

STRENGTHENING WOMENS' VOICES AGAINST VIOLENCE

Submission to UN Special Rapporteur on Violence against Women

by

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on behalf of

SHIVI DEVELOPMENT SOCIETY and its partners



“Violence against women and girls continues unabated in every continent, country and culture. It takes a devastating toll on women’s lives, on their families, and on society as a whole. Most societies prohibit such violence – yet the reality is that too often, it is covered up or tacitly condoned”. UN Secretary-General, Ban Ki-Moon, 8 March 2007

VIOLENCE AGAINST WOMEN

In India where women form almost half of the population, they have and continue to face discrimination and atrocities which makes a dignified and liberated life a dream for many - many women; be it in towns, cities or villages. This is something that runs across the rural and urban India. Where in the rural India, at times, things are visible and addressable, in an urban set up they become invisible thus giving an impression of a 'better situation'. The fundamental rights that the constitution of India guarantees become a further far flung dream in case of women; despite of their caste, class and age. Their forms of reality change, but structurally they are fighting the same battles.

Violence has many forms, and happens at many levels. Girls and women are violated in personal as well as public spaces; emotionally, physically, mentally, economically. According to the data of the National Crime Records Bureau (NCRB), India the cases of violence against women have been increasing every year. According to the report, total of 2,28,650 incidents of crime against women (both under Indian Penal Code {IPC} and the Crimes under the Special & Local Laws{ SLL} were reported in the country during the year 2011 as compared to 2,13,585 incidences in the year 2010 recording an increase of 7.1% during the year 2011. These crimes have continuously increased during 2007-2011¹. The statistics show an increasing pattern. The thought that many such cases go unreported and those could all the more show the acuteness of the matter is a disturbing thought. Feticide, infanticide, neglect, child marriage, forced abortions, forced marriages, rape, sexual harassment at homes as well workplace are crimes that are more visible.

But 'violence' issues run much deeper. Women negotiate with their 'everyday' for the ways they want to live, the ways they want to experience their lives and the world. They are denied their rights to food, to education, to healthcare, to mobility, to employment and overall to what they would consider important for their being. Be it in the population count or the country's representation, women are missing. Underlying structures of patriarchy create a second grade beinghood for women, in which they are considered the less important members of the society.

Although each instance of violence warrants specific attention and understanding and is a complex phenomenon in itself, but overall patriarchal structures, whatever form they may take in different communities use violence to assert itself. It not only creates social and ideological constructs around women and devalues women, but also normalizes certain kinds of violence against them. It does not recognize violence against women as being intricately connected to the differential statuses of men and women in the society.

¹ (<http://ncrb.nic.in/CD-CII2011/cii-2011/Chapter%205.pdf>)

Perpetrators of violence can be anyone in the society who is rooted in patriarchy. Women have suffered from this ever since, and have also fought against the same; at times in their own way and at times together. For instance the anti-dowry movement in India was one of the strongest times in the national women's movement where women from all classes and caste joined in together to struggle and fight dowry, dowry deaths and families. Challenging violence is challenging patriarchy.

WOMEN AGAINST VIOLENCE: Women Human Right Defenders

“The realization of economic and social rights for rural women, increased and equal access to assets and resources, including equal inheritance rights, is a necessary step to sever the dependence of women on their spouses and families. Legal and policy environments which are responsive and promote independence and empowerment of women, is also essential for women to seek remedies for violations of rights.”—(Message of the United Nations Special Rapporteur on violence against women for 2012, Ms. Rashida Manjoo , Special Rapporteur on Violence against women, its causes and consequences”)

The message above sets out the direction which we need to take in order to respond to the situation and culture of violence against women in a manner which is comprehensive. In the context of what has been highlighted until now, it hence becomes imperative to see what agents can drive such a change home.

A study conducted by India's Central Statistical Organization, found that nearly three million girls, one million more than boys, are “missing” in 2011 compared to 2001 and there are now 48 fewer girls per 1,000 boys than there were in 1981. According to police records, a woman is raped in India every 20 minutes. But even the most violent crimes committed against women are rarely reported and perpetrators are often unpunished. At the same time, broad community awareness of violence against women is low. As a result, many such crimes continue with impunity.

<http://asiafoundation.org/in-asia/2012/12/12/the-rising-tide-of-violence-against-women->

Such a direction cannot be taken without the government of the nation becoming interested and committed. Such political will and commitment is exhibited by the policies and laws a government creates and the mechanisms it sets in place to realise those policies and laws.

However, we wish to submit and highlight the role of a those women who are doing this on the ground and who needs to be supported and cemented for their efforts as well as a part of our national strategy in order to end violence against women; the **Women Human Right Defenders (WHRDs)**. The role of the WHRDs needs to be underscored and highlighted for finding such a direction in women's own lives, practically.

The WHRDs mostly are survivors themselves as they too face violence and discriminations in their personal life which inspires them to raise a struggle and their voice. They also address issues of violence in others women's lives at the same time. Hence, they struggle for combating violence and discrimination at two levels. This is a very important point as they are rooted in the very context they fight against for themselves as well as others. They are the ones who convert the energy of their personal struggle and difficulties into the energy of struggle, of inspiring and empowering women to raise a voice and take on their own fight.

One of the key and most common areas that the women human right defenders (WHRD) work to address in India is violence against women, its causes and consequences, at local as well as national level; at pragmatic as well as policy level. The issue gets taken up by social actors of all the sexes, but the WHRDs play not only a key role in raising women's issues as HRDs, but as women who are waging a dual battle - fighting for their own selves as women and fighting for women's' rights at large. Stepping out of their own victimhood, they rise as leaders of the women's movements for women's rights.

Women's Human Right Defenders are the lifelines of not only raising struggles but also keeping them alive, at times fuelling them with their own lives. They take the Rights Discourse to various corners of the land - strengthening the women's freedoms in scale and depth. Their role needs recognition in a distinguished manner.

Recognition of the vital role of human rights defenders and the violations that many of them face convinced the United Nations that special efforts were needed to protect both defenders and their activities. The first major step was formally to define the "defence" of human rights as a right in itself and to recognize persons who undertake human rights work as "human rights defenders". On 9 December 1998, by its resolution 53/144, the General Assembly of the United Nations adopted 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"). The second step was taken in April 2000, when the United Nations Commission on Human Rights asked the Secretary-General to appoint a special representative on human rights defenders to monitor and support the implementation of the Declaration.

Excerpted from: Human Rights Defenders: Protecting the right to defend, Fact sheet 29, United Nation

GENDERED NATURE OF HUAMN RIGHTS WORK: CHALLENGES AND STRUGGLES OF WHRDs

WHRDs are at a confluence of two identities which face resistances of various kinds from the status quo: that of being a woman and that of a rights defender of marginalised population - that of women again. Doing human rights work claims a certain space and involves standing up against the oppressive structures and systems in the society. This struggle becomes more challenging for the WHRDs because they are not only raising their voice against these systems, but are also defying the gendered norms of being a woman, of femininity. Hence, their voice

has a *double-strength, a double-tone*, of being champions of not only human rights but of women's rights at the same time. Resistances and challenges that WHRDs face in their work are different from what their counterparts (men HRDs) face and that is why the category of WHRDs warrant a specific terminology as well specific attention. These *resisting forces* increase on their own. This is so, because of two reasons

- for who the WHRDs are
and
- what they do

They not only have to fight for human rights of others but also of their own right to raise a voice being women persistently and continuously. Therefore, their vulnerability towards a more complex set of challenges / threats increase. WHRDS stand for other people's rights and also struggle for women's rights being women themselves. Their struggle hence is twofold.

WHRDs take upon themselves those roles which are not welcomed in a patriarchal society. They are:

- Being out in the public domain with other men and women
- Come home late & if need be stay outside
- Raise Issues in their own voice
- Stand up for their as well others rights
- Are not shy in talking about women's rights
- Have a vision of their own
- Might many times defy cultural and traditional standards
- Might not at all belong to the stereotypes of a woman and femininity
- Talk of human rights whether it's a private family situation or outside on the road

These challenges are specific to WHRDs. Men HRDs do not face such challenges in the acuteness that women have to. What is critical to mention here is that WHRDs face these sorts of challenges from all spheres of their life; be it:

- Family
- Or the community they work in or for
- Or even within their own organization

Hence the challenges are not only directly connected to what they do, but even as to who they are.

Challenges are not only the direct problems they face, but even the situations of being left alone and getting isolated in situations where they need most support because they might defy the acceptable woman behaviors. These are the times when they have to struggle alone. In fact, many WHRDs at times have to retract from taking up severely challenging roles not because they do not think it is important but because they fear the isolation it will bring to them, especially from their family and community. In times, as we will see further, when they need their families and communities most, they do have to face and bear loneliness

because their way of being isn't culturally accepted. Those who can act as source of strength become source of weakness.

Impunity & the Normalization of violence Impunity means "exemption from punishment or loss or escape from fines². In the international law of human rights, it refers to the failure to bring perpetrators of human rights violations to justice and, as such, itself constitutes a denial of the victims' right to justice and redress. Impunity is especially common in countries that lack a tradition of the rule of law, suffer from corruption or that have entrenched systems of patronage, or where the judiciary is weak or members of the security forces are protected by special jurisdictions, and has a small and resistant space for women's rights and women's actions.³

Generally speaking, impunity arises from a failure by the State to meet their obligations to investigate violations; to take appropriate measures in respect of the perpetrators, particularly in the area of justice, by ensuring that those suspected of criminal responsibility are prosecuted, tried and duly punished; to provide victims with effective remedies and to ensure that they receive reparation for the injuries suffered; to ensure the inalienable right to know the truth about violations; and to take other necessary steps to prevent a recurrence of violations."⁴

In cases of violations against the WHRD impunity not only occurs because the state fails to either agreeably or unconsciously to perform its duty, but because many a violations are not taken seriously and as we said, much kinds of violence and assaults on the WHRDs are taken as NORMAL. They are not seen as violations themselves, they are seen as a part of a woman's daily existence or the quota of violation or threat which as if should be 'normal for her to live with'. Domestic as well as sexual violation generally is referred to as 'normal' in people's minds for a women which also creates non-urgency on the part of the State to take any action. Cases of impunity are highest in state of a conflict ridden environment and especially against military and paramilitary forces.

In addition to uncovering human rights and woman's rights violations in a militarized environment, WHRDs often play very important role in peace building and conflict resolution. It is said that these roles they play are often of an 'informal' type and hence often go unnoticed and they do not find space to play their role in negotiating important decisions when it comes to that. Being mindful of women's roles in peacekeeping, the UN also came up with a resolution for addressing their securities in these situations of which we will speak in further sections.

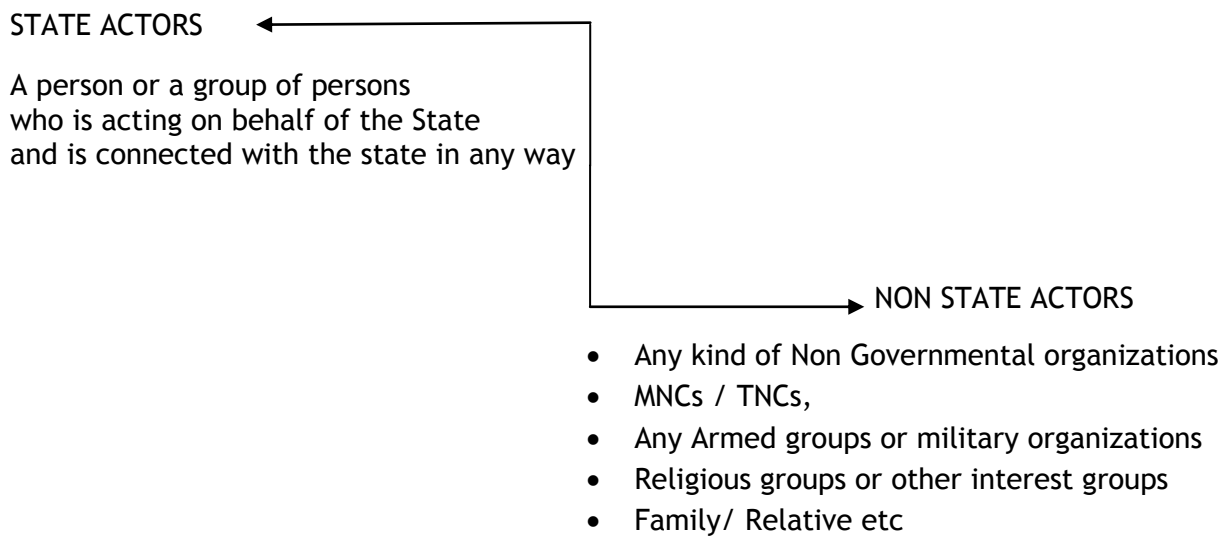
Broadly, there are two kinds of actors who are responsible for such human rights violations and risks / threats that a human right defender comes across. They can be classified as STATE actors and NON-STATE actors. This classification is made to understand that violations of the RIGHT TO PROTECT HUMAN RIGHTS can be done either by the STATE itself or by those who

²<http://en.wikipedia.org/wiki/Impunity>

³<http://en.wikipedia.org/wiki/Impunity>

⁴(<http://en.wikipedia.org/wiki/Impunity>)

are in other organizations / institutions who are not part of the State. Diagram below gives examples:



It is generally in the case of WHRDs specifically that the NON STATE actors as well as the STATE actors are agents of threat. Women’s groups and women’s organization, while trying to consolidate the entire experiences of such sorts into a classification have come up with a Typology of Violation, Risks & Constraints⁵ that WHRDs face.

The special Rapporteur on the situation of Human Rights Defenders observes that , ‘on several occasions that women defenders are more at risk of suffering certain forms of violence and other violations, prejudice, exclusion, and repudiation than their male counterparts. This is often due to the fact that women defenders are perceived as challenging accepted socio-cultural norms, traditions, perceptions and stereotypes about femininity, sexual orientation, and the role and status of women in society. Their work is often seen as challenging “traditional” notions of the family which can serve to normalize and perpetuate forms of violence and oppression of women. This can, in certain contexts, lead to hostility or lack of support from the general population, as well as the authorities..... the violations faced by women defenders may themselves take a gender-specific form, ranging from verbal abuse based on their sex, to sexual abuse and rape. Cases of the latter are particularly prevalent in situations of conflict, which are often characterized by an environment of complete impunity for perpetrators. Further, in certain contexts, if a women human rights defender is subjected to rape or sexual abuse as a result of her work, she may be perceived by her extended family as having brought shame on both the family and the wider community. Indeed, even when no rape or sexual abuse has occurred, women defenders are often subjected to stigmatization and ostracism by community leaders, faith-based groups, families and communities who consider them to be jeopardizing religion, honor or culture through their work.

(excerpted from : Commentary to 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 @

<http://www.ohchr.org/Documents/Issues/Defenders/CommentarytoDeclarationondefendersJuly2011.pdf>)

RECOMMENDATIONS

- **Urge the Government of India (Gol) to craft a National Action Plan on UN resolution 1325** and ensure that in conflict affected areas like Chhattisgarh and North East, women and involved WHRDs are represented in peace negotiations and play a key role at every level, including critical impactful positions.
- **Urge the Gol to craft a Comprehensive National Law with a focus on:** There is a dire need for the State/ Government/ Nation to recognise and realise that the role WHRDs are playing is a corner stone to a gender equal democracy. WHRDs not only empower women and their struggle but they help building a live democracy with a constant participation from the marginalised sections; women being that category in India. Hence, their role needs to be celebrated and cemented at the national and local levels by the Government. This calls for a comprehensive National law on HRDs in general and WHRDs in specific based on the International Human Right Defenders Declaration principals as well as UN resolution 1325.
- **Urge the Gol to take the offenders of rights violation of WHRD into one common judicial system,** despite the place of their belonging; be it from arms forces or the community at large or the non-state actors.
- **Urge Gol to make matters and justice time bound** at the level of the session's court, especially in context of crime against women.
- **Urge Gol to bring the law and order agencies into the district administration's vigil** (for instance via district level committees); be it the police or the armed forces as the law and order agencies. Such monitoring is critical and plays a strong role in curbing such instances.
- **Urge the Gol to strengthen National and State Human Rights & Women Commissions and synchronising them with the National Law:** State and National Human Rights & Women Commissions have a good scope of being more effective mechanisms of strengthening defenders' roles in addition to responding on submitted violation cases. They are emerging as bodies where citizens can complaint and seek justice in case of rights violations; however these mechanisms can play a more proactive role in addressing WHRDs needs and impunity.
- **Urge the Gol to create HELP DESKS for WHRDs at the National Commission for Women, State Commission for Women & Police Stations:** These bodies need to have a separate HELP DESKS for WHRDs which can assist in at least initialising the process of the State assisting WHRDS at different levels. This is important as the issues that WHRDs face are different from issues that they face as 'women', there is a nuance and that needs to be sharply understood and responded to.

- **Urge Gol to take up and coordinate awareness Campaigns through Human Rights and Women's' Commissions** for making WHRDs aware in various states, districts, blocks, villages about the various national and international mechanisms to address their complaints and raise issues and know that such channels are available and accessible. They must know who to approach and how to. This will also assist them in becoming self-conscious of their own identity as WHRDs.
- **Build capacities of the Government representatives** on issues of sensitivity, and information levels on the mechanisms already in existence of strengthening the State's accountability to WHRDs