

Reflection on the 20th Anniversary of United Nations Declaration on Human Rights Defenders¹

This paper has been prepared by Asian Forum for Human Rights and Development (FORUM-ASIA) in response to the letter sent by United Nations Office of the High Commissioner for Human Rights, dated 21 March 2018. It provides inputs for and reflection about the United Nations' implementation of the provisions of UN Declaration on HRDs, particularly in the Asian region.

I. Progress, achievements, and challenges on the implementation of the UN Declaration on HRDs.

The UN Declaration on HRDs reiterated the values and principles of existing international human rights standards regarding the protection of HRDs work, as well as state and non-state actor's responsibility in defending and supporting the work of HRDs. FORUM-ASIA noted that since the adoption of the UN Declaration on HRDs on 9 December 1998, public awareness on the existence of the Declaration has increased over time, with some CSOs and member states having translated the Declaration into numerous local languages², and disseminated and publicised the document into various formats, such as infographics and booklets. The increased awareness on the Declaration also can be seen in the popularisation of the terms Human Rights Defender (HRD) and Women Human Rights Defender (WHRD). Both terms are now widely used by state, international/regional organisations, media and civil society organisations. Despite this progress, it is important to note that the increase in public awareness of the Declaration does not necessarily mean that the Declaration's provisions are translated into local and national actions for protection of HRDs and WHRDs at risk.

In an achievement, UN Special Rapporteur has been established with special mandates for HRDs. The Rapporteur, an expert on HRD issues, is one of the strongest allies of defenders on the ground. Special Rapporteur can play a key role in pushing the UN bodies and member states to include enabling environment for HRDs and WHRDs as well as their protection mechanisms in discussions and agendas.

FORUM-ASIA appreciates the continuous engagement of the UN Special Rapporteur on HRDs with civil society and HRDs and WHRDs in Asia, as can be seen in the various official/unofficial visits that were conducted to various Asian countries in the past years. These visits enabled the community-based HRDs and WHRDs to directly share their concerns and stories with international mechanisms, who would otherwise not be able to do so as they have few opportunities to travel to Geneva or New York due to resource constraints and other barriers. The field visits during the unofficial visits was able to address this issue.

¹ For the purpose of this paper, The Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (A/RES/53/144) will be referred to as *United Nations Declaration on Human Rights Defenders* or *UN Declaration on HRDs*.

² <http://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/Translation.aspx>

Letters sent by UN Special Rapporteur on HRDs together with other mandate holders to concerned member states have also contributed to additional protection to HRDs and WHRDs at risk. This is also an achievement.

However, there are still numerous challenges. They include:

- The Asian governments' lack of political will to fully implement the UN Declaration on HRDs is one of such challenges. In past five years' FORUM-ASIA's³ analysis of the situation of HRDs and WHRDs in Asian states shows that the situation has been deteriorating. Various forms of abuses against HRDs and WHRDs in Asia, perpetrated by member states, are prevalent. Judicial harassment is one of the most common tools states use to delegitimize the work of HRDs and WHRDs in Asia.⁴ The vilification of HRDs has also become increasingly common.
- The discussions on the UN Declaration on HRDs mainly involve state actors, civil society, and HRDs and WHRDs. The Declaration provisions, however, do not fully cover the human rights violations against defenders perpetrated by non-state actors, such as corporate and development agencies that are committing an increasing amount of violations in their pursuit of projects that adversely affect communities.
- Although there has been an increased awareness on HRDs and WHRDs and various attempts to popularise the UN Declaration on HRDs to public, many defenders on the grassroots level still are not aware of the Declaration itself or that they are HRDs whose peaceful work is guaranteed under the Declaration.
- Human rights mechanisms at the UN level, such as Universal Periodic Review (UPR), often gives reference to HRDs and WHRDs, but the essence of the UN Declaration on HRDs is rarely cited.
- WHRD specific concerns are not integrated into the Declaration although there is a general assembly resolution on WHRDs. We emphasise that gender integration should be considered during the implementation of the Declaration as well as in Special Rapporteur's work.

Overall, while some progress has been made, there remain key challenges that need to be addressed by all stakeholders who are working on human rights. In this regard, UN bodies in collaboration with civil society and defenders need to continue to push the UN member states to implement the Declaration on HRDs through both formal and informal channels.

II. Good practices and positive impact

Amid increasing concerns on the states' lack of political will to implement the UN Declaration on HRDs, there have been a few examples in Asian countries of good practices that has brought about positive impacts. One good example is the UN Special Rapporteur on HRDs' engagement

³ Defending In Numbers "Mounting Echoes of Muffled Dissent" 2013-2014, available at: <https://www.forum-asia.org/?p=19020> ; and Defending In Numbers "Silencing the Voices of Asia" 2015-2016, available at: <https://www.forum-asia.org/?p=24396>

⁴ For reference, please refer to FORUM-ASIA's 2017 HRD case monitoring, available at: <https://asianhrds.forum-asia.org/?p=20180>

with National Human Rights Institutions (NHRIs). The continuous and constructive engagement between the Special Rapporteur and NHRIs has encouraged NHRIs to engage more closely with HRDs issues. For instance, the NHRI in India has established a specific focal desk on HRD protection.

Another good practice in Asia can be seen in the way some Asian countries have started a discussion on recognising their roles and responsibilities to protect HRDs and WHRDs as well as ensure enabling environment for defenders to conduct their human rights works within national legal framework. Mongolia and the Philippines are among the countries that have initiated these types of discussions. Although there is no country in Asia that has enacted any specific laws on HRDs and WHRDs, the discussion at national level is a sign of improvement in terms of state's awareness on the work of HRDs and WHRDs in their country. We hope that the UN, in collaboration with civil society and defenders can play role in maintaining and improving the current good practices, as well as assist in the creation of more good practices in the future.

III. Recommendations for the better promotion and implementation of the UN Declaration on HRDs

By reflecting on the current situation, good practices and challenges, FORUM-ASIA identified the following recommendations to the UN – particularly to UN Bodies who are working on HRDs and WHRDs-related issues –to more effectively promote and implement the UN Declaration on HRDs:

- The work of disseminating the UN Declaration on HRDs should continue, with a stronger focus on reaching out to vulnerable/minority groups. This involves translating the Declaration into diverse languages, including local dialects.
- There should be better coordination among UN bodies in promoting and lobbying member states to implement the UN Declaration on HRDs. We noticed that there were instances where different UN bodies are discussing the same issues related to HRDs and WHRDs with a contrary point of view. The improvement in coordination should also be followed with greater focus on situation of defenders in the day-to-day activities of the concerned UN body.
- The discussion between UN bodies and the government should not only highlight the situation of HRDs and WHRDs, but also give emphasis on the importance of the UN Declaration on HRDs, including pushing member states to invite the UN Special Rapporteur on HRDs for official country visits.
- There should be a human rights education initiative that discusses the importance of the UN Declaration on HRDs with the aim of not only raising public awareness, but also giving better understanding on the Declaration to everyone.
- In discussing and developing document on HRDs and WHRDs related issues, the UN needs to further strengthen its engagement with defenders on the ground. UN agencies should reach out to HRDs and WHRDs at the grassroots level who are at high risk and have not been received international level exposure.

About FORUM-ASIA:

The Asian Forum for Human Rights and Development (FORUM-ASIA) works to promote and protect human rights, including the right to development, through collaboration and cooperation among human rights organisations and defenders in Asia and beyond.

FORUM-ASIA is a network of 58 members in 19 countries, across Asia. It was founded in 1991 in Manila, the Philippines. Its Regional Secretariat was established in Bangkok, Thailand in 1992. Since then, offices have been opened in Geneva, Jakarta, and Kathmandu.

FORUM-ASIA is committed to building a peaceful, just, equitable and ecologically sustainable community of peoples and societies in Asia, where all human rights of all individuals, groups and peoples – in particular, the poor, marginalised and discriminated – are fully respected and realised in accordance with internationally accepted human rights norms and standards.

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