Defenders in Asia: Holding the Line Amid Mounting Challenges

Executive Summary from United Nations 49th Regular Session of Human Rights Council Side Event
As human rights defenders (HRDs) of Asia work relentlessly to advance and uphold human rights in the region, they also face strong backlash and harassment from both State and non-State actors. On 8 March 2022, the Asian Forum for Human Rights and Development (FORUM-ASIA), with the collaboration of CIVICUS, the World Organisation Against Torture (OMCT), and International Service for Human Rights held an online side event at the 49th Regular Session of the UN Human Rights Council (HRC) to discuss the challenges that HRDs across Asia face along with their struggle in the front line of the fight to promote human rights.

The event opened with an acknowledgement of International Women’s Day, the day on which the event was held, and a recognition of women human rights defenders (WHRDs) who persevere in the face of intersectional challenges due to their work and identity. Since 2021, FORUM-ASIA documented 1,153 cases of harassment against HRDs in Asia, with 339 of them having involved WHRDs.¹

Mary Lawlor, the UN Special Rapporteur on the Situation of Human Rights Defenders, started her keynote speech by recognizing and applauding the extraordinary work and solidarity of HRDs in face of challenges. The speech was followed by reflections on specific challenges and human rights situations in India, Cambodia, Indonesia, and Bangladesh, as well as hopes and recommendations from the following speakers: Vrinda Grover, Advocate at the Supreme Court of India; Sopheap Chak, Executive Director of the Cambodia Center for Human Rights; Haris Azhar, Co-founder of Lokataru Foundation in Indonesia; and Mohammad Ashrafuzzaman, Programme Coordinator at Asian Legal Resource Centre / Asian Human Rights Commission.

¹ The data is up to date as of 20 June 2022, available at https://asianhrds.forum-asia.org/en/page/pnvxtS1xe.
India – Using Law as a Weapon and Suppressing Minority Rights

Vrinda Grover asserted that law has often been used as a weapon in India to intimidate and incarcerate HRDs. FORUM-ASIA recorded approximately 80 cases of judicial harassment in India since January 2021, affecting the freedom of expression and the right to liberty and security of many HRDs in India. Grover raised the example of Father Stan Swamy, who passed away on 5 July 2021 at the age of 84 while in pretrial detention based on fabricated terrorism charges due to his human rights work.

The judicial harassment of HRDs shows that the State is in fear of their work and the impact that they have on the society. Grover noted, “It has become clear to us that the State is scared. The State fears human rights defenders.” Even more so with the advancement of technology, the State is engaging in cyber surveillance, suppressing the freedom of expression and the freedom of assembly and association of many HRDs who have moved online.

Also highlighted was the deteriorating status of minority rights in the country, such as the introduction of discriminatory citizenship law and the arrest of many young Muslim HRDs who were protesting the law in 2020. The suppression also manifested in the incarceration of activists and journalists who have been reporting human rights violations in Kashmir.

Cambodia – Crackdown on Civil Society and Women’s Rights

In the recent few years, Cambodia saw a crackdown on civil society actors and arbitrary dissolution of opposing political parties. Moreover, the government introduced new policies and laws which led to an arbitrary restriction on certain rights and freedoms. Chak expressed her concern at the targeting of environmental activists and union workers, and the increased risk that WHRDs face. The workers of the NagaWorld the majority of whom are women, have experienced intimidation and harassment, including a restriction of their access to toilets, due to their protests to demand the reinstatement of their colleagues who were laid off as well as the release of their union leaders. Moreover, the Friday Women, who are gathering weekly to demand the release of their husbands who belonged to the disbanded opposition party, have also experienced a violation of their freedom of peaceful assembly and of association through intimidation and violence from authorities. In the face of these challenges, COVID-19 restrictions have worsened the situation. For example, over 100 of workers at Naga Corp have been arrested and brought into detention/quarantine centers allegedly for COVID-19 prevention. While in quarantine, some of the workers were denied access to basic sanitary items, even when their families insisted on delivering them.

While the situation is grim, Sophong Chak encouraged HRDs with words of hope. “Never give up, together we stand up for human rights. Only when we continue to do so, we don’t let the crackdown be the victory.”

Indonesia – Business and Human Rights, and Targeted Attacks on HRDs

Haris Azhar emphasised the challenges that the enactment of Indonesia’s Law No. 11 of 2020 on Job Creation (the Omnibus Law) has imposed on the civil society. Azhar explained that “the flawed Omnibus Law has been criticised widely by civil society. This law integrates issues across more than 70 sectors.” The government abuses the legal system to its benefit, and especially the judicial harassment against WHRDs, workers, journalists, indigenous activists, and the youth has been rampant in the past few years. This is well illustrated in the civil and criminal complaints against Azhar and Fatia Maulidiyanti, who is also a defender, for a video in which they discussed human rights violations in the mining project and the military operations in Papua, as well as the government official’s involvement in them. The judicial harassment against Azhar and Maulidiyanti continues until now, with the criminal case against them still ongoing.

Moreover, the targeting and extrajudicial killings of HRDs such as the killing of Peri Asso by the police during a peaceful
demonstration in Papua, and doxing (a common form of online harassment) have been marked as prevalent forms of violations against HRDs in Indonesia. In general, the centralization and control of the government, along with its increasing cooperation with the business sector, have been mentioned as common human rights issues. Azhar sought best practices in engaging with the business sector and encouraging them to consider human rights, and encouraged the local and international community to support the democratization work of youth activists.

Bangladesh – Enforced Disappearance and Harassment of HRDs

Mohammad Ashrafuzzaman discussed the pattern of authoritarian governments repressing HRDs' rights in Asia, often in the form of judicial harassment and intimidation against HRDs. In more extreme cases, HRDs were subjected to violence and forcibly disappeared. “It is hard to enjoy any of our rights with the belief that we can be safe,” Ashrafuzzaman said.

Ashrafuzzaman discussed the case of his colleagues, Adilur Rahman Khan and Nasiruddin Elan, who have been facing prosecution before the Cyber Tribunal of Dhaka under the draconian Information and Communication Technology Act. Khan and Elan are each the Secretary and the Director of Odhikar, a human rights organisation based in Bangladesh, and have been recording and publishing cases of enforced disappearances and other human rights violations.

Since the HRC side event was held on 8 March, Odhikar and its members have continued to be on the receiving end of harassment and intimidation. On 5 June 2022, the NGO Affairs Bureau of Bangladesh officially cancelled the NGO registration of Odhikar, one of the reasons for which was “spreading propaganda against the state” and the “misleading information” in Odhikar’s publication of extrajudicial killings and forced disappearances. This ongoing judicial harassment against Odhikar is an emblematic case which shows that, as Ashrafuzzaman emphasized, the purpose Ashrafuzzaman emphasized, the purpose of the judiciary system in Bangladesh is not to “give justice to the people,” but rather to “suppress the voice of the people.”

Special Rapporteur’s Key Points

Mary Lawlor emphasised the different walks of life that people come from to become HRDs—NGO workers, journalists, students, trade unionists, and indigenous people—as they unite to fight for human rights. States across Asia have continued the weaponization of law, including criminal law and anti-terrorism law, to restrict and silence HRDs and create a chilling effect on human rights work in general. “Being a human rights defender is an extraordinary work, ordinary people doing extraordinary work, when they don’t know if they can survive the day.” An HRD is not a superhuman, and as Lawlor reiterated, “many are exhausted and scared,” and it is the international community’s responsibility to protect them. Finally, to each speaker’s case studies and reflections, Lawlor had some key points to address and share:

- **India**: Lawlor stated that she will communicate to the Indian Government concerns on the targeting of HRDs, especially of Muslim HRDs and defenders from other minority groups.

- **Cambodia**: Lawlor expressed regret that the crackdown has taken place and even intensified over time as the election is coming up, and young activists are being targeted to the point of being prevented from even starting out on their human rights journey.

- **Indonesia**: Lawlor acknowledged that the Omnibus Law has been designed to target anyone under any pretext to try and stop them from doing their activist work, and committed to finding more information focusing on this issue.

- **Bangladesh**: Lawlor recognized that the judiciary has been targeting different kinds of HRDs, and it is being overlooked by the Permanent Members of the Security Council. She also expressed an interest to collect more information on the rigged elections and the overlook and support by other powerful States.
Recommendations

Lawlor, Grover, Chak, Azhar and Ashrafuzzaman all voiced their appreciation of HRDs from all countries, especially emphasising the current need for their work more than ever. They raised the following recommendations for international community and different stakeholders to support and enhance the HRDs’ work:

**Individual, Organisation, and Community Level**

1. Recognise HRDs’ extraordinary work and call for a stronger solidarity
2. Create global and regional campaigns to focus on the critical role of HRDs
3. Create an enabling environment for young community activists
4. CSOs need to stay engaged with the UN mechanisms
5. Incorporate well-being activities for the HRD community, which are

**State and International Level**

1. Have a clear stakeholder policy, especially that of democratic governments, on their commitment to human rights and HRDs
2. Statutory bodies, such as the National Human Rights Commissions and/or State Human Rights Commissions, should proactively raise issues and concerns on human rights issues
3. Special Rapporteurs should have joint initiatives to discuss judicial harassment against HRDs
4. Mandate holder on Business and Human Rights needs to enhance and intensify their engagement and focus on the issues of corporate accountability on human rights
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