

HUMAN RIGHTS DEFENDERS

Briefing Note for Regional Consultations on UPR II



The UN Declaration on Human Rights Defenders, 1998, codifies the international standards that protect the activity of human rights defenders around the world. It recognizes the legitimacy of human rights activism, its need and the state obligation in protecting those who carry it out to be protected.¹ The Declaration considers anyone working for the promotion and protection of human rights as a human rights defender. This broad definition encompasses professional as well as non-professional human rights workers, volunteers, journalists, lawyers and others who engage in human rights activism, even on an occasional basis.

In India, the security and protection of human rights defenders has been a cause of concern over many years. The UN Special Rapporteur on the situation of human rights defenders carried out a first-ever fact-finding mission to India, between 10th and 21st January, 2011. Her report will be presented to the Human Rights Council in March 2012. In her preliminary observations she has pointed out with concern the vulnerable situation of human rights defenders in India, particularly of those working in the following areas:²

- Defenders engaged in denouncing development projects that threaten or destroy the land, natural resources and livelihoods of communities.
- Defenders working for the rights of marginalized people (Dalits, Adivasis), religious minorities and sexual minorities.
- Right to Information activists.
- Defenders working on women's and child rights, particularly women human rights defenders.
- Defenders fighting impunity for human rights violations.
- Defenders seeking accountability for communal pogroms.
- Defenders upholding the rights of political prisoners, journalists, lawyers, labour activists, humanitarian workers, and church workers.
- Defenders working in insurgency and conflict affected areas.
- Defenders working in rural India, who according to the Special Rapporteur, are "often more vulnerable".

Some of the obstacles faced by human rights defenders, more particularly in conflict areas, are:

- Being subject to death threats and torture
- Being persecuted through the use of the judicial system
- Getting silenced by restrictive laws and special security legislations
- Being subject to enforced disappearance or murder.³

1 <http://olddoc.ishr.ch/hrdo/documents/DeclarationHRD.pdf>

2 <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=10660&LangID=E>

3 <http://www.amnesty.org/en/human-rights-defenders/background>

There are widespread deficiencies in the full implementation of Constitutional guarantees, the Protection of Human Rights Act, the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, and the Right to Information Act, all of which have a direct bearing on the protection of human rights defenders. There are flaws in implementation at both central and state levels, adversely affecting the work and safety of human rights defenders.

Aside from male and female human rights defenders, even their family members are being targeted and have been killed, tortured, ill-treated, and harassed. ⁴Defenders are also often falsely charged, forcibly displaced, or their offices raided and documents stolen. These violations are mainly attributed to law enforcement authorities. Although there is no express mention of human rights defenders in India's pledges to the Human Rights Council, it reiterated its commitment to processes leading to the promotion and protection of human rights. The UPR I recommendations also underline that India should involve all relevant stakeholders in the attainment of international human rights goals.⁵

RELATED UPR I RECOMMENDATIONS, 2008

- Recommendation n° 1: Expedite ratification of the Convention against Torture (United Kingdom, France, Mexico, Nigeria, Italy, Switzerland, Sweden) and its Optional Protocol (United Kingdom)
- Recommendation n° 4: Encourage enhanced cooperation with human rights bodies and all relevant stakeholders in the pursuit of a society oriented towards the attainment of internationally recognized human rights goals (Ghana)
- Recommendation n° 12: Ratify the Convention on Enforced Disappearances (Nigeria)

4 <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=10660&LangID=E>

5 <http://www.wghr.org/pdf/WGHR-chart-status-implementation-18-recommendations.pdf>