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**PROMOTION AND PROTECTION OF HUMAN RIGHTS: HUMAN RIGHTS
DEFENDERS**

**Written statement* submitted by the Asian Forum for Human Rights and Development
(FORUM-ASIA),
a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[13 February 2006]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Item 17(b): Women Human Rights Defenders in Nepal

Introduction

Asian Forum for Human Rights and Development (FORUM-ASIA), a non-governmental organization in special consultative status, wishes to draw the attention of the 62nd session of the Commission on Human Rights to the severe discrimination and marginalization that women human rights defenders (WHRD) in Nepal face during their course of work¹.

This statement first acknowledges that WHRD are an essential part of the peace-building process in Nepal, and then highlights specific violations that WHRD are facing in the changing political scenario of Nepal and the need to protect them to ensure their active political participation for inclusive democracy. Finally, recommendations to those with responsibilities to protect WHRD are outlined.

UN recognition of Women Human Rights Defenders' issues

In her fifth annual report to the General Assembly, Special Representative of the Secretary-General on Human Rights Defenders, Hina Jilani affirms that "without the work of human rights defenders, today, in countries where there is ongoing armed conflict...United Nations systems would be much less well equipped to address the conflict." ² Referring specifically to Nepal as one of the three case studies, the Special Representative points out that Nepali HRDs are making major contributions to address all priority concerns and actions that need to be taken for the restoration of respect for human rights in Nepal, as identified by the 61st Commission on Human Rights. She goes on to say that this is in a context where in some areas there has been almost no remedial action by any other actor. ³

In her report to this 62nd Commission, the Special Representative has also stated that "women defenders are more at risk to certain forms of violence and restrictions and become vulnerable to prejudice, to exclusion and to public repudiation, not only by States forces but by social actors as well, especially when engaged in the defense of women's rights".⁴ The UN has also expressed its commitment to the issue of women's participation in peace building through the Security Council Resolution 1325 on women, peace and security. We welcome this achievement and acknowledge that a good deal of progress has been made in this regard. However, the rate of progress remains extremely slow.

Although an essential part of the peace-building team in armed conflict areas, women human rights defenders experience numerous violations because of their gender.

WHRD and risks they face in the Nepali context

The non-recognition of women human rights defenders can be placed in the larger context of the patriarchal society to suppress women and to confine them to the private sphere. In

¹ Women's Rehabilitation Centre (WOREC) also shares the views expressed in this statement.

² A/60/339 2005

³ Ibid

⁴ E/CN.4/2006/95 – Advanced edited version of 23rd January 2006

Nepali society, where traditional patriarchal norms remain intact, it is even more challenging for WHRDs to work. The non-recognition of their work results in denial of women's contribution in the advancement of human rights at large and specifically rights of women. It also becomes an easy escape route for the patriarchal state, as they can do away with any formal responsibility of protecting women as human rights defenders.

The non-State actors, including NGO groups, are equally responsible in pushing women defenders to the periphery as are the State actors. Even among human rights groups in Nepal, many argue that women's issues are private, hence receive no attention. This is exemplified by a recent comment from a prominent male human rights defender in Kathmandu, who stated that "there are more important issues than those of women". Within the human rights community, patriarchal mindsets persist, thus posing further challenges to the work of WHRDs.

WOREC has been working with 125 women human rights defenders from the community in Nepal for the past one year. During our work, specific issues related to the WHRDs have come up from the field. Issues of harassment, intimidation and threats from the State security forces and violations committed by non-State actors have emerged. Further, patriarchal notions of holding women as symbols of honour have been deliberately used to silence women about abuses they face. Reports of the most disturbing forms of violence that defenders face have come from various communities.

In December 2005, in Udayapur district, Janaki Nepali, an active women human rights defender from the Dalit community tried to protect a woman severely battered by her husband. Unfortunately, as she was trying to intervene, Janaki Nepali was murdered by the abusive husband of the victim she tried to help. She died leaving behind two children. The death of Janaki is yet to receive any attention from the human rights community based primarily in Kathmandu. According to the investigation of human rights group in Udaypur, the murder was preplanned. However, the Government authorities have disregarded the investigation. The district court filed the case as 'fury driven murder' which means that the punishment is eight years imprisonment, whereas punishment for a general case of murder is lifetime imprisonment according to Nepali law. Hence this case clearly shows the disadvantaged position of the victim in the eyes of Nepali law that favours the perpetrator.

Given the authoritarian regime in Nepal, it becomes urgent to recognize women's human rights because the State itself acts as one major obstacle in addressing issues of WHRDs. The restrictions placed by the State even on peaceful demonstrations and the recent arrests of women political activists are clear indications that Nepal is moving fast towards violating the most basic human rights. The human rights crisis situation in Nepal has also been highlighted by the Special Representative of the Secretary-General on Human Rights Defenders in her 2005 report to the General Assembly.

The militarization of the Nepali community due to the present armed conflict has made the Royal Nepalese Army (RNA) the most powerful authority in the communities, which has increasingly silenced women human rights defenders and hindered their work. The case of Tamanna Nepali, a 25 year old women human rights defender from Doti district is indicative. Tamanna shared her experience when her organization took up a case of a Badi⁵

⁵ Badi is a Nepali community whose ancestral profession is sex work.

woman that had been sexually abused by the RNA. According to her, once the legal process for the case had started, Army personnel at check points or just randomly on the streets started passing sexual remarks, labeling her as promiscuous and as a threat to other women; they would unreasonably go through her belongings at checkpoints. Even officers at higher positions harassed Tamanna constantly. During a public meeting, a Major of the Army humiliated her and her colleagues by passing sexual remarks and this has completely silenced them. She felt constantly at threat; however, she stood by her commitment to defend women despite knowing the implications of challenging the RNA.

Hence, there is a serious need for recognition of the work of women human rights defenders in order to emphasize their existence and contribution so that they are protected.

The pervasive male dominance in every form and shape has reinforced this notion that women belong to the private sphere. This has had a serious impact on women's ability to actively participate in the political process. It will be difficult for the democratization process to take the right course if there is systematic exclusion of women from political processes and as legitimized by patriarchal religious and cultural structures of exclusion and dominance. Hence, encouragement of WHRDs through the recognition of their work will be a step closer to inclusive democracy.

Recommendations

In the light of the above circumstances, FORUM-ASIA and Women's Rehabilitation Centre (WOREC) urges that:

- The Commission should address the widespread yet accepted discrimination of women human rights defenders. This suppressed voice of women human rights defenders needs to be heard.
- The Commission should take further action on the recommendations made by the Special Representative of the Secretary-General on the situation of Human Rights Defenders.
- Key international agencies – both governmental and non-governmental – must move beyond their patriarchal bias, undertake gender mainstreaming as a major part of their effort in achieving true democracy.
- Through the Special Representative of the Secretary-General on Human Rights Defenders, the Commission should pressure the Government of Nepal and the human rights community to address specific concerns of women human rights defenders in accordance with the UN Declaration on Human Rights Defenders.
- UN and other key international agencies should become proactive in acknowledging and supporting the contributions made by women human rights defenders. Due recognition should also be given to the fact that women human rights defenders work within a very hostile environment where structural violence is pervasive and often do not have access to key resources and information. It therefore becomes imperative that institutions such as the OHCHR office in Nepal recognize the contributions WHRDs make, and also come up with specific strategies to address unique challenges WHRDs face.
