



USAID
FROM THE AMERICAN PEOPLE

HUMAN RIGHTS LANDSCAPE ANALYSIS TOOL
*GUIDANCE ON IDENTIFYING KEY ISSUES AND ENTRY POINTS
FOR HUMAN RIGHTS PROGRAMMING*

JUNE 2016

WHY THIS TOOL?

The protection and promotion of human rights is an integral element of USAID’s mission to promote resilient, democratic societies in ending extreme poverty and is a development objective set forth in the Agency’s *Strategy for Democracy, Human Rights, and Governance*. However, providing assistance to protect and promote human rights is a complex endeavor both conceptually and operationally. Surveying the most relevant institutions, actors, and processes as well as the laws, policies, and strategies that make up the human rights “landscape” in a particular country is an important first step.

The purpose of this resource is to provide USAID personnel with guidance for surveying the human rights landscape as part of their country strategy and project design process. The objective is to understand how fundamental rights and freedoms that are related to USAID’s development goals are being respected, protected, and fulfilled or how they are being violated. This tool is neither comprehensive, nor provides detailed guidance on the complex nuances of a human rights protection system.

The intent of this guidance is to support an analytical process that spurs better engagement on and design of human rights and rights-based development activities.

The document is arranged in a series of analytic “steps” that will help DRG officers identify issues and entry points most relevant to a country context. The table to the right provides a summary of those steps.

Steps for Analyzing the Human Rights Landscape		
	1	Review a state’s performance protecting human rights and identify issues of concern.
	2	Verify a state’s obligations under international law related to issues of concern.
	3	Map relevant domestic laws and policies to assess the state’s compliance with its international obligations.
	4	Assess the capacity and credibility of National Human Rights Institutions.
	5	Review the roles of other state institutions impacting the issues of concern.
	6	Identify Human Rights Defenders and other non-state actors focused on the issues of concern.

HOW TO USE THIS TOOL?

If you only have a few minutes:

- Scan the Analytic Framework

If you have about one hour:

- Read the Analytic Framework
- Scan the Background & Guidance section for “starred” resource links that may help in your analysis
- Scan the table of program options (Annex A)

If you have more than an hour or are undertaking a formal assessment:

- Read the full document, noting key lines of inquiry, resources available, and illustrative program options
- Consider contacting the Human Rights Division in USAID’s Center of Excellence on Democracy, Human Rights and Governance

I. ANALYTIC FRAMEWORK



STEP 1: Review a state's performance protecting human rights and identify issues of concern.

- What are the key human rights issues directly or indirectly linked to the Mission's CDCS or Project Appraisal Document objectives? For example, are any of the DOs or IRs dependent on strong freedom of assembly, threatened by discriminatory practices, or related to realizing the right to education?
- Based on the overall body of reporting available on your host country (e.g. from NGOs, State Department, Special Rapporteurs), what are the key human rights issues that stand out?
- If there are common themes or issues of concern that emerge in multiple reporting sources that were left out of particular reports, what might that imply about the omitting source?
- What types of human rights violations (by states) or abuses (by non-state actors) are being reported? To what extent do they involve violations or abuses articulated in international human rights instruments and protected under domestic laws and policies?
- Who is experiencing the harm? Is there a particular group that is being targeted or disproportionately suffering rights?
- Who is perpetrating the harm? Are state actors involved? What non-state actors may be involved, such as paramilitary and other armed groups, gangs, or commercial enterprises? Is the violation or abuse a result of a state's failure to act or omission?
- Is there a mandate to address past violations or abuses that is not being met? If so, what are the key issues yet unresolved (e.g. accountability for perpetrators, compensation or restitution for victims)?
- Has the country recently participated in the Universal Periodic Review (UPR) process? If so, what issues are flagged in the resulting reports? How does the state describe its own human rights record? Did the US provide comments on the report? Were shadow reports prepared by NGOs or other non-state actors?
- Do specific treaty body reports or special rapporteur reports offer further insight into specific issues of concern?



STEP 2: Verify a state's obligations under international law related to issues of concern.

- What international or regional treaties directly or indirectly cover human rights obligations related to the key issues of concern identified in the first step? Has the host country ratified those treaties?
- Is the state a member of any regional or sub-regional organization that may have binding resolutions related to the key issues of concern?

- Beyond issues of concern, what international or regional treaties are relevant to the objectives of USAID’s country development cooperation strategy (CDCS), the USG’s Integrated Country Strategy (if the country does not have a CDCS), or Project Appraisal Document objectives?
- Is the state a member of any values-based membership organizations (e.g. Organization for Security and Co-operation in Europe, Open Government Partnership or Extractive Industries Transparency Initiative) with charters that may affirm relevant human rights obligations?



STEP 3: Map relevant domestic laws and policies to assess the state’s compliance with its international obligations.

- Are there specific constitutional references to the human rights issues of concern identified in earlier steps? Are there other domestic laws or policies that intersect with those issues? Are those laws and policies consistent?
- Was the constitution drafted before or after the state’s ratification of relevant treaties? Have there been subsequent amendments?
- Does the constitution or other legislation establish and fund specific “competent authorities” (e.g. national human rights commissions or ombudsman’s office)?
- Do other domestic laws, executive acts or judicial decisions seek to promote or protect human rights? Do they reflect relevant international standards? Consider laws governing NGOs, assembly, media, internet and access to information.
- Are there laws or regulations that are used to restrict the full exercise of civil and political rights? Consider laws governing national security, public safety or anti-terrorism laws.
- Are there National Strategies or Action Plans that address human rights (e.g. ethnic or religious minorities’ rights) or related issues (e.g. transitional justice)? Are there realistic enforcement or accountability mechanisms in place to ensure these strategies or plans are actually carried out?
- Are there other donor or UN supported activities designed to help countries draft, ratify and implement domestic provision to meet international obligations related to the issues of concern?



STEP 4: Assess the capacity and credibility of National Human Rights Institutions

- Does the country have an NHRI? If so, what is its accreditation by the International Coordinating Committee? Does the NHRI report on the issues of concern identified in earlier steps (e.g. through annual reports)?
- What are the other competent authorities for protecting human rights in the country? Do any of these actors address the human rights issues of concern?
- Is the NHRI or other competent authority viewed as independent and legitimate?

- How is the NHRI funded? Are there opportunities for strengthening independence and autonomy through budgetary procedures?



STEP 5: Review the roles of other state institutions impacting the issues of concern

- How do justice sector actors impact the issues of concern? Is the court system seen as legitimate? Can victims access the system to seek protection and/or remedy via the courts? What resources exist to support victims?
- What role do security sector actors have in the issue of concern? Is the security sector geared towards protecting the state or protecting citizens? Is the security sector effective at protecting marginalized or vulnerable populations?
- Are there sufficient internal or external accountability mechanisms in place to ensure that state actors are prevented from acting with impunity?
- What impact do line ministries, or those executive institutions tasked with implementing policies, have on the issue of concern? Do these institutions ensure non-discrimination in state service provision?



STEP 6: Identify Human Rights Defenders and other non-state actors focused on the issues of concern

- Who are the HRDs working on issues of concern in your host country? What steps are HRDs taking to address those issues or hold governments accountable?
- How permissive is the environment for HRDs? Do these individuals work openly? Can they be contacted safely? Do HRDs operate from outside the border? **(Please consider and mitigate any risk to HRDs that may result from contact with USG personnel even during initial exploratory outreach.)**
- Does the state enable and protect the work of HRDs, or limit and constrain the ability of HRDs to do their work? If that varies by sector, what are the factors that prompt different government responses?
- Are HRDs under threat? If so, by whom? What steps do HRDs take to ensure their own security (e.g. physical, digital and psychosocial) and the security of those on whose behalf they are advocating? Are there government-supported protection mechanisms in place?
- What needs and priorities do HRDs express in terms of external support or assistance?
- How effective are the advocacy efforts of HRDs? What techniques are they using? Do HRDs work in coalitions and across single-issue areas?
- Do HRDs feed into formal monitoring and reporting efforts (e.g. the UPR)?

II. BACKGROUND & GUIDANCE

STEP ONE: Review a state's performance protecting human rights and identify issues of concern.



Human rights are inherent to all human beings, irrespective of nationality, sex, gender, ethnicity, religion, language, or any other status. Human rights are generally expressed as universal legal guarantees, rooted in international law, protecting individuals against actions and omissions that interfere with the fundamental freedoms, entitlements, and human dignity of individuals and groups of individuals.¹

There are many ways to approach a human rights analysis, but the most practical entry point for identifying the key human rights issues of concern in a particular country – especially those that may impact a USAID Mission's development strategy or activity – is to compare and examine existing reporting processes and their products.

Key reporting sources include international and regional “mechanisms” (e.g. formal processes for reporting progress made towards specific treaties); national-level quasi-governmental institutions (e.g. human rights commissions); the US Government; and non-governmental organizations (NGOs). Information gleaned from these reports should be taken as a whole, as each source has its own perspective and varying degrees of access, autonomy, credibility, self-censorship and other political interests.

International and Regional Reporting Mechanisms

There are a number of international “mechanisms” or reporting process for monitoring the overall human rights performance of states or their implementation of specific treaties. These mechanisms can be driven by international or regional organizations.

The **Universal Periodic Review (UPR)** is a state-driven process conducted under the auspices of the UN Human Rights Council, which provides the opportunity for each UN Member State to declare what actions they have taken to improve the human rights situations in their countries and to fulfil their human rights obligations. As part of this process, each state submits a national report in which it provides details on human rights laws, policies, and practices and how it has sought to implement specific human rights obligations and respond to violations where they have occurred. That report is then peer reviewed by other UN Member States, independent experts and other stakeholders (including NGOs), whose comments and recommendations shape the overall outcome report. All 193 Member States have participated in at least one UPR process since its inception in 2006 and are in various cycles of an ongoing process.

Human rights treaty bodies are also valuable sources of information on a state's human rights performance. Human rights treaty bodies are committees of independent experts that monitor implementation of core international and regional human rights treaties, established as part of the treaties they are charged with monitoring. There are presently ten international human rights

¹ Neither USAID nor the U.S. government have an official definition of human rights. This authoritative description of human rights is drawn from the United Nations at <http://www.ohchr.org/EN/Issues/Pages/WhatAreHumanRights.aspx>

treaty bodies that range from the Human Rights Committee (ICCPR) to the Committee on the Elimination of Discrimination against Women (CEDAW) to the Committee on the Rights of Persons with Disabilities (CRPD) and the Committee on Enforced Disappearances (CED). Additionally, there are several regional mechanisms that monitor the implementation of regional treaties (e.g. the Inter-American Commission on Human Rights monitors the American Convention on Human Rights).

In addition to the UPR and UN treaty bodies, reports of **Special Procedures of the United Nations Human Rights Council** are also a valuable source of human rights information. These rapporteurs, independent experts, and working group have mandates to report on human rights from a thematic or country specific perspective.² They undertake country visits and can act on individual cases and concerns of a broader, structural nature by sending communications to states in which they bring alleged violations or abuses to their attention. They can also conduct thematic studies and convene expert consultations, engage in advocacy, and raise public awareness.



RESOURCES:

International Reporting Mechanisms:

UPR Country Reports:

<http://www.ohchr.org/EN/HRBodies/UPR/Pages/Documentation.aspx>

International human rights treaty body reports:

<http://www.ohchr.org/EN/HRBodies/Pages/TreatyBodies.aspx>

Reports of Special Procedures of the U.N. Human Rights Council:

<http://www.ohchr.org/EN/HRBodies/SP/Pages/Welcomepage.aspx>

Regional Reporting Mechanisms

Inter-American Commission on Human Rights:

<http://www.oas.org/en/iachr/reports/country.aspx>

Council of Europe:

<http://www.coe.int/en/web/commissioner/country-monitoring>

African Commission on Human and People's Rights:

<http://www.achpr.org/states/reports-and-concluding-observations/>

National-level State Reporting

Many National Human Rights Institutions (e.g. ombudsman's offices, national human rights commissions) established for overseeing state compliance on human rights obligations at the national level also monitor, document and produce human rights reports at the national level. Depending on the capacity and autonomy of those NHRIs (explored in a subsequent step), those reports are often rich sources of information. Even in closed spaces or country contexts where states do not provide much latitude to those entities, seeing what issues are not covered in their reports can be as information as what is covered.

² As of 27 March 2015, UN Special Procedures consist of 41 thematic and 14 country specific mandates. This includes Special Rapporteurs on freedom of assembly and association, freedom of opinion and expression, torture, extrajudicial killings, internally displaced persons, migrants, indigenous persons, among others.

Non-Governmental Organizations Reporting

Civil society organizations, human rights defenders, academic institutions, and other local organizations can be a source of useful information on human rights issues and an important input to international mechanisms or formal processes. For example, NGOs and victims' groups often dialogue with government authorities and provide input into the developing of official reporting documents for the UPR process. NGOs can also separately produce "shadow reports" that are compiled and submitted as part of these processes.

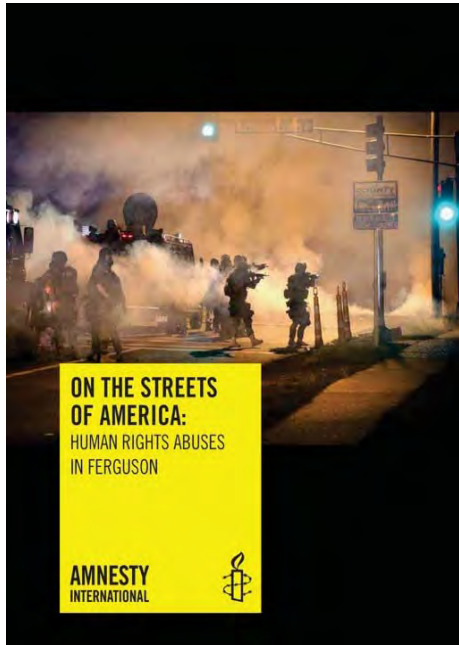


Figure 1: It is important to maintain humility working on human rights issues abroad, and to recognize that violations occur everywhere, including in the United States.

Additionally, annual and periodic reports of NGOs, such as [Human Rights Watch](#), [Amnesty International](#), [Freedom House](#), and the [International Federation of Human Rights \(FIDH\)](#) also provide useful information on the situation of human rights in countries around the world and how states are meeting their international obligations to respect, protect, and fulfill human rights. These reports can often be a helpful initial entry point, as chapters in annual reports tend to provide brief overviews of key issues of concern, which can then help guide further research.

U.S. Government Reporting

The **United States Department of State** issues annual *Country Reports on Human Rights Practices* (<http://www.state.gov/j/drl/rls/hrrpt/>). Based on factual reporting from US embassies, these congressionally mandated reports also chronicle human rights conditions in almost 200 countries and territories. The reports draw attention to the growing challenges facing individuals, organizations, and governments in the context of rights and obligations set forth in the *Universal Declaration of Human Rights* and other international instruments.



STEP TWO - Verify a state's obligations under international law related to issues of concern.

Because human rights are rooted in international law, it is important to identify and become familiar with the status of key international treaties to which a host country has become a State party³ and how the rights and obligations found therein are given effect and implemented through national laws, policies and strategies. States choose to ratify these treaties freely and commit to the related duties that they subsequently bear. Reminding states of their own commitments can be a useful starting point when offering technical assistance to help with the realization of specific obligations.

³ A State party is a country that has ratified a treaty, and is therefore legally bound its provisions. While signing does not commit a State to ratification, it does oblige the State to refrain from acts that undermine the treaty's purpose.

In addition to the *Universal Declaration of Human Rights* (UDHR), which is now considered binding upon all states as customary international law, foundational international human rights instruments include the *International Covenant on Civil and Political Rights* (ICCPR) and the *International Covenant on Economic Social and Cultural Rights* (ICESCR).⁴ Together, these three instruments, known as the “international bill of human rights,” set forth a broad spectrum of individual rights and state obligations to protect them.

The UN’s Office of the High Commission on Human Rights (OHCHR) lists 18 major international treaties and related optional protocols. These include the *Convention against Torture* (CAT), the *Convention for the Elimination of All forms of Discrimination Against Women* (CEDAW), the *Convention for the Elimination of All Forms of Racial Discrimination* (CERD), the *Convention on the Rights of the Child* (CRC), and the *Convention on the Rights of Persons with Disabilities* (CRPD). Other binding instruments contributing to rights protection include the counter-trafficking *Palermo Protocol to the United Nations Convention against Organized Crime* and treaties of the International Labor Organization.



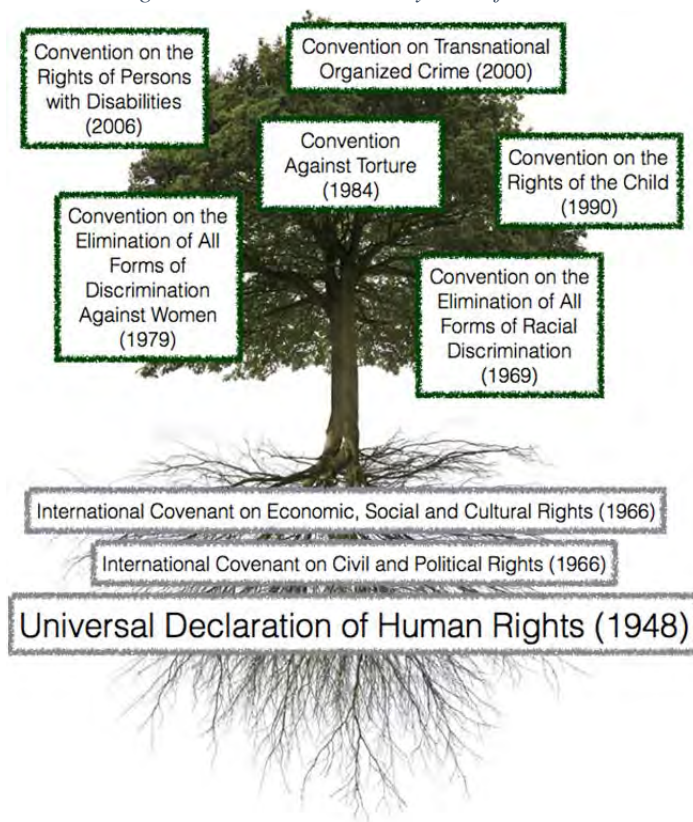
OHCHR’s Dashboard (<http://indicators.ohchr.org/>) is an excellent, one-stop reference for identifying the ratification status of the 18 major instruments for any country.

Regional and sub-regional organizations, such as the African Union (AU), Association of Southeast Asian Nations (ASEAN), Council of Europe (COE), International Conference on the Great Lakes Region (ICGLR), League of Arab States (LAS), Organization of American States (OAS), and the Organization for Security and Cooperation in Europe (OSCE), are also the source of binding human rights conventions. Many regional organizations have also established judicial and quasi-judicial bodies to document and adjudicate claims arising under these conventions⁵. The jurisprudence of these bodies assist in understanding the nature and scope of human rights norms in regional contexts and also in identifying specific obligations of host countries to respect, protect, and fulfill the human rights of their citizens. In addition, important information about war crimes, crimes against humanity, and genocide in a host country can be ascertained by surveying the work of the International Criminal Court and ad-hoc criminal tribunals, hybrid courts, and similar bodies.

⁴ The United States is a State party to the ICCPR and many important human rights treaties. Although the United States is not a State party to the IESCR and other treaties, USAID can assist host countries uphold their treaty commitments.

⁵ Noteworthy regional judicial and quasi-judicial bodies include the European Court of Human Rights, the African Union Commission and Court on Human and Peoples’ Rights, and the Inter-American Commission and Court on Human Rights.

Figure 2: Illustrative root system of treaties



STEP THREE: Map relevant domestic laws and policies to assess the state's compliance with its international obligations.



After reviewing the specific treaties that states have ratified related to issues of concern and/or Mission priorities, the next step is to assess how those specific commitments are applied in the country. States fulfill their treaty obligations to promote and protect human rights by adopting normative frameworks (laws and policies) at the domestic level.

Domestic laws that advance human rights

States give domestic legal effect to human rights protection through constitutional provisions, legislation, and national-level policies. States can also apply human rights obligations through administrative regulations (e.g. bylaws), executive decrees, and judicial decisions. Missions should identify and review these key domestic laws and policies in order to further understand a country's human rights landscape.

National constitutions often establish a broad spectrum of human rights guarantees and obligations of national authorities to respect, protect, and fulfill the rights of citizens and non-citizens. Some constitutions recognize international law as a source of human rights norms. National constitutions can also establish competent authorities, such as constitutional courts and NHRIs, e.g. ombudsman offices, and vest them with mandates and powers to protect and promote fundamental rights and freedoms. Constitutional obligations to ensure universally recognized human rights and establish the bodies for their enforcement provide both with greater significance and avenues for legal recourse if they are not upheld.

A constitution provides the legal foundation of a state, but it is not the only way a state can protect human rights through law. Domestic legislatures can debate and pass laws that strengthen the constitution's human rights protections or create new obligations or institutions to protect human rights. A country's criminal, civil, and administrative codes are laws that often have substantial impacts on human rights, positive or negative. Legislatures may also decide to adopt new legislation to address specific types of human rights challenges, including gender based violence and discrimination. Laws on the protection of human rights defenders and civil society organizations are of particular importance, as are laws that guarantee independent media and the safety of journalists.

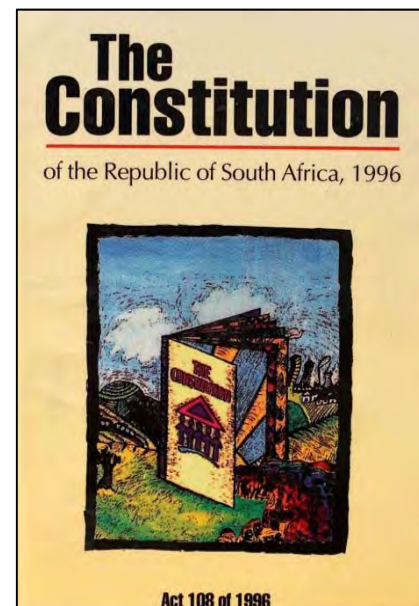


Figure 3 The 1996 South African Constitution emphasizes human rights protections and requires courts to consider international law when reviewing the bill of rights.

Domestic laws that restrict or limit human rights

Laws do not always protect human rights, and may even infringe upon rights guaranteed by international law. For example, specific pieces of legislation that restrict NGOs ability to operate may be inconsistent with constitutional commitments to freedom of association or assembly. The proliferation of anti-terrorism laws and policies underscore the tension between civil liberties and security in the U.S. and around the globe in many countries where USAID operates. In addition, customary, informal, and other non-state dispute resolution systems should be examined for compliance with basic human rights norms such as non-discrimination, equal treatment, and due process.

Inconsistencies as Entry Points:

While Uganda's Anti-Homosexuality Act (2014) was ultimately struck down by the Constitutional Court on a technicality, it was initially ruled as being consistent with the Ugandan Constitution, despite the Constitution's strong commitment to non-discrimination (Articles 21 and 45). As human rights activists strategized how to challenge the law, its inconsistencies with Uganda's international obligations (e.g. to the UDHR and ICCPR) were important, but even more so was the Constitution's strong stance on non-discrimination.

National Strategies and Action Plans

The adoption of national human rights strategies and action plans is another means by which host countries can strengthen normative frameworks for rights protection. In the 1993 *Vienna Declaration and Programme of Action*, the United Nations' World Conference on Human Rights recommended that states consider the desirability of drafting these types of instruments to identify steps to improve domestic human rights protections. By adopting national human rights strategies or action plans, human rights are placed in the context of public policy so that governments and society at large can pursue human rights protection as practical goals.

In addition to national human rights strategies, many countries have adopted similar instruments to address rights-related issues that affect society at large and those related to a particular phenomenon, demographic, or social group. Common to many countries are strategies on gender and women's rights, LGBTI rights, non-discrimination and rights of minorities, youth and juvenile justice, and the rights indigenous peoples and persons with disabilities. National Action Plans (NAPs) on women, peace, and security in accordance with United Nations Security Council Resolution 1325 are also relevant. Other types of strategies, depending on the country context, can include those on internal displacement, combatting trafficking in persons, and atrocity prevention and transitional justice responses to systematic human rights violations that occurred during conflict or authoritarian rule. Human rights issues can also be integrated into national development and poverty reduction strategies. These strategies should be identified and considered as a source of entry points for USAID human rights programming.



STEP FOUR: Assess the capacity and credibility of National Human Rights Institutions.

Most states have quasi-governmental entities with the explicit legal authority to protect and promote human rights.

National Human Rights Institutions

NHRIs are independent and autonomous state bodies typically established by a constitution, legislation, or executive decree, for the purpose of protecting and promoting human rights.

NHRIs operate at the national level, often with regional offices, and are a primary mechanism by which states comply with their international obligations. They do so by receiving, investigating and resolving complaints about human rights violations, mediating disputes, monitoring and reporting, advising government authorities on rights issues, and engaging civil society, human rights defenders, and society at large on matters involving fundamental rights and freedoms.⁶

The International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) manages NHRI accreditation. According to the *Paris Principles Relating to the Status and Functioning of National Human Rights Institutions*, which codify relevant international standards, each state must choose a model for establishing an NHRI that best suits its particular legal tradition and needs, while ensuring for independence and autonomy from other government bodies. NHRIs tend to fall within three primary categories: ombudsman offices, human rights commissions, and specialized committees.



NHRI Directory and Accreditation Scores: *The ICC maintains three levels of accreditation: A for “in full compliance”, B for “not fully in compliance” and C for “non-compliance.” For an NHRI’s accreditation status, go to: <http://nhri.ohchr.org/EN/Contact/NHRIs/Pages/Global.aspx>*

NHRIs can center their work on core protection issues, such as extrajudicial killings, enforced disappearances, arbitrary detention, the abuse of power, and the protection of human rights defenders. Many NHRIs around the world are also dedicated to promoting and protecting the rights of religious, ethnic, gender and sexual minorities, indigenous peoples, women, children, and persons with disabilities. NHRIs can also play a role in advancing all aspects of the rule of law, with regard to the compliance of the judiciary, law enforcement agencies and the correctional system with international human rights norms and domestic law.

Other competent authorities

In addition to NHRIs, many states have other competent authorities for human rights protections that comprise the human rights landscape in host countries. These may include presidential human rights commissions, national preventive mechanisms, parliamentary oversight bodies, and specialized tribunals, among others. These bodies may contribute to the protection of specific human rights on issues such as torture prevention,⁷ women’s rights and gender issues, trafficking in persons, disabilities, indigenous peoples, and truth and reconciliation.



National Preventive Mechanism (NPM) Database: *OHCHR maintains a list of country-specific NPMs and their contact information here: <http://www.ohchr.org/EN/HRBodies/OPCAT/Pages/NationalPreventiveMechanisms.aspx>*

⁶ For more information see the UNDP-OHCHR Toolkit for Collaborating with National Human Rights Institutions: <http://www.ohchr.org/Documents/Countries/NHRI/1950-UNDP-UHCHR-Toolkit-LR.pdf>

⁷ This includes National Preventive Mechanisms (NPMs) for the prevention of torture and ill-treatment. For example, State parties to the *Optional Protocol to the Convention against Torture and other Cruel, Inhuman, or Degrading Treatment* (OPCAT) are obligated to establish, maintain or designate one or more NPM. NPMs are independent state bodies that carry out visits to places of detention and incarceration, monitor the treatment of and conditions of those deprived of their liberty by the state, and make recommendations regarding torture and other forms of ill treatment.

STEP FIVE: Review the roles of other state institutions impacting the issues of concern.



After looking at the domestic legal context and the relevance of NHRIs, this step prompts a broader analysis of how state institutions directly or indirectly impact the issues of concern.

Role of the Justice Sector

No human rights landscape analysis would be complete without consideration of the role of justice system institutions in the protection and promotion of human rights and their independence, accountability, and effectiveness.⁸ The legal nature of human rights implicates the judiciary and court system, offices of the attorney general and prosecution, and the legal profession. Each pillar of the justice system plays an integral role in guaranteeing the human rights, particularly the right to a fair trial and right to a remedy.

Constitutional Courts exercise primary jurisdiction over constitutional matters, including citizen rights under domestic and international law. Yet, all courts of general jurisdiction can strengthen respect for rights and the rule of law and should be cognizant of human rights norms. For their part, offices of the attorney general and prosecution lead investigation and prosecution of alleged rights violations and crimes. In some justice systems, special prosecutors are assigned to focus on atrocity crimes, violence against women and children, and other specific types of human rights violations under international law. Public defenders, along with NGOs that provide legal assistance, the private defense bar, and paralegals, are also essential to ensuring access to justice and petitioning courts to remedy human rights violations. Law enforcement actors are mandated with upholding the law, but in contexts with weak accountability mechanisms or restrictive laws, they may often be the primary perpetrators of human rights violations.



The World Justice Project's Rule of Law Index (<http://worldjusticeproject.org/rule-of-law-index>) provides data on how the rule of law is experienced in most countries around the world, and looks at relevant factors to the human rights landscape including Fundamental Rights, Civil Justice and Criminal Justice.

Role of Line Ministries or Other State Service Providers

While the justice sector is mandated with protecting the rights of citizens, in many instances, institutions such as ministries of health, education and economic growth have equally important roles in fulfilling human rights obligations, particularly economic, social and cultural rights. This may take entail creating the policies, infrastructure and resources for commitments such as universal primary education or ensuring the highest attainable standard of health. It also requires that ministries or other executive branch institutions ensure non-discriminatory access to services for all citizens.

⁸ For more information about relevant justice sector institutions and actors, essential elements of the rule of law, and guidance on justice issues, see USAID's *Guide to Rule of Law Country Analysis: The Rule of Law Strategic Framework*, January 2010.

STEP SIX: Identify Human Rights Defenders and other non-state actors focused on the issues of concern.



One of the most important steps to understanding the human rights landscape is to engage with individuals and organizations actively promoting and protecting human rights in that particular context. This is critical for both understanding what issues these individuals and organizations address and the opportunities and constraints they face.

The Role of Civil Society

Civil society is frequently at the forefront of efforts to protect and promote human rights. The active engagement of individuals, groups of individuals, NGOs and independent media is an essential element of holding the state and its institutions accountable for fulfilling the rights of all members of society. Civil society can also play a vital role in filling protection gaps and supplementing the state when it is unable or unwilling to address human rights violations and assist victims and at risk populations.

Who is a Human Rights Defender (HRD)?

People who, individually or in association with others, act to promote and strive for the protection and realization of human rights and fundamental freedoms. HRDs are defined by *what* they do, as opposed to particular affiliations, professions, or other identities.

For more information:

<http://www.ohchr.org/EN/Issues/SRH/HRDefenders/Pages/Defender.aspx>

Human Rights Defenders (HRDs) can be individuals who devote themselves to elevating a cause or issue through public advocacy, with or without any professional interest. Likewise, they can be NGOs that monitor and document human rights violations, seek to improve compliance with human rights obligations through strategic litigation, or provide training and promote human rights education. Others, such as victims' associations, provide support services to members, seek acknowledgement of rights violation, and advocate for some form of reparation for those who have suffered harm. Human rights defenders and non-governmental organization sometimes combine forces and act collectively through national and regional human rights networks.⁹

Individuals and organizations that promote the interests and seek the empowerment of women, religious, ethnic, or gender and sexual minorities, and social groups can also be considered as part of the human rights landscape where their activities employ human rights discourse and international human rights instruments. In this regard, certain investigative journalists, “social communicators” and bloggers, labor activists and associations comprise the human rights landscape along with academics and clinicians and public interest lawyers. Increasingly, businesses are contributing to human rights through corporate social responsibility and related activities.

⁹ See, for example, the AWID Women Human Rights Defender Network and the Mesoamerican Initiative for Women Human Rights Defender Network.

Conceptualizing human rights broadly is likely to reveal a broad spectrum of individuals and organizations working to protect and promote human rights. When attempting to understand the most salient human rights issues and actors in a given context, it may be most effective to identify those individuals and organizations that orient their work around core human rights issues that the country strategy is seeking to address and those actors who use the language, norms, tools, and mechanisms of the human rights community of practice.

Security Issues faced by HRDs

States have an obligation to provide a safe and enabling environment that respects their freedoms of association, assembly, and expression as well as rights to life, liberty, security and others. However, in many countries, particularly in those dealing with the current effects or legacies of violence, conflict, and non-democratic rule, human rights defenders and organizations suffer obstacles. As reviewed under Step Three, laws and administrative practice can be used to impede their activities, close operating space, and impose civil and criminal sanctions on those that run afoul of the authorities. Moreover, human rights defenders and their families can be at heightened risk of surveillance, intimidation, destruction of property, physical abuse and torture, disappearance and extrajudicial killings by state and non-state actors. Investigative journalists who report on human rights issues, labor activists, and other advocates can experience similar threats.

Protection Approaches: There are various models for protecting individuals and communities at risk:

National Protection Systems – Government-supported institutions, such as the *Federal Protection Mechanism for Journalists and Human Rights Defenders* supported by USAID/Mexico, provide physical security and monitoring of activists targeted by non-state actors such as criminal gangs.

Self-Protection Mechanisms – These types of protection systems, such as those supported by USAID/Colombia, tend to entail community leaders or other HRDs identifying security risks and needs and then promptly and securely sharing that information with the appropriate security providers (e.g. police or international peacekeepers).


Improved Security Protocols for HRDs – In contexts where HRDs are directly targeted, including by the state, helping HRDs adopt best practices for assessing and managing risk related to their physical movements, digital communications, etc. may be most appropriate.


ANNEX - Illustrative programming options





As stated in the overview, this purpose of this tool is to surface key issues, rather than to produce rich insight or guidance on specific issues. As time and resources allow, a more targeted assessment of a particular component of the human rights landscape may be advisable as program design work moves forward. For more guidance or assistance in that effort, please contact the Human Rights Division. The division roster of current staff and expertise can be found at <https://pages.usaid.gov/DCHA/DRG/human-rights-division>.







In terms of potential program development and design, the following table highlights illustrate entry points in a conceptual framework based on USAID’s three-pillared approach to human rights protection: environment building, response and remedy.






- **Environment Building** refers to strengthening complementary state and non-state components of national human rights protection systems, understood as the “sum of laws, policies and institutions that protect human rights” or a system’s “overall human rights infrastructure.
- **Response** refers to those specific short- or medium-term assistance actions that can be taken to help mitigate the immediate impact of those violations, regardless of our ability to end them or “set them right.”
- **Remedy** includes those judicial and non-judicial measures that can be taken to provide redress to individual victims of human rights abuses, combat impunity and seek accountability of perpetrators, support transitional justice in instances of widespread rights violations, and potentially deter future violations.

<i>Type of Activity</i>	<i>Related Step</i>	<i>Issue</i>	<i>Illustrative Activities</i>
Environment Building		If normative frameworks are lacking or need strengthening	<ul style="list-style-type: none"> • Support drafting and implementation of laws, policies, strategies, safeguards and national action plans that focus on both positive and negative obligations, strengthen and prevent the regression of international norms and standards, and guarantee the fundamental rights and freedoms of all members of society, in accordance with international and regional standards. New laws may be both protective and enabling, such as legislation that facilitates the conduct of peaceful protests or taxation legislation that confers benefits and concessions to human rights organizations. • Support participatory processes for developing normative frameworks by increasing participation, inclusion, transparency and accountability related to those efforts.

<p>Environment Building</p>		<p>If HRDs or other non-state actors are ineffective, weak or putting themselves or others at risk</p>	<ul style="list-style-type: none"> • Build the capacity of key individuals and organizations, including human rights defenders (either individuals, members of organizations and/or advocacy coalitions), independent media (including citizen journalists and nonprofit investigative journalists), among others that contribute to national human rights protection systems. This may include: <ul style="list-style-type: none"> ○ develop and improve capabilities for assisting victims (e.g. legal aid services or victims’ assistance referrals), ○ increasing the accountability of state and private sector actors by monitoring the implementation of new laws and policies (and identify implementation challenges), ○ support effective reporting and documentation approaches, including use of new and secure technologies, ○ develop safeguards for HRDs (e.g. national protection mechanisms), ○ monitor the performance and effectiveness of other human rights institutions (e.g. NHRIs) ○ support HRD participation in formal reporting processes (e.g. through Universal Periodic Review(s) and other human rights treaty reporting mechanisms), ○ empower vulnerable and historically disenfranchised groups ○ support for planning and implementing strategically effective, issues-based advocacy campaigns or monitoring efforts; an emphasis on partnership development, strategic convenings and dialogues; and exposure to data-driven advocacy approaches. • Support safer operations by HRDs by building the capacity of HRDs to plan for and respond to various contingencies – including imminent dangers – as effectively as possible. Support may expose HRDs to a variety of relevant tools, including those that help institute systems and protocols for more safely handling and transmitting sensitive data, including the use of technology and specific tools (e.g. Benetech’s Martus) to protect both those collecting information and the subjects of information being collected. • Support early warning, monitoring and reporting of human rights through the mobilization of civil society organizations and community-based networks working across a broad range of issues (e.g. women’s civil society organizations or LGBTI groups, in addition to conflict resolution structures), to monitor, report, assess and
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Environment Building		If there is a lack of public awareness around human rights	<ul style="list-style-type: none"> • Support Human Rights education using a broad range of approaches from social media or public art campaigns to formal curriculum reform), empowering marginalized groups to know more about their rights, training of public authorities (including uniformed security sector personnel), efforts to highlight the positive role that HRDs play in governance and development, support for specialized media reporting, and citizen perception surveys to better inform activity design. The dissemination and socialization of international instruments, such as conventions and guiding principles, in addition to legal literacy and “know your rights” campaigns using national law may also be effective approaches under this result.
Environment Building		If NHRIs are weak, but accredited as being “fully compliant” with Paris Principles	<ul style="list-style-type: none"> • Provide capacity building support which may include management audits of the institution, exchanges with other effective NHRIs, support for developing and implementing human rights training (e.g. on countering discrimination) or other programs for other government institutions, improved approaches and tools for monitoring, documentation, and investigation, for example.
Environment Building		If state institutions need support	<ul style="list-style-type: none"> • Support formal institutions including justice sector actors (e.g. courts, judges, prosecutors and victims’ services) as well as other formal government entities with human rights functions (e.g. parliamentary human rights commissions or executive bodies) to strengthen their roles as they relate to human rights protection and promotion. Support may also be provided to law enforcement actors, such as sensitization to human rights and support for oversight and accountability mechanisms.
Response		If specific populations are at imminent risk	<ul style="list-style-type: none"> • Support improved protection for at-risk groups such as political opposition or ethnic, religious, and other types of minorities—including those based on sexual orientation or gender expression—through local human rights monitoring efforts, and/or deploying human rights monitors, developing local protection strategies, improving secure access to information communication technologies for those at-risk, and other interventions to directly improve the physical security of those populations.

Response		If HRDs are at imminent risk	<ul style="list-style-type: none"> • Provide protection support to HRDs through the provision of material, financial, psychosocial, moral and legal support, among other forms, to protect individuals and groups who have been threatened due to their efforts to promote and protect the human rights of others. The establishment of secure coordination mechanisms may also improve protection assistance to HRDs by facilitating the sharing of information and resources. Protection support may focus on a broad range of security threats (i.e. emphasizing the integration of security factors including physical, cyber and psychosocial or emotional health components) faced by human rights defenders, including women and LGBTI human rights defenders, from state and non-state actors.
Response	 	If HRDs or NHRIs require assistance with monitoring or documenting ongoing violations or abuses	<ul style="list-style-type: none"> • Strengthen documentation efforts through the use of new and/or existing tools that can enable the safe and secure documentation of individual violations, protect the chain of custody and contribute to the preservation of evidence that may eventually help formal or informal accountability efforts. Documentation and reporting activities may also include forensic investigation (e.g. exhumation of mass graves) and related interventions. Support may also link documentation efforts to follow-on activities, such as reporting to national authorities, whenever applicable, or facilitating cooperation with international organizations. Documenting activities should assess and mitigate the risks that victims may be too traumatized to recognize (e.g. the potential repercussions that may result from their reporting or the possibility of re-traumatization) and put in place witness safety and protection mechanisms for victims who agree to participate, where possible.
Response		If HRDs or other civil society groups need assistance raising awareness of ongoing violations	<ul style="list-style-type: none"> • Support advocacy activities that give victims a voice, create pressure for political response, and ensure that specific human rights issues, including individual cases, are given attention and visibility by international actors, civil society and media are likely to be more effective. Support for advocacy activities should stress the need for identifying the strategic goals of the campaign, appropriate targets for advocacy, as well as specific barriers and opportunities to be focused on.
Remedy	 	If victims of human rights abuses lack legal, medical, and other rehabilitative support	<ul style="list-style-type: none"> • Increase victims' access to assistance and services by helping victims and survivors, including their families, access affordable and effective legal assistance, information counseling, mental health and psychosocial support (MHPSS) and rehabilitative services, along with effective access to other public goods and services. Special attention may be given to survivors of torture, sexual violence, and similar violations of physical security. Assistance may support formal services provided by courts and other state institution or those provided by NGOs as well as informal networks of victims groups and actors.

Remedy		If victims need assistance overcoming institutional or structural barriers to seeking justice	<ul style="list-style-type: none"> • Focus on access to justice through a broad range of activities related to helping victims engage with domestic accountability systems (e.g. providing pro-bono legal defense services and referrals, supporting formal structures like mobile courts or informal structures such as paralegal networks).
Remedy		If there is a lack of accountability for perpetrators of past crimes	<ul style="list-style-type: none"> • Provide support for accountability through formal processes (e.g. judicial processes to hold individuals to account for human rights violations) as well as informal processes (e.g. customary dispute resolution mechanisms) to promote accountability for perpetrators. These activities should integrate international human rights standards for survivors, witnesses and perpetrators. Particular focus will be on mechanisms that integrate a “survivor-centered” approach to accountability, including providing safety and psychosocial support for witnesses.
Remedy		If activists believe that laws need to be challenged in court	<ul style="list-style-type: none"> • Support strategic litigation and emblematic cases by building the capacity of HRDs to undertake human rights litigation that contributes to the public interest and promotes social change in addition to addressing the violation of individual rights in matters of discrimination, freedom of information and expression, cases of torture and inhumane treatment in detention, and other rights violations. This may include bringing cases to regional tribunals and United Nations treaty bodies as well as domestic courts.
Remedy		If victims lack compensation or restitution for past violations	<ul style="list-style-type: none"> • Support initiatives to redress the material, physical, psychosocial and moral damages of past human rights. This may include a mix of material and symbolic benefits to individuals and groups of victims, including assisting survivors or their advocates to seek compensation, restitution, rehabilitation, and guarantees of non-repetition from the appropriate local, state or international entities.
Remedy		If there is lack of historic recognition for past violations	<ul style="list-style-type: none"> • Support greater public acknowledgement and historic memory of past violations through the facilitation of truth-seeking measures (e.g. truth and reconciliation processes) that fulfill the rights of survivors to obtain the truth and provide a venue for victims, witnesses, and others to share their experiences of past violence and rights abuse, make recommendations to remedy violations, and to examine root causes and patterns of violence. This could also include support for the establishment of dialogues, public memorials, and days of remembrance to preserve the memory of victims, raise awareness of past violations, and help prevent recurrence.

