

Making Institutions Count: Strengthening Support for Women Human Rights Defenders in Asia by National Human Rights Institutions



ASIA PACIFIC FORUM
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Making Institutions Count: Strengthening Support for Women Human Rights Defenders in Asia by National Human Rights Institutions

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FOREWORD

The Asian Forum for Human Rights and Development (FORUM-ASIA), as the Secretariat of the Asian NGO Network on National Human Rights Institutions (ANNI), and the Asia Pacific Forum of National Human Rights Institutions (APF) are proud to present the new publication, ***‘Making Institutions Count: Strengthening Support for WHRDs in Asia by NHRIS.’***

Across Asia, women human rights defenders (WHRDs) have been at the forefront of movements seeking to secure and advance human rights for all. WHRDs have consistently raised their voices to defend the most vulnerable and marginalised communities and groups, striving to ensure the realisation of human rights in the face of abuse and injustice.

They have been among the most vocal in calling for human rights to be protected and upheld, especially in the fight against impunity and repression, and have played a vital role in advocating for and developing key legislation and instruments for the protection of human rights.

In recent years, while WHRD-led movements have gained traction, they have been strongly impacted by increasingly repressive and authoritarian actors, especially when they have challenged the norms and practices that uphold the unjust status quo. While being at the frontline of movements for human rights, WHRDs are facing serious risks, not only as human rights defenders (HRDs), but also as women (cis- or trans-) or non-binary individuals.

Threats and reprisals against WHRDs have come from both state and non-state actors and have been manifested in both the physical sphere as well as in the online space. Gender-based violence and abuse against them is particularly prevalent, with WHRDs being affected by targeted harassment online; judicial harassment; intimidation and threats; and sexual, misogynistic, and derogatory insults, among others.

The growing human rights- and gender-based violations against them, combined with the other challenges they already face, require greater support and recognition by all stakeholders, including national human rights institutions (NHRIs), with gender-specific responses and protection measures to create a safe and enabling environment.

The [United Nations General Assembly Resolution No. A/RES/68/181 \(2013\)](#) expressly recognises and reaffirms the challenges faced by WHRDs, calling upon States to ensure the necessary protection for them, and to also integrate a gender perspective in their efforts to ensure a safe environment for the defence of human rights. Along with this, the [Marrakech Declaration \(2018\)](#), which notes the additional and gender-based risks WHRDs can face when standing up for justice and equality, sets out a practical strategy and actions for NHRIs and regional and global networks of NHRIs to ensure the impact of the conference outcomes are long-term. More recently, and carrying forward the commitments from the Marrakech Declaration, APF launched a [Regional Action Plan on HRDs \(2021\)](#) as a key commitment in championing the rights of HRDs, including WHRDs, across the Asia Pacific region.



Recognising the challenges faced by WHRDs, the need for ensuring the effective implementation of instruments and action plans, and for NHRIs to develop and improve protection mechanisms for WHRDs in the Asian region, FORUM-ASIA and ANNI, with the support of APF, organised a session at the 9th Asian Human Rights Defenders Forum (AHRDF9) in June 2021 titled, ***'How can NHRIs Better Protect WHRDs?'***

This thematic report draws from the discussions, reflections, and recommendations that emerged from this event, which saw civil society representatives, regional and global networks of NHRIs, and representatives from NHRIs come together to delve deeper into this topic. The report provides insight into the challenges and concerns of WHRDs in Asia, the role of NHRIs in their protection, and recommendations for NHRIs to ensure better protection and representation for WHRDs as part of their protection and promotion mandate.

ANNI and APF, for whom the protection of WHRDs is a key priority, hope that this report will be a useful resource and tool for WHRDs in their advocacy efforts in the region, as well as for NHRIs to further their support for, and protection of, WHRDs. We extend our sincere thanks to the WHRDs and NHRIs we work alongside with and to all at ANNI, FORUM-ASIA, and APF who have provided their input, support and expertise to the development of this publication.



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TABLE OF CONTENTS

PAGE 7

**Protection of Women Human Rights Defenders by NHRIs
in the Asia Pacific Region: An Overview**
The Asia Pacific Forum of National Human Rights Institutions

PAGE 11

Analysis: The situation of WHRDs in Asia (2019-2021)

PAGE 14

Case Studies of WHRDs

PAGE 18

**Women Human Rights Defenders in Indonesia:
A Snapshot of the Current Situation**
*The Institute for Policy Research and Advocacy and the Commission
for the Disappeared and Victims of Violence*

PAGE 23

How Can NHRIs Better Protect WHRDs?

- A) Overview of Session at the 9th Asian Human Rights Defenders Forum
- B) Challenges and concerns of WHRDs and NHRIs
- C) What can civil society, other stakeholders, and NHRIs do?
- D) Recommendations

PAGE 39

The Way Forward

PAGE 41

Acronyms





Protection of Women Human Rights Defenders by NHRIs in the Asia Pacific Region: An Overview

The Asia Pacific Forum of National Human Rights Institutions



National human rights institutions (**NHRIs**) are integral to the support of human rights defenders (**HRDs**) in the Asia Pacific region. The 1993 Principles Relating to the Status of National Institutions (the **Paris Principles**)¹ affirm the unique role of NHRIs at the national level in the promotion and protection of human rights in the architecture of the State. In this respect, NHRIs act as an interface between government, civil society, and the international community.

Although the 1998 UN Declaration on Human Rights Defenders² does not explicitly recognise the role of NHRIs in the protection of HRDs, successive UN Special Rapporteurs on the Rights of Human Rights Defenders have called on NHRIs to monitor and investigate the situation of HRDs,³ including by recognising the status of NHRIs as HRDs themselves.⁴ Conceptually and normatively, this positions NHRIs as both protectors of HRDs and as a cohort in need of protection as HRDs.

More recently, NHRI representative bodies at global and regional levels have begun to focus on the role of NHRIs in delivering protection to HRDs, with increasing concern for women human rights defenders (**WHRDs**). For instance, the 2018 Marrakech Declaration of the Global Alliance of NHRIs (**GANHRI**) acknowledges the special risks faced by WHRDs and the different experience of intimidation and reprisals they faced based on their gender:

Women human rights defenders, whilst facing similar risks as other human rights defenders, may also face additional gender-specific discrimination and violence, not only by State agents but also private actors. This comes in the form of intimidation, threats, and sexual violence.⁵

The Asia Pacific Forum of NHRIs (**APF**) is a regional network of NHRIs in the Asia Pacific region and has established its own commitments to support the rights of HRDs through the Regional Action Plan on Human Rights Defenders. Like the Marrakech Declaration, the Regional Action Plan acknowledges the disproportionate impact of intimidation and reprisals on WHRDs, and also considers trans and non-binary defenders to be

- 1 UN General Assembly, 'Principles relating to the Status of National Institutions (The Paris Principles),' UN Doc. G.A. Res. 48/134, 20 December 1993, <https://www.un.org/ruleoflaw/files/PRINCIPLES5.PDF>
- 2 UN General Assembly Resolution, 'Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms' (A/RES/53/144), 9 December 1998.
- 3 See, for example: 'Report of the Special Rapporteur on the situation of human rights Defenders to the Human Rights Council on the Situation of women human rights defenders' (A/HRC/40/60), 10 January 2019, para 96.
- 4 UN Human Rights Council, 'Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, to the Human Rights Council,' UN Doc. A/HRC/22/47, 16 January 2013, paras. 34–83.
- 5 Global Alliance of National Human Rights Institutions (GANHRI), 'The Marrakech Declaration: "Expanding the civic space and promoting and protecting human rights defenders, with a specific focus on women: The role of national human rights institutions,"' 12 December 2018, https://ganhri.org/wp-content/uploads/2019/11/Marrakech-Declaration_ENG_-12102018-FINAL.pdf

considered within the definition of WHRDs.⁶ The APF Regional Action Plan includes a specific commitment on behalf of its 25 member institutions to promote gender equality and mainstream the recognition of WHRDs.⁷ One aspect of this commitment is to ensure that national data on violations against HRDs collected by NHRIs is disaggregated by gender to enable a greater understanding of the extent to which gender impacts on the intimidation and other reprisals against HRDs. Additionally, the Regional Action Plan acknowledges that gender mainstreaming in HRD protection mechanisms is a fundamental aspect of supporting the rights of WHRDs.

NHRI Protection Mechanisms for HRDs

There is a significant body of experience from NHRIs globally on effective practical mechanisms to support the protection of HRDs by NHRIs. The former Special Rapporteur on the rights of HRDs, Margaret Sekaggya, acknowledged several good practices of how NHRIs had contributed to the protection of HRDs.⁸ This included examples such as integrating HRD referral mechanisms into NHRI complaint-handling systems to allow for follow-up with the Government or, where appropriate, the international community in cases where HRDs are subject to threats and/or intimidation. Providing a platform through which HRDs can access international and regional human rights protection mechanisms is another way in which NHRIs supported the protection of HRDs, who may be unfamiliar with such mechanisms. According to the Special Rapporteur, the Paris Principles mandate of NHRIs to address public opinion also enables NHRIs to take on individual cases of violations against defenders by making public statements, with specific recommendations directed to government duty bearers and non-state actors. The explicit detention monitoring mandate also allows NHRIs to identify where HRDs have been detained and to take up specific cases with relevant authorities, advocating for their release and providing legal assistance in criminal and civil proceedings.

More recently, other sophisticated NHRI-led or facilitated protection mechanisms for HRDs have emerged. Many of these have focused on relocation or respite for NHRIs facing immediate threats, designed as an emergency response to temporarily remove HRDs from a dangerous situation. Some NHRIs in Asia Pacific – such as the Commission on Human Rights of the Philippines (**CHR**) – have established HRD relocation initiatives themselves under the auspices of existing witness protection programs, whereas other NHRIs have sought to raise awareness of international and civil society-led relocation programs for HRDs.

6 See, Asia Pacific Forum of National Human Rights Institutions (APF), 'Regional Action Plan on Human Rights Defenders, 23 February 2021, <https://www.asiapacificforum.net/resources/regional-action-plan-human-rights-defenders/> pp. 9–10.

7 *Ibid.* p. 26.

8 Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, to the Human Rights Council, paras. 84–114.

While there is a clear body of practice on NHRI-led protection for HRDs, there is a notable gap in the Asia Pacific region on initiatives that seek to provide specific protection for WHRDs, or to ensure gender is incorporated in the design of more general HRD protection initiatives.

Better programs to support WHRDs

The APF's Regional Action Plan on HRDs provides a useful platform for the development of gender-sensitive protection mechanisms that will serve WHRDs better. As the region continues to experience an erosion of civic space and a rise of authoritarianism in many national contexts there is increasing pressure on HRDs, which is being disproportionately felt by women defenders. The policy commitments from NHRIs under the Marrakech Declaration and APF Regional Action Plan must be accompanied by more support from regional actors – including the APF and Asian Forum for Human Rights and Development (**FORUM-ASIA**), as well as counterparts in international organisations and donors who fund human rights work – to build the technical capability of NHRIs to address gender considerations in the design of HRD protection programs. The Asia Pacific region comprises a diverse range of national contexts, each with its own set of challenges in working towards gender equality. This diversity presents a wealth of experience among NHRIs in addressing gender equality and supporting gender mainstreaming in NHRI programs, which can be a valuable resource for other NHRIs that have not yet been able to consider how to effectively mainstream gender in the support they provide to HRDs. Accordingly, regional actors must create opportunities for NHRIs to learn from each other on WHRD protection systems, but also to learn from other regions of the world where NHRIs have developed more established WHRD protection initiatives.





Analysis: The situation of WHRDs in Asia (2019 - 2021)



Women human rights defenders are at the frontline of the defence and advancement of human rights in Asia. They are vocal actors supporting the most vulnerable groups and communities and strive for the improvement of their condition in the face of abuses and injustice. For the purpose of this analysis, ‘WHRDs’ refer to any woman defending human rights, as well as NGOs and persons of any gender⁹ supporting women’s rights or gender-related issues. According to FORUM-ASIA’s documentation, WHRDs have been among the groups of defenders most affected by violations and continue to be subject to disproportionate targeting as result of their work.

Between 2019 and 2021, WHRDs were the second-most targeted group of defenders, with 460 cases of violations out of 1,899 total cases recorded across 21 Asian countries.¹⁰ This means that WHRDs were affected in nearly one violation out of every four documented. However, the actual number of violations is likely higher than what was recorded, considering that it is common for incidents to occur inside the domestic or community environment where WHRDs live and work, and are thus more difficult to document. Moreover, the social stigma still commonly associated with violations that WHRDs face further contributes to the number of unreported cases.

The most common violations committed against WHRDs included judicial harassment (270 cases) – commonly coupled with their arrest and detention (210 cases), which was oftentimes arbitrary – intimidation and threats (107 cases), and physical violence (97 cases), which led to 21 cases of killings. State actors were the perpetrators in 382 out of 460 violations recorded, with the police alone accounting for 255 cases. Alongside this, WHRDs faced a further set of challenges in addition to other groups of defenders, as they were targeted not only for what they do – their work and activism – but also for who they are: their identity as women. As WHRDs challenge the societal, cultural, and religious norms that define the dominant patriarchal structures, FORUM-ASIA documented an increase in gender-based harassment, which took shape in multiple violations.

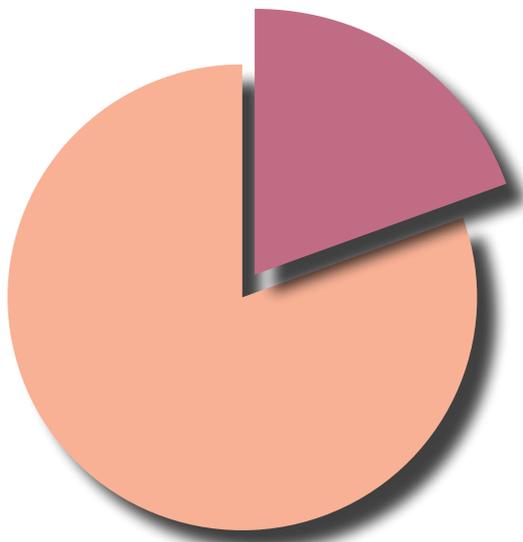
In the period under review, WHRDs were affected in 50 out of 115 cases of vilification recorded, being a common target of sexist insults, derogatory remarks, and misogynist language. WHRDs were also the second group of defenders most affected by online attacks, intimidation and threats. Particularly in online spaces, including social media, WHRDs faced violence, sexual harassment, and rape and death threats. The perpetrators were mostly religious fundamentalist groups and online trolls.

Due to the role played by many WHRDs within households, their family members were targeted more often than other groups of defenders as a way to intimidate WHRDs and hinder their work. In a series of interviews conducted by FORUM-ASIA in 2019, WHRDs shared that aside from their safety, their well-being was also affected as a consequence of the stress arising from challenging dominant gender structures and narratives, which are still widely accepted and which have normalised violations against the defenders. The WHRDs interviewed emphasised that their role as primary caregivers in families and communities, and conducting unpaid domestic work in addition to their activism, were also factors that played a role in undermining their well-being.¹¹

9 Which broadly includes heterosexual, lesbian, bisexual, transgender, intersex, and gender non-conforming persons.

10 Please consult the [Asian HRD Portal](#) managed by FORUM-ASIA.

11 Syme de Leon and Sejin Kim, ‘Defending Rights, Demanding Justice: Reflections on the WHRD Movement in Asia,’ in *Women Human Rights Defenders - Insights from the Struggle*, Working Paper Series Number 7, FORUM-ASIA, November 2019, pp. 1–11, <https://www.forum-asia.org/uploads/wp/2019/11/FA-WP-on-WHRDs-Online.pdf>.

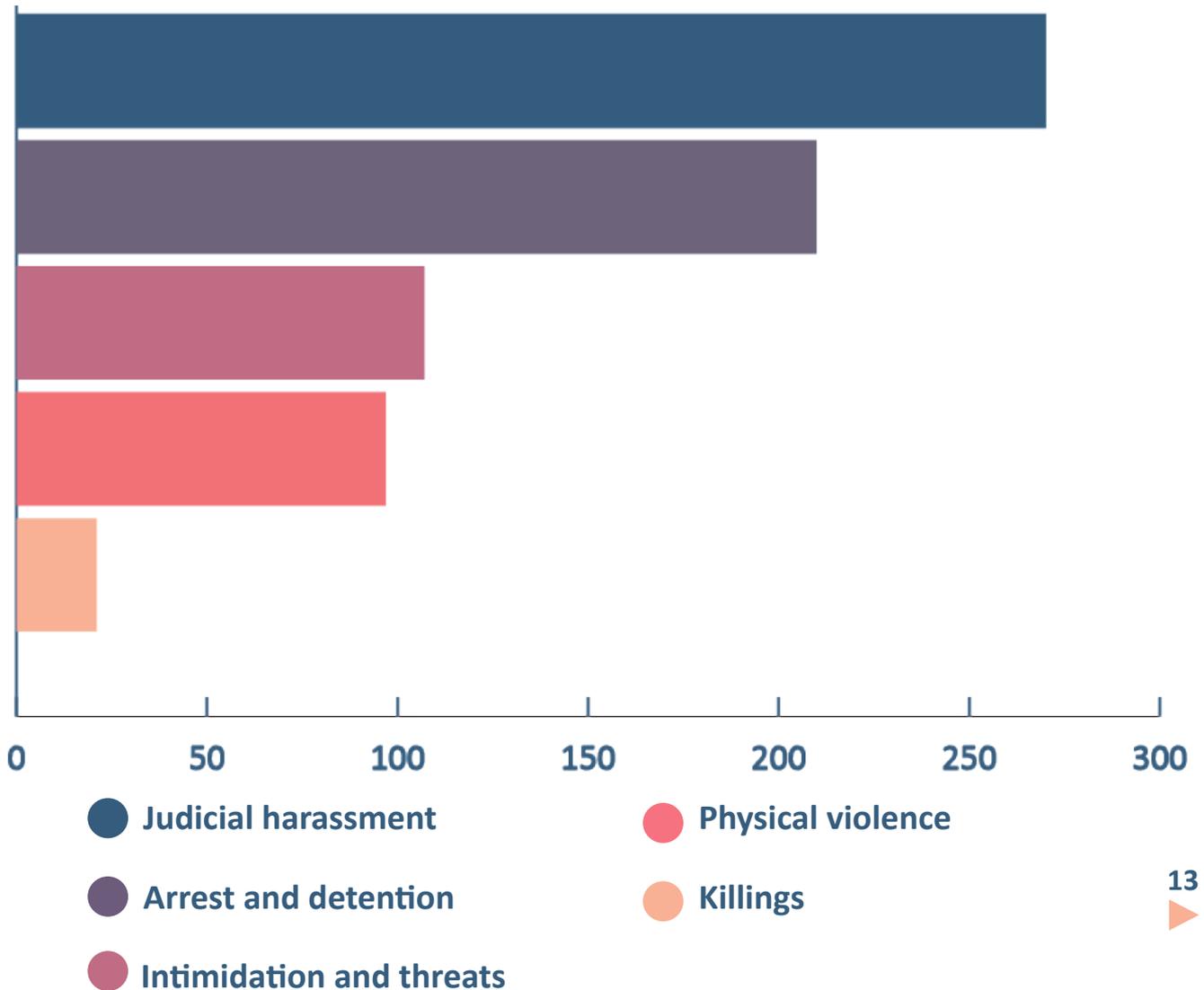


- 1,899 total cases
- 460 cases of violations against WHRDs

State actors were the perpetrators in 382 out of 460 violations recorded, with the police alone accounting for 255 cases.

In the period under review, WHRDs were affected in 50 out of 115 cases of vilification recorded, being the common target of sexist insults, derogatory remarks, and misogynist language.

Most Common Violations Committed Against WHRDs





Case Studies of WHRDs



MUNGUNKHUN DULMAA MONGOLIA



Mungunkhun Dulmaa is a land and environmental WHRD who has steadily opposed the mining activities of Steppe Gold Limited, which operates in the area where her community and its livestock live. On 22 October 2019, she was invited to the launch of a report in Ulaanbaatar by FORUM-ASIA and its Mongolian member, the Centre for Human Rights and Development (**CHRD**).¹² During the report launch, Mungunkhun received life-threatening text messages on her phone and a call from a Steppe Gold employee, who warned her to stop opposing mining activities. The report by FORUM-ASIA and CHRD highlighted the adverse impact of Steppe Gold's operations on the environment and lives of local herders. It also featured a case of physical violence and sexual harassment committed in 2018 against Mungunkhun by security personnel of Steppe Gold. The report found that the National Human Rights Commission of Mongolia had a limited role in supporting HRDs due to insufficient resources, as only one officer was assigned to each province of the country.

FATIMA KHALIL AFGHANISTAN



On 27 June 2020, Fatima was killed in a bomb attack while traveling in an office vehicle to the Kabul office of the Afghanistan Independent Human Rights Commission, which is the NHRI of Afghanistan, where she worked as the Donor Liaison Officer. An improvised explosive device was reportedly planted under the car, which also killed the driver. While the second half of 2020 saw a significant increase in the number HRDs and media workers killed in Afghanistan, the environment for HRDs drastically deteriorated after the Taliban took control of the country in August 2021. The rule of the Taliban rapidly resulted in a sharp rise of violent attacks against civilians, HRDs, journalists and civil society organisations (**CSOs**) and their staff. Most of the defenders unable to leave the country are facing threats to their life, forced into hiding to maintain their safety.

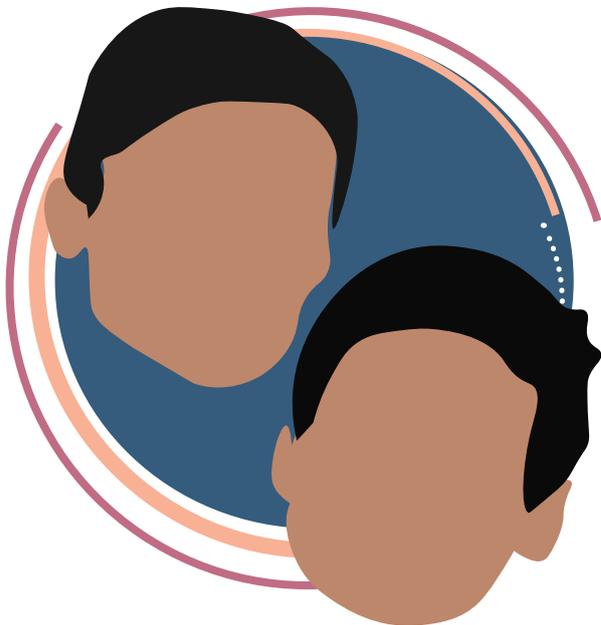
12 Benny Agus Prima, Lorenzo Urbinati, and Valerio Loi, 'Our Land: Fact-Finding Mission Report on the Impacts of Mining on Defenders and Environment in Khentii and Dornod Provinces, Mongolia' (FORUM-ASIA, 2019), <https://www.forum-asia.org/uploads/wp/2019/10/FFM-Mongolia-2019-Report.pdf>

SONI SORI INDIA



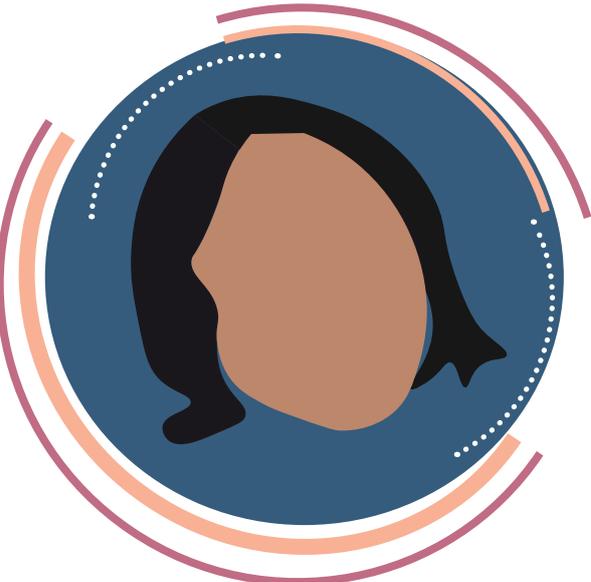
In 2011, Soni Sori was imprisoned for alleged links to Maoist insurgents but was released in 2013 due to a lack of evidence against her. Upon her release, she began campaigning against police violence. During her detention, she was subject to torture and sexual assault by the police. On 24 September 2020, Soni was summoned for questioning by the National Investigation Agency (NIA) in relation to a murder case. She informed the NIA that she had contracted coronavirus disease 2019 (**COVID-19**) and should not travel, but the NIA insisted that she still had to appear before them. Soni travelled 80 kilometres by motorbike despite having high fever, and with disregard for her health conditions, the NIA personnel questioned her for over seven hours. Days later, she was charged under the Indian Penal Code for violating quarantine rules and allegedly acting to spread infections and disease dangerous to life.

ZHANAR SEKERBAEVA AND GULZADA SERZHAN KAZAKHSTAN



On 29 May 2021, Zhanar Sekerbaeva and Gulzada Serzhan, leading members of feminist group Feminita, were harassed by unidentified men who interrupted a private event on gender equality that the WHRDs were holding. When a police officer reached the venue, instead of removing the persons disrupting the event, he confronted Zhanar, forcibly grabbed and manhandled her into his car. Zhanar and Gulzada were taken to the police station, interrogated, and threatened with criminal charges for allegedly 'offending a police officer.' After spending eight hours at the police station, the two WHRDs were escorted to their home city in a police vehicle with five police officers who strictly monitored them during the eight-hour car journey.

ZARA ALVAREZ THE PHILIPPINES



Zara Alvarez was a long-term WHRD involved in campaigning, education, and research activities at the grassroots level. On 17 August 2020, she was approached by unknown assailants riding a motorbike, who repeatedly shot at and killed her before fleeing the scene. No perpetrator was identified in her killing. Zara had faced harassment and intimidation for many years, including a defamatory campaign in 2004, intimidating text messages, and surveillance. In 2012, she was arbitrarily arrested on false charges and detained for one and a half years. In 2018, Zara was included in a list of over 600 people labelled as ‘terrorists’ published by the Department of Justice. The Philippines CHR launched an independent investigation into her killing and issued a statement to condemn the incident, highlighting that the widespread practice of red-tagging represents a serious threat to the lives of HRDs.¹³ The same findings were included in the report on the situation of HRDs in the country that the CHR presented in 2020.¹⁴

HUYNH THUC VY VIET NAM



On 30 November 2020, Huynh Thuc Vy was sentenced to 33-month imprisonment for defaming the national flag, after she posted a photo on social media of the Vietnamese flag marked with paint on Independence Day. She was placed under house arrest as she was pregnant with her second child and, according to domestic law, she could not be sent to prison until the youngest child had reached three years of age. On 1 December 2021, Vy was taken into custody by the authorities and held in a police-run temporary detention center. Vy is a prominent WHRD who has joined the pro-democracy movement in Viet Nam, and has advocated for the rights of ethnic minorities. She is also one of the founders of the NGO Vietnam Women for Human Rights. In the past, in response to her activism, Vy was subject to violations including an international travel ban. At the time of writing, Vy is still detained and it appears likely that authorities will force her to serve the sentence despite her youngest child being below the age of three.

13 Republic of the Philippines’ Commission on Human Rights, ‘Statement of CHR spokesperson, Atty Jacqueline Ann de Guia, on the killing of Zara Alvarez,’ 20 August 2020, <https://chrgov.ph/statement-of-chr-spokesperson-atty-jacqueline-ann-de-guia-on-the-killing-of-zara-alvarez/>

14 Republic of the Philippines’ Commission on Human Rights, ‘Report on the situation of human rights defenders in the Philippines,’ July 2020 <http://chr.gov.ph/wp-content/uploads/2020/07/CHRP-2020-Report-on-the-Situation-of-Human-Rights-Defenders.pdf>



Women Human Rights Defenders in Indonesia: A Snapshot of the Current Situation

*The Institute for Policy Research and Advocacy and the
Commission for the Disappeared and Victims of Violence*



The number was soaring in 2020, when Komnas Perempuan summarised that they received 36 cases that involved WHRDs as victims of violence.

In December 2021, the United Nations (UN) Special Rapporteur on the Situation of Human Rights Defenders, Mary Lawlor, sent a call to Indonesia regarding threats, intimidation, and reprisals against human rights defenders (HRDs) and concrete action that could be taken to mitigate such threats.¹⁵ It was an alert for a specific case that had befallen a WHRD originally from Indonesia, Veronica Koman. Back in 2019, Koman was charged by the Indonesian Police for allegedly spreading provocation and fake news in a report on police violence against anti-racism in West Papua that she had written.¹⁶ In the press release, the UN stated that two small explosive boxes were thrown at Koman's family's home by unidentified individuals on 7 November 2021. Front Line Defenders has summarised that Koman was charged for alleged 'incitement,' 'spreading fake news,' 'displaying race-based hatred'¹⁷ and 'disseminating information aimed at inflicting ethnic hatred.' Koman has also reported receiving threats, harassment, and intimidation because of her work on reporting the human rights situation in West Papua and Papua Provinces.¹⁸ Since 2019, she has lived in Australia with her family in self-imposed exile in an effort to protect herself and her family. The UN urged the Indonesian government to drop the charges against Koman and investigate the threats in her case. Koman's situation underpins the need to fully take into account HRDs' protection, especially WHRDs, who often suffer disproportionately as a result of the harassment against them.

The National Commission on Violence against Women (**Komnas Perempuan**) identified two aspects that differentiate the degree of vulnerability between WHRDs and HRDs in general.¹⁹ The first one is related to a sexual approach that is imposed by a society that is still dictated by a patriarchal mindset. As most people still see the dignity of women only in physical terms, the bodily and sexual aspects of WHRDs become the object of violence. In addition to that, a second point from Komnas Perempuan related to the attacks on WHRDs, which are often based on stereotypes and gender roles. These points can be seen as gender-based violence (GBV). Based on Komnas Perempuan's Annual Reports of 2020 and 2021, the trend of violence against WHRDs in 2019 and 2020 has increased. In 2019, Komnas Perempuan noted that there were 'only' five cases reported to them. The number was soaring in 2020, when Komnas Perempuan summarised that they received 36 cases

15 Office of the High Commissioner on Human Rights (OHCHR), 'Indonesia: Stop reprisals against woman human rights defender – UN expert,' 15 December 2021, <https://www.ohchr.org/en/press-releases/2021/12/indonesia-stop-reprisals-against-woman-human-rights-defender-un-expert>

16 Febriana Firdaus, 'Indonesia: calls for action over apparent attack on family home of rights lawyer,' *The Guardian*, 8 November 2021, <https://www.theguardian.com/world/2021/nov/08/indonesia-apparent-attack-family-home-rights-lawyer-west-papua>

17 Front Line Defenders, 'Threats and Attacks Against Women Human Rights Defender Veronica Koman's Family,' accessed 1 April 2022, <https://www.frontlinedefenders.org/en/case/threats-and-attacks-against-woman-human-rights-defender-veronica-koman%E2%80%99s-family>

18 *Ibid.*

19 National Commission on Violence against Women (Komnas Perempuan), 'Siaran Pers Memperingati hari Internasional Perempuan Pembela HAM: Lindungi Perempuan Pembela HAM dari Upaya Kriminalisasi,' 29 November 2021, <https://komnasperempuan.go.id/siaran-pers-detail/siaran-pers-memperingati-hari-internasional-perempuan-pembela-ham-lindungi-perempuan-pembela-ham-dari-berbagai-upaya-kriminalisasi-29-november-2021>

that involved WHRDs as victims of violence. They had to deal with repressive acts — the violence was in psychological, physical, and sexual terms — from the perpetrators’ family, unidentified individuals, and law enforcement officials. The WHRDs in this context are advocates, paralegals, and support-individuals who become the helplines for the victims of human rights violations. This condition implies that WHRDs are vulnerable — they have to defend the victims, and at the same time, most of them are struggling to tackle the acts of intimidation and threats made against them due to their activism.

In its Environmental Human Rights Defenders Report, the Institute for Policy Research and Advocacy (**ELSAM**) highlights the vital roles of WHRDs in activism.²⁰ In many environmental cases, WHRDs are important actors who support the sustainability of the movement, such as in the example of the protest against the construction of a reservoir in Lambo, East Nusa Tenggara, which was legitimised under the National Strategic Project of Indonesia. Based on the Indigenous Peoples’ Alliance of the Archipelago’s (AMAN) documentation, ELSAM noted that the women of Redubutowe served on the frontlines during several blockades.²¹ In one of the blockade actions, the women who are mainly mothers were documented using topless strikes in front of the police officials that came to guard the measuring process of Lambo Reservoir construction. The mothers faced physical and psychological attacks during the protest. In addition, the mothers in Sigapiton Village in North Sumatera carried out a similar protest. They tried to protect their land from exploitation by the tourism industry in Lake Toba.²² Another case comes from the farmer groups of Sunario Jaya in the transmigration zone in Rio Pakava, Central Sulawesi. The land grabbing, which is perpetuated by corporations, has impacted communal life.²³ It has had a prolonged impact on the women there, who had to fight a dilapidated system while also battling the additional burden of land-grabbing. The system the women struggle against is characterised by the mismanagement of the extractive industry and other industries that require natural resources,²⁴ in addition to a lack of implementation of gendered ecological justice in these fields. This is an example on how the rights of WHRDs are violated due to their identity as ‘women.’

This snapshot of various cases implies the need to strengthen WHRDs’ protection. In Indonesia, there is no specific regulation regarding the recognition and the protection of WHRDs.²⁵ Nonetheless, WHRDs are still protected under several national policies.²⁶ One of the remarkable policies comes from the National Commission on *Human Rights (Komnas HAM) with their Commissioner Regulation No. 5 Year-2015 on Prosedur Perlindungan terhadap Pembela Ham*

20 Muhammad Azka Fahriza, ‘Tinjauan Situasi Pembela HAM atas Lingkungan: Bertumpu pada Perempuan, Keluarga, dan Komunitas,’ *ELSAM*, 31 December 2021, p. 11.

21 *Ibid.*, pp.11-13

22 ‘Memetakan Mozaik Pelanggaran Hak Asasi Manusia dalam Konteks Pembangunan Pariwisata Berdasarkan Perspektif Bisnis dan HAM,’ *ELSAM*, 11 April 2020, pp. 239–240.

23 ‘Tinjauan Situasi Pembela HAM atas Lingkungan: Bertumpu pada Perempuan, Keluarga, dan Komunitas,’ pp. 21–22.

24 This summary is based on the ELSAM’s research conducted by Muhammad Azka Fahriza and others.

25 Indonesian Center for Environmental Law (ICEL), ‘Mengenal Perlindungan Perempuan Pembela Hak Asasi Manusia (HAM),’ 2021, p. 4.

26 See Article 28(C) and 28(G) of the Constitutional Law 1945; the Law No. 7 Year-1984 on the Ratification of CEDAW; the Law No. 11 Year-2009 on Social Welfare; Law No. 16 Year-2011 on Legal Aid; Presidential Decree No. 18 Year-2014 on Women and Children Protection and Empowerment in Social Conflict; and other related laws.

The system the women struggle against is characterised by the mismanagement of the extractive industry and other industries that require natural resources, in addition to a lack of implementation of gendered ecological justice in these fields. This is an example on how the rights of WHRDs are violated due to their identity as ‘women.’

(The Procedure of Human Rights Defender Protection).²⁷ The regulation sets out the definition of HRDs, the rights of HRDs, and the form of Komnas HAM’s protection strategies. This formal mechanism was established in order to act as guidance to bring justice for HRDs who are vulnerable by providing protection.²⁸ However, after the regulation came into force in 2015, HRDs in general, including WHRDs, were still abused by many parties. To answer this problem, Komnas HAM launched the Standard Norms and Regulations²⁹ (SNP) on Human Rights Defenders in September 2021.³⁰ Through this SNP, Komnas HAM recognises the different vulnerabilities and situations of WHRDs in Indonesia. The degree of applicability of the SNP, in terms of protection strengthening, still needs further assessment.

Notwithstanding the need to assess the SNP further, the current situation implies that the SNP still cannot fully provide protection for WHRDs from intimidation by government officials. This can be seen from the recent case of HRDs, including one WHRD. The Executive Coordinator of the Commission for the Disappeared and Victims of Violence (**KontraS**), Fatia Maulidiyanti, along with fellow HRD, Haris Azhar, discussed the alleged involvement of Indonesian army officials and retirees in plans to mine gold in Blok Wabu in Intan Jaya, Papua in a YouTube video. Not long after that, a lawyer for the Coordinating Minister of Maritime Affairs and Investment issued cease and desist orders against them in August and September 2021, which were followed by a defamation suit.³¹ In January 2022, the police came to Fatia’s house to take her to the Greater Jakarta Metropolitan Regional Office;³² however, she refused, and came to the police station with her lawyer instead. Somehow, the police proceeded with this case quickly, even faster than other cases.³³

27 Commissioner Regulation No. 5 Year-2015 on Prosedur Perlindungan terhadap Pembela HAM (The Procedure of Human Rights Defender Protection), 2015, <https://jdih.go.id/files/665/perkomnas%20no%205%20tahun%202015%20tentang%20prosedur%20perlindungan%20terhadap%20pembela%20ham.pdf>

28 The objective is based on Article 2 of Commissioner Regulation No. 5 Year-2015 on *Prosedur Perlindungan terhadap Pembela HAM*.

29 The official term in the Indonesian language is ‘Standar Norma dan Pengaturan.’

30 National Commission on Human Rights, ‘Komnas HAM Sahkan SNP Pembela HAM,’ 8 September 2021, <https://www.komnasham.go.id/index.php/news/2021/9/8/1888/komnas-ham-sahkan-snp-pembela-ham.html>

31 Bayu Marhaenjati, Heru Andriyanto, ‘Luhut Files Defamation Complaint against Rights Activists,’ *Jakarta Globe*, 22 September 2021, <https://jakartaglobe.id/news/luhut-files-defamation-complaint-against-rights-activists>. The chronology is based on KontraS’ monitoring from 2021 to 2022

32 ‘Police Examine Haris Azhar, Fatia Maulidiyanti Over YouTube Video,’ *JPNN*, 18 January 2022, <https://english.jpnn.com/indonesia/961/police-examine-haris-azhar-fatia-maulidiyanti-over-youtube-video>

33 KontraS, ‘Proses Hukum Atas Kasus Fatia Maulidiyanti dan Haris Azhar adalah Pemidanaan yang Dipaksakan: Jaksa Harus Segera Memberikan Rekomendasi Kepada Penyidik Untuk Menghentikan Proses Penyidikan!’ 27 January 2022, <https://kontras.org/2022/01/27/proses-hukum-atas-kasus-fatia-maulidiyanti-dan-haris-azhar-adalah-pemidanaan-yang-dipaksakan-jaksa-harus-segera-memberikan-rekomendasi-kepada-penyidik-untuk-menghentikan-proses-penyidikan/>

It resulted in her personal security being breached, and she had to move to a safe house for a while as it was no longer safe for her in her own house. This goes to highlight the insecurity WHRDs often experience during the course of their work.

The problematic situation that is faced by WHRDs has to be addressed by the State. The existing regulations are meaningless if they are not fully enforced by the State. There are several recommendations to enhance WHRDs' protection in this regard:

1. To achieve a conducive situation for WHRDs, gendered-perspectives should be mainstreamed in regulations. Indonesia has not yet implemented a special regulation for WHRDs. As such, a realistic way of progressing towards this goal is to implement HRD protection with a gender perspective;
2. NHRIs in Indonesia, especially Komnas HAM and Komnas Perempuan, could collaborate to disseminate the SNP on HRDs developed by Komnas HAM. The SNP on HRDs, developed by Komnas HAM, has already integrated WHRDs' issues and explored the strategy to protect them.³⁴ However, we gather that there are law enforcement officers and governmental officers who do not yet understand the SNP, resulting in the lack of comprehensive protection and prevention measures to address recurring violations against WHRDs. The gradual dissemination could support better understanding for many parties, which could decrease violations; and
3. The previous two recommendations need to be done at the same time as changing existing laws and regulations that criminalise WHRDs.³⁵

Further on, we may need to explore the possibility of legitimising HRDs' and WHRDs' protection under national laws. Given the current situation, we still have a long way to go to get there.

34 Komnas HAM, 'Standar Norma Dan Pengaturan Nomor 6 Tentang Pembela Hak Asasi Manusia,' 2021, <https://www.komnasham.go.id/files/1635987255-standar-norma-dan-pengaturan-nomor-6-05FFZ.pdf>

35 For example, the Law No. 11 of 2008 of Electronic Information and Transaction that has been hampering HRDs and WHRDs' freedom to expression. An elaboration of this issue is available here: Lembaga Studi & Advokasi Masyarakat, 'Amendment of Law on Electronic Information and Transaction (UU ITE) still potentially threat Freedom of Expression,' 27 October 2016, <https://elsam.or.id/amendment-of-law-on-electronic-information-and-transaction-uu-ite-still-potentially-threat-freedom-of-expression/>



How Can NHRIs Better Protect WHRDs?

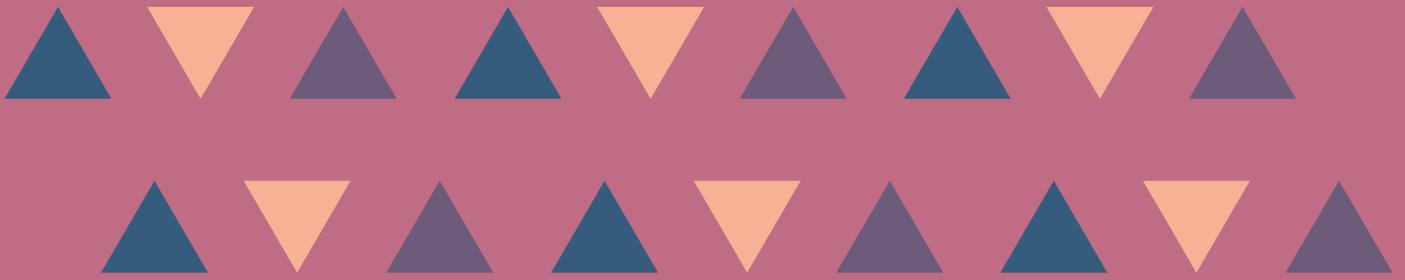


Overview of the session at the 9th Asian Human Rights Defenders Forum

In June 2021, the Asian NGO Network on National Human Rights Institutions (ANNI) Secretariat at FORUM-ASIA organised a session at the 9th Asian Human Rights Defenders Forum (AHRDF9) with the support of APF titled, **'How Can NHRIs Better Protect WHRDs?'** This event was conceptualised and organised in recognition of the challenges faced by WHRDs in the Asian region; the need for NHRIs to develop and improve protection mechanisms for them, especially in countries where no such mechanisms exist; and the need to ensure that existing instruments and action plans at the regional and national levels are implemented effectively, with gender-specific responses and protection measures, for WHRDs to operate in a safe and enabling environment. The event, which saw the participation of WHRDs, civil society activists, and representatives from NHRIs, regional and global networks, was a space for delving deeper into the challenges and concerns of WHRDs, as well as of NHRIs in working towards their protection. During the event, participants addressed the situation of WHRDs in various country-specific contexts from Asia; shared best practices from their work; and raised common challenges that both WHRDs and NHRIs face, leading to a broader consensus on the aspects of WHRD protection that NHRIs in the region should focus on.

The questions for discussion were:

- 1) *What are the challenges for WHRDs in relation to receiving protection, especially from NHRIs? What are the challenges for NHRIs (if any) in providing support to WHRDs?*
- 2) *What can civil society, other stakeholders and NHRIs do to better support and protect WHRDs?*
- 3) *Ways forward: what can you do at an individual/organisational level to advocate for this cause in your country?*



Challenges and concerns of WHRDs and NHRIs

Based on discussions amongst participants at this session, the following have been identified as broad challenges and concerns of WHRDs. NHRI representative attendees echoed some of the concerns as well:

Representation and leadership within NHRIs

A common concern raised by participants was the lack of women leadership, or a stronger presence of WHRDs themselves, within NHRIs in the region. A shared perspective was that having more women in administrative positions, especially as Chairpersons and Commissioners, would allow for more institutional assistance for WHRDs, and for their concerns and causes to be prioritised at the national level. Along with this, having WHRDs be part of NHRIs in these positions could also mean more opportunities for the challenges of WHRDs to be heard and addressed.

From the 18 countries where ANNI has members, 16 had established NHRIs in place – from these, nine NHRIs were headed by men, whereas seven were led by women in 2021.³⁶ However, in various countries in Asia, the gender balance within the Commissions themselves remains skewed.³⁷

36 From the countries where ANNI members are present, the ones where NHRIs were headed by men in 2021 included: India, Indonesia, Malaysia, Mongolia, Myanmar, Nepal, the Philippines, South Korea, and Sri Lanka. The countries where the Commissions were headed by women included: Afghanistan, Bangladesh, the Maldives, Taiwan, Timor-Leste, Thailand, and Pakistan (from November 2021 onwards).

37 From the countries where ANNI members are present, the ones where NHRIs were headed by men FORUM-ASIA and ANNI, 'ANNI Report 2020 on the Performance and Establishment of National Human Rights Institutions in Asia,' December 2021, https://www.forum-asia.org/uploads/wp/2021/12/ANNI-Report_Pages_v2.pdf



Non-existent or weak policies on W/HRDs

In consonance with the point above, participants also shared the challenges of not having W/HRD-specific legislation or policies in their countries, and in the few cases where they did exist, they were weakened by the lack of legal obligation for governments to adhere to them. For example, in the case of Indonesia, the National Commission on Violence against Women (Komnas Perempuan) – an independent state institution for the enforcement of women’s rights³⁸ – has the mandate to make recommendations to the Government; however, it does not have the legal authority to enforce these recommendations.

Vilification of WHRDs and scope of their work

Many WHRDs carry out human rights work and advocacy in countries and contexts that are still patriarchal and male-dominated. In these situations, participating WHRDs reported instances of vilification of WHRDs with stronger voices who challenge the status quo. Along with the everyday challenges of working in these spaces, they also shared that, for reasons of safety and for their own protection, WHRDs are compelled to work on thematic issues that are considered to be ‘safe.’ This points to the lack of protection measures to ensure that safe and enabling environments are created for WHRDs to carry out their work, thereby adversely affecting their ability to engage in human rights protection.

The impact of authoritarian governments and repressive laws on the functioning of NHRIs

In several countries in Asia, the last few years have seen a steady rise in authoritarian governments,³⁹ with the human rights situation witnessing a further deterioration in the aftermath of the COVID-19 pandemic. Alongside this, a number of governments have enacted repressive laws during this period, which have further impacted W/HRDs and their work.⁴⁰

These have had a detrimental impact on NHRIs in the region, affecting their ability to effectively implement their mandate.⁴¹ In the process, HRDs, and especially WHRDs, stand at greater risk, since their protection is not guaranteed when the NHRI itself is impacted as a result of these measures. Participants shared that in many of their countries, especially in South Asia, NHRI independence has been undermined by the State.

38 UN Women, Global Database on Violence Against Women, ‘National Commission for Eradication of Violence against Women (Komnas Perempuan),’ accessed 1 April 2022, <https://evaw-global-database.unwomen.org/en/countries/asia/indonesia/1998/national-commission-for-eradication-of-violence-against-women-komnas-perempuan>

39 Freedom House, ‘Freedom in the World 2022: The Global Expansion of Authoritarian Rule,’ February 2022, https://freedomhouse.org/sites/default/files/2022-02/FIW_2022_PDF_Booklet_Digital_Final_Web.pdf

40 FORUM-ASIA, ‘Repressive laws: Quarterly Reports,’ accessed 1 April 2022, <https://forum-asia.org/hrlaw/quarterly-reports/>

41 FORUM-ASIA, ANNI, ‘ANNI Report 2020: Executive Summary,’ December 2021, https://www.forum-asia.org/uploads/wp/2021/12/ANNI-Summary_Pages_v2.pdf



Lack of trust between civil society and the NHRI

A sentiment shared by the participants at the session was the lack of trust between civil society and the NHRIs in many countries across Asia. This can be attributed to several factors: the increase in authoritarian regimes and governments in the region and the erosion of democratic governance and the rule of law; the impact on the independence of NHRIs due to their funding being dependent on their respective governments; the lack of support available from NHRIs for HRDs, especially in situations of conflict, political upheaval, or reprisals from state and non-state actors; and perceptions of political interference in the selection and appointment process of Commissioners in many NHRIs.

Lack of independence, resources, and awareness

Following from the previous point, another challenge shared by participants – both WHRDs and NHRIs alike – is the NHRIs' lack of capability to operate and implement their mandates effectively and independently. Along with this, the lack of financial resources and reduced number of staff after the COVID-19 pandemic has had a detrimental impact on the functioning of NHRIs.⁴² Here, once again, WHRDs and their challenges have not received much attention or support.

Another concern is the lack of awareness of the challenges of WHRDs within commissions and amongst their staff, and the lack of focal persons designated solely for addressing human rights violations against WHRDs. While some NHRIs in Asia have appointed focal persons on HRDs to specifically address their complaints and cases, there is no NHRI so far that has specifically designated a focal person to address cases and violations against WHRDs.

Changes in the status and functioning of the NHRI during a political upheaval

Since February 2021, in the aftermath of the attempted coup d'état by the military junta in Myanmar, human rights violations have increased in the country. Civil society has been critical of the performance of the Myanmar National Human Rights Commission (**MNHRC**) in not denouncing human rights violations by the military.⁴³ This, as shared by some participants, has made it very difficult for WHRDs to get protection from the MNHRC, and has drastically lowered their trust in the institution.

42 FORUM-ASIA, ANNI, 'Brief: National Human Rights Institutions' Responses to COVID-19,' December 2020, <https://www.forum-asia.org/uploads/wp/2020/12/Report-ANNI.pdf>

43 Progressive Voice, 'You're the Devil In Disguise: the duplicitous, obsolete MNHRC,' December 2021, https://progressivevoicemyanmar.org/wp-content/uploads/2021/12/LO_myanmarFINR4.pdf; FORUM-ASIA, ANNI, 'Myanmar National Human Rights Commission (MNHRC) Must Denounce the Military Coup and Uphold Fundamental Rights of Peoples,' 16 February 2021, <https://www.forum-asia.org/?p=33900>

Similarly, the ability of the Afghanistan Independent Human Rights Commission to implement its mandate effectively was strongly impacted by the takeover of the country by the Taliban in August 2021,⁴⁴ raising grave concerns for the safety and rights of women and girls in the country,⁴⁵ including WHRDs.

Threats to the NHRI

There has been a long-standing recognition of the challenges faced by NHRIs and that NHRIs themselves can be considered as HRDs, given the role they play in upholding and protecting human rights, as well as the risks they face in the course of their work.⁴⁶

One of the examples raised was that of the CHR in the Philippines. Along with indigenous HRDs, human rights groups, individuals, and CSOs, the staff of the CHR has also been red-tagged by state officials; in particular, a woman Commissioner of the CHR.⁴⁷ This is even more alarming given that the Commission, while an independent institution, is appointed by the President. The Government has often curtailed investigations and poses several challenges to the CHR in its work.⁴⁸

Another example is Suruhanjaya Hak Asasi Manusia or SUHAKAM, the Malaysian NHRI, whose Commissioners were called in for questioning by police officials over their attendance at a protest in their monitoring role as an NHRI.⁴⁹

Examples like these show that even NHRIs are not immune from threats and reprisals by the State and continue to walk a difficult line in balancing their role as a bridge between civil society and the Government.

44 AIHRC, 'Statement on the status of the Afghanistan Independent Human Rights Commission,' 18 September 2021, <https://www.aihrc.org.af/home/press-release/91138>

45 GANHRI, 'Statement to the 31st Special Session of the Human Rights Council on the Serious human rights concerns and situation in Afghanistan,' 24 August 2021, <https://ganhri.org/wp-content/uploads/2021/08/GANHRI-Statement-HRC-Special-Session-Afghanistan.pdf>

46 UN Human Rights Council, 'Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya,' UN Doc. A/HRC/25/55, 23 December 2013.

47 OHCHR, 'Philippines: Drop murder charge against indigenous rights defender, UN experts urge,' 28 January 2021, <https://www.ohchr.org/en/press-releases/2021/01/philippines-drop-murder-charge-against-indigenous-rights-defender-un-experts>

48 CHR, 'Report on the Situation of Human Rights Defenders in the Philippines,' July 2020, <https://chr.gov.ph/wp-content/uploads/2020/07/CHRP-2020-Report-on-the-Situation-of-Human-Rights-Defenders.pdf>

49 Malaysiakini, 'Suhakam disappointed commissioners called by cops over #Lawan protest,' 8 August 2021, <https://www.malaysiakini.com/news/586383>

What can civil society, other stakeholders, and NHRIs do?

With the various challenges identified, the next step would be to identify what civil society, other stakeholders, and NHRIs can do for the protection of WHRDs. Participants have collectively shared the following measures, which can be implemented towards this achieving this goal:

Focusing on representation and leadership

For their part, NHRIs and governments can work together to appoint more women and lesbian, gay, bisexual, transgender, intersex, questioning/queer identities (**LGBTIQ**) persons in leadership and senior administrative positions to the institution, beyond the minimum requirements stipulated in the enabling laws of NHRIs. This would reflect pluralism within these institutions, which is a core requirement of the Paris Principles, and would provide for a diversity of viewpoints and experience in addressing the issues before the NHRI.

Similarly, CSOs can also re-evaluate their current organisational structures and pave the way for more women and LGBTIQ persons to lead organisations. With more space for WHRDs to lead, they will be in a better position to be heard by governments, NHRIs, and other stakeholders, and will be able to effectively, and more accurately, raise their concerns based on their own lived experiences.

Fostering trust between NHRIs and civil society

As a trust deficit between NHRIs, WHRDs, and civil society at-large has been identified as a challenge, it is important to find ways in which this can be reduced. A suggestion from the discussion was for NHRIs to reach out to WHRDs at the local level especially, which would bring more attention to their challenges and conditions, and would raise awareness at both the local and national level. At the same time, WHRDs have shared that trust between the NHRIs can be further strengthened by NHRIs involving them more regularly at national and international forums. This would help amplify the voices and situation of WHRDs, give more representation, recognition, and visibility to their cause, and would ensure that they have a seat at the table for matters that affect them most.

Alongside this, WHRDs would also like NHRIs to focus on corporate violence against them, and seek accountability from corporations and other non-state actors. There are several

documented cases of WHRDs in Asia being targeted by corporations for their advocacy on business and human rights (BHR) issues,⁵⁰ including a former NHRI Commissioner,⁵¹ and it is an issue that affects WHRDs across countries.

At their level, WHRDs shared that they can work on educating more people at the local level about the work they do, bring it closer to the ground, and make it more accessible for people to engage with. They can also work on supporting the building of inclusive and strong movements of WHRDs within the local and national context.

Local networks, international engagement

Building on the previous point, the establishment of formal and informal networks and coalitions of WHRDs within country contexts, or even across countries, is vital for building solidarity among WHRDs and for bringing attention to their cause at the local, national, regional, or even international level.

An example of this is a women's organisation in Pakistan, which has established a WHRD forum with grassroots WHRDs. They are utilising this forum to amplify their voices to the authorities and are trying to follow-up on their country's commitment to international treaties. Doing this, they feel, is important to ***link various WHRD voices to one another, then raise issues to the authorities in-country, and then actively urge the international community to remind the NHRI to act on their mandates.***

Better communication within NHRIs and other national institutions

In countries where multiple national institutions exist – such as in India⁵² or Indonesia⁵³ – better communication among the various institutions can go a long way in ensuring timely justice and support for W/HRDs. In India, as some participants shared, the State Human Rights Commissions (SHRCs) and the National Human Rights Commission of India (NHRCI) can actively work to bridge the link between themselves in order to amplify larger issues that concern WHRDs. This can be done when institutions at different levels work on similar issues or cases; there is then scope for them to align and consolidate their work, and to apply the learning and best practices from one to the other. For other countries where multiple national institutions exist, this could serve as a best practice as well.

50 Syme de Leon and Sejin Kim, 'Women Human Rights Defenders: Insights from the Struggle,' FORUM-ASIA

51 Fortify Rights, 'Thailand: Drop Criminal Complaint Against Former Thailand National Human Rights Commissioner and 2019 Magsaysay Award Winner Angkhana Neelapaijit,' 2 March 2020, <https://www.fortifyrights.org/tha-inv-2022-03-02/>

52 In India, the National Human Rights Commission (NHRCI) is among 170 other national and state thematic human rights institutions in the country.

53 In Indonesia, various national institutions responsible for the promotion and protection of human rights and rule of law exist alongside the NHRI and Komnas HAM.



Where the NHRI is selective in the issues it chooses to address, CSOs working in this field can play a strong role in this regard, and can try to exert pressure on the NHRI to respond to the issues of WHRDs.

Feminist documentation

For maintaining a record of human rights violations and cases; building and preserving a collective memory;⁵⁴ keeping a record of one's challenges and work; and addressing systemic discrimination that enables violations against WHRDs –⁵⁵ documentation is vital. As shared by WHRDs in the session, *feminist documentation*⁵⁶ is very necessary in amplifying voices of WHRDs, as information collected over time can be used to raise the challenges of, and human rights violations against, WHRDs with the media. The visibility gained from highlighting the cause of WHRDs can put much-needed pressure on institutions to respond.



Feminist documentation by WHRDs is not only useful for the national context, but also at the international level. *WHRDs play the role of intermediaries*, linking their experiences on the ground with international human rights mechanisms, instruments, and actors. This is particularly useful when interacting with Special Rapporteurs, who have the mandate to work on a specific thematic concern or country.

At an individual level, WHRDs can collect and record data related to attacks against WHRDs, as well as information on other types of violence/harassment, and utilise these data in national and international advocacy.

54 Asia Pacific Forum on Women, Law and Development (APWLD), 'Claiming Rights, Claiming Justice: A Guidebook on Women Human Rights Defenders,' 2007, <https://defendingwomen-defendingrights.org/wp-content/uploads/2014/03/book3NeoWithCovereng.pdf>.

55 Women Human Rights Defenders International Coalition, 'Gendering Documentation: A Manual For and About Women Human Rights Defenders,' 2015, https://www.omct.org/site-resources/legacy/whrd_ic_gendering_documentation_manual_1_2020-12-11-144541.pdf

56 *Ibid.* A feminist approach to documentation of WHRDs' experiences would broadly encompass ways of documenting their unique lived experiences and stories, in particular those of women and LGTBTIQ individuals, in a sensitive, safe, and participatory manner. This approach supports the agency and decision-making of WHRDs and victims and survivors; does not create or perpetuate a hierarchy of risks, violations, or defenders; accords value to acts of resistance; and overall, calls for working within a framework of ethics of care, responsibility, and accountability (see pages 12 and 46).



Engaging with UN mechanisms and Special Procedures

In continuation of the previous point, WHRDs can engage more actively with UN mechanisms and instruments; treaty bodies like the Committee on the Elimination of All Forms of Discrimination Against Women (the Committee, CEDAW);⁵⁷ and with the UN Special Rapporteurs with various mandates to highlight their work, challenges, and best practices, and to bring more visibility to their causes.

NHRIs and CSOs, including those that are WHRD-led or working on issues of concern to WHRDs, can also actively engage with the Universal Periodic Review (UPR) process at the Human Rights Council. The UPR is a useful juncture and a critical tool of engagement for NHRIs and CSOs alike – the former can contribute to the process through shadow or parallel reports on the human rights situation in their country.⁵⁸

Support groups and training opportunities for WHRDs

A requirement stated by participants of the session was the need to create more WHRD support groups – locally, nationally and internationally. The support groups could provide a safe space for conversations needed to highlight the issues women and WHRDs face, and could be created for WHRDs, by WHRDs. These spaces could allow for the sharing of information and knowledge and for collective and collaborative action on several issues.

NHRIs could also work towards creating more opportunities for training for WHRDs by working alongside CSOs to conduct joint workshops and capacity-building initiatives, which would increase their knowledge of national mechanisms and the ways in which they can engage with them for their advocacy.

Advocacy and awareness-building

Raising awareness of the situation of WHRDs and advocating for their protection can be done at various levels. Civil society can continue organising awareness campaigns on this issue, whereas both NHRIs and CSOs can promote examples of WHRDs through individual and joint visibility initiatives.

NHRIs and civil society can also build awareness on being more sensitive towards other dimensions that affect WHRDs, such as sexual orientation, race, class, and other factors, and can develop a gender-sensitive and intersectional approach to addressing their challenges.

57 International Service for Human Rights et al., 'Joint Civil Society Briefing Paper: Committee on the Elimination of Discrimination against Women,' October 2018, <https://ishr.ch/sites/default/files/article/files/cedaw-jointbriefingpaper-whrds-final2.pdf>

58 OHCHR, 'Universal Periodic Review: Tips for Engagement at Country Level for National Human Rights Institutions and Civil Society,' September 2020, https://www.ohchr.org/sites/default/files/Documents/HRBodies/UPR/Tips_21Sept2020.pdf





Psychosocial well-being

WHRDs and CSOs can also work on creating more community awareness about what and who HRDs and WHRDs are, which can be targeted towards young people to increase their awareness for the future.

WHRDs should also recognise the need to familiarise themselves with both national and international laws that protects their rights as WHRDs and work towards utilising these instruments in the course of their work.

Given the precarious conditions WHRDs work in, and the constant risks and reprisals they face as a result of their work, there needs to be a stronger focus on providing psychosocial support to them.

Such support can be provided through well-being programmes by trained practitioners and mental health professionals. The focus should be on an integrated and holistic security approach while providing these services to WHRDs. As HRDs, WHRDs should also focus on taking care of themselves and their psychosocial well-being – especially right now, when WHRDs are facing great challenges in their work, coupled with the challenges brought about by the pandemic. Organisations need to consider allotting time and funds for supporting WHRDs in the short- and long-run.

Another key element of psychosocial support for WHRDs is supporting their families. This aspect of psychosocial support requires more advocacy, especially since WHRDs' families (including children) can be affected by the perils of the WHRD's work or are sometimes responsible for perpetuating violence and stereotypes against them.⁵⁹ It is important to note here that WHRDs are often tasked with leading roles and duties, expected to perform unpaid domestic and reproductive work for their families and communities, as well participating in productive work to support their dependents.⁶⁰ By acknowledging these challenges and experiences, providing the necessary support and sensitisation can go a long way.

With the COVID-19 pandemic resulting in a shift to online working arrangements, CSOs can try to assist WHRDs receiving this support in various ways. Using online platforms (such as Zoom) can help in facilitating online well-being sessions for individuals or groups. Hotlines are also very helpful, and counselling helps in strengthening the movement and in preventing burnout.

However, at the same time, it is important for civil society to be mindful of the challenges that WHRDs face, such as a gaping digital divide and difficulty in accessing the internet in the remote

59 OHCHR, 'Women Human Rights Defenders,' September 2014, www.ohchr.org/sites/default/files/Documents/Events/WHRD/OnePagerWHRD.pdf

60 Syme de Leon and Sejin Kim, 'Women Human Rights Defenders: Insights from the Struggle,' FORUM-ASIA.

Funding and technical assistance

parts of societies. While providing psychosocial support, it is important to be mindful and consider options that are more feasible and easily available in such regions. Alongside this, it is also necessary to be careful about who is providing psychosocial support and to develop and endorse policies on mental health and well-being.

To be able to effectively support WHRDs, NHRIs require funding and technical assistance, as well as capacity-development support. Most NHRIs in Asia have been dependent on funding from the State,⁶¹ which varies per country and is not always adequate for the NHRI to operate its mandate effectively.⁶² Specifically, NHRIs' concerns have included: requiring support in securing financial assistance; training and capacity development activities for NHRI staff; political support for decisions and recommendations made by NHRIs; targeted technical assistance that builds on expertise on substantive human rights issues; and increased awareness about the role of NHRIs amongst government agencies, among others.⁶³

To address the challenges of inconsistent financing and varied levels of capacity that hinder the functioning of NHRIs, the TriPartite Partnership to Support NHRIs,⁶⁴ formed by GANHRI, the United Nations Development Programme (UNDP), and the United Nations Office of the High Commissioner for Human Rights (OHCHR), serves as a good example of how technical and financial support, when provided in conjunction with one other, can strengthen and promote the capacity development of NHRIs.

Additionally, NHRIs can work alongside the UNDP as a coordinating agent under an umbrella project, which can cover the technical assistance needs of the institution, and can encourage and bring together other donors to join.⁶⁵

61 Siân Herbert. 'Aid to national human rights institutions,' *GSDRC*, 19 April 2013, <http://gsdrc.org/docs/open/hdq928.pdf>

62 OHCHR. 'Survey on National Human Rights Institutions: Report on the findings and recommendations of a questionnaire addressed to NHRIs worldwide,' July 2009, http://w02.unssc.org/freeresources/UNDP-OHCHRToolkit/pdf/Questionnaire-Complete_Report_FINAL-edited-1.pdf?msclkid=6e1981acb33711ec961a251644953d55

63 *Ibid*

64 GANHRI, UNDP, and OHCHR. 'TriPartite Partnership to Support National Human Rights Institutions,' 21 June 2021, <https://www.undp.org/publications/tripartite-partnership-support-national-human-rights-institutions>

65 UNDP and OHCHR. 'UNDP-OHCHR Toolkit: for collaboration with National Human Rights Institutions,' December 2010, <https://www.ohchr.org/sites/default/files/Documents/Countries/NHRI/1950-UNDP-UHCHR-Toolkit-LR.pdf>





Recommendations

With the challenges WHRDs face and the potential measures WHRDs and NHRIs can take in working towards their overall protection and well-being in mind, the following are some recommendations for consideration:

For NHRIs

1. Gender-responsiveness and mainstreaming

- Increase gender diversity within NHRIs. NHRIs need to incorporate gender mainstreaming in their work, and apply a gender-responsive approach and lens towards the scope of their activities and mandate;
- Ensure mandatory and equal representation of women in NHRIs, especially in leadership positions, by advocating for amendments to enabling laws, such as the selection and appointment process; and
- Broaden the scope of NHRIs' mandates to include LGBTIQ persons, persons with disabilities, as well as persons from religious minorities.⁶⁶ The inclusion of these groups in NHRIs' mandates would institutionalise provisions for their protection and ensure their inclusion in policies and protection measures.

2. Protection of WHRDs

- Ensure that protection legislations and mechanisms do not re-victimise WHRDs;
- Amplify WHRDs' voices to decision makers to address their challenges and hear their concerns;
- Call on governments to protect and create an enabling environment for WHRDs and the communities they work with;
- Conduct training and stakeholder consultations for law-enforcement agencies, NHRI staff, and other stakeholders on the challenges faced by WHRDs and how to jointly work on the way forward;

66 If WHRDs belong to a religious minority, then they face even more challenges, as they often are the targets of States and other actors. Their situation is even more precarious if they are also persons with disabilities and/or from the transgender community.



- Improve visibility for their cause and ensure their protection through advocating strongly on this issue;
- Increase efforts to build trust between NHRIs, W/HRDs, and civil society; and
- Engage more closely with WHRDs, understand their challenges and working conditions, and work towards ensuring holistic protection for them.

3. Enabling laws, appointments, and budgets

- Advocate for amendments to the enabling laws of NHRIs, in order for them to be independent, Paris Principles-compliant, and responsive to the situation of W/HRDs;
- Advocate against repressive laws that negatively impact WHRDs and for enactment and development of WHRD protection legislation;
- Advocate for ensuring transparency, independence, and accountability in the selection and appointments of NHRI commissioners and staff, which should not be influenced heavily by the Government of the day; and
- Increase the budgets of NHRIs, specifically to cover costs related to collecting evidence on human rights violations, threats, reprisals, and cases against WHRDs, as well as to support protection initiatives, such as temporary relocation for WHRDs.

4. Investigations

- Accelerate investigations for cases of violence against WHRDs;
- Conduct regular documentation on violations against WHRDs; and
- Seek greater accountability from those who harass and condemn WHRDs.

5. Regional mechanisms and collaboration

- Engage with the Regional Action Plan on HRDs by the APF, to promote gender equality and mainstream the recognition of WHRDs;
- Strengthen sub-regional mechanisms like the Southeast Asia National Human Rights Institution Forum (SEANF) with more involvement of civil society, and raise the challenges of WHRDs at this forum; and
- Further cross-border collaborations between NHRIs through the development of shared protection mechanisms (i.e. foster cross-border advocacy between NHRIs)





For WHRDs

1. Representation, recognition, and resourcing

- Advocate for better representation of WHRDs – especially women and LGBTIQ persons – in the selection and appointment processes of NHRI Commissioners and staff;
- Urge NHRIs to bridge the role between governments, communities, and corporations, and raise awareness on the situation of WHRDs, including providing capacity building and education on the issue;
- Urge state authorities to allocate sufficient resources and ensure the autonomous operation of NHRIs; and
- Advocate for the UN and international community to increase the attention paid to the cause of WHRDs as local communities on the ground continue to face many challenges.

2. Strengthening networks

- Strengthen networking and sharing of experiences between networks of W/HRDs; and
- Strengthen collaboration between WHRDs, civil society and governments to encourage the formulation of regulations which can support the protection of WHRDs

3. Advocacy, education, and well-being

- Engage more proactively to promote activities by, for, and of WHRDs at the local, national, and international levels;
- Impart political education for women and WHRDs at the grassroots level to enable them to actively participate and have an important voice in political processes; and
- Focus on providing psychosocial well-being to fellow WHRDs by working with trained counsellors and CSOs



For Donors

- Support NHRIs by providing capacity-development opportunities at the national, regional, and international level; and
- Provide financial and technical assistance to NHRIs, in coordination with the UN and UNDP, to better capacitate them to provide effective support to WHRDs.

Other recommendations

- Organisations like FORUM-ASIA and networks like ANNI can continue engaging with APF to encourage and advocate for the strengthening of NHRIs for them to effectively implement their mandate and support W/HRDs;
- FORUM-ASIA and ANNI can work closely with WHRDs and CSOs in Asia to document human rights violations against them and raise these violations with NHRIs and stakeholders at the regional and international levels; and
- APF can liaise with CSOs, NHRIs, and governments to advocate for stronger protection mechanisms for WHRDs, and to effectively implement the Regional Action Plan on HRDs.





The Way Forward



The Way Forward

This thematic report, by drawing from the discussions that took place among NHRI, WHRD, and civil society participants at a session at the AHRDF9 in June 2021, hopes to spark further conversations on the issue of WHRD protection by NHRIs. FORUM-ASIA, ANNI, and APF hope that this document and its contents can serve as an advocacy tool for NHRIs and WHRDs in their efforts to ensure the protection of WHRDs in Asia.

The situation is dire: human rights violations and reprisals against HRDs are steadily increasing; authoritarian governments increasingly claim power, while civic spaces continue to shrink in Asia; and the effects of the COVID-19 pandemic continue to be felt by WHRDs, who face harsh conditions in which to work. However, while the road ahead is long, the recommendations offered in this report offer varied pathways towards addressing and responding to these realities with a view towards protecting and supporting WHRDs. If implemented with administrative will, gender-sensitivity, and collaborative effort, these recommendations could eventually result in stronger protection mechanisms for WHRDs in the region.

NHRIs are well-placed to address the human rights violations against WHRDs and to ensure a safe and enabling environment for them to work. With resolve, NHRIs in Asia could play a critical and leading role in supporting WHRDs in their struggles and movements for securing and advancing human rights for all.

FORUM-ASIA, ANNI, and APF remain committed to advancing the cause of W/HRDs in Asia, and to advocating for their protection. FORUM-ASIA and ANNI's advocacy, documentation, and research on this issue, in tandem with the implementation of the APF's Regional Action Plan on HRDs, will hopefully see more NHRIs in the region advocate for protection mechanisms for WHRDs in their countries in the coming years.





Acronyms



AHRDF9 – 9th Asian Human Rights Defenders Forum

ANNI – Asian NGO Network on National Human Rights Institutions

APF – Asia Pacific Forum of National Human Rights Institutions

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

CHR – Commission on Human Rights, Philippines

CHRD – Centre for Human Rights and Development, Mongolia

COVID-19 – Coronavirus disease 2019

CSO(s) – Civil society organisation(s)

ELSAM – Institute for Policy Research and Advocacy (*Indonesian: Lembaga Studi dan Advokasi Masyarakat*)

FORUM-ASIA – Asian Forum for Human Rights and Development

GANHRI – Global Alliance of National Human Rights Institutions

HRD(s) – Human rights defender(s)

Komnas HAM – National Commission on Human Rights, Indonesia (*Indonesian: Komisi Nasional Hak Asasi Manusia*)

Komnas Perempuan – National Commission on Violence against Women, Indonesia (*Indonesian: Komisi Nasional Anti Kekerasan terhadap Perempuan*)





KontraS – Commission for the Disappeared and Victims of Violence
(*Indonesian: Komisi untuk Orang Hilang dan Korban Tindak Kekerasan*)

LGBTIQ – Lesbian, gay, bisexual, transgender, intersex, questioning/queer identities

NIA – National Investigation Agency (India)

NHRI – National Human Rights Institution

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

SNP – Standard Norms and Regulations (*Indonesian: Standar Norma dan Pengaturan*)

UN – United Nations

UNDP – United Nations Development Programme

UPR – Universal Periodic Review

WHRD(s) – Women human rights defender(s)



**Making Institutions Count:
Strengthening Support
for Women Human Rights
Defenders in Asia by
National Human
Rights Institutions**



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