

CLAIMING RIGHTS, CLAIMING JUSTICE:

A GUIDEBOOK ON
WOMEN HUMAN RIGHTS DEFENDERS



Claiming Rights, Claiming Justice: A Guidebook on Women Human Rights Defenders

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List of Acronyms and Abbreviations

ACHPR	African Commission of Human and People's Rights
AI	Amnesty International
APWLD	Asia Pacific Forum on Women, Law and Development
AMVA	<i>Asociacion Mujer Vamos Adelante</i>
ASK	<i>Ain o Salish Kendra</i>
ATFD	<i>Association of Women in Development</i>
AWID	Association of Women in Development
Forum Asia	Asian Forum for Human Rights and Development
CAT	Convention Against Torture and all Inhumane, Cruel or Degrading Treatment
CERD	Convention for the Elimination of Racial Discrimination
CEDAW	Convention for the Elimination of All Forms of Discrimination Against Women
CEDAW	Committee Committee on the Elimination of All Forms of Discrimination Against Women
CEJIL	Center for Justice and International Law
CLADEM	Latin American and Caribbean Committee for the Defence of Women's Rights
CIS	Commonwealth of Independent States
CRC	Convention on the Rights of the Child
CWGL	Centre for Women's Global Leadership
DEVAW	Declaration on the Elimination of Violence Against Women
EU	European Union
FGM	Female genital mutilation
EWLA	Ethiopian Women Law Association
FGM	Female genital mutilation
FWRM	Fiji Women's Rights Movement
GALZ	Gays and Lesbians of Zimbabwe
GIA	<i>Groupes Islamiques Armes</i>
IACHR	Inter American Commission on Human Rights
FIDH	International Federation of Human Rights
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICHRDD	International Centre for Human Rights and Democratic Development
ICRMW	International Convention for the Protection of the Rights of all Migrant Workers and their Families
IGLHRC	International Gay and Lesbian Human Rights Commission
INFORM	Information Monitor
ISHR	International Service for Human Rights
Isis-WICCE	Isis - Women's International Cross Cultural Exchange
LGBT	Lesbian, Gay, Bisexual and Transgender/Trans-person
MAP	Migrant Action Project Foundation
NGO	Non-Governmental Organisation
OAS	Organisation of American States
OHCHR	Office of the High Commissioner for Human Rights

OMCT	World Organisation Against Torture
ORPAD	<i>Organisani Perempuan Aceh Demokratik</i>
PBI	Peace Brigades International
PLD	Partners for Law in Development
PRODH	Miguel Agustín Pro Juárez Human Rights Center
RAFD	<i>Rassemblement Algérien des Femmes pour la Démocratie</i>
SMUG	Sexual Minorities Uganda
SWAN	Shan Women's Action Network
THF	Turkmenistan Helsinki Foundation
UAF	Urgent Action Fund for Women's Human Rights
UMAGA	<i>Ugnayan ng Maralita para sa Gawa at Adhikain</i>
UDHR	Universal Declaration on Human Rights
UMAGA	<i>Ugnayan ng Maralita para sa Gawa at Adhikain</i>
UN	United Nations
UNIFEM	United Nations Development Fund for Women
UPC	Urban Poor Consortium
US	United States
VAW	Violence Against Women
WHO	World Health Organisation
WLB	Women's League of Burma
WLUML	Women Living Under Muslim Laws
WOREC	Women's Rehabilitation Centre



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Amnesty International (AI)
Asia Pacific Forum on Women, Law and Development (APWLD)
Asian Forum for Human Rights and Development (Forum Asia)
Centre for Women's Global Leadership (CWGL)
Front Line
International Gay and Lesbian Human Rights Commission (IGLHRC)
Information Monitor (INFORM)
International Service for Human Rights (ISHR)
Isis - Women's International Cross Cultural Exchange (Isis-WICCE)
Latin American and Caribbean Committee for the Defence of Women's Rights (CLADEM)
Women Living Under Muslim Laws (WLUML)
World Organisation Against Torture (OMCT)

More recently, the following organisations have joined this network and provided invaluable contributions to the guidebook:

BAOBAB for Women's Human Rights, Nigeria
Komnas Perempuan (National Commission on Violence Against Women, Indonesia)
North East Network, India
Women's League of Burma (WLB)
Human Rights First (HRF)
Women's Rehabilitation Centre, Nepal (WOREC)
Working Group on Women and Armed Conflict in Colombia
Urgent Action Fund for Women's Human Rights (UAF)

Within APWLD, the Women Human Rights Working Group has been instrumental in recognising the need for a focus on women human rights defenders and putting energies and resources into this work. They organised the first consultation on women human rights defenders with the Special Representative on Human Rights Defenders in 2003.

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Oxfam Novib funded this project and we are grateful for the support.

Asia Pacific Forum on Women, Law and Development (APWLD)

This guidebook, *Claiming Rights, Claiming Justice: A Guidebook on Women Human Rights Defenders*, is an important initiative to acknowledge the valuable contribution of women human rights defenders in the promotion and protection of human rights, and to empower them further in their role as defenders. It builds on the achievements of women human rights defenders, including those attained in the framework of the three-year international campaign on women human rights defenders.

In my work as UN Special Representative of the Secretary-General on the situation of human rights defenders, I consistently reiterated that women defenders are more at risk of certain forms of violence and restrictions, and become more vulnerable to prejudices, exclusion and public repudiation by state forces and social actors especially when engaged in the defence of women's rights. This is particularly true when they are perceived to defy cultural norms and social constructs on gender, sexuality and femininity, or when they challenge social structures vested in economic interest or traditional practices.

Since the establishment of my mandate in 2000, I acted on over 450 cases of violations of women human rights defenders concerning more than 1,300 defenders. Over 40 of them were killed in connection with their human rights work. This is the tip of the iceberg of the human rights violations perpetrated against women defenders. It tells us how imperative it is to devise new protection mechanisms and strengthen existing ones to provide women human rights defenders with a secure environment for their work.

This guidebook is an important contribution to that end. By giving visibility to the role of women defenders in the promotion and protection of human rights, the guidebook contributes to the recognition of their work as human rights work. By looking at the specific types of human rights violations affecting women defenders because of their gender, the guidebook enhances understanding and awareness of the challenges faced by women defenders and serves as a tool to advocate for protection, redress and compensation measures.

I have repeatedly emphasised that there is no better protection for women human rights defenders than the strength and support of their own movements. I am therefore proud to introduce this tool made by women defenders and hope that this will be widely used by the women and men who are striving globally for the protection and promotion of human rights.

I thank APWLD and the many organisations that contributed to make women defenders and their work more visible and brought this guidebook to completion.

Hina Jilani
UN Special Representative of the Secretary-General on the Situation of Human Rights Defenders

This guidebook is designed to support the ongoing process of enhancing the understanding of, and sensitivity to, the specific issues and situations confronted by women human rights defenders. Women human rights defenders are women who defend human rights as well as those who defend sexuality-related rights. By naming the specific violations, risks and constraints that they face, this guidebook aims to continue advocacy, research, and documentation, which could advance the rights of women human rights defenders as well as bring further recognition and acknowledgment to their work.

This guidebook provides the basis for continuing engagement with issues regarding the protection of women human rights defenders at both the conceptual and practical levels. It is a contribution towards enriching the use and interpretation of human rights, drawing from the special collaboration among women's rights, human rights, and sexual rights advocates who produced this guidebook together. As a result, this document demonstrates the many links between human rights, women's rights, and sexual rights, and represents one specific initiative towards the continuing struggle for the advancement of human rights for all.

The idea to develop a guidebook was first explored in the international campaign on women human rights defenders entitled *Defending Women Defending Rights*. It was a mobilisation to move the activism for women's rights forward focusing on the human rights of the activists themselves. The campaign brought together an international coalition of representatives from women's rights, human rights, and lesbian, gay and transgender movements who were committed in the advocacy for the concerns of women human rights defenders. The campaign was launched in 2004, and it culminated in an international consultation on women human rights defenders in Colombo, Sri Lanka on 29 November – 2 December 2005.

One of the key recommendations from the participants in the consultation was the creation of “a documentation system on violations and abuses against women human rights defenders in order to develop protection mechanisms that are more responsive to their needs”. *Claiming Rights, Claiming Justice: A Guidebook on Women Human Rights Defenders* was written to respond to this recommendation.

Based on the calls of the campaign, this guidebook was written to highlight the following major categories of perpetrators or political

contexts:


- resistance to state violence and repression of women human rights defenders, with a focus on state actors' responsibility;
- responsibility for violations by non-state actors, including violations perpetrated by family and community members and obstacles faced in those arenas;
- violations perpetrated in relation to heightened fundamentalisms on a global level; and
- violations perpetrated in relation to regulation of, and attack on women's sexuality.

This guidebook reflects the rich perspective of activists working from different areas of expertise and backgrounds. Women human rights defenders from women's rights, human rights, and gay, lesbian and transgender groups who were involved in the campaign and the international consultation committed themselves to the production of this book. Many of the insights and examples used in this book were drawn from their stories.

In addition, two consultations were organised in Nepal (with participants from South Asia) and in Indonesia (with participants from Asia and the Middle East) to test assumptions and draw more insights from women at the forefront of defending human rights. Ideas and comments coming from those consultations were incorporated in the finalisation of this book.

This guidebook is intended to be of primary use to women human rights defenders themselves as part of a continuous process of acknowledging, validating, and transforming their practical experiences and insights into a body of knowledge, theories and tools for use by them and by others. It is intended to complement current human rights documentation manuals and training, and to further a gender perspective in many of the existing human rights documentation and monitoring systems.

It is our hope that this guidebook will support the courageous women human rights defenders who work for the promotion and protection of human rights for all.



Asia Regional Consultation
on the
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Resource Book

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Women's struggles for freedom and equality have been a vibrant part of all social movements for transformation and social justice through history. Mary Wollstonecraft wrote in 1792 in her *Vindication of the Rights of Women*¹ that the struggle for rights of women is located within the personal space – the home and the family; and within the public space – the political and economic world.

Two hundred years later, women activists defined their experiences of violence, subordination and disadvantage as located within **patriarchy**. Patriarchy is a social formation that gives privilege to male power and separates the public and the private worlds. It constructs 'gender' (the socially constructed meaning assigned to the sexes) as a binary of male and female and assigns particular roles and privileges to these. It assigns to women roles within the private sphere which are attributed lesser value - creating and perpetuating inequality. Patriarchy also privileges heterosexuality, establishing sexual hierarchies and marginalising sexual and gender identities that do not fall within this power dynamics. A pattern of violence, oppression, silencing and marginalisation are used to enforce this value system.

Who are women human rights defenders?

To address violations of women's human rights, women activists have worked courageously for the defence of their own rights, and for the defence of the rights of others. We call them **women human rights defenders**.



'Women human rights defenders' include women active in human rights defence who are targeted for **who they are** as well as all those active in the defence of women's rights who are targeted for **what they do**.

Lesbian, gay, bisexual and transgender activists participate in many human rights struggles, including the advocacy for sexual rights. They become vulnerable to violence because of who they are and the work they do, especially when that work is directly related to sexuality. We refer to them as women human rights defenders, too.

¹ printed by Peter Edes for Thomas and Andrews, Faust's statue no. 45, Newbury Street, Boston, USA, (1792).

Why focus on women human rights defenders?

Women human rights defenders put themselves on the front line in the promotion and protection of human rights. In doing so, they face risks that are specific to their gender and additional to those faced by men². Frequently, the violence or threat against them is sexual in nature, or they face restrictions in their work on account of their gender. Furthermore, prejudice, exclusion and public repudiation by both state forces and social actors weigh heavily in their lives.

Harassment and attacks against them may themselves take gender-specific forms ranging from verbal abuse directed exclusively at women because of their gender, sexuality or gender identity to sexual harassment and rape³. These human rights abuses can, in turn, have repercussions that are, in and of themselves, gender-specific. For example, the rape of a woman human rights defender in custody can result in pregnancy and sexually transmitted diseases, including HIV/AIDS⁴. Other gender-specific consequences could also include forced abortion or forced childbirth.

Since the abuses against women human rights defenders are generally not classified as human rights violations, one serious consequence is that the atrocities against them are given lower priority. Sometimes they are not considered 'serious enough' to merit response or redress, or they are simply ignored in favour of those committed against 'recognised' human rights defenders who are usually male. As a consequence, women defenders are deprived of protection afforded to their male colleagues in the movements.

Moreover, interlocking networks of silence and shame that blame victims (especially of sexual violence), and male language or male-defined processes in legal institutions have often resulted in the suppression of stories of abuse. For example, women activists have had to struggle – even within the human rights circle – to assert that 'rape' is not just an act of violence, but also an affirmation of unequal power relations. In cases where the perpetrators are trusted members of the family or community, self-censorship and the internalisation of fear can also become so ingrained that breaking the silence is difficult. This has serious repercussions on the well-being of women human rights defenders.



² In her January 2007 report to the UN Human Rights Council, the UN Special Representative of the Secretary-General on Human Rights Defenders observed that since the establishment of her mandate, she has acted on 449 cases of violations against women human rights defenders from complaints received concerning 1,314 defenders. Of these, 43 cases pertained to women human rights defenders who were killed, and there are numerous cases from all regions, of sexual violence and death threats against women human rights defenders. Importantly, these figures are marked in a context of non-recognition for the work of women human rights defenders as well as the non-acknowledgement of the acts against women human rights defenders as human rights violations. (24 January 2007, A/HRC/4/37, para 100, 102, 103)

³ Report submitted by the UN Special Representative of the Secretary-General on Human Rights Defenders, Hina Jilani, to the 58th session of the Commission on Human Rights, 27 February 2002, E/CN.4/2002/106, para 91.

⁴ Report submitted by the UN Special Representative of the Secretary-General on Human Rights Defenders, Hina Jilani, to the 58th session of the Commission on Human Rights, 27 February 2002, E/CN.4/2002/106, para 93.

Thus, it has been difficult to argue for adequate protection for women human rights defenders within male-dominated social formations or spaces that exist all over the world. Most mainstream human rights frameworks and institutions fail to recognise the private or hidden nature of the violations, and focus on the public arena and state accountability. This leads to a disregard of non-state actors' abuses. The lack of mechanisms to hold *individual* perpetrators accountable under international human rights law contributes to a culture of impunity for these violations against women human rights defenders.

Women human rights defenders also have to do their work within a context where democratic principles are being undermined. In authoritarian regimes, human rights defenders are arrested, detained, harassed or killed for criticising the state. Making state and non-state actors accountable for human rights violations has become more frustrating than ever, and the work of women human rights defenders more dangerous than before.

For whom is this guidebook?

This guidebook is written primarily for women human rights defenders. It is one of the many tools intended to enhance their understanding that regardless of whether they define themselves as activists or advocates, if their actions strive towards the realisation of human rights, they are entitled to protection.

While the term 'women human rights defenders' refers not only to women but also to other activists who defend the rights of women, this guidebook focuses particularly on the roles, risks, and vulnerabilities of defenders who are women. This book was written on the premise that men who defend women's rights do not experience the degree of discrimination and disadvantage that women activists, lesbian, or trans gender advocates do.

Reading, reflecting, and testing out the concepts and tools in this guidebook with colleagues is always the best way to begin imagining solutions to the problems we encountered in defending human rights for all. We hope that using this guidebook will move defenders towards creating better networks and frameworks for the defence of their rights than any that have existed till now. We expect that it will assist women human rights defenders to gain recognition for their work, defend their rights, challenge impunity, and seek justice and accountability.

What are its aims?

The guidebook was developed with the following aims:

- To bring greater recognition to women human rights defenders and their work;
- To further the legitimacy and credibility of women human rights defenders;
- To strengthen the documentation and monitoring of threats, challenges and violations experienced by women engaged in the promotion and protection of human rights;
- To seek justice, redress and reparation for women human rights defenders who are victims and survivors of these violations;
- To strengthen networks of solidarity and support that have been built by women human rights defenders and their supporters around the world.

This guidebook is a tool for women human rights defenders to *claim rights* and *claim justice*.

How can this guidebook be used?

There are already many manuals on documentation of human rights violations. Many organisations have set up and continue to operate documentation systems to monitor human rights abuses. There are also some training manuals on human rights monitoring and documentation that either integrate a gender perspective, or focus specifically on concerns around women such as documenting instances of sexual violence as human rights violations by state agents. There are also modules that deal specifically with human rights defenders.

This guidebook focuses on women human rights defenders and names the specific violations, risks, and constraints they face in their work. Women human rights defenders can use it to learn about their rights and how to demand accountability for any abuse. It explains the practical implications of subscribing to the term 'human rights defender', and the range of options available for their protection. It can also be used as a guide in the adoption of strategies to prevent and respond to attacks against them.

Intended to complement existing human rights documentation systems and manuals, human rights advocates can also use this guidebook to integrate a gender perspective in human rights documentation. It provides a gender framework. It identifies the violations and abuses experienced by women human rights defenders, which human rights advocates can incorporate in their existing documentation systems. In so doing, they can contribute towards the recognition of women human rights defenders and their rights.

What are the different chapters of this guidebook?

Chapter 1 is an introduction to the guidebook, outlining its purposes and intended readers.

Chapter 2 explains the context in which attacks and constraints against women human rights defenders occur. It explains the concept of patriarchy and discusses the impacts of globalisation, militarisation, and rising forms of religious and nationalist extremisms in the struggle for the advancement of human rights.

Chapter 3 affirms that basic human rights principles also apply to the rights of women human rights defenders. It explains feminist contributions to human rights principles such as the concepts of 'intersectionality' and 'well-being'. It articulates principles of equality and non-discrimination as essential for the realisation of the rights of women human rights defenders.

Chapter 4 of the guidebook offers some practical information on the UN Declaration on Human Rights Defenders, the main international instrument addressing the rights of human rights defenders. This section also explains briefly the mandate of the UN Special Representative to the Secretary General on Human Rights Defenders, as a mechanism for monitoring the implementation of the Declaration.

Chapter 5 clarifies who are 'human rights defenders' and explains the term 'women human rights defenders'. It states the reasons why it is necessary to ensure a specific focus on women human rights defenders.

Chapter 6 provides a typology, which is a classification of violations, risks and constraints facing women human rights defenders in their work. This section attempts to name the diverse and multi-faceted forms of violations, risks and constraints that could be confronted by women human rights defenders in many different contexts and cultures.

While this guidebook is not a documentation manual, Chapter 7 provides a general discussion on the importance of documenting human rights violations and abuses, the different processes of documentation, and the ethical considerations for doing it. It explains the difficulties of documenting violations and abuses against women human rights defenders within the human rights documentation systems.

Focusing on the twin objectives of justice and accountability, Chapter 8 enumerates the categories of actors responsible for violations of the rights of women human rights defenders. It explains the various ways to define their accountability not only within a traditional notion of justice, but also within a broader conception of justice as articulated by women.

Chapter 9 offers some examples of individual and collective strategies used by women human rights defenders to strengthen their activism and defend themselves. It discusses some of the mechanisms for protection available to women human rights defenders at local, national, regional and international levels.

Chapter 10 discusses the situation of women human rights defenders living and working in conflict situations. This section is intended to reflect the concerns of women activists working in this context who participated in the consultations. It is also an example of a framework for women human rights defenders working with specific communities - such as indigenous women, migrant women, lesbians, bisexual women and transgender people - where existing mechanisms for protection are inadequate to defend their rights and there is a need to develop specific responses.

Chapter 11 provides a brief conclusion.

The last section is a compilation of annexes. Annex A is the Declaration on Human Rights Defenders; Annex B is a table of the rights of human rights defenders' as reflected in fundamental international human rights conventions; Annex C is a reference guide to organisations that can provide various forms of support to women human rights defenders.

As a guidebook, this does not set out to be an exhaustive work on women human rights defenders. Rather, each chapter tackles key issues which we think are relevant to ensure the development of a holistic approach towards the protection of women human rights defenders. As the campaign continues and more groups take on the concerns of women human rights defenders, we hope there will be more bodies of work that will build upon this book.

ما فرزندان کوی ششم
بیام آور حقوق بشر





Die kaiserliche Armee hat uns mißbraucht



Wir fordern **ENTSHÄDIGUNG**
für die Opfer sexueller Gewalt
im Asien - Pazifik - Krieg!!

Understanding the Context and Environment 2

The global and local environments in which women human rights defenders must work play a critical role in determining the spaces and avenues open for the defence of human rights in general. Living and working in societies that rely upon or excuse the subordination of women means that women human rights defenders face a range of obstacles that limit their freedom to carry out their activities.

This chapter discusses major concepts and political contexts that shape the struggles of women human rights defenders. It explains what we mean by patriarchy and its impact on women activists. It discusses the growing phenomenon of militarisation, and the rise of religious and other forms of extremism that affect the advocacy for women's rights. It briefly looks into the effects of globalisation in the work of women defenders for the advancement of human rights for all.

Patriarchy – how does it affect women human rights defenders?

As defined clearly in the *Introduction*, patriarchy (lower case p) (*Introduction* is italics) is a term used to describe the oppressive and exploitative relations experienced by women as a result of privileging male power in society. This is enforced by restricting women's autonomy – especially their sexual autonomy – and justifying violence against women as natural. Moreover, women's realm for making decisions about their own lives is severely limited. Women who step outside social norms of femininity can face severe retribution. Such patriarchal power relations result in the systematic abuse of women's human rights.



Patriarchy divides the public and private spheres. Such separation has serious implications in the lives of women. For example, it gives rise to the sexual division of labour, which is an allocation of tasks on the basis of sex. This division of labour between sexes is based on what a society expects a man or a woman should do, and it values the products of male labour more than those of women, compounding gender discrimination.

The same structural gender inequality and disempowerment of women that create a sexual division of labour also account in part for the non-recognition and lack of protection of women human rights defenders. They have to fight continually against gender stereotypes that invalidate their role as leaders of the community. They have been treated as mere extensions of their husbands,

brothers, fathers or male colleagues, despite being at the forefront of the defence of civil, political, economic, social, and cultural rights. As a result, they seldom obtain the kind of protection given to human rights defenders in general.

Hina Jilani, the UN Special Representative on Human Rights Defenders, expressed:

[W]omen defenders may arouse more hostility than their male colleagues because as women human rights defenders they may defy cultural, religious or social norms about femininity and the role of women in a particular country or society. In this context, not only may they face human rights violations for their work as human rights defenders, but even more so because of their gender and the fact that their work may run counter to societal stereotypes about women's submissive nature, or challenge notions of the society about the status of women.⁵

An analysis that takes into account gender, as well as other categories of social marginalisation is critical to understanding the sphere or type of violence women human right defenders experience. This intersectional approach looks at the various factors of social identity⁶ and axes of discrimination - including gender, race, sexual orientation, gender identity/expression, ethnicity, (im)migrant status, health status, age, physical disability, language – which mutually constitute not only the exercise, but also the violation of human rights of an individual or group.

In particular, Special Rapporteurs on Violence Against Women Radhika Coomaraswamy and Yakin Erturk explained, '(When) patriarchy intersects with other sites of oppression such as class, race, ethnicity, displacement, etc., discrimination becomes compounded, forcing the majority of the world's women into situations of double or triple marginalisation⁷.

What is hetero-normativity?

Another axis of women's disempowerment is the privileging of heterosexuality and the prescription of marriage and reproductive sex as the only accepted form of sexual relations for women. This is what is referred to as hetero-normativity, or the imposition of heterosexuality as the societal norm.

For many women, this manifests in having very little control over whether to, whom to marry and whether they can exit that marriage. Further, it is the foundation for discrimination against single women, divorced women, and widows. For lesbians, bisexual women, and trans persons, this is the foundation for sexual hierar-

⁵ Report submitted by the UN Special Representative of Secretary-General on Human Rights Defenders, Hina Jilani, to the 58th session of the Commission on Human Rights, E/CN.4/2002/106, 27 February 2002, para 91.

⁶ Social identity refers to the socially meaningful characteristics by which individuals are identified – and often discriminated against – by virtue of their membership in a group (race, for example) or because of their association (sexual orientation, for example).

⁷ Report submitted by the UN Special Rapporteur on Violence Against Women, Yakin Erturk to the 61st session of the Commission on Human Rights, E.CN.4/2005/72, 17 January 2005 citing Coomaraswamy, A/CONF.189/PC.3/5, para 2.

chies, or the notion that one form of sexuality or sexual identity is superior or inferior to another. This results in various forms of discrimination and other human rights violations, such as violence and abuse by police, colleagues or even family members who only accept heterosexuality and the representation of the male or female gender only.

Defining the 'sexes'

Sexual orientation is the term used to indicate the sex of the people to whom a person is sexually attracted. One's sexual orientation can be to the opposite sex (heterosexual), the same sex (homosexual, encompassing gay men and lesbians), or both (bisexual). This term has been used interchangeably with sexual preference.

Sexual identity refers to a person's self-identification in terms of sex or gender: male, female or somewhere in between.

Transgender or trans person refers to a person who self-identifies as being the opposite biological sex, or else neither male nor female but instead, something in between.

'Transvestite' simply refers to one who wears the socially accepted clothing of the opposite biological sex, regardless of her/his sexual orientation, or her/his sexual identity. In most societies, the most visible trans people are 'trans women', men who identify as women and evince socially accepted 'female behaviour' such as wearing women's clothes, exhibiting 'feminine' gestures, etc.

Militarisation – what are its impacts on women human rights defenders?

Militarisation is the process whereby military values, institutions and patterns of behaviour have an increasingly dominant influence over society. Militarisation often precedes conflict, almost always accompanies it and can remain part of its legacy. This process is accompanied by an increasing justification of the use of violence to resolve disputes, and has contributed to the proliferation of internal armed conflicts, separatist struggles, and so-called low intensity conflict as a global phenomenon.

The ideology of militarism is inextricably linked to processes of normalisation of military presence in civilian life and in decision-making structures. States rely more and more on their security forces to ensure stability on all fronts. Armed groups and opposition networks also enforce discipline and control such as highly gendered codes of conduct and dress on civilian populations. Many types of militarism may also be promoted by international networks, charities and other bodies who may be overtly or covertly associated with armed groups.

All too often, emergency situations lead to, or justify authorities to suspend civil or political rights in law or in practice. The global ‘war against terror’ that has followed the attacks on the World Trade Centre and Pentagon in the United States on 11 September 2001 has strengthened the hand of those who pursue militaristic resolutions of tensions and conflicts. This further restricts women’s ability to challenge or influence the course of events around them, and can deeply circumscribe the work of human rights defenders.

Under the pretext of national security, many governments have adopted counter-terrorism measures or so-called security acts. These laws, as the UN Special Representative on Human Rights Defenders concluded, are ‘exceptions to the rule of law and derogation of human rights’. She observed that special security legislation has been used to legitimise violations of human rights and seriously impair the work of human rights defenders. Restrictions placed on the freedoms of association and assembly have led to limitations on, and even criminalisation of, civil society activism⁸. For women activists who are not even recognised as human rights defenders, the impact of such state violence can be severe.

There are impacts of militarisation on women’s security, and on measures to enforce gender norms. Weapons proliferate and violence becomes an everyday means of social interaction. During internal and low-intensity conflicts, women human rights defenders are targeted by para-military forces – as well as by state agents – for their activism during conflict situations. Frequently, they find themselves caught between opposing forces. In addition, conflict can reinforce sexist stereotyping and profiling of lesbians, gay or transgender people who do not conform to expected gender norms. This can easily slide into a rigid differentiation of gender roles.

Fundamentalisms and other forms of religious and nationalist extremisms – how do they affect women human rights defenders?

Fundamentalisms are modern political projects that use religion to obtain and retain power. They may seek to control a state or a community through a selective reading of religious texts to create a single collective identity that is deemed to be ‘pure’ or ‘authentic’.⁹ These movements are hostile to a diversity of interpretations within their own religious traditions, or to attempts to exit from these traditions. Dissent is frequently viewed as blasphemy. Relatedly, extreme national movements may also be constructed around a single ‘pure’ ethnicity and myth of origin. Such movements frequently seek control through threat, intimidation and the strategic use of violence to attain their political ends.

⁸ Report submitted by the UN Special Representative of the Secretary-General on Human Rights Defenders, Hina Jilani, to the 62nd session of the Commission on Human Rights, 23 January 2006, E/CN.4/2005/95.

⁹ Contextualising the International Campaign on Women Human Rights Defenders, *Resource Book on Human Rights Defenders (2005)*, p. 15 (also <http://www.defendingwomen-defendingrights.org/resources.php>)

Religion plays a direct and indirect role in politics, in matters of state, as well as the derivation of legal frameworks from discriminatory interpretations of religious texts – whether Christian, Muslim, Judaic, Hindu or Buddhist or of any other sect or belief. This has the effect of strengthening the subordination of women and restricting women's choices. In such contexts, there is a demonising of everything that is seen to come from universal ideas not derived from religious sources, including the concepts of human rights and women's rights. These are seen as 'Western' ideas in some countries.

In situations of extremisms, communities often turn inwards, emphasising women's symbolic value as the guardian of 'honour' of the community. Many fundamentalist groups 'reinvent tradition' to create new norms that are even more restrictive than traditional practices have been. For instance, in an atmosphere of insecurity, families may marry their daughters much younger than they would have done a generation ago. Under these circumstances, women's rights such as their security, safety, freedom of movement and right to education are being increasingly threatened.

The control of women's lives – their minds and bodies – is central to the aims of religious fundamentalists and extreme nationalist movements and therefore poses serious threats to women human rights advocates. The intensified social control of women and the enforcement of strict gender norms make women activists a target for defending human rights. They find themselves protecting others from violence and intimidation in an atmosphere where they too, may be the subject of attacks from fundamentalists and conservative forces in the community.

Globalisation – is it relevant to women human rights defenders?

The range of economic processes which are referred to by the term 'globalisation' is a set of neo-liberal policies focused on economic growth, liberalisation of national economies, privatisation of public services, and de-regulation of trade and finance. The implementation of these policies has had complex results and has exacerbated social tensions and competition for scarce resources within the poorest and most marginalised communities in the world. In this context, the struggle for economic, social and cultural rights has become more critical than ever.



Women human rights defenders work on a broad range of economic, social, and cultural rights - such as labour rights, indigenous peoples' rights, environmental rights, minority rights, health rights and reproductive rights. Many of these rights are extremely fragile under globalisation, and women activists have joined other social movements to criticise these neo-liberal policies. Initially imposed on developing countries by international financial institutions, these policies have resulted in charges for basic services such as health and education, reducing their affordability and availability.

Women advocates have also demanded accountability from state agents as well as multi-national and other corporations that violate human rights in pursuit of greater profit under liberalised economies. Women activists have protested with indigenous communities against environmentally destructive large-scale mining projects sanctioned by governments that robbed them of their livelihoods. Often there is collusion between local and national authorities and the private sector in the attacks and threats against defenders addressing environmental issues, labour rights, and land rights¹⁰, and women activists are among the victims, UN Special Representative Hina Jilani said.

For women human rights defenders, advocating for these rights is a matter of survival and entitlement. However, as the UN Special Representative on Human Rights Defenders pointed out, it has been difficult for human rights defenders working in the field of economic, social and cultural rights to have their work accepted as human rights work. Further, she said, 'often there is a lack of redress mechanisms available to defenders and communities to ensure the effective protection and justiciability of their economic, social, and cultural rights'¹¹.

Patriarchal power, globalisation, militarisation and the many forms of religious and nationalist extremisms are over-arching contexts or environments in which human rights activists have to defend human rights. Women human rights defenders must deal with these ideologies as structural obstacles to their own freedom, as well as to their advocacy for the realisation of the fundamental rights of others.

¹⁰ Report submitted by the UN Special Representative of the Secretary-General on Human Rights Defenders, Hina Jilani, to the 60th session of the Commission on Human Rights, Addendum, Mission to Thailand, 12 March 2004/12 March 2004 E/CN.4/2004/194/Add.1.

¹¹ Report submitted by the Special Representative of the Secretary-General on Human Rights Defenders, Hina Jilani, to the 4th session of the Human Rights Council, 24 January 2007 (A/HRC/4/37), paras 78 and 81.





Reinterpreting Human Rights Principles 3

Human rights rest on several core principles, which are often believed to be a set of legal norms under international human rights law. They do not necessarily create formal obligations for states such as conventions or treaties do, so they cannot be the sole basis for an action in court or before an international body. However, these human rights principles provide guidance and set the standards for the fulfilment of any rights to which an individual is entitled, and which any state is generally expected to respect. These principles are: the *universality, inalienability, and indivisibility* of human rights and the principles of *equality and non-discrimination*.

The entry of women into the human rights arena led to questioning the traditional interpretations of these human rights principles. Women exposed the male bias embedded in these standards, and demonstrated the need to expand international human rights law to reveal how it rests upon a false division of the world into public and private realms. Women challenged some of the basic human rights practices, and they explored mechanisms to make the state, as well as non-state actors, more accountable for human rights violations against women. Their challenges have helped redefine the practice of human rights and introduced key new concepts.

This chapter explains the human rights principles, applying them in the context of women human rights defenders. It incorporates the significant contributions of women's human rights to the interpretation of these standards. It also explains why it is necessary to break down the separation of the private and public worlds, as initially conceptualised in human rights discourses, and to demand accountability for human rights violations in the private sphere committed by state and non-state actors.

What human rights principles apply to the protection of women human rights defenders?

Inalienability and universality

Human rights are fundamental rights everyone has by virtue of being human. They are inherent and inalienable in every person regardless of their status in any given society. Human rights cannot be granted or withdrawn or taken away. They are enshrined in the Universal Declaration on Human Rights, and subsequently in conventions and treaties such as: the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW).

Many states and human rights experts claim that the universal nature of human rights is beyond question. States have repeatedly proclaimed their acceptance of them by subscribing to Universal Declaration on Human Rights, the ICCPR, and the ICESCR (referred to as the International Bill of Human Rights) and incorporating these human rights into national constitutions or domestic laws. Further, the principle of non-discrimination on the grounds of sex or any other distinction, which is codified in the UN Charter and the Universal Declaration on Human Rights, clearly establishes the inclusion of women in the universal application of human rights. The Vienna Declaration and Programme of Action also explicitly state that women's human rights are 'an inalienable, integral and indivisible part of universal human rights'¹².

Despite these pronouncements, there remains a tension between the affirmation of the universality of rights, and the need to create space for cultural differences and diversity. Espousing 'cultural relativism', some governments argue that human rights are not universal, but a product of the West. They contend, human rights do not apply to all, but are culturally specific to the West or global North. This argument is particularly problematic for women human rights defenders. For example, those who advocate against child marriage are perceived to defy culture and tradition, and such a harmful practice against girls is not seen as a human rights violation.

The enactment of CEDAW in 1981 addresses this tension between human rights and culture. The CEDAW Committee, which monitors the implementation of the Convention, has categorically stated that traditional, religious or cultural practices cannot be used to justify discrimination against women. Article 5 stipulates that states shall take all appropriate measures to modify the social and cultural patterns of conduct of men and women that are linked to inequality between sexes and gender stereotypes. Hence, reservations made by governments under Articles 2 and 16 of CEDAW on cultural or religious grounds are considered incompatible with the object and purpose of the Convention.

Indivisibility of human rights

Indivisibility of human rights means that human rights are interdependent and interrelated so the international community must treat these rights on the same footing, in a fair and equal manner, and with the same emphasis. This human rights principle however, is far from practiced. In reality, there has been a hierarchy in the promotion of human rights based on the private and public divide embedded in international human rights law. Civil and political rights, generally regarded as 'public' are given primacy over economic, social and, cultural rights which are viewed as pertaining to the 'private' sphere or as unjusticiable.

¹² Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights in Vienna on 25 June 1993, Article 18.

This hierarchy disadvantages women given that most economic, social or cultural rights apply more often to their lives than to men's. Moreover, rights that are more pertinent to them such as reproductive rights or sexual rights have been marginalised in mainstream human rights frameworks. For women's human rights activists, dismantling the hierarchy of rights and this division between private and public domains is essential to ensure their safety and protection, especially those who espouse more controversial women's human rights concerns such as reproductive rights, women's rights in marriage, and equal access to property and inheritance.



Equality and Non-discrimination

Articles 1 of the Universal Declaration on Human Rights provides that: 'All human beings are born free and equal in dignity and rights....' Article 2 states that everyone is entitled to all the rights and freedoms set forth in the Declaration, without distinction of any kind such as race, colour or sex. This principle is premised on the notion that all human beings, both men and women, are free to develop their personal abilities and make choices without the limitations set by stereotypes, rigid gender roles and prejudices. In particular, gender equality pertains to a condition of equality between individuals and groups who hold different gender identities¹³, but each have equal status, rights, and access to power and resources.

Feminists examined three different approaches or interpretations of gender equality, which significantly advanced the concept of equality within the human rights framework. One approach to equality is a **'sameness' approach** wherein men and women, while initially different physically and socially, should eventually aspire to be the same. This approach maintains that women can be like men, too, so programmes and actions are geared implicitly towards making women comply to male standards in order to attain gender equality. The other approach recognises that women and men are different. From a **'difference' or protectionist approach**, such differences

¹³ Gender Identity is defined in the Yogyakarta Principles as 'each person's deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body (which may involve, if freely chosen, modification of bodily appearance or function by medical, surgical or other means) and other expressions of gender, including dress, speech and mannerisms' (Yogyakarta Principles on the Application of International Law in Relation to Issues of Sexual Orientation and Gender Identity, Yogyakarta, Indonesia, March 2007, Preambular para 5).

¹⁴ CEDAW: Restoring Rights to Women, Partners for Law in Development (PLD)/UN Development Fund for Women (UNIFEM) (2004).

account for differing treatment between the sexes, with the need to protect women or create safe spaces for them in order to ensure gender equality. A **corrective or substantive approach** also recognises the historical, present, and multiple differences between and among the sexes. Instead of maintaining that each sex should be treated differently, it advocates for pursuing measures that provide real options or create enabling conditions that will correct these differences and achieve equality between men and women.¹⁴

The related concept of non-discrimination is further elaborated in CEDAW. Based on the Convention, discrimination against women is:

“ Any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.¹⁵ ”

Upholding the principles of gender equality and non-discrimination of women is indispensable to the protection of women human rights defenders. That protection must be centred on an understanding of substantive equality. For example, states must undertake measures to correct gender bias in their legal systems, repeal discriminatory laws and practices, and modify social attitudes that do not consider women as equal under the law in order to ensure comprehensive protection for women human rights defenders.

Are there other relevant women’s human rights concepts?

Intersectionality

Central to the realisation of the human rights of women is an understanding that women do not experience discrimination and other forms of human rights violations solely on the grounds of gender. They are also discriminated upon because of age, disability, race, ethnicity, caste, class, national origin, sexual orientation, or some other status. Often, the social, economic and political systems that maintain the inequality between men and women intersect with those that allow the domination of a certain race, class, or ethnicity. For example, Dalit women are generally discriminated against more than Dalit men, and simultaneously are further marginalised in Indian society because of their caste and because they are poor.

The Beijing Declaration articulates the elements of this **intersectional approach**. It calls for governments to ‘intensify efforts to ensure equal enjoyment of all human rights and fundamental freedoms for all women and girls who face multiple barriers to their empowerment and advancement because of such factors as

¹⁵ CEDAW, Article 1.

¹⁶ Beijing Declaration, Fourth World Conference on Women, Beijing, China, September 1995, Article 32.

their race, age, language, ethnicity, culture, religion, or disability, or because they are indigenous people¹⁶. The Commission on the Status of Women, which monitors the implementation of the Beijing Platform for Action and related documents, also monitors how governments and other duty holders have addressed the various ways in which multiple forms of discrimination adversely affect women's enjoyment of their human rights.

An intersectional approach analyses the disempowerment of women and other marginalised groups by identifying the interaction between two or more forms of subordination. It addresses the manner in which different discriminatory systems on the basis of gender, class, race, ethnicity, and others intersect and create inequalities that structure multiple forms of discrimination. This approach examines the way that specific acts and policies operate together to create further disempowerment.¹⁷

For women human rights defenders, applying the concept of intersectionality generates a nuanced understanding of the human rights principles of universality, indivisibility and equality, which reflects upon the multiple identities of human beings and the diversity of experiences, even just among women. It demonstrates how these multiple identities can lead to multiple or differing relationships of power and inequality that call for multi-layered strategies for their protection.

Well-being

The current male-centred conceptualisation of human rights does not include the concept of well-being. Accountability for violations and abuses of human rights has been largely defined in terms of those that are inflicted upon victims. No state obligation has been explicitly formulated to address incidents of chronic stress, exposure to trauma or burn-out, or issues around self-esteem or non-recognition, which are abuses that do not necessarily involve a perpetrator and a victim. Even the recent UN Declaration on Human Rights Defenders only refers to violations, and does not look into measures that would ensure the well-being of activists.

Paragraph 89 of the Beijing Platform for Action provides the closest articulation of well-being as a component of the human right to health. It states:



Women have the right to the enjoyment of the highest attainable standard of physical and mental health. The enjoyment of this right is vital to their life and well-being and their ability to participate in all areas of public and private life. Health is a state of complete physical, mental and social well-being, not merely the absence of disease or infirmity. Women's health involves their emotional, social and physical well-being and is determined by the social and political context of their lives, as well as by biology.... 18

¹⁷ *Background Briefing on Intersectionality*, Center for Women's Global Leadership: Working Group on Women and Human Rights, <http://www.cwgl.rutgers.edu/globalcenter/policy/bkgdbrfintersec.html>

¹⁸ *Beijing Declaration, Fourth World Conference on Women, Beijing, China, September 1995, para 89.*

Asserting that the attainment of 'a state of complete physical, mental and social well-being' is a human right would go a long way in the protection of women human rights defenders. It would oblige the public and private sectors to develop programmes, activities, and allocate resources that respond not only to human rights violations, but proactively ensure a secure and dignified life for activists.

As demonstrated in this chapter, the new concepts introduced as a result of the advocacy for women's human rights and sexual rights have enriched the interpretation of human rights standards. Women human rights defenders will do well to further this advancement in order to attain a more holistic understanding and realisation of all human rights.





Using the Declaration on Human Rights Defenders 4

The Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, (commonly known as the **Declaration on Human Rights Defenders**) was adopted by the UN General Assembly as Resolution 53/144 on 9 December 1998. It represents the first explicit acknowledgement by the international community that the right to defend human rights exists and is protected internationally.

This chapter briefly narrates the history of the drafting of the Declaration, highlighting some of the debates surrounding the adoption of controversial articles. It introduces the mandate of the UN Special Representative on Human Rights Defenders, which monitors the implementation of the Declaration. It clarifies how this international instrument and mechanism also applies to women human rights defenders.

What is the Declaration on Human Rights Defenders?

The Declaration is an important international document that provides a framework for the protection of human rights defenders and their activities. It recognises that defending human rights is a right in itself, and explains how human rights apply to defenders. By affirming the rights of defenders and the obligations of states to protect these rights, the Declaration legitimises human rights activism and recognises that individuals and groups are entitled to carry out human rights work without fear of reprisals. It is also important to note that the Declaration is addressed not just to states and human rights defenders, but to everyone.

While the Declaration does not create new rights, it clarifies the applicability of existing human rights norms and standards to the specific needs of human rights defenders. It is not a legally binding instrument like a treaty, which creates obligations for any signatory country. However, its legal strength and authority are twofold: first, it is based on rights that are already protected in other legally binding international instruments such as the ICCPR, ICESCR, and the CEDAW; second, it was adopted by the UN General Assembly by consensus hence, represents a strong commitment by states to implement it.¹⁹

¹⁹ *Human Rights Defenders: Protecting the Right to Defend Human Rights*, United Nations Human Rights Fact Sheet No. 29, p. 19 (<http://www.ohchr.org/english/about/publications/docs/fs29.pdf>)

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Compilation of International and Regional Instruments for the Protection of Human Rights Defenders. International Service for Human Rights (July 2002). <http://www.ishr.ch/index.html>

How was the Declaration adopted?

It took over a decade to adopt the text of the Declaration. In 1985, the UN established a working group to draft a declaration. The working group was composed of government representatives, but it was opened to the participation of non-governmental organisations (NGOs). The working group met for 13 years before adopting the final text.

Such a lengthy process of finalising the document can be attributed to many factors. One obstacle was the clear division between states interested in strengthening the degree of protection for human rights defenders, and states that were determined to restrict the freedom of action of activists by emphasising the duties of defenders, and the limitation to their rights. The mode of adopting decisions by consensus also further slowed the drafting process. Certain governments continually objected to certain proposals, delaying the progress of adopting specific provisions.

There were several contentious issues that emerged during the negotiations of the Declaration. For example, there was a controversial proposal to include the duties of human rights defenders. Some governments insisted that this was necessary to counterbalance the rights of human rights defenders. This proposal was rejected, with the final version of the Declaration specifying the role and contributions of human rights defenders in safeguarding democracy and promoting human rights.

Articles 3 and 4 were also debated. Some states tried to ensure that domestic legislation be given priority over the Declaration and the rights included therein. However, this runs contrary to the human rights principle that national legislation has to be in conformity with international standards. As a compromise, the Declaration states that domestic law is the legal framework for the activities of human rights defenders. However, Article 4 provides an important safety clause that domestic law must be consistent with the Charter of the United Nations and other international obligations of the state in the field of human rights and fundamental freedoms.

Other controversial clauses included the right of human rights defenders to obtain funding from outside the country in which they operate, the right to attend court proceedings and the right of human rights defenders to freely choose which human rights issues to work on. States that wanted to restrict the activities of human rights defenders were opposed to these provisions.

Does the Declaration apply to women human rights defenders?

The Declaration applies to all human rights defenders, or anyone who, individually or in association with others, promotes and strives for the protection and realisation of human rights and fundamental freedoms.²⁰ The Declaration only requires that, to be considered as such, a human rights defender must accept and respect two principles: the principle of universality and the principle of non-violence. A person cannot be considered a human rights defender if s/he violates the rights of other groups and individuals. An activist who espouses violence also cannot be covered by the Declaration.²¹

Women human rights defenders are not specifically referred to in the Declaration. However, as long as they meet the two conditions mentioned above, they can seek protection under the Declaration. In fact, women human rights defenders should use and invoke the Declaration in order to ensure that its interpretation is not gender blind, but integrates a gender perspective.

What are the rights contained in the Declaration?

The Declaration has four major components: the standards of protection for human rights defenders (Articles 1, 5, 7, 8, 9, 11, 12, 13); the duties of states (Articles 2, 9, 12, 14 and 15); the responsibilities of human rights defenders (Articles 10, 11, 18); and the relationship between international human rights and national law (Articles 3 and 4).

²⁰ *The Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, (the Declaration on Human Rights Defenders), Article 1.*

²¹ *Defending Human Rights Defenders: A Short Guide, International Service for Human Rights (ISHR), p.4.*

The Declaration recognises civil and political rights such as the freedom of expression, including the right to publish and to disseminate information and reports about human rights as well as the right to criticise the government. It also promotes the right of human rights defenders to obtain and receive information about all human rights in order to carry out their monitoring role. The right to form, join or participate in NGOs and other associations is also incorporated in the right to freedom of association. Human rights defenders can enjoy this right irrespective of the legal or formal status of their organisation or group. Other fundamental freedoms and rights of individuals enshrined in the ICCPR are reiterated in the Declaration.

However, in contrast to the ICCPR, the Declaration explicitly articulates two new civil and political rights of human rights defenders, which had not previously appeared as self-standing provisions:

One is the right ‘to develop and discuss new human rights ideas and principles, and advocate for their acceptance’, expressed under Article 7. For women human rights defenders, especially those advocating for the recognition of sexual rights as human rights, this Article is crucial. For example, lesbian, gay, bisexual and trans persons who are harassed, discriminated against, prosecuted, or killed because they defend an idea concerning sexuality are entitled to protection according to this provision. Under the Declaration, their advocacy for sexual rights becomes an entitlement.

The other right is stated in Article 13: ‘Everyone has the right, individually or in association with others, to solicit, receive and utilise resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means...’.

Initially, the inclusion of this right in the Declaration was very controversial. Some governments claimed that allowing NGOs to receive funding from abroad would open room for foreign interference in national affairs. Other states opposed this provision for the very reason that impeding NGOs from accessing funding might lead to paralysis in their functioning. However, the successful passage of this provision makes this an explicit right, which human rights defenders can invoke particularly in circumstances where foreign funding is the only available resource for them to do their work.

The Declaration clarifies the responsibility of states to take all necessary measures to protect human rights defenders whose rights are violated as a consequence of their activities. It requires states to conduct investigations in cases of human rights violations. It also entitles human rights defenders to claim protection from governments for abusive action of private actors. Under the concept of

due diligence, states are also responsible for any failure to prevent any violation by non-state actors. For women human rights defenders whose rights are violated by members of their family or community, in some instances even by colleagues in the movements, this state obligation provides one form of remedy.

How is the implementation of the Declaration monitored?

Two years after the adoption of the Declaration, in its resolution 2000/61 of 26 April 2000, the UN Commission on Human Rights requested the Secretary-General to appoint a Special Representative on Human Rights Defenders. This was the first mechanism to be created at the international level to protect human rights defenders, and to monitor the implementation of the Declaration. Hina Jilani, a noted human rights attorney from Pakistan, was the first person appointed to this office.

The mandate of the UN Special Representative is a very broad one, requiring the mandate holder to undertake different activities for 'the protection of human rights defenders'. Protection is understood to include the protection both of defenders themselves, and of their right to defend human rights. It includes: gathering information on the situation of human rights defenders; entering into dialogue with governments and other interested actors on the promotion and effective implementation of the Declaration; and recommending effective strategies to better protect defenders and follow up on these recommendations. The different strategies and activities carried out by the UN Special Representative to implement her mandate to protect women human rights defenders are discussed in more detail under Chapter 9.

While the Declaration is not a legally binding human rights instrument, there is practical value for women human rights defenders to subscribe to it. It is another venue for remedy or redress. The Office of the UN Special Representative on Human Rights Defenders offers a mechanism for protection, and it has generated an interest from UN bodies, some governments and donors to commit resources to enforce the rights recognised in the Declaration.





Defining Women Human Rights Defenders 5

Those advocating for human rights usually call themselves activists or advocates. 'Human rights defender' is a relatively new term codified in the UN Declaration on Human Rights Defenders to refer to the same activist or advocate, but with the added value of acknowledging the rights of this person to defend human rights and the corresponding obligation of the state to respect, protect and fulfil these freedoms. Women who advocate for human rights are presumed to also have these entitlements, but in reality as explained in the previous chapters, they are seldom recognised as human rights defenders or afforded protection as such.

This chapter explains the definition of a human rights defender in general. It stresses what we mean by women human rights defenders, and enumerates the types of human rights activities they do. It clarifies that this focus on women human rights defenders is not intended to set a distinct category of defenders, rather to draw attention to the gendered nature of the abuses and challenges they face, and develop a more responsive framework for their protection.

Who is a human rights defender?

According to Article 1 of the Declaration of Human Rights Defenders, a human rights defender is any person 'who promotes and strives for the protection and realisation of human rights and fundamental freedoms'. As UN Special Representative Jilani has explained, what characterises a defender is the activity of promoting and protecting human rights. She said that she did not adopt a specific definition for the term since this will tend to exclude; rather, she applied a broad categorisation to include all those who advocate for human rights.²²

Who can be a human rights defender?

Any of the following can be a human rights defender:

- a community organiser;
- an NGO activist;
- a lawyer;
- a trade unionist;
- a journalist;
- a student leader;
- a witness of human rights violations;
- a civil servant;
- an environmental activist;
- an LGBT advocate;
- a health professional;
- a humanitarian worker;
- a peace advocate;
- a staff of the UN.

The list cannot be exhaustive. A human rights defender is any person 'who promotes and strives for the protection of human rights'.

²² Report submitted by the Special Representative of the Secretary-General on Human Rights Defenders, Hina Jilani, to the 62nd session of the Commission on Human Rights, 23 January 2006 (E/CN.4/2006/95), p. 10.

No qualification is required to be a human rights defender. A defender can be a person working in a professional capacity or as a volunteer. S/he can engage in human rights work on a full-time basis, or have only occasional links with human rights. For example, students can be human rights activists. Lawyers that handle criminal, civil or corporate cases are not human rights defenders per se, but become defenders when they defend human rights activists or take on cases that advocate for human rights. Lastly, a human rights defender can be a person, a group of persons, or an organisation working for human rights.²³

In short, human rights activists are human rights defenders. The value in calling ourselves 'human rights defenders' is in the access it opens to a range of rights we are entitled to in doing our work, and the corresponding mechanisms and resources to enforce these rights. But it is important to note, as explained in Chapter 4, that human rights defenders have to subscribe to the two principles of universality and non-violence to invoke protection under the UN Declaration on Human Rights Defenders.

Who are 'women human rights defenders'?

Women human rights defenders adhere to the description of human rights defenders narrated above. In addition, the international campaign on women human rights defenders defines them as:

*... **W**omen active in human rights defence who are targeted for **who they are** as well as all those active in the defence of women's rights who are targeted for **what they do**. Simply, it pertains to human rights activists who are women, as well as other activists (whether male, lesbian, gay, bisexual, transgender or any other sexes) who also defend the rights of women²⁴.*

A history of discrimination coupled with a struggle for gender equality sets women human rights defenders apart from other defenders. Patriarchal structures, institutions and practices makes the task of women human rights defenders more difficult, and in many instances, dangerous. As the Special Representative acknowledged, women human rights defenders are more at risk to certain forms of violence and restrictions because they are women, and because of the controversial issues they advocate for.

However, Special Representative Jilani clarified, 'this is not to define women human rights defenders as a special category'²⁵. Rather, the intent is to highlight the risks, challenges and vulnerabilities they face because of their gender in order to develop responsive protection strategies. This recognition and protection derives from the Declaration on Human Rights Defenders. It is also essential to understand that the CEDAW asserts that such protection must

²³ **Human Rights Defenders: Protecting the Right to Defend Human Rights**, United Nations Human Rights Fact Sheet No. 29, p. 6-7 (also <http://www.ohchr.org/english/about/publications/docs/fs29.pdf>)

²⁴ **Defending Women, Defending Rights: Proceedings of the International Consultation on Human Rights Defenders** (2006), p. 1 (see also <http://www.defendingwomen-defendingrights.org/resources.php>)

include setting up enabling conditions to eliminate all forms of discrimination against women, which also disadvantages women human rights defenders.

What areas of work do women human rights defenders engage in?

Women human rights defenders defend not only women's rights, but also the broader range of civil, political, social, economic and cultural human rights. They are involved in multiple issues that affect themselves, their communities, or the general population. They work in many arenas at local, national, regional, or international levels. They carry out different activities such as lobbying and advocacy, education and training, documentation and monitoring, counselling or facilitating assistance to victims of human rights violations. For just one example, mothers who organised themselves to demand accountability for the disappearances of their children and family members or the *Plaza de Mayo* movement in Argentina are women human rights defenders.

Other women human rights defenders are involved not in general human rights concerns, but in defending the rights of their particular sector or community with a specific focus on women's rights. Some examples include: women who advocate for land rights of indigenous peoples and at the same time struggle for equal rights between men and women in these communities; lesbian, gay, bisexual or transgender activists who advocate for sexual rights as integral to women's human rights; and urban poor leaders who discard the notion that only men are heads of household and push for the recognition of women's rights.

There are other women human rights defenders who advocate specifically for the rights of women. These include women who work on violence against women, those who defend sexual rights and reproductive rights, or those who promote equal rights of women in education, political participation, and other areas. These women human rights defenders seek to challenge patriarchal social formations and notions that institutionalise discrimination against women.

Some women human rights defenders also challenge social and legal frameworks that privilege heterosexuality and that penalise women, and men, who choose to live outside these norms such as single people, single parents, widowed women, and LGBT people. Those who do this work are also considered women human rights defenders. They make the important contribution of including sex and gender identities as part of the work of human rights.

²⁵ Report submitted by Special Representative of Secretary-General on Human Rights Defenders, Hina Jilani, to the 58th session of the Commission on Human Rights, E/CN.4/2002/106, 27 February 2002.

LGBT (lesbian, gay, bisexual and transgender)

This refers to individuals and groups who claim sexual and political identities based primarily on their sexual orientation. It is inclusive of groups and identities, and encompasses sexual orientation and expression, as well as gender identity and expression. In some cases, LGBT can be a problematic category as it lumps women, men and transgender people together, even though the issues they face are sometimes drastically different. However, LGBT exists as a collective concept that is used for political, social and economic organising in many parts of the world.

As discussed earlier, women human rights defenders may not be a special category of defenders, but they merit a special focus for proper protection. The gender stereotypes and assumptions embedded in patriarchal norms and practices, and the manipulative use of culture, tradition, custom and religion expose them to additional violence and risks specific to their gender. Lesbian, gay, bisexual, and transgender human rights defenders are similarly at risk because their activism is seen as disruptive of cultural values and traditions. The next chapter develops a typology to identify these particular risks, constraints, and violations that women human rights defenders face as a consequence of their activism.

Typology of Violations, Risks and Constraints

1. Attacks on life, bodily and mental integrity

- 1.1 Killing and attempted killing**
- 1.2 Disappearance**
- 1.3 Torture; cruel, inhumane and degrading treatment**
- 1.4 Rape, sexual assault and abuse**
- 1.5 Domestic violence**
- 1.6 Excessive use of force**

2. Physical and psychological deprivation of liberty

- 2.1 Arbitrary arrest and detention**
- 2.2 Administrative detention**
- 2.3 Kidnapping / abduction**
- 2.4 Psychiatric incarceration**

3. Attacks against personhood and reputations

- 3.1 Threats, warnings and ultimatums**
- 3.2 Psychological harassment**
- 3.3 Blackmail and extortion**
- 3.4 Sexual harassment**
- 3.5 Sexuality-baiting**
- 3.6 Slander, vilification, labelling, and smear campaigns**
- 3.7 Hate speech**
- 3.8 Stigmatisation, Segregation and ostracisation**

4. Invasion of privacy and violations involving personal relationships

- 4.1 Raids of offices or homes**
- 4.2 Attacks and intimidation of family and community members**

5. Legal provisions and practices restricting women's activism

- 5.1 Restrictive use of customary law and legal frameworks based on religion**
- 5.2 Criminalisation and prosecution**
- 5.3 Illegal investigation, interrogation, surveillance and blacklisting**
- 5.4 Laws formulated against NGOs**
- 5.5 Sanctions in the workplace**

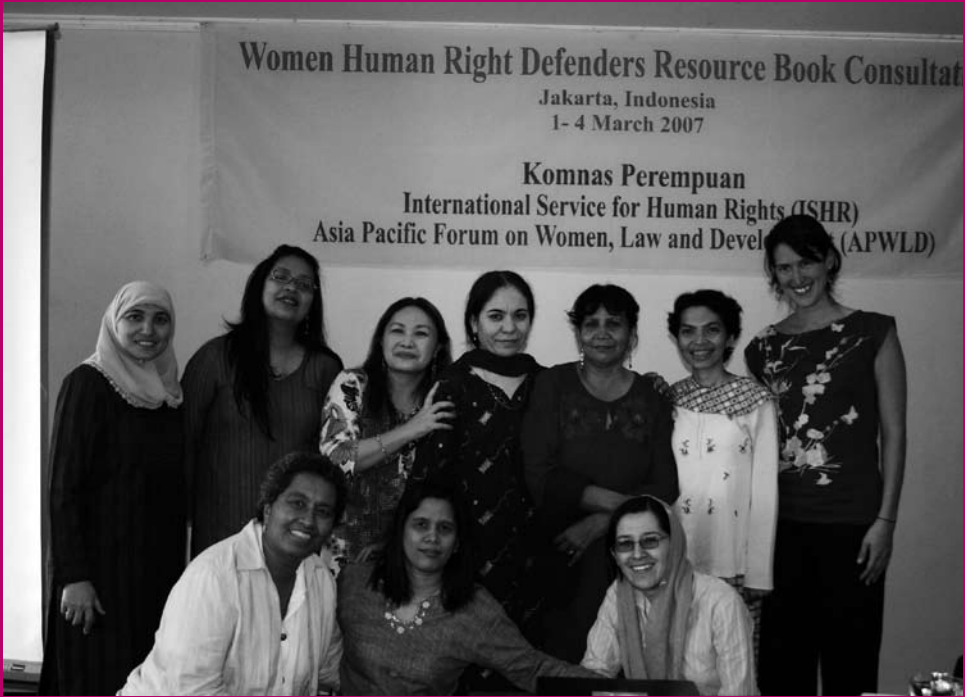
6. Violations of women's freedom of expression, association and assembly

- 6.1 Restrictions on freedom of association**
- 6.2 Restrictions on the right to receive funding**
- 6.3 Restrictions on freedom of expression**
- 6.4 Restrictions on access to information**
- 6.5 Restrictions on communication with international bodies**
- 6.6 Restrictions on freedom of assembly**

7. Gendered restrictions on freedom of movement

- 7.1 Requirement of permission or denial to travel abroad**
- 7.2 Internal travel restrictions or obstruction**
- 7.3 Denial of visas for travel**
- 7.4 Deportation**

8. Non-recognition of violations and impunity



Naming the Violations, Risks and Constraints: A Typology 6

Women's contribution to the defence of human rights has remained largely invisible and unacknowledged in many parts of the world. So have most of the violations, risks and constraints that they face as they carry out their work. Women human rights defenders have become so used to working in conditions of hostility and violence that the risks they face are often taken for granted, and many of the abuses against them are under-reported and unpunished. Worse, hostility towards women because of their gender and because of their work as human rights activists is increasingly becoming normalised.

This chapter presents a *typology* – a classification of the specific violations, restrictions and abuses that women human rights defenders encounter. Its aim is to help women human rights defenders identify and name these abuses, and better understand their experiences of them. It is also designed to contribute to documentation processes that help defenders seek accountability and obtain redress from the state or other authorities. As such, it is an advocacy tool for conceptualising, opposing and challenging these violations and the prevailing culture of impunity surrounding them.

What is the framework of this typology?

Initially based on the framework of the international campaign on women human rights defenders, this typology rests on the following fundamental premises:

Women human rights defenders face the same risks as all human rights defenders, but they may suffer consequences which are specific to their gender. They can be subject to arbitrary arrest, detention, harassment, violence, torture and a host of other violations potentially unrelated to their gender, but with gendered consequences. They are also subject to threat or intimidation that extends to those intimately related to them, such as family members, colleagues or friends. Women, because they often have a specific role in connection to childrearing and caretaking, are prone to such threats more frequently than their male colleagues.

As women, they are also vulnerable to specifically gender-based forms of violence and violations which are sexual in nature. Regulation of sexuality plays a particularly important role in women human rights defenders' experience of violations. They are victims of harassment, rape and sexualised abuse. They are also subject to 'sexuality-baiting', which is politically motivated name-calling designed to ruin

their reputations (or that of their organisations or political agendas) on the basis of their reproductive or marital status, or their assumed sexual orientation.

Social, legal and customary restrictions placed on women human rights defenders by their societies and communities limit their ability to carry out their activism. They are denied equal space in public life. As women human rights defenders, their rights may be restricted or denied because of the social, cultural and legal norms prejudicial to women, which are in place in a particular locale. When perceived to be crossing the boundaries imposed upon them through these norms, they may be exposed to criticism and attack.

*Women human rights defenders face risks, violations and attacks because of other identities aside from gender such as class, caste, race, ethnicity, disability, sexuality, age and other social factors. Women human rights defenders carry any number of these identities simultaneously. Multiple identities trigger intersecting and multiple forms and layers of discrimination and attack. (See discussion under Chapter 3, *Reinterpreting Human Rights Principles, Are there other relevant women's human rights concepts?*, p. 15) For instance, an unmarried, Catholic, woman defender advocating for the right to choose abortion may be prone to attacks from conservative members of her community because of these multiple identities. Often, these violations and repression based on multiple identities are invisible, or are unacknowledged by authorities and activists.*

Women human rights defenders who defend or assert their sexual rights are subjected to a range of violations, and may be at particular risk for abuses. Defenders who are or who are assumed to be lesbian, gay or transgender, or those who advocate for women's reproductive rights and rights to sexual autonomy have been targeted for violent attack. They are often accused of threatening 'the family', social order or the stability of the state itself. Often they are most at risk than any other type of defenders.

How is this typology organised?

The violations identified in this typology relate to an infringement of any of the rights stipulated in the UN Declaration on Human Rights Defenders. We used the Declaration as a legal starting point, interpreting it through the lenses of gender and women's human rights. The violations may also pertain to acts or omissions that constitute violence against women as defined in the women's human rights instruments such as the UN Declaration on the Elimination of Violence Against Women, the CEDAW or the Beijing Declaration and Platform for Action. In some instances, the violations are also derived from breaches of other related international human rights instruments or national statutes.

Defining Violence against Women

For the purposes of this guidebook, we use the terms 'violence against women' and 'gender-based violence' interchangeably.

Article 1 of the UN Declaration on the Elimination of Violence Against Women defines 'violence against women as: 'any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life'.

Gender-based violence as defined above is violence directed against a woman because she is a woman. It is also violence that affects women disproportionately. It may manifest in physical, psychological and sexual forms. Acts of omission such as neglect or deprivation can also constitute violence against women. Structural violence, pertaining to discrimination arising from economic systems or political and legal institutions, is also considered by some to be a form of gender-based violence.

Current understandings of gender-based violence argue that this violence is not only directed at women, as men and transgender people are also targets of abuses because of their real or perceived relationships to gender expression and roles. Gay male defenders, for instance, are targeted for gender-based violence in some of the same ways, and for some of the same gender-related reasons that women defenders are. However, for purposes of clarity, it is important to note that in this guidebook, the experiences specifically of women defenders, including lesbian and transgender activists remain central to the analysis and construction of the typology.

Constraints refer to the obstacles in the environment that impede women defenders to carry out their activism. These constraints arise as a result of social, legal and customary restrictions imposed on them by their societies. For example, in some religious communities, women are not allowed to leave their homes without a male companion, either a father, brother or a husband. Some other activists have been attacked and labelled as 'whores' or 'wild' as their activism pushes them to transgress boundaries and traditional norms.

Risks are possibilities of violation or abuse, which women human rights defenders may be exposed to. It includes physical or psychological threats of bodily harm; acts of omission such as non-recognition of the status of women activists as defenders with rights; or exposure of women and their family in dangerous situations because of their work, e.g., situations of conflict.

Wherever possible, case material is used to support the human rights and gender analysis of each risk, violation or constraint. The cases were collected from a variety of sources such as from the documentation of women's rights and human rights organisations



as well as from the personal stories that women defenders shared during the consultations. Because certain abuses are more readily documented or more frequently experienced, some categories have more fully developed case examples than others. Efforts were also exerted to gather cases from different countries in the world.

There are a number of variables in the typology. Violence may happen within the family, in the community or in the custody of the state. In each sphere, perpetrators may be state actors, non-state actors or private actors. Each perpetrator may also be connected simultaneously to a community, to a state and even to a family. Several rights may also be infringed upon at once. Several violations may occur all at the same time. So the typology presented in this guidebook is not rigidly defined. In certain instances, a constraint, risk or violation may fit under more than one category.

What are the major categories?

The violations, risks and constraints that women human rights defenders face are grouped into the following basic overarching, and sometimes interlinked, categories:

- 1. Attacks on life, bodily and mental integrity**
- 2. Physical and psychological deprivation of liberty**
- 3. Attacks against personhood and reputations**
- 4. Invasion of privacy and violations involving personal relationships**
- 5. Legal provisions and practices restricting women's activism**
- 6. Violations of women's freedom of expression, association and assembly**
- 7. Gender-based restrictions on freedom of movement**
- 8. Non-recognition of violations and impunity**

What violations, risks, and constraints are under each category?

1. Attacks on life, bodily and mental integrity

Contrary to Articles 3 and 5 of the Declaration on Human Rights and Articles 6, 7 and 9 of the ICCPR, women human rights defenders suffer serious attacks to their life like their male counterparts. The abuses may be physical or mental, but at the core of the attacks is a clear disrespect for the integrity of women's bodies and what they represent. In addition, they are particularly subjected to sexual assault such as rape, or forced participation in humiliating practices with sexual overtones. These forms of violence against

women are also prohibited under international women human rights laws.

1.1 Killing and attempted killing

Killings or attempts on the lives of women human rights defenders have been recorded around the world. Such acts, whether they are committed by state or non-state actors, are violations of the basic right to life protected under the Universal Declaration of Human Rights and ICCPR. In the context of women human rights defenders, the attacks are directed at the integrity of their bodies and the motives are central to their women's rights activism. It may be to prevent continued activism in conservative contexts, or derail the advancement of women's rights in situations of religious extremism such as under fundamentalist regimes. It may also be aimed at destroying a whole movement of peace and resistance.

Mexico

On 19 October 2001 Mexico lost one of its most prominent human rights lawyers, Digna Ochoa. As a staff attorney at the Miguel Agustín Pro Juárez Human Rights Center (PRODH) in Mexico City, she was working primarily in the southern Mexican states of Guerrero and Oaxaca. She documented, denounced and judicially challenged the army's takeover of rural policing for counterinsurgency purposes. Her cases often highlighted the illegal influence of economic interests over the criminal justice system to target social activists. She was shot and killed in her Mexico City office. Several of the PRODH's past and present staff received death threats after her murder, reminding them that they should no longer ignore the many warnings to abandon their work²⁶.

Afghanistan

Amnesty International took up the case of Safiye Amajan, a woman in her mid-50s who ran a school from her home during the period of Taleban rule when girls were prohibited from acquiring education. She was responsible for a number of projects on girls' and women's education in the Kandahar province. On 25 September 2005, gunmen on a motorcycle reportedly linked to the Taleban, shot her repeatedly outside her home as she was on her way to work. The unlawful killing of Safiye Amajan was, according to a Taleban-affiliated website 'due to [her] spying on the Mujahedin of the Islamic Emirate on behalf of the United States of America, under the guise of women rights'²⁷.

²⁶ http://www.humanrightsfirst.org/defenders/hrd_mexico/hrd_ochoa/hrd_ochoa.htm

²⁷ <http://www.alemjarah.org/4-25-9-2006.html>, in Pashton and Amnesty International ASA 11/016/2006 (Public), News Service No: 252, 26 September 2006.

The violations may be the actual or attempted killings, or it may also pertain to violations of Article 9 of the UN Declaration on Human Rights Defenders. The Article recognises the right of a defender 'to benefit from an effective remedy and to be protected in the event

of the violation of those rights'. In the case of women human rights defenders, the killings are sometimes disguised as common crimes or portrayed to be personal disputes or vendettas, as opposed to crimes with political motivations. Violations of women defenders rights occur as a result of the inaccurate documentation of the crime and the lack of proper investigation and redress.

Sierra Leone

On 29 September 2004 Fannyann Eddy was found dead in the offices of the Sierra Leone Lesbian and Gay Association, the organisation that she directed and had founded in 2002. The Criminal Investigation Division of Sierra Leone's police force did not clearly state the possibility that the murder was a hate crime motivated by Fannyann's position as a prominent activist for lesbian and gay rights. Her activist work was not generally addressed in the original criminal proceedings. One man was arrested for the killing but later escaped from prison. He is still at large²⁸.

1.2 Disappearance

Based on a proposal made more than 20 years ago by mothers of the disappeared in Latin America, the UN adopted the Convention for the Protection of all Persons from Enforced Disappearances on 20 December 2006. It is an international human rights treaty that recognises the right of an individual or groups of individuals not to be subjected to forcible disappearance. This Convention recognises that in certain circumstances, enforced disappearances can be considered crimes against humanity. It requires states to prohibit this practice under their national laws.

Enforced disappearances occur when persons are arrested, detained or abducted by state agents or non-state actors sometimes with the complicity of the state, their whereabouts undisclosed or their fates generally unknown. Often, if the victim has been killed, the body is concealed to mask the crime. Disappearances in the case of women human rights defenders are not just politically motivated, but relate to the reproductive roles, both biological and social or cultural, of women in their communities.

Bangladesh



Human rights activist Kalpana Chakma was 23 years old when she was abducted on 12 June 1996 from her home in the Chittagong Hill Tracts at Lallyaghona village, where she was known for her work. She was an indigenous Jumma woman and abduction and forced marriage of indigenous women to Muslim men are seen by the community as a technique to

²⁸ *Proceedings of the International Consultation on Women Human Rights Defenders*, Colombo, Sri Lanka, 29 November - 2 December 2005 (2006), p. 14; also <http://www.defendingwomen-defendingrights.org/resources.php>

integrate the Jummas into the Islamic Bangladeshi society. Allegedly a Bangladesh army lieutenant named Ferdous and 11 of his soldiers from the nearby Kojochari army barrack raided Kalpana's home that night and forcibly took her away. It is feared that she refused to marry Lieutenant Ferdous and was murdered. This cannot be confirmed as Chakma is still missing²⁹.

1.3 Torture; cruel, inhumane and degrading treatment

Torture is criminalised by many domestic laws around the world. It is explicitly prohibited under Article 5 of the UN Declaration of Human Rights, Article 7 of the ICCPR and the entire UN Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). According to Article 1 of the Convention, torture means:

any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on someone to obtain from her or a third person information or a confession, punishing her for an act she or a third person has committed or is suspected of having committed, or intimidating or coercing her or a third person...or for any reason based on discrimination of any kind, when such pain or suffering is inflicted, instigated or carried out with the consent or acceptance of a public official or other person acting in an official capacity.

While both men and women defenders have been tortured, women human rights defenders are subjected to it as punishment for their advocacy on controversial issues such as sexual rights. Torture has also been used as a ruthless means to attack lesbian, gay, transgender and other sexual rights activists who defy hetero-normativity. The perpetrators implicitly express male power and control by inflicting severe pain on the victims. Torture can also be performed through sexual violence as described in the next category.

Argentina

In Argentina lesbian, gay and transgender people are frequent victims of harassment and discrimination at the hands of the police. In some provinces such as Cordoba, bylaws allow the police to detain people for vaguely defined offences against public decency including cross-dressing. There are concerns that these powers of detention by police officers have facilitated ill-treatment including sexual harassment, extortion, beatings or torture.

²⁹ Ain o Salish Kendra (ASK), Bangladesh, <http://www.askbd.org>



Amnesty International reported that Vanessa Lorena Ledesma, an active member of *Asociacion Travestis Unidas de Cordoba* (United Transvestites Association of Cordoba), was arrested on 11 February 2000. Five days later she was dead. A police report said she had died of cardiac arrest. However, an autopsy reportedly revealed that her body showed signs of torture including severe bruising to the feet, arms, back and shoulders and indications that she had been beaten while handcuffed³⁰.

Women may also be forced to perform humiliating acts. Common practices include stripping them and parading them in public spaces, such as the case in Papua New Guinea ‘where police raided a guest-house, arrested the sex workers and paraded them through the streets of Boroko to the police station. The women were forced to chew and swallow condoms, blow them up and wave them above their heads while a crowd of onlookers heckled them’.³¹

Women defenders are also particularly susceptible to these kinds of cruel, inhumane and degrading treatment. Such practices target women’s honour, with the community imposing the dishonourable acts. The notions of ‘shame’ and ‘dishonour’ are easily manipulated against women to inflict psychological pain or humiliation. These acts are explicitly prohibited under Article 7 of the ICCPR: ‘No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment’.

1.4 Rape, sexual assault and abuse

All women human rights defenders are vulnerable to all forms of sexual violence because of their gender. Rape, sexual assault and abuse can take place while they are in the custody of the state, such as during detention, while in prison or under ‘protective custody’ by state agents. Sexual violence can also take place within their homes or communities. These forms of gender-based violence prohibited under the international women human rights laws and in a majority of domestic criminal statutes are employed fundamentally to manifest control over women human rights defenders and penalise them for their activism.

Guatemala

In October 2000 five armed men entered the office of *Asociacion Mujer Vamos Adelante* (AMVA) in Guatemala City, an organisation working for the promotion of women’s rights and fighting violence against women. Fifteen women were locked in a room, and the attackers raped one young woman activist before leaving³².

³⁰ Amnesty: *Take a step to stamp out torture* (AI Index: ACT 40/13/00), <http://www.web.amnesty.org/library/Index/ENGACT400112001?open&of=ENG-347>

³¹ Christine Stewart, *Sexuality, Gender and the Law*, Working Paper No. 12, Gender Relations Centre, RSPAS, The Australian National University (2005), http://rspas.anu.edu.au/grc/publications/pdfs/StewartC_2005.pdf

³² Report submitted by the Special Representative of the Secretary-General on Human Rights Defenders, Hina Jilani, to the 58th session of the Commission on Human Rights, 27 February 2002 (E/CN.4/2002/106), para. 365 and para. 173.

For lesbian and other sexual rights activists, often there is no distinction between the violence they experience because of their sexual orientation or identity, and the violence inflicted on them because of their identity as defenders. Sexual assault is often a preferred way to punish them as retribution for raising issues that are seen as endangering and insulting to culture and tradition. In addition, a family or community member, or the police and other state agents, use rape as a means of 'reversing sexual deviance'. By raping a lesbian or any other person with a different sexual orientation or identity, the perpetrator asserts that this will 'set things straight' or transform the victim to become a 'normal' being.

Turkey

G.G. is an executive member of the women's section of a political party in Istanbul, Turkey. On 14 June 2003, she was abducted from the street by four men and blindfolded. While the abduction was taking place, G.G. claims to have heard a person on the street telling her abductors to leave her alone, and the men said they were police officers. G.G. was taken to a dark room where she remained blindfolded while she was interrogated. The abductors told her that she should not be leading political activities because she is a woman and that this would be a lesson to her. The men reportedly beat her with a steel rod between her legs, tore the skin on her back, and put out cigarettes on her cheek. All these injuries were verified by a doctor's report. It was also reported that one of the men forced his penis into her mouth. Twelve hours later, G.G. was reportedly pushed from a moving car out onto the street near Gaziosmanpasa, a part of Istanbul. The police denied that any of these events occurred³³.

The Akayesu case of the International Criminal Tribunal for Rwanda acknowledged the gravity of sexual crimes and extended the definition of rape as torture. The Court compared rape and torture and found that both are employed to intimidate, degrade, humiliate, discriminate, punish, control or destroy the victim: 'Like torture, rape is a violation of personal dignity, and rape in fact constitutes torture when it is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity'³⁴.

1.5 Domestic Violence

Women human rights defenders are not exempt from domestic violence. It is one of the risks they face in their work. They often suffer such violence when the family wants to prevent them from exercising a public role or being politically active. Male family members claim that the work of the defenders, and the defenders themselves, are bringing shame to the men or to the family's honour.

³³ Report submitted by the Special Rapporteur on Violence Against Women, Yakin Erturk, to the 60th session of the Commission on Human Rights, 3 March 2004 (E/CN.4/2004/66/Add.1), p. 156.

³⁴ Ellis, Mark. *Breaking the Silence – Rape as an International Crime*, presentation at the UN Conference on Gender Justice, 16 September 2004, New York. http://www.womenwarpeace.org/issues/justice/statements/Ellis_JBA_Background_Article.pdf

Violence against women, including domestic violence is clearly prohibited under several international women's human rights instruments such as the Beijing Declaration and Platform for Action under Strategic Objective D, and the CEDAW as elaborated under General Recommendation 19. Article 12 of the UN Declaration of Human Rights Defenders confers similar obligations to the state in relation to cases involving women human rights defenders. The Article directs the state to take all necessary measures to ensure the protection by competent authorities of defenders against 'any violence, threats, retaliation, de facto or *de jure* adverse discrimination, pressure or any other arbitrary action' as a consequence of exercising their rights.

Zimbabwe

A number of years ago, Amnesty International reported on the case of Tina Machida, a lesbian in Gays and Lesbians of Zimbabwe (GALZ) who was targeted for abuse by her parents and then her husband because of her sexual identity and her activism. Her parents arranged a marriage and forced Tina to live with a man they knew was consistently raping her with the intention of 'curing' her from her so-called illness. Tina escaped by running away from home³⁵.

1.6 Excessive use of force

Police and other law enforcement personnel are allowed to use force in the conduct of their duties. Use of force is allowed when it is strictly necessary; when required to perform a duty such as prevent a crime or conduct a lawful arrest; and when all non-violent methods have been used and remained ineffective.³⁶ Beyond that, use of force is considered excessive, in violation of the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force. When excessive force has been directed at women human rights defenders, it includes not only physical aggression but various forms of sexual assault.

2. Physical and psychological deprivation of liberty

Article 9 of the ICCPR prohibits the deprivation of 'liberty and security of person'. While almost all defenders have been prone to this violation, the form of deprivation has been different for many women human rights defenders. Aside from the physical deprivation of liberty such as arbitrary arrest, arbitrary or administrative detention, kidnapping or abduction, lesbian activists have been detained in psychiatric institutions. The violation is not only a breach of their civil and political rights, but cuts at the core of their freedom to express and practice their sexual identity.

³⁵ Amnesty International, http://www.ai-igbt.org/lesbian_issue.htm.

³⁶ *Monitoring and Investigating Excessive Use of Force*, Amnesty International (AI) and Council for the Development of Social Science Research in Africa (CODESRIA) (2000), <http://www.codesria.org/Links/Publications/amnesty/force.pdf>

2.1 Arbitrary arrest and detention

ICCPR under Article 9 states that ‘everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention.’ The same Article 9 under the UN Declaration on Human Rights Defenders also gives defenders the right ‘to complain about the policies and actions of individual officials and government bodies with regard to violation of human rights and fundamental freedoms’. In spite of these legal prohibitions, defenders have been subjected to or are at risk of arbitrary arrest or detention.



The UN Working Group on Arbitrary Detention further elaborated on the definition of arbitrary detention. A detention can be considered as arbitrary when:

- there is no legal basis for the deprivation of liberty (e.g., when a person is kept in detention after the completion of the prison sentence or despite an amnesty);
- when a person is deprived of liberty for exercising the rights and freedoms guaranteed in the Universal Declaration of Human Rights and the ICCPR;
- when a person has been deprived of liberty after a trial which did not comply with the standards for a fair trial set out in the Universal Declaration of Human Rights and other relevant international instruments³⁷.

For women human rights defenders, many of their activities have been criminalised, allowing authorities to use the law to justify their abuses. Increasingly, they are subjected to arbitrary arrests and detention, in order to punish or intimidate. This is so particularly in countries where the defence of women’s rights is considered to be a threat to the state and to social order and stability. In these circumstances, women, lesbian and other sexual rights activists are at particular risk of arrest or detention, and would find it difficult to obtain redress. Lawyers or human rights have been reluctant to come to their defence precisely because of the nature of the rights involved; they don’t want to be ‘tainted’ by taking on these cases.

Iran

The UN Special Rapporteur on Violence Against Women took up the case of Fereshteh Ghazi, a journalist who writes about women’s issues regularly in the daily newspaper Etemad and in the web. In 2001, she wrote a letter to the Iranian authorities in which she criticised the violation of women’s rights and called for the release of Afsaneh Noroozi, a woman who had been sentenced to death at that time.

³⁷ <http://www.ohchr.org/english/issues/detention/index.htm>

On 28 October 2004, Ghazi was arrested by the Tehran 'morality squad', Edareh Amaken, when she was summoned to appear before the 9th chamber of the Tehran Prosecutor General's office. Ghazi reported that she was kept in solitary confinement for 38 days, and pressured to confess on television to relationships with reformist parliamentarians. She was also subjected to beatings, which resulted in a broken nose. Ghazi was hospitalised following her release on bail in December 2004. Since her release, she was summoned 15 times by phone and three times in writing to appear in court. She was initially charged with acting against the state and being a member of an anti-state organisation.³⁸

2.2 Administrative Detention

Administrative detention is detention without charge or trial, authorised by administrative order rather than by judicial decree. It is allowed under international law, which recognises that under certain circumstances there may be no alternative to preventive detention. But because of the serious injury to the right to due process inherent in this measure and the obvious danger of abuse, international law has placed strict restrictions on its application. It requires that administrative detention be used solely as a short-term, exceptional preventive measure, in response to clear dangers to security.

By the detention order, a detainee is given a specific term of detention. On or before the expiry of the term, the detention order is frequently renewed. Since no charges are filed against a person administratively detained, there appears to be no intention of bringing the detainee to trial. This process can be continued indefinitely³⁹ and the violations remain unchecked. Women human rights defenders have been subjected to this form of abuse particularly in countries where governments are not responsive to international scrutiny, and are placed at risk of sexual and other abuses.

China

Amnesty International has documented administrative detention in the case of the Tiananmen Mothers. This is a group of 130 human rights defenders – mainly women – whose children and other close relatives were killed during and around Tiananmen Square protests on 3-4 June 1989. They have been at the forefront of the campaign for accountability, redress and the defence of the rights of their relatives who were killed or injured by the military during that tragic incident. Each year around the anniversary of the Tiananmen incident, there has been a pattern of arrests for administrative detention, harassment and restriction of movement of members of the Tiananmen Mothers⁴⁰.

³⁸ Report submitted by the Special Rapporteur on Violence Against Women, Yakin Erturk, to the 62nd session of the Commission on Human Rights, 27 January 2006 (E/CN.4/2006/16/1/Add.3), para. 40-41

³⁹ Amnesty International (AI), <http://web.amnesty.org/pages/isr-action-detention>

⁴⁰ Amnesty International, Public Statement, AI Index: ASA 17/014/2004 (Public), News Service No: 074, 1 April 2004, <http://web.amnesty.org/library/Index/ENGASA170142004?open&of=ENG-252>.

2.3 Kidnapping/abduction

Kidnappings and abductions violate Article 3 of the UN Declaration on Human Rights Defenders and Article 9 of the ICCPR. These violations tend to be carried out by state agents who circumvent the legal process of arrest or detention. They are also done by non-state actors such as rebel groups, paramilitaries units, criminal gangs and members of the community who may be acting with or without sanctions by the state. Women defenders are subjected to threats of kidnapping and abduction both of themselves, and of their family members and colleagues.

Philippines

On 3 April 2007 Lourdes Rubrico, a known urban poor leader, was taking a nap inside a shelter in Megahouse, Sta. Cruz 1, Dasmariñas when four unidentified men forcibly dragged her towards a van waiting outside. It was later found out that Lourdes was kept for seven days somewhere at the headquarters of 301st Air Intelligence and Security Squadron, Philippine Air Force Field Station, Fernando Air Base. Lourdes was only released by her captors midnight of April 10 at a shopping mall in Dasmariñas.

After she was released, Lourdes recounted that she was interrogated and forced by her captors to admit that she is a member of a leftist organisation. They also forced her to admit that her organisation, the Ugnayan ng Maralita para sa Gawa at Adhikain (UMAGA) Federation, had links with leftist groups because it would not have been able to continue operating from the 1980s had there been no assistance from them. Lourdes filed charges against the military men responsible of forcibly abducting her and putting her under illegal detention.⁴¹

2.4 Psychiatric Incarceration

For women human rights defenders, forcible detention can be in psychiatric institutions. Sometimes some of them are subjected to forced medical treatment, including the use of psychotropic drugs, because of the kind of activism they are engaged in. Allegations of mental illness are used to confine them in mental institutions as a form of punishment, sometimes with the collusion of police, medical authorities and family members. For instance, there have been cases of young lesbian defenders who have been incarcerated in psychiatric institutions and then forced to undergo 'treatment to 'correct their homosexuality'.⁴²

⁴¹ PHILIPPINES: Another political activist evades possible attempt on his life; an elderly activist' complaint of abduction against military drags on, Asian Human Rights Commission Urgent Appeal, 14 March 2007, <http://www.ahrchk.net/ua/mainfile.php/2007/123911>

⁴² In many countries, homosexuality is no longer considered to be a 'medical condition' and has been removed from lists of medical and psychiatric disorders. Yet, some medical providers still deploy a practice called 'reparative therapy' which sometimes involves forced and involuntary drug treatment. There is no evidence that homosexuality can be changed ('cured') through this methodology, and this form of medical intervention is often considered a violation of human rights. See **Crimes of Hate, Conspiracy of Silence: Torture and Ill-Treatment Based on Sexual Identity**, Amnesty International (AI), (2000) <http://web.amnesty.org/library/index/engact40016200>.

Uzbekistan

Lydia Volkobrun, a 69-year-old activist, was arrested on 17 March 2006 and is currently held in a psychiatric hospital in Tashkent. As a former staff member of the police department, she has on several occasions written complaints about illegal actions taken by police officers. In 2004, she was twice forcibly detained in a psychiatric hospital⁴³.

Russia

One woman, after being detained by the Russian militia, was threatened with psychiatric incarceration if she continued her work with a lesbian youth organisation. When she visited her girlfriend, who had been forcibly detained in a psychiatric facility, she herself was registered as a 'suspected lesbian' and told to go to a clinic for outpatient sessions. When she did not attend these sessions, she received official notices called 'Demands for Appearance' which threatened her with forced institutionalisation⁴⁴.

3. Attacks against personhood and reputations

This category highlights the violations against women human rights defenders that disregard their gender or sexual identity, or attempt to destroy their professional and personal reputations. Many of these abuses are sexual in nature, or of an intimate character that they have harsher emotional and psychological effects on women human rights defenders. Aside from being violations of their rights as defenders, many of these acts are serious constraints in the environment in which women human rights defenders do their work.

3.1 Threats, warnings and ultimatums

In general, threats are risks faced by women human rights defenders in the course of their work. They include death threats against the defenders, their colleagues or those intimately related to them such as family members (See section 4.2 below on attacks on family members). In some instances, husbands may threaten divorce or separation and they and other family members may threaten physical abuse against women human rights defenders to stop them from their political involvement.

There is a thin line between threats which are risks to women human rights defenders, and threats which are actual violations. On one hand, threats are issued generally to warn or intimidate potential victims. They usually precede the actual commission of violations, making the victims vulnerable. So in the example discussed below, threats can be sent to a women's rights organisation prior to attacks. On the other hand, threats, whether issued to warn

⁴³ <http://www.defendingwomen-defendingrights.org>

⁴⁴ AI (2000).

or intimidate victims, can sometimes already be actual violations prohibited under the law. They include psychological and sexual harassment, slander and other forms of vilification.

Mali

In Mali, where about 80 per cent of girls and women reportedly undergo female genital mutilation (FGM), activists working towards its eradication have received death threats. Fatoumata Sire, one such activist, said: 'I have had death threats against me, there have been attempts to burn down my house, I have been in three car crashes and every day Islamic radio here in Bamako broadcasts curses against me'⁴⁵.

Serbia Montenegro

Women in Black, is a women's anti-war organisation, which have opposed Serbia's involvement in the Balkan wars since 1991. In the run-up to the anniversary of the Srebrenica massacre, Women in Black reportedly received 'tens of threats' per day. On the anniversary itself, tear gas was thrown at a silent vigil organised by the group and attended by members of other human rights NGOs. Women in Black have also been subjected to attacks by non-state actors, including the Fatherland Movement of Serbia, organisations of young right-wing extreme nationalists such as Obraz (Honour), and extreme nationalist organisations associated with the Serbian Orthodox Church⁴⁶.

3.2 Psychological harassment

Many, if not all, forms and types of human rights violations and abuses against women human rights defenders can have consequences on their psychological well-being. Psychological harassment, which is aimed at creating fear or making a person feel vulnerable and powerless, is a particularly potent form of abuse. It can graduate into a form of violence against women prohibited under the UN Declaration on Violence against Women, Beijing Declaration and Platform for Action and CEDAW Recommendation 19. Article 12 of the UN Declaration on Human Rights Defenders also protects women human rights defenders from this type of violence.

Fiji

Human rights organisations and individual activists were threatened with violence, including rape, for speaking out against the coup that took place in Fiji in September 2006. The Fiji Women's Rights Movement (FWRM) office and FWRM Board member Imrana Jalal received threats from alleged military officials. Imrana, who is an activist and human rights lawyer, received threatening phone calls following the organisation's public statements against the coup. Imrana said: 'I received a phone call – an anonymous male voice threatened me with rape and attempted to

⁴⁵ http://news.bbc.co.uk/1/hi/programmes/crossing_continents/662565.stm.

⁴⁶ Amnesty International, Press Release, AI Index: EUR 70/018/2005 (Public), News Service No: 317 29 November 2005, AI Index: EUR 70/016/200529, November 2005, <http://web.amnesty.org/library/Index/ENGEUR700182005?open&of=ENG-346>.

intimidate me.' When she asked the caller to identify himself, the caller said he will 'shut me up forever' and 'to wait because they would come and get me'⁴⁷.

3.3 Blackmail and extortion

Blackmail is an act of threatening to reveal information about a person, unless the threatened party fulfils certain demands. The information is usually of an embarrassing or socially damaging nature. Blackmail can also take place alongside extortion, which often entails misuse of a position of power by making threats in order to obtain money, property or something of value to the victim. While extortion is a punishable offence in several countries, blackmail does not constitute a breach in law in many states.

Threats to privacy are often central to the experiences of blackmail by women human rights defenders. LGBT activists and defenders of sexual rights in particular are prone to this form of abuse because of the confidentiality regarding their actual or assumed sexual orientation. In some instances, they have even been blackmailed by colleagues in the human rights and women's movements to prevent them from raising issues relating to LGBT rights, which were perceived as a threatening or divisive politically. It has been difficult to document these cases of blackmail that are intended to silence them because defenders do not report them.

3.4 Sexual harassment

Sexual harassment is unwelcome attention of a sexual nature. It includes a range of behaviour from mild transgressions, annoyances to serious abuses, which can even involve forced sexual activity. It is a manifestation of gender power relations, and is considered a form of sex discrimination prohibited under the Declaration on Human Rights and the CEDAW. It is also a form of abuse, sexual and psychological, which is considered a punishable offence under criminal or labour regulations in many countries.

Women human rights defenders are prone to this form of harassment because of their gender and in many instances, because of their work. Many sexual harassment incidents take place in work environments that do not have codes of conduct and do not punish acts of harassment. Defenders have spoken of particularly difficult situations when they were sexually harassed by male colleagues in the human rights community. Some of them suffered sexual harassment from state authorities during arrests or detention. Worse, for defenders of sexual rights, it is presumed that they are immune to this abuse, or their work on sexual rights somehow solicits the harassment or makes it excusable.

⁴⁷ Fiji Women's Rights Movement, 10 December 2006, <http://www.fwrm.org.fj>

3.5 Sexuality-baiting⁴⁸

Sexuality-baiting is the strategic use of negative ideas about sexuality. It is expressed in verbal attacks against women defenders to silence, intimidate, humiliate or embarrass them, with the intention of discouraging and inhibiting their organising. This form of baiting strategically manipulates prejudices about women's gender roles and sexuality in order to achieve a political end. It is designed to challenge the credibility of individual activists and inhibit or destroy their organisations, networks and political agendas.

Women who defend a range of rights are subjected to this practice – it is not only sexual rights activists who are targeted in this way. Allegations used often have something to do either with sexuality itself, or the reproductive role of women in society. Women human rights defenders are labelled 'bad women' or 'bad mothers', 'unnatural', 'abnormal' or 'deviant', 'frigid', 'infertile', 'man-haters' or 'witches'. In certain circumstances, they are accused of promoting 'Western' or 'alien' cultures, being anti-religion and being responsible for the break-up of families or threatening the state.



Lesbian-baiting is a particularly potent form of sexuality-baiting. Identifying someone as a lesbian (correctly or not) is in many cultures the most damning allegation that can be made to hurt a defender's reputation. In many countries, LGBT activists are accused of being immoral, perverse or paedophilic. One accusation against LGBT activists in Africa is that they are 'un-African', as if their same-sex attractions defied some kind of relationship with the state; or as if a state itself has a particular sexual orientation to which those within its borders must adhere.

Sexuality- and lesbian-baiting have had an impact not only on the individuals whom they target, but also on their family members and colleagues who may also be discredited in the process. So defenders must sometimes make careful decisions regarding respond to baiting: Should they refute the allegations and risk additional exposure? Should they respond with silence so as not to give power to the actors? And if they choose to respond, how can they refute an allegation but also challenge the prejudice in it?

Kenya

Habiba Issack, a member of the Barrow International Women and Youth Affairs in Kenya said: I kicked off my human rights crusade when I woke up to find my daughter had been forcibly circumcised in my absence and against my wishes. When I came up with the idea of campaigning

⁴⁸ Sexuality-baiting and lesbian-baiting were first named and explored from a human rights perspective in Cynthia Rothchild, *Written Out: How Sexuality is Used to Attack Women's Organizing*, International Gay and Lesbian Human Rights Commission (IGLHRC) and Center for Women's Global Leadership (CWGL) (2005).

against FGM for the first time, it was met with a lot of resistance and open hostility from my community. I was accused of introducing Western values to replace the Somali culture. Some religious leaders too were opposed to my crusade, for they believed circumcision was a religious ritual. I became the talk of the town, the market, offices as well as mosques. I was abusively nicknamed Habiba 'Kintir' meaning Habiba 'Clitoris'. This did not deter me from crusading for women's rights that are human rights. But it affected my daughter socially and academically until she had to transfer from northern Kenya to a school in western Kenya⁴⁹.



3.6 Slander, vilification, labelling and smear campaigns

Slander is defamation expressed in spoken words, signs or gestures, and intended to injure the character or reputation of the person defamed. Slander can be sexual or otherwise personal in nature. Slander, labelling and other forms of vilification are used as a means of destroying the public image and reputation of women human rights defenders. The aim is to undermine or to cast doubts on their credibility, integrity and character in order to disempower them. In some countries, slander and other attacks against reputation are considered as criminal offences. Defenders are also protected from these abuses under Article 12 of the UN Declaration on Human Rights Defenders.

Nepal

'Voice for Change' is an organisation of Bhutanese refugee women and families that advocates for rights of Bhutanese refugees. In 2006, false information about this women's organisation were fed to the authorities to justify restriction of their activities within the refugee camp. In 2006, the Nepalese government publicly accused the organisation of using their work as a cover for the political activities of Bhutanese opposition leader Tek Nath Rizal. As a result of the government's pronouncement, leaders and members of the organisation were threatened with police arrest. They were also attacked by members of the Bhutanese community in Nepal who are closely identified with the Nepalese authorities⁵⁰.

3.7 Hate speech

The line between freedom of speech and incitement to violence can be a controversial one. Some states punish hate speech, while others choose not to restrict freedom of speech. Hate speech is a pronouncement used to degrade, intimidate or incite violence or prejudicial action. It can include calls for physical violence aimed at targeting individuals or specific groups. Community leaders, includ-

⁴⁹ Amnesty International, AI Index: AFR 04/001/2006, 6 July 2006, <http://web.amnesty.org/library/Index/ENGAFR040012006?open&of=ENG-347>.

⁵⁰ Rupa Rai, participant at the Women Human Rights Defenders Consultation, Kathmandu, Nepal, 12-15 January 2007.

ing but not limited to religious or political officials, are sometimes responsible for using hate speech to bolster their political agendas. It can put women human rights defenders at extreme risk, since it can foster a political or cultural climate that could lead perpetrators to believe attacks would be justified and go unpunished.

3.8 Stigmatisation, Segregation and Ostracisation

Stigmatisation and imposed restrictions from the family or community are serious constraints that women human rights defenders face in their work. Women defenders and LGBT activists have experienced being stigmatised because of their gender, sexual orientation or identity. Some of them have been pressured to choose between living in isolation from their family or loved ones, or abandoning their activism and returning to their 'traditional gender roles'. Powerful actors in the community or members of the family are often behind these acts; and the state treat these abuses either with indifference or tolerance.



Aside from presenting constraints in the work of women human rights defenders, segregation and ostracisation can also be constituted as violations of Article 11 of the UN Declaration on Human Rights Defenders, if women or LGBT activists abandon the 'lawful practice of their occupation or profession' as a result of these abuses. Further, these abuses can also become acts of discrimination on the basis of sex or gender prohibited under the CEDAW.

Uganda

Juliet Victor Mukasa, Chairperson of Sexual Minorities Uganda (SMUG), is a 30-year old LGBT activist in Uganda. She said: 'I am a lesbian and have almost never been 'closeted'. I have faced a lot of challenges. I lost my family and friends when they realised that I was a lesbian. My family has at one time requested me to stop using our family name because it embarrasses our dead father who was called Mukasa. My dead father is more valuable to my family than I am who is still alive and well. This always makes me think that homosexuals are taken to be deader than the dead'⁵¹.

4. Invasion of privacy and violations involving personal relationships

4.1 Raids of offices or homes

A raid is a form of search, which state authorities may lawfully conduct with or without a search warrant. Constitutional or criminal laws in many countries allow police and other law enforcement

⁵¹ East Africa and the Horn of Africa 'Defending the Defenders': a Human Rights Defenders Conference, Entebbe, Uganda, 30 October- 4 November 2005, Amnesty International Index: AFR 04/001/2006.

agents to conduct a raid if a search warrant is issued, or if it is an authorised warrantless search. However, there have been many instances of raids of offices and homes of human rights defenders that were illegal. They have been conducted without search warrants or beyond the purview of warrantless searches. The acts sometimes involved confiscation and destruction of property.

Women human rights defenders' offices and homes have been raided too. The raids were carried out by state authorities, in many instances illegally. They served a dual purpose of harassing the defenders, and gathering information about them, their organisations and their contacts in violation of their right to privacy protected under Article 17 of the ICCPR. Sometimes illegal arrests also occur during these raids, or in some cases, rape or sexual assault against women human rights defenders are committed. Increasingly, raids are also being conducted by unknown people in the guise of burglary.

Latin America

Ruth del Valle Cobar, a woman human rights defender from Movimiento Nacional por los Derechos Humanos in Guatemala testified: There is a rise in the number of raids and break-ins on the premises of human rights organisations or their homes. Large numbers of reports of such incidents were recorded in Guatemala and Colombia, and a worrying number of cases were also reported in Ecuador, Panama, and Mexico.

During such raids, perpetrators get hold of important information, regarding witnesses or the details of specific individuals, amongst others. In virtually all cases, valuable items were left untouched, but computer data were copied and files removed. This kind of intelligence tactic is used to complement existing information that states already possess about defenders' organisations, with the purpose of undermining their work and further disrupting their activities. Investigations of such break-ins are virtually non-existent and members of the police force frequently fail to even visit the scene of the crime, arguing that if the raid was not significant, it is not worth taking fingerprints.⁵²

4.2 Attacks and intimidation of family and community members

Targeting individuals who are intimately close to women defenders such as members of their families, their colleagues and members of the community they are working within tends to be a very effective way of intimidating and silencing women human rights defenders. Perpetrators are aware that women human rights defenders are prepared to face certain risks to their personal safety, but may be less willing to see loved ones and others who are close to them to suffer as a result of their activism. These threats can be constituted as violations of human rights under Article 17 of the ICCPR, or as criminal offences in some jurisdictions. In relation to women human rights defenders, they can also be risks or constraints they face in their work.

⁵² Ruth del Valle Cobar, *State Violence against women human rights defenders in Latin America*, Resource Book on **Women Human Rights Defenders**, (2006), p. 31-34; also <http://www.defendingwomen-defendingrights.org/resources.php>

Turkmenistan

The UN Special Representative on Human Rights Defenders issued an urgent appeal in the case of Ogulsapar Muradova, a correspondent for Radio Free Europe/Radio Liberty and a former member of the Turkmenistan Helsinki Foundation (THF), a human rights organisation. On 18 June 2006, Ogulsapar Muradova was arrested by police officers without a warrant. After her arrest, National Security Ministry officers repeatedly demanded that her children hand over their mother's computer, fax and mobile phone.

The children refused to cooperate and were also arrested the following day⁵³.



5. Legal provisions and practices restricting women's activism

Women human rights defenders' activism is shaped by the laws that states adopt and the way the judiciary functions in a given country. In many places, it is also affected by customary law and legal frameworks based on religion or culture, which promote strict notions of gender roles and behaviour. These cultural or religious norms can be used to legitimise government controls and sanctions on women human rights defenders. They present constraints in the performance of their work.

5.1 Restrictive use of customary law and legal frameworks based on religion

Article 5 of CEDAW is indisputably clear about the state's responsibility to take all appropriate measures to modify the social and cultural patterns of conduct that discriminate against women. As discussed in Chapter 6, 'cultural relativism' is legally impermissible under the Convention. In spite of this prohibition, traditional norms and practices based on religion or culture which reinforce male dominance over women still abound and constrain the activism of women human rights defenders.

Customary law and practices operate alongside the formal legal system in many states. These quasi-formal legal systems run by village elders, religious courts, traditional chiefs or clan structures operate sometimes with powers formally granted to them by the state, sometimes informally but with social legitimacy. These regulatory regimes, which function parallel to statutory law, monitor and control norms and practices in the community.

One example of a cultural norm is an established but often unspoken dress code for men and women, which exists in most cultures. Women's bodies are regulated either by legal regulations that explicitly name what they can or cannot wear; or by unwritten cultural norms with deep cultural resonance that prescribe the 'proper' attire in public. Women human rights defenders are exposed to attack for transgressing these restrictions.

⁵³ Report submitted by the Special Representative of the Secretary-General on Human Rights Defenders, Hina Jilani, to the 4th session of the Human Rights Council, 27 March 2007 (A/HRC/4/137/Add.1) para 302.



Indonesia

Sanctions or attacks perpetrated by traditional or religious leaders have a powerful effect because they target morality and expose women human rights defenders to cruel reproach in society. Women human rights defenders who challenge violations of women's rights justified on the basis of culture, tradition or custom such as forced marriage or female genital mutilation are the most common targets. Defenders working in the field of reproductive rights and sexual rights are specifically targeted because their activism is seen as threatening religious, cultural and 'honour' codes.

Women human rights defenders in Aceh have been targeted for not wearing veils, which is an obligation under local regulation. In February 2006, four women activists were arrested for not wearing a veil while talking in front of their rooms in a hotel where the training they participated in was taking place. They were paraded to the city hall, and during their interrogation, the head of the Shariah police in the district called them 'promiscuous' and 'demons to all Aceh women'. The defenders complained to the local police but were treated rudely and even asked to withdraw their complaint. When the case reached the prosecutor's office, it was rejected on grounds that there was insufficient evidence. Some authorities used the case of their arrest as a means of showing how being 'involved in women's rights activism' could be a threat to the morality of the Aceh women⁵⁴.

5.2 Criminalisation and prosecution

The report of the Special Representative on Human Rights Defenders to the UN General Assembly in 2003 noted that 'restrictions on defenders have been justified as measures to improve security and support counter-terrorism, while in many cases the objective has clearly been to conceal human rights abuses that defenders would have otherwise investigated and revealed, or to punish defenders for their human rights work and to discourage others from continuing it'⁵⁵. She underscored the recent trend in the state's use of the legal system to criminalise the work of human rights defenders, and put them at great risk.

The criminalisation of women's rights has grave impacts on women human rights defenders. On one hand, those working in conflict areas are disproportionately affected by the security laws imposed by governments. Several of them are exposed to accusations of siding with the enemy and breaching national security. On the other hand, women human right defenders working in non-conflict situations may be prosecuted if the issues that they are working on are declared illegal. For example, those helping undocumented migrants have been charged with assisting people's illegal entry and stay. Women human rights defenders advocating for the right to terminate pregnancy or for lesbian and gay rights face prosecution in states where such rights are not recognised.

⁵⁴ Andy Yentriyani, participant at the Women Human Rights Defenders Consultation, Jakarta, Indonesia, 27-28 February 2007.

⁵⁵ Report of the UN Special Representative for Human Rights Defenders to the 58th session of the UN General Assembly, 18 September 2003 (A/58/380).

Thailand

Under the immigration law in Thailand, smuggling, harbouring or sheltering aliens who enter the country illegally is punishable by fine and/or imprisonment. This makes it extremely difficult for women human rights defenders to defend the rights of migrants and migrant workers in Thailand. While some exceptions have been made to allow temporary assistance to victims of trafficking, no system of exemption from this law has been granted to migrants defending labour rights or in situations where migrant women are accessing justice in cases of sexual violence⁵⁶.

Indonesia

Raihana Diani is the head of the *Organisasi Perempuan Aceh Demokratik (ORPAD)*, a women's rights organisation which carries out advocacy for the political, social and economic empowerment of women. She was detained in Banda Aceh in July of 2002. She was arrested with six other members of the organisation during a peaceful protest in which the group demanded political reform and the resignation of the president and vice president. She was charged with the offence of 'insulting the president' under Articles 134 and 137 of the Indonesian Criminal Code (KUHP). Together these offences are punished for a maximum prison sentence of six years⁵⁷.

Uzbekistan

Tadjibaeva Mutabar, chairperson of the human rights organisation 'Flaming Hearts Club', was arrested on 7 October 2005, the day before she planned to go to Ireland for an international conference for human rights defenders. She was charged with extortion for politically motivated reasons. On 6 March 2006, she was sentenced to eight years in prison for 'anti-government activity' and for receiving money from Western governments to 'disrupt public order'. She was found guilty on 13 charges, including threatening public order, fraud, theft and blackmailing local businessmen⁵⁸.

The UN Special Rapporteur on Freedom of Expression has called for the decriminalisation of defamation and other related laws which limit the freedom of expression. The UN Declaration of Human Rights Defenders under Article 6 also protects this right. Article 8 of the Declaration also explicitly provides that human rights defenders may submit to governmental bodies or agencies concerned with public affairs criticisms and proposals to draw attention to any aspect of their work that hinder or impede the promotion of human rights. However, state authorities cite defamation, libel, disinformation and incitement laws to restrain women human rights defenders' exercise of this freedom. False or spurious charges are filed against them under these laws for criticising the governments.

Bahrain

Ghada Yusif Jamsheer is a 38-year old women's rights activist who heads the *Women's Petition Committee*, a network of activists demanding reform of Bahrain's family laws and family courts. During the past four years, she organised protests, vigils and a hunger strike to draw attention

⁵⁶ Migrant Action Project Foundation (MAP), Thailand, <http://www.mapfoundationcm.org/>

⁵⁷ Report submitted by the UN Special Representative of the Secretary-General on Human Rights Defenders, Hina Jilani, to the 59th session of the Commission on Human Rights, 20 February 2003 (E/CN.4/2003/1104/ Add.1.), para 313.

⁵⁸ Front Line, <http://www.frontlinedefenders.org/node/932>

to the discrimination against women existing in the family court system. She also presented numerous complaints to the Ministry of Justice and the Office of the King that reported the mishandling of cases by certain judges. Charges were brought against Jamsheer in three separate cases for having publicly criticised family court judges. If convicted, she would face up to 15 years of imprisonment.⁵⁹

5.3 Illegal investigation, interrogation, surveillance and blacklisting

With the global ‘war against terror’ discussed under Chapter 2, many countries enacted national legislations, which justify surveillance without warrants, investigations without proper charges or unauthorised questioning of human rights defenders. There are also allegations that governments have developed a ‘blacklist’, which is a list of activists that are targeted for extrajudicial killings or government restrictions. These acts are prohibited under Article 12 of the UN Declaration on Human Rights Defenders.

Women human rights defenders have been placed under unauthorised investigations by police and other law enforcement officers. During the investigations, interrogations were conducted about their activities, motives and contacts. They were warned that their activities are considered suspicious, and that they are targeted for escalated violence. These threats are acts of intimidation intended to make them feel vulnerable.

In violation of their right to privacy, some women human rights defenders are also put under unwarranted surveillance as a means of intimidating them or gathering information on their activities. Sometimes this is done secretly by intelligence or undercover agents. In other instances, it is overt and defenders are made aware that they are being watched at all times. Information gathered through monitoring their calls, emails and other communication sometimes are later used to bring false charges against them.

5.4 Laws formulated against NGOs

Article 5 of the UN Declaration on Human Rights Defenders protects the rights of individuals and groups to form and participate in NGOs. Article 11 also protects their right to the lawful exercise of their occupation or profession. But increasingly, activists are confronted with the issuance of special regulations, which affect the legal operation of NGOs in ways that are intended to inhibit their work. These restrictions are justified in the name of state security, which has been difficult for civil society to challenge, and has led to non-transparent methods of controlling NGOs.

The UN Special Representative on Human Rights Defenders enumerates the various ways these regulations can lead to violations of the rights of defenders: criminalisation of non-registered groups; punitive requirements in registration procedures; denial of registration based on ill-defined grounds; unwarranted state scrutiny of the purpose or activities of organisations; restrictions on international NGOs; threats of or dissolution of organisations; restrictions on funding⁶⁰.

⁵⁹ Report submitted by the Special Representative of the Secretary-General on Human Rights Defenders, Hina Jilani to the 61st session of the Commission on Human Rights, 20 February 2003 (E/CN.4/2006/95/Add.1.), para 25.

⁶⁰ Report submitted by the Special Representative of the Secretary-General on Human Rights Defenders, Hina Jilani, to the 59th session of the UN General Assembly, 1 October 2004 (A/59/401.).

Legislation which limits this right can be considered as violations of the rights of women human rights defenders. For example, women human rights advocacy can be hampered as women's organisations are forced to cut back on activities, or close operations because of legislated funding cuts that target advocacy on controversial issues such as reproductive rights and sexuality.



United States

After the attacks of 9/11, the US government put into place a set of supposedly terrorism-related legal and financial restrictions for any organisation that funds groups outside the US. Under these policies, such funding organisations now have to prove that the groups receiving funds are not in any way engaging in terrorist activities. Sexual and reproductive health and rights groups have been caught in the web of these restrictions as defenders who work on abortion or other gender equality issues have been labelled by their own states as risks to state security. This domestically imposed label can then inhibit the capacity of defenders' groups to receive funds from outside the country⁶¹.

5.5 Sanctions in the work place

Judges, prosecutors and other civil servants who maintain their independence from state interests and decide to take a stand in promoting and protecting women's rights are sometimes punished for doing so. In violation of their right under Article 11 of the UN Declaration on Human Rights Defenders, these defenders suffer sanctions in the workplace because of their support for women's human rights. The sanctions can have specific bearing on their professions, and eventually hamper the advocacy for women's rights. For women human rights defenders, these sanctions that withdraw support to their activism translate into constraints in their work.

6. Violations of women's freedom of expression, association and assembly

Defenders' rights to freedom of expression, association and assembly are fundamental to their capacity to organise. When these rights are threatened, space for advocacy is limited, and participation in civil society is constrained. When gender discrimination is also at play, women human rights defenders' capacities can be debilitated.

6.1 Restrictions on freedom of association

Article 5 of the UN Declaration on Human Rights Defenders explicitly recognises the right of any group or individual to form, join and participate in NGOs. Nonetheless, freedom to do so is often restricted particularly for women human rights defenders working in environments where women's role in public affairs are questioned, or when the issues they are defending seem threatening to powerful actors. Retaliation against women human rights defenders because they participate in NGOs and movements should also be documented as attacks on their freedom of association.

⁶¹ Cynthia Rothschild, **Written Out: How Sexuality is Used to Attack Women's Organizing**, International Gay and Lesbian Human Rights Commission (IGLHRC) and Center for Women's Global Leadership (CWGL) (2005).

One particularly effective means of blocking freedom of association is the inhibiting of registration of organisations. In the case of LGBT activists, the fact that homosexuality is outlawed in a particular country can be used as pretext to prevent activists from forming an organisation and functioning legally. Some LGBT groups are forced to operate 'underground' or hold office in private places in order to provide safety to individual members and keep the group away from scrutiny by police and other government officials. Undue state interference in the activities of NGOs can also be considered as a direct challenge to this freedom.

Burma

After its publication of Licence to Rape, which documents the rape of Shan women by the military in Burma, the Shan Women's Action Network (SWAN) has been the target of attacks. The Burmese state-run media began publicly denouncing the report and attacking the authors, accusing them of being terrorists and drug-traffickers. Then the Thai intelligence members began warning SWAN members about their safety.

In late July 2002, the Thai Deputy Prime Minister publicly announced that any groups using Thailand as a base for opposing the Burmese government would face serious consequences. Many offices of Burmese groups in Chiang Mai, including SWAN, were put on security alert. Some shut completely for about a week, and then kept their doors locked, but worked secretly inside, including SWAN. Most of the SWAN members did not dare sleep in the SWAN office, and went to stay with friends.

On 9 September 2002, two Thai Special Branch policemen from Chiang Mai made an appointment with one of SWAN's founding member and informed her that an order had been issued from Bangkok ordering the closure of SWAN and the other organisations that were co-authors of the report. For fear of repercussions, the organisations did as they were ordered and moved out of their offices within two days. Since then, SWAN has to move to a new location every year until August 2005.

Ethiopia

The Ethiopian Women Law Association (EWLA) was forced to suspend its activities on 31 August 2001, 'until further notice' due to a decision of the Ministry of Justice that EWLA had been 'acting beyond its mandate and the Code of Conduct Guidelines'. This decision was seen to be connected to demonstrations organised by EWLA in 2001, which took place in front of the office of Prime Minister Meles Zenawi and the Parliament. Some 1,000 women protested violence against women, calling for stricter laws against rape and sexual abuse, and more effective law enforcement.⁶²

United States

Certain groups are punished as a result of their advocacy even when they operate legally. A number of HIV/AIDS, LGBT and sexual and reproductive rights organisations have been targeted in recent years for re-

⁶² Report submitted by the UN Special Representative of the Secretary-General on Human Rights Defenders, Hina Jilani to the 58th session of the Commission on Human Rights, 27 February 2002 (E/CN.4/2002/1106) para 165. (E/CN.4/2002/1106), p. 37.

peated financial audits by federal agencies. In 2004, *Advocates for Youth*, an NGO focussing on sexual and reproductive rights of young people, was targeted for three financial audits in one year by the Department of Health and Human Services⁶³.

6.2 Restrictions on the right to receive funding

The right to solicit, receive and utilise funding upheld by Article 13 of the UN Declaration on Human Rights Defenders implies that states should ensure that defenders are able to access funds for human rights purposes and for peaceful activities without undue restrictions. However, many women human rights defenders shared that this right is being violated by the state. Non-state actors who have a direct interest in preventing women human rights defenders from carrying out their activities also tried to discredit their organisations to prevent them from receiving funding.

Restrictions on funding include: undue controls imposed on funding, such as requiring government authorisation; undue and cumbersome reporting requirements that in effect negate access; absolute prohibition to receive foreign funding; excessive tax regulations. Considering that most women's organisations as of 2005 operate at a budget of about US\$20,000 – 50,000⁶⁴, these restrictions on funding have immediate repercussions on their work and also significantly affect the advocacy for women's rights.

Belarussia

The Belarussian Association of Women Lawyers came under scrutiny by the government in 1998 for receiving a number of foreign grants for the purpose of human rights promotion. The organisation was subjected to a tax audit lasting around five months. The tax authorities reportedly found an inconsistency equivalent to 3 euros. In the interim, the president of the organisation, Galina Drebezova, was forced to expend considerable energy and time producing and explaining the relevant documents and figures. In addition, the local authorities were reportedly not willing to allow the Belarussian Association of Women Lawyers to use municipally owned property for seminars and other human rights events⁶⁵.

Australia

A campaign was orchestrated in Australia against the Cambodian Women's Crisis Centre by a group of people close to two men accused of paedophilia and awaiting trials in Cambodian courts. The campaigners alleged that the Crisis Centre had paid off young women to denounce the men, who they said were innocent. The campaign targeted the Australian government who responded by saying it would review whether or not it had given funds to the organisation. Fortunately, no action was taken against the Crisis Centre as the Australian government found it was not funding the organisation.

⁶³ (E/CN.4/2002/1106).

⁶⁴ *Where is the money for women's rights? Assessing the resources and the role of donors in the promotion of women's rights and the support of women's rights organizations*, Association for Women's Rights in Development (AWID) and Just Associates, February 2006.

⁶⁵ *Report submitted by the Special Representative of the Secretary-General on Human Rights Defenders, Hina Jilani, to the 58th session of the Commission on Human Rights, 27 February 2002* (E/CN.4/2002/1106), para 27.

6.3 Restrictions on freedom of expression



Guarantees to freedom of expression of human rights defenders are enshrined in articles of the UN Declaration on Human Rights Defenders. Article 6 recognises the right to publish and disseminate information and reports, hold opinions and draw public attention to human rights issues. Article 7 recognises the right to discuss new ideas. Article 8 recognises the right of defenders to participate in the conduct of public affairs on a non-discrimination basis.

Repression of women human rights defenders' freedom of expression takes many forms, some of which have already been highlighted in this typology. In fact the aim of most attacks against women human rights defenders is to silence them. Women human rights defenders who are threatened sometimes resort to self-censorship in order to protect themselves and others who are closely associated with them.

Mauritius

Lindsey Collen is a writer and member of a trade union and women's movement. In 1994, she suffered intimidation and harassment by religious groups and politicians following publication of her novel, The Rape of Sita, which was interpreted as an attack on the Hindu goddess Sita. The novel intended to show that women who are raped do not necessarily lose their 'virtue'. It was denounced and banned by the Prime Minister, who called for her prosecution⁶⁶.

6.4 Restrictions on access to information

Enshrined in Articles 6 and 14 of the UN Declaration on Human Rights Defenders, access to information is an indispensable factor enabling human rights defenders to carry out their monitoring and advocacy role. Access to information includes being able to collect data on human rights violations, publishing reports and obtaining information on specific human rights issues, particularly on the governments' actions to implement human rights at the national level.

One other aspect of the right to access information included in Article 9 of the UN Declaration on Human Rights Defenders is the right to observe trials. This right recognises that women human rights defenders should be permitted to observe court proceedings in order to form an opinion on their compliance with national law and applicable international obligations. However, in many countries, access to the courts is restricted. Considering the general male bias in the legal system, this restriction can lead to a denial of justice for women human rights defenders.

Insufficient or no access to information is detrimental to women human rights defenders' capacity to analyse and draw conclusions on particular human rights situations they are working on, and to

⁶⁶ Human Rights Watch; <http://www.hrw.org/reports/1995/WR95/HRWGEN-07.htm>

call for accountability of perpetrators. Internal security legislation, which is often used to deny defenders' right to access information as well as to prosecute their efforts to seek or disseminate information critical of states and their actions, should be repealed. This is essential in order to break impunity for violations and protect women human rights defenders.

6.5 Restrictions on communication with international bodies

Article 9 of the UN Declaration on Human Rights Defenders recognises that defenders have the right to unhindered access to and communication with international bodies that have general or special competence on matters of human rights. Yet, women human rights defenders who provide information to these bodies sometimes do so with risk. Defenders have been targeted and accused of betrayal because they provided information critical of the human rights situation in their countries to international organisations or agencies. Some have been subjected to violent attack after exercising rights to share such information.

Russia

Lybkan Bazayeva was attacked in October 1999 by a group of 20-25 armed men wearing camouflaged uniforms who broke into her house. The attack occurred after she filed a complaint against Russia before the European Court of Human Rights. The complaint was about events concerning Chechnya, which is in a situation of armed conflict brought about by the struggle between Russian military forces and a liberation movement⁶⁷.

6.6 Restrictions on freedom of assembly

The report of the Special Representative of the Secretary-General on Human Rights Defenders, Hina Jilani, to the 61st session of the UN General Assembly in 2006 gives an in-depth analysis of the violations of the defenders' right to freedom of assembly⁶⁸. This right is protected under Articles 5 and 12 of the UN Declaration on Human Rights Defenders. However, women human rights defenders have reported cases regarding the violation of this right.

As noted elsewhere in this typology, the ideological sexual division of labour between men and women has also translated into restrictions on women's freedom of assembly. In many places, women are not permitted equal access to public life, including the freedom to hold and attend meetings. Those women human rights defenders who stake a claim to have their voices heard in public are at risk of attack because of their gender.

In certain places, women human rights defenders' right to assembly are also violated through restrictions on their ability to participate or initiate human rights activities. The restrictions include the requirement to seek permission prior to holding the event or

⁶⁷ Reports submitted by the UN Special Representative of the Secretary-General on Human Rights Defenders, Hina Jilani, to the 59th session of the Commission on Human Rights, 20 February 2003. (E/CN.4/2003/104/Add.1), 60th session 23 March 2004 (E/CN.4/2003/104/Add.1), and 61st session, 16 March 2005. (E/CN.4/2005/101/Add.1).

⁶⁸ Report of the Special Representative of the Secretary-General on Human Rights Defenders, Hina Jilani, to the 61st session of the UN General Assembly, 5 September 2006, (A/61/312).

participating in it; or calling in participants for interrogation by state agents. Authorities implementing religious or traditional laws may also prohibit women from gathering with men during such meetings.

Excessive force has also been used to disrupt many peaceful protests and gatherings of activists. Gender-based attacks such as sexual abuse have been reported to occur during violent dispersal of peaceful demonstrations. This is in violation of the right to assembly, and can also trigger numerous violations of the right to life or physical and mental integrity of women human rights defenders.

Some governments also regulate both who can demonstrate and about what issues. Where authorities require permission in order to peacefully demonstrate, women human rights defenders are often denied permission for unwarranted or specious reasons due to the lack of recognition of their status as defenders.

Azerbaijan

A number of women, including the singer Flora Kerimova who is also the chairperson of the Dilara Aliyeva Society to Protect Women's Rights, conducted a silent, sit-down demonstration against police violence in a public square in Baku in June 2001. They were reportedly assaulted by men in civil clothing while police officers had earlier attempted to prevent the demonstration from taking place. A group of men appeared in the square and tried violently to seize and destroy the protestors' placards, reportedly twisting some of the women activists' arms, causing injury. A large group of police officers reportedly stood nearby and watched the incident. The head of one district police department who was present at the demonstration is reported to have stated that the women had provoked the incident themselves⁶⁹.

Thailand

Revadee Prasertcharoensuk is a Thai activist who, while she was head of Thailand's Foundation for Sustainable Development, noted the 'anti-NGO climate' fostered by the Thaksin government in 2000. She recounted a story of a public demonstration protesting a gas pipeline project being built by the government because of the pollution and disruption to local communities it would cause. At this protest, the police physically assaulted a woman holding a microphone. Television cameras captured police tearing the woman's clothes, although the footage that aired edited out the police involvement in the assault. Official responses blamed villagers and NGO activists. These responses, according to Revadee, stated that 'women were tearing off their bras in order to be on TV'⁷⁰.

Uzbekistan

Mothers against the Death Penalty and Torture, a women's rights organisation, organised a conference on the death penalty in Tashkent in

⁶⁹ Report submitted by the UN Special Representative of the Secretary-General on Human Rights Defenders, Hina

⁷⁰ Cynthia Rothschild, *Written Out: How Sexuality is Used to Attack Women's Organizing*. International Gay and Lesbian Human Rights Commission (IGLHRC) and the Center for Women's Global Leadership (CWGL) (2000) pp. 78 and 79.

2003. However, the conference was prevented from taking place by the authorities on the grounds that it had been organised by an unregistered association⁷¹.

7. Gendered restrictions on freedom of movement

Article 13 of the Universal Declaration of Human Rights and 12 of the ICCPR ensures everyone the liberty of movement. It guarantees the freedom to leave any country, including one's own. It specifically mentions that these rights are not subject to any restrictions, except those which are necessary to protect national security, public order, public health or morals. Further, these restrictions are strictly construed: they should be provided for by law, and they should be consistent with the other rights recognised in the Convention.

In some cases women's mobility is restricted solely because of gender. Community impose social norms, which dictate the terms of women's mobility. These cultural or religious restrictions in many instances can violate women's freedom of movement guaranteed under the CEDAW and other international human rights instruments. They betray a lack of respect for women's rights, which can make women human rights defenders vulnerable to abuses.

7.1 Requirement of permission or denial to travel abroad

In contravention to the international human rights guarantees mentioned above, women human rights defenders have been required to request permission to travel abroad in connection with their women's rights advocacy. In some instances, the permission is denied on vague allegations of 'protecting national security'. Another more subtle way of impeding travel outside the country is to create administrative barriers or delays in issuing passports.

Malaysia

Charges were laid against Irene Fernandez in 1996 for exposing the harsh realities of migrant workers in detention camps in Malaysia. Irene was sentenced in October 2003 to 12 months of imprisonment. She has lodged an appeal in the High Court which is still pending. In the interim, Irene's passport has been impounded so that each time she wishes to travel she must apply to the courts for the release of her passport⁷².



Pakistan

In 2002 Mai, aged 18 at the time, was gang-raped under the order of a tribal council after her 11-year-old brother had been seen alone with a girl from another caste. This case was

⁷¹ Amnesty International, Press Release, News Flash, AI Index: EUR 62/020/2003 (Public), News Service No: 276, 5 December 2003; <http://web.amnesty.org/library/Index/ENGEUR620202003?open&of=ENG-392>

⁷² <http://tenaganita.disagrees.net/info>

noted as a 'crime of honour', and the tribal court claimed justification in ordering Mai's rape as a form of punishment. The case against the perpetrators was brought to court and Mai testified against them. As a result of the incident, she was financially compensated by the government. She used the money received to build schools and has stated that she hopes to establish a shelter for women victims of violence.

Her case received international attention and Mai was invited to the United States to speak about her experiences. However, she discovered that she had been placed on Pakistan's 'exit control list'. She was prevented from leaving her home and was under strict police watch. She was subsequently taken to an undisclosed location by government agents. At a press conference, the government announced that Mai was free to travel wherever she wanted but that she would be accompanied by a police escort for her own protection. However, Mai indicated that she had been put under significant pressure by the government to withdraw her visa application to visit the United States. It was also reported that the government had taken away her passport making it impossible for her to travel abroad. About a week later, the President of Pakistan claimed that he placed a travel ban on Mai in order to protect Pakistan's image abroad⁷³.

7.2 Internal travel restrictions or obstruction

In many countries, there are also regulations to restrain travel within the country. Formal controls including imposition of travel permits and establishment of check points prevent women human rights defenders from moving freely within the territory to document human rights abuses. In conflict zones, preventing them from accessing survivors, documenting violations or providing emergency assistance or remedy can have severe consequences to civilians at risk. These restrictions also put women human rights defenders in particular risk of sexual assault or other forms of abuse since they are at the mercy of military officials, armed groups or other security agents that dominate the conflict areas.

7.3 Denial of visas for travel

Governments of host countries have the discretion to grant or deny visas to preserve public order. But in many instances, this discretion has been used arbitrarily to refuse visa applications. Reasons for the denial of visas are seldom clarified. Sometimes, the host government exercises this discretion to bar highly critical defenders from travelling abroad. Sometimes, implicit in these denials are prejudices which can amount to discrimination against women and other sectors that is prohibited under CEDAW or the Convention for the Elimination of Racial Discrimination (CERD).

India

In 2005, APWLD held a post-tsunami consultation among Asian women. Dalit women from Tamil Nadu, India were invited to the event. However,

⁷³ Report submitted by the Special Representative of the Secretary-General on Human Rights Defenders, Hina Jilani, to the 62nd Session of the Commission on Human Rights, 22 March 2006 (E/CN.4/2006/95/Add 1), para 407.

their visas and travel documents were denied by the Indian government administration on the basis that ‘uneducated women should not travel overseas. (Dalits are considered as ‘untouchables’ or from the lowest caste. They are presumed to be uneducated having been marginalised members of the Indian society).⁷⁴

7.5 Deportation

Host countries have the prerogative to deport undesirable aliens from their countries. However, in the context of women human rights defenders, deportation or the threat thereof has been employed as a means of punishment or as a form of intimidation. For example, women human rights defenders from Burma seeking refuge in Thailand whose immigration status are unclear are always living with the fear of being deported if they become too critical of the host government or its political interests. Defenders working on the rights of migrants, asylum seekers or refugees who do not enjoy permanent status as immigrants or citizens in their host countries are equally vulnerable to deportation.



8. Non-recognition of violations and impunity

Article 9 of the UN Declaration on Human Rights Defenders commits states to provide effect remedy and to protect defenders in the event of any violation of their human rights. According to Article 2 of the Declaration, the state also has a duty to create an enabling environment for activists to defend human rights in safety. This duty is not only applicable to situations where state agents are the perpetrators, but also where other non-state and private actors are involved. Article 12 further establishes that the state has a responsibility to protect women human rights defenders who suffer reprisals because of their activism.

Defenders face a complicated dynamic as regards the state: the Articles above point to the state as a fundamental recourse to the violations inflicted against them, yet in some instances, the state can be the perpetrator of these violations. Some defenders have even resisted receiving direct protection from state institutions as it is these very bodies that are liable for violating their rights. In sum, the protection measures accorded by the state to human rights defenders are far from adequate.

Latin America

In 2004, the Third Latin American consultation of Human Rights Defenders held in Sao Paulo, Brasil declared that ‘state programs and international mechanisms on the protection of human rights defenders should

⁷⁴ Asia Pacific Forum on Women, Law and Development (APWLD), www.apwld.org

guarantee not only the safety of those individuals, but also the continuity of their work. These programs should, integrally, prevent attacks and actively implement policies to disarticulate and punish offending parties, whether they be state or non-state actors. The statement came from the concern of defenders mainly in Colombia and Guatemala that protection measures offered by the state are insufficient if not accompanied by real efforts aimed at prosecuting and punishing those responsible for attacks against defenders⁷⁵.

As discussed in previous chapters, gender inequality and discrimination partly accounts for the non-recognition of women human rights defenders and the violations committed against them. Biases against women defenders and lesbian, transgender and other sexual rights activists has led to a lack of appreciation of the precise nature of the abuses. In many instances, the centrality of patriarchal relations embedded in these atrocities is ignored, or the complexities of the relationships with and among the perpetrators are glossed over. The serious consequences of these violations or the effects of the non-recognition of these offences are seldom accounted for.

There is often less likelihood of state actors providing proper redress for violations against women human rights defenders that are gender-based or gender-specific. This is the case both where laws against the abuses exist, and where no laws exist that punishes these particular crimes and women are left with no remedy. Police, members of the judiciary and other actors in the justice system can be simply biased against women. Such prejudices can translate into a refusal to acknowledge that the acts are crimes or violations of human rights; a reluctance to investigate the offences; or a general failure to deliver justice to the victims.

As a result, impunity has become a major obstacle that impedes the protection of women human rights defenders. Women human rights defenders are unable to obtain justice and accountability for the abuses committed against them. Fears of reprisals directed at them, their family members or colleagues by the perpetrators at large have discouraged many of them from reporting the attacks. It is important to end this impunity and advocate for perpetrators to be sanctioned and to engage the state in its responsibility to protect defenders.

Philippines

On 10 March 2007, Siche Bustamante-Gandinao was on her way home with her husband and daughter, with their harvested crops in an oxcart. Just 50 yards from a military camp in Silay, Misamis, Oriental, a man overtook them, turned, and shot Siche four times. She died before reaching the hospital.

What sets this case apart from that of hundreds of local activists shot by unidentified gunmen in the Philippines in recent years was that during

⁷⁵ <http://www.ishr.ch>

the recent visit of the U.N. Special Representative on Extrajudicial Killings to the Philippines, Siche courageously gave testimony about the recent killing of her father-in-law.

Siche was a member of the party list group *Bayan Muna*. She was the 14th activist killed in the Philippines in 2007. Her father-in-law Dalmacio, a peasant leader, was killed in similar fashion in February. No group or individual claimed responsibility for the attack, but militant groups blamed the military for the killing.⁷⁶

This typology is intended to contribute towards the global advocacy to end impunity for breaches of human rights. It is expected to initiate the documentation of the violations and abuses specific to women human rights defenders. By providing a reference to the naming of these atrocities, this guidebook hopes to bring perpetrators to justice, and ensure better protection to women human rights defenders



⁷⁶ Urgent Action, Karapatan Public Information, 12 March 2007



Documenting Human Rights Violations and Abuses 7

Documentation is the first step towards seeking justice. Without any proper documentation, human rights defenders cannot begin to obtain redress or remedy. It is essential to keep a record of the incident, its victims and perpetrators, if an advocate wishes to any take action. This is especially important for women human rights defenders since the violations and abuses against them are seldom considered as human rights violations or in many instances, they are not acknowledged as serious enough to merit redress as discussed in previous chapters.

There are many tools on human rights documentation, including manuals on human rights defenders and also references on recording violations and abuses against women. Some of these manuals and references are cited in this chapter. Building on these documentation tools, this chapter focuses on the importance of documentation to women human rights defenders in particular, and provides practical pointers to employ in documenting their cases. The ethical considerations in documenting gender-based or gender-specific abuses are discussed also.

What is documentation?

Documentation is the act of recording an event, incident or experience. It is something that we do each time we take a photograph, clip an interesting article from a newspaper or magazine, keep a diary or a notebook, or re-tell a story to someone who was not present at the time. Different people have different reasons for documenting an experience. In human rights work, documentation is recording experiences and incidents of violation of rights and abuses that take place. The primary aim is to create a full, accurate, reliable and clear record of the alleged atrocities.

Human Rights Documentation Manuals and References

Training Manual on Human Rights Monitoring. Office of the High Commissioner on Human Rights and the University of Minnesota Human Rights Library (2006). www.ohchr.org/english/about/publications/docs/train7_a.pdf

Protection Manual for Human Rights Defenders. Peace Brigades International and Front Line (2005). <http://www.frontlinedefenders.org/manual/en/>

Human Rights Defender Manual. Diplomacy Training Program (2002). <http://www.austlii.edu.au/au/other/HRLRes/2001/1/>

Investigating Women's Rights Violations in Armed Conflict. Agnès Callamard, Amnesty International (AI) and International Centre for Human Rights and Democratic Development (ICHRDD) (2001), www.dd-rd.ca/site/_PDF/publications/women/Non-State.pdf

Documenting Human Rights Violations by State Agents: Sexual Violence. Agnès Callamard, Amnesty International (AI) and International Centre for Human Rights and Democratic Development (ICHRDD), (2001), www.dd-rd.ca/site/_PDF/publications/women/StatesAgents.pdf

Documenting Women's Human Rights Violation by Non-State Actors: Activist Strategies from Muslim Communities. Jan Bauer and Anissa Hlie, Women Living Under Muslim Laws (WLUML) and International Centre for Human Rights and Democratic Development (ICHRDD), (2006), http://www.dd-rd.ca/site/_PDF/publications/women/Non-State.pdf

Rising Up in Response: Women's Rights Activism in Conflict. Jane Barry, Urgent Action Fund for Women's Human Rights (UAF)(2005), <http://www.urgentactionfund.org/publications.html>

Using International Human Rights Mechanisms and Procedures: An Online Manual for Human Rights Defenders. Front Line, www.frontline-defenders.org/manual

Reporting Killings as Human Right Violations. Kate Thompson and Camille Giffard, Human Rights Centre, University of Essex (2002), www.essex.ac.uk/reportingkillingshandbook/english/reporting_killings_handbook.pdf

Researching Violence Against Women: A Practical Guide for Researchers and Activists. Mary Ellsberg and Lori Heise, World Health Organisation (WHO) and PATH (2005), <http://www.path.org/publications/pub.php?id=1175>

Why should women human rights defenders engage in documentation?

For ourselves. Documentation is for the sake of history and building a collective memory. It allows us to record our experiences as human rights defenders and as women. If there is no record of the violations inflicted upon women human rights defenders, they will not be recognised and their work as human rights defenders will never be known. It is also for the sake of future generations, so that women are not forgotten as anonymous victims, and their collective contribution to the defence of human rights will be acknowledged in history.

Documenting can be a safe space for victims and survivors to tell their stories, knowing that their confidentiality will be protected, and their

testimonies will be part of processes for justice and reconciliation. Documentation can also present opportunities for women victims and survivors to link their experiences with that of others *for mutual support and collective action*. It can also help them to *identify their specific needs* so they are included in any future processes of redress for the victims.

Documentation can also be *a learning tool*. It can provide a basis for reflection and evaluation. It opens ways to *understand new forms of human rights violations against women*, and create new mechanisms for remedy and redress. It gives *insight into the specific risks and vulnerabilities of women human rights defenders*, and paves the way to develop interventions that are strategic and appropriate to their context.

For seeking justice and redress. Documentation can start the process of *identifying patterns of violations* and demanding accountability of perpetrators for systematic and premeditated abuses against women human rights defenders. Accurate and reliable documentation provides *access to formal legal systems* at national, regional, and international levels. It is a *strong action against impunity*, making sure that steps are taken to hold perpetrators accountable, and that the atrocities experienced by women human rights defenders are not repeated in the future.

Through documentation, women victims and survivors of violations can work for justice at the level of *recovery, reintegration, reconciliation and healing*. For a woman defender who suffered abuse, it can support her transformation by recognising her own voice in the narration of the incident, and affirming her dignity and strength to go on with her life. Documentation can encourage witnesses to speak out and break the culture of silence especially prevalent among women victims and survivors.

What should be documented?

Different human rights documentation and monitoring systems require different information. There are also different types of information depending on the sources: such as reports from print, radio, television and other media; photographs; voice recordings; video footage; testimonies of victims, survivors; reports of government bodies, military units, humanitarian organisations, UN agencies, etc. One can use all or some of these sources. The kinds of information needed also vary depending on the purpose of the documentation. For example, the rigor and type of information required for filing a case in court is different from that required of recording a case for purposes of the database of an organisation monitoring human rights abuses. So the action intended to be taken also determines the type of information to be gathered.

Women Human Rights Defenders' Case Form

Name and personal circumstances of alleged victim/s. Aside from the name, profession, it is also important to note the gender, age, nationality, religion, ethnicity, sexual orientation/identity and other status which can be a cause of multiple discrimination or which can aggravate the forms of violations or abuses faced by the victim/s. *(See discussion under Chapter 3 on the concept of intersectionality)*

Victims can be individuals, groups or organisations. For an organisation, provide the contact details.

Type of human rights the victim is defending. In what human rights activity is the victim (person/s, organisation) engaged? Provide description.

Alleged violation/s committed against the victim. Chapter 6 provides a list of the different categories of violations, risks and constraints faced by women human rights defenders.

Circumstances of the violation/s. What happened? Where? When? This can be a single violation or a series of acts. What is the current situation?

What factors in the contexts or environment as outlined under Chapter 2 are relevant to the circumstances of the violation/s?

Perpetrators. As discussed under Chapter 8, those who commit the violations can be state agents; non-state actors such as paramilitary groups, members of extremist or fundamentalist groups; or private actors such as members of the community or family.

Action by authorities. Has the matter been reported to the relevant authorities? What action has been taken? Has the alleged violation been made public, e.g., sent to other human rights groups?

Link between the violation and human rights work. Why do you think the alleged violation is a response to the human rights work of the victim?

General circumstances relevant to the case. This can include background information on the general situation of women in the country or locality, including statistical data on the status of women, legal guarantees of equality and non-discrimination in the constitution or domestic laws, international human rights conventions signed and ratified by the country, etc.

Source of the information (confidential). Who compiled the information? Who is submitting this information (can be an individual or organisation)? What other forms of evidence are available (e.g., testimonies of witnesses, forensic evidence or medical records, photographs, etc.)

Updates. If additional information becomes known (e.g., the identity of the perpetrator); or new events occurred (e.g., the victim was released from detention), provide details as necessary.

The box highlights some of the important information needed to record cases of violations and abuses specifically against women human rights defenders. The form, initially developed by the Office of the UN Special Representative on Human Rights Defenders, has been modified to surface the gendered nature of the violations and its consequences on women human rights defenders.

After completing the case form, it is necessary to analyse the information to establish what is missing, and identify if there is a need to gather more evidence. The more corroborative evidence available (e.g., physical evidence supported by testimonial evidence), the more likely the allegation will be found credible. It is also important to verify the reliability of the sources of information and cross-check with other sources. The further the source from the victim or incident, the less dependable the information is likely to be. While minor inconsistencies in the details are common, major contradictions in the information should prompt further verification. A high degree of inconsistencies can affect the overall quality of the information.

Analysing the information is equally an important step in a documentation process, particularly in the determination of the existence of a pattern of violations. The rigour of the analysis can affect the nature of the allegations, the level of accountability of the perpetrators, and the courses of action for remedy or redress. For example:

In Tunisia, a series of articles appeared in the Al Hadath newspaper maligning the Association Tunisienne Des Femmes Democratiques (ATFD), a women's organisation and its members. Photographs of six prominent Tunisian feminists were reprinted, with an author asking of the ATFD members "Why aren't these women married?" The ATFD Board filed an official complaint in the paper, but it only provoked more insults. The members were accused of hating men, wanting to create a society of women for women, and undermining religion, culture and social values in the Tunisian state. The ATFD members also reported that the police harassment and surveillance of their office increased during and after the media attacks.⁷⁷

In this example, the pattern of violations illustrate that the perpetrator is not only the media, but also state agents. In terms of allegation, the acts are not mere violations of the freedom of assembly and association, but are forms of sexuality baiting, or the use of women's sexuality to attack women's organising work around women's human rights. Based on the assessment of the information, different courses of action can be taken. In the example above, a formal complaint was filed with the *Al Hadath* paper.

⁷⁷ *Written Out: How Sexuality is Used to Attack Women's Organizing*, Cynthia Rothschild, International Gay and Lesbian Human Rights Commission and Center for Women's Global Leadership (IGLHRC) (2005), pp. 27 – 28.

What are some of the ethical considerations in doing documentation?

Ethical concerns inevitably arise in relation to determining the purpose of the documentation. Using the information and evidence gathered from documentation for public consumption, such as for campaigning or for filing a court case, is oftentimes the main motivation for doing it. But particularly in the context of women human rights defenders where most of the offences are sexual in nature, this process of documentation and the purpose for which it is done requires careful consideration. So in documenting cases involving women human rights defenders, the following principles should be followed to ensure ethical documentation:

- **Be transparent.** The purpose of the documentation project has to be fully explained to the subject.
- **Uphold confidentiality.** Secure a written consent of the person whose story or experience was recorded. The victim must agree before information related to the case is used and disseminated. If the victim does not want the information to be used, such wish must be respected. It is important to explain to the victim how the information will be used, and the potential effects of any public disclosure.
- **Be accountable.** Securing the dignity and security of the victim take primacy among all other considerations in determining the end purpose of the documentation. While there are certain inherent dangers in human rights documentation work, great care must be taken not to create unnecessary risks for anyone the documenter, the organisation, the victims or witnesses.
- **Uphold the agency of the victim/survivor.** Efforts should be exhausted to consult the subject every step of the process to ensure that s/he is an active collaborator in the documentation process.
- **Ensure safety and security.** Particularly in the cases of women human rights defenders where a culture of fear and silence has been internalised, the safety of the person who speaks out is the first consideration. Once a woman defender has disclosed information, she may feel unsafe and request for relocation. This issue should be taken seriously, especially in situations where no formal or effective witness protection programs are available.

Security does not only mean protecting those who gave the information, but also keeping the evidence secure. There are many ways to do this. The most basic is to ensure that all the documents are copied, and information is transferred to a secure location with regulated access by a limited number of people. Organisations that do documentation work should adopt policies and procedures to keep information secured.

- **Be gender and cultural sensitive at all times.** Blaming and shaming victims, particularly of sexual violence, has created a culture of silence among women and women human rights defenders who experienced abuse. Cases of sexual violence, especially if the act has been committed by a member of the family or community, are the most difficult to document. The victims seldom want to disclose what happened as this may lead to embarrassment, humiliation or more violations.

In addition, women human rights defenders are also often reluctant to speak about themselves and the dangers they face because they take this part of their work. They do not want to draw attention to themselves, away from the sectors or issues they work for. So a documenter must be sensitive to these concerns, and not compel a victim to testify unless s/he is ready. Having a psychological counsellor on hand may also be necessary in certain circumstances.

Human rights advocates, not only women human rights defenders, have much at stake in the proper documentation of the human rights violations and abuses. Documentation is essential in their demand for accountability, and their efforts to end impunity for human rights atrocities. For women human rights defenders, this process is crucial in their campaign for recognition and call for adequate and appropriate protection.

It is important to note that there are grave risks involved in doing human rights documentation. Participants at the consultations raised the concerns regarding the danger they already face when they document violations of women's human rights. Doing documentation specifically on issues around LGBT is more dangerous, they said. It directly exposes them to potential threats to their lives especially in countries ruled by religious extremists or fundamentalists. So using this guidebook in such contexts must be done with great care, and the risks that women human rights defenders face when the advocate for LGBT concerns should be taken seriously.





International human rights law established three main obligations for states: to respect, protect and fulfil. The obligation to respect involves the formal recognition of human rights as well as the obligation of all state agents to abstain from committing any act that violates human rights. The obligation to protect implies the organisation of institutions and the development of measures to ensure the prevention, punishment and redress of all human rights violations, whether they are committed by a public or private actor. Finally, the obligation to fulfil refers to the duty of states to develop measures and policies necessary to ensure for all persons the opportunities to satisfy the needs contained in the human rights instruments, which cannot be secured by personal efforts.

This chapter discusses these three state obligations, but with a focus on accountability and justice for women's human rights defenders rights. It explains the expanded sense of justice born out of the advocacy for women's human rights in which accountability is not only about demanding punishment, but also includes a range of other forms of remedy and redress.

What is accountability?

Accountability means an obligation to take responsibility for one's action and to be held accountable for that action. Under international human rights law, the state is directly accountable for any violation resulting from state action or policy within its territories or abroad. Further, any state is ultimately accountable for any abuse committed by non-state or private actors for lack of diligence to prevent, control, or punish the violation or for its failure to carry out its obligation to protect human rights.

Compared to state accountability, direct accountability of non-state actors under international human rights law is far from settled. The traditional view insists that only states are subjects under international human rights law so only governments have human rights obligations and could be made accountable for any violations. However, there is a growing dissatisfaction within the human rights circle with this approach. Insisting that direct accountability is exclusive to governments has generated a dangerous sense of impunity of non-state actors.

International human rights law has already recognised criminal responsibility of individuals for certain acts such as slavery, war crimes, genocide, crimes against humanity, disappearances and

torture. Many states, human rights scholars and international human rights organisations have subscribed to the notion that at the very least, non-state actors have to obey human rights norms and if they do not do so, they should be criticised and labelled as ‘abusers’ rather than ‘violators’. This view ascribes the term ‘violation’ only to misconduct by governments, so as to avoid giving greater recognition or undue legal status before international law to non-state entities.

With increased international concern about terrorism and recognition of the need for a framework of international accountability for those who commit or participate in acts of terrorism, some states and UN bodies have shown willingness to attach human rights obligations to non-state actors in general, and to armed groups - including those who participate in acts of terrorism - in particular. They recognise that those who commit or participate in acts of terrorism are violators (not just abusers) of human rights. Those who assert this view claim that individuals inherently possess human rights, and this comes with duties and responsibilities. By virtue of their international legal personality and capacity to bear both rights and obligations, they can be held directly accountable for human rights violations⁷⁸. This position comes closest to the long-standing demand of women’s rights advocates to make non-state actors directly accountable for violations of women’s human rights.

Who are the perpetrators to be made accountable?

States. Perpetrators in this category have a clear relationship to State structures. State actors include all its agents and bodies at the executive, legislative or judiciary branches.

For example, many of the complaints of women human rights defenders are against the police who carry out illegal arrests, arbitrary detention or use excessive and indiscriminate force to disperse demonstrations. Intelligence agents of the state are blamed for conducting illegal searches where computer data of women rights and human rights organisations were copied or files removed. The military are also identified as perpetrators of rape of women, including women human rights defenders, as a weapon of war and a form of torture. A recent trend also implicates the courts and members of the prosecution and the judiciary that pursue baseless charges against human rights defenders or use the judicial proceedings to discredit activists. Government bureaus, such as Ministries of Home Affairs, also violate the rights of human rights defenders by prohibiting the establishment of human rights groups and associations⁷⁹.

⁷⁸ Andrew Clapham, *Human Rights Obligations of Non-State Actors*, Oxford University Press: Academy of European Law, European University Institute, United Kingdom, pp. 38-40.

⁷⁹ Ruth del Valle Cobar, *State violence against women human rights defenders in Latin America*, Resource Book on Women Human Rights Defenders, (2006), pp. 33-34; also <http://www.defendingwomen-defendingrights.org/resources.php>

The lines between state and non-state actors are also often blurred. For example, in countries such as Colombia and Sri Lanka, there is evidence that paramilitary groups have linked to the government, although these links are well concealed. The paramilitaries seem to be independent actors outside of the state, but in reality they operate with the connivance and support of politicians, the security forces and other socially powerful individuals and groups.

Who is accountable for those who do not belong to any state?

“I was born in Bhutan, but the Bhutanese government says I don’t belong there. I became a refugee in Nepal, but the Nepalese government says I cannot stay there. So where can I invoke my rights as a defender of women’s rights recognised under the Declaration on Human Rights Defenders?”
(Rupa Rai, participant at the Women Human Rights Defenders Consultation, 12-15 January 2007, Kathmandu, Nepal)

Statelessness pertains to the situation of persons who do not have any nationality or citizenship in any particular country. This can particularly happen to women and children who derive their citizenship and nationality from a husband, and so upon divorce she and her children can be deprived of citizenship. Article 9 of CEDAW already explicitly prohibits this situation, and grants women equal rights with men to acquire, change or retain their nationality. However, many women still suffer from this kind of discrimination.

While not considered stateless in the legal sense, there are also huge numbers of people in many parts of the world who have been transported, trafficked or sought refuge across borders without proper documentation. This mass migration of peoples without papers has been brought about by situations of conflict in their own countries, displacement from natural disasters, the trafficking of persons, or irregular migration in search for jobs and livelihoods.

Without documents to prove their country of origin or their citizenship in the host country, these people are in a state of limbo regarding their nationality. Even when they declare themselves to be a citizen of a state, that state may deny their claim; the state in which they are working may not also accord them any legal status. For this category of persons and for defenders of the rights, this situation creates a serious problem. They are unable to seek protection from any state or invoke any of the state obligations under the Declaration on Human Rights Defenders.

Non-state actors. Non-state actors are entities, groups or its members that are not agents of the state or employed in any governmental body or undertaking. This includes individuals, armed and unarmed militant groups, members of extremist and fundamentalist

groups, the media, and other private entities. In the trans-national arena, this category includes international financial institutions, donor agencies, charities, religious institutions and networks. Many women human rights defenders have related accounts of violations committed by paramilitary units, on their own or in collusion with governments. One of the blatant abuses committed against them by these forces is sexual violence to dishonour women and the communities of the enemies. For instance, during the reign of fundamentalist armed groups in Algeria, women faced feticide. The Islamic Armed Groups (*Groupes Islamiques Armes* or GIA) 'attacked women as defenders of rights and as women *per se*'⁸⁰. In Russia, criminal gangs, another type of non-state perpetrator, infiltrate and create violence in public protests organised by human rights defenders.

In the context of globalisation, there is also an increasing phenomenon of violations of human rights perpetrated by trans-national corporations. Fatima Burnad, a Dalit woman human rights defender, has noted the 'increasing difficulty that activists face in organising protests to resist development projects adverse to peoples' interests'. They face attacks from state security forces and goons hired by companies, according to her⁸¹.

Private actors. Compared to other non-state actors, private actors pertain to perpetrators that the victims have intimate relationships with or have established relationships based on trust. Cases abound of women human rights defenders locked up in their homes, held in so-called 'protective custody', incarcerated in psychiatric institutions, forced into marriage and forced into pregnancy, among a host of other abuses from family and community members. Private actors in the family include relatives (parents, siblings, extended family members) and partners (in marriage or common law unions). Potential perpetrators in the community can be neighbours, religious leaders, leaders of community councils such as *jirgas* and *panchayats* or a council of elders in indigenous communities.

The Declaration on the Elimination of Violence against Women specifically places the role of private actors in perpetrating violence against women firmly on the human rights agenda. Article 2 of the Declaration defines violence against women to include 'physical, sexual and psychological violence occurring in the family'. It also covers prohibition of violence 'within the general community, including rape, sexual abuse, sexual harassment and intimidation at work...'. For women human rights defenders, this workplace includes the movements they work in, where they are not immune from abuses even from trusted male colleagues.

⁸⁰ Marieme Helie Lucas, *When women's human rights defenders face political non-state actors*, *Resource Book on Women Human Rights Defenders* (2006), p. 35; also <http://www.defendingwomen-defendingrights.org/resources.php>

⁸¹ *Report of the Consultation on Women Human Rights Defenders with the UN Special Representative of the Secretary General on Human Rights Defenders*, Asia Pacific Forum on Women, Law and Development (APWLD), Amnesty International (AI) and International Women's Rights Action Watch (IWRRAW-AP), (4-6 April 2003), p. 14.

What is justice for women human rights defenders?

The common understanding of justice is a sense of fairness or being just based on the principle of punishment for any wrong inflicted on another. So for most violations of rights, the remedy has been to make a complaint with the police, file a case, undergo litigation to prove that the violation was committed by the alleged perpetrator, then a judge or jury finally punishing the wrongdoer. The punishment is presumed to rectify the wrong done. In many instances, this process has proved effective in bringing a sense of justice to both the aggressor and the aggrieved. In other instances, it has been frustrating to many women human rights defenders.

Feminists have argued that women's notion of justice in the context of violence against women goes far beyond punishment of perpetrators. For example, following sexual assault, many women would prioritise protection and prevention of further violence as well as re-integration into the community above punishment of the perpetrator. Similarly, justice for women human rights defenders is also very much about prevention and protection. It is not just a matter of seeking a remedy before the courts or judicial systems, but it is also essentially about redress – which includes compensation, reparation, and in the framework of transitional justice, reconciliation and healing.

Transitional justice refers to a new notion of justice that has emerged in conflict situations to address widespread or sustained atrocities where the prevailing environment of terror and fear has made it difficult and dangerous to investigate violations so hardly any formal complaints can be made at the time of the violations. It is a system of justice developed for countries in transition from armed conflict to a new regime of peace and democracy. It is intended to respond to issues of accountability for gross or systematic human rights abuses committed during the conflict not only through legal prosecution, but also through reconciliation, renewal of civic trust, and rebuilding lives.

Transitional justice initiatives work with affected individuals and communities outside the formal legal system to ensure accountability of the abusers. This is premised on a realistic understanding that the perpetrators may never be brought to justice due to the technical rigor of evidentiary requirements and often the large number of perpetrators involved. For example, truth commissions have been set up to identify perpetrators and win acknowledgement that the violations did take place.

Accountability under Transitional Justice

There are many ways to make perpetrators of human rights violations accountable. Under transitional justice, the major approaches include any or a combination of the following:

- Domestic, hybrid, and international prosecutions of perpetrators of human rights abuse;
- Determining the full extent and nature of past abuses through truth-telling initiatives, including national and international truth commissions;
- Providing reparations to victims of human rights violations, including compensatory, restitutionary, rehabilitative, and symbolic reparations;
- Institutional reform, of which one measure is the vetting of abusive, corrupt, or incompetent officials from the police and security services, the military, and other public institutions including the judiciary. Vetting refers to the process of excluding from public employment those known to have committed human rights abuses or been involved in corrupt practices;
- Promoting reconciliation within divided communities, including working with victims on traditional justice mechanisms and forging social reconstruction.
- Constructing memorials and museums to preserve the memory of the past;
- Taking into account gendered patterns of abuse to enhance justice for female victims.

(International Center for Transitional Justice, <http://www.ictj.org/en/tj/>)

In transitional justice approaches redress has been expanded to mean not only the usual monetary compensation for any damage caused by the violation, but includes: restitution or re-establishing the situation that would exist if the violation had not been committed; rehabilitation such as medical and psychological care for the victims or other support to allow them to rebuild their lives; the right to truth and satisfaction and guarantees of non-repetition which include public acknowledgement of the violations.

The Women's International War Crimes Tribunal on Japan's Military Sexual Slavery, is one significant attempt by women's rights and human rights groups to carry out transitional justice to address the atrocities committed by Japan against the 'comfort women' or the victims of military sexual slavery during World War II.⁸² Truth and justice commissions set up in several countries in Latin American and Africa are another example.

For women human rights defenders, transitional justice with its different approaches to accountability can be important. It offers a range of remedies and redress for the violations they experience which are not available under the notion of justice provided by the formal legal system. This is crucial particularly in the context of infringements of human rights committed by non-state and private actors. It opens possibilities for direct liability of non-state actors for violations under international human rights law by providing other forms of accountability, both judicial and non-judicial.

⁸² VAW-Net Japan: <http://www1.jca.apc.org/vaww-net-japan/english/womenstribunal2000/whatstribunal.html>

So 'if governments, non-state political actors and international bodies are challenged to be accountable to human rights standards, then the same should be required of all collectives. This especially includes the family, the community, and the network of human rights activists and NGOs'⁸³. Transitional justice, which encompasses various dimensions of justice including healing and reconciliation, may provide for a more compassionate approach to hold these private actors accountable for abuses against women human rights defenders.



⁸³ Susana Fried, *Accountability for abuses by family and community against women human rights defenders*, **Resource Book on Women Human Rights Defenders**, (2006), p. 77; also <http://www.defendingwomen-defendingrights.org/resources.php>



Justice means having mechanisms of accountability to prevent and punish violations and abuses. This chapter explains some of the mechanisms for accountability, justice and protection that exist for women human rights defenders at the international, regional and national levels. It does not present an exhaustive list, but rather provides a discussion of some of the key strategies that women human rights defenders may adopt in order to respond to the attacks they experience and overcome obstacles put in the path of their activism.

The first section of this chapter presents creative ways in which women human rights defenders can secure protection for themselves. Although most of the initiatives described in this section pertain to civil society, there are also examples about ways in which women human rights defenders can use national protection mechanisms to respond to situations in which their rights are violated. The second section examines the use of the courts and judicial system to seek redress, at national and regional levels. The last section discusses ways in which women human rights defenders can appeal to the UN and regional human rights bodies when they come under attack.

What are some creative ways to secure protection?

Women human rights defenders draw support for their work through a range of mechanisms that are not necessarily focused on formal structures of justice, rather work creatively to protect those at risk and pin liability to the attackers. This section presents examples of these mechanisms, which provide the most responsive and immediate assistance to them. Annex D also lists organisations that support and protect women human rights defenders.

Action alerts or urgent appeals

These are letters of appeal circulated among a vast network of civil society groups and individuals to pressure on governments and other responsible parties to prevent or stop atrocities against women human rights defenders from occurring. In general, the recipient of the urgent appeal is requested to write, copy or sign letters about the case and forward the corresponding demands to specific persons in the government or other entities.

These appeals can also be sent to the UN Special Representative on Human Rights Defenders and other Special Rapporteurs for their action. (See section on How can the UN respond? below).

As shown in the box, there are many organisations that run action alerts for women human rights defenders. APWLD, which runs the women human rights defenders website, posts urgent appeals specifically for women activists at risk. AI, Human Rights First, FIDH and OMCT are international human rights organisations that take on appeals for human rights defenders and also cover cases of women human rights defenders. WLUML issues action alerts for women defenders in Muslim countries. IGLHRC covers abuses against lesbian, gay, bi-sexual and transgender advocates. These organisations have been part of the international campaign on women human rights defenders.

Action Alert Networks

Action Alert on Women Human Rights Defenders. Asia Pacific Forum on Women, Law, and Development (APWLD) <http://www.defendingwomen-defendingrights.org/>

Act Now. Amnesty International (AI). <http://www.amnesty.org/actnow/>

Defenders Alert Network. Human Rights First. http://www.humanrightsfirst.org/defenders/hr_defenders.asp

International Gay and Lesbian Human Rights Commission (IGLHRC). <http://www.iglhrc.org>

The Observatory for the Protection of Human Rights Defenders. International Federation of Human Rights (FIDH) and World Organisation against Torture (OMCT) appeals@fidh-omct.org

Calls for Action. Women Living Under Muslim Laws (WLUML). <http://www.wluml.org/english/actions.shtml>

Campaigns

Like action alerts, campaigns can be an effective means of responding to women human rights defenders under threat. These campaigns are a combination of urgent appeals; solidarity messages; mass protests and demonstrations; press releases and media mobilisation; and lobbying with pertinent government officials and bodies to stop the violations against women human rights defenders from occurring. For example, APWLD ran a campaign against the political killings and persecution of women activists in the Philippines, some of whom are its members. The campaign used a combination of activities to attract public attention and pressure the government to respond. It was joined by activists and supporters from Thailand, India, Indonesia and other countries and the campaign contributed towards successfully stopping the arrests.

Emergency support

This mechanism is most crucial for women human rights defenders in situations of escalating violence or politically volatile environments that place them and their families at great risk. The UAF provides emergency funding of up to US\$5,000 within 72 hours of a request for protection of women human rights defenders. Front Line, a human rights defenders organisation based in Ireland, provides 24-hour support to human rights defenders at immediate risk. Their assistance includes faxed or phoned appeals to relevant authorities, raising the case through the European Union or individual government representatives, practical help with temporary relocation, assistance with medical or legal expenses, and others.

Safe houses

Temporary shelters for women human rights defenders are important to safeguard their well being. Like shelters for victims of violence against women, safe houses provide activists a safe space away from perpetrators of violence who in many instances may be members of the family and community. Temporary shelters give defenders a chance to rest physically, mentally and emotionally from the atrocities they face in their work, and heal from the violations and abuses they have suffered.



Emergency Support

Front Line

<http://www.frontlinedefenders.org/emergency>

**Emergency Phone No.: +353
1 21 00 489**

Urgent Action Fund for Women's Human Rights (UAF),

<http://www.urgentactionfund.org/>

World Organisation Against Torture (OMCT)

www.omct.org

Creating Security in the Balkans: The Budapest Base

With violence and instability prevalent throughout the Former Yugoslavia, Laurence Hovde, founder of Women at Work, and another activist working with the American Friends Service Committee (AFSC), provided women activists from the region with support and offered them use of the AFSC office in Budapest, Hungary. The office served as a safe place to stay and as a place to meet with other activists. Budapest was the one destination for which women from all over the Former Yugoslavia could obtain a visa. Given Serbia's shattered economy, it was also the one place where Serbian activists could bank and buy supplies.

When the AFSC was no longer able to provide the space, the women decided to rent an apartment of their own. In June 2000, the group rented an inexpensive, centrally located apartment, which they named the 'Feminist Budapest Base'. The UAF provided them with a grant to rent the apartment for six months while they raised funds from other sources.

'The warm feminist exchanges that took place in our Budapest 'base' have nurtured and inspired many women. Having a base in Budapest was an essential link as feminist activists organised across borders', Lepa Mladjenovic, one of the activists said. She recalled, 'The Budapest Base was such a safe haven. It was really so clever – whoever was dying of fear, you could send her there. It would have been totally different if we didn't have that place'. (Interview with Lepa Mladjenovic, Urgent Action Fund for Women's Human Rights: Grant Descriptions and Reports, September 1997 to December 2002)

Networks

Among the most commonly used mechanism for protection are the local, national, regional and international networks of human rights and women's rights defenders. These networks facilitate immediate response and access to resources especially for women activists in danger. Some of these networks have formal structures, many are loose coalitions of groups committed to work together on shared concerns.

International Coalition for Human Rights: A network for human rights defenders in the CIS

This network was established at the International Consultation on Women Human Rights Defenders in Colombo, Sri Lanka in 2005 by participants from the Commonwealth of Independent States (CIS).

The Coalition disseminate information about the situation of human rights and women human rights defenders; run urgent appeals for its members at risk; hold other solidarity actions for arrested colleagues; and conduct trainings on security for defenders. The Coalition also holds regular meetings among activists in Azerbaijan and neighbouring countries.

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Tel +99 412 447 56 95 Fax+99 412 494 14 58, E-mail: ipd@online.az Website: www.tt-ipd.org

The International Network of Women's Funds is also a network of independent women's funds committed to expanding the resources available to women's rights organisations around the world by providing grants to seed, support and strengthen women's organisations⁸⁴. Another example is Peace Brigades International (PBI), which has support networks activated when there is a critical human rights violation of a group or individual whom PBI is accompanying, or there are threats to PBI volunteers themselves. Members of the public, institutional and governmental bodies around the world apply immediate international pressure on the appropriate political or military figures by sending faxes, emails, telegrams or letters protesting the violation and urging respect for human rights⁸⁵.



⁸⁴ <http://www.inwf.org/ingles/about.htm>

⁸⁵ <http://www.peacebrigades.org/ern.html>

Feminist Mental Health Networks: Capacitar

There are a number of initiatives to address women activists' need for support and healing. Capacitar International is one such initiative. The network began in Nicaragua in 1988 in response to violence and war trauma. While collaborating on a solidarity art project at a popular education centre in Managua, the community invited founder Pat Cane to teach them what she practiced herself to heal the stress of daily life. The first workshops shared simple skills in body movement and acupressure to alleviate pain and stress. The people enthusiastically multiplied what they learned with family and community in the spirit of 'capacitar'—a Spanish word meaning to empower, to bring to life—and this became the name of the organisation.

As news of Capacitar reached other places, union leaders in Guatemala, popular education centres in Chile and grassroots communities in Peru requested workshops. The first Capacitar manuals were developed in English and in Spanish to make materials available to grassroots leaders. In 1995, a Capacitar team from 12 countries coordinated the Healing Tent in China for the NGO World Forum on Women. Capacitar currently works in countries on five continents (North, Central and South America, the Caribbean, Africa, Asia, and Europe) collaborating especially with grassroots groups needing healing from trauma and severe stress. (See <http://www.capacitar.org/>)

Awards

Nominating deserving women human rights defenders for awards brings public recognition and legitimacy to their status as defenders in their own right. Named after the first Secretary General of AI, the Martin Ennals Award for Human Rights Defenders is an initiative created by 12 international organisations. It is an award given annually to human rights defenders at risk who have demonstrated an exceptional record of combating human rights violations by courageous and innovative means. The award is intended to provide immediate protection to the recipients at risk by drawing international media and public attention. Women human rights defenders have been among the recipients of the award.

There have been similar initiatives of awarding human rights defenders at the national level. RAFD (Rassemblement Algérien des Femmes pour la Démocratie/ Algerian Assembly of Women for Democracy), an Algiers-based women's organisation, set up an award for women who resist fundamentalisms. On March 8 every

year, RAFD honours women defenders who have struggled against fundamentalisms. The award is intended to mark this struggle and ensure that the public do not forget the courageous contributions made by women⁸⁶.

Consultations

More than just a mere meeting or gathering, bringing women human rights defenders together in consultations provides a space for collective support as women are able to discuss their common experiences of violations and abuses. These gatherings also forge links among women and other groups for concerted action. For example, WOREC in Nepal organises annual national consultations of women human rights defenders. These consultations bring together over 200 grassroots women from different sectors and districts of the country. As a result of these gatherings, two networks on women human rights defenders were formed in the Districts of Morang and Sunsari in Nepal.⁸⁷

Women Human Rights Defenders Consultation in the Great Lakes

In December 2006, the International Service for Human Rights (ISHR) organised a consultation with women human rights defenders in the Great Lakes region of Africa. The consultation, held in Rwanda over five days, gathered 30 women human rights defenders from the Democratic Republic of the Congo, Burundi and Rwanda. The Special Rapporteur on Human Rights Defenders of the African Commission on Human and People's Rights and the national human rights commissions of Rwanda and Burundi were also present.

At the end of the consultation, participants adopted strategies for the protection of women and women human rights defenders and agreed on follow-up activities. They decided to launch a campaign on women human rights defenders, lobby for the repeal of specific laws and coordinate work on human rights defenders with other organisations in the region.

National human rights institutions

National laws and institutions also provide several means of protecting human rights defenders. Many countries have adopted international human rights standards in their national legislations. Governments or sometimes civil society have also set up autonomous national human rights institutions that have the mandate and resources to investigate cases of human rights violations. Women human rights defenders can also use these institutions for their own protection. Other national human rights institutions can learn from the innovative approaches to protect women human rights

⁸⁶ Marieme Helie Lucas, *When women's human rights defenders face political non-state actors*, *Resource Book on Women Human Rights Defenders*, (2006), p. 35; also <http://www.defendingwomen-defendingrights.org/resources.php>

⁸⁷ <http://www.worecnepal.org/downloads/newwhrdnetworks.pdf>

defenders adopted by Komnas Perempuan, the National Commission on Violence against Women in Indonesia, which are described below:

The Role of the National Commission on Violence Against Women (Komnas Perempuan), Indonesia

Komnas Perempuan was established in 1998 to promote and protect human rights of women in Indonesia in response to demands of state accountability for the mass rape of Chinese women during the riots in the country that led to the resignation of President Suharto. The Commission has adopted several programmatic responses to cases of violations and abuses against women human rights defenders. Recently, it completed a baseline research on the specific violations and abuses experienced by women human rights defenders in different sectors in Indonesia. It supports women human rights defenders through the following programmes:

Urgent responses. The Commission provides urgent responses in situations when abuse is experienced by women human rights defenders. It uses its office as well as its network of member commissioners to facilitate emergency interventions in coordination with local authorities. In special circumstances, a fact-finding team is sent to speak directly with the defenders under attack as well as to their colleagues and community members. For example, at the height of armed conflicts in Aceh and in East and West Timor, the Commission initiated a meeting at the national level with the Minister of National Security and Political Affairs to draw attention to the violations. It also requested a review of the operating guidelines for ground troops in order to ensure the protection of local humanitarian workers and prevent future attacks on them.

Preventive measures. The Commission also undertakes preventive measures linked with community awareness to avoid future abuse of women human rights defenders. In Papua, which represents the longest running conflict in the country, Komnas Perempuan played the role of monitors in the talks between company representatives and indigenous women human rights defenders engaging in crucial negotiations with a gold mining transnational company. The Commission also conducts official and regular visits to local authorities aimed at familiarising officials about the national monitoring body on women's human rights. The meetings are held in participation with local women human rights defenders to raise the profile of these activists and strengthen links with the Commission.

Capacity-building activities. At the height of the conflict in Aceh, Komnas Perempuan responded by joining the National Human Rights Commission's monitoring initiative into Aceh and developed an ethics of monitoring with local women's groups. This became the basis for joint follow-up work between the Commission and the women's groups on violations committed against women in conflict. The Commission also initiated a special fund from public contributions to support women victims of violence. The Women's Fund, as it is popularly called, serves as a new resource base for organisations working on violence against women at the community level, especially those that do not receive funding from donor organisations. (Kamala Chandrakirana, *The Role of Komnas Perempuan in protecting women human rights defenders, Resource Book on Women Human Rights Defenders*, (2006), pp. 57-61; also <http://www.defendingwomen-defendingrights.org/resources.php>)

Can justice be obtained in court?

The UN Declaration on Human Rights Defenders recognises the right of everyone to complain when a human rights violation is committed. Article 9 of the Declaration states that there is a right to have the complaint promptly reviewed in a public hearing before an independent, impartial and competent judicial or other authority. It clearly states the right to redress ‘including any compensation due, where there has been a violation of that person’s rights or freedoms, as well as enforcement of the eventual decision and award, all without undue delay’⁸⁸.

Furthermore article 12.3 clearly establishes that states shall take all necessary measures to ensure protection against any violence, threats, retaliation, adverse discrimination, pressure or arbitrary action committed against women human rights defenders as a consequence of their activism. This provision should be interpreted to include all judicial measures aimed at punishing those responsible for attacks against them.

National legal systems

Applied at the national level, accountability for violations of human rights under the UN Declaration of Human Rights Defenders is mediated through established principles of law included in the national constitution and domestic laws. Mechanisms for accountability are provided for in formal judicial systems that include courts, legal jurisprudence, law enforcement units and other judicial entities. There is no uniformity among countries in terms of its legal systems, the manner the courts are constituted, or the number and effectiveness of legal venues available for redressing human rights violations.

Regardless of its form, women human rights defenders may seek justice through the national legal system established in their respective countries. It may involve requesting for investigation from an independent human rights commission, filing a case in court or seeking legal relief from governmental administrative bodies that exercise judicial functions. The example below illustrates the legal strategies used by Catholics for Free Choice before the Department of Registration in Argentina to hold right-wing groups accountable for violations of the organisation’s right to defend women’s rights.



⁸⁸ UN Declaration on Human Rights Defenders, Article 9.2.

Catholics for Free Choice, Argentina: Holding Catholic fundamentalists accountable

In 2003, Catholics for Free Choice in collaboration with the Ministry of Health won a case which declared the constitutionality of the Law on Sexual Health and Responsible Procreation. A Catholic fundamentalist group belonging to the pro-life movement brought a case to the court to seek for the repeal of this law. Representatives of International Human Life and the Latin American Council for Life and Family also filed an administrative complaint calling for the cancellation of the license and registration of Catholics for Free Choice. The petition also sought the confiscation of the organisation's properties. The campaign to discredit Catholics for Free Choice did not stop there. Posters depicting so-called aborted fetuses were posted along the street where the office of the organisation is located. Threatening e-mails soon followed.

Catholics For Free Choice adopted an overall strategy to counter the charges against them. The organisation replied with arguments based on its long and sustained work in the community in favour of sexual and reproductive health of women, and the realities of clandestine abortion as a public health hazard in the country. These arguments were supported by human rights instruments endorsed by the government, including declarations and resolutions of related international conferences and conventions. Additionally, the arguments appealed to the multiple voices that existed inside the Church and theological insights that recognise the moral validity of decisions made by women on reproductive issues.

At the same time, the organisation filed an action before the National Human Rights Secretariat regarding the persecution and harassment aimed at stopping Catholics For Free Choice from defending human rights. It mobilised the support of human rights organisations and accepted the offer of the Association for Civil Rights based in Buenos Aires, Argentina to intervene as *amicus curiae* in defence of its rights to freedom of expression and association. It launched a campaign to seek support and solidarity from feminist organisations, the women's movement, social movements, trade unions, and professionals who share the same principles as Catholics for Free Choice. It made the case public and demanded transparency from the state, calling for the state to assert its independence despite the pressures from religious extremist forces.

Seven months after it was filed, the Department of Registration resolved the case in favour of Catholics for Free Choice. The decision reflected that the objectives of organisation are in line with those of the national programme on sexual health and responsible procreation. The Human Rights Secretariat also issued a significant resolution. The resolution supports the legitimacy and legality of Catholics for Free Choice in defending the freedom of association and freedom of expression. There was also support from the human rights movement, which sent letters of support to the Catholics for Free Choice from more than 100 organisations from all over the country. (*Silvia Julia, Holding Catholic fundamentalists accountable, Resource Book on Women Human Rights Defenders, (2006), pp. 79-81; see also <http://www.defendingwomen-wdefendingrights.org/resources.php>*)

Regional human rights courts

Aside from the domestic courts, regional human rights courts have been set up in the Americas, Europe and Africa to examine cases in which the national courts have failed to render justice. Women human rights defenders in these regions can access these courts to

seek redress for human rights violations. But since there is no regional human rights court in Asia Pacific, this option is not available to defenders from this region. It is also important to note that unless specified otherwise, these regional judicial bodies only take on human rights cases after there has been an exhaustion of domestic remedies. The next sections describe in more detail each regional human rights court and the way in which they can be of use and accessed by women human rights defenders.

The Inter-American Court of Human Rights

Avenue 10, Street 45-47
Los Yoses, San Pedro
Costa Rica

P.O. Box 6906-1000, San José
Costa Rica

Phone: (506) 234 0581

Fax: (506) 234 0584

Email: corteidh@corteidh.or.cr

Inter-American Court of Human Rights

The Inter-American Court of Human Rights is an autonomous judicial institution established by the Organisation of American States (OAS) in 1979. It has two functions: advisory and adjudicatory. The advisory function of the Court is related to the interpretation of the American Convention on Human Rights. Any OAS member state or any organ of the Inter-American system can request the Court to interpret a provision of the Convention in order to clarify its content and scope.

The adjudicatory function of the court implies that it can be used to obtain legal remedy for violations committed against women human rights defenders when the national courts fail to respond adequately. When a member state of the OAS does not comply with the recommendations issued by the Inter American Commission on Human Rights (IACHR) regarding an individual case, the Commission may refer the case to the Court. The decisions of the Court are binding and the states concerned are obliged to comply with them.

However, it should be noted that individual citizens of OAS member states are not allowed to take cases directly to the Court. Individuals who believe that their rights have been violated must first lodge their cases with the Commission. The Commission determines if the case is admissible or not. If the case is ruled admissible and the state deemed at fault, the Commission will generally serve the state with a list of recommendations to address the violation. Only if the state fails to abide by these recommendations, or if the Commission decides that the case is of particular importance or legal interest, will the case be referred to the Court. So the Court is considered a measure of last resort, taken only after the Commission has failed to resolve the matter in a non-contentious manner.

'Pro-Bono Guide' to the Inter-American Human Rights System

The Center for Justice and International Law (CEJIL) has created a 'Pro Bono Guide' as a reference for victims of human rights violations and human rights defenders who require free legal assistance to access the Inter-American system for the protection of human rights. (<http://www.cejil.org/probono.cfm>)

The African Court of Human and People's Rights

The most recent of the regional human rights judicial bodies is the African Court of Human and People's Rights. It was established in 1998, 12 years after the entry into force of the African Charter on Human and Peoples' Rights. Before the establishment of the Court, the protection of rights listed in the African Charter rested solely with the African Commission on Human and Peoples' Rights, which has no binding powers. So the Court was set up to strengthen compliance with the state obligations under the Charter.

The Protocol establishing the Court entered into force on 1 January 2004. Article 3.1 of the Protocol provides that actions may be brought before the Court on the basis of any instrument, including international human rights treaties, which have been ratified by the state party in question. Article 7 also permits the Court to apply any relevant human rights instrument ratified by the state in question, in addition to the African Charter.

Unlike the other regional human rights courts, this innovation is beneficial to women human rights defenders as it broadens the sources of law under this jurisdiction beyond the African Charter to include all other UN human rights agreements signed by the state concerned. Considering that some of these international agreements do not provide for mechanisms for implementation, the ACHPR can potentially provide women human rights defenders avenues for redress not otherwise available in the international arena.

The Protocol also makes the Court accessible to both governments and its citizens. Not only states but also NGOs and individuals with observer status before the Commission can bring cases before the Court, if their governments make a declaration accepting the jurisdiction of the Court to hear such cases. African NGOs, including women human rights defenders groups recognised by the African Union can also ask for advisory opinions before the Court.

The statute of the Court has not been promulgated, and its location has not been determined also so it might take some time before it functions.⁸⁹ Once operational, it may also be difficult for individuals and organisations to seek permission from their governments to allow the Court to assume jurisdiction particularly over cases of human rights violations which implicate the state or its agents.

European Court of Human Rights

The European Court of Human Rights was set up in 1959 under the

European Court of Human Rights

Council of Europe
67075 Strasbourg-Cedex France
Phone: +33 3 88 41 20 18
Fax: +33 3 88 41 27 30

⁸⁹ Project on International Courts and Tribunals (PICT) Resources, The African Court on Human and Peoples' Rights, <http://www.pict-pcti.org/courts/ACHPR.html>

Convention for the Protection of Human Rights and Fundamental Freedoms to monitor and adjudicate cases of violations of the Convention. With the adoption of Protocol II on 1 November 1998, the enforcement of the Convention was made entirely judicial, and the European Court of Human Rights was given sole jurisdiction to enforce compliance by state parties to the Convention. The Court is part of the Council of Europe, an organisation composed of 41 European states.

Individual complaints. The Court decides on complaints alleging violations of the Convention by any state party. Complaints can be lodged by any state party to the Convention or an individual directly before the Court in Strasbourg. Protocol No. 9 allows individual applicants to bring their cases before the Court, subject to ratification by the respondent state and acceptance by a screening panel.

For a complaint to be admissible, all domestic remedies must be exhausted and the case filed before the European Court within six months therein or generally speaking, six months from the date of the judgment of the highest domestic court. After that period, the Court can no longer accept the complaint.

Once the application is accepted, the Court will consider the application on the merit – it will determine whether or not there has been a violation of the Convention. During the procedure on the merits, negotiations aimed at securing a friendly settlement may also be conducted through the Registrar. The negotiations are confidential.

Women human rights defenders can avail of this remedy for any direct and personal violation of any right stipulated in the European Convention for the Protection of Human Rights and Fundamental Freedoms. The Convention affirms the basic civil and political rights recognised in the Declaration on Human Rights Defenders. So the complaint can include allegations of torture and ill-treat-

Filing a case before the European Court of Human Rights

You should know that...

- It is not necessary to be a national of one of States bound by the Convention. The violation you are complaining of must simply have been committed by one of those States within its jurisdiction, which usually means within its territory;
- Although you do not need to be represented by a lawyer in the first stages of the proceedings on individual cases, you will need a lawyer once your application has been notified to the government;
- You will have to bear only your own costs (such as lawyers' fees or expenses relating to research and correspondence);
- After your application has been lodged, you may apply for legal aid. Legal aid is not granted automatically, and awards are not made immediately but only at a later stage of the proceedings;
- The official languages of the Court are English and French, but applications may be submitted in one of the official languages of the contracting states.

[\(www.echr.coe.int/ECHR/EN/Header/The+Court/The+Court/History+of+the+Court/\)](http://www.echr.coe.int/ECHR/EN/Header/The+Court/The+Court/History+of+the+Court/)

ment of prisoners; lawfulness of detention; shortcomings in civil or criminal trials; discrimination in the exercise of a Convention right; restrictions on expressing an opinion or on imparting or receiving information; or violations of the freedom to take part in an assembly or demonstration.

While the complaints can cover a wide range of issues relevant to women human rights defenders, some of the drawbacks in using this mechanism have been the lack of expertise by many defenders about this Court and its procedures, and the compulsory requirement of exhausting domestic remedies which rules out this mechanism as a response to urgent cases involving women human rights defenders at risk.

Advisory Opinions. The Court may, at the request of the Committee of Ministers, give advisory opinions on legal questions concerning the interpretation of the Convention or the Protocols. Decisions of the Committee of Ministers to request an advisory opinion are taken by majority. Women human rights defenders cannot ask the Court to issue an advisory opinion. However, they can lobby the Committee of Ministers to request the Court to issue an opinion on matters relevant to the protection of women human rights defenders.

In spite of the limitations, there is value in using these regional human rights courts to seek redress or remedy, particularly in situations where justice regarding human rights violations cannot be obtained within national legal systems. There have been many instances where individuals and organisations have benefited from the judgements issued by these bodies. The case below illustrates how the decision of one of these courts, the Inter-American Court, positively influenced the quest for justice and accountability in the case of the killing of a woman activist:

Myrna Mack was a 40-year-old Guatemalan anthropologist who conducted pioneering fieldwork on the destruction of rural indigenous communities resulting from military counterinsurgency tactics in Guatemala's armed conflict. On 11 September 1990, she was attacked, stabbed 27 times, and killed by two individuals as she left her office to return home. During the previous two weeks, Myrna Mack had been stalked by a military death squad.⁹⁰ Helen Mack, Myrna Mack's sister, fought for 14 years to obtain justice for her sister. In the process, she became one of Guatemala's most respected human rights advocates, particularly in the struggle against impunity.

Helen's fight focused on the prosecution of all those involved in the planning and killing of her sister. During her struggle she was threatened many times and many efforts were made to prevent the perpetrators from being taken to justice. Since she was unable to seek redress in the domestic courts, she brought the case before the Inter-American Court for Human Rights. Through her perseverance and the support of many key actors, she was eventually successful in securing convictions for one

⁹⁰ http://www.humanrightsfirst.org/defenders/hrd_guatemala/hrd_mack/hrd_mac_hist/hrd_his_1.htm

of the soldiers who killed her sister and the military officers who ordered the killing. Following the decision of the Inter-American Court on Human Rights, which was binding for Guatemala, the Guatemalan president, accompanied by the heads of Congress and the Supreme Court officially recognised the Guatemalan Government's responsibility for the killing of Myrna Mack in April 2004.⁹¹

While seeking justice through courts has been successful in many instances, women's rights advocates have to be realistic regarding their expectations. Women continue to face many obstacles in using the legal system to obtain justice, notably at two levels: First, the justice system's inaccessibility since in reality not everyone has mobility and financial resources to access it, as well as knowledge of their rights and how to obtain them. Second, women encounter barriers because of the gender bias in the legal system such as the non-recognition of many offenses against women or the male bias in the procedures and processes of the court.

How can the UN respond?

The international human rights system at the UN can be used by women human rights defenders to advocate for protection, justice and accountability, and can compliment other strategies being used. An intervention of the UN may help prevent a violation or at least alert a government that it is under international scrutiny. It can help raise the visibility of an issue or a case at the international level, and add legitimacy to the demands for justice and redress. A detailed account of the different mechanisms available to women human rights defenders at the UN is provided below.

Mechanisms at the UN

There are many ways for women human rights defenders to seek remedy and redress under international human rights law. For example, there are seven international human rights treaties⁹², each with a body or committee to monitor its implementation. This committee is known as a treaty body. A state that has ratified a treaty is obliged to report regularly to the corresponding committee regarding the realisation of the rights expressed therein.

Increasingly, the international human rights system also provides redress for individuals who have exhausted national and regional remedies through the mechanism of an Optional Protocol to a human rights treaty. Treaties with Optional Protocols, such as CEDAW, allow an individual to seek redress against a state party that may have violated any of the rights contained in the convention.

References for UN Mechanisms Related to Women Human Rights Defenders

Information on UN Human Rights Procedures. International Service for Human Rights (2006). www.ishr.ch

Key Documents Related to Human Rights Defenders (Volumes 1 and 2). Asian Forum for Human Rights and Development (Forum Asia) (2005). www.forum-asia.org

⁹¹ For more information on Myrna and Helen Mack see the website of the Myrna Mack Foundation at <http://www.myrnamack.org.gt>

⁹² The seven treaties are: The International Covenant on Civil and Political Rights (ICCPR); The International Covenant on Economic, Social and Cultural Rights (ICESCR); The Convention for the Elimination of Racial Discrimination (CERD); The Convention for the Elimination of All Forms of Discrimination against Women (CEDAW); The Convention on the Rights of the Child (CRC); The Convention against Torture and all Inhumane, Cruel or Degrading Treatment (CAT); The International Convention for the Protection of the Rights of all Migrant Workers and their Families (ICRMW).

Apart from these treaties, there are other instruments and mechanisms at the international level, which have been created to protect individuals and communities regardless of the state's ratification of any convention. For example, there are a wide range of experts at the UN called Special Rapporteurs, Independent Experts or Working Groups, which monitor specific human rights issues. There are also mechanisms such as the UN Human Rights Council, offices created by the Office of the High Commissioner for Human Rights (OHCHR) and by the Secretary General of the UN.

The UN mechanisms applicable to the issues of women human rights defenders are:

The UN Special Representative of the Secretary General on Human Rights Defenders

Office of the UN Special Representative on Human Rights Defenders

Office of the UN High Commissioner on Human Rights (OHCHR)
Palais des Nations
CH-1211 Geneva 10
Switzerland

Website : www.ohchr.org

The first international mechanism to protect human rights defenders was established in 2000, with the creation of the office of the Special Representative to the UN Secretary General on Human Rights Defenders. The Special Representative undertakes activities in complete independence of any government. S/he is an independent expert and is not considered a staff of the UN. Like other UN Special Rapporteurs, the Special Representative reports to the UN Human Rights Council

annually but in addition, delivers a report at the annual session of the UN General Assembly.

The mandate of the Special Representative is to monitor the implementation of the Declaration on Human Rights Defenders. Specifically, it includes:

- Seeking and examining information on the situation of human rights defenders;
- Encouraging dialogue and cooperation with governments on the effective implementation of the Declaration;
- Defining strategies and making recommendations towards the full implementation of the Declaration;
- Submitting yearly reports on the situation of human rights defenders to the UN Human Rights Council and the General Assembly.

To carry out this mandate, the Special Representative undertakes several activities, such as:

Individual cases. The Special Representative takes up with the states concerned individual cases of violations committed against human rights defenders. Information on such cases is received from a variety of sources, including state authorities, NGOs, UN agencies,

the media and individual human rights defenders. As information arrives, the Special Representative first seeks to determine if it falls within the mandate. Second, every effort is made to determine the probable validity of the allegation and the reliability of the source of the information. Third, the Special Representative makes contact with the government of the state where the alleged violation is said to have occurred.

Contact is usually conducted either through an urgent action letter (concerning a violation that is allegedly ongoing or about to occur) or an allegation letter (about violations that are said to have already occurred). Allegation letters focus primarily on asking the State authorities to investigate the events and to conduct criminal prosecutions of those responsible. In both types of letter, the Special Representative asks the government concerned to take all appropriate action to address the alleged events and inform the Special Representative of the results⁹³.

This is not a legal mechanism so the complainant does not need a lawyer to access it. Neither is it required that the government against whom the complaint is lodged be a party of any international human rights treaty. There is also no need to exhaust domestic remedies before sending the information to the Special Representative. The complainant only has to send a letter to the Special Representative at urgent-action@ohchr.org. The office has developed a format for the letter⁹⁵. A modified version that highlights the specific violations and abuses against women human rights defenders is found in Chapter 7, Documenting Human Rights Violations and Abuses, *Women Human Rights Defenders Case Form*, p. 61 of this guidebook.

Urgent Action Letters and Letters of Allegation

To whom is the letter sent? The letter is sent by the Special Representative to the Minister for Foreign Affairs of the state concerned and copied to its diplomatic mission to the UN in Geneva, Switzerland.

What is its content? The letter provides details concerning the victim, what is said to have happened or to be about to happen, and a request for information, investigation and action to prevent or redress the violation.

What is its aim? The aim of the letter is to ensure that state is aware of the allegation as soon as possible so that it has the opportunity to end or to prevent any human rights violations from occurring.

How much time does the process take? The Special Representative and assisting staff try to react as quickly as possible to each allegation, with special

⁹³ Human Rights Defenders: Protecting the Right to Defend Human Rights, Fact Sheet No. 29, Office of the United Nations High Commissioner for Human Rights (OHCHR) <http://www.unhcr.ch/html/menu6/2/sheets.htm>

attention given to the most serious and urgent cases. In many instances, a case is taken up by the Special Representative with the concerned government within a few hours of the information being received from the source. In instances where insufficient information is available in the initial contact, it can take several days to gather and clarify information sufficient for contact to be made with a government.

How can the complainant follow this process? The letters sent to governments are confidential until the Special Representative submits an annual report to the UN Human Rights Council. The persons and organisations that send information to the Special Representative are always kept confidential and are never referred to in the letters to governments or in public reports.

The annual reports of the Special Representative to the UN Human Rights Council provide summaries of the letters on specific cases of violations against human rights defenders sent by the Special Representative to governments. They also contain summaries of the replies by governments and observations of the Special Representative.

What are the results? The Special Representative's communications to governments can lead to tangible outcomes, such as the release of defenders from prison or the reduction of attacks against them. For example, in June 2005 the Special Representative and other Special Rapporteurs sent a communication concerning the case of a women's human rights activist against whom defamation charges were brought in three separate cases for having publicly criticised family court judges. The High Criminal Court eventually dropped the case against the women's rights activist saying it was brought against her illegally by the Public Prosecution.⁹⁴

Country visits. The Special Representative is also mandated to conduct official visits to different countries. These visits provide an opportunity to gather first-hand information on the situation of human rights defenders in a specific country, to identify the specific problems they face and to make recommendations on how their concerns can be addressed. In order for the Special Representative to undertake a country visit, the consent of the state concerned is needed.

During the visit, the Special Representative meets a wide range of people, including the country's leaders, relevant government ministers, national human rights institutions, NGOs and other human rights defenders, victims and the media. A country visit usually lasts between five and ten days. Thereafter, the Special Representative releases a report containing conclusions and recommendations concerning legislative, judicial, administrative or other types of measures that states can take to improve the situation of human rights defenders.

⁹⁴ See *Special Procedures of the Commission on Human Rights, Facts and Figures on 2005 Communications* <http://www.ohchr.org/english/bodies/chr/special/Facts%20and%20figures%20on%202005%20Special%20Procedures%20communications.pdf>

⁹⁵ <http://www.ohchr.org/english/issues/defenders/complaints.htm>

Preparing for a country visit

To prepare for a visit of the UN Special Representative on Human Rights Defenders, you must:

- Know the mandate of the Special Representative. (See UN Fact sheet 29, Human Rights Defenders: Protecting the Right to Defend Human Rights, <http://www.ohchr.org/english/about/publications/docs/fs29.pdf>).
- Identify key issues that you want the Special Representative to raise with your government at an early stage, and send this information to the Special Representative before the mission, so that s/he can raise these issues in meetings with authorities.
- Propose the Special Representative an agenda for the visit, including: places or regions to visit, and individuals and groups to meet with.
- Decide on key actions and activities to take place before the visit to raise the profile of human rights defenders in your country.
- Engage with the media to inform civil society and the general public about the visit.
- Coordinate as much as possible with United Nations Development Programme (UNDP) and also with NGOs in the planning of the visit.
- Disseminate the report and recommendations after the visit and follow up with your government to ensure implementation.

The country visits can give women human rights defenders the opportunity to raise concerns pertaining to accountability for violations and abuses they have experienced. The Special Representative takes the government to task in terms of fulfilling the rights protected under the Declaration on Human Rights Defenders, and checks on measures adopted by the government to make the perpetrators accountable. Women human rights defenders should not see the visit as an end in itself, but a tool, to improve the protection of defenders on the ground.

Country visits and the reports that follow can also provide an opportunity to establish cooperation and a dialogue with states. For example, during the second session of the UN Human Rights Council in 2006, the Special Representative presented a report with recommendations to the

government of Nigeria. The recommendations included the need to review the implementation of the Public Order Act to ensure that the right to freedom of assembly is fully respected.⁹⁶ Following her presentation, the Nigerian delegation expressed their willingness to meet with the Special Representative to discuss the Public Order Act and the registration of NGOs, as well as other issues included in the report.

Annual reports. The Special Representative issues an annual report to the UN Human Rights Council and the UN General Assembly. The report provides a record of the year's activities; describes the primary trends and concerns identified during the year; and makes recommendations to address these concerns. Some reports examine major themes of concern. For example, the report of Hina

⁹⁶ Report submitted by the Special Representative of the Secretary-General on Human Rights Defenders, Hina Jilani, to the 62nd session of the Commission on Human Rights, 30 January 2006, E/CN.4/2006/195/Add.2.

Jilani at the 58th session of UN Commission on Human Rights in 2002 explains why there is a need to focus on women human rights defenders.⁹⁷

Contacts with human rights defenders. The Special Representative also regularly attends national, regional and international human rights events, which provide opportunities for contact with defenders from around the world. Women human rights defenders can organise some of these events and invite the Special Representative. For example, the international campaign on women human rights defenders organised an international consultation in Colombo, Sri Lanka on 29 November – 2 December 2005, which was the first gathering of women human rights defenders worldwide. Hina Jilani attended the event and covered it in her report to the UN Human Rights Council in 2006.⁹⁸

The UN Special Rapporteur on Violence Against Women, its Causes and Consequences

Similar in function to the UN Special Representative, the UN Special Rapporteur on Violence against Women can also undertake fact-finding country visits. S/he submits annual thematic reports to the UN Human Rights Council. The UN Special Rapporteur also transmits urgent appeals and communications to states regarding alleged cases of violence against women. On several occasions, joint letters of appeal have been issued by the UN Special Rapporteur on Violence against Women and the UN Special Representative on Human Rights Defenders to respond to cases involving women human rights defenders.

Office of the UN Special Rapporteur on Violence against Women

Office of the UN High Commissioner on Human Rights (OHCHR)
Palais des Nations
CH-1211 Geneva 10
Switzerland

Website : www.ohchr.org

The UN Special Rapporteur has the mandate to:

- Seek and receive information on violence against women, its causes and consequences from governments, treaty bodies, specialised agencies, other special rapporteurs;
- Recommend measures, ways and means, at the national, regional and international levels, to eliminate violence against women and its causes, and to remedy its consequences;
- Work closely with other special rapporteurs, special representatives, working groups and independent experts of the treaty bodies, as well as cooperate with the Commission on the Status of Women in the discharge of its functions.

⁹⁷ See Report submitted by the Special Representative of the Secretary-General on Human Rights Defenders, Hina Jilani, to the 58th session of the Commission on Human Rights 27 February 2002, E/CN.4/2002/1106

⁹⁸ See Report submitted by the Special Representative of the Secretary-General on Human Rights Defenders, Hina Jilani, to the 62nd session of the Commission on Human Rights, 23 January 2006, E/CN.4/2006/95

Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW Committee)

Composed of 23 experts, the United Nations Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW Committee) was established in 1982 to watch over the progress for women made in those countries that are states parties to CEDAW. The Committee is composed of 23 experts. It is located at the UN headquarters in New York, USA with plans to also establish a presence at the UN in Geneva, Switzerland.

In 1999 the General Assembly also adopted the Optional Protocol to the Convention, which gives the Committee the competence to receive and consider individual complaints and to conduct inquiry procedures regarding systematic violations to women's rights. The various procedures of the CEDAW Committee discussed below can be used to protect women human rights defenders in those states that have ratified the Convention and its Optional Protocol⁹⁹.

Concluding observations. States that have ratified the CEDAW Convention are obliged to present periodic reports to the Committee, at least every four years, regarding the advances in the implementation of the Convention. States are invited to present their report to the members of the Committee in its ordinary sessions, and they engage with the government in a 'constructive dialogue'. After the presentation, the Committee drafts concluding observations regarding the issues of most concern, and requests the government to take some specific measures towards a better implementation of the Convention.

Women human rights defenders can work with other women's groups to intervene before the CEDAW Committee. NGOs with consultative status at the UN Economic and Social Council or those accredited by NGOs with this status can make oral presentations in a pre-session held by the CEDAW Committee before hearing the periodic reports of states. They can also present a shadow report containing information about their situation in the country to contrast the information presented by the government in the report. This is illustrated below in an example of the intervention made by Human Rights First and its partners in Columbia on the situation of women human rights defenders:

In January 2007, the CEDAW Committee met to review the Colombian government's compliance with its obligations under the treaty. Human Rights First collaborated with colleagues in Colombia to submit a brief shadow report focusing specifically on the situation of women defenders. The purposes of the report were to provide the experts with alternative information to that provided by the Colombian government and to recommend specific questions for the CEDAW experts to ask government representatives.

⁹⁹ To check member states that have ratified UN treaties and conventions, see <http://www.unhchr.ch/tbs/doc.nsf/Statusfirst?OpenFrameSet>

In the report, Human Rights First argued that the Colombian government does not fulfil its obligation under Article 7 of CEDAW to ensure women's ability to realise their right to participate in public and political life when it fails to adequately protect women human rights defenders. Furthermore, because women human rights defenders are critical actors in the effort to fight gender discrimination, full implementation of the Convention requires an end to impunity for gender-specific threats and attacks against women human rights defenders.

Staff of Human Rights First attended the day of discussions between the CEDAW Committee and the government delegation from Colombia. Early in the day, a CEDAW expert raised the issue of persecution of women defenders and asked what the Colombian government had done to ensure the protection of several defenders whose cases had been described in the report. Several remarks made later which referred back to this question, reinforcing the importance of Article 7 to the realisation of women's rights in Colombia.

Human Rights First continues to follow up on the recommendations it made in its shadow report. Experts suggested that similar reports could help to provide them with a more comprehensive picture of the implementation of CEDAW by state parties. (www.humanrightsfirst.org)

Individual complaints. If a state, in addition to the Convention has ratified the Optional Protocol, individual complaints can be lodged before the CEDAW Committee regarding cases of discrimination against women human rights defenders. It is important to note that the definition of discrimination under the Convention includes direct and indirect discrimination and covers violence against women as a form of discrimination.

If an individual case is presented before the CEDAW Committee this case cannot, at the same time, be considered by any other mechanism of the same nature. For instance, a case pending before the CEDAW Committee cannot be presented before the Committee on Human Rights or to the Inter-American Commission of Human Rights. However, it may be submitted to any of the UN Special Rapporteur mechanism, including to the Office of the UN Special Representative on Human Rights Defenders.



Inquiry procedure. If there is a grave or systematic situation of discrimination against women human rights defenders in a country and the country has ratified the Optional Protocol, the CEDAW Committee may also be requested by the aggrieved party to initiate an inquiry procedure on the state party concerned. If the Committee admitted the petition, it would initiate an investigation that will end with a report containing the findings of the Committee, and specific recommendations to end the systematic violations identified in the investigation.

What assistance is available from regional human rights bodies?

In Africa, Europe and the Americas, there are human rights institutions for redress of violations against women human rights defenders when national systems fail to provide any redress. Aside from the courts which are explained above, the different components of these regional human rights systems are discussed in detail below. There is no regional human rights system in Asia. So for women human rights defenders in this region, the recourse is to directly access international mechanisms such as the UN when national remedies do not work.

The Inter-American human rights system

The Inter-American human rights system was established 1948, an autonomous body created by the OAS. Its main bodies are the Inter-American Commission on Human Rights, created in 1959; and the Inter-American Court on Human Rights, created in 1969 which was discussed above. Specific to the concerns of human rights defenders, there is a Human Rights Defenders' Unit under the Executive Secretariat of the IACHR. The Commission also appointed a Special Rapporteur on the Rights of Women in 1994. These mechanisms are discussed in more detail below.

The Inter-American Commission of Human Rights (IACHR)

Inter-American Commission on Human Rights

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Website: www.cidh.oas.org

The IACHR is an autonomous organ of the OAS. Its mandate is to investigate abuses and promote the defence of human rights. It is composed of seven members elected by the General Assembly of the OAS, but they act independently and in their personal capacity. To implement its mandate the Commission carries out several activities, including the following:

Country visits and reports. The IACHR can carry out on-site visits to monitor the general human rights situation in a country or to investigate specific situations. Following a country visit, the Commission publishes a country or thematic report that identifies the most relevant problems and human rights violations and includes recommendations to address them. Recently, the Commission started including in its country reports a specific section on the situation of human rights defenders as in the recent reports on Guatemala and Venezuela.¹⁰⁰ Women human rights defenders can use this mechanism by lobbying the IACHR to conduct a country visit and include a focus on women human rights defenders in the report.

¹⁰⁰ Report on the Situation of Human Rights Defenders in the Americas, para. 11, <<http://www.cidh.org/countryrep/Defenders/defenderschap1-4.htm>>.

Individual cases. The IACHR can also receive and investigate individual petitions alleging human rights violations of any of the rights protected in the American Convention or American Declaration.

Women human rights defenders can invoke the American Declaration of the Rights and Duties of Man, the American Convention on Human Rights, and the Inter-American Convention for the Elimination, Punishment and Eradication of Violence against Women as sources of human rights standards before this system. Any aggrieved person, group of persons or NGO may present a petition to the Commission. The IACHR also allows a petition to be presented on behalf of the person filing the petition, or on behalf of a third person.

The Commission processes individual cases where it is alleged that one of the member states of the OAS is responsible for the human rights violation at issue. The Commission applies the American Convention on Human Rights to acquire jurisdiction over cases brought against those states which are parties to that instrument. For those which are not, the Commission applies the American Declaration. This opens more opportunities to seek redress under this Commission as jurisdiction over an erring state is determined not by its ratification of the American Convention, but by membership at the OAS.

The Commission requires that the victim has exhausted all domestic remedies available to access this mechanism. It provides for exception if the victim can show that s/he failed to do so for the following reasons: the remedies do not provide for adequate due process; effective access to those remedies was denied; or there has been undue delay in the process. In such cases, the petition must be presented within a reasonable time after the occurrence of the events complained of. If domestic remedies were exhausted, the petition must be presented within six months after the final decision in the domestic proceedings.

Once the requirements for admissibility have been met, the IACHR will accept the case and decide on its merits. Aside from conducting a hearing on the case, the Commission may also carry out its own investigations, conduct on-site visits or request specific information from the parties. When information is deemed sufficient, the Commission will prepare a confidential report with its conclusions and recommendations to the state concerned. If the state concerned does not comply with the recommendations within a certain period of time, the Commission may make the report public, or decide to refer the case to the Inter-American Court.

The less stringent procedures of the Commission make this mechanism more accessible compared to others. Since the Commission publishes the report on the state concerned if it has not complied with the recommendations, women human rights defenders can use the report to shame a government for committing violations against them. If the concerned state still fails to comply, the Commission may refer the case to the Inter-American Court and a legally enforceable decision can be obtained from the Court.

Thematic hearings. The IACHR holds ordinary sessions twice a year in Washington D.C., USA. During these sessions, the Commission holds hearings on individual cases and thematic concerns. The number and themes of the hearings are decided by the IACHR, but it is possible for NGOs to lobby the Commission regarding this. For example, women human rights defenders may request the IACHR to hold a public hearing regarding the gender-based and gender-specific violations and abuses they face in their work in the region.¹⁰¹

The Human Rights Defenders Unit of the IACHR

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Following a resolution of the OAS General Assembly requesting the IACHR to pay due attention to the situation of human rights defenders and to prepare a comprehensive study in the area, the Executive Secretary of the Commission created a Human Rights Defenders Unit in 2001. The main functions of the Unit include:

- To coordinate the activities of the IACHR relating to the situation of human rights defenders, and to assist the Secretariat's specialists in their work on this matter;
- To gather information on the situation of human rights defenders in the Americas to prepare a report;
- To liaise with human rights organisations, groups of people, and other persons who can provide information;
- To liaise with state bodies responsible for human rights policies in each member state of the OAS, and with any other agencies capable of providing information on the general or specific situation faced by human rights defenders;
- To encourage the Commission to adopt measures to protect threatened human rights workers in the region;
- To prepare a thorough analysis of the precautionary measures that the Commission extends to human rights defenders, to be used both as the basis for the situation report and to standardise guidelines for the granting of such measures;
- To liaise with the Special Representative of the UN Secretary General on Human Rights Defenders, and cooperate whenever possible.

¹⁰¹ Inter-American Commission on Human Rights, *What is the IACHR?*, <http://www.cidh.org/what.htm>

Adoption of precautionary measures. Article 25 of the Rules of Procedure of the Inter-American Commission on Human Rights provides: 'In serious and urgent cases, and whenever necessary according to the information available, the Commission may, on its own initiative or at the request of a party, request that the State concerned adopt precautionary measures to prevent irreparable harm to persons.'

So as stated in its mandate, the Human Rights Defenders Unit can request the Commission to compel a state to adopt precautionary measures for the safety of human rights defenders. The authorities enter into contact with the beneficiaries to agree upon the kind of protection needed. The protection order may cover the defender under attack, the members of his/her organisation, and if necessary, the members of the family.

To date, the Commission has granted precautionary measures in cases involving attempted killings, death threats, and physical attacks on human rights defenders; individuals identified as military targets by paramilitary forces; and human rights workers accused of belonging to guerrilla organisations.¹⁰² So women human rights defenders, particularly those facing greater risks because of the controversial issues they advocate for, can avail of these measures. More appropriate forms of protection that address the gendered nature and manifestations of abuses against them can also be obtained since this mechanism allows flexibility regarding the type of protection to be given.

Country visits. Since the Human Rights Defenders Unit's creation, much emphasis has been placed on the importance of visiting countries with the purpose of assessing and reporting on the situation of human rights defenders in OAS member states. The visits are conducted in a similar manner as the country visits of the UN Special Representative on Human Rights Defenders.

As a result of these visits, the Unit has provided support for the preparation of several country reports in which a special chapter has been included about the situation of human rights defenders. This has been done in the recent reports on Colombia, Guatemala, and Venezuela.¹⁰³ Women human rights defenders can work with the Unit to continue to ensure that their concerns and the atrocities they face are also addressed in these reports.

Reports. The IACHR Human Rights Defenders Unit has recently published a comprehensive report on the situation of human rights defenders in the Americas. The main objective of the report was to identify patterns of violations against human rights defenders in the region, and highlight the special risk faced by some groups of defenders, including women human rights defenders. The report

¹⁰² Report on the Situation of Human Rights Defenders in the Americas, Chapter VII, <http://www.cidh.org/countryrep/Defenders/defenderschap1-4.htm>

¹⁰³ Report on the Situation of Human Rights Defenders in the Americas, para. 11, <http://www.cidh.org/countryrep/Defenders/defenderschap1-4.htm>



analyses the legal framework of protection afforded by the Inter-American human rights system to the work of men and women engaged in the defense of human rights. It also includes a number of measures to recognise, promote, and protect human rights defenders.¹⁰⁴

Press Releases. The Human Rights Defenders' Unit of the IACHR also issues press releases to express concern regarding threats, killings, attempted killings, kidnappings and other abuses experienced by human rights defenders. The press releases also report on the general situation of human rights activists in the member states of the OAS. Women human rights defenders in these countries can explore if these press releases can complement urgent action alerts issued when they are under grave threat.

IACHR Special Rapporteur on the Rights of Women

The Special Rapporteur on the Rights of Women was created in 1994. The office issues specific recommendations regarding compliance by member states of the OAS with their obligations under the American Convention and Declaration to promote equality and non-discrimination. The Rapporteurship also promotes mechanisms of the inter-American human rights system to protect the rights of women, such as the filing of individual complaints. It also conducts specialised studies, prepares reports, and assists the Commission in responding to petitions of violations of women's rights in the region.

Since it was established, the Rapporteurship has developed a practice of specifically addressing the situation of the rights of women during on-site visits. It continues to serve the Commission as a vital resource in dealing with individual petitions alleging human rights violations with gender-specific causes and consequences. The Rapporteurship provides an initial analysis of new petitions received in this area, assists in following up and prepares related reports. The Special Rapporteur has also embarked on a comprehensive study on women's access to justice, looking into how the Inter-American human rights system can improve its mechanisms for the protection of the rights of women, particularly the right to judicial guarantees.¹⁰⁵

Since the mandate of the Special Rapporteur is on women's rights, women human rights defenders can present cases that pertain to the abuses they face as women, and as women activists defending women's rights. They can lobby the Special Rapporteur to conduct country visits in member states of the OAS and look into their situ-

¹⁰⁴ Report on the Situation of Human Rights Defenders in the Americas, para. 7, <http://www.cidh.org/countryrep/Defenders/defenderschap1-4.htm>

¹⁰⁵ Special Rapporteurship of the Rights of Women of the Inter-American Commission on Human Rights, <http://www.cidh.org/women/mandate.htm>

ation. Aside from seeking protection under this mechanism, women human rights defenders can also work with the Special Rapporteur in completing the study on women's access to justice to ensure that the obstacles that hamper their access to judicial remedies are addressed accordingly. They can also lobby the Rapporteur to request the Inter-American Court to interpret provisions of the American Convention with a view to integrating norms for the promotion of their rights, as done by women's groups in relation to CEDAW and other international conventions.

The African Human Rights System

The African human rights system has its own sources of human rights laws. Relevant to women human rights defenders are the African Charter on Human and Peoples' Rights and the Protocol of the African Charter that pertains to the Rights of Women in Africa. This human rights system consists of the African Commission on Human and Peoples' Rights, and the African Court of Human and People's Rights discussed previously.

The African Commission on Human and Peoples' Rights (ACHPR)

Now with a permanent secretariat in Banjul, Gambia, the Commission was established in 1987 under the African Charter on Human and Peoples' Rights. It consists of 11 members that serve for a term of six years. Under this Commission, a Special Rapporteur on Human Rights Defenders in Africa was appointed in 1994.

African Commission on Human and Peoples' Rights and its Rapporteurs

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The ACHPR is assigned to collect documents, undertake studies and organise seminars and conferences on African concerns in the field of human and peoples' rights. It also considers periodic reports of states on legislative and other measures adopted to give effect to the rights guaranteed under the African Charter. It is also in charge of the interpretation of the African Charter.

Reports. At its bi-annual meetings, the Commission reviews the reports that each state is required to present every two years regarding the implementation of the rights and freedoms contained in the African Charter. In this capacity, the Commission has issued recommendations to states found to be in violation of the Charter. For example, the Commission has urged countries to bring their laws into conformity with the Charter, to compensate victims, to initiate investigations, to accelerate judicial proceedings, and more. Unfortunately, states have to a large extent ignored or given only cursory attention to these recommendations making this a less effective mechanism for women human rights defenders.

Communications. The Commission can also consider communications received from one state against another (inter-state communications) for any violations under the Charter. It can also receive communications from individuals or groups that allege violations to the provisions of the African Charter by a state (individual communications), but only at the request of the majority of its members. In both cases, the Commission only considers a case after ensuring that all local remedies have been exhausted, unless it is obvious to the Commission that the process has already been unduly delayed.

After studying the complaint, the Commission submits a report together with recommendations to the Assembly of Heads of State and Government which makes the final decision. Considering that the states are the final arbiters, the Commission has no binding powers and can only debate the substance of the complaints¹⁰⁶. Given these limitations, women human rights defenders may prefer to use other more effective mechanisms for accountability under the African human rights system.

The Special Rapporteur on Human Rights Defenders in Africa

The ACHPR is the first regional human rights body to create a special procedure to deal with the protection of defenders' rights. In 1994, the Commission created the Special Rapporteur on Human Rights Defenders in Africa, with the following mandate:

- To seek, receive, examine and act upon information on the situation of human rights defenders in Africa;
- To submit reports at every ordinary session of the African Commission on the situation of human rights defenders in Africa;
- To cooperate and engage in dialogue with member states, national human rights institutions, relevant intergovernmental bodies, international and regional mechanisms for the protection of human rights defenders;
- To develop and recommend effective strategies to better protect human rights defenders and to follow up on those recommendations;
- To raise awareness and promote the implementation of the UN Declaration on Human Rights Defenders in Africa.

The Special Rapporteur of the ACHPR has similar functions to those carried out by the UN Special Representative on Human Rights Defenders. The Special Rapporteur can issue urgent appeals regarding violations against human rights defenders in the region and distribute press releases. The Special Rapporteur can also carry out official country visits to assess the situation of hu-

¹⁰⁶ African Commission on Human and Peoples' Rights, Communications Procedure, http://www.achpr.org/english/_info/communications_procedure_en.html

man rights defenders in specific countries. S/he can participate in meetings with defenders to discuss their concerns. In the past years, the Special Rapporteur on Human Rights Defenders in Africa has participated in numerous consultations on women human rights defenders organised by NGOs.

The Special Rapporteur on the Rights of Women in Africa

The African Commission observed that the rights of women are not adequately taken into account by the African Charter and other legal human rights instruments. So in April 1996, the Commission decided to appoint a Special Rapporteur on the Rights of Women in Africa. The Special Rapporteur's mandate covers all member states of the African Union and parties to the African Charter. S/he may also contact any other bodies likely to be able to provide information on the rights of African women. The Special Rapporteur reports to the African Commission at each of its sessions.

The Special Rapporteur carries out studies on the situation of women's rights in Africa, and develops guidelines on women's rights for the implementation of the African Charter by state parties. The Special Rapporteur works in collaboration with other Special Rapporteurs from the UN and other regional systems as well as NGOs and other organisations to harmonise initiatives on women's rights within the region. The Special Rapporteur also promotes the ratification by all member states of the Protocol to the African Charter on the Rights of Women in Africa.

The Special Rapporteur on the Rights of Women in Africa can work together with the Special Rapporteur on Human Rights Defenders from the same Commission. Together they can strengthen the advancement of the rights of women human rights defenders in the region by promoting the Protocol and the UN Declaration on Human Rights Defenders. They can both use their mandate to respond to cases of violations against women human rights defenders. They can explore replicating at the regional level collaborations initiated between Special Rapporteurs at the UN for the protection of women human rights defenders.¹⁰⁷

European human rights system

The European human rights system is based on the European Convention for the Protection of Human Rights and Fundamental Freedoms, which entered into force in September 1953. The monitoring of the Convention is entrusted to the European Court on Human Rights which was discussed previously. Aside from the Court, the other mechanism for the protection of human rights defenders under the European human rights system is the Guidelines on Human Rights Defenders adopted by the Council of the European Union (EU) in 2004.

¹⁰⁷ All information regarding this mechanisms can be found at: http://www.achpr.org/english/_info/index_women_en.html

European Union Guidelines on Human Rights Defenders

The EU adopted the Guidelines on Human Rights Defenders based on the same definition of a human rights defender contained in the UN Declaration on Human Rights Defenders. The Guidelines specify practical ways in which EU member states can support and assist human rights defenders. The Guidelines can also be applied by EU when working in ‘third countries’, or in countries where the EU has established missions, including embassies and consulates of its member states and delegations of the European Commission.

The Guidelines identify the following five areas in which the EU can take steps to support human rights defenders in general:

Monitoring and reporting on the situation of human rights defenders. In their reports to the EU about the human rights situation in the country where they operate, EU missions can focus on human rights defenders’ issues in particular. The EU may adopt actions recommended by the missions in their reports, including condemnation of attacks against defenders, protests through diplomatic channels and public statements.

Support and protection of human rights defenders. By maintaining contacts with defenders, EU missions can provide recognition, visibility and legitimacy to the work carried out by defenders. For example, they can appoint a liaison officer for human rights defenders in respective EU missions. The EU can also give appropriate publicity through visits or invitations as well as by attending and observing trials of defenders. There have been cases where EU missions have offered shelter in their premises to defenders at serious and imminent risk or have otherwise put pressure on the authorities for positive solutions to human rights defender cases.

Promotion of human rights defenders in third countries and in multilateral fora. The political dialogue between the EU and third countries always has a human rights component. Delegations of EU can raise human rights defenders issues on a bilateral basis during visits to third countries. During these meetings, some EU delegations have taken the initiative to raise individual cases of defenders at grave risk.

Support for the Special Procedures of the UN Human Rights Council. The EU can take action to encourage states to accept requests for country visits under the Special Procedures mechanism of the UN Human Rights Council. This can include requests for country visits from the UN Special Representative on Human Rights



Defenders. The EU missions may also try to facilitate access to and use of the Special Procedures by defenders, such as facilitating exchange of information or supporting participation of defenders in the regular sessions of the UN Human Rights Council.

Practical support to human rights defenders through development policies and programs. Actions that the EU may take within this area include: capacity building and public awareness campaigns on human rights defenders; supporting the establishment of national human rights institutions; assisting in the establishment of a human rights defenders network at the international level; seeking to ensure that human rights defenders in third countries can access resources from abroad.

Under the Guidelines, the EU can take a range of different measures that protect human rights defenders and particularly for women human rights defenders, give legitimacy and visibility to their work. It is important for defenders working outside the EU to be aware of the Guidelines and their content because they can bring a situation to the attention of the EU missions in the country where they operate, and request EU member states to take action on the basis of the Guidelines.

A recent review of the Guidelines has highlighted numerous gaps in its implementation, partly due to a lack of awareness of its existence and content both by defenders and by EU missions. The Guidelines also apply to human rights defenders in general, and does not make specific references to the needs of women human rights defenders. In many instances this translates to lack of appropriate responses and adequate resources to combat violations and abuses specific to

Recommendations for Gender-Specific Implementation of the EU Guidelines on Human Rights Defenders

On 24 November 2006 as a follow-up to the international campaign on women human rights defenders, the following 11 women's rights and human rights organisations drafted recommendations for the gender-specific implementation of the EU Guidelines on Human Rights Defenders: AI, APWLD, Forum Asia, CWGL, Front Line, Human Rights First, FIDH, INFORM, ISHR, UAF and OMCT. The Recommendations outline concrete suggestions for EU missions to apply a gender perspective in implementing the Guidelines. It provides gender-specific recommendations for each of the articles under Section IV of the Guidelines.

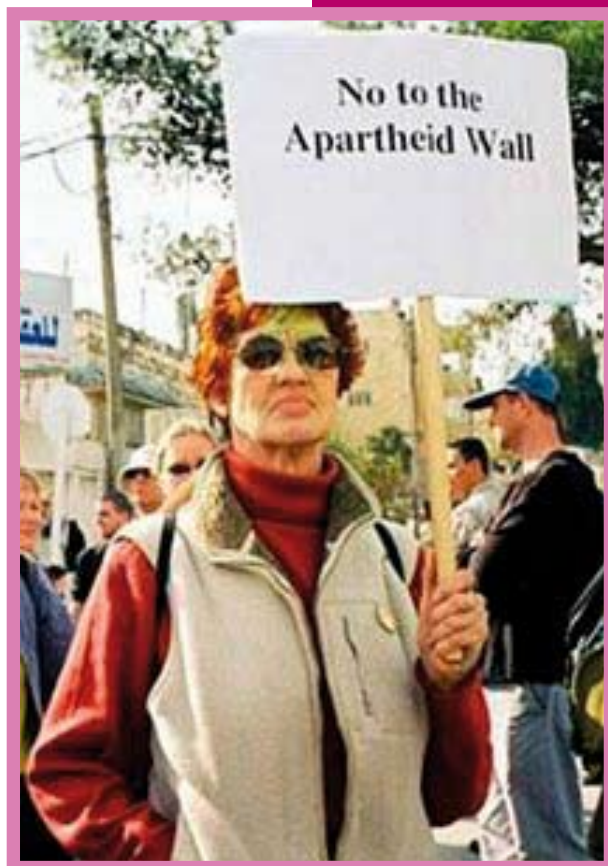
The Recommendations are addressed to EU member states, EU missions including its embassies and consulates abroad and relevant EU bodies. They are also intended to influence the conduct of governments outside the EU regarding the protection of women human rights defenders. Specifically, the 11 organisations call for:

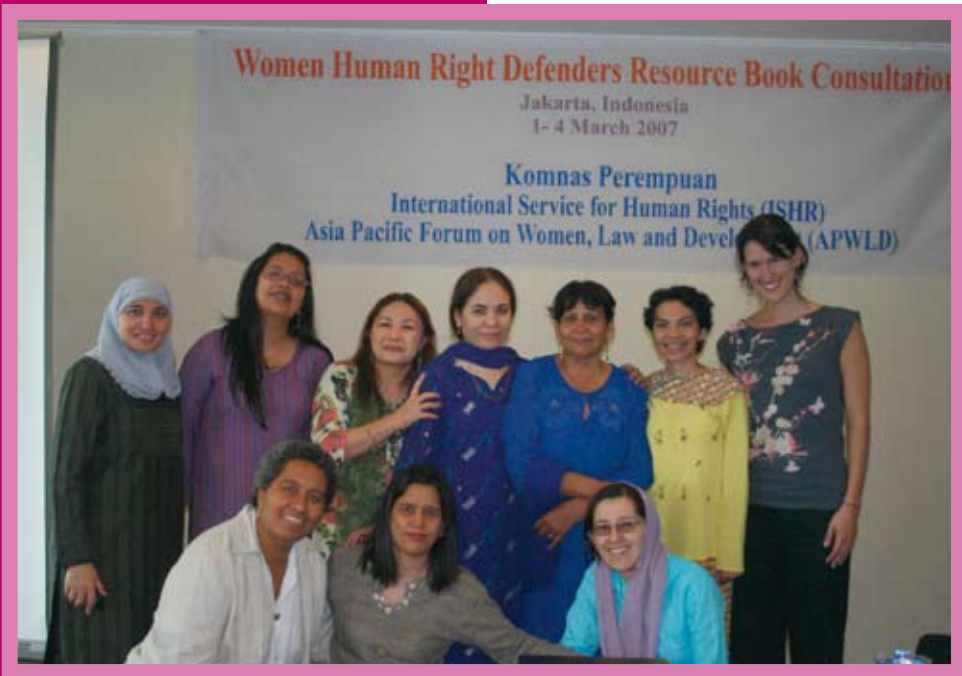
- The adoption of specific conclusions by the General Affairs External Relations Council (GAERC) taking note of the risks and obstacles faced by women human rights in the exercise of their activities, emphasising the urgency and necessity of enhancing their protection and stressing the importance of applying a gender perspective in addressing human rights defenders issues;
- The incorporation of gender-specific recommendations and implementation tools into the Handbook on the Implementation of the EU Guidelines on Human Rights Defenders (as drafted under the Dutch Presidency);
- The dissemination of gender-specific recommendations for the protection of women human rights defenders to all missions as soon as possible and their full implementation;
- The incorporation of the gender-specific recommendations in training for mission staff on human rights defenders to ensure specific focus on issues related to women human rights defenders.

While the Recommendations are not a legal instrument adopted by any state, women human rights defenders can use them to lobby EU countries and other governments to adopt gender-responsive initiatives for the protection of women human rights defenders as specified in the Recommendations. Women human rights defenders can also join the 11 organisations in pushing the EU to adopt the Recommendations and the specific calls outlined above. *(For a copy of the Gender-Specific Recommendations for the Implementation of the EU Guidelines on Human Rights Defenders see <http://www.defendingwomen-defendingrights.org/index.php>)*

women human rights defenders.

As women human rights defenders who approach these mechanisms in order to obtain justice, we must always be aware that many of these mechanisms, especially the formal ones, have their own limitations. Thus, we must discuss how we can overcome these limitations. In many cases, a combination of these strategies can contribute to better results. In adopting any strategy, we must be very clear about our objectives, understanding the short-term and long-term changes we want to achieve. Lack of clarity on these matters could lead to tensions and conflicts within communities of women human rights defenders who have embarked on the journey to seek remedy and redress together.





Many of the participants at the consultations conducted in Nepal and Indonesia to complete this guidebook were from countries and communities in conflict. Living in situations of conflict due to the internal divisions and tensions caused by religious and nationalist extremisms, these women human rights defenders were engaged to create this guidebook, partly because they live and work in extremely difficult circumstances, and partly because there are few international mechanisms that look especially at their protection. So we chose to include a chapter on the situation of women human rights defenders in conflict situations that draws directly on their experiences.

This chapter explains the current nature of conflicts and their gendered effects on women and women human rights defenders. It highlights some of the specific challenges women human rights face in working in conflict situations, and the specific mechanisms available for their protection. We hope that by providing this section, other women human rights defenders engage with particular groups such as migrant women, indigenous women, or those who work in specialised arenas such as sexual rights advocacy will make a similar attempt to draft a documentation resource that will look into their own specific concerns.

How different are the conflicts today?

There are more undeclared wars and conflicts in the world today than ever before in modern history. Many are internal conflicts that do not cross national borders, and are brought about by diverse factors: Historical injustices; widespread discrimination on the basis of ethnicity or religious differences; social and economic inequities; unequal distribution of resources; liberation struggles are all contexts that have brought about these conflicts. Whatever the cause, most of these conflicts severely affect the most vulnerable groups in society such as women and children.

It is important to consider that many of these conflicts exist at a 'submerged' level and emerge in outbursts of intense violence such as communal tensions, civil unrest and riots. They take place within national borders and are often contained locally within the rubric of 'law and order'. This makes these situations extremely complex and highly dangerous since there are no international mechanisms for the protection of those who take on the defence of communities affected by the violence.

In the context of militarisation as discussed in Chapter 2, when a conflict over power or control of resources escalates to an armed conflict, the resulting militarism creates an environment in which all parties can legitimise human rights violations and enjoy impunity. Governments are given an excuse to enact and implement special laws such as emergency regulations or martial law. Under these laws, even peaceful and democratic opposition to authoritarianism or any anti-democratic measures staged by human rights defenders can be identified as a ‘threat to national security’.

International law allows a state faced with a conflict situation to impose certain restrictions on rights in the interests of the common good. However, it also sets out the limitations. For example, the government must demonstrate that there is ‘clear and present danger’ to the national security of the country for a declaration of martial law to be lawful. But in reality, most of the limitations pertaining to these regulations are not respected, and restrictions imposed on democratic freedoms during conflicts are sometimes not necessary or proportionate. In fact, many of these restrictions often directly and indirectly perpetuate discrimination against women and their defenders.

What do women human rights defenders face in situations of conflict?

Conflict situations almost inevitably reaffirm patriarchal attitudes and values at every level. The availability of small arms; the collapse of law enforcement mechanisms; the general breakdown of law and order; and the lack of attention to violations of human rights committed by agencies and institutions mandated to protect the rights of civilians heighten the risks and vulnerabilities of women human rights defenders living and working in situations of conflict. Conflict also creates conditions of severe economic deprivation where the civilian population, particularly women, becomes almost totally dependent on certain authorities (whether occupation forces, peacekeepers, or humanitarian workers) for survival, leaving them acutely vulnerable to sexual and other forms of exploitation.

Women human rights defenders’ homes and villages may also be attacked and destroyed, and their communities displaced due to the conflict. Their homes and families may be particular targets because of their activities in defence of human rights. When family members are killed, women human rights defenders may also have to assume the responsibility for the care of dependents such as children, the elderly and the disabled under conditions of deprivation and insecurity. They themselves may be widowed, orphaned or abandoned.

Moreover, activities undertaken by women human rights defenders during conflict situations carry greater risk than those carried out during peace time. Many of them are caught in crossfires in attempts to save lives. Those that demand liability for human rights violations committed by combatants, either from the government or opposition armed groups, are exposed to greater risks. For instance, women human rights defenders who oppose recruitment of child soldiers by any party to the conflict can be accused of being traitors or supporters of the other side. Those who advocate for gun control or campaign against the use of small arms are criticised and attacked as 'anti-national' or 'pro-terrorist'.

The presence of international actors such as peacekeeping troops may also create environments in which women human rights defenders, especially those in communities directly affected by the conflict, become more vulnerable to abuse and exploitation. For example, peacekeepers in Sierra Leone and Sri Lanka were implicated in incidents of violence, harassment, killings documented and reported by women's organisations.¹⁰⁸ The sexual abuse of women by UN peacekeepers has also been a controversial concern in the past years. Peacekeeping forces can also add to the climate of fear, and subsequent restrictions on the mobility of women human rights defenders. These violations are an increasing concern given the current phenomenon of some armed forces self-appointing themselves as 'peacekeepers', such as the 'coalition forces' presently in Iraq. By laying claim to a status as peacekeepers, these forces are much harder to hold accountable for human rights violations under international law.

Women human rights defenders who work with rural and indigenous communities in areas where the conflict is related to the ownership and control of natural resources find themselves targeted by private armies of multi-national or global corporations. With vested interests in the exploitation of natural resources, these companies hire private military forces to threaten or kill the defenders. Sometimes these armed men act with the support or tolerance of governments. Hence, it has been difficult to pin direct responsibility for human rights violations committed by these groups.

Extremists and fundamentalist formations can also gain power during conflict situations and take advantage of the vacuum in power to secure control in post-conflict situations. Such situations have led to increased violations for women human rights defenders as traditional, religious and customary norms are rigidly imposed to define and gain stronger hold of community loyalties. Women's freedoms, such as their mobility and choice, are restricted in the name of 'protecting' them and protecting the 'honour' of the family and of the community. Women human rights defenders may also

¹⁰⁸ Jane Barry, *Rising Up in Response: Women's Rights Activism in Conflict*, Urgent Action Fund for Women's Human Rights (UAF) (2005), pp. 74-75.

find that armed groups involved in the conflict may impose their own restrictions and codes of conduct on women, especially if the conflict is linked to identity-based struggles.

Are there risks for them in transition and post-conflict situations?

Fundamental misperceptions exist about the realities that women face following a cessation of hostilities. Post-conflict situations often lead to a rise in levels of violence against women in general and women human rights defenders in particular due to several factors: First, there is an overall rise in the number of individuals and groups that continue to pose a potential threat in the community. This include: national armed forces; non-state armed groups that retain territorial control; remaining international military intervention forces; private military contractors; demobilised fighters returning to communities or being recruited into state security forces; more criminal gangs, with links to international organised crime networks.

Second, there is an expansion of certain forms of violence in addition to the violence committed during the armed conflict and the baseline level found in all societies. In times such as after a war, traditional roles and the power structures are weakened and women move into roles previously closed to them. Women activists in this context face significant 'backlash' from men threatened by these changes.¹⁰⁹

Third, there is a prevailing sense of impunity due to an interruption to the rule of law. This is sometimes compounded by amnesty agreements that signal that violence will go unpunished. Hence, women including women human rights defenders who suffer violence sometimes remain silent out of fear of reprisal or ostracism, especially as perpetrators often hold powerful positions within their own government, community or family. So while it may have been possible to report violations committed during the conflict, in the politically-charged environment after the conflict, it is extremely difficult and dangerous for women human rights defenders to call attention to the violations or seek punishment for the perpetrators.

As a result, women human rights defenders are at a much greater risk of experiencing fatigue or 'burn-out' as years of intense work and sustained stress take their toll combined with the realisation that they now face the daunting tasks of reconstruction and reform. This is the stage when they are most vulnerable, yet international support has most likely waned as the violent phase of the conflict is perceived to be over.¹¹⁰

¹⁰⁹ Rachel Wareham, *No Safe Place: An Assessment on Violence against Women in Kosovo*, The United Nations Development Fund for Women (UNIFEM) (2000), <http://www.women-network.org/english/pdf/No%20Safe%20Place.pdf>

¹¹⁰ Jane Barry, *Rising Up in Response: Women's Rights Activism in Conflict*, Urgent Action Fund for Women's Human Rights (UAF) (2005) pp. 71-73 and 81.

How can women human rights defenders be protected in conflict situations?

There are a number of treaties and conventions that set the standards of conduct in situations of armed conflict. Discussed below are the two basic international law instruments: The International humanitarian law and the Rome Statute which created the International Criminal Court (ICC). Other relevant international instruments such as the Convention Relating to the Status of Refugees and related mechanisms are mentioned also.

International humanitarian law

International humanitarian law is based on the four Geneva Conventions of 1949. It relates to ‘international armed conflicts’ or the conduct of war by states. It focuses on state obligations and the protection of a civilian population in a war or conflict situation. Additional Protocol II and Article 3, which is common to all four Conventions, enable consideration of humanitarian concerns in non-international armed conflicts as well. Article 3 explicitly prohibits violence to life and person, including outrages upon personal dignity; humiliating and degrading treatment; taking of hostages; and sentencing and executions carried out without proceedings of a regularly constituted court.

International humanitarian law distinguishes between civilians and combatants. It forbids the destruction of objects necessary for sustaining civilian life – crops, water sources, livestock etc. It emphasises responsibility for the care of the wounded and the sick, and considers acts of willful killing, torture, willfully causing grave injury, unlawful deportation and hostage-taking to be grave breaches of the law. It also sets out detailed rules concerning the treatment of prisoners, including women prisoners.

Women human rights defenders can invoke any of the provision of international humanitarian law that could bring them protection in a conflict situation since the law restricts the means and methods of warfare and protects persons who are not participating in the hostilities. It provides legal guarantees for the protection and humane treatment of those who do not take part in the fighting such as civilians and medical and military religious personnel, or those who have ceased to take part in it such as sick combatants and prisoners of war. But sadly, there are many examples of non-compliance with international humanitarian law, and civilians such as women human rights defenders, have suffered greatly as a result.

The International Criminal Court¹¹¹

The Rome Statute, the treaty creating the ICC, was adopted in 1998 by 120 states. On 1 July 2002, the Statute came into force with the ratification by 60 states. Thereafter, the jurisdiction of the ICC over war crimes, crimes against humanity and genocide was clearly established. It is the first mechanism dealing with individual criminal responsibility at the international level. It does not recognise immunities of any kind, official or head of state. It does not recognise national amnesties. There are also no statute of limitations to bring the cases to court.¹¹²

The ICC only binds the countries which are signatories to the Rome Statute, referred to as 'state-party'. It can exercise jurisdiction over a case if the state involved has signed and ratified the treaty; if the incident complained of occurred on the territory of a state-party; or if a person accused of a crime is a national of a state-party. The Court assumes jurisdiction and can investigate a conflict if the case is referred to the Court by a state signatory to the Statute or by the Security Council. The Prosecutor of the Court may also initiate an investigation on his/her initiative.

A unique feature of the ICC is the gender provisions integrated within the Statute. For the first time rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation, gender-based persecution, trafficking and other forms of sexual violence are recognised as crimes against humanity and war crimes. Sexual violence is also acknowledged as one of the means to commit genocide. Persecution is recognised as crimes against humanity and gender is considered to be a valid basis of persecution. The Statute also requires that the application and interpretation of all articles of the Statute are non-discriminatory.¹¹³

Gender considerations are also incorporated in the Rules of Procedure and Evidence such as: Rule 70 provides that in cases of sexual violence, the consent of a victim cannot be inferred; Evidence of prior or subsequent sexual conduct of a victim or witness is inadmissible under Rule 71; Rule 72 and Art. 68 (2) allows the Court to consider in camera proceedings and presentation of evidence electronically or by other special means particularly in the trial of sexual violence cases.

¹¹¹ Also see Women's Initiatives for Gender Justice www.iccwomen.org

¹¹² Vahida Nainar, *International Criminal Court: Accountability for State and Non-State Actors for Violations against Women Human Rights Defenders*, Resource Book on Human Rights Defenders (2005), p. 87 (also www.defendingwomen-defendingrights.org).

¹¹³ Vahida Nainar (2005), p. 88.

The Rome Statute also provides for two unique features of the ICC:

Victims and survivors of crimes within the jurisdiction of the ICC have the right to participate directly in international criminal proceedings. According to the Statute, victims can participate at each

stage of proceedings (e.g., investigations, pre-trial, trial, and appeal) through their legal representative who may be assigned by the Judges or chosen by the victim from the ICC list. Victims pertain to those with specific charges against the accused, or those who have been victimised in a wide range of crimes related to the case being heard by the Court. The Judges make the final determination whether an applicant will be considered a victim who can intervene in the proceedings.

For the first time, victims and survivors can also request and receive reparation as a court award or independent of a finding of guilt for an accused, from the Trust Fund for Victims. Resources from the Trust Fund can be made available during an investigation so it has the potential to reach communities at an early stage. The Court may also order that an award for reparations be made through the Trust Fund to intergovernmental, international or national organisations. This has the potential to enable women's organisations and women human rights defenders who may have been targeted for acts of violence within the jurisdiction of the Court to apply for reparations.

However, one of the fundamental limitations of the Court is that it is designed to be 'a court of last resort', with the primary responsibility for prosecuting crimes within the Court's jurisdiction belonging with the state-party. The ICC can bring a case against an accused only when a state is unwilling or unable to carry out an investigation, or when the crimes involved are deemed of sufficient gravity. Moreover, it does not investigate individual cases of violence against women or single instances of violence committed in a non-conflict situation. The Court can only act when the violations are widespread and systematic and committed as part of an organisational state policy, i.e., when it reaches the level of crimes against humanity.

Despite these limitations, women human rights defenders can still engage with the ICC in multiple ways to address violations committed during conflict. They may themselves be survivors of a conflict and could be witnesses for the ICC. They may provide the ICC with documentation of gender-based crimes and other offenses committed in a conflict and request for an investigation into a specific conflict not being investigated by the Court or advocate for the inclusion of gender based crimes within a current investigation. They may also act as intermediaries between the ICC and local communities or women survivors who wish to participate in the Court proceedings or seek reparations for abuses.

Other international instruments and mechanisms

The UN Convention Relating to the Status of Refugees also provides a basis for a person to seek asylum in another country. The office of the UN High Commissioner for Refugees and the mechanism of the Special Representative of the UN Secretary-General on the Human Rights of Internally Displaced People also give assistance to victims and survivors in conflict situations. The UN Guidelines on Internal Displacement can also provide protection for defenders and their communities as it clarifies the rights of displaced people as well as the responsibilities of the states.

The issue of justice and redress in post-conflict situations is far more complex. In many cases, the traditional modes of dispensing justice – both formal and non-formal – are inadequate to deal with large-scale violations of human rights. Thus in recent years the concept of transitional justice emerged (See *Chapter 8, Defining Accountability and Justice*), which pays more attention to processes of reconciliation and healing of communities affected by conflict than to punishment as the only form of redress.



This guidebook is one of the many, growing initiatives responding to the challenges of protecting and promoting the work of women human rights defenders. In this book, a number of useful and tested mechanisms and tools with which this can be achieved are identified, revisited and unravelled from the distinctive women human rights perspective. Through this book, we also attempt to create a space in which to celebrate women's achievements in challenging human rights concepts to evolve and fully realise their founding principles of universality and indivisibility.

We hope this guidebook will serve several different purposes. We offer women human rights defenders and their allies in the international human rights community a range of examples through which the distinct experiences of women human rights defenders can be acknowledged in order to inform the shared task of protecting and promoting their rights. We hope it will locate their struggles within the framework of international human rights law as a legitimate activity, which has been recognised and protected internationally.

In this guidebook, we have also given women human rights defenders the different mechanisms, frameworks and strategies at the international, regional and national levels that they can access to seek redress and justice, including justice through healing and reconciliation and through processes of caring and remembering one another. We hope this document will continually enable women human rights defenders to reflect on their own experiences, and identify and overcome the political, economic, legal and cultural structures that violate their rights.

This book is the collective enterprise of all who have given their time and energy to draw it together. Many more will, we hope, read the book and be inspired to create a space in which to share our experiences, enable others to draw on them and to be enriched by them, as we have been. We hope this process will create a broader community with whom we can continue to work, to struggle and to celebrate.

We dedicate this book to the countless women at the forefront of asserting women's rights as human rights. This is an embodiment of their collective wisdom gathered over many decades of *Claiming Rights and Claiming Justice*.



Annex A: Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms

Adopted by General Assembly resolution 53/144 of 9 December 1998

The General Assembly ,

Reaffirming the importance of the observance of the purposes and principles of the Charter of the United Nations for the promotion and protection of all human rights and fundamental freedoms for all persons in all countries of the world,

Reaffirming also the importance of the Universal Declaration of Human Rights and the International Covenants on Human Rights as basic elements of international efforts to promote universal respect for and observance of human rights and fundamental freedoms and the importance of other human rights instruments adopted within the United Nations system, as well as those at the regional level,

Stressing that all members of the international community shall fulfil, jointly and separately, their solemn obligation to promote and encourage respect for human rights and fundamental freedoms for all without distinction of any kind, including distinctions based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and reaffirming the particular importance of achieving international cooperation to fulfil this obligation according to the Charter,

Acknowledging the important role of international cooperation for, and the valuable work of individuals, groups and associations in contributing to, the effective elimination of all violations of human rights and fundamental freedoms of peoples and individuals, including in relation to mass, flagrant or systematic violations such as those resulting from apartheid, all forms of racial discrimination, colonialism, foreign domination or occupation, aggression or threats to national sovereignty, national unity or territorial integrity and from the refusal to recognize the right of peoples to self-determination and the right of every people to exercise full sovereignty over its wealth and natural resources,

Recognizing the relationship between international peace and security and the enjoyment of human rights and fundamental freedoms, and mindful that the absence of international peace and security does not excuse non-compliance,

Reiterating that all human rights and fundamental freedoms are universal, indivisible, interdependent and interrelated and should be promoted and implemented in a fair and equitable manner, without prejudice to the implementation of each of those rights and freedoms,

Stressing that the prime responsibility and duty to promote and protect human rights and fundamental freedoms lie with the State,

Recognizing the right and the responsibility of individuals, groups and associations to promote respect for and foster knowledge of human rights and fundamental freedoms at the national and international levels,

Declares :

Article 1

Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.

Article 2

1. Each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia , by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice.
2. Each State shall adopt such legislative, administrative and other steps as may be necessary to ensure that the rights and freedoms referred to in the present Declaration are effectively guaranteed.

Article 3

Domestic law consistent with the Charter of the United Nations and other international obligations of the State in the field of human rights and fundamental freedoms is the juridical framework within which human rights and fundamental freedoms should be implemented and enjoyed and within which all activities referred to in the present Declaration for the promotion, protection and effective realization of those rights and freedoms should be conducted.

Article 4

Nothing in the present Declaration shall be construed as impairing or contradicting the purposes and principles of the Charter of the United Nations or as restricting or derogating from the provisions of the Universal Declaration of Human Rights, the International Covenants on Human Rights and other international instruments and commitments applicable in this field.

Article 5

For the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels:

- (a) To meet or assemble peacefully;
- (b) To form, join and participate in non-governmental organizations, associations or groups;
- (c) To communicate with non-governmental or intergovernmental organizations.

Article 6

Everyone has the right, individually and in association with others:

- (a) To know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems;
- (b) As provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms;
- (c) To study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.

Article 7

Everyone has the right, individually and in association with others, to develop and discuss new human rights ideas and principles and to advocate their acceptance.

Article 8

1. Everyone has the right, individually and in association with others, to have effective access, on a non-discriminatory basis, to participation in the government of his or her country and in the conduct of public affairs.

2. This includes, inter alia, the right, individually and in association with others, to submit to governmental bodies and agencies and organizations concerned with public affairs criticism and proposals for improving their functioning and to draw attention to any aspect of their work that may hinder or impede the promotion, protection and realization of human rights and fundamental freedoms.

Article 9

1. In the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights as referred to in the present Declaration, everyone has the right, individually and in association with others, to benefit from an effective remedy and to be protected in the event of the violation of those rights.

2. To this end, everyone whose rights or freedoms are allegedly violated has the right, either in person or through legally authorized representation, to complain to and have that complaint promptly reviewed in a public hearing before an independent, impartial and competent judicial or other authority established by law and to obtain from such an authority a decision, in accordance with law, providing redress, including any compensation due, where there has been a violation of that person's rights or freedoms, as well as enforcement of the eventual decision and award, all without undue delay.

3. To the same end, everyone has the right, individually and in association with others, inter alia :

(a) To complain about the policies and actions of individual officials and governmental bodies with regard to violations of human rights and fundamental freedoms, by petition or other appropriate means, to competent domestic judicial, administrative or legislative authorities or any other competent authority provided for by the legal system of the State, which should render their decision on the complaint without undue delay;

(b) To attend public hearings, proceedings and trials so as to form an opinion on their compliance with national law and applicable international obligations and commitments;

(c) To offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms.

4. To the same end, and in accordance with applicable international instruments and procedures, everyone has the right, individually and in association with others, to unhindered access to and communication with international bodies with general or special competence to receive and consider communications on matters of human rights and fundamental freedoms.

5. The State shall conduct a prompt and impartial investigation or ensure that an inquiry takes place whenever there is reasonable ground to believe that a violation of human rights and fundamental freedoms has occurred in any territory under its jurisdiction.

Article 10

No one shall participate, by act or by failure to act where required, in violating human rights and fundamental freedoms and no one shall be subjected to punishment or adverse action of any kind for refusing to do so.

Article 11

Everyone has the right, individually and in association with others, to the lawful exercise of his or her occupation or profession. Everyone who, as a result of his or her profession, can affect the human dignity, human rights and fundamental freedoms of others should respect those rights and freedoms and comply with relevant national and international standards of occupational and professional conduct or ethics.

Article 12

1. Everyone has the right, individually and in association with others, to participate in peaceful activities against violations of human rights and fundamental freedoms.

2. The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.

3. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and

acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

Article 13

Everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means, in accordance with article 3 of the present Declaration.

Article 14

1. The State has the responsibility to take legislative, judicial, administrative or other appropriate measures to promote the understanding by all persons under its jurisdiction of their civil, political, economic, social and cultural rights.

2. Such measures shall include, inter alia :

(a) The publication and widespread availability of national laws and regulations and of applicable basic international human rights instruments;

(b) Full and equal access to international documents in the field of human rights, including the periodic reports by the State to the bodies established by the international human rights treaties to which it is a party, as well as the summary records of discussions and the official reports of these bodies.

3. The State shall ensure and support, where appropriate, the creation and development of further independent national institutions for the promotion and protection of human rights and fundamental freedoms in all territory under its jurisdiction, whether they be ombudsmen, human rights commissions or any other form of national institution.

Article 15

The State has the responsibility to promote and facilitate the teaching of human rights and fundamental freedoms at all levels of education and to ensure that all those responsible for training lawyers, law enforcement officers, the personnel of the armed forces and public officials include appropriate elements of human rights teaching in their training programme.

Article 16

Individuals, non-governmental organizations and relevant institutions have an important role to play in contributing to making the

public more aware of questions relating to all human rights and fundamental freedoms through activities such as education, training and research in these areas to strengthen further; inter alia , understanding, tolerance, peace and friendly relations among nations and among all racial and religious groups, bearing in mind the various backgrounds of the societies and communities in which they carry out their activities.

Article 17

In the exercise of the rights and freedoms referred to in the present Declaration, everyone, acting individually and in association with others, shall be subject only to such limitations as are in accordance with applicable international obligations and are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

Article 18

1. Everyone has duties towards and within the community, in which alone the free and full development of his or her personality is possible.

2. Individuals, groups, institutions and non-governmental organizations have an important role to play and a responsibility in safeguarding democracy, promoting human rights and fundamental freedoms and contributing to the promotion and advancement of democratic societies, institutions and processes.

3. Individuals, groups, institutions and non-governmental organizations also have an important role and a responsibility in contributing, as appropriate, to the promotion of the right of everyone to a social and international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights and other human rights instruments can be fully realized.

Article 19

Nothing in the present Declaration shall be interpreted as implying for any individual, group or organ of society or any State the right to engage in any activity or to perform any act aimed at the destruction of the rights and freedoms referred to in the present Declaration.

Article 20

Nothing in the present Declaration shall be interpreted as permitting States to support and promote activities of individuals, groups of individuals, institutions or non-governmental organizations contrary to the provisions of the Charter of the United Nations.



Annex B: A Table of the Rights of Women Human Rights Defenders' as reflected in Fundamental International Human Rights Conventions

This table enumerates the rights of human rights defenders which are protected under the UN Declaration on Human Rights Defenders and cross references these rights to other fundamental international human rights conventions such as: the Universal Declaration of Human Rights (UDHR), the International Convention on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Convention on the Elimination of all forms of Racial Discrimination (ICERD), the Convention Against Torture (CAT), the Convention on Rights of the Child (CRC) and International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW).

It also draws references between the UN Declaration on Human Rights Defenders and regional human rights instruments, particularly the African Charter on Human and People's Rights (ACHPR), the American Convention on Human Rights (ACHR) and the European Convention on Human Rights (ECHR).

The UN Declaration of Human Rights Defenders is also related to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the corresponding General Recommendations issued by the CEDAW Committee. While very few of the articles in CEDAW relate directly to the rights in the Declaration, CEDAW provides a framework through which all the rights of human rights defenders should be interpreted in relation to their equal application to women. It imposes on states an obligation to ensure equality and non-discrimination of women, and this includes ensuring their ability to access their rights set out in the Declaration and other conventions.

	Human Rights Defenders Declaration	CEDAW Convention and CEDAW General Recommendations	ICCPR	Other related instruments
Promote and protect human rights	Art. 1	Articles: Preamble, Article 2 and all Articles (promote and protect the right of women to equality and non-discrimination) No 12: Violence against women (1989) [Art. 2, 5, 11, 12, 16] No 19: Violence against women (1992) [Art. 1, 2, 5, 6, 10, 11, 12, 14, 16].		

Freedom of expression, including the right to discuss new human rights ideas	Art. 6, 7, 8	<p>Articles: 7 (eliminate discrimination in political and public life) and 8 (right to equally participate in government and international organisations)</p> <p>No 3: Role of education and public information programs to reduce stereotypical representations of women (1987) (specific reference to HRD Art. 7) [Art. 5]</p> <p>No 14 on female circumcision (1990) (specific reference to HRD Art. 7) [Art. 10, 12]</p> <p>No 23: Measures to be taken to implement equality in women's political and public life (1997) [Art. 4, 7, 8]</p>	Art. 19	<p>Art. 19 UDHR</p> <p>Art. 9 ACHPR</p> <p>Art. 13 ACHR</p> <p>Art. 10 ECHR</p> <p>Art. 5 ICERD</p> <p>Art. 13 CRC</p> <p>Art. 13 ICMW</p>
Access to information	Art. 6, 14	<p>Articles: 10 (access to education)</p> <p>No 6: Establishment of effective national machineries for the advancement of women; and distribution of CEDAW concluding observations (1988)</p> <p>No 9: Statistical data concerning the situation of women (1989)</p>	Art. 19	<p>Art. 19 UDHR</p> <p>Art. 9 ACHPR</p> <p>Art. 13 ACHR</p> <p>Art. 10 ECHR</p> <p>Art. 13 CRC</p> <p>Art. ICMW</p>
Freedom of association	Art. 5, 12	<p>No 15: Avoidance of discrimination against women in national strategies for the prevention and control of acquired immunodeficiency syndrome (AIDS) (1990) [Art. 12] (specific to women human rights defenders working on HIV/AIDS)</p> <p>No 23: Measures to be taken to implement equality in women's political and public life (1997) [Art. 4, 7, 8]</p> <p>No 24: Measures to be taken to implement equality for women's right to health (1999) [Art. 12, 5, 10, 11, 14] (specific to women human rights defenders working on reproductive/FGM, sexuality rights, gender based violence)</p>	Art. 22	<p>Art. 20 UDHR</p> <p>Art. 10 ACHPR</p> <p>Art. 16 ACHR</p> <p>Art. 11 ECHR</p> <p>Art. 8 ICE-SCR</p> <p>Art. 5 ICERD</p> <p>Art. 15 CRC</p> <p>Art. 26, 40 ICMW</p>

Freedom of assembly	Art. 5, 12	No 15: Avoidance of discrimination against women in national strategies for the prevention and control of acquired immunodeficiency syndrome (AIDS) (1990) [Art. 12] (specific to women human rights defenders working on HIV/AIDS) No 23: Measures to be taken to implement equality in women's political and public life (1997) [Art. 4, 7, 8] No 24: Measures to be taken to implement equality for women's right to health (1999) [Art. 12, 5, 10, 11, 14] (specific to women human rights defenders working on reproductive/FGM, sexuality rights, gender based violence).	Art. 21	Art. 20 UDHR Art. 11 ACHPR Art. 15 ACHR Art. 11 ECHR Art. 5 ICERD Art. 15 CRC Art. 26 ICMW
Effective remedy	Art. 9	Articles: 15 (equality before the law) No 8 (1988): "to ensure to women on equal terms with men and without any discrimination the opportunities to represent their Government at the international level and to participate in the work of international organizations"	Art. 2	Art. 8 UDHR Art. 25 ACHR Art. 13 ECHR Art. 6 ICERD Art. 13 CAT
Access to international bodies	Art. 5, 9	Article: 8 (right to equally participate international organisations) No 8 (1988): "to ensure to women on equal terms with men and without any discrimination the opportunities to represent their Government at the international level and to participate in the work of international organisations"	Arguable under Assembly (21) and Expression (19)	Arguable under right to freedom of assembly and of expression (see above references to other instruments)
Access to funding	Art. 13	No 23: Measures to be taken to implement equality in women's political and public life (1997) [Art. 4, 7, 8]	Arguable under Association (22)	Arguable under right to freedom of association (see above references to other instruments)



Annex C: A List of Organisations Supporting Women Human Rights Defenders

This is a list of women's rights, human rights and some sexual rights organisations that support women human rights defenders. Most of them participated in the international campaign on women human rights defenders, and have continued to work in this area to date.

This is a preliminary list, it is not exhaustive as we hope that there will be many other organisations that will join this initiative.

Amnesty International (AI)

www.amnesty.org

AI is a worldwide movement of people who campaign for internationally recognised human rights to be respected and protected. It is concerned with the impartial protection of human rights, envisioning a world in which every person enjoys all the human rights enshrined in the Universal Declaration of Human Rights and other international human rights standards. On 5 March 2004, it launched the Stop Violence against Women campaign, which focuses on violence against women in the family and in conflict. In partnership with women's organisations and other groups, it seeks to address discrimination as a root cause of violence against women and intends to take action on behalf of particular individuals to stop these violations. Through this campaign, AI has developed and used campaign tools to highlight the profiles and cases of women human rights defenders.

Asia Pacific Forum on Women, Law and Development (APWLD)

www.apwld.org

APWLD is a network of lawyers, academics, social scientists, grassroots women and other activists from across Asia Pacific. It aims to promote women's human rights enshrined in the UN international human rights instruments and to enable women in the region to use law as an instrument of change for equality, justice and development. With a membership of close to 150 individuals and organisations, it operates through task forces than run programmes on women's human rights, violence against women, women's participation in political processes, labour and migration, women and environment and rural and indigenous women. It has recently adopted a campaign on women human rights defenders, focusing on the concerns of its activist-members facing threats and violations as women human rights defenders. It hosts the women human rights defenders website www.defendingwomen-defendingrights.org

Asian Forum for Human Rights and Development (FORUM ASIA)

www.forum-asia.org

FORUM ASIA is a membership-based regional human rights organisation in Asia with 36 member organisations in 14 countries in the region. It strives to empower people by advocating social justice, sustainable human development, participatory democracy, gender equality, peace and human security through collaboration and cooperation among human rights organisations in the region. It has a programme on human's defenders, which aims to protect human rights activists and practitioners by supporting their work and strengthening both domestic and international human rights protection mechanisms in accordance with established human rights standards and norms. It has integrated women human rights defenders concerns in its training programs, and it organises regional consultations on human rights defenders with the participation of women human rights defenders.

Astraea

www.astraea.org

Astraea is a dynamic global foundation providing critically needed financial support to lesbian-led, and progressive organisations to claim their human rights. It has an international emergency fund which is a rapid response grant-making mechanism, providing support for organisations to address time-sensitive and strategic emerging political opportunities and crises affecting lesbian, gay, bisexual, transgender communities.

Center for Women's Global Leadership (CWGL)

www.cwgl.rutgers.edu

CWGL at Douglass College, Rutgers University seeks to develop an understanding of the ways in which gender affects the exercise of power and the conduct of public policy internationally. The Center aims to build international linkages among women in local leadership. It conducts various activities that support women's leadership and transformative visions as crucial in every policy area. It develops effective policy alternatives which demand the full inclusion of gender perspectives and women in all decision-making processes and requires an understanding of how gender relates to race, class, ethnicity, sexual orientation and culture. Together with the IGLHRC, it released a report *Written Out: How Sexuality is Used to Attack Women's Organizing*.

Front Line

www.frontlinedefenders.org

Front Line is an international foundation for the protection of human rights defenders, defending those who champion the Universal Declaration of Human Rights. Its main focus is on human rights defenders at risk, either temporarily or permanently because of their work. It aims to address some of the needs identified by defenders themselves, including protection, networking, training and access to the thematic and country mechanisms of the UN and other regional bodies. Every two years, it hosts the 'Dublin Platform for Human Rights Defenders', which provides an opportunity for human rights defenders, including women, to come together from an international exchange of experiences and issues. Front Line also provides emergency support and funding to defenders at risk.

Human Rights First

www.humanrightsfirst.org

Human Rights First is an international human rights organisation based in New York and Washington D.C. It helps promote and protect human rights and the rule of law through the following strategies: advocacy for change at the highest levels of national and international policymaking; seeking justice through the courts; raising awareness and understanding through the media; building coalitions among those with divergent views and mobilising people to act. Human Rights First runs a programme on human rights defenders through which it has established a human rights defender alert network. The network includes urgent appeals for women human rights defenders at risk.

Information Monitor (INFORM)

INFORM is a Sri Lankan human rights organisation with a special focus on monitoring, documentation human rights in the country. It also functions as a library and documentation centre for journalists, students and others seeking information regarding the human rights situation in Sri Lanka. It was the local host of the International Consultation on Women Human Rights Defenders and it took the initiative to begin writing this guidebook.

International Gay and Lesbian Human Rights Commission (IGLHRC)

www.iglhrc.org

IGLHRC works to secure the full enjoyment of the human rights of all people and communities subject to discrimination or abuse on the basis of sexual orientation or expression, gender identity or expression, and/or HIV status. A US-based organisation, IGLHRC engages in advocacy, documentation, coalition building, public education, and technical assistance. Particularly, it helps educate

its constituencies about human rights and sexual orientation/gender identity. It co-published with CWGL the report *Written Out: How Sexuality is Used to Attack Women's Organizing*. It also runs international alert on lesbian, gay, bi-sexual, transgender and other activists at risk.

International Service for Human Rights (ISHR)

www.ishr.ch

ISHR is an international association that promotes the effective protection of human rights defenders and aims to empower human rights organisations and individuals to access and use human rights mechanisms at regional, national and international levels. It services human rights defenders by providing analytical reports on the UN human rights mechanisms, training on how to use the international norms and procedures, strategic advice for effective lobbying, contributions to human rights standard-setting, practical information and logistical support to enable human rights defenders to take full advantage of international human rights law and procedures. It organises consultations on women human rights defenders in many countries in Latin America, Middle East and Africa.

ISIS Women's International Cross-Cultural Exchange (ISIS-WICCE)

www.isis.or.ug

ISIS-WICCE is a global action oriented women's resource centre with the aim of promoting justice and women's human rights through documentation of women's realities and sharing of information and ideas to improve women's status and overcome gender inequality. Since its relocation in Kampala, Uganda, it has focused on building women's capacity in documentation, peace building and conflict resolution; and the use of information and communication technologies for networking, lobbying and advocacy. It has been the subject of harassment from conservative forces in Uganda as a member of the V Day Host Committee that planned to stage the play "The Vagina Monologues" by Eve Ensler.

The Latin American and Caribbean Committee for the Defense of Women's Rights (CLADEM)

www.cladem.org

CLADEM is a network of women's organisations and individuals united to achieve the effective defence of women's rights in Latin America and the Caribbean. It engages in various activities for the promotion of women's rights such as: formulating legislative proposals, research, training, informing, communicating and exercising solidarity actions. Like APWLD, it is a regional network that empowers women to use law as a tool for change.

Women Living under Muslim Laws (WLUML)

www.wluml.org

WLUML is an international solidarity network that provides information, support and a collective space for women whose lives are shaped, conditioned or governed by laws and customs said to derive from Islam. The network demands for women's equality and their rights, especially in Muslim contexts. It aims to increase the autonomy of women by supporting their local struggles from within Muslim countries and communities; linking them with feminist and progressive groups at large; facilitating interaction, exchanges and contacts; and providing information as well as serving as a channel of communication. WLUML produces analytical pieces on fundamentalisms and runs urgent appeals for women human rights defenders at risk in Muslim countries.

Urgent Action Fund for Women's Human Rights (UAF)

www.urgentactionfund.org

UAF is an independent organisation with a strategic mandate to protect and promote women's human rights through rapid response grantmaking. It also engages in collaborative initiatives, research and publications. Grounded in a human rights framework, and focused on women in civil society, UAF supports women human rights defenders responding to conflict and crisis around the world. It offers emergency funding to respond immediately to the needs of women human rights defenders at risk.

World Organisation against Torture (OMCT)

www.omct.org

OMCT is an international coalition of over 260 NGOs in 85 countries, including the SOS-Torture Network, fighting against torture, arbitrary detention, summary and extra judicial executions, forced disappearances and all other forms of cruel, inhuman or degrading punishment. In response to the increasing number of cases on gender-specific forms of violence, OMCT established in 1996 the Violence against Women (VAW) Programme, which addresses and analyses the gender-related causes and consequences of torture and other forms of violence against women. The OMCT VAW Programme issues urgent appeals concerning gender-based violence; submits alternative country reports on violence against women to the UN Committee on the Elimination of Discrimination against Women; and mainstreams a gender perspective into the work of the UN treaty monitoring bodies. Together with FIDH, it runs The Observatory for Human Rights Defenders, which issues urgent appeals on human rights defenders and other defenders under threat.

**This guidebook was produced in close collaboration
with the following organisations:**



INFORM

International Service for Human Rights



World Organisation Against Torture



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