
- generates a commitment to HRD community involvement. This is useful to maintain open channels of dialogue given the conflictual nature that usually characterizes HRS-State relations, particularly in countries where HRDs suffer frequent attacks which go unpunished.
- promotes greater transparency and accountability.

Best practices in HRD involvement

An example of best practices is the HRD involvement in the Advisory Council and the Governing Board stipulated in the Law of Protection in Mexico. The Advisory Board is *“the advisory body of the Governing Board and will be made up of nine counselors (...) In the composition of the Council, a balance will be sought between experts on human rights defenders and the exercise of freedom of expression and journalism”*³¹. The Governing Board *“is the maximum authority of the Mechanism and the main decision-making body for the prevention and protection of Human Rights Defenders and Journalists”*³² ... and *“four representatives of the Advisory Council elected from its members”* are part of said Board³³.

Application of a risk analysis model that would allow for appropriate identification of risks and concrete needs in HRD protection

Many decisions in a HRD protection policy revolve around risk analysis, because this allows for objective criteria to be established for determining risk level, reaching transparent, consensus decisions, and periodically reviewing them.

Furthermore, is a fundamental tool to offer equal access to protection program resources: Access depends on risk levels, and not on the social influence or the HRD mobilization strategy.

Risk analysis must be carried out by experts in HRD protection, whether members of the security forces or not. One best practice is the risk analysis method used by Mexico, created *ad hoc* for HRDs.

The HRD concerned must participate in the development of his/her own risk analysis, through interviews and must at least be consulted for the final risk assessment. This allows for alternatives to be sought in case of disagreement and the protection plan to be shaped accordingly.

HRD Protection Program with broad admissions criteria

The policies of Brazil and Mexico are examples of best practices, since they reference the UN Declaration on HRDs to determine admission into their programs. It allows for various HRDs groups to access the program. This includes Women who are human rights defenders, ethnic minorities, sexually diverse groups, HRDs that work in isolated areas, etc.).

31 Article 9 of the referenced law.

32 Article 4 of the referenced law.

33 Article 5.VI of the referenced law.

6.2 Challenges (on the program level) to improve protection results:

- Creation of protection plans with an integral approach to HRD protection (beyond physical protection measures), which might respond to the HRD, and characteristics of their networking with other HRDs.
- Protection plans must aim at making it possible for HRDs to continue defending human rights (although in high-risk cases, part of his/her activity might be deferred or altered with the consent of the HRD).
- Creation of a database on the status of protection for HRDs in order to guide the implementation of the public policy. Three needs, namely:
 - Collection of detailed statistics about attacks.
 - Analysis of trends and patterns to improve the effectiveness and efficiency of protection policies.
 - Creation of early alert and action systems.
- Promotion of a human rights culture and bringing legitimacy to the work of HRDs.
- Sufficient availability of human and financial resources.

6.3 Progress and Challenges in public policies for the protection of HRD to improve existent public policies

Prevention and investigation to avoid attacks against HRDs and end impunity

Prevention of attacks against HRDs should be a pillar of public policy. A HRD protection program cannot devolve into a “dead end” or simply a “protection bubble” which shields HRDs, but loses sight of impunity of attacks against HRDs. Effective investigation (which leads to prosecution of perpetrators of attacks against HRDs) is the preventative protection measure par excellence, and is a fundamental requirement for truly complete protection.

Inter-institutional coordination

Full protection of HRDs requires inter-institutional coordination between State authorities, specifically among authorities in the protection program (who ensure immediate protection of the HRDs) and authorities that investigate and punish perpetrators. In practice, this coordination can be made possible through inclusion of police and judicial investigative bodies in the structures of protection programs.

Should coordination between different authorities be it impossible, either due to a lack of political will or internal strife, a public policy could include a high-level task force to ensure the necessary inter-institutional coordination.

7. Protection International: Our work as regards public policies for the protection of HRDs

Protection International (PI) is an international non-governmental organization that works in HRD protection. PI is based in Brussels and is cooperating or has cooperated on projects with HRD organizations in the DRC, Kenya, Uganda, Thailand, Indonesia, Nepal, Mexico, Honduras, Guatemala, and Colombia.

One of the areas of work of PI is investigation and organization of experiences with public policies for the protection of HRDs. Here is a summary of our main activities in that area:

Research

- Publication of the study *Protection of Human Rights Defenders: Best practices and lessons learned* (2011): <http://focus.protectionline.org/manual-on-policies/>
- Creation of **FOCUS** – *A Global Observer on National Policies of Defenders Protection* (2009): <http://focus.protectionline.org/>

Consultancy

- As regards public policy on protection of HRDs, PI and our joint projects (Protection Desks) in different countries have offered consultancy to HRD organizations in the Democratic Republic of the Congo, South Sudan, Colombia, Guatemala, Honduras, Nepal, Indonesia and Mexico.
- Furthermore, since 2011, a PI expert, hired by the Office of the High Commissioner for Human Rights in Mexico has advised local NGOs, the Mexican Government and other institutions on the design and implementation of their law and public policy.

Relevant events organized by PI

- **December 2011:** PI organized an International Round Table on national legislation and protection mechanisms for HRDs in the Federal Parliament of Belgium³⁴. This was the first event of its type internationally, since it brought together representatives of the United Nations, the EU and its member states as well as international human rights organizations and defenders from Latin America, Asia and Africa.
- **June 2012:** PI and the Office of the Special Rapporteur of the UN on the HRD situation, Margaret Sekaggya, organized the round table “National mechanisms and national public policies for the protection of human rights defenders: Reflections on current developments and ways ahead”, in Geneva, Switzerland. The event was a stock-taking exercise of current experiences of HRDs, governments, international and regional governments on the operation and effectiveness of national public policies for HRD protection³⁵.

34 Video clip of the event: <http://protectionline.org/2012/04/12/video-by-pi-round-table-on-national-mechanisms-for-the-protection-of-human-rights-defenders/>

35 Video clip: <http://protectioninternational.org/video/geneva-pi-and-the-united-nations-special-rapporteur/>

8. Civil Society

Several civil society organisations actively monitor and promote the development of public policies – or lead non-governmental experiences – for the protection of HRDs. Without being exhaustive, we can mention the cases of:

Brazil



Justiça Global. <http://global.org.br/>

Colombia



Programa Somos Defensores.
<http://www.somosdefensores.org/>

Guatemala



Unidad de Defensores y defensoras de Guatemala (UDEFUGUA). <http://www.udefegua.org/>

The Philippines



Karapatan, Tanggol Bayi, and the party list Bayan Muna (People First Party). Contact emails: karapatan@karapatan.org and tanggolbayi@gmail.com

Honduras

E-DEFENDERH

Red Espacio de Defensores de Derechos Humanos (E-Defenderh)

Indonesia



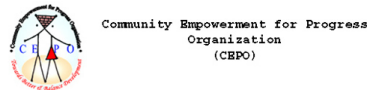
Imparsial. <http://www.imparsial.org/>

Mexico



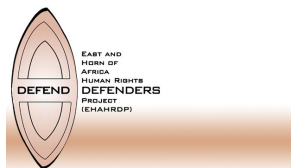
Acción Urgente para Defensores de Derechos Humanos (ACUDEH). <http://acuddeh.org>

South Sudan



Community Empowerment for Progress Organization (CEPO).

Uganda



East and Horn of Africa Human Rights Defenders Project (EHAHRDP) <http://defenddefenders.org>

About Protection International (PI):

FOCUS, A global observatory on national public policies for the protection of human rights defenders, is a project of Protection International. Visit our website <http://focus.protectionline.org/>

There you can find our study on national (as well as regional and international) policies for the protection of human rights defenders: *“Protection of human rights defenders: best practices and lessons learnt”*. Download it at <http://focus.protectionline.org/manual-on-policies/protection-of-human-rights-defenders-best-practices-and-lessons-learnt-part-i-legislation-national-policies-and-defenders-units/>

For more information on FOCUS, please write to our email focus@protectioninternational.org or contact Mauricio Angel (PI's Policy, Research and Training Unit) at mangel@protectioninternational.org

For more information on PI, visit our websites www.protectioninternational.org and www.protectionline.org

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<http://focus.protectionline.org/>

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