



WOMEN HUMAN RIGHTS DEFENDERS

Insights from the
Struggle

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Women Human Rights Defenders in Nepal – Key Issues and Demands

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Abstract

In a largely patriarchal society, women human rights defenders in Nepal face life threatening risks and gender-based violence. The Women’s Rehabilitation Centre (WOREC), as a founding member of the National Alliance of Women Human Rights Defenders Network (NAWHRDN), has been at the forefront of advocating for women defenders’ rights and freedoms since 2007. In this chapter, WOREC’s years of experiences and reflections are explored, as well as the challenges encountered, lessons learned, and future steps ahead.

Key issues faced by women human rights defenders (WHRDs) in Nepal

Women human rights defenders (WHRDs) are working to advance human rights and fundamental freedoms, ending discrimination and structural violence. WHRDs in Nepal have aimed at breaking the culture of silence while championing the transformation of women from victims to change makers. In doing so, as WHRDS we have faced serious discrimination on the basis of our gender, work and the rights we work for. Our struggle to change patriarchal norms, values and structural violence has culminated in control over our bodies and physical integrity.

We have been targeted, criticised, threatened, intimidated, surveilled, and harassed, including online attacks because of our gender, and the work we do. At least 95% of documented incidents elucidate that to delegitimise our work, WHRDs, including their family members and intimate partners, have been subjected by state and non-state actors to domestic violence, reprisals, death threats, verbal abuses and harassments.¹ WHRDs who identify as lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) persons (including trans men), sex workers, women’s health workers, indigenous rights activists, historically marginalised women’s rights champions, women migrant workers, women impacted by conflict and poverty, women

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with disabilities and users of drugs, are often further marginalised by the social stigma they carry, increasing their exposure to violence and threats.

Violence against Women (VAW) is a gross violation of human rights. WHRDs are advocating to end such violations by challenging feudal and patriarchal structures, inequality and structural violence. The challenge they present to traditionally constructed norms, values, and practices gets translated into violent attacks on their bodies and minds. They are labelled as ‘troublemakers’, ‘whores’, ‘witches’ and ‘sluts’. Such stigmatisation is rarely treated with necessary seriousness and continues to either be ignored or regarded with very low priority. What has to be understood is that this stigmatisation and the lack of response from the State and Community leaders often translates into violent acts aimed at preventing these women from continuing their human rights work. In September 2017, prominent WHRD Rajkumari Upadhaya was assaulted in her home for over three hours by a neighbour who accused the former of being a witch and of making others ill.² VAW is an outcome of patriarchal socio-cultural norms and practices, and often take places in the private sphere. The ‘culture of silence’ that surrounds these ‘private acts’ makes it difficult to deal publicly with VAW. Silence and the consequent invisibility make it difficult to gather evidence of such violations. They are the only people who dare to make the violence faced by the victims public, often jeopardising

their lives and their own security in the process. WHRDs face threats, warnings and ultimatums for their work. They also receive threats against their family members, with kidnapping and murder of their children. Women participating in the public sphere are subject to ‘sexual baiting’ by family members and non-state actors; they are accused of engaging in extra-marital affairs, being sexually promiscuous, and being bad mothers and women. They are accused of promoting western ideas and of breaking up families. They are also subject to domestic violence, sometimes leading to attempted murder. They have been targeted because they are women and they defend human rights.

Violence against WHRDs

- **Threats, warnings and ultimatums including in online spaces**

90% of WHRDs face threats including those against their family members, intimate partners and colleagues in order to stop them from doing their work;

- **Attacks on life, and on bodily and mental integrity**

95% of WHRDs have faced consequences of domestic violence and abuse, harming and delegitimising their work;

- **Sexual baiting**

70% of WHRDs have experienced sexual baiting through domestic violence, verbal abuse and harassment.³

The failure to recognise WHRDs’ work is firmly rooted in the larger patriarchal

practices that seek to maintain male privilege. WHRDs often face multiple forms of discrimination as women, and threats as HRDs based on their race, ethnicity, geographic origin, economic status, class, caste, access to education, sexual orientation, ability and age. Male privilege has reinforced the notion that women belong to the private sphere. This has had serious impact on women's ability to actively participate in the democratisation process. The exclusion of women is also systematically legitimised by religious and traditional cultural practices.

These practices are further reinforced by some male human rights defenders (HRDs) who, despite occupying the same space as WHRDs, fail to recognise the contribution of their female colleagues. Male HRDs address "important issues", establishing a hierarchy of rights in which VAW is not prioritised. Under this hierarchy, the activities and issues raised by WHRDs' activities are not considered legitimate and credible, hence, negating their role as potential agents of change and community leaders.

Furthermore, the Nepalese Government has no specific national laws, policies or practices that specifically recognise and protect the rights of HRDs, including WHRDs.

How WOREC addresses key issues faced by WHRDs – some highlights

Women's Rehabilitation Centre (WOREC) is the founder member of the National Alliance of Women Human Rights

Defenders (NAWHRD). NAWHRD is a vibrant, strong and active women's network working from a feminist perspective. It is one of the largest existing loose networks guided by human rights principles and democratic values and practices. The key principles of NAWHRD are: recognition of the work of women for protection, promotion and security of women's right to live with dignity as human rights workers; and creating and advocating for safety mechanisms for WHRDs in private and public life. This is a loose network extended to all seven provinces of Nepal.

How WOREC engages and partners with WHRDs

- Bridging capacities and promoting right to information;
- Documentation of human rights violations for redress;
- Advocacy at national, regional and international levels;
- Security, protection and right to life:
 - Relocation to safe spaces (location not revealed) along with dependents
 - Safe housing and space
 - Counselling if required
 - Legal, and access to justice (legal, social justice or more)
- Wellness and self-care (reboost).

NAWHRD itself is a collective effort to raise our voices together as one so that we can be heard. The network has created a platform to unite defenders,

advocating and working on different sectors such as: disability rights; women's right to land; women's right to housing; women's right to gender and caste equality (Badi Women's Movement); the Madheshi Women's Right; sexual rights for women; women's right to work (especially in the entertainment sector); rural women's right; Muslim women's rights; right to safety (freedom from violence); LGBTIQ rights; migrant women workers rights; women's right to natural resources; indigenous women's rights; and youth rights. The network supports defenders by building their capacity, supporting them at the time of distress, advocating collectively for recognition of their work as human rights work, and creating protection mechanisms for them. It also supports women whose rights get violated – especially victims of different forms of violence; and further advocates for required policy changes to ensure the realisation of women's rights, especially for marginalised groups.

The WHRD network identifies the area of support needed for the protection of a WHRD. Sometimes, WHRD members provide a safe space in their individual homes if the other feels it threatening to live in her own home and community.

WOREC also documents cases of the violence faced by WHRDs and sends these cases to the United Nations Special Rapporteur on the situation of human rights defenders and other relevant special procedures.

The case of Laxmi Bohara

Laxmi Bohara was a member of the WHRD Network (WHRDN) in Kanchanpur district. She worked as Secretary of the Women's Empowerment Centre, and was an active health rights volunteer. In addition, she was involved in challenging illegal logging in the area.

On 6 June 2008, she was severely beaten by her husband and mother-in-law and then forced to ingest poison. Her husband took her to the hospital where she later died. After the news of her death, her husband fled the hospital. It was reported that Laxmi's body was covered in bruises. According to WHRDN, Laxmi's daughter stated that her father had severely beaten her mother all night. Laxmi Bohara's father submitted a First Information Report (FIR) to the District Police Office stating that his daughter was murdered by her husband and mother-in-law. However, claiming that more time was needed for religious rituals to be performed by her husband, the police deferred registering the FIR for 13 days.

It was later discovered that the FIR had indeed been registered not under the name of the victim's father, but under the name of a relative of Laxmi's husband. Given the husband's family connection, this undermined the likelihood of the investigation proceeding if the relative withdrew the FIR, jeopardising the credibility of the investigation. Furthermore, the post-mortem was conducted by a cousin who submitted a report stating that Laxmi had died of poisoning and that the bruises on her body were 'minor'.

The investigation failed to take into account the pattern of domestic abuse that Laxmi faced regularly at the hands of her husband. Just 10 days before her death, Laxmi was thrown out of the house by her husband, and found refuge in the house of friends who urged her to leave him. However, she later returned to her husband when he promised not to beat her again. Following Laxmi Bohara's murder, a group of WHRDs went to the District Superintendent of Police at the District Police Office demanding a prompt and thorough investigation. The Police Officer was reportedly aggressive towards them and ordered his staff to drag the WHRDs out of his office if they attempted to approach him again about the case. The Chief District Officer also showed little interest in the irregularities relating to the FIR. Subsequent attempts by Laxmi's father to register the FIR were rejected. This is in violation of the State Cases Act that clearly mentions the police should register any complaint lodged by a citizen of Nepal and initiate an investigation.

After this incident, the WHRDs initiated a nationwide campaign, including a 24-day relay hunger strike, rallies, and sit-in protests. They demanded an impartial investigation into the murder of Laxmi Bohara; the formation of an independent High Level Committee dealing with all forms of VAW; an end to all forms of violence against WHRDs; and guarantees for their security.

At one 'black' protest, women wore petticoats up to their chests to depict the nakedness of the State, and their

anger about the lack of effective legal provisions.⁴ During the protest, several women were arrested. This was followed by demeaning reports in the media about the women's actions.

The WHRDs engaged with national and international human rights mechanisms, as well as the media, to highlight the case. In an unprecedented remark, the Chair of the Constituent Assembly noted how VAW was a matter of grave concern, and that the Government should consider to address it as a matter of highest priority. A High Level Task Force was mandated to conduct an impartial and thorough investigation on VAW, and review legal provisions to ensure the defence and promotion of women's rights. It was also expected to draw up terms of reference for the formation of a High-Level Commission dealing with all forms of VAW.

In February 2010, the Supreme Court issued a ruling regarding the establishment of a fast-track system to address gender-based violence. The law against domestic violence was also passed after this campaign.

Challenges encountered and lessons learnt

As women continue to challenge the feudal and patriarchal structures, unequal gender power relations and structural inequalities, protectionist responses are reinforced. They are often supported through law, policies and development projects that undermine the agency of women and challenge their very physical and psychological integrity.

It is crucial to mention that WHRDs have participated in all the country's political movements, though often those who struggled for women's rights alongside democratic rights were marginalised or even excluded from the movement. During the armed struggle,⁵ hundreds of women who took up arms to struggle for broader fundamental rights found themselves struggling for their own rights, even within their own political nexus.

In 2003, as a result of WHRDs coming together, the Women's Charter for Women was created. It was in the midst of the armed struggle when an extremely volatile political situation had led to serious economic and social consequences that WOREC organised four regional People's Assemblies on 'Conflict and Displacement: Challenges for Peace and Development'. Each assembly was held in a separate development region of Nepal – eastern, western, mid-western and central. Focusing on conflict transformation and peace building, the women's charter serves now as a road map for the inclusion of particular issues faced by women – issues that must be focused on and lead the way for their deserving inclusion into the Constitution of Nepal being drafted at the Constitution Assembly.

At the beginning, during the formulation of the network, we faced geographical challenges and therefore could not include all WHRDs who wanted to be part of the district network. Another challenge was the inability to communicate with the district networks due to lack of access to the communication channels.

It was also difficult to deal with issues of intersectionality and diversity within the defenders' network. Similarly, maintaining good governance within each district network was a hard task.

Future steps to be taken to address the situation of WHRDs

The formulation of resourced protection and security mechanisms focusing on eliminating structural violence against WHRDs – including the adoption of measures to prevent, investigate and prosecute those responsible for the abuses and violence – of prime importance.

The Government should create a mechanism that respects and documents the contribution of the WHRDs and create a conducive atmosphere for their protection.

Hence, these are our recommendations to the Nepal Government:

- Since the Constitution of Nepal (2015) has guaranteed fundamental human rights of citizens, WHRDs should be able to enjoy their legitimate rights and be able to support other needy sectors of the population, particularly women, children and minorities.
- The country's envisioned numerous constitutional rights bodies – the National Human Rights Commission, National Women's Commission, and National Dalit Commission among others – should be proactive in

protecting and promoting human rights, particularly of WHRDs.

- Security of HRDs, particularly of WHRDs, should be the priority of the state, and the laws and policies for the protection of HRDs should be adopted, and they should be enforced immediately and effectively.
- The Government must introduce protection mechanisms for WHRDs to be replicated throughout local level governments.
- Law enforcement agencies and other government bodies should give priority to the cases of the HRDs, particularly WHRDs, in retrospect of their long standing and wholly under recognised contributions to human rights work; and enforce existing mechanisms for their maximum protection.
- Initiate mechanisms that respect and document the contribution of HRDs and WHRDs, and create a conducive environment for their protection.

Endnotes

1. Data collected based on the experiences shared by WHRDs in different WOREC's discussion fora.
2. Shankar Acharya, "Women Rights Activist Attacked for 'Witchcraft'", The

Kathmandu Post, 25 September 2017, <https://kathmandupost.com/national/2017/09/25/women-rights-activist-attacked-for-witchcraft>

3. WOREC, "Situation of Women Human Rights Defenders in Nepal". Slideshare, 14 December 2018, available at: <https://www.slideshare.net/worecnepal/situation-of-women-human-rights-defenders-in-nepal>
4. WHRDs were in protest for 24 days, but as the Government was not addressing the issue seriously, WHRDs came up with the idea to protest in black petticoat. More info through WOREC, "What Happens When Women Takes Action", YouTube, 2 January 2013, available at: https://www.youtube.com/watch?v=dTnVOIR_T_U&nohtml5=False
5. Between 1996 and 2006, an internal conflict between the Government of Nepal and the Communist Party of Nepal (CPN Maoist) left over 13,000 people dead and 1,300 missing. By signing the Comprehensive Peace Accord (CPA) on 21 November 2006, the Government of Nepal and the CPN (Maoist) committed to establishing the truth about the conduct of the war and to ensuring the victims of the conflict receive both justice and reparations. To that end, the CPA references commitments to form two transitional justice mechanisms: a Truth and Reconciliation Commission (TRC) and a Commission on Disappeared Persons (CDP).