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# THE DEFENSE OF HUMAN RIGHTS DEFENDERS



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## A CASE STUDY OF THE ATTACKS AND PROTECTIONS OF HUMAN RIGHTS DEFENDERS IN POST-EUROMAIDAN UKRAINE

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Front page: 11-year-old participant of the Euromaidan Revolution, Roman Savelyev, walking on Maidan Nezalezhnosti in February 2014. Photo by Courtesy

## ABSTRACT

The efforts of human rights defenders play a crucial part in advancing human rights around the world. For these efforts, many defenders are at risk. In light of many attacks in recent years, it is clear that defenders are not as safe as they need to be. This case study takes a closer look at the defenders in current day Ukraine, a hotspot for attacks in Europe, to critically assess their situation. We explore perceptions of attacks in terms of actors, threats, protections, and recommendations through high-level interviews with experts and leading Ukrainian human rights defenders. Key findings show that systematic problems facilitate attacks against human rights defenders and that protections against such attacks need to be remedial and structural, cutting off the attacks at the source. To increase protection for human rights defenders in Ukraine, the executive power, legislature, judiciary, and information sector needs reform. The international community, the Ukrainian civil society, and the media are instrumental influences in that process.

***Key terms:*** human rights defenders, protections, security, attacks

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## ACRONYMS

CCL – Center for Civil Liberties

COE – Council of Europe

CSO – Civil Society Organisation

ECHR – European Convention on Human Rights

EEAS – European External Action Service

EU – European Union

HRBA – Human Rights-Based Approach

HRD – Human Rights Defender

HRO – Human Rights Organizations

ICC – International Criminal Court

IDP – Internally Displaced Person

IHL – International Humanitarian Law

IHR – International Human Rights

IHRD – International Human Rights Defender

IHRL – International Human Rights Law

NBA – National Baseline Assessment

NGO – Non-Governmental Organisation

OCHA – United Nations Office for the Coordination of Humanitarian Affairs

ODIHR/OSCE – Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe

OHCHR – United Nations Office of the High Commissioner of Human Rights

OSCE – Organization for Security and Co-operation in Europe

UHHRU – Ukrainian Helsinki Human Rights Union

UN – United Nations

WHRDs – Women Human Rights Defenders

## 1. INTRODUCTION

Human rights defenders (hereafter referred to as HRD/-s) do ground-breaking work in advancing civil society. As critical agents of change on the frontlines of human rights, HRDs are not exempt from political violence but increasingly its target (Council of the EU (Foreign Affairs), 2008).

The harassment, physical violence, arbitrary detention, criminalization, and killings HRDs face today are perpetrated by many actors. Attacks are regularly carried out in the name of development by the private sector when ventures are protested (Coalition for Human Rights in Development, 2019, p. 9). In displays of gross police brutality against pro-democracy protesters, as in Ukraine 2014 and Belarus 2020, the attacks were perpetrated by totalitarian regimes. In some events, HRDs are attacked by terrorist organizations or extremists fighting "western ideologies."

The "*Declaration on Human Rights Defenders*" adopted by the General Assembly of the United Nations in 1998 (UN General Assembly, 1999) shows a consensus among nations that there is a need to and value in protecting HRDs and the civil society space. While public awareness about the difficulties HRDs face has risen, the research of remedies against such difficulties remains in its infancy. There is an urgent need to understand further the effectiveness of protection mechanisms for HRDs (Nah et al., 2013). This work aims to contribute to the theoretical, empirical, and practical advancement of this field.

As protection interventions need to tailoring to fit the specific needs of individuals, groups, and communities, case studies are appropriate (Bennett et al., 2015). We zoom in on Ukraine, a nation that is struggling to ensure democracy in the aftermath of one of 21<sup>st</sup> century Europe's deadliest cases of state violence, the Yanukovich regime against the revolution of dignity, Euromaidan. A nation at war with Russia (Jonavicius, 2009).

Theoretical contributions to existing research on the human rights regime are made by applying critical analysis and Donnelly and Howard-Hassmann (1988) rights framework to HRDs protection in a semi-corrupt nation with regional conflicts and occupied territory (Jonavicius, 2009). Empirical contributions are made by providing answers from leading HRDs in Ukraine on the matter and concluding recommendations based on that material contribute to the practical advancement of the field.



## 2. AIM AND RESEARCH QUESTION

Only when we fully comprehend the severity of attacks on HRDs can we muster the political will needed to realize protective actions, and only when we recognize the nature and causes of attacks can we know what those protective actions need to be. This work aims to contribute to that comprehension. By hearing directly from potential victims through interviews with leading Ukrainian HRDs, this thesis investigates what threats Ukrainian HRDs face, what fundamental protections against the threats HRDs are aware of, and what ways to secure HRDs in the future the HRDs recommend.

### **Research Question**

To accomplish the aim, this thesis seeks to answer:

How are (and can) HRDs (be) protected in post-Euromaidan Ukraine and elsewhere according to HRDs in Ukraine?

To help answer this bigger research question, the following **sub-questions** are posed:

1. What are the major threats to HRDs, according to HRDs in Ukraine?
2. Which rights need to be secured to protect HRDs against attacks?
3. What are existing protections for HRDs, and what opinions and recommendations regarding protections do HRDs in Ukraine have?

### 3. BACKGROUND: THE SAFETY OF HRDs IN UKRAINE

A distinctive feature of the Post-Stalin Soviet rule is the institutionalization of repression through law (Donnelly & Howard-Hassmann, 1988, p. 232). Ukraine used to belong to the USSR, and the relatively young nation carries several traces from its Soviet past. Furthermore, the current persecution of HRDs and civil society activists illustrates the all-Ukrainian problem of weak law enforcement, lack of independent justice, and impunity for high-ranking officials. Despite the overthrowing of the authoritarian Yanukovich regime, attacks on activists continue, while law enforcement bodies continue to procrastinate with investigations, and courts pass controversial sentences. Due to impunity, attacks on activists in Ukraine are still taking place (Open Dialogue Foundation the Center for Civil Liberties the Italian Federation for Human Rights, 2019).

#### **3.1 Euromaidan-Revolution of Dignity**

In 2013 Ukraine failed to sign the long-promised Association Agreement with the EU. The Yanukovich government move to, after talks with Russia, back out of the EU deal at the last moment sparked protests all around the nation demanding an end to corruption, respect for human rights, and a change of the political regime. The largest demonstrations were held in the center of Kyiv, organized initially by students. On the 30<sup>th</sup> of November of 2013, the government sent its troops to disperse the protests. Protesters clashed with the Ukrainian special forces Berkut resulting in hundreds of injured; at least 43 were journalists (Zelinska, 2017). The violence against unarmed students and journalists upset many, and protests grew by large numbers. At one moment, as many as 800 000 participants gathered in the epicenter, the Independence Square named Maidan in the middle of Kyiv city. In regions and the capital, everyday citizens protested for justice, democracy, and a pro-European foreign policy. The social movement Euromaidan was born. In the end, Euromaidan, later called the Revolution of Dignity, resulted in unprecedented state violence with at least 105 protesters killed and no less than 1155 injured (Interfax-Ukraine, 2014), the ousting of Yanukovich, and an Anti-Maidan countermovement. Reacting to Kyiv events, Russia annexed Ukrainian Crimea in 2014, and the Ukrainian-Russian conflict in Donetsk and Luhansk in eastern Ukraine intensified (Zelinska, 2017). Today Ukraine is not a member of the EU; however, today, the Ukrainian government lead by Zelensky has a pro-European foreign policy and Association Agreement with the EU (Zachmann et al., 2020, p. 9).

### 3.2 Occupied Territories

Protection of HRDs is different regarding the occupied territories and Russian legislatures as opposed to as against the Ukrainian Parliament. The Autonomous Republic of Crimea and the city of Sevastopol have seen a significant deterioration of human rights after the occupation by the Russian Federation in February-March 2014, evidenced by numerous reports of international agencies and human rights organizations (UHHRU, 2019).

**Fig. 2 Map of Occupied Territories**



In Russian-controlled-Crimea, the Russian secret service persecuted those involved in the Euromaidan protests. The names of Crimeans that took part in Euromaidan circulated in all police stations. One of the names on the list was Alexandr Kostenko, whose trial turned to an indictment on Euromaidan in general. During the arrest, Kostenko claims Russian police broke his arm and then tortured him until he gave an incriminating statement (later retracted). The judge of Kostenko's case was an open supporter of the Anti-Maidan movement on social media. (Gukovsky, 2017).

Civic Solidarity Platform (2018) demonstrates that Russia has used "anti-extremism and anti-terrorism" legislation to persecute people for their peaceful public, legal, and human rights activities. Estimates show, there are currently at least 77 political prisoners in Russia and 398 persons persecuted without imprisonment (The Human Rights Center "Memorial", n.d.). Ukrainian citizens feature heavily on these lists (Gukovsky, 2017).

When conditions for HRD are grave, the role of the bar [*"advokatura" in Ukrainian*] as a tool for the protection of human rights and freedoms becomes increasingly important (UHHRU, 2019). In the first month after the forcible annexation, Russia, in violation of international humanitarian law, extended its legislation to the occupied territory, replacing Ukrainian legislation, including the laws that regulate the lawyers' practice. As of 2015, no Ukrainian courts or prosecution offices operate in "Donetsk People's Republic" (DPR)- and "Luhansk People's Republic" (LPR)-controlled areas or in Crimea (OSCE, 2015). This judicial usurping is particularly problematic as research has proved that the structure of Bar institutions in Ukraine gives lawyers more rights to carry out their work than in Russia (Savchuk & Zhabankov, 2019). Furthermore, the research shows that Russia's Bar and Bar management system has a design that allows for control of lawyers' advocacy activities (Savchuk & Zhabankov, 2019). Many HRDs had to or chose to leave the occupied areas. Independent lawyers and human rights lawyers who stayed in occupied Crimea face continuous harassment in the form of threats, arbitrary arrests, raids, and disbaring in direct violation of international law. The more politically motivated cases the lawyer is involved in, the more pressure he or she experiences from the occupying authorities. Lawyers who defend Crimean Tatars are under significant pressure showcasing a clear violation of the right to freedom from discrimination and the lawyer's right not to be identified with one's client (Ukrainian Helsinki Human Rights Union & Human Rights Information Center, 2018).

### 3.3 Supranational Protections for HRDs

In cases when nations are incapable of protecting HRDs due to having occupied territory or when the national legal protection systems are deemed inadequate in general, supranational protection systems may be used. This table of supranational protection systems showcases practical Universal and European protection systems dedicated explicitly to the protection of HRDs. The following mechanisms and institutional structures are meant to be available to Ukrainian HRDs that need complimentary protections. When reading the results portion on which protections are mentioned and known by the HRDs, it may be helpful to keep this table in mind.

**Table 1. Supranational Protection Systems**

	Protection Mechanisms	Institutional Structures
Universal	<ul style="list-style-type: none"> <li>• On-site visits to countries</li> <li>• Periodic reports to the UN</li> <li>• Presentation of complaints on the question of HRDs to the Rapporteur</li> <li>• Individual complaints</li> </ul>	<ul style="list-style-type: none"> <li>• United Nations High Commissioner for Human Rights</li> <li>• Special Rapporteur for HRDs</li> </ul>
Europe	<ul style="list-style-type: none"> <li>• On-site visits to countries</li> <li>• Reports to bodies</li> </ul>	<ul style="list-style-type: none"> <li>• Council of Europe and its Commissioner for Human Rights</li> <li>• European Commissioner on Human Rights: Defenders</li> <li>• Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE/ODIHR)</li> <li>• OSCE: Focal Point for defenders and national human rights institutions</li> </ul>

(Quintana & Fernández, 2012, pp. 138-140)

## 4. PREVIOUS RESEARCH

This chapter is dedicated to a literary review of previous research about HRD attacks and relevant protections or lack thereof.

Considerable strides have been made internationally to protect HRDs. The *Declaration for Human Rights Defenders (UN General Assembly, 1999)*, which took 15 years to draft and was finally adopted in 1998, is one valuable keystone. As the most universally recognized document on the topic, the declaration serves both as the point of arrival for the work accomplished thus far and the point of departure for work to come.

Since the adoption of the *Declaration of Human Rights Defenders*, a multi-faceted international protection regime has emerged for the rights of HRDs, building on the international human rights (IHR) regime. In 2004 the European Union released the *EU Guidelines on Human Rights Defenders (EU, 2004)*. The *Resolution on the Protection of Women Human Rights Defenders (UN General Assembly, 2014)* was passed by the UN General Assembly in 2013, recognizing the need for gender mainstreaming. It is considered a landmark resolution and is the first of its kind (ISHR, 2013). Through extensive consultations with HRDs across the OSCE geographic regions, the *2014 OSCE Guidelines on the Protection of Human Rights Defenders* were developed (OSCE, 2014). Apart from the IHR regime centered on the state as the main subject, the international human rights defender (IHRD) regime adopts a holistic human security paradigm, with individuals, groups, and communities as security subjects rather than states (Bennett, 884).

Previous research argues that while meaningful, the declarations, resolutions, guidelines and, international legal frameworks are tools for protection, not protection in themselves. Actors need to put the international legal frameworks to use for them to be effective, for example, by reference in mediations or as guidelines for national legislation (Haider, 2013). Haider's reasoning raises the question of who should be responsible for upholding and implementing the protection and human rights proclaimed in the documents. This thesis explores the many academic debates on the topic in the theory chapter (see p.20, section 5.4).

Since the HRD protection regime got its start merely 20 years ago, it can be considered new to the international system, and research on the protection regime is scarce. While there has been meaningful progress, there is a pressing need to develop theory and practice related to HRDs' risk', 'security,' and 'protection' (Bennett et al., 2015). Many issues remain, such as the definition and use of the term 'human rights defender,' the effectiveness of protection mechanisms, and the complex relationship between repression, activism, and risk (Ibid). This work essentially encompasses each of the issues and retains its core analysis of the effectiveness of protection mechanisms.

Donders (2016) suggests one answer to more effective protection mechanisms is to act to implement protections for HRDs as a group rather than individual cases. Donders suggestion cues the defining issue of who is a HRD (see p.19, section 5.3).

In Ukraine, a study on the protection of human rights expressed concerns that the majority of the Ukrainian society suffered from low levels of legal culture and legal consciousness, a lacking rule of law, inequality in branches of state and local governments, imperfection of local self-government and territorial communities, high-levels of corruption and low levels of political will (Yelnykova, 2015). If true, these factors would probably influence protections of and attacks against HRDs.

*A National Baseline Assessment on Business and Human Rights* was developed in 2019 by the Yaroslav Mudryi National Law University in cooperation with the Ministry of Justice of Ukraine based on methodological and financial support from the Danish Institute of Human Rights and expert support from the civil society organizations. The assessment (Uvarova, 2019) declares that the Ukrainian criminal code only includes one article with special legal protection for HRDs and whistle-blowers. The law on "Prevention of corruption." Furthermore, the assessment points to limited protections for HRDs by stating that:

*Human rights activists that work in the field of exposing human rights violations committed by business do not have any special guarantees ensuring their security [...] There is no training for law enforcement officials regarding human rights risks for human rights defenders and whistle-blowers and ways to minimize these risks - (Uvarova, 2019, p. 12).*

## 5. THEORETICAL FRAMEWORK

This chapter explains how human rights theories and concepts can be used to interpret, understand, and explain the collected data. It deals with critical theory as the base perspective of the thesis and Donnelly and Howard-Hassmann's four rights categories as the theoretical framework for assessing which human rights need to be secured to protect HRDs against attacks. The theoretical chapter concludes with a description of current definitions of the term HRD and theoretical debates regarding who should protect HRDs.

### 5.1 Critical Theory

Critical theory informs the theoretical approach and is used as a lens through which this work is motivated. Critical theory revolves around theorizing the good life and raising the standards of humankind by examining the relationship between real theory and real practice. In agreement with the Frankfurt School (Lynteris, 2018), this work finds that searching for ways to improve the human condition is a valuable endeavor. Human sciences must prioritize the conditions, meanings, and possibilities of human emancipation (Shapcott, 2009, p. 328). Operating from the base assumption that the world is not fixed but can be improved, critical theory demands a normative purpose at the center of its inquiry (Ibid).

The normative purpose of this thesis is to improve conditions that limit harm to HRDs without severely limiting the space HRDs hold. The critical examination of power structures such as the lacking defender protection regime, globally and in Ukraine, presumes that by limiting dangers to HRDs, we can realize higher levels of human society and consequently emancipate civil society activists from fear and attacks.

### 5.2 Donnelly and Howard-Hassmann's Four Rights Categories

Internal and external reviews of human rights practices are demanded for rights to be substantiated. Taking on such reviews is often an arduous endeavor due to the vast number of rights articles and documents. To simplify the process, Donnelly and Howard-Hassmann (1988) created a framework for assessing national compliance with human rights. The framework categorizes the many human rights established in international key documents into four main groups of rights. These main groups are, "survival rights", "protection rights", "membership rights" and "empowerment rights".



**Table 2. The Four Rights Categories**

Survival Rights	Membership Rights	Protection Rights	Empowerment Rights
Which guarantee individual existence: rights to life, food, and health care	Which assure one an equal place in society: family rights and the prohibition of discrimination	Which guard the individual against abuses of power by the state: rights to habeas corpus and an independent judiciary.	Which provides the individual with control over the course of his or her life, and in particular, control over (not merely protection against) the state: rights to education, a free press, and freedom of association.

(Donnelly & Howard-Hassmann, 1988, p. 214)

When examining data, the framework can either be used as a guide of what to look for or as a tool to identify which kind of rights are lacking. This thesis uses the latter strategy. Each group of rights has different characteristics and indicators. To show an example of what a category can include, see the protection rights table below that shows what specific rights and articles "protection rights" are proxy for. As suggested by the table, protection rights focus mainly on legal and judicial rights to establish the rule of law and providing judicial review of government actions. Indicators for "protection rights" are the right to *habeas corpus* and an independent judiciary (Donnelly & Howard-Hassmann, 1988).

**Table 3. Protection Rights**

Right to	Proxy for
HABEAS CORPUS (D9, C9)	Torture (D5, C7) Arbitrary Arrest (D9, C9) Ex Post Facto Laws (D11, C15) Presumption of Innocence (D11, C14) Rights of Detainees (C10) Political Participation (D21, C25)
INDEPENDENT JUDICIARY (D10, C14)	Torture (D5, C7) Legal Remedy (D8, C2) Access to Courts (D10, C14) Political Participation (D21, C25)

Note: The source of each right in the International Bill of Human Rights is indicated in parentheses, by article number and document (D = Universal Declaration of Human Rights; E = International Covenant on Economic, Social and Cultural Rights; C = International Covenant on Civil and Political Rights)(Donnelly & Howard-Hassmann, 1988, p. 217).

This thesis has summarized all (Donnelly & Howard-Hassmann, 1988) rights groups tables in the table below to create clarity and overview. The list does not indicate a hierarchy of rights. The eleven rights on top are not considered of higher moral value than the ones below. The table instead implies that the rights above can stand as representation for those below. As the rights below may have several proxies, they may repeat. (Donnelly & Howard-Hassmann, 1988, p. 215).

**Table 4. The Four Rights Categories – Expanded**

	Survival Rights	Empowerment Rights	Protection Rights	Membership Rights
Right to	LIFE (D3, C6) FOOD (D25, E11) HEALTH CARE (D25, E12)	EDUCATION (D26, E13, E14) FREE PRESS (D19, C19) FREEDOM OF ASSOCIATION (D20, C22)	INDEPENDENT JUDICIARY (D10, C14)  HABEAS CORPUS (D9, C9)	FAMILY (D12, D16, E10, C17, C18, C23)  NONDISCRIMINATION (D1, D2, E2, E3, C2, C3) EQUAL PROTECTION (D7, C14, C26)
Proxy for	Torture (D5, C7) Property (D17) Social Security (D22, E9) Mothers and Children (D25)	Culture (D27, E15) Minority Culture (C27) Thought, Conscience, Religion (D18, C18) Freedom of Opinion (D19, C19) Political Participation (D21, C25)  Thought, Conscience, Religion (D18, C18) Freedom of Opinion (D19, C19) Political Participation (D21, C25)  Free Trade Unions (D23, E8, C22) Social Security (D22, E9) Work (D23, D24, E6, E7) Assembly (D20, C21) Thought, Conscience, Religion (D18, C18) Freedom of Opinion (D19, C19) Political Participation (D21, C25)	Torture (D5, C7) Arbitrary Arrest (D9, C9) Ex Post Facto Laws (D11, C15) Presumption of Innocence (D11, C14) Rights of Detainees (C10) Political Participation (D21, C25)  Torture (D5, C7) Legal Remedy (D8, C2) Access to Courts (D10, C14) Political Participation (D21, C25)	Social Security (D22, E9) Culture (D27, E15) Religion (D18, C18) Minority Culture (C27) Rights of the Child (C24) Freedom of Movement (D13, C12) Education (D26, E13, E14)  Slavery (D4, C8) Legal Recognition (D6, C16) Nationality (D15) Religion (D18, C18) Minority Culture (C27) Rights of the Child (C24) Rights of Aliens (C1 3) Debtors Prison (C1 1) Political Participation (D21, C25)

Note: The source of each right in the International Bill of Human Rights is indicated in parentheses, by article number and document (D = Universal Declaration of Human Rights; E = International Covenant on Economic, Social and Cultural Rights; C = International Covenant on Civil and Political Rights)

The framework is intended to be used for national assessment; however, in this thesis, its use is expanded beyond the national realm to fit assessment in which a multitude of actors can be seen as duty-bearers (see p.20, section 5.4).

### 5.3 Who is a Human Rights Defender (HRD)?

Before the adoption of the *Declaration for Human Rights Defenders*, terms such as human rights "worker", "monitor", "activist" or "professional" were most commonly used. Today HRD is regarded as the most relevant and helpful term (OHCHR, n.d.).

The declaration refers to HRDs as:

*individuals, groups, and associations ... contributing to ... the effective elimination of all violations of human rights and fundamental freedoms of peoples and individuals - (UN General Assembly, 1999, §4).*

The Office of the UN High Commissioner for Human Rights (OHCHR, n.d.) use the term HRD to describe

*People who, individually or with others, act to promote or protect human rights. Human rights defenders are identified above all by what they do, and it is through a description of their actions and of some of the contexts in which they work that the term can best be explained. - (OHCHR, n.d.)*

The judgment of who is a HRD is critical in implementing protection of HRDs and, therefore, not simply a matter of semantics. The definitions above are vague and allow for broad interpretation, including virtually anyone/ any group working within any field of human rights for the short or long term. Fact Sheet 29 was released to clarify the definition further.

According to Fact Sheet 29, the minimum requirement for someone to be a HRD is to accept all universal rights (OHCHR, 2004). For example, that means that a men's rights activist against the rights of other gender identifications is not considered a HRD. Another minimum requirement for someone to be a HRD is to subscribe to a non-violence policy, meaning that activists who promote their causes using violent means are not HRDs (ibid). The two requirements connect as promoting rights using violent means would go against certain rights such as the right to life. It is virtually impossible to prove whether an individual subscribes to the universality of all rights or believes in the non-violence policy. Therefore, as the OHCHR advice above states, it is helpful to instead of beliefs consider if individuals' actions match the requirements when determining who is a HRD.

Even if an individual fulfills all conditions to qualify as a HRD, they may choose not to identify with the term. There are contexts in which the label HRD carries significant risk. The term may be dangerous and effectively put a target on the persons defined by it depending on the context the persons are in (Bennett et al., 2015, p. 888).

According to the European Guidelines on HRDs, activities of HRDs may include documenting violations, seeking remedies for victims of violations, and combatting cultures of impunity (EU, 2004, Art. 3 §4). This thesis recognizes four categories of HRDs. 1) those individuals that are active in one case connected to defending human rights, and once the case is solved, they stop. 2) those individuals that take on one case of defending human right, and once the case is solved, continue with human right defending work, 3) those individuals that systematically defend human rights continuously, for example, in human rights organizations or state institutions and finally 4) those individuals who join campaigns that defend human rights for example as volunteers on a case-to-case basis.

#### **5.4 Who should protect HRDs?**

The current IHRL system is vertical, i.e., set up according to state sovereignty and the principle of subsidiarity which asserts that the state is the primarily responsible power for upholding and protecting against violations of human rights. Critiques of this state-centered human rights approach point out that it increases the potential of impunity for authorities that commit attacks on HRDs since the power to protect against attacks primarily lies in the hands of the leaders themselves (Nah et al., 2013, p. 402). This predicament makes relevant the need to evaluate the state's compliance to international legal frameworks. However, even if violations by the state are apparent, the current IHRL is severely limited in its ability to be employed by international or civil actors and interfere with states' internal affairs (Jarczewska, 2012).

Some researchers point out that while IHRL is largely state-centered, key human rights documents contain elements of universality that challenge state sovereignty (Jarczewska, 2012). The Universal Declaration of Human Rights is recognized by virtually all states and asserts the "the inherent dignity and of the equal and inalienable rights of all members of the human family" (UN General Assembly, 1948, Preamble). Literature is founded on the natural school of human rights, i.e., the moral that all requests are inherent and absolute (Dembour, 2010).

It is often used to emphasize that states are insufficient at granting rights and that nationality should not be the determining factor if individuals are granted rights or not (Ibid). Existing problems in achieving peace, global justice, and the environment have been argued to be evidence that more universal governance is necessary, as other alternatives are not, or have not been, adequate (Tännsjö, 2008, p. 5). The universal aim of establishing human rights can also be seen in the deliberative school that argues that human rights only exist when agreed upon (Dembour, 2010, p. 3). This narrative can be seen in the often-repeated phrase "global problems need global solutions" (Chirico, 2018; UN News Centre, 2017).

However, an international approach to securing HRD also present challenges. Previous research problematizes attempts of non-state actors to protect HRDs as such attempts conceal the fact that the nation-state is the proclaimed duty bearer. Non-state actors' involvement might undermine states' sovereignty or be in the interest of the governing state and thus "support" warring or oppressive nations instead of challenging them (Donders, 2016). To by international means restore public services in Crimea, for example, would favor the occupying state, namely Russia, and play into the politics of the conflict. The discourse school that argues human rights are socially constructed (Dembour, 2010, p. 4) may perceive international defense of HRDs as western politics or post-colonialism. It may argue that the principle of neutrality is impossible to maintain in cases where it is imperative to advocate against the interest of one of the parties. Even basic actions such as building the capacity of local actors or providing human rights education can be perceived as political interference. However, human rights advocates know that one cannot deal with conflicts underlying causes without addressing human rights. Furthermore, developmental questions such as protecting human rights defenders' life and dignity are comprehensive only when dealing with urgent needs and structural reforms.

On who should be responsible for protecting HRDs, it suffices to say that there is yet to be a consensus which means that the exploration of protections needs to be open to include various actors as duty-bearers.

## 6. RESEARCH DESIGN, METHODS, AND ETHICS

### 6.1 Research Design

This work is a case study on how HRDs in Ukraine perceive HRD protections, especially in Ukraine. It is reasonable to limit this study to mainly one state as the human rights system holds the state as the main duty-bearer to uphold human rights. A methodological consideration to make regarding case studies is between the position that all cases are unique and that no generalizations can be made of them and the position that there are models, terms, and tools that can be applied to all similar cases without much consideration for local variations and that all cases are affected by universal factors (Wallensteen, 2016, p. 13). This paper is placed in the middle of these points of view. On the one hand, it regards the case as unique in its context, and at the same time, it assumes that the case contains common patterns and events worth investigating, i.e., an "exemplifying case" (Bryman, 2016, pp. 62.)

As attacks on HRDs as a group are most prominent in Latin America, one might make the point that researching closer to home to find insights on the conditions in Eastern Europe goes against the humanitarian principle of impartiality, which postulates that the most urgent case should be treated first (OCHA, 2012). The regional selection is motivated by the fact that research on attacks against HRDs and their protection in Eastern Europe is far less common than research of similar attacks and protections in South America. It is also motivated by the researcher's expertise and connections in Ukraine. Ukraine as a case study is also a move away from post-colonialism and concepts such as the "white man's burden" and "white savior complex." Furthermore, in Europe, Ukraine is relevant concerning attacks on HRDs. In 2018 three killings of HRDs were recognized in Europe; all took place in Ukraine (OHCHR, n.d.).

To conduct a study in Ukraine, we need to be sensitive to the regional issues of the nation. We include the different ways HRDs are protected regarding the occupied territories and Russian legislatures as opposed to the Ukrainian Parliament.

### **6.1.1 Delimitations**

It is important to remember that numbers do not necessarily reflect reality regarding HRDs. There is no widely understood definition of who is a HRD, which means that data will include irregularities due to researchers' differentiating views. "Shadow" numbers, i.e., unreported events, cause data to present smaller occurrences than true. It is also worth noting that official statistics and information exclude HRDs who commit suicide and suffer emotional trauma due to their work. The data nevertheless brings us some indication on the development and shows us what is communicated to the outside world.

This thesis does not cover analysis on the COVID-19 pandemic, which have and will likely influence conditions for HRDs in Ukraine in 2021 and beyond.

The data presented in this work is not to be taken as a conclusive view of HRDs in Ukraine as it is much too limited in the number of interviews to represent that whole demographic.

This work investigates the current era defined as post-Euromaidan. The term post-Euromaidan may be contested as the Euromaidan movement is active today, in one form under the name Euromaidan SOS and thus is not over or "post" (Center for Civil Liberties, 2016). It is important to note that the term does not refer to the Euromaidan movement but is used to limit the time of the study to after the revolution of dignity, i.e., 2014 up to the present.

## **6.2 Data Collection**

To get a comprehensive view on the development of human rights, herein the rights i.e., protections of HRDs, one can investigate indicators in events-based data, survey-based data, and data based on experts' judgments (UNDP, 2006). As this work collects new material via interviews with experts/ HRDs it primarily looks for indicators in expert judgments. While the experts may recount already existing events/survey-based data to make their points it is not the focus of this work. Future research may use surveys and investigate events as methods to gather data and investigate the matter further.

### **6.2.1 Interviews**

The material was collected in seven separate in-depth interviews from 13 October 2020 to 10 March 2021. Each interview varied in length from 45 to 128 minutes. Four of the interviewees headed human rights organizations or NGOs at the time of their interview, two were employed by such organizations and one was acting as an ambassador to Ukraine. For this work, the interviewees are considered as HRDs regardless of if they self-identify as such. They meet the definition and interviewees are included as they important voices to be heard on the subject. The point of the study is not to determine how interviewees self-identify as many may not label themselves HRDs for a variety of reasons (see p.19, section 5.3). The interviews were conducted in a semi-structured manner, guided by pre-composed questions (see p.60, Interview guide, Annex B) and at times including questions adapted to the HRDs expertise. If the testimony needed to be clarified or deepened follow-up questions were posed. The material from the interviews inputs qualitative information that quantitative data may not reveal. Testimony and case examples can hint at links of correlation and significance in the data.

### **6.2.2 Selection of Interviewees**

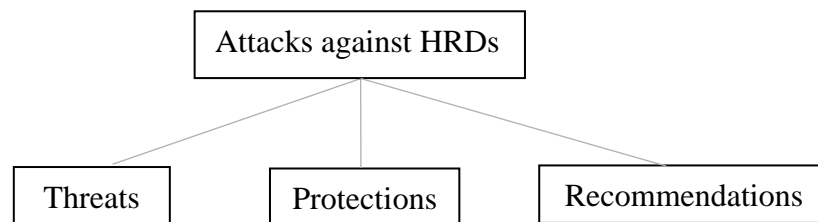
Interviewees are selected based on their expertise in the matter and are thus either experts on human rights in Ukraine and/or HRDs in Ukraine. The adoption of a human rights-based approach (HRBA) is key to any assessment that takes a human rights focus (Götzmann, 2019). This means including human rights principles such as non-discrimination into the assessment process, the selection of interviewees will thus be gender mainstreamed. To get a balanced and intersectional view those active within diverse fields of human rights are prioritized. This work features interviewees from the social, economic, cultural, civil, and political spheres. The used method to establish contact was to identify and utilize key individuals with connections to many relevant interview subjects. This was combined with the "snowball" method, which means asking each interviewee if they know who I should talk to next and asking for referrals.



## 6.3 Data Analysis

### 6.3.1 Thematic Analysis

In qualitative research, thematic analysis effectively handles large data sets and creates structure (Nowell et al., 2017). While seven interviews may not be considered an extensive data set, the length of interviews generated ample material and a need to navigate the data and for this the approach is functional. Once the interviews have been transcribed from audio into text, the text is categorized into the following pre-determined themes. Data that explains the underlying causes and character of attacks belong to the "threats" category. Protections (existing) and recommendations (perceptions on protections) are the themes where identified possibilities to protect fit in. See a display of the themes in the model below:



Variables may fall into multiple categories. Let us look at the following example to see how this plays out in practice. In a statement from a HRD that reads: "there is ongoing verbal harassment towards HRDs because of ignorance" we can identify two threats, verbal harassment, and ignorance. Verbal harassment describes the character of the attack and ignorance its structural cause. If the interviewee had described what protections exist against verbal harassment, a protection variable may have been added. If opinions or possibilities about protection were named that would be classified as a recommendation variable.

The theoretical framework can be used to search data to determine which types of rights in it are most prevalent. After identifying which of the four rights categories are invoked, we can better understand how to secure HRDs.

## 6.4 Reliability and Validity

From the outset, the sources used for the report will be examined with the standard factors of critical source reflection for scientific research: authenticity, time, dependency, and tendency (Thurén & Strachal, 2011, pp. 13-20).

It is of utmost importance to note that phenomena, such as attacks on HRDs, do not occur in a vacuum but are affected by ambient circumstances. In academic research, a big challenge is proving correlations, as one needs to consider that correlation does not equal causation. By drawing links between events, we operate from the assumption that processes do, in fact, influence other processes. Empiricism assumes that there is such a thing as a truth to be found. Due to the vastness of influencing factors, all conclusions about causality are to some level uncertain (Esaiasson, 2017, p. 91).

The data used to explain the prevalence of attacks globally (see p.29, section 7) is drawn from The Protect defenders index. The index is fed by public alerts that are then verified. While the monitoring platform attempts to map violations against HRDs and the crackdown they face worldwide, it does not compile alerts on EU countries. *The list of alerts cannot be taken as complete nor exhaustive in any way. Real figures are much higher, and many alerts and attacks still go unreported* (Protectdefenders.EU, 2021). This example demonstrates that the data, especially of quantitative nature, is not to be taken as fully comprehensive fact but as indicative hints.

When attempting to map how prevalent attacks on HRDs are, individual statements are insufficient on their own. To verify data, statements are triangulated with data from official data, news articles, and reports. This means that a mixed-method will be used for material collection, allowing for interviews with HRDs to be balanced with existing data. In this work, data from a total of seven interviews were triangulated with 33 data points.

While it is next to impossible to replicate a qualitative study such as this one, researchers must be transparent regarding the research process and describe how data has been collected and analyzed (Bryman, 2016, p. 41). Such a description is provided in chapter 5 & 6.

## **6.5 Ethical Considerations**

One of the most basic principles of scientific research is the do-no-harm principle which requires one to think about the potential consequences of one's work and to keep the potentiality and responsibility of its unforeseen consequences in mind. According to the do-no-harm principle, the work done should not contribute to harm for the greater society, participants in the study, or the researcher/-s (Bryman, 2016, p. 126). This section is dedicated to explaining the ethical considerations of these three groups.

### **6.5.1 Greater Society**

While protections for defenders are a much-needed good for the greater society, research on the topic done incorrectly can lead to misconstructions that may prove costly. To make sure the conclusions lie as close to the truth as possible and do not downplay or exaggerate protections, the thesis includes a section on who is a defender and who is not, explains what the research is for (in the aim section), and validates case-specific claims. It is also important to realize that this is a limited work that needs to be combined with other studies to provide a comprehensive overview of the opinions of HRDs in Ukraine on the matter.

### **6.5.2 Harm to Participants and Informed Consent**

All studies need to consider the risk of the work to participants in the context they are in. The personal integrity of all informants shall be respected to the fullest degree. Attacks on HRDs are a sensitive subject, especially for HRDs themselves, and the research carries considerable risk to the participant's mental health. The questionnaire shall respect personal boundaries and refrain from sensitive questions that ask them to recall traumatic events.

The researcher has a responsibility to protect identities and sensitive information about informants at risk and/or in authoritarian regimes and/or in conflict zones (Malthaner, 2014, p. 187). Several of the participants of this work have been or are in that situation. However, most are public figures that are well-known for their HRD positions, and this publication does not change this. In discussions with participants, it has been made clear by many of them that publicity can be a shield of protection against attacks. Some even argued that visibility in the human rights field is profitable to them and their work.

Without risk increase, it is only fair that paraphrased contributions are credited in some manner. In this work, to limit direct exposure but allow a certain credit, the HRDs positions and organizations are made visible and numbered in the annex, and in the text, they appear in numbered form as for example (Interview 1).

Except in one case, the choice to make participants' positions and organizations visible has been made. One of the interviewees asked for their specific embassy not to be mentioned as their nation had not officially approved their statements. That person will be referred to as "the ambassador."

Publishing sensitive information does not only pertain to the identity of the persons. The shared material has been carefully sorted, and statements containing sensitive personal details have been avoided.

The information has been gathered only after permission from all participants. All participants have been made aware that the consent to use the information can be withdrawn and that it is possible to request total anonymity at any point of the research process. The interviews were conducted in person in discrete, yet public agreed-upon locations or online over VPN secured connections. Audio recordings of the interviews were stored on a secure hard drive only for the duration of the research period, and encrypted transcriptions are subsequently permanently deleted.

### **6.5.3 Researchers Safety**

To create a secure research process for myself, it was essential to have updated knowledge of the current situation in Ukraine and to build and sustain trustful relations with a local network in the field (Malthaner 2014, 190–91). Before my research, I completed a Cyber Security Course with the OSCE ODIHR. In Ukraine, I did an internship with a local civil rights organization and thus had trustful relations with a local network.

## 7. RELEVANCE TO HUMAN RIGHTS – A GLOBAL LOOK AT ATTACKS AGAINST HRDs

Humankind has, in the 21<sup>st</sup> century, become increasingly polarized (Somer & McCoy, 2018). As lines between them and us are drawn, and in unfortunate events, we have seen HRDs be mistaken for the enemy. The weaponization of politics is a danger to all, and the suppression of civil society actors is pervasive. Polarization contributes to democratic backsliding and may also be the result of democratic crisis (Ibid). Media freedom, which is essential to democracy, is quite under threat in many European states. The Council of Europe asserts:

*During the last five years close to 30 journalists were killed in the Organization for Security and Co-operation in Europe (OSCE) region – and that number is far surpassed by those who were beaten up or whose lives were threatened. - (CoE, 2011, p. 22)*

Data from the European Union Human Rights Defenders mechanism: Protectdefenders.EU shows that 3832 attacks against HRDs and 1287 killings took place globally between 2016 and 2020. While these numbers may seem high, they are merely the tip of the iceberg, and they do not include cases in Europe as they are not tracked (Protectdefenders.EU, 2021).

When on the topic of attacks on HRDs, it is important to keep a gendered perspective as WHRDs are especially vulnerable to different types of attacks (UN General Assembly, 2014). The Frontline Defenders organization who work to protect, support, defend HRDs at risk, reports that:

*The effectiveness of the women's movement in 2019 triggered reprisals, and WHRDs reported an increase in gender-based harassment, online threats, and insults in Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Poland, the Russian Federation, Spain, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan. - (Front Line Defenders, 2019, p. 24)*

Attacks on HRDs are essentially attacks on the entire human rights system and humanity itself. The issue is relevant to all the Sustainable Development Goals (SDGs) of Agenda 2030 since all goals involve and rely on the work of HDRs. Attacks on HRDs are particularly relevant for Goal 16 (peaceful and inclusive societies) and Goal 17 (partnerships for the goals), without which there is no sustainable development (UN, n.d.).

## RESULT AND ANALYSIS PORTION

The results and analysis presentation of this work include chapters 8 to 10. Firstly, chapter 8, the Landscape of Attacks Against HRDs, presents perceived threats to HRDs. Secondly, chapter 9, Perceptions on Protections, display what existing protections the HRDs were aware of and deals with feedback on existing protection mechanisms. Lastly: in chapter 10 Ways Forward, a summary and recommendations on protecting HRDs moving forward.

### 8. THE LANDSCAPE OF ATTACKS AGAINST HRDs

This chapter deals with the question: what are the major threats to HRDs in Ukraine? What is considered a threat has been up to the interviewees to define. The answers merged into two categories: attacks' perceived fuelling factors (structural threats) and the explained nature/character of attacks (direct threats). Concluding each identified fuelling factor follows an analysis of what rights are appealed engaged using the theoretical framework of rights (Donnelly & Howard-Hassmann, 1988). The description of each identified feature of the landscape of attacks against HRDs includes an analysis of what rights are engaged using the theoretical framework of rights. Chapter 8 is concluded by a summary of the affecting factors followed by recognized characterizations of attacks.

#### 8.1 Lacking Fundamental Rights

Lacking access to fundamental or "basic" rights is identified as a factor to why attacks on HRDs happen in Ukraine as it creates a need for HRDs (Interview 1, 2, 5, and 7). Individuals that have their rights violated are forced into defending them.

##### 8.1.1 The Need for HRDs

*To protect your land, you stay for it, and you are beaten, and you fight for it. You are not an activist. You protect your interests.* - (Interview 1).

Apart from what the statement claims protecting one's interests is not necessarily separated from being an activist. When defending human rights, it is often in one's interest to do so (Donnelly & Howard-Hassmann, 1988, p. 239).

After one is pushed to have to defend a specific right, many continue with their activism and contribute to substantial changes in their communities, but it may come at a cost. Listen to one HRD use the human body as a metaphor to explain why attacks are prevalent in Ukraine.

*When the human body is healthy at 33,3 degrees, everything is good, like I think it is in Sweden. In the situation of Ukraine, we have a higher temperature. We still fight for our health, and it is in our blood because we are not a healthy democratic country, but we are not dead, like in Crimea. In Crimea, there is no fight left in the blood. The societal freedoms were cracked down, and civil society was almost destroyed. When there is a minimal number of journalists, independent activists, there is no one to threaten or attack. [...] Here (in mainland Ukraine), we still have hope, and this means that the cells inside our blood, our civil society cells are fighting against the infection, the virus of corruption. So, the number of cases is big because we are not dead, and we are not healthy. We have a fever, and our brave civil society cells are fighting it, and for that, they are attacked - (Interview 5).*

In the statement above complete repression of society lead to fewer attack as in Crimea. Therefore, statistics on HRD attacks, even if correct, may not reflect the enjoyment of freedoms and human rights but instead that there is a "fever," i.e., a lack of rights and a fight to heal by claiming rights.

### **8.1.2 Lacking Solidarity**

A lack of fundamental rights may not only create HRDs but may also limit the number of HRDs. Lacking solidarity of civil society based on ignorance is identified as a cause of a lack of protection for those fighting for rights. The Soviet heritage has caused a lacking understanding of the general population that they have human rights and need to fight for them (Interview 2, 5, 7). The Ukrainians do not gain knowledge about their rights in school or university, and as society lack awareness about the subject and the work of HRDs, there is not much support (Interview 5). One interviewee explains that during Soviet times, one used to rely on the state to fix one's problems. Another similarly states that the legacy of the Soviet system of education is a deterministic mindset of its people (Interviews 2, 7). Many believe that if they cannot do something, it is because they are not rich and that it is not their place to demand it (Interview 7).

### 8.1.3 Analysis

While it is unclear what exactly "lacking basic rights" refer to, one can assume it has to do with a low level of human rights overall which is a foundational issue with structural adherence. The source of lacking solidarity or ignorance is traced to the school system invoking the right to education, an "Empowerment right." The power of education is not limited to the liberation of the individual but is linked to other empowerment rights, making it a key measure to national human rights performance (Donnelly & Howard-Hassmann, 1988, p. 235). Qualitative education is not by the article of the right specified to have to include human rights; however, it is evident that some interview subjects deem it should. The educational system is vital for a society of free-thinking individuals as *the right to education can be crucial to creating a private space for intellectual autonomy* (Ibid). The perception that current education is inadequate matches with the previously mentioned (see p.15, chapter 4) study reporting that the Ukrainian society lacks legal culture and legal consciousness (Yelnykova, 2015). The absence of legal culture and legal consciousness, and a deterministic mindset are not necessarily coincidental effects of the education system.

*Schools are often used as an instrument of social control rather than personal liberation, as a mechanism to enforce intellectual conformity rather than foster creativity and autonomy. -*  
(Donnelly & Howard-Hassmann, 1988, p. 235)

As regards the "virus of corruption" (see p.35, section 8.2.2), the lack of "basic" rights described can be interpreted as a lack of democracy. Lacking democracy is connected to empowerment and the right to freedom of association. Only through constant political participation of a large number of groups can human rights and HRDs be protected (Donnelly & Howard-Hassmann, 1988, p. 239).

The explained causes of the need for increased HRD activity and lack of solidarity concern empowerment rights.

Survival	<b>Empowerment</b>	Protection	Membership
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## 8.2 The Silent Consent of Power

### 8.2.1 Impunity

Regarding attacks on HRDs, the rule of law is lacking (Interview 1, 2, 3, 5, 6, and 7). Lacking investigations are one of the problems with what the HRDs perceive as inactive law enforcement. One perception is that around 90% of attacks against HRDs, such as hate crime and ordinary attacks on anti-corruption activists, are not triggering investigations (Interview 5).

*We have an existing criminal code to bring perpetrators to justice, we have articles for attacks [...], but articles do not help when cases are not investigated - (Interview 5)*

The interviewees point out that it is less likely that attacks against HRDs get investigated than "normal" crimes because investigators can see HRDs as being against the whole state system, which means that for some police, it is personal.

Police did not protect people who joined the opposition protests during Euromaidan, and there has been little justice for the victims killed in mass shootings of protesters (Interviews 3, 5). Police inaction is part of a more significant dysfunction of the law enforcement system, and ineffectiveness also regards the militia and the general prosecutor's office. The flaws in the Ukrainian justice system are widespread, there are unfair trials, and the security sector uses a model from 1917 that is neither satisfactory nor modern (Interviews, 3, 5, 6).

As an example of impunity, one HRD (2) brings up the notorious case of the famous anti-corruption journalist Pavlo Sheremet who was killed by a car bomb explosion in the middle of Kyiv in 2016. Law enforcement under the Poroshenko regime was unable to produce any results in the investigation of the case. Friends to Sheremet were quoted by the media saying they were making more progress investigating the journalists' death than the police (BBC, 2017). The TV station Hromadske even started its own investigation (Hromadske, 2017). OSCE representatives have called on Ukrainian authorities numerous times to step up their efforts in the investigation (OSCE, 2019).

One danger with impunity on this level is that random or selected people and HRDs can be accused of crimes against HRDs to shift blame (Interview 3). In 2019, three years after Sheremet's killing, five persons were charged and publicly named on suspicion of the murder (Prince, 2019). Reporters Without Borders (2020) expressed their concern over inconsistencies in the evidence regarding the suspects. On January 4, 2021, an alleged recording from a bugged meeting in 2012 appeared as new evidence connected to the case. The recording reveals Vadim Zaitsev, the KGB chairman at the time, with two officers from the KGB's Alpha Group, an elite counter-terrorism unit, plotting how to eliminate Sheremet (Rettman, 2021). At the time of writing (April 2021), no one has yet been sentenced for the murder of Sheremet.

When no one is held responsible, perpetrators feel they cannot be accused. Many perpetrators commit multiple attacks in the circle of impunity, and many HRDs get attacked numerous times (Interview 3, 5).

In rare cases, when law enforcement agents identify a perpetrator, the threat remains since the "masterminds" who ordered the attack are not looked for or found. Going to prison is not something that stops hired killers; not knowing who is the "real" perpetrator is the main problem. According to one interview since Euromaidan, there have been at least 10 cases of murder connected to HRDs, and no one has ever been charged for ordering the attacks (Interview 5).

In 2000 investigative anti-corruption journalist Georgiy Gongadze was found murdered. Gongadze was well-known for his criticism of high-up government officials and awareness-raising as regards problems of freedom of speech in Ukraine. In the ECHR case *Gongadze vs. Ukraine*, the court ruled that Ukrainian authorities failed to protect the life of Gongadze, was unable to conduct an effective investigation into his death, treated Gongadze's wife, Myroslava Gongadze, in an inhuman and degrading manner during the investigation, and failed to provide Myroslava Gongadze with an adequate remedy (ECHR, 2006). Oleksiy Pukach, a former general and high-ranking officer for the Ministry of Internal Affairs is currently serving a sentence for the murder; however, the International Federation of Journalists argues that the person behind the attack still walks free, namely the head of the Ministry of Internal Affairs (IFJ, 2020). Most of the interviewees identified the Ukrainian Minister of Internal Affairs as a threat to HRDs.

Impunity can be caused by inaction and misconduct, for example, in the form of mislabelled cases. The framing of the Handziuk criminal case is explained in Interview 5 to be an example of misconduct. In 2018 Kateryna Handziuk, a HRD and anti-corruption activist and politician who exposed corruption in her hometown Kherson, Ukraine, was attacked with sulphuric acid. She later died in the hospital from the injuries sustained in the attack (Roth, 2018). The police opened a criminal case classifying the attack on Handziuk as an act of Hooliganism (Part 4 of Art.296 of the Criminal code of Ukraine. After the case gained wide public attention and critique, investigators first changed the article to Intentional grievous bodily harm committed for intimidation (Part 2 of Article 121 of the Criminal Code of Ukraine), then – to Attempted murder with extreme cruelty (UNIAN, 2018).

### **8.2.2 Corruption**

An underlying threat that can cause impunity is corruption. Corruption of power is identified as a common problem in Ukraine (Interviews 1, 2, 3, 4, and 5). In 2020 Ukraine was ranked 117 out of 180 countries on (Transparency International) corruption perceptions index, the highest number being the most corrupt. The corruption is maintained partly by politicians speculating on their positions. State authorities and regional powers are perceived as mighty on local levels and often have attachments to criminal circles (Interview 3, 6). One danger for HRDs is that local authorities in charge of regions can attack their critics (Interview 3). Corruption can also cause internal resistance in the investigation processes; one interviewee explains that the secret service and general prosecutor's office has been found to share information about cases with perpetrators (Interview 1). Such events can take place when local powers or self-governments are dependent on or open to the perpetrators. In Donetsk & Luhansk, oligarchs control all law enforcement structures like courts, prosecutors, police (Interview 1). Corruption between police and entrepreneurs is also identified; in big cities, when "thugs" attack, they are paid by developers that are also paying hefty bribes to city authorities (Interview 5). This is especially harmful because, as was explained by previous research, no special protection exists for HRDs against businesses (Uvarova, 2019). A related consequence pointed out by one interviewee is that a long-term effect of the high level of corruption is that few international companies dare to invest in Ukraine and that this limits the possibility of EU integration (Interview 4). The Ministry of Internal Affairs is named as the most "closed" institution. The Minister of Internal Affairs has a strong standing in Ukraine and is the head of the nation's security politics. The general prosecutor's office is identified as another cog in the machinery of corruption in Ukraine.

### 8.2.3 Analysis

The accounts of impunity and corruption in Ukraine suggest that the rights to an independent judiciary and *habeas corpus* are limited. Both an independent judiciary and the right to *habeas corpus* are indicators of protection rights. It is clear that apart from creating low levels of trust in the police, the lack of protection rights facilitates attacks against HRDs, as *cultures of impunity serve to cloak systematic and repeated breaches of human rights and fundamental freedoms* (EU, 2004, Art. 3 §4).

Corruption is also described as a danger to the survival of HRDs as authorities are identified as perpetrators and accomplices of attacks against HRDs. The right to life is not secured as it maintains that the state must prevent its officials from killing civilians (Donnelly & Howard-Hassmann, 1988, p. 218).

Silence of power due to entrenched impunity and corruption are explained to be facilitating attacks against HRDs. The rights to protection and survival must be secured to protect against such threats.

<b>Survival</b>	Empowerment	<b>Protection</b>	Membership
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## 8.3 The Russo-Ukrainian war

In Ukraine, the ongoing war with Russia the East and the frozen conflict in occupied Crimea has created "danger zones" for HRDs (Interviews 1, 2, 3, 4, 5, 6). There recently has been a significant relocation of criminal groups to the Donetsk, Luhansk regions that have in part turned into battlegrounds in the Russo-Ukrainian war (Interview 3). The survival of HRDs here is at high risk due to political persecution by the Russian Federation. Within these regions, or "danger zones," national structure and national police may not realize full power, and crimes are seldom punished (Interview 1). The crackdown on and displacement of HRDs in the occupied areas is widespread, and Russia is "openly" breaking international law and policies (Interview 5, 6). The international community has asserted that the Russian aggressions are entirely unacceptable to little effect.

*In the end, Russia controls Crimea and parts of the East, and in these areas, they (Russia) are able to do what they want.* - (Interview 5).

In the "danger zones," it is impossible for HROs and CSOs to operate (Interview 3, 5). Those organizations that try to help HRDs here are forced to assist from a far to maintain their safety. Arbitrary arrests were widespread in the first years, and many HRDs were detained in jails without due process. If held, trials are notoriously unfair, and one interviewee explains that it is nearly impossible to come to observe court trials of HRD colleagues in these areas (Interview 3). While monitoring is conducted at a distance, in Crimea, no improvements are made even with reports on the situation (Interview 5). HRDs in these locations are essentially "on their own" with no one to help them in the surrounding area.

The Russo-Ukrainian war and Russian political prosecution do not stop at regional borders or outside certain physical territories. It can travel to the online arena, where Russia is allegedly waging an informational war against HRDs, expanding the "danger zones" to virtually all homes with a computer. Some interviewees point out that even if the physical conflict between Russia and Ukraine would end, the ideological war could continue to haunt dissidents and their human rights work. As one interviewee puts it: "Russian writers are soldiers" (Interview 2). The informational war that Russia is waging does not stop and is not limited to one arena. "Soldiers" in this war can blatantly spread misinformation and defamation of HRDs through a vast array of different mediums at any time of the day.

Russian propaganda and narratives are perceived to have increased the "far-right"'s impact, a group that HRDs describe as the culprits of many attacks (Interview 5). The spread of misinformation is made worse by the dependency of the media (see p.40, section 8.5.2).

### **8.3.1 Analysis**

In the physical danger zones of the Russo-Ukrainian war where armed combat occurs, and there is limited safety ensured for the HRDs aiding the citizens and speaking out against the war, the right to life is not protected. The right to life is a survival right, and protection of the right does not only require authorities to abstain from taking the lives of citizens but also that all necessary institutions take positive action to safeguard citizens from threats of violence, regardless of their source or place (Donnelly & Howard-Hassmann, 1988, p. 220).

*The failure of some urban police forces to provide adequate protection to selected neighborhoods (..) represents clear violations of the right to life. - (Donnelly & Howard-Hassmann, 1988, p. 219)*

To be following international law and the principle of sovereignty, the state of Ukraine cannot neglect responsibility for the inhabitants of occupied territories while claiming they belong to Ukraine.

The many forms of political prosecution in the war suggest many violations of rights. Political persecution of activists and HRDs in these areas violate the right to freedom of expression and association, to do with empowerment and membership. The description of intentional manipulation of information as a weapon in the war suggests the right to information, an empowerment right, is violated. The HRDs description of unfair trials and dependent judiciary indicate a lack of protection rights. Finally, unfair trials combined with the accounts of political prosecutions in occupied territories suggest violations of the right to equal protection belonging to the membership rights group (Donnelly & Howard-Hassmann, 1988).

The data demonstrated that the Russo-Ukrainian war is a fuelling factor of attacks against HRDs involving violations of all rights groups, namely, survival rights, empowerment rights, protection rights, and membership rights.

<b>Survival</b>	<b>Empowerment</b>	<b>Protection</b>	<b>Membership</b>
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## **8.4 The Attack Enterprise**

Attacks on HRDs in Ukraine are usually connected to or carried out by organized criminal groups (interviews 3, 6). The possibility to pay money to have people attacked has created a capitalist segment in a society of aspiring criminals. One group that gets employed to commit attacks is the Titushky. The name derives from Vadym Titushko, a mixed martial artist who beat two journalists during a public protest. In the subsequent trial, it was revealed that Titushko had been paid to "protect" a pro-government rally at the time of the attack (Salem & Stack, 2014). The Titushky are described as "provocateurs" or "street hooligans" dressed in balaclavas and civilian or sports clothing and are often athletes, often from boxing clubs. During Euromaidan, the Titushky were on the Yanukovych government's payroll and infiltrated the peaceful opposition protests on orders to provoke violence from within and discredit the movement (Ibid). Today, under Zelensky, the Titushky is decentralized and particularly active in attacks against HRDs in Eastern regions of Ukraine in cities like Kharkiv and Donetsk (Interview 3).

Other perpetrators committing attacks for money are identified as former soldiers from the Ukrainian-Russian war, often otherwise unemployed (Interview 3). A physical attack leading to the death of a HRD has been ordered for a little as 300 dollars (Francis, 2019).

#### 8.4.1 Analysis

In the four rights groups, "Survival rights" include protection against private murders (Donnelly & Howard-Hassmann, 1988, p. 218). The attacks enterprise section includes descriptions of neglect to provide such protection. Consequently, the lives of HRDs are at risk "*from gangs of armed men who replace legitimate social order with personal rule based on force*" (Ibid).

While the sums paid to attackers may seem small, they can be more easily understood in the context of Ukrainian poverty. As one of the interviewees puts it, "*criminality developing in third world countries is always an economic question*" (Interview 3). In 2020 it was estimated that nearly half of Ukrainians would fall under the poverty line and experience what is called "extreme poverty" (Kossov, 2020). For the right to survival to be upheld, everyone needs access to adequate housing, clothing, and food standard. The attack enterprise connection to poverty suggests a lack of another survival right, namely the "right to food" and the right of everyone to be free from hunger.

The root causes of the threat enterprise that is used for attacks on HRDs may be grounded in lacking survival rights.

<b>Survival</b>	Empowerment	Protection	Membership
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## 8.5 The War on Information

### 8.5.1 Informational war

An identified underlying cause of attacks against HRDs is informational war, a war between truth and falsehood (Interviews 2, 4, 5). Brave individuals who tell uncomfortable truths are at risk. Attacks against HRDs that are journalists are a significant threat. Each year it is estimated that there are 2-300 attacks against journalists (Interview 5). For these crimes, there is often no justice. Thousands of journalists were killed during independent times in Ukraine, and some even go so far as to say that not a single crime against journalists has been thoroughly investigated (Kyiv Post, 2000).

*To be a journalist is not safe in our country, even now (..) Freedom of speech is not protected (..) Due to the danger associated with reporting and investigating, many journalists change jobs. - (Interview 2)*

### 8.5.2 Misinformation and the dependent media

*Manipulated information makes it challenging to see the line between truth and falsehood. - (Interview 2)*

In Ukraine, there is a spread of misinformation. Fake news is perceived to be exceptionally prominent around election time in Ukraine. Misinformation and defamation can spread more quickly due to the development of "new media" such as social media and self-proclaimed biased "online journalism." The algorithms controlling these platforms are often adapted to personal preference, facilitating "selected" exposure and ultimately polarization. With increased polarization fuelled by misinformation, dialogue between different groups and different people in our societies can prove increasingly tricky (Bail et al., 2018).

Misinformation has a more significant impact as there is a lack of truth-telling; Many information sources are corrupt as oligarchs own most Ukrainian media, and very few independent media are left (Interviews 2, 4). TV channels that oligarchs finance are dependent and unable to serve society as they freely choose. With a limited job market, many Ukrainian journalists feel forced to work for oligarchs rather than society.



*oligarchs are one of our main problems [...] they think first about their economic and political interest and [...] journalists become their tools, toys in their hands, and this is a very bad situation for our country - (Interview 2)*

### 8.5.3 Analysis

With attacks against journalists, the informational war in Ukraine suggests a lack of freedom of opinion and association which includes freedom of speech. Furthermore, descriptions of the corruption of media and the small independent media left indicate that the right to a free press is not upheld. Freedom of opinion, association, and the right to a free press are categorized as empowerment rights. The conclusion is that Ukrainian HRDs will be more secured if the Ukrainian society would be more empowered.

Survival	<b>Empowerment</b>	Protection	Membership
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## 8.6 Xenophobia and Homophobia

The first Ukrainian Pride parade was held in Kyiv in 2013, defying the then-national bill on "homosexuality anti-propaganda" (BBC, 2013). Pride has since then spread to regions, growing in numbers, and in 2015, the Ukrainian Parliament withdrew the draft of the "homosexuality anti-propaganda" law (8711/0945) from its agenda (ILGA Europe, 2015). The progress and increased visibility of the LGBT+ community have been accompanied by a backlash against HRDs defending LGBT+ rights. Homophobia is still rampant, and counterdemonstrations with anti-gay campaigners are not uncommon (DW, 2019). Furthermore, the so-called "Gay Safaris" occurs, where perpetrators stalk protesters from marches to physically attack them away from the crowds.



Photo by Anatolii Stepano, REUTERS

*One of our volunteers was attacked (..) he was followed after Pride (..) the attackers said it was for gay pride and it was clear that they had been following him. They did not attack during the march because there is much police, so they organize something they call gay safari where they try to find people. - (Interview 5).*

The photo to the left shows Svyatoslav Sheremet, Head of Gay Forum, in May

2012, getting attacked minutes after holding a press conference to cancel a pride march after police informed organizers that the police could not ensure the participants' safety. While patrol police are employed to protect the demonstrators, protection of the LGTB+ parade is deemed by HRDs, especially in smaller regions, as "unsuccessful" (Interview 1).

Xenophobia is recognized as one of the triggers attacks on HRDs that focus on minorities such as Roma peoples, and far-right groups or "racist" individuals are described as perpetrators behind such attacks (Interview 1, 3). Much like other HRD attacks, there is a measure of impunity for these attacks as "*far-right groups are financed or protected by people in power*" (Interview 3).

### 8.6.1 Analysis

Xenophobic hatred against minorities and vulnerable groups causes violence towards HRDs belonging to those groups. Attacks motivated by gender identity, sexual orientation, or ethnicity are direct violations of the right to non-discrimination. No one should be attacked based on their hereditary (uncontrollable) characteristics; even if homosexuality would be a chosen sexual preference (within the individuals' control), the precedent of extending the right to acquired characteristics suggest that it should not be the basis for discrimination (Donnelly & Howard-Hassmann, 1988, p. 229). In what is described as "gay safaris" the perception is that all participants of Pride and similar marches can suffer discriminative attacks regardless of if they identify with the minorities they are defending or not. Such attacks may also involve the right to equal protection as xenophobia and homophobia exists within law enforcement as well. The discriminatory attacks and unequal protections are indicators of lacking membership rights.

The descriptions also clarify that Ukraine has systematically failed to protect the right to assembly and political participation of LGBT+ advocates and human rights defenders. The right to assembly and political participation falls under freedom of association, an indicator of empowerment (Donnelly & Howard-Hassmann, 1988, p. 234).

It should be noted that anti-LGBT+ campaigners that claim to defend children's rights (BBC, 2013) are not considered HRDs as they are protesting against one group's rights and are therefore not upholding the HRD universality criterium, i.e., accepting all rights.

Survival	<b>Empowerment</b>	Protection	<b>Membership</b>
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## 8.7 Summary

The chapter found that the underlying causes of HRD attacks, according to HRDs in Ukraine, include the lack of fundamental rights, the silent consent of power, the Russo-Ukrainian war, the attacking enterprise, informational war, homophobia, and xenophobia. In Ukraine, these causes connect to lacking rights to do with survival, empowerment, protection, and membership. The involvement of all rights groups in the underlying causes of attacks shows that attacks against HRDs are an all-encompassing issue. This means that in connection to attacks on HRDs, there is a need to secure rights in all these rights groups moving forward and that in doing so, protection for HRDs may be provided sustainably. The analysis indicates that the rights identified in the table below need to be secured to protect HRDs against attacks on a structural level.

Table 5. The Four Rights Categories – Violated rights in relation to attacks against HRDs

	Survival Rights	Empowerment Rights	Protection Rights	Membership Rights
Right to	LIFE (D3, C6)  FOOD (D25, E11)	EDUCATION (D26, E13, E14)  FREE PRESS (D19, C19)  FREEDOM OF ASSOCIATION (D20, C22)	INDEPENDENT JUDICIARY (D10, C14)  HABEAS CORPUS (D9, C9)	NON-DISCRIMINATION (D1, D2, E2, E3, C2, C3)  EQUAL PROTECTION (D7, C14, C26)
Proxy for	Social Security (D22, E9)	Culture (D27, E15) Minority Culture (C27) Freedom of Opinion (D19, C19) Political Participation (D21, C25) Social Security (D22, E9) Work (D23, D24, E6, E7) Assembly (D20, C21) Thought, Conscience, Religion (D18, C18)	Arbitrary Arrest (D9, C9) Presumption of Innocence (D11, C14) Rights of Detainees (C10) Political Participation (D21, C25) Legal Remedy (D8, C2) Access to Courts (D10, C14)	Minority Culture (C27) Nationality (D15) Political Participation (D21, C25)

Note: The source of each right in the International Bill of Human Rights is indicated in parentheses, by article number and document (D = Universal Declaration of Human Rights; E = International Covenant on Economic, Social and Cultural Rights; C = International Covenant on Civil and Political Rights)

These rights need not necessarily be secured individually as they are often interlinked. For example, strengthening the right to education can consequently strengthen and protect membership rights. This characteristic of mutual reinforcement applies to all empowerment rights and some other rights (Donnelly & Howard-Hassmann, 1988, p. 236). More on this will be presented in Perceptions of Protections (p.46, chapter 9). What happens when protections of HRDs fail is explained in the chapter below.

## 8.8 The Character of Attacks Against HRDs

The data shows that attacks on HRDs have these characteristics.

- Physical attacks
- Psychological attacks
- Criminalizing attacks
- Defamation attacks

**8.8.1 Physical attacks** were mentioned by all interviewees as a threat to HRDs. The types of physical attacks mentioned were murder, beatings, stabbings, mass shootings, and acid attacks (Interviews 1, 3). One of the HRDs estimated that at least 100 attacks occur each year in Ukraine and that roughly half of those attacks are physical (Interview 5).

**8.8.2 Psychological attacks** against HRDs were identified by five out of seven HRDs (Interviews 1, 2, 3, 5, 7). The psychological attacks were described mainly as verbal death threats and intimidations in person or via the internet (Interview 1, 5). The HRDs are perceived to be at risk of being followed or stalked before physical attacks, and these intimidations can cause anxiety and stress for the victims (Interview 1). Without adequate protection, HRDs are forced to live in unsafety (Interview 2). Psychological may be especially common against women. There are rape threats, almost exclusively toward WHRDs. WHRD also tend to receive threats against their children. One HRD told of a case where a Ukrainian woman received a small casket to her door with a note reading, “if you do not stop your activity, this is for your son.” Another example of a real case concerned a woman working as head of an HR organization who was followed and received rape threats after criticizing the practice of authority. When the woman went to the police to show sexual threats sent to her online, their advice was to ignore the stalker whose actions they labeled “romantic gestures.” The police decided that no investigation should be opened (Interview 5). Before Euromaidan, some individuals who openly criticized Yanukovich were compulsory referred to mental health institutions, deprived of their liberty, and got misdiagnosed as insane. Such events of punitive psychology are perceived to have stopped post-Euromaidan (Ibid).

**8.8.3 Criminalizing attacks** against HRDs are explained to ensue where legal instruments and mechanisms are misused (Interviews 1, 2, 3, 5). State officials threaten HRDs using legal mechanisms, and in Ukraine, starting criminal cases against HRDs is a "common practice" against journalists (Interview 3). Fabricated cases against activists and NGOs can be used intentionally for silencing specific opposers. HRDs can become subject to hefty fines. In one case where activists protested against a company, the activists received a fine of 6000 dollars per person for "damages" (Interview 1). Many Ukrainian HRDs and prisoners of conscious are arbitrarily detained in Ukrainian and Russian prisons (Interview 2, 3). Politically motivated cases in Crimea often result in innocent people becoming political prisoners (Interview 5). One interviewee (3) explained that HRDs are often accused of terrorism in line with previous research.

**8.8.4 Defamation attacks** that aim to destroy one's public image are one type of assault brought against HRDs (Interviews 3, 5). Defaming smear campaigns can severely limit solidarity for HRDs and be particularly damaging to HRDs that depend on funding from donors (Interview 5). Public defamation can undermine the work and public standing of HRDs or their organization. One interviewee (3) mentioned that a campaign in media unlawfully publicized the salary of anti-corruption activists that it was damaging to the activists. Due to corruption, rich people are often mistrusted in Ukraine. While HRDs are often not rich, they can receive large one-off grants for specific projects, and that these "salaries" may seem significant to the average Ukrainian (Interview 3). Defamation attacks or "reputation kills" are often harsher than this and can trigger other sorts of attacks.

## 9. PERCEPTIONS ON PROTECTIONS

This chapter includes the analysis and result of identified protections for HRDs and the judgment of those protections to answer what protections for HRDs exist.

### 9.1 Institutional Structure

#### 9.1.1 Legislature

As previously stated (see p.14, chapter 4), the state of Ukraine provides little legislation for HRDs specifically. The national baseline assessment (NBA) states that no legal protections for HRDs exist in Ukraine's criminal code except for the article against corruption (Uvarova, 2019). However, some of the interviewees regarded general national laws to be protective. Articles described as helpful to HRDs by HRDs include the national prevention mechanism against torture, the article on violation of private life, and the criminal law concerning war crimes. Some mentioned articles on special protection of journalists, such as article 171 of the Ukrainian criminal code, "Impeding lawful professional activity of journalists," when asked about protections for HRDs. Technically, these articles are protective against the war on information and empowerment rights such as press freedom and freedom of speech. That the NBA does not consider the legislation on special protection of journalists as protective for HRDs draws a clear line between HRD and journalists. This example shows that the defining issue of who is a HRD exists even within the HRD society.

Verbal threats were described as unlawful, yet the knowledge about what legislation existed against such threats was limited. One HRD pointed out that according to the criminal code of Ukraine if there is a claim that a crime took place, the police must open an investigation within 24 hours. While this is deemed a protective policy, the perception was that this is not followed, making it lose its meaning. Legal provisions create specific statistics for engagement and build more informed protections; for this to be useful and not misleading, the judicial system needs to be fixed. Accounts that laws can be manipulated and used for anti-democratic purposes display a mistrust of the judiciary.

A majority claimed that the current protective legislation was sufficient and that the main problem was that it was not appropriately applied. *Ukraine has enough protective legislation as long as it is used correctly* (Interview 1). Three out of the seven HRD suggested changes to the legislation (see p.56, section 10.3)

### 9.1.2 Protective reform initiatives

This section refers to the reform of internal laws and policies of Ukraine. Post-Euromaidan (2013-14), Ukraine has had two presidents and four governments promising to reform inefficient and corrupt systems (Zachmann et al., 2020). **Anti-corruption reform** is relevant as corruption is identified as an underlying cause of attacks against HRDs. The interviewed HRDs criticized the reform for being too limited.

*There have been few changes in the legal system to protect HRD because the system is bureaucratic and very slow to change. - (Interview 6)*

The reform of the judicial system is perceived to have been implemented only partially. One perception is that it has reached only the high levels, such as the supreme court. *Ukrainian judges are not qualified to judge cases regarding HRDs at all* (Interview 6). Another perception is that while the whole security system is corrupt, the reform focused mainly on the police. State protections for HRDs such as patrol police on the streets have been improved since Euromaidan times. One interviewee explains that patrol police were provided higher salaries, better equipment, and received training from civil society organizations (CSOs). CSOs were also invited to participate in commissions to select new patrol police and train them in human rights (Interview 5). As police were reformed partially, there was a clash between old school staff and recruits leading to internal conflicts and many resignations (Ibid). The ambassador points out that it is hard to influence the reforms depending on what ministries are involved (Interview 4), suggesting that some ministries need a shift in government for specific reforms to be more effective.

**Transitional justice reform** is identified as a potential protective reform for HRDs. According to the UN (2004), transitional justice is a method to remedy victims of human rights and enhance opportunities to transform systematic human rights violations by changing conditions, political systems, and conflict that cause them.

*The first stage is just a general system to implement something for transitional justice (..) to create a working ground for the president's office, experts, academicians, society to engage with and to develop packets of specialized draft laws. - (Interview 6).*

A draft of transitional justice is currently (April 2021) under review in the president's office. One of the HRDs explains that this draft of transitional justice uses some helpful elements, but it is not the European vision of transitional justice (Ibid).



**Decentralization** is a judiciary reform that involves all authorities, from police to the judiciary to the prosecutor's office and the entire judicial chain. It aims to transfer power from Kyiv to the municipalities.

*The decentralizing reform (..) is considered the most successful reform, and now with the local elections, the division into the country has been almost completed, and certain functions have been redistributed. It is a big step forward for local democracy to get the opportunity to offer service and give people what they are entitled to on a local level. - (Interview 4)*

Changes in the social protection policies concerning Crimea and Donbas territory for those living there to get pensions and university degrees are explained to be protecting. This description fits the perception that a lack of education can be a factor concerning attacks. Certain HRDs are concerned about the return of Yanukovich, who fled to Russia after Euromaidan or a similar kleptocratic or authoritarian regime. Decentralization is a way to prevent the sort of centralized authoritarian rule Ukraine has suffered before. It may also have a downside. As previously described (see p.30-45 chapter 8), HRDs are less protected outside big cities, and corruption on a local level is rampant. Under these circumstances and in the short-term, a decentralized redistribution of power can be harmful as it strengthens local authorities who abuse HRDs. As the local communities become activated, attacks on HRD can increase. However, this may be temporary, and what we see is happening already. In the long-term, the decentralizing reform can increase the space for civil society in danger zones and ultimately decrease violence towards HRDs. As decentralization has been accomplished only partially (Zachmann et al., 2020, p. 18), it is of utmost importance to finish it to reap potential long-term benefits.

### **9.1.3 International institutions and other nations**

Ukrainian reforms rely heavily on international support (Zachmann et al., 2020). International institutions that provide Ukraine with substantial aid influence state authorities to implement reforms. Other nations are also acknowledged to influence the direction of protections in Ukraine. International aid to Eastern Ukraine and donations from the EU and the US are described as protective. Some mean that having positive examples of countries with few attacks on HRDs is helpful and that such examples are rare in the Eastern European region.

When asked about protections, HRDs mentioned supranational instruments: the Istanbul convention, the Minsk agreement, and the resolutions and guidelines of protections of HRDs from the OSCE and different international institutions. It is proclaimed that declarations and resolutions can inspire progress and are helpful in a symbolic way. Still, the effectiveness of declarations and resolutions is questioned, and attacks are considered evidence for these instruments' failure to protect. Inactivity from international institutions in the face of human rights violations undermines the perceived usefulness of instruments created by such international institutions. It is difficult to judge if attacks point to ineffective instruments or ineffective/improper usage of instruments. The results point to the latter. One interviewee claims that the main problem is the low usage of supranational instruments and explains that Ukrainian judges are not ready to use the European Convention on Human Rights. Another asserts that heads of ministries are not necessarily aware of international resolutions and guidelines. Misuse of international structures and instruments is mentioned as potentially harmful.

## **9.2 Access**

Existing judicial protections and reforms have little effect if citizens do not have access to them. As previously stated, this is problematic and was described as a threat to HRD, especially in danger zones. The HRDs pointed out that IDPs and prisoners of conscience that moved over state borders fall outside the umbrella of Ukraine's legal system. Furthermore, people in occupied territories do not have proper access to existing protections. Some noted that changes in the protection of IDPs were happening.

Even though the HRDs identified impunity, corruption, misconduct, and the lacking rule of law that makes legislation ineffective, they recommended that HRDs use different mechanisms of the national courts and hire lawyers for preemptive legal protection. For HRDs that cannot afford lawyers, it was pointed out that almost all Ukrainian HROs do litigation and that the legal assistance they provide to HRDs can be helpful. On top of geographic location and legal aid, factors that are perceived to affect access to protections are visibility, information, education, and monitoring.

### 9.2.1 Visibility

Visibility is described as preventative of attacks and remedial in terms of access to justice after attacks. Publicity is described as a shield of protection; if HRDs are famous, they will be less likely to suffer attacks as such attacks are “a big deal,” and information about them spreads. According to a public poll quoted by a HRD, the public’s perception is that if one is threatened, the best protection is to appeal to the media. HRDs are advised to connect with journalists because they deliver the spotlight.

*On a local level when the situation is more publicized, the level of protection and the improvement and interest of protective structures is more motivated for substantial results. - (Interview 1)*

There are several cases in Ukraine’s recent history showcasing the effects of publicity in criminal investigations. In the case of Kateryna Handziuk where the criminal classification of the case was increased twice. Peaceful demonstration for specific cases to shine a light is one helpful strategy for this purpose that is employed.

*Our strategy is to go as public as possible to push investigation. When we [NGO] met the main investigative department of the National Guard, I asked how they decide where to put their attention, resources, and efforts. They answered that it depends on the relevance criteria. When they feel immense public pressure and international pressure, they try to do something, but if not, they forget about it. - (Interview 5)*

### 9.2.2 Information

HRD can hardly get protection against attacks if they do not know how to access protections. In Ukraine, NGOs hold consultations through open events and conferences to help HRDs identify public protections. Some provide communications training for HRDs for them to be able to access the protective aspect of the media better. Some police, aware of imperfections of the judicial system, give victims of threats information about NGOs that can assist them. To prevent attacks informing HRDs about the general situation on dangers and providing notifications about general protection threats is protective. The Frontline Defenders organization ([frontlinedefenders.org](http://frontlinedefenders.org)) is named a protector in this regard. Journalists can also be helpful through articles about human rights topics and media events, and awareness-raising campaigns.

Organizations like the Zmina organization (zmina.ua) that offer HRD training for journalists to improve their coverage of human rights are helpful resources. Education about human rights and defending human rights in Ukraine and internationally is protective as it builds up solidarity. Such education is perceived to exist in some forums in a limited way but is mainly lacking, especially in schools. With public demonstrations, HRDs gather out in public, and the ideals they are defending become more prominent. Also, using informational strategy to promote understanding of reforms, like transitional justice, can increase their likelihood of being implemented.

To combat misinformation, some HRDs suggest there must be restrictions and that some are already in place.

*The state forbids some media and has special roles within the government to deal with misinformation and fake news. Of course, state institutions must work with this because it is a question of our safety. - (Interview 2)*

Here we can see an opinion that illustrates that in a war situation, exceptions to the freedom of speech may be necessary to limit harmful misinformation. In this sense, the right becomes subordinated to the right to safety. In this view, rights are hierarchal and not absolute. Apart from the state's role in fighting misinformation, NGOs have compiled two lists explaining which media is dependent and independent. The lists assist civil society members in orienting the information jungle. Fighting misinformation that can cause attacks includes prioritizing publicly financed independent media platforms such as Suspilne and Hromadske and public service (PBC). Some NGOs and IOs provide encouragement and financial support to independent journalists. For example, PEN Ukraine (pen.org.ua) hand out prizes to independent journalists who stay long in their profession. This kind of support to independent media protects HRDs and strengthens the right to a free press.

### **9.2.3 Monitoring**

Monitoring can create awareness of HRDs' access to protections. One example is NGOs that conduct monitoring of occupied territories (mainly at a distance) to create reports on the situation. UN monitoring and peacekeeping missions and EU monitoring missions in Eastern Ukraine do similar work and are perceived as assets.

*The mechanism of international missions introduces a clear understanding of fighting corruption, organized crime, political speculation in an excellent neutral version. It does not cause a crisis in the war, and it does not cause a political crisis. It is a smooth version of sound change in the reformation of Ukraine. - (Interview 6).*

Monitoring can create public control of public authorities. Civil observation initiatives can help ensure police are implementing proper security. An example is the Ozon campaign by the Center for Civil Liberties that sends monitors to observe police behavior during protests (CCL, n.d.). Journalists making quick parallel investigations and NGOs surveying investigations can also increase the chance that investigations are carried out correctly. The Institute of Mass Information ([imi.org.ua](http://imi.org.ua)) monitors attacks on journalists, and they have representatives working for them in every region in Ukraine.

The Ombudsman is described as helpful in the fight against attacks on HRDs. The mandate of the Ombudsman to monitor institutions closed to the public, such as prisons and psychiatry clinics, is known and mentioned in accounts of protection.

*The ombudsman with civil society can visit closed institutions at any time without notification to the administration and talk to any of the staff or detained people or those who are kept there for social healthcare reasons. - (Interview 5)*

While many monitoring actors exist, the HRDs described that they are often overburdened by the amount of monitoring needed and that the number of monitors is not enough.

## **9.3 Remedies**

When structural protections and access to them fail to prevent attacks on HRDs, preventative emergency measures and collaborative mechanisms can be used.

### **9.3.1 Preventative Emergency Measures**

There are protective measures that HRDs themselves can take to ensure their safety. If one feels unsafe working on sensitive cases and perceives a short-term risk, one might change phone number, move residence, and refrain from working in the office.

Those HRDs who participate in peaceful assembly to defend rights are advised to change clothes after, wear running shoes, and cover the face with a mask to hide one's identity, all to prevent getting followed. If the threat is long-term and severe, HRDs may need to move or even stop activities, and in extreme cases, when the attack is taking place, resort to physical self-defense. The HRDs are split on if it is possible to hire bodyguards or receive police protection. Some deem it possible to receive police protection, and some argue it is impossible and that protection from police or bodyguards in Ukraine is not protective due to corruption. If problems arise and no help is given, it is advisable to use one's resources, friends, contacts with top officials, and relations with local authorities. As HRDs are less safe in regional conditions, living in central parts like Kyiv may also prevent attacks.

### **9.3.2 Collaborations: Strength in numbers**

One way to secure oneself when protections are inadequate is to collaborate with those with shared values. Those who are visible in the human rights world commonly have essential connections that keep them safe. Human rights movements, legal networks, and resistance committees can strengthen initiatives and the individuals within them due to the number of people working together. Protests and the organization of peaceful assemblies are great for connecting HRDs. Collaborations are the foundation of solidarity. By remembering those HRDs that cannot exercise their rights because they are imprisoned in Ukraine or Russian prisons or living under threat, those HRDs and future ones may be helped. An example of international solidarity is the Center for Civil Liberties organization ([ccl.org.ua](http://ccl.org.ua)) which supports HRDs in regions like Syria, Cambodia, and Nagorno Karabakh. There are also NGOs, like Zmina, that stay in contact with victims post-attacks to follow up on what is happening with their investigations.

International collaboration is one method for remedial protection. The mechanism to ask the international community to pressure national authorities and condemn attacks can have positive effects. HRDs regret that this mechanism is mainly employed after attacks occur. International statements of this kind are often specific but can have a normative impact. Those HRDs that are persecuted to a high degree and are not adequately protected may receive refugee status in other countries. Helpful programs from the international community can help HRDs to relocate.

Intersectional collaboration may remedy attacks on HRDs and the lack of protection. HRDs are getting legal assistance from NGOs, HROs working with the independent media and editorial offices, or HRDs connecting with journalists are examples of intersectional collaborations. Furthermore, new ways of collaborating between the state and the cultural sphere have been enabled by establishing new cultural state institutions (Interview 2).

## **9.4 Summary**

Institutional structures, legal provisions, and international institutions technically provide protections but are largely misused or ineffective in Ukraine. While there are multiple potential protections, there is deep mistrust of the judicial system and even, to some extent, the international one. Three reforms are perceived as protective, yet none of them are complete. The access to technical protections determines their practical use. The missing access shows a lacking rule of law and protection rights similar to accounts of impunity and corruption portrayed earlier (see p.33-35, section 8.2). Access to justice is perceived to be influenced by three factors; visibility, information, and monitoring. Some actors make attacks on HRDs visible, spread information on the topic, and monitor processes connected to it. All these strategies connect to empowerment rights, which are violated in a war on information as established before. As technical protections and strategies to access them are not fully protective, HRDs take preventative emergency measures to secure themselves, and intersectional and international collaboration are remedial.

This chapter concludes that proclaimed protections are mostly connecting to protection and empowerment rights. That instruments for justice lose meaning when misused. There is pessimism about national and international actors' ability to protect HRDs and optimism about improving the use of the many identified tools and a desire and energy to change the situation for HRDs moving forward.

## 10. WAYS FORWARD

The results show a necessity to safeguard and reinforce existing protection mechanisms moving forward and realize new ones. Below are summarized recommended protections to limit risks to HRDs and prevent attacks. Prevention does not prohibit activism or HRDs activities but includes them into the agenda.

### 10.1 Democracy

Democracy needs to be secured to secure fundamental rights. Democracy fosters institutions, procedures, cultures, and people with an inherited sense of civic duty and solidarity to grant rights, policies, and a script of moral rules and stand together if rights are violated. Full implementation of the decentralization and transitional justice reform is suggested to organize Ukraine's local community properly. The four pillars of democratic government are the executive, legislative, judiciary, and the media. If pillars of democratic government are lost, it is harder for the remaining pillars to hold (CoE, 2011). In Ukraine, to protect HRDs against attacks, all these pillars need to be strengthened.

### 10.2 Ukrainian sovereignty

Ukrainian sovereignty can bolster the executive power of Ukraine. Support for local grassroots initiatives in occupied territories may help prevent danger zones for HRDs. Ukrainian sovereignty is a shared process that interviewees argue depends on the ability, willingness, and power of internal forces. However, protection on occupied territories is possible only with international support. Ultimately, to secure HRDs, it is necessary to solve the Russo-Ukrainian war. Conflict solution mechanisms such as mediation and negotiation can sort out differences. Mediation is relational and practical to solve or stop a conflict short-term or on a case-to-case basis.

In contrast, negotiation between bodies or nations is more sustainable. It allows for creating structural solutions that may be applicable in one case and future cases. Some interviewees suggest there needs to be a change in Russian and Ukrainian leadership for reconciliation to be possible.



### 10.3 Establishing the rule of law

For attacks on HRDs to decrease, there needs to be justice for victims of such attacks. Ending impunity depends on solving corruption, and for that, transparency is recommended. For this aim, the anti-corruption reform needs to be expanded on. The fight against corruption can yield progress in the fight against poverty, making corruption one of the most influential factors in preventing attacks against HRDs.

Reinforcing Ukraine's institutions and making their work more visible is decisive. Civil society needs to monitor if the police do their job correctly to serve the people. HRDs and the civil society collaborating with the nation and its security sector, prosecutors, justices, and the ombudsperson is one way to establish the rule of law.

*If we want sustainable changes for next generations, we need to find these ways of how to work with our government without corruption and with new laws and new rules. - (Interview 2)*

Improving law enforcement structures is normatively and symbolically essential to increase accountability. If the state makes organizers of attacks aware that attacks against HRDs will be investigated and that attackers will be brought to justice, attacks will decrease. To make such a statement, the national authority should be strengthened and make police more active and reactive. A security sector that follows standards of accountability in front of society, obedience to the law, normative obedience, professionalism are needed to punish all offenders properly.

*Putting pressure on the police is not enough. It is a technical question demanding real reform and real change regarding prosecutions and investigations. - (Interview 3)*

To improve the judiciary and the executive power, fundamental and fully implemented reforms and real change regarding prosecutions and investigations are vital. G7 countries and donor countries to Ukraine have a possibility to influence the reform of the Ukrainian judiciary that some argue is the most critical reform that must happen. HRDs winning landmark cases in a few strategic cases and strategic decisions in court can set new precedents.

Furthermore, changes to the legislature are needed, and the transitional justice reform, if continued and advocated, may contribute to such change. The hate crime article (§161) of the Ukrainian criminal code is recommended to be amended to not only involve three grounds of hate (ethnicity, race, and religion) as it does today (Interview 5).

This thesis has demonstrated reports of homophobic and sexist attacks against HRDs indicating that gender and sexuality are suitable to be included in legislation dealing with hateful attacks. It is also recommended to implement a law concerning compensation for victims of conflict (Interview 4). Such a law may increase appropriate remedies for those who suffer in the Russo-Ukrainian war and is applicable in the case of continuing conflict. Reparations is a key feature of sustainable justice (UN General Assembly, 2006).

The possibility of adding a special legal protection article for HRDs to national legislation was discussed as a proposal for improved protection. The discussion on whether a special HRD protection article was desirable touched on the following points. Some were aware of the existence of model law for the protection of HRDs, made by a group of international NGOs, and that countries can take and use as a draft law. The HRDs expressed that for society, HRDs are of similar importance as journalists who in Ukraine have special protection articles. There are two main problems with possible protective legislation; first, it declares to the state who is a HRD, and second, it may be impossible and immoral to define HRDs legally. Making a clear definition of who is a HRD is considered excluding and unproductive. It could make it more challenging to join HRD initiatives if a special status is needed to receive protection. As trust for the legal system is low most are critical and claim Ukraine is not ready as certifying HRDs would visualize them to the government, making them more of a target than before.

*A special law could be a good symbolic step. It can also be seen as cynical as it is not true. The law is symbolically saying they are protected when they are not. [...] You can adopt any legislation, without non-partial law enforcement, it can be used in any way and will not solve anything. - (Interview 6).*

## 10.4 Increase awareness about human rights and HRDs

The previous chapter established that solidarity is protective for HRDs. Advocating human rights and HRDs can help others identify with the HRDs and can increase solidarity. Around the age when children become economically active, education for children should let them know that attacks against HRDs are a problem for society. There must be an understanding of why this sort of violence is hazardous.

*People need to understand that they should protect their neighbors because we need this security system. - (Interview 7)*

Media freedom and freedom of speech are important for human rights and HRDs representation and visibility, and visibility and representation are critical in combatting discrimination. Civil society can bolster the right to a free press by reading and listening to newspapers, journalists, and media who work with the truth. Funding for independent media and journalists needs to increase and become less dependent on international aid.

*We need to remember young people and support independent media to support journalists as citizens of our country. We need to pay for media that we want to read and remember informational hygiene. - (Interview 2)*

There needs to be an increased awareness of why HRDs are essential and why HRD get attacked. Commissions with Ukrainian and international experts under the umbrella of the UN, CoE, or OSCE may be helpful to help develop and share knowledge regarding the HRD regime. Media channels may help advocate improvement recommendations regarding protection systems and providing HRDs with information on how to mobilize safely. All actors have a responsibility to be evidence-based and find grounding and justification for everything they promote to cultivate information without fake news and manipulations and the freedom of expression in a healthy manner. Special courses in schools and universities dedicated to understanding the truth and how to judge information are recommended to change Ukraine's informational space.

## 11. CONCLUSION

The deteriorating state of HRDs' safety in Ukraine is part of a global upsurge of crackdowns on civil society. Abuse, violence, and harassment against HRDs are happening worldwide and present a challenge to the entire human rights system. If attacks against HRDs do not decrease, the long-term effect may be fear of political involvement or activism and a shrinking space for civil society. Debates on the topic are not uncommon; however, as the IHRD regime is relatively new, there is little research on the effectiveness of protection for HRDs. This thesis aimed to explore how HRDs are (and can be) protected in post-Euromaidan Ukraine and elsewhere with the help of HRDs in Ukraine.

The findings indicate that: **1)** attacks of HRD are prominent under three coexisting conditions: societal problems, i.e., lacking "basic rights," enough space for civil society to demand its rights, and not enough protection against attacks those that make such demands. In Ukraine, attacks occur due to a lack of civil solidarity, the silent consent of power, an attack enterprise, war on information, xenophobia, homophobia, and the Russo-Ukrainian war. **2)** Empowerment, membership, protection, and survival rights need to be secured to protect HRDs against attacks. Protection rights were most appealed to, centering the state as the main duty-bearer. **3)** HRDs bodies, minds, freedoms, and reputations are attacked and thus need to be secured. **4)** Factors that facilitate attacks against HRDs may also disrupt the performance and development of protection mechanisms. The HRDs perceived institutional protection mechanisms as practically ineffective due to lack of use or misuse. While symbolically valuable, potential national legislation regarding HRD protection would be appropriate only after establishing the rule of law. **5)** The rule of law, peace, democracy, and transparency is seen as antidotes to attacks against HRDs and, for HRDs in Ukraine, ways to increased security. In the face of lacking national protections, civil society and the international community can take measures to help remedy attacks. Monitoring, collaboration, international solidarity, and making human rights and HRDs visible are identified examples of such measures.

This research makes relevant avenues for further development of the subject. Only those considered most critical are highlighted. First, research of how to implement HRD training and preparedness. Overall the thesis cemented an impression that HRDs in their work are subject to risk, under many psychological stressors, and with limited protection yet remain relentless in the fight for the betterment of society. HRDs appear as societal heroes without proper shields that grow stronger even in the face of adversity. In reality, they can not be taken for granted.

To challenge violence, HRDs need resources such as psychological aid, preparedness, and training. Secondly, the urgent need to protect these brave individuals groups, and the roles they fill, call for a return to basics. While attacks against HRDs are a global phenomenon protections, need to be sensitive to local circumstances and national and international relations. It would therefore be helpful to understand problems for HRDs, perceptions of HRDs, and HRD definitions in different countries and cultures comparatively. Building on this research, different actors' abilities to protect HRD can be addressed, as those who can help should. Thirdly, as HRDs safety is tied to solidarity, research may address ways to implement human rights, moral and ethics education into different sections of society, and effective ways to create supportive international networks.

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## ANNEX A – INTERVIEWS

1. Executive Director of Civil+ and the Ukrainian Helsinki Human Rights Union (UHHRU) – 13 October 2020
2. Executive Director of PEN Ukraine – 16 October 2020
3. Coordinator at the Center for Civil Liberties – 30 October 2020
4. Ambassador to Ukraine – 6 November 2020
5. Head of the Board at Zmina and Chairperson, Human Rights Information Centre – 7 December 2020
6. Analytic activities manager at the UHHRU - 15 February 2021
7. Executive Director at the Center for Civil Liberties – 10 March 2021

## ANNEX B – INTERVIEW GUIDE

Preface - Researcher introduction, personal career, and experiences

Permissions - record, transcribe and use the name

*About the interviewee (History/Main focus)*

How do you defend or promote human rights? (short)

What obstacles and threats do you encounter when fighting for human rights, what is the biggest challenge you face?

Do you feel safe in your role (as a HRD if they are)?

### **Defending/protecting HRDs**

*Opportunities and threats:*

What dangers do you believe HRDs around the world face? (Physical and psychological)

What protection mechanisms are you aware of?

In which areas do you see an opportunity for progress?

*HRD in Ukraine today*

What are the major threats to HRDs in Ukraine?

Who are the perpetrators of the attacks?

Has the situation changed in recent years, and in what way? (Yanukovich regime/Euromaidan impact)

*Perceptions of protections:*

What actor should be responsible to protect HRDs?

What is your estimation of current protective legislation for HRDs?

What is needed to better protect HRDs?

Describe a successful protection mechanism. (How does it work, why is it successful? ex. If you don't see one that exists, feel free to invent one)

(What collaboration do you see, what outcomes does it have?)

Do you have contact with transnational organizations promoting protections for HRDs?

In what way do they contribute?

*Snowball* - Give me advice on people who have contributed to the protection of HRDs.