



WOMEN HUMAN RIGHTS DEFENDERS

Insights from the
Struggle

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‘Colossal Force of Action’¹: WHRDs Resist at the UN Human Rights Spaces

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Abstract

Women human rights defenders have long been involved in the United Nations mechanisms and processes, yet it was only in 2002, years after the adoption of the UN Declaration on Human Rights Defenders in 1998, that an articulation of risks and challenges faced by WHRDs was made. This chapter provides an overview of achievements, challenges, and needs to address in retrospect of decades-long work of WHRDs in engaging with the UN, from the Human Rights Council to Special Procedures, and its other mechanisms.

Women human rights defenders (WHRDs), including their networks, coalitions and solidarity movements, have strategically and diligently engaged with the United Nations (UN) human rights mechanisms to build an important body of norms related to their experiences and protection needs.

Despite this growing recognition of the vital role of WHRDs and focus on protecting them, violence against WHRDs at the local and national level is on the increase. This is due to a rise in populism, extremism and fundamentalism – all having led to WHRDs working increasingly in the context of militarisation, religious or cultural extremism, homophobia and transphobia, and corporate power. And

yet, WHRDs in such contexts are at the front lines of struggles to reclaim civic space even as they face a history of discrimination cemented in patriarchal structures, institutions and practices. The resulting backlash is often experienced first by women and gender diverse people themselves, as their rights become deeply politicised and instrumentalised.

The UN intergovernmental spaces are mirrors of such dynamics unfolding in all regions. As WHRDs hold their ground and assert their place in the corridors and meeting rooms, their rights are contested, traded-off and undermined in State-led negotiations.

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This paper pays homage to the decades-long work of WHRDs who played an invaluable role in building the UN Human Rights Council (HRC) and its various processes and mechanisms. It provides an overview of how the earlier UN resolutions would include passing references to WHRDs, moving to an increasingly more nuanced understanding of the specificities of their experiences and a recognition of their vital contributions to human rights movements.

The work of the Special Representative to the Secretary General and the Special Rapporteurs on the situation of Human Rights Defenders

The 1998 UN Declaration on Human Rights Defenders (HRDs) presented an important landmark moment where the right to defend human rights and be protected while engaging in human rights work was squarely provided for in international human rights law. Since its adoption, women's rights advocates and activists mobilised to ground an understanding of the fact that women, trans and gender non-binary activists experience a degree of discrimination and face barriers that their cis male colleagues do not. Furthermore, as argued in *Claiming Rights Claiming Justice: A Guidebook on Women Human Rights Defenders*:

“... it has been difficult to argue for adequate protection for women

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

In her first report to the UN General Assembly (2002), Hina Jilani, the former Special Representative to the Secretary-General on the situation of HRDs, pointed to the particular risks facing WHRDs.

Through consultations, as part of her mandate, narratives on the specificities of the WHRD experiences were given a focus. As a result, it became clear that WHRDs have specific protection needs. Her successor, Special Rapporteur on the situation of HRDs, Margaret Sekaggya, focused her 2010 annual report on WHRDs by drawing analysis from specific cases of violations that her mandate had received concerning the situation of WHRDS.²

1. This has contributed further to some important developments at the international level, including: Bringing greater recognition to WHRDs and their work;

2. Strengthening the legitimacy and credibility of WHRDs;
3. Monitoring systematically threats, challenges and violations experienced by WHRDs;
4. Developing or strengthening various mechanisms and policies protecting the rights of HRDs at the national, regional and international levels;
5. Strengthening networks of solidarity and support that have been built by WHRDs and their supporters.

The current mandate holder, Michel Forst, revisited the situation of WHRDs nearly a decade later. His assessment goes beyond analysis on the basis of communications of individual cases, as he undertook a number of regional consultations to gain deeper insights into the current experiences and needs of WHRDs.

Among the important contributions that his report³ to the HRC in March 2019 made, the following in particular expanded the framework for WHRD protection:

1. Looking into the specific experiences of trans and gender non-binary defenders, and the added challenges they face based on discrimination on grounds of gender identity;
2. Looking into the specific challenges of WHRDs working on the rights of sex workers;
3. Looking into the marginalisation, discrimination and violence that

WHRDs may face from within human rights organisations and movements;

4. Looking into the needs of sustaining feminist movements, and outlining support for the self-defined collective care and protection strategies that are required.

Forst outlined key priorities for supporting WHRD movements, shifting the narrative away from one based on vulnerability and closer to one that supports WHRDs as agents of change. These priorities included:

1. Public recognition for WHRD work and contributions, including through participation in decision-making;
2. Ability to meet and communicate freely to share ideas as well as to create safety networks;
3. Safe and enabling environments to work on the promotion and protection of human rights;
4. Documentation and investigation into allegations of attacks, as well as gender-responsive reparations;
5. Protection mechanisms that demonstrate gender sensitivity, an intersectional approach to assessing the risk and designing the intervention and holistic security with the participation of WHRDs themselves;
6. Holistic security includes psychosocial and emotional wellbeing in addition to physical safety, digital security, etc;

7. Addressing and ending sexism and discrimination against WHRDs exist within organisations and movements
8. Ensuring that feminist movements are sustained through greater funding commitments.

Resolutions at the General Assembly and the Human Rights Council

Since the creation of the HRC in 2006, WHRDs were consistently mentioned in resolutions related to the situation of HRDs. Each reference to WHRDs incrementally created a framework from which WHRD protection could be more deeply interrogated.

The General Assembly resolution 64/163 expressed concern over the serious nature of risks indicated in communications submitted by the Special Rapporteur in particular as faced by WHRDs. It urged States to “to take appropriate measures to address the question of impunity for attacks, threats and acts of intimidation, including cases of gender-based violence, against HRDs and their relatives”. In 2011, the General Assembly built on this to include the question of impunity of non-State actors and their role in gender-based violence and violence against HRDs.

Meanwhile, at the HRC in March 2010, after considering Margaret Sekaggya’s report on WHRDs, States adopted a consensus resolution encouraging them to “create and strengthen mechanisms for consultation and dialogue with human

rights defenders, including through establishing a focal point for human rights defenders within the public administration where it does not exist, with the aim of, inter alia, identifying specific needs for protection, including those of women human rights defenders”.⁴ The following year, the mandate of the Special Rapporteur was extended, asking the mandate-holder to “integrate a gender perspective throughout the work of his/her mandate, paying particular attention to the situation of women human rights defenders”. In March 2013, the HRC once again passed a consensus resolution that expressed “particular concern about systemic and structural discrimination and violence faced by women human rights defenders, and calls upon States to integrate a gender perspective in their efforts to create a safe and enabling environment for the defence of human rights”.

Thereafter, the adoption of the first-ever resolution on WHRDs by the United Nations General Assembly in 2013 presented a significant step forward in recognising the important work of women⁵ who defend rights and of all defenders of rights related to women and gender. The resolution was drafted by Norway who also led in the negotiations towards a consensus text by all member States of the UN.

However, it was regrettable that this consensus came at the expense of a crucial paragraph containing language calling on States to condemn all forms

of violence against women and WHRDs, and to refrain from invoking any customs, tradition or religious consideration to avoid obligations related to the elimination of violence against women. Such language had previously been agreed to by the General Assembly in Resolution 67/144 on the Intensification of Efforts to Eliminate All Forms of Violence Against Women.

Several aspects of the resolution were fiercely debated during negotiations, with African and several Asian States arguing that the text should focus more on the duties and responsibilities of those who defend rights and should not create special rights or privileges for certain groups of defenders.

Also contentious were important references in the initial draft acknowledging the risks faced by those working on issues of sexual and reproductive health and rights, as well as rights related to sexual orientation and gender identity.⁶ These references were excluded in later drafts of the resolution as a result of opposition voiced by a number of States from Africa, Asia and the Holy See.

While the resolution as adopted does not comprehensively address all risks and protection needs of WHRDs, it remains an important resolution that provides a useful tool for the following key reasons:

1. States from all regions have committed themselves to take concrete steps to protect WHRDs;
2. The resolution presents a detailed roadmap for implementation, and provides concrete recommendations to States, NHRIs and multilateral institutions for follow-up;
3. It also presents ‘agreed language’, or text from a UN outcome that enjoys consensus by all UN member States and enables the possibility of building and strengthening norms on this basis.

Our achievements since 2013

While this paper does not set out to capture in detail the full picture, some notable advances have been made at the UN human rights bodies and mechanisms. Of course, each has come with its own risks and challenges, and these are discussed in the subsequent sections.

Human Rights Council

The contributions and situation of WHRDs became increasingly relevant across various other agenda of the HRC, in particular through its women’s rights and gender equality agenda. For example, in June 2014, the resolution on the elimination of discrimination against women and girls in law and practice recognised for the first time “the work done by civil society organizations, in particular independent women’s civil society organizations, is crucial to promoting full equality in all aspects of economic and social life and eliminating violence against women and girls, including women human rights defenders, and that they therefore

require support for their sustainability and growth". At the same session, in a resolution on addressing violence against women as a barrier to women's political and economic empowerment, the HRC condemned "acts of violence against women involved in political processes and public debate, including women parliamentarians, political candidates and human rights defenders".

Special Procedures

An increasing number of mandate-holders are looking at the contributions that WHRDs have made in their areas of focus, signaling the diversity of the movements and the importance of taking intersectional approaches in order to adequately address the multiple forms of oppression within societies. A few examples are discussed here.

The Special Rapporteur on the rights of indigenous peoples, Victoria Lucia Tauli-Corpuz, outlines that WHRDs play a vital role in protecting indigenous communities. She states that WHRDs can be valuable resources to States in the context of balancing their duty to protect all women and the need to respect the right to self-determination and autonomy of indigenous communities. However, in a number of countries, the activities of female HRDs from indigenous communities have been criminalised and they have been subjected to severe forms of violence.⁷

The Special Rapporteur in the field of cultural rights, Karima Bennouna,

outlined that those defending the rights of women to take part in cultural life are de facto cultural rights defenders and the very antidote to fundamentalist and extremist agendas.⁸ She outlined that "women's human rights are often prime sites of threats to universality" and that WHRDs work to take account of misogyny and gender stereotyping in the name of religious and cultural freedom. For this, WHRDs face backlash from the authorities. She illustrates this through the case of Egyptian WHRD Mozn Hassan who has been subjected to travel bans, had her assets frozen and was summoned for interrogation on charges including "changing the cultural values of women and inciting irresponsible liberation of women in society".⁹

The former Special Rapporteur on the right to freedom of peaceful assembly and association, Maina Kiai, identified that women in the context of assemblies are at particular risk from non-State actors. Religious and cultural extremists seeking to impose traditionally-held views on the roles of women have been reported to have attacked women-led assemblies in a number of countries, including in Indonesia and Malaysia.¹⁰

Treaty Bodies

The Committee on the Elimination of Discrimination Against Women (Committee) has progressively become more intentional in seeking out the experiences of WHRDs in the context of States parties reviews. Whereas some years ago the questions remained in

relation to degree of participation of WHRDs in the States reviews, more recently the Committee has interrogated the legislative frameworks that restrict the rights of HRDs, considered cases of reprisals particularly in the case of Saudi Arabian feminists, and has considered questions on wellbeing of WHRD movements.

Meanwhile, the Convention on the Elimination of Discrimination Against Women (CEDAW) and the Committee's General Recommendations contain some standards with regard to recognising WHRDs.

For example, Article 7 of the Convention recognises the rights of women to political and public life, particularly in the development and implementation of government policy. General Recommendation 23 on political and public life articulates, to a certain degree, the rights of women in participating in political parties, trade unions and NGOs. General Recommendation 30 recognises the roles of WHRDs in conflict prevention, conflict and post-conflict situations. It recognises that “[g]ender-based violence also leads to multiple additional human rights violations, such as State or non-State attacks on women’s rights defenders, which undermine women’s equal and meaningful participation in political and public life”. It further calls on States to “address specific risks and particular needs” of WHRDs. General Recommendation 34 recognises the role of the rural WHRDs and the risk of violence

they may face when protecting victims, transforming local customs or securing natural resource rights. It calls on States to “implement measures to prevent and address threats and attacks against rural women human rights defenders, with particular attention to those engaged on issues related to land and natural resources; women’s health, including sexual and reproductive rights; elimination of discriminatory customs and practices; and gender-based violence”. Additionally, General Recommendation 35 highlights that “discrimination against women was inextricably linked to other factors” that included stigmatisation of women who fight for rights. Recommendation 35 further states that “harmful practices and crimes against women human rights defenders, politicians, activists or journalists are also forms of gender-based violence against women affected by such cultural, ideological and political factors”.

However, the Convention does not provide for an explicit right to defend rights, particularly offering protection for the defence of the rights contained within the Convention. The Committee has been filling this gap through its reviews of States parties, by including questions on the situation of WHRDs in their list of issues and in their questions to delegations, as well as outlining measures for follow-up in their concluding observation.

UN agencies

UN Women and the UN Environment Programme (UNEP) have developed strategies and guidances to strengthen

their partnerships with WHRDs as well as to provide a framework for support to movements.

The Women Human Rights Defenders International Coalition made a submission to UN Women to help inform their internal guidance with minimum benchmarks and expectations from WHRD perspectives.¹¹ Among its many recommendations, the Coalition called on UN Women to:

- Ensure engagement and inputs of WHRDs both in the development and implementation of the guidance;
- Ensure that the guidance takes a rights-based approach and is in line with existing human rights standards;
- Address the holistic security needs and concerns of WHRDs;
- Advocate for an enabling and safe environment for WHRDs to do their work, while also calling for accountability of cases of violence and intimidation against WHRDs;
- Create a focal point within UN Women to oversee the implementation of the guidance.

A statement by UN Women recognised the work of WHRDs in giving “a voice to our aspirations for justice and equality”.¹² They noted the challenging contexts in which WHRDs do their work, in particular:

- The rise of political and social conservatism as well as discrimination, including sexism and racism, that are rolling back women’s human rights;

- Criminalisation of advocacy related to women’s rights to make decisions about their reproductive health;
- Ostracisation by their communities on both online and offline public spaces;
- Being subject to sexual violence and harassment for exercising their right to participate in public debate.

Challenges we face

Recent years have shown that world over there is a trend towards democratic societies giving way to increased populist and extremist leadership, while authoritarian institutions and systems consolidate themselves. There has been a shift in foreign policies and in geopolitics resulting in:

1. A well-coordinated anti-rights mobilisation by conservative civil society actors seeking to drive traditional values and cultural relativist discourse through human rights frameworks;
2. A denial of recognition and backlash against rights for HRDs, civil society and social movements, by States;
3. An attack on the human rights institutions themselves, by both State and non-State actors.

We have witnessed the watering down of existing agreements and commitments; deadlock in negotiations; sustained undermining of UN agencies, treaty bodies and Special Procedures; and success in

pushing through regressive language in international human rights documents.

Conservative States, and blocs of States, aggressively negotiate out positive language and introduce hostile amendments to resolutions, most often focusing on rights related to gender and sexuality, as well as on the rights of HRDs. For example, during the June 2016 session of the HRC, opposition was mounted towards a resolution on discrimination against women by the member states of the Organization of Islamic Cooperation (OIC) and allies. During contentious negotiations, multiple provisions were removed, including women's and girls' right to have control over their sexuality, sexual and reproductive health, and reproductive rights; and the need to repeal laws that perpetuate the patriarchal oppression of women and girls in families, and those criminalising adultery or pardoning marital rape. Hostile amendments were also introduced to remove references to WHRDs, but these were voted down.

The HRC has also been the site of unhelpful initiatives to co-opt human rights norms and enact cultural relativist language, such as that of the Russia-led "traditional values" resolutions, and the "Protection of the Family" agenda.

The issue of reprisals faced by WHRDs engaging, or seeking to engage, with the UN system, experts and offices remains of increasing concern. Instances of threats, harassment and violence against

any individual engaging with the UN is increasingly expected, rather than being exceptional. Threats and intimidation have also been extended to Special Procedures mandate holders, particularly those who are women.

Strategies to counter challenges

Working in coalitions and networks, civil society engaging with the UN human rights bodies and mechanisms have identified three key strategies to mitigate the backlash faced by WHRDs engaging in these spaces:

1. Strengthening access and participation of WHRDs by addressing the multiple barriers that cause impediments, including NGO accreditation, resources, discrimination from within movements, among others;
2. Strengthening coalitions for broad-based campaigns and strategic tactics to hold ground on the standards already gained, while advancing rights from feminist perspectives to confront power, privilege and patriarchy';
3. Strengthening the capacity of WHRDs and expanding the pool of expertise in strategic engagement with the UN human rights system.

In conclusion, WHRDs are at the forefronts of struggles against populism, extremism and fundamentalism in all regions of the world. These struggles are mirrored at the UN. Global backlash against gender equality, particularly rights related to

bodily autonomy, present additional challenges to WHRDs who are already working in contexts of shrinking civic space.

A coordinated, well-resourced feminist movement that puts wellbeing and collective care at the centre of its practices are important to not only prevent regress on advances made at the UN level, but also to strategically reclaim UN agenda and spaces from a feminist perspective.

Endnotes

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