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Human Rights Defenders: The Right to Promote and Protect Human Rights

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In 1998, after 13 years of discussion in a working group, the United Nations adopted the Declaration on human rights defenders recognizing to individuals the right to promote and to strive for human rights. This Declaration led to a two-fold process with main changes in constitutional and international law: individuals are considered not only a passive subject of rights, but also an active one, able to promote and protect human rights. However, this circumstance does not imply that individuals must be a substitute for public action. Neither must they cope with the legal duty to protect human rights, even sometimes with their own life.

In 2000, the UN set up a thematic mechanism on the situation of human rights defenders, due to the high risks that they suffer. This had a multilevel effect in regional human rights systems with the development of thematic mechanisms on human rights defenders in the Inter-American and African Commission. There are also differences within the European legal framework on human rights defenders, between the Council of Europe and the European Union. After the Treaty of Lisbon, human rights defenders are key actors for the European Union's External Action. Hence, the EU has a different *ad intra* and *ad extra* system of protection for human rights defenders. I would like to present a multilevel analysis on the instrumental rights of the Declaration on human rights defenders and their guarantees.

Which are the criteria to be considered a human rights defender? The Declaration of human rights defenders lacks a definition in this regard, but the UN practice has established some criteria, adopted later by the European Union's Guidelines. The main criterion is the peaceful action of defense of human rights. The concept of human rights defenders comes historically from the Helsinki Final Act, dealing with dissenters and human rights groups in Eastern countries. To be considered a human rights defender depends more on exercising the right to promote and protect human rights than being a holder of this right. This can be a new trend going further than citizenship rights in a global world. From a philosophical perspective, this trend evokes Hannah Arendt's theory on the right to have rights. The double nature of the right to promote and protect human rights is often forgotten in legal analysis, but both actions on human rights -individual and public- are complementary and interdependent.



Dr. Nuria Saura is researcher on fundamental rights, with publications on freedom of expression, human rights, and multilevel constitutionalism. She is associate lecturer of Constitutional Law in the Autonomous University of Barcelona, teaching consultant on human rights in the Open University of Catalonia, undertaking also academic research as well as projects in the artistic domain. She is currently a visiting scholar at the Max Planck Institute for Comparative Public Law and International Law.

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