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The winning logo for universal human rights, which was revealed on 23 September 2011, for the purpose of promoting and protecting human rights. <http://humanrightslogo.net/>

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# **Introduction: Women, their rights, and the obstacles they face in realizing them**

*Meryam Dabhoiwala*

Throughout Asia, women are treated unequally in all facets of public and private life. They continue to be victim to various forms of abuse, including sexual violence. Their freedoms are curtailed to the extent of being non-existent in many places, with women having little or no say in their education, employment or choice of marriage partner. State institutions play their own part in violating women's basic rights and perpetuating the abuse they suffer.

This collection of seven essays—from Bangladesh, Burma, India, Indonesia, Nepal, Pakistan and Sri Lanka—sheds some light onto the various obstacles facing women in realizing their rights, and the environments they must do this in. While making no claims to be a comprehensive study of women in the various countries, this issue of *Ethics in Action* (volume 5, number 6, December 2011) offers a window into the lives of a significant proportion of Asia's population. This window further illuminates many systemic issues that are common to the region's various countries, preventing the realization of women's rights.

Three of the essays for instance, from Manipur (India), Indonesia and Bangladesh discuss the plight of women who lost their family members through forced disappearances and extrajudicial killings. These women are left to pick up the pieces of a life destroyed by the death of the main income earner. In both Manipur and Indonesia, no compensation is given by the state to the families or widows for the wrongful death of their men folk. In all three countries, these women are stigmatized and seen as families of 'criminals'. They must find ways to support their children and other family members, at times resorting to illegal means. There are few networks in place to support these women, financially, socially or legally. This is one place to begin in improving access to justice for women, and thereby protecting their rights.

The deeply patriarchal nature of Asian societies makes it generally difficult for women to speak out or make any complaints against the multitude of abuse suffered on a daily basis. Sexual violence is something faced by all Asian societies, albeit to varying degrees. The essays from Manipur, Bangladesh, Sri Lanka and Pakistan particularly focus on this issue.

Baseer Naveed points out that all kinds of violence against Pakistani women is condoned by tribal courts and conservative politicians, making it impossible for women to seek any remedies or redress from state agencies. In Bangladesh and Sri Lanka meanwhile, the police are often in collusion with the wealthy and influential perpetrators of rape and other violence, and thus take no action against them in favour of the victims.

This is an important point that needs to be underlined—when state and public officials themselves have a discriminatory attitude towards women, the institutions and laws meant to protect their rights become meaningless, as shown in Pakistan, Bangladesh, Sri Lanka and Nepal.

Shreema Ningombam also discusses how in Manipur's conflict-ridden society, women's economic, social and cultural rights are neglected by the overriding concerns of nationhood and political tussles.

The essays from Burma and Indonesia reflect on the capacity and struggle of women survivors of human rights abuse. Their personal experience as well as a strong commitment to human rights values and belief in democracy, has made them keen to play a major role in their countries' transformation. Making up a good part of the human rights movement in Burma, more than half of the country's political prisoners are women. Many of them are mothers, who wish to fight for a better future for their children; a democratic future. The abuse they face for fighting for human rights and democracy makes them even more determined to ensure that future generations do not face the same situation. The Indonesian essay spotlights three women, mothers and wives, fighting for the rights of their sons/families, and reveals that solidarity amongst women victims helps them become their own best advocates.

Also included in this volume is the Asian Human Rights Commission's statement on the occasion of the International Day for the Elimination of Violence against Women, which focuses on women's inability to access justice, due to both social and institutional factors.

While this collection of essays reveals the considerable abuse and discrimination faced by women, it also indicates the systemic problems that need to be addressed to better protect women's rights. Most importantly, the essays make clear that women's rights are not indivisible from the larger rule of law and justice system issues; in fact, many obstacles faced by women stem from weak rule of law institutions. At the same time, social change and awareness regarding women's rights is essential. Those interested in women's rights and justice should discover enough food for thought from this volume, and find their own starting points for improving the environment in which half of the region's population find themselves.

# **Bangladesh: Manifold struggles needed to realize women's inherent rights**

*Bangladesh desk, Asian Human Rights Commission*

The rights of women are a widely discussed issue across the world, in response to developing international norms and standards. There have been continuous efforts towards a universally recognizable concept of women's rights, even while debates based on religious (mis)interpretations and (so called) cultural values continue in different parts of the world. More importantly, it is undeniable that the conceptualization of universal human rights cannot be separated from women's rights.

This article will focus on the situation of women, as it is visible in Bangladeshi society. It will discuss the lives of women, domestically and publicly in terms of dignity and accessibility to various opportunities.

## **Legal framework**

According to the Constitution of Bangladesh, every citizen is subject to enjoy equal treatment and rights before the laws of the land (article 27). This equality however, is not defined properly regarding women's rights of property inheritance.

The Constitution also has provisions (article 29) to promote women as one of the underprivileged groups in society and the public sector, as a result of which there are certain quotas reserved for women in education, public employment and local and national government elections. Unfortunately, the serious forms of discrimination rooted in the system and in the public mindset in general, prevent the efficacy of the provisions.

There are also a few special laws in effect, in addition to the Penal Code, to address violence against women, including the Women and Child Repression (Prevention) (Special Provision) Act-2001. This law allows for the establishing of a special tribunal of sessions judges in each of the country's district headquarters to prosecute perpetrators of violence.

Bangladesh is a party to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). With the excuse of religious bindings and poverty however, the country has a number of reservations (articles 2 and 16.1(c),

pertaining to eliminating discrimination against women and ensuring equality between the two genders in the public and official domain, and in family and marriage matters) to the Convention, which is not only hypocritical, but also makes a mockery of protecting women's rights.

There is an absence of universally applicable law regarding women's right to property in Bangladesh. Around 10 percent of the country's population is Hindu by religion, according to which women are not equally entitled to inherit family property or assets.

Muslim women are entitled to have a one-eighth share in the property of their families. They have a proportionate right to the assets of their parents, husband and male children. In practice though, women are deprived of their right through various means, including emotional blackmail, excuses and brutalities.

## **Unfriendly educational and work environment**

In recent years, the admission rate of female students in secondary education has increased to around 54 percent due to the government's facilities for girls. Dropout rates are still higher among girls though. At the same time, girls who continue their education achieve a poorer quality of education than boys, getting less attention from their family and the school due to the perception that education is not necessary for girls who will be married soon. Many families cannot afford the expense of higher/university level education for girls. There is also the notion that spending too much money for a girl's higher education will benefit the family of the girl's husband instead of supporting the parent's family in the long run (social norms dictate that whatever is earned by the wife should be spent for her husband's family; spending any money for the wife's parents is seen as 'irresponsibility').

According to a survey by the Bangladesh Bureau of Statistics, women number around 60 million, making up more than half of the country's population. About 8.2 percent of women are involved in the economic sector. In whatever jobs they work however, women are struggling to ensure their rights, including decent working hours, appropriate salary, pregnancy leave, and a positive and healthy working environment.

Women are mostly compelled to work for more than eight hours in any field of work, particularly in factories, private companies and NGOs, where they have fixed starting times, but leaving time is dependent on the whim of the employers. Bangladesh has no minimum wage law, so women are deprived not only of their required salary, but also overtime payments and other service benefits. Women do not get paid pregnancy leave as established by law, unless they compromise their salary or the period of their leave. At home, women's work is never over on a daily basis, from child care, to cooking, washing, to farming and cattle nourishing, and there is no reward or acknowledgment of this work.



Women face discrimination in public offices like local governmental institutions, despite the government's provision of reserving one third of public offices for women. On the basis of this provision, geographically women possess three times more authority; in reality however, male public representatives deprive women from exercising their decision making power.

## **Dowry**

Due to the absence of women's right to inherit family property the Hindu community established a culture of paying dowry to the bridegroom at the time of marriage; in other words, a woman's share in the family property ends with the payment of dowry.

The practice of paying dowry has been deeply rooted over centuries in all religious communities including the Muslim community, which has different norms in theory. Bangladesh's Dowry Prevention Act-1980 remains useless in protecting women from the curse of dowry.

Dowry is practiced as a 'gift' within the country's 'elite' and middle classes, while it is the lifeblood of the lower classes. It, partially and temporarily, establishes the bride's position in the groom's family as well as in society. There are many who are concerned only about the quantity of dowry, not the quality of the human being. Many a time, the bride's appearance, education, efficiency can be hidden by her skin color, which needs to be adjusted with the amount of the dowry, whereas the quality of the bridegroom and his family is always ignored.

The consequence of dowry is extreme amongst the poor and uneducated, where the brides' families must take on the burden of a loan to pay the dowry. This creates feelings of guilt for the woman, who finds herself in a helpless condition due to her lack of institutional education, and thus incompetence in getting a job, which could strengthen herself financially and socially. Meanwhile, she becomes a victim of dowry in her husband's family, who may continually demand more payment or emotionally (and perhaps physically) abuse her for an insufficient dowry. Due to poverty and social pressure, a married woman cannot think about going back to her parent's family. Acute depression leads many women towards suicide. Those responsible for creating an environment that forces women to end their lives walk free however, due to Bangladesh's dysfunctional criminal justice system.

Within the educated middle class society, the scenario is a little bit different. The bridegroom's family may not demand or bargain for dowry in public, but they remain prepared to welcome 'gifts' from the brides' families. The groom may not ask for anything from the girl's family, but if the wife is employed elsewhere, he will take nearly the entire

amount of her salary or will expect her to spend all her income for his family. Besides her job, the wife has to take care of the household work, attend to the children's food and education, as well as the well-being of her husband. While these women know how to get legal protection and are able to take care of their own life, they remain silent regarding any sufferings, to retain their social image and avoid social stigmatization—as a result of being a separated or divorced woman. According to a recent survey by the World Health Organization, 40 percent of educated females living in the city/urban areas are victims of domestic violence by their husbands. Such women do not seek justice from the judicial system, which does not address their problems with sensitivity (i.e. avoiding embarrassing questions during prosecution) or commitment towards justice. The women are further concerned about the future of their children, and thus prefer to continue their family life.

### **Discrimination within the family**

A girl child faces discrimination within the family since her birth in terms of nutritious food, adequate educational facilities and personal dignity, due to the widespread culture of providing the best food and facilities to the boys of the family. Education, self-reliance and career development is also only adequately preached for boys. In Bangladeshi households, a female child is treated as a 'challenge' for the family, due to poverty and the parents' limited knowledge of the basic rights of children, as well as a girl's physiological and psychological capabilities.

Marriage is a personal and unique experience for every individual. In Bangladesh however, parents—accustomed to a generation-old cultural practice—arrange marriages for their female children in early teen-age, despite domestic laws requiring a bride to be at least 18 years of age. Girls have no say in the matter, obliged to accept their family's decision, which society terms as 'religious norms'.

Another reason for deciding upon the early marriage of daughters is the parental fear of the potential victimization of the girls by vagabond boys with no option for justice.

Early marriage has numerous detrimental effects to girls. A less educated, malnourished, physically and mentally immature girl becomes the victim of early and frequent pregnancy that also causes maternal death or deteriorates her health. Additionally, a young mother remains incapable of taking care of her own newborn child, the household work and paying proper attention to her husband, as expected from her, which provides an 'excuse' for the husband or his family to seek as divorce and second marriage.

## **Collapsed rule of law system creates more room for victimization of women**

Bangladesh's collapsed rule of law system contributes immensely to the sexual abuse of girls, as the criminal justice system provides no remedy or justice to victims of violence such as stalking, acid throwing, molestation or even rape. There are numerous examples where the police—and so called social leaders—have insisted on victims of rape or acid violence to marry the perpetrators. According to the Acid Controlling Council, 1496 acid attacks were registered between 2002 and 2009, with only 273 persons being punished, while the rest of the perpetrators walked free. The country's law against acid violence is made meaningless by the authorities' inability to implement it and their facilitation of crime.

On a daily basis, women and girls fall victim to stalking and sexual violence on the street in Bangladesh. The perpetrators, who maintain a relationship with the ruling political party, easily walk free, as the police protect anyone having an association with the ruling political party. Ultimately, there is no room for women to obtain justice, despite the country's special law and tribunal to punish crimes of violence against women and children.

Recently, there is a new trend of violations against women, where women and girls are being tempted to establish a sexual relationship with men who, on the pretence of being their lover, secretly make audiovisual recordings of intimate scenes and then blackmail the victims. With no protection of dignity and justice available from the existing system, victims choose to commit suicide as a result of such crimes. Those who survive, live with the trauma for the rest of their life.

In the name of 'shalish' (arbitration, mostly in rural areas) or 'fotwa' (unofficial trial in public under misinterpreted Shariah laws) a large number of influential or interested groups punish women for unjustified and unverified allegations of adultery by lashing, stoning and other corporal punishments, which in many cases lead to their deaths. The Supreme Court of Bangladesh, in a recent verdict, has declared the acts of punishing any person in the name of arbitration or religious trial as 'extrajudicial punishment', asking the government and police to take measures to stop such actions across the country. In reality, the practice of caning, lashing and stoning to death of women continues as the authorities remain careless of their constitutional obligations of protecting every individual's right to life and justice.

Moreover, society—dominated by men—always stigmatizes women when they become victims of violence and abuse, and maintains the default mindset of giving impunity to the male perpetrators.

Not only are women themselves victims of gross human rights abuses like torture and extrajudicial killings, but they are also victims when their husbands are forcibly disappeared or extrajudicially killed by state agents. These widows suffer more than other widows due to society's stigmatization of the deceased as 'criminals' (when in fact they were killed without any fair trial to defend their innocence); their families are hence seen by society as the 'families of criminals'. The widows have to struggle to provide for the children and other family members.

Public institutions and state agencies in Bangladesh are largely made up of men, all of whom belong to a society with repressive and negligent attitudes towards women—who are seen as inferior creatures—contributing to the ongoing discrimination against them. It is therefore essential to shift social, legal, political, bureaucratic and judicial behaviour towards women, while recognizing their capacity and rights. Only then can the government of Bangladesh truly undertake its obligation to protect and fulfill the rights of all women.

# Moving forward: Mothers fighting for human rights in Burma

Helen Joe

**“Toe a ye, toe a ye!”**

“Our cause, our cause!” The voices of thousands of women have been getting louder day by day since the military regime took power in 1962. It is undeniable that women have been taking part in most protests against the military regime for decades. The first question that comes to mind is why are women getting involved in protests or human rights campaigns? A second question follows: who guarantees their lives while they fight for human rights?



Women activists actively join a Rangoon demonstration in August 2007      *Photo: Myat Moe Maung/The Irrawaddy*

Not every woman has such a brave heart. Participating in the human rights movement is highly risky in Burma. Why are these women brave enough to join the human rights movement?

Women, whether rich or poor, whether educated or uneducated, are seen as inferior to men. The low status of women in society does not allow them to enjoy their rights. Women living in any patriarchal society that differentiates gender roles inside and outside the home are excluded from participating in the political sphere. Burmese women are no exception to this, with the traditional belief prevalent that women are inferior to men (regardless of which ethnic community it is). A well known Burmese idiom says, “Thar ko tha hkin, lin ko hpa ya,” which means that a woman has to respect her son as a boss, and at the same time her husband as a god. In addition to this, the military regime militarized Burmese society, which further marginalized women in political activities and

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subjected a large proportion of the population to widespread and gender based human rights violations.

Some women started opposing socially or culturally framed beliefs and taking part in human rights activities in their own corners of the country. This was the time when thousands of Burmese men were imprisoned or forced to flee the country during the 1988 uprising. With compassion and total dedication, women stood by their families while reinforcing the leadership of the weakened opposition movement—a truly heroic undertaking.

Women have always been in the forefront of efforts in Burma to combat oppression and promote democracy, and their involvement has grown deeper and stronger since the late 1990s. They have shown themselves ever more ready to confront the authorities and defy successive crackdowns. They are brave enough to talk back to police and authorities. No matter how dangerous, many women are still going forwards to protect individual rights and reach the destination of democracy. Who are they? They are our mothers.

We find mothers fighting against the dictatorship that has prevented them from leading a dignified life, some of them taking up arms, some taking up pens, some gathering people to take part in discussions and demonstrations; all to bring down the dictatorship, from every corner of the country, in any way that they can.

Most of these women join the opposition party, NLD (National League for Democracy), from where they create campaigns for human rights, farmers' land rights, against forced labour, and join public protests. They also take part in humanitarian work such as helping families of political prisoners, HIV/AIDS patients and victims of natural disasters.

Women want to end the military dictatorship, they want real democracy, complete with personal freedoms and human rights. They want to create a good future for their country and their children, so they may live in a peaceful society, not in fear of state violence. Their hopes are simply for safer, better lives for their children and families, which eventually extends to ordinary Burmese people.

These mothers have a better understanding of why they are struggling for democracy and what their beliefs are. They want democracy in which they can exercise their basic rights, and strongly believe that genuine democracy cannot be obtained without a recognition of human rights. According to them, freedom is the only way to promote Burma's development. At present, people cannot even think about the word 'freedom'. In response, women sacrifice themselves to obtain freedom.

**“We do not request, but demand our rights, which are born together with us”--woman activist**

While mothers play an important role in human rights activities, they also remain the pillar supporting their home and families. They are likely aware that if they do nothing for authentic democracy in their times, their children will face a worse situation. Instead of pursuing their personal happiness, they serve others who need help. At the end of the day, they believe this is the way to create a happy life for their children.

As mothers, they often face difficulties, including separation from their family and community. Ms Nilar Thein for instance, is currently serving a 65-year prison sentence and separated from her infant daughter, for participating in the 2007 protests. She had to leave her four-month-old daughter and family to escape from the authorities, but she was finally arrested on 10 September 2008, becoming one of more than 400 women prisoners who have fought for democracy in Burma. Before her arrest, Nilar Thein disclosed in *The Irrawaddy* about where she had been hiding, and that she knew she would be imprisoned and separated from her baby for participation in the protests.

“I want to bring about a bright future for my daughter and I love my daughter. I had to leave her, but I believe she will later understand why,” she said. “We will face a more terrible situation in the future if I did nothing. My daughter will not be able to enjoy a good life otherwise.”

Nilar Thein is not the only mother who risked the wrath of the authorities and jeopardized her family and her life. Dozens of women from the opposition NLD braved the taunts and brutality of thugs who broke up their peaceful demonstrations.

Burma’s archaic Penal Code criminalizes any opinion, assembly or the forming of any group that expresses something against the state. This legalizes the arrest of all activists. Taking part in peaceful marches or even possessing video footage of demonstrations is considered a crime under the Penal Code.

Many mother activists have been charged under section 505(b) of the Penal Code which prohibits making, publishing, or circulating “any statement, rumour, or report... likely to cause fear or alarm to the public or to any section of the public whereby any person may be induced to commit an offense against the State or against public tranquillity”. Making use of this article, the authorities usually claim that the demonstrations are intended to create unrest.

After being detained, they were reportedly tortured during interrogation. Most of them are then sentenced to a minimum of 2-3 years, and a maximum of 65 years. For political prisoners, there is no fair trial under the military authority. Most trials are held in closed proceedings with restricted public access. Lawyers who protest against unfair trials and the actions of judges and prosecutors are charged and imprisoned for contempt of court. Accordingly, the victims are denied their right to have legal representation.

Today, after two amnesties in 2011, among the 1800 political prisoners remaining in prison, there are more than 600 women prisoners. They are our mothers.

### **Experience in prison strengthens feminine empathy**

All prisons in Burma contain political prisoners who participated in opposition party activities. The police watch every corner and are always ready to arrest them. The level of human rights violations and the abuse of power in Burma cannot be compared to other countries. As the prisons are far away from home, women political detainees find it difficult to communicate with their family members, particularly their children.

Cho Cho Lwin, 37-years-old, is one of the 10 women activists set free from prison, on 17 May 2011, according to Order 28/ 2011 regarding the amnesty. She used to be a member of the NLD, and participated in many human rights activities. She testified that in September 2009, the police arrested her after she complained against police officers who prevented her and her friends from donating food to monks in a monastery. At that time her son was 6-years-old and her husband was on a trip. On 26 February 2010, a court sentenced her to two-years imprisonment in accordance with section 505(b) of the Penal Code. She was discriminated against and abused in prison by the officials. She said it was the most devastating experience of her lifetime. She did not get proper food and medicines if she clashed with the prison guards. According to her, the women guards treated her worse than the male guards.

Most political prisoners are not allowed to go out for a walk or exercise. Soon Cho Cho Lwin felt uncomfortable and suffocated. She and other prisoners requested to be allowed to take a walk in the prison campus. The reply from the prison officials was negative however: "You all are prisoners, you don't deserve what other people are doing and don't have a chance to make any requests."

After this event, they were monitored by the guards more closely. Even when they took a bath or went to the toilet, the guards kept a close watch on them.

Women prisoners face various health issues due to a lack of hygiene and health services in the prisons. The guards usually suggest the women take care of their sicknesses by



themselves, without providing any medicines or allowing them to obtain medical advice. Sometimes the guards would themselves administer injections to the prisoners.

“I tried to take care of my health well,” said Cho Cho Lwin. “If I was not feeling well, it would influence my mentality. I will be collapsed otherwise. I miss my son and my family. But, I try not to think about them much. I will not be able to sleep otherwise. Democracy is the only way to give freedom to the people. I have to sacrifice for it.”

On 17 May 2011, her name was included in the list of prisoners given amnesty. Seeing her son again was the most pleasant moment in her life.

After her release however, she was unhappy that more than 600 women were left in the prisons. She decided that she would continue working for those remaining in the prisons, and for those deprived of human rights. Her experience in prison strengthened her motivation and feminine empathy, which can only lead to a stronger commitment for the future.

Many women activists went through similar experiences as Cho Cho Lwin in prison. Some might also have lost their property or family members. Even after their release, they are not totally safe as they can be easily rearrested.

This is affirmed by Su Su Nway, an activist struggling against forced labour, soon after being released from prison: “I take my prison uniform with me because I know that I will have to go back to jail until Burma achieves democracy.”

Something else that the women take back with them from prison is strong discipline. The challenges they face there make them stronger, and prepare them for any further difficulties life may throw at them.

Although women human rights defenders are put in prison to silence their voices when they come up against the state’s cruel system, the state does not realize that perhaps, placing them in prison is not an end but a turning point for their work, and may strengthen their resolve towards democracy.

“Women, with their capacity for compassion and self-sacrifice, their courage and perseverance, have done much to dissipate the darkness of intolerance and hate, suffering and despair,” says Aung San Su Kyi, the Burmese political leader and the General Secretary of NLD, always encouraging women in the frontline of human rights and democracy.

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# More than just victims: Women survivors in Indonesia

Putri Kanesia

## Introduction

Before the fall of Soeharto's authoritarian New Order regime in 1998, nearly every part of Indonesia saw large-scale demonstrations, mainly instigated by students demanding total governmental reform and better handling of the country's financial crisis. One of the worst tragedies that occurred during this time took place on May 12, 1998, when security officers shot dead four students from Trisakti University: Elang Mulia Lesmana, Heri Hertanto, Hafidin Royan and Hendriawan Sie during a demonstration in Jakarta.

In the same month, large-scale riots also occurred in Jakarta. Hundreds of shops owned by the country's Chinese population were destroyed by the masses, and many Chinese women were raped.<sup>1</sup> The financial crisis also led to looting in some Jakarta shopping malls, including at Yogya Plaza Klender. At that time, there were several unidentified persons<sup>2</sup> who provoked hundreds of people nearby to enter the Plaza for looting. After the building was filled with people, they locked the Plaza from the outside and set it on fire. The building and everyone inside it burned.

In 2005, the National Commission on Human Rights (Komnas HAM) urged the Attorney General to follow up its investigation into gross human rights violations in May 1998, but the Attorney General refused because the Ad Hoc Human Rights Court had not been established yet; according to article 104 paragraph 1, Law No. 39 of 1999 concerning Human Rights, "*To hear gross violations of human rights, a Human Rights*

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1. According to the investigation by the Volunteer Team of Humanity (TRK), the modus operandi of the May riots and the rape of Chinese women have the same motive, and thus were perpetrated by the same groups.
  2. According to the final report of The Joint Fact-Finding Team (TGPF) on May 13-15, 1998 Riots, a group of provocateurs with crew cuts provoked the public to loot, destroy traffic lights and so forth. This group also prepared several elements for destruction, such as gasoline, Molotov bombs and vehicles. They were not involved in the looting however, and left the place after the building burned.

*Tribunal shall be set up in the domain of the District Court.*” Thirteen years have passed after the 1998 reforms, but human rights violations of the time have not been addressed by the government. The lack of political will and effort to resolve the cases allows human rights abuses to continue today, including torture cases by police and military officers against indigenous people in Papua, human rights abuses in Aceh, the murder of human rights activist Munir Said Thalib, violence against farmers, labourers and students by the police and military, amongst others. Most importantly, state officials and law enforcement officials, who are meant to protect citizens and maintain security, are instead involved in violating human rights, as in an eviction case by the military against land belonging to the Rumpin villagers in Bogor, West Java, Indonesia. The Air Force Military (TNI AU) claimed the land as their own and wanted to use it for a water training development project. During the 2007 dispute, several villagers were shot and injured by the military when they resisted occupation of their land.<sup>3</sup> Furthermore, the villagers’ access to the waterway, a source of life, has been lost because of military activity there. Although the activity was meant to be suspended after the incident, it continues until today. As a result, the villagers live in fear and intimidation.

This article will discuss the lives of three women, Ruyati Darwin, Karsiah and Neneng, who lost either their family or their land in May 1998 and 2007. All three women were previously simple housewives, familiar with neither the law, nor politics. But after losing family members or having their land occupied by the military, their lives have changed. They have had to deal with their sorrows and take on the additional role of survivor together with that of mother and wife. This article shares the experiences of these three women, whose struggle for their cases have inspired many women in Indonesia.

## **The dual role of women survivors in Indonesia**

The loss of family members, especially the head and main income earner of the family is a key issue faced by many women. As wife and mother, women then have to replace the role of income earners to ensure the financial well being of their families.

This was the experience of Ruyati Darwin, mother of Eten Karyana, who died in the Yogya Plaza Klender fire in May 1998. According to the testimony of Eten’s friend, Eten entered the mall to help a little girl in school uniform stuck in the building as it began to burn. After that, Eten’s friend never saw Eten again. Eten was known as a smart and helpful person. As an English teacher, he often gave free lessons to his poor neighbors

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3. After the incident, Herman Prayitno, Air Force Chief of Staff (KASAU) apologized for the actions of his officers. The First Commission of House of Representatives in Indonesia (Komisi I DPR-RI) also recommended the military to stop the water training development project, but this was not followed-up by the military.

who could not pay the school fees. Eten always gave his salary to his family, and paid for the education of his brother and sister. After he died, Ruyati had to replace her son's role as the head of the family. She had to work until nightfall to support her family as her husband was unemployed and just spent his day at home. After Eten's death, Ruyati's husband had no enthusiasm to do anything. Ruyati would sell food at her house everyday, and sometimes help her neighbors to clean their houses and wash their clothes. She would get 30-40 thousand rupiah (USD 3.3/4.3) daily, which she uses to fulfill her family's needs.

Although she has to work hard and take care of her family, Ruyati still became a member of the Indonesian Association of Families of the Disappeared (Ikatan Keluarga Orang Hilang Indonesia/IKOHI). Through this group, Ruyati and many other victims' family members learned about human rights and got involved in various demonstrations to demand redress for the May riots or for other human rights violations. She has met the attorney general, parliamentarians and representatives of other institutions several times, to speak about her case. She is often invited by universities to speak about her case to the students, especially during the month of May.



Ruyati's civic participation and activity has led her husband to feel jealous and often seeking attention from her. He also accused Ruyati of having an affair. Although she gets no support from her husband, Ruyati is not discouraged. When interviewed, Ruyati said, "More than 13 years I have been struggling and will continue for the rights of my child. If I stop, all of this will be meaningless."

Another similar experience was also faced by Karsiah, mother of Hendriawan Sie, a student of Trisakti University who was shot dead by police during the demonstration



on May 12, 1998 in Jakarta. Karsiah previously lived in Balikpapan, Kalimantan as a housewife; after Hendriawan's death, she decided to go to Jakarta to demand state responsibility. Three years after she moved to Jakarta and struggled with her son's case, her husband told her that he had married another woman, who was pregnant. Shocked by this news (and uninterested in polygamy), Karsiah divorced her husband. She stayed in Jakarta and has never returned to her hometown.

Losing her son and faced with her husband's remarriage made her sad and stressed. She even contemplated suicide, but then

decided against it. She has consulted a psychiatrist on several occasions to deal with her grief and pain. Karsiah now is living alone in a boarding house near her son's former University in Grogol, West Jakarta. After her son's death, the University Rector gave her a chance to work there, allowing her to occupy herself and continue her life. In her free time, she likes to chat with students living in her boarding house, and telling them about the 1998 May tragedy, or simply watching football with them on the TV. Karsiah said she was happy to chat with the students, and felt they were like her son. She continues to take part in the annual May 12 demonstration to commemorate the tragedy; if she stops, Karsiah said people will never remember the case.

More than 13 years of struggle has made her stronger. The first few years after her son's death, Karsiah often could not sleep at night during the month of May, recalling the tragedy that killed Hendriawan. Now however, she can speak loudly in front of people or journalists who ask about her son's case. While she previously knew nothing about law and politics, she is now well versed in human rights and why her son's case cannot be brought to the Ad Hoc Human Rights Court after parliamentarians decided that the Trisakti Tragedy and May Riots are not categorized as gross human rights violations.

A different experience was faced by Neneng, one of the villagers of Rumpin, Bogor, West Java. Neneng's days were spent in domestic activities as a housewife, and sometimes teaching her neighbors' children the *Quran*. In 2007, the land in her village was evicted by the Air Force Military (TNI AU) for their water training development project, which was part of a plan to move their airbase to Sukamulya Village, Rumpin. The move would require 449 hectares of land, 10 acres of which would be used to construct the water training project. During the dispute between the villagers and the Air Force, several villagers were shot and injured, including Neneng; she was beaten unconscious and her jewelry was taken.



After this incident, Neneng with other villagers, mostly men, went to Jakarta to take part in demonstrations and hearings with government officials about their case. She also participated in other activities and human rights campaigns, including discussions with other victims of past human rights violations. All this required her to leave early in the morning for Jakarta, and she would return home late at night sometimes, it being a three hour journey from Jakarta to her house. As a wife and mother of four children, she often found it difficult to divide her time between her family and her land case. Similarly, financial constraints made it difficult for her to take up her activities at times; at other times, she would walk home because she didn't have money for the bus fare. Her neighbors were curious and had negative thoughts about her outside activities, but

Neneng ignored this. Her family knows well what she is doing, so she is not concerned by other people's talk of her, she says.

On 11 May 2011, Neneng joined a demonstration with villagers from Sukamulya Village, Rumpin, West Java in front of the House of Representative (DPR RI) to demand the government to stop the Air Force Military's claim to their land.<sup>4</sup> In front of more than 4000 demonstrators, Neneng and several orators spoke about their rights and affirmed that they will not fear to protect their land despite military intimidation.

Neneng loves writing. Oftentimes she writes in her journal about her daily activity and the progress of her cases on her way to Jakarta. One women's NGO in Jakarta is interested in her writing and will publish a book about Neneng and other women activists in Indonesia on Human Rights day, 10 December 2011.

## **The challenge of women survivors in Indonesia**

Becoming survivors is a challenge for women; moving on from loss and sadness, and continuing life is not simple. The experiences of the three women survivors above show the complexity of the problems they face. While not direct victims of violence, the impact of the violence is also felt by them. The loss of a loved one, of family land, forces women who previously spent their time in domestic activities to stand in front of people and speak of justice.

At the same time, in Indonesia's patriarchal culture, a woman's place is never equal to a man's. Discrimination against women also gives them very limited space to express themselves, to get involved in various organizations, or even take part in any activity outside the home. We can see the rejection of Ruyati's husband after he learns his wife is socially active and works to earn money after the death of their son. We also see how Karsiah left her hometown to struggle with her son's case, and subsequently was faced with her husband's remarriage. Moreover, she has to work to continue her life after her divorce. Neneng meanwhile has little time to spend with her family due to her struggle to protect her land from military occupation.

The general social perception, particularly in traditional communities, is that speaking in front of people, leading demonstrations or being active in organizations are male roles. The role of women is to take care of the home. They do not have the freedom to speak their mind or do as they wish.

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4. See "Ribuan Warga Rumpin Demo di DPR", Kompas.com, 11 May 2011, <http://regional.kompas.com/read/2011/05/11/15274598/Ribuan.Warga.Rumpin.Demo.di.DPR>.

Another challenge faced by women survivors is economic; required to work hard to fulfill their family needs, they cannot totally focus on their cases. At the same time, there may be instances when they do not enough money to actively take up their cases, such as not being able to pay for transportation and so forth.

## **Government and society efforts to address challenges faced by women**

It is unfortunate that the Indonesian government has done so little to address past human rights violations and bring the perpetrators to the Ad Hoc Human Rights Court, which is the demand of all victims and their families. The student shooting in Trisakti and the May 1998 riots, among others, are still delayed by the Attorney General, who refused to take up the National Commission on Human Rights' investigation of gross human rights violations in May 1998 because the Ad Hoc Human Rights Court is not established yet.<sup>5</sup> Although a military court was set up for the Trisakti case in 1998 and 2003, the court was only able to process low-level officers and failed to bring the intellectual actors of the human rights violations to court. As for the Rumpin case, the military continues to occupy the land today, and intimidate the villagers.

The lack of initiative by the government to provide redress for these human rights violation cases forces women to take up their struggle as best they can. Their efforts are hampered by their multiple responsibilities, as well as societal discrimination regarding their 'traditional' roles. Gender discrimination continues in Indonesia despite the country having ratified the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) on 13 September 1984.<sup>6</sup> Article 3 of CEDAW requires states to *"take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men"*.

To this end, the government established the National Commission on Violence Against Women (Komnas Perempuan) through Presidential Decree (Keppres) Number 181, 1998 to respond to the May tragedy of 1998. In 2004, the government also issued Law No. 23, 2004 concerning domestic violence.

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5. The Human Rights Court can be established by a Presidential Decree based on the recommendation by the House of Representative (DPR RI).

6. In preparation for its ratification, Indonesia enacted Law Number 7 of 1984 on the issue of discrimination on 24 July 1984.



Meanwhile, many women NGOs were established after 1998, working for women's rights. These groups not only investigated and advocated for cases of violence against women, but also provided human rights education and gender mainstreaming to women activists, victims and their community. Ten NGOs have come together to form the CEDAW Working Group Indonesia (CWGI), to campaign for the proper implementation of CEDAW. One of their initiatives was to arrange for an alternative report to be submitted to the CEDAW Committee, which is responsible for monitoring Indonesia's implementation of the treaty.<sup>7</sup> The group submits this report every four years, as required, regarding important women's rights issues in Indonesia that need attention from the government.

The laws and institutions set up by the government, as well as the efforts of NGOs and women's rights activists, cannot on their own lessen the difficulties faced by women. It is essential to work on concrete steps to eliminate all forms of discrimination against women and to provide capacity building opportunities for women. The Indonesian government must also ensure that the rule of law is functioning effectively in the country, and human rights violations are addressed. To truly end discrimination against women and empower them, we must remember women's rights are human rights.

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7. Profile of CEDAW Working Group Indonesia (CWGI), <http://cwgi.wordpress.com/2007/07/28/profile-cwgi/>

# Manipur: Women's rights in a traditional and militarized society

*Shreema Ningombam*

## Introduction

The connection between women and human rights is of recent origin, as the concept of woman as human itself developed not so long ago with various social movements, particularly the feminist movement. In 1994, the International Conference on Population and Development in Cairo (ICPD) articulated and affirmed the relationship between advancement and fulfilment of rights and gender equality and equity. The Programme of Action of the ICPD asserted that the empowerment and autonomy of women and the improvement of their political, social, economic and health status was a highly important end in itself, as well as essential for the achievement of sustainable development.

In the conflict ridden state of Manipur, within the Northeast region of India, the language of rights is predominantly masculine, focusing only on rights relating to security. The masculine state defines security in terms of protecting the nation and territory from external forces or internal issues, rather than in terms of micro lives. In this scenario, the military becomes the central pillar of the state and society, as manifested in the AFSPA (Armed Forces Special Powers Act, 1958), giving it unchecked powers. Militarization in Manipur has reached the level of mass recruitment of citizens into Village Development Forces, to supposedly address the state's law and order issues, without the necessary military training.

Under these circumstances, economic, social and cultural rights seem to get consumed in the fore-fight for the right to self-determination by armed opposition groups, which the state is preoccupied with countering. Women end up suffering from 'double patriarchy' here—first they suffer under archaic patriarchal customs and laws, and second, they suffer from the patriarchal form of nationalism engulfing Manipur and the Indian state.

Women's rights are often construed by states to mean civil and political rights, and limited to issues of violence or political participation. While meaningful implementation

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of women's civil and political rights remains critical to women's equality, economic, social and cultural rights must also be raised to a level of equity and indivisibility in the discourse surrounding women's rights. Without this, their full equality cannot be realized.

In Manipur there are many instances of women's issues being consumed by the flames of nationalist politics, under the premise that the resolution of the conflict and ethnic tensions are more important. Key issues of concern to women include domestic violence, marital rape, sexual abuse, suicide, murder and widows' plight within the family, as well as reproductive rights, bodily autonomy, property rights, legal rights, medical rights, media and cultural representation, women trafficking, the issue of taboos and stigmas, moral policing, female foeticide. These, together with the issues of education, health and governance in Manipur have been subsumed by the political tussle between the armed opposition and the state, as well as the politicization of ethnicity. This is fundamental in understanding why women's rights could never obtain the same attention as other concerns of the national liberation movement in Manipur.

When we talk of problems or violence faced by women, there are two levels of interpretation: visible and structural. Since women's subjugation is a result of the patriarchal structure and ideology, crimes against women are not committed merely by an individual, but driven by the structural framework in place. Visible forms of violence and difficulty consist of domestic violence including marital rape, sexual abuse, wife suicide, dowry deaths, female infanticide and sexual harassment, as well as other forms of physical and psychological injury. The invisible forms of violence are the structural subjugation by norms and social hierarchy; including the notion of pollution and purity, other discriminatory attitudes and practices based on religion or custom, such as women being forbidden to enter the kitchen or take part in any religious rituals during menstruation, or the stigma attached to widows. Their limited representation in media and academic discourses, in family values and popular culture are also invisible forms of violence, as are their denial to property rights, the right to choose the sex of their child, the right over their own body in terms of seeking pleasure and reproduction.

It is clear that the visible forms of violence faced by women are rooted in the structural set up of patriarchy and male domination. In particular, the idea that women's sexuality needs to be confined to uphold paternity gives rise to all sorts of social norms and taboos; for instance, women's chastity and the idea that the inheritance of name goes by paternity generate control of the woman's body/ sexuality. Similarly, rape, premarital sex or pregnancy are intricately linked with the reproduction and sustenance of social taboos. Rape is not as physically catastrophic to women as psychologically; it even leads them to commit suicide at times. This suicide is a socially induced phenomenon.

## Customary laws and morals in a traditional society

In Manipur, a conservative and closed society, where no legitimate space is given to sexuality, there is a mushrooming of small restaurants along the roadside, where couples can go to avail some intimacy. Some civil society organizations and insurgent groups have raided these places and publicly disgraced couples found there. This act of public humiliation indirectly harms the reputation and dignity of women, as they are made the carriers of social morality. A women civil society group, geared towards redress for rape and sexual harassment, known as Ningol Khongchat Lup (NKL) raided one such restaurant on 1 May 2010 and publicly disgraced a young boy and girl, and a photograph of them, half nude, while getting dressed, was put on the front page of Huyen Lanpao, a daily newspaper. The NKL checked several restaurants located in and around Imphal city and ransacked closed cabins with dark rooms as part of a ‘moral upliftment drive’.<sup>1</sup> A related problem plaguing Manipur in recent years has been the circulation of fake and real pornographic video clippings with the names of local women and girls inscribed. Some of the clippings circulated through mobiles are real, taken in restaurant cabins, leading to blackmail of the girls involved.<sup>2</sup> These forms of violence have no legal paradigm within which justice can be sought.

‘Izzat Dabi’ in Manipur is a social custom whereby an eloped woman claims compensation from the man’s family lest the man refuses to accept the woman as his wife or refuses to get married. Traditional women’s organizations, the ‘Meira Paibis’ (known for their substantial role in protesting against atrocities committed by the armed forces) have strong jurisdiction in such cases, and usually resolve them by forcing the man to marry the woman or paying the woman compensation for the damage done to her dignity. Such eloped women are locally known as ‘chellurabi nupi’ and have to live with that stigma. Their future marriage prospects are also considerably diminished.

In this way, personal and customary laws set up by a patriarchal system go against women in subtle and not so subtle ways—the rapists are asked to marry the victim sometimes, to ‘save’ the dignity of the women. In the end, women and their families feel it is better to remain silent, rather than losing more dignity in their attempts to seek justice publicly.

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1. Huyen Lanpao, August 8, 2010, “Youth accused of raping girlfriend in restaurant” available at website: <http://www.hueiyenlanpao.com/showresults.php>, visited on August 10, 2011.
  2. Huyen Lanpao, November 4, 2010 “Youth circulating porn videos in ex-girl friend’s name arrested ISKCON tutor held for wooing, threatening girl student” available in website: <http://www.hueiyenlanpao.com/showresults.php>, visited on August 10, 2011.

## **Violence against women**

With a total of 141 incidents recorded in 2008, violence against women in Manipur is on the rise, according to reports from the Foundation for Social Development Organization, an NGO working in the field. Modes of violence mentioned in the reports include derogatory language, assault, murder, rape, mental and physical harassment and trafficking. Many such incidents go unreported however. The report observed that women are harassed right from their home to public spaces. No change in the trend of gender discrimination was found, while burning and molesting women for dowries is on the rise. Within the conflict situation present in Manipur, both state and non-state actors are guilty of harassing women. In some cases, violations are not reported due to the lack of knowledge about their rights by women themselves. The Foundation suggests the need for civil society, concerned groups and ordinary people to check violence against women. The state commission for women and other NGOs seem to be lagging behind in their advocacy of women's rights.

## **Widowhood**

Manipur's current social context has seen a rise in the number of widows, by their husbands' deaths in either armed conflict encounters, or as victims of AIDS. These are the two prominent groups of young widows present in the state today, with no economic or social security. Both groups suffer from the social stigma of being a widow, economic hardship, assault from family members, and physical abuse or sexual harassment.

Widowhood is considered a social death where a woman is deduced into a non-being. When their husbands die, women are harassed by their in-laws and relatives, particularly over any compensation to be received. The in-laws and sometimes the brother-in-law even go to the extent of sexually harassing the widows. The full extent of their exploitation within the domestic sphere is as yet unexplored however.

Widows whose husbands have been extra-judicially killed by state agencies are not given compensation. When this was questioned under the Right To Information Act, the Secretariat of the Home Department replied that,

“As per the existing scheme of Home Department the family of the deceased person shall not get ex gratia if the deceased person is found to be a member of outlawed/ gang organisation operating in Manipur (or) not killed in the extremist action/unjustified Police/ Security Force action.”

Widows are seen with suspicion as they go from office to office to seek justice or financial assistance. Coupled with the denial of justice regarding the cases of their husbands' killings is the hardship of sustaining their children.

Women who have no alternative source of livelihood, no other income, and have a family and children to support, are left with the options of manual labour, prostitution or illegal acts; many women are thus found involved in transferring arms and ammunitions of the armed opposition groups.

### **EEVFAM case study**

There are various NGOs working for women and run by women, but what is needed is survivors working for themselves; the solidarity amongst themselves is immensely helpful in creating self confidence within them. In 2009, some of these widows and victims' mothers came together and formed the Extra-Judicial Execution Victim's Families Association of Manipur (EEVFAM), now consisting of more than 30 members; a strong community supporting each other, enhancing their morale and self-confidence.

For the past one year, they have organized occasions to meet and build solidarity amongst the families and friends of extrajudicially executed victims. The group reveals the importance of harnessing the deprived power of sisterhood.

All these widows collectively strive to uncover the truth behind the killings of their husbands and children. These widows and their children are of no consequence to the Manipur government, as a result of which they feel the need to join together to combat the continuous extrajudicial executions by state actors while trying to seek justice. The spirit and objective of the association is to use domestic and international mechanisms to seek justice and rehabilitate the widows and their children. The organization was registered as a trust in May 2011.

The general secretary of EEVFAM, Neena Ningombam, even met the UN Special Rapporteur on the situation of Human Rights Defenders, Margaret Sekaggya, when she visited Guwahati on January 14 as part of her 10-day official visit to India from 10-21 January 2011.

When these women went to a police station to obtain a verification certificate for their organization's registration one of the widows was detained for more than 30 minutes in the police station. Even in government departments, these women do not feel secure. There is always a feeling of insecurity surrounding these women, be it inside their own homes, community or government institutions.

There are many more widows who are not able to speak out about their problems. There are hundreds of widows in the villages that are not aware of their rights and are unable to question why their husbands were killed. Most of them seem to have fallen prey to the belief that it has been written in their fate. Many have desisted from filing complaints and

are not interested to pursue matters pertaining to their husbands' death as they have lost complete faith in the judicial process and the state's legal and governance mechanisms. Despite this, there are also many who still hope that someday they will get justice. The common refrain of most widows however, is that most of the perpetrators are from the security forces and the state police; there is therefore no point in asking for justice when those meant to deliver justice themselves commit the violations.

The Armed Forces Special Powers Act, 1958 continues to exist in Manipur, fuelling impunity. Every community wants to live in peace and free from militarization. The people of Manipur have become extremely intolerant towards state actors. The situation is fast hurtling towards an impending mass uprising of the civilian population against gross violations of basic human rights. According to the Universal Declaration of Human Rights, everyone has the right to life, liberty and security of the person, but for most Manipuris, this remains only a beautifully written declaration on paper. In these circumstances, women's rights are assigned a secondary position.

## **Conclusion**

Lack of knowledge of human rights, inaccessibility to court of law and its red tapism, and the lack of intervention by the various state commissions on human and women's rights are some major factors in women's inability to access human rights. Above all, the patriarchal norms and cultural dogma curbing their mobility and growth impose the biggest hindrance to their access to justice and the fulfilment of their rights.

In Manipur, a gender dimension to the rights discourse is yet to be incorporated. There is a need for a gender awareness campaign, a gender sensitive education policy and to question society's present value system. Media sensitivity regarding women's issues as well as the revival of the commissions on women and human rights must be called for.

# Women's concerns within Nepal's patriarchal justice system

*Sujata Paudel*

## Background

One prime example of a modern day patriarchal legal system and society is that of Nepal. Both have been developed in accordance with Hindu customs and traditions over centuries. The impact of deeply rooted patriarchy can be seen in some of Nepal's communities, where women can only begin their day—including drinking water—after greeting their husbands and parents-in-law, and can only eat, from their husbands' plates, once their husbands have finished their meal.

Prevailing from the pastoral or nomadic period, the patriarchal system set up controls over women's body, labor, income, mobility, sexuality, ideology and even identity. Women were denied equality, with the social construct of patriarchy providing men the necessary power to restrict women from any social realms outside the household. These restrictions were then perpetuated in the political realm of society as well, excluding women from participating in legislative and other matters.

Today, women in Nepal are underprivileged, underrepresented and exploited in all areas of society, from domestic affairs to discussions within the government. This is due to the socio-cultural views held by the majority of the Nepalese population, political forces upholding these views, economic constraints placed upon women, and their limited educational opportunities. Combined, these factors force women to live in perpetual subjugation to men. In some rural communities women are not even permitted to move freely outside the household. Furthermore, lineage is traced through the father and inheritance moves strictly from father to son within all communities in Nepal.

## Patriarchal structure begins at home

Patriarchy is enforced in the home since ancient times, leading to the transmission of

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its values and norms, knowingly and unknowingly, from grandparents and parents to children and grandchildren. This process of socialization further reinforces the patriarchal structure.

From childhood, the family prepares girls and boys for different roles. The boy is to be sent to school, while the girl will stay home and learn how to cook and take care of her family. The boy has access to education and empowerment, which are denied to the girl. Through this education, the family is preparing the boys to become decision-makers while the girls are raised to be the “implementer” of the decisions taken by their future husband.

Due to society's preference for boy children—rooted in religious customs and traditional beliefs—it is important for the wife's first born child to be a boy. If not, she may have to give birth to many children waiting for a boy to come. Traditionally, the adult man will live with his parents and support them, while the woman should come to her husband's home with a considerable dowry. Nowadays, the dowry brought by the bride should be proportional to the educational level of the groom; a high value is thus placed on the education of men, while the education level of women is not taken into account, thus diminishing the value of educating girls. The birth of a boy is therefore seen as compulsory to secure women's place in society, and for the secure future of the family, while the birth of a girl is seen as a burden. In fact, nowadays parents with daughters worry about her marriage and dowry upon her birth itself, as insufficient dowry can lead to abuse and even death.<sup>1</sup>

The home is supposed to be the first school for children, and in Nepali homes, boys learn their lessons based on structural patriarchy. These are then implemented as they grow up, reinforcing gender hierarchy as well as the use of violence against women. As for girls, they are taught from a young age to fulfill the desires of the family and serve all family members. Apart from household work, girls are not even given a chance to learn any income generating skills. Their names and identity are inextricably linked with the concepts of tolerance and devotion. Women themselves don't realize when this tolerance and devotion converts into violence.

As noted, girls are rarely sent to schools, and if they are, it is likely to be a cheaper school. Moreover, girls are also often forced to drop out early to assist their families and focus on housework. As a result, there is a huge gap between the literacy rates of the two genders:

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1. Binaya Ghimire, 'Dowry And Violence Against Women', *The Rising Nepal*, [http://www.gorkhapatra.org.np/rising.detail.php?article\\_id=45558&cat\\_id=7](http://www.gorkhapatra.org.np/rising.detail.php?article_id=45558&cat_id=7). and 'Woman murdered over dowry case', *Nepal Mountain News*, May 30, 2011, <http://www.nepalmountainnews.com/cms/2011/05/30/woman-murdered-over-dowry-case/>

according to the Global Gender Gap report 2011, the literacy rate of women is 47 percent, whereas it is 72 percent for men.

Women have practically no control over their lives, as exemplified by their lack of choice regarding their own spouse; they must accept their father's choice. While freely choosing one's life partner is a constitutional right in Nepal, it is one that women are deprived of. At no stage of their lives are women independent: when they are born, they are controlled by their father, after marriage by their husbands, and after widowhood by their sons. This process goes on in a cyclical way, with their daughters experiencing the same.

### **Economic and social status**

Nepal's patriarchy has resulted in injustice and discrimination against women, which delays their success and development. Their lack of access to decision making in the home or society and their limited control over economic access is a key obstacle to their empowerment. For instance, even the minimum property owned by women, known as '*pewa*'<sup>2</sup>, is not under her sole control; she must first ask her father or husband if she wants to sell any of it. While the country's civil code has provisions that '*pewa*' and 'dowry' are the property of women and they have control over that property, in effect this control is limited due to social customs. Although the government has made provisions to encourage women's access to property—land registered in a woman's name has a 25 percent cheaper registration fee—and a lot of land has subsequently been registered in women's names, men continue to exert effective control over management of the land. Similarly, women can now claim their parental property whether married or not, whereas earlier the law stated that only unmarried women after the age of 35 could make the claim. While the law is changing and becoming more protective of women's property rights, progress in the law unfortunately does not mean equal progress in reality.

This lack of economic power and financial independence leaves women vulnerable to abuse. They neither have effective rights to property, nor any access to capacity and assertion building courses. Strict customs as well as domestic violence ensure that women are mostly restricted to the home, which is an obstacle for government and NGO run programs focusing on women and their empowerment.

Many women, due to their poor economic conditions or lower caste status, are discriminated against, abused, and even accused of witchcraft. Anyone so accused is treated worse than an animal, tortured and compelled to feed upon human excreta as in

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2. '*Pewa*' is the female property/wealth in the form of ornaments or domesticated animals given by their husband family as part of tradition or women's earning, aside from dowry.

the case of 61-year-old Gauri Devi Saha of Bara. Gauri was severely beaten and forced to eat human waste by her neighbors for allegedly practicing witchcraft in May 2011. Similarly, Kalli Kumari B.K, of Pyutar VDC, Lalitpur was compelled to leave her house due to witchcraft accusations, severe beatings and forced to eat her own excreta on 18 May 2009.

## **Legal system**

Nepal's legal system does a poor job of protecting women's rights, and this is largely because the Nepali society continues to be based on traditions, maintaining the belief that women are inferior to men and must live in accordance with the wishes of their fathers, husbands and sons. Although many laws have been adopted in recent years to protect women's rights, the individuals responsible for implementing the laws are mostly men. Administrative and police offices are overwhelmingly male-dominated, and the voices of women are rarely listened to in such places. Similarly, in local communities public officers are reluctant to side with the woman against her husband or other male members of the community. To illustrate: in October 2011, a 50-year-old woman in Nawalparasi was accused of being a witch, and was beaten by five of her male neighbors. Although the case was brought to the police station, it was 'solved' simply with the promise that the perpetrators would not repeat such action in the future, instead of going through the legal process. Despite people being more educated and legally aware today, such superstitions targeting women are so deeply-rooted that they continue unabated while the perpetrators are rarely held accountable. Furthermore, women's access to justice from violence is minimized by their own families on the pretext of 'reputation'. This is particularly troubling in cases of domestic violence.

Meanwhile, the political system only integrates women for the sake of filling quotas. They are not given any decision-making posts, and even if by chance they are, women will still not be included in the core decision process.

The intersections of class, caste and ethnicity, as well as the rural and regional divide means that women may face multiple hazards. Women can be deprived of their rights on the basis of their class, caste and gender. Women from the higher classes are already facing tremendous challenges, so one can imagine the conditions and difficulties faced by women who belong to marginalized communities.

## **State attempts at gender equality**

The Nepalese government has formally announced that men and women have equal rights, but this announcement has not been translated into reality. Many provisions

have been enacted concerning gender equality, including the 33 percent inclusion methodology ensuring women's participation in each sector<sup>3</sup>, as well as the abolishment of insensitive words in working areas to ensure gender sensitivity<sup>4</sup>. The implementation of these provisions by men, in a patriarchal system however, is an overwhelming obstacle for women.

One illustration of this is the Citizenship Act (2006), which allows children to claim citizenship in their mother's name. Children may now also claim citizenship if the father is a foreigner. Despite this legislation, only a few persons have been able to receive a Citizenship certificate in the name of the mother in the past few years, while the district administration office has delayed to provide the various criteria of relationship approval.<sup>5</sup> Furthermore, the 2007 Interim Constitution and certain articles and provisions of the Citizenship Act continue to limit the rights of women on the issue of citizenship based on matrimonial status.<sup>6</sup> According to these, women are allowed to receive the citizenship certificate in the name of their husbands if she is a foreigner, but in order to be a citizen of Nepal it must be verified that she has cancelled her former state's citizenship. If the woman does not get citizenship, when her husband passes away or when she divorces, she cannot claim her property rights.

An Asian Development Bank report<sup>7</sup> adequately lists the legislative progress which has benefited women in recent years in Nepal:

*According to the 11th Amendment of the Civil Code the women can claim for their parental properties as equally to man as the amendment has entitled significant rights to women.<sup>8</sup> This amendment also provided equal inheritance rights to unmarried daughters and sons (where previously an unmarried daughter had inheritance rights only if she was over 35 years of age) and removed discriminatory conditions that prevented women from having full access to property. Women were granted the right to their husband's property upon divorce and the*

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3. Alexandra Delaney, Nepal's women have a voice in politics but no one is listening; The Guardian, Poverty Matter Blog, 27 May 2011; <http://www.guardian.co.uk/global-development/poverty-matters/2011/may/27/nepal-women-in-politics>.
  4. Helen Rehin and Rachel Masika, 'Gender Planning and Analysis in Nepal: A Select Bibliography Prepared for the Overseas Development Group', School of Development Studies, University of East Anglia, 1995, <http://www.bridge.ids.ac.uk/reports/bb4c.pdf>.
  5. 'Citizenship on the basis of mother's nationality', Republica, February 27, 2011; [http://archives.myrepublica.com/portal/index.php?action=news\\_details&news\\_id=28691](http://archives.myrepublica.com/portal/index.php?action=news_details&news_id=28691).
  6. Act to Amend and Consolidate Nepal Laws Related with Citizenship Nepal; Citizenship Act 2006, 26 November 2006 <http://www.undp.org.np/constitutionbuilding-archive/elibrary%5Ccitizenship%5CCitizenship%20ActEnglish.pdf>.
  7. Asian Development Bank, 'Overview of gender equality and social inclusion in Nepal, 2010': <http://www.adb.org/documents/reports/country-gender-assessments/cga-nep-2010.pdf>.
  8. 'Legal reform in Nepal', Progress of the World's Women, 2008, <http://progress.unwomen.org/2011/06/case-study-nepal/>.

*provision of receiving monthly or yearly support in lieu of property. Widows were given full rights to their property allowing them to use it even if they remarry (where previously they were required to return property to the deceased husband's household upon remarriage).<sup>9</sup>*

*The Gender Equality Act (2006) has also ensured the property rights of women and removed and amended discriminatory language and provisions. It entitled women to use property freely without the permission of male family members which was required previously and included daughters within the definition of family under the act related to land.<sup>10</sup> Reforms through the Gender Equality Act include rising the age of consent for marriage for both women and men to 20 years without parental consent and 18 years with parental consent. Women are now allowed to divorce their husbands on the grounds of rape. A man can no longer divorce his wife on the grounds of her inability to bear a child. However, there are still many other discriminatory provisions on whose ground the husband can divorce, e.g., if the husband can prove that the wife has a sexually transmitted disease or that she is having an affair with another person.<sup>11</sup> The government has also legalize abortion in that country up to 12 weeks of pregnancy and as late as 18 weeks in cases of rape or incest.<sup>12</sup> The Government of Nepal has adopted a gender mainstreaming strategy in support of gender equality and women's empowerment. Nepal's Interim Constitution (2007), which provides an interim legal framework for the government, promotes gender equality and social inclusion through inclusive state restructuring and ensuring fundamental rights to women and positive targeting socially excluded groups.<sup>13</sup>*

Nepal is also party to various international conventions and platforms such as the Convention on the Elimination of All Forms of Discrimination against Women, the Beijing Platform for Action (1995), the Millennium Development Goals (2000), and the United Nations Security Council Resolution 1325, all of which underline the government's responsibility to promote and realize the rights of women. Over the past several years, significant changes have been made through legal and policy reform concerning women's rights. The 11th Amendment of the Civil Code (2002), the Gender Equality Act (2006), and the Nepal Citizenship Act (2006) repealed several discriminatory provisions that limited the rights of women. Amendments to the Civil Service Act (2005) have aimed to increase the representation and capacity of women

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9. Malla, Sapana Pradhan. 'Property Rights of Nepalese Women' FES Nepal. March 2000. Web. 20 June 2011. [http://www.nepaldemocracy.org/gender/property\\_rights.htm](http://www.nepaldemocracy.org/gender/property_rights.htm).
  10. 'Nepal Acts to Maintain Gender Equality', Nepal Law Commission 2063 (2006) <http://www.lawcommission.gov.np/en/documents/func-startdown/459/>.
  11. Joshi, Dr. Sunil Kumar, 'Violence against Women in Nepal: An Overview', Free Library. May 22 2008, retrieved November 30, 2008 <http://www.thefreelibrary.com/violence+against+women+in+Nepal-an+Overview-a01073875052>.
  12. Dr. Aruna Uprety, 'Abortion Laws in Nepal', Bridge to Nepal and Nepali, January 24, 2007, <http://www.forum.welovenepal.com/index.php?topic=1135.0>
  13. Jill Cottrell, Surya Dhungel, Kedar Bhattarai, & Basant Subba, The Interim Constitution of Nepal, 2063 (2007), UNDP Nepal, January 2008 [http://www.worldstatesmen.org/Nepal\\_Interim\\_Constitution2007.pdf](http://www.worldstatesmen.org/Nepal_Interim_Constitution2007.pdf), <http://www.nic.gov.np/download/interim-constitution.pdf>

and socially excluded groups in government service.<sup>14</sup> In addition to government action, there have been many other efforts and positive contributions to protect and liberate women from risk and difficult situations, and ensure physical, mental, educational, social and psychological development of children. In order to change the depressing picture of women, NGOs are working through education, empowerment and social mobilization initiatives. The Ministry of Women, Children and Social Welfare has also been extending its support to programs being carried out by NGOs. NGOs also extend direct support in the forms of residential care, emergency support, educational support and support for capacity building to girls at risk. These initiatives cater to the needs of survivors of torture and physical abuse, sex abuse and exploitation, trafficking, labor exploitation, girls affected by armed conflict and street girls. Special programs to address education of girls and programs for adolescent girls have also been initiated with the support of UN agencies and others.<sup>15</sup>

## Conclusion

In order to combat patriarchy, it is important to work on a social and legal level combined. Beginning at home for instance and instilling the idea that not only sons, but even daughters can look after their aging parents if given similar opportunities. To allay the effects of discrimination, we should provide opportunities for females in every sector of life and change our expectations.

Similarly it is also the state's responsibility to investigate and monitor its policies on behalf of women's rights and implement them in the best way to support women. In addition to this, it is essential to create awareness in society that the differences between men and women exist only in our minds, but not empirically in regard to work competence, intelligence and skill. It is not that women are inferior to men, but that traditional religious practice formed over time by and for men, discounts women's rights. The most important factor in overcoming the prevalent patriarchy is bringing out women from their homes and letting them establish their independent identity. Their families must support them, with the thought that a daughter is a child like a son, and can take part in the country's development along with being symbols of devotion and tolerance. Therein, we can think about the creation of a new world of freedom and justice.

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14. Status of Ratification of Key International Instruments, Human Rights Treaty Monitoring Coordination Committee (HRTMCC), 11 February 2008  
[http://www.insec.org.np/files/documents/Nepal\\_Treaties.pdf](http://www.insec.org.np/files/documents/Nepal_Treaties.pdf)

15. 'Ending violence against women: from words to action', Study of the Secretary-General, UN, 9 October 2006 <http://www.un.org/womenwatch/daw/vaw/launch/english/v.a.w-fightE-use.pdf>;  
 'Preliminary Mapping of Gender Based Violence, Sathi', The Asia Foundation & DFID, July, 2010  
<http://asiafoundation.org/resources/pdfs/GBVMMappingNepal.pdf>;  
 'Women's situation in Nepal', One women, <http://www.onlinewomeninpolitics.org/womensit/nepl.pdf>

# Violence against women in Pakistan

*Baseer Naveed*

Pakistan is a society burdened with the legacy of colonial rule, and presently dominated by the landed aristocracy, bureaucracy, a strong army with ruthless powers and eyes fixed on taking over the government, as well as the Muslim religious parties, who wish to dictate all matters of an individual's life. The various Muslim religious parties/groups have sharp differences among them—which are sometimes violently resolved by killing each other's members—but they are unanimous in considering women as the evil of all sins, that they are subordinate to males and do not have equal rights. A common and indoctrinated phrase says that “the home is the best place for women”. Muslim fundamentalist groups have the support and patronage of the powerful, which allows them to divide society on a sectarian basis and keep women, 49 percent of the country's population, in the dark ages.

There are 72 women in the current National Assembly and more prominent positions are being held now by women than ever before, including the Speaker of the National Assembly, Federal Ministers and a number of deputy and provincial positions. However, there is no visible change found in the general conditions of women at large, particularly in regard to their social and economic empowerment. Women in prominent political positions are unable to control crimes against women, which have unfortunately increased compared to previous years. Physical and sexual violence, honour killings and forced marriages make Pakistan one of the worst countries in terms of the gender gap according to the World Economic Forum's *Global Gender Gap Report*; it ranks 132 out of 134 countries, and is lowest among Asian countries. Private bills relating to women are pending in parliament since 2009, including bills on domestic violence and acid throwing, yet to be passed.

Pakistan's political parties and parliamentarians are largely made up of the landed aristocracy and retired army and civilian officers, who are adept at ‘fielding’ bills providing rights to women. For instance, the bill against domestic violence is pending in parliament since 2009; every time it is taken for discussion, it is referred to the parliamentary

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committee on objections from members. Similarly, a bill regarding acid violence—which would specifically target acid crimes with higher punishments and regulate the sale and purchase of acid—has been submitted to parliament on 26 January 2010, where it is still pending.

Existing laws addressing violence against women are either weak or inadequately implemented. For instance, while the Protection of Women Act, 2006 provides punishment for the offences of abduction and rape, it does not recognize marital rape and severely punishes non-marital sex. Domestic violence is so common in Pakistan that cases are usually not even reported.

In remote parts of the country, particularly in the north, there is great resistance to the education of girls. Several hundred schools were recently burned by tribals in the Northern Province, the Khyber Pakhtoon Kha (KP) bordering Afghanistan, under the control of Taliban and militant Muslim organizations to protest against girls' education. In such areas girls are not allowed to pass above grade five (primary school level), whereas the completion of grade ten is required for many jobs. Authorities largely fail to intervene in these areas, where they are seen to pander to the powerful religious fundamentalists.

## **Honour killings**

Every year, hundreds of women of all ages, in all parts of the country, are reported killed in the name of honour. Many more cases go unreported, and almost all go unpunished. The lives of millions of Pakistani women are circumscribed by traditions, which enforce extreme seclusion and submission to men, many of whom impose their proprietorship over women with violence. For the most part, women bear this traditional male control over every aspect of their bodies, speech and behaviour with stoicism, as part of their fate. Exposure to media, the work of women's rights groups and the greater degree of mobility in recent times however, have seen the beginnings of women's rights awareness seep into their secluded world.

When they begin to exert these rights though, however tentatively, they often face more repression and punishment; the curve of honour killings has risen in parallel to rights awareness. Originally a Baluch and Pashtun tribal custom, 'honour killing' comes from the idea of killing for 'honour', usually that of the family. Women are seen as the repositories of such 'honour', as well as the possessions of men. When this honour is believed to be besmirched, and when possessions are thought to be 'tainted' (by a woman having a male friend, marrying a man of her choice or seeking divorce for instance), such killing is allowed as retribution and as a means to defend 'honour'. Inevitably, the undefined concept of 'honour' and of what undermines it leads to almost every act of female disobedience amounting to 'dishonouring' the family. In fact, it is merely the



rumour of a woman's inappropriate behaviour that damages the 'honour' of her family and hence the truth of such an allegation does not need to be established. As noted by Neshay Najam in 'Honour Killings in Pakistan', it is paradoxical that women, who enjoy such a poor status in society and have little standing within the family, should become the focal point of a false and primitive concept of family honour, which they are expected to uphold at the expense of their preference in matters of marriage.

State indifference, discriminatory laws and the gender bias of much of the country's police force and judiciary have ensured virtual impunity for perpetrators of honour killings. An investigative report by the Human Rights Commission of Pakistan (HRCP) claims that one woman is raped every hour, while another is killed on the pretext of honour killing.

### **The jirga system**

Jirga or tribal courts, not only legitimize honour killings, but encourage them. There are numerous cases where these jirgas are used to portray justifications for honour killings in incidents that are simple cases of greed and wrongdoing. To illustrate, a 17-year-old girl in Sindh province was pressurized by her uncle to persuade her parents to hand over acres of farm land to him. When she refused, the uncle and his accomplices forced her father to watch her being mauled by a pack of dogs and then shot to death. Two months later, a jirga was arranged in which the dead girl was posthumously declared 'kari', a woman involved in an illicit relationship. The murderers were vindicated and a local man was forced to confess to being the illicit lover of the girl, and to pay Rs 400,000 as compensation.

In fact, the majority of the more barbaric human rights violations occurring in Pakistan can be traced to jirgas, which continue to exist despite being declared illegal by the country's superior courts, particularly in the feudal north. This is in fact an illustration of the government's ineptitude in combating two illegal practices, honour killings and jirgas, the tribal courts that order them. More than 4,000 people have died in jirga sanctified murders over the last six years, two thirds of them women. Their deaths have often been caused under horrific circumstances. Many are charged with having a relationship out of marriage, an often fabricated claim, while others are suspected of planning love marriages (in opposition to the marriages planned by their families).

In the patriarchal north, women's lives are worth little and young girls are often sold into marriage to settle disputes. In one case, under the orders of a jirga and with the knowledge and apparent acquiescence of the police, three young girls aged 10, 12, 13, were handed over as compensation to a man who claimed that their father had slept with his wife. The complainant had openly killed the wife, as he had his previous wife.

Those that commit such ‘honour’ crimes are to be punished with a life sentence according to the country’s criminal law, but the true culprits are rarely punished. Instead, the practice of extrajudicial killing is increasing, supported by tribal chiefs and local police.

In June 2006 a five member bench of Supreme Court judges ordered police in Kashmore, Sindh province to arrest a PPP leader and national assembly member, Mir Hazar Khan Bijarani, for involvement in ‘Sanghatti’, the offering of young girls as blood money. He was accused, along with others, of offering five young girls as blood money in two separate cases. Police neglected to follow up on the order, and after keeping his head low for some time, Mir Hazar Khan Bijarani became the federal minister of education in 2008.

In August 2008, Balochistan Senator Sardar Isarullah Zehri, along with Senator Jan Mohammad Jamail—deputy chairman of the Senate—chose to defend jirga-ordered ‘honour killings’—the burying of three teenage girls and two of their aunts alive—in his province as ‘custom’. “This is our centuries old traditions and customs, and we will continue it,” he said. Despite such a disavowal for rule of law, and despite the fact that the case was yet to be properly investigated, Mr. Zehri was also inducted as a minister of state.

## **Custodial rape and abuse**

Pakistan’s Additional Police Surgeon Dr Zulfiqar Siyal revealed that on average 100 women are raped every 24 hours in Karachi city alone. Rape and sexual harassment in police custody remains a big problem, and few cases result in prosecution. According to a report by Human Rights Watch, more than 70 percent of women in police custody experience physical or sexual abuse at the hands of their jailers. Reported abuses include beating and slapping; suspension in mid-air by hands tied behind the victim’s back; the insertion of foreign objects, including police batons and chilli peppers, into the vagina and rectum; and gang rape. Despite these alarming reports, not a single officer has suffered criminal penalties for such abuse, even in cases where incontrovertible evidence of custodial rape exists. According to the same report, a senior police officer claimed that “in 95 percent of the cases the women themselves are at fault”.

On March 14, 2008, a 17-year-old girl was abducted by police officials and kept for almost 16 days in private custody where she was raped and tortured to make her confess to involvement in the murder of her fiancée. Her elder sister was also brought in and held naked for three days to increase the pressure. The perpetrator was a Sub Inspector, who detained the girl outside of the police station before she was produced before the first class magistrate for judicial remand.

## **Women from religious minority groups**

The situation faced by the Hindu and Christian groups in Pakistan is bad in general, but women from these communities are the worst victims of discriminatory attitudes of the authorities, political groups, religious parties, the feudal structure and the Muslim majority. The laws recently made about violence against women, domestic violence and sexual harassment at the workplace are laudable, but these have not changed the mindset of the Muslim society for the plight of minority groups. Although there is a two percent employment quota for religious minorities in government departments, hardly any women from these communities are employed in government services.

The majority of Hindu and Christian women in urban centers are employed as scavengers or sanitary workers and earn less than USD 12 per month. They are deprived of basic human rights and denied the protection of labour laws. In rural areas meanwhile, they have to live in shanty towns outside the Muslim dominated areas and are treated as the scheduled caste. Particularly in Sindh province, Hindu women are victims of the feudal society and work for very meager amounts. They remain in debt to loans provided by the land owners for their labour in the fields. Most of the bonded labour in Sindh is from the Hindu community, and has been for many centuries. In the districts of Badin, Mirpukhas, Sanghar, Umer Kot, Tharparker the Hindu women were enslaved because of religious hatred and debts claimed by their masters. They are subjected to abduction, rape, arbitrary arrest, torture, displacement and killings.

Working class women from minority groups are mostly employed in informal sectors and cannot even earn one US dollar a day. In the kilns, road construction, fields and domestic industries, women have no rights and are bonded. There is no question of labour law protection for these women, as they are taken for granted or treated as slaves.

## **Conclusion**

The situation faced by Pakistan's women is dire, and the country's minimal laws protecting women offer protection only on paper. The Women Rights bill passed in 2006 has not changed the conditions of women, particularly in areas where the feudal and tribal systems are prevalent, or in Muslim fundamentalist dominated areas. Moreover, since the 'war on terror' started at the end of 2001, discrimination and violence against women has increased. According to press reports and reports collected from different women's organizations, since 9/11 and the war on terror 112,162 cases of violence against women were reported.

Similarly, the recent Women's Protection Act has failed to deter acts of violence against women who continue to fall victim to honour killings. State violence also continued

against women and at least 300 women were arrested under different minor allegations and 115 women were physically tortured by the police in the provinces. This clearly indicates that the mere making of laws does not lessen human rights violations. The actual problem lies in the collapse of the law and the serious defects of the law enforcement system.

The situation in Pakistan—where women are not considered as human beings in some regions, and where it can be dangerous being a woman—reveals that discrimination against women is not only a legal problem, but a societal problem, deeply entrenched in mindsets. Laws are not sufficient to protect women against centuries-old traditions. This can be changed only through an in-depth evolution that includes the disassembly of jirgas, the effective implementation of the rule of law in every region of the country and the reform of the judiciary and the police to stop impunity and fairly condemn perpetrators, which requires strong political will. Structural changes also have to be made, such as a better representation of women in state and public offices. These are just some measures to deliver Pakistani women from old tribal traditions.

# Sri Lanka: How lawlessness affects women

*Basil Fernando*

Utter lawlessness in Sri Lanka makes women and young girls into victims. Cases of violence are reported daily by the media. State agencies are unwilling and often unable to assist these victims. In fact, quite often the police take the side of the perpetrator due to the influence of bribes or other favours or pressures.

When the law is unable to provide even minimal protection to women, what is the point in talking about the rights of women? Nice speeches can be made on women's rights, but when they are unable to get the protection of the state, all the talk about their rights is not taken seriously by anyone.

## **Ms. Srini Wasana Amaratunga - Wattala Police Station**

In this case a 33-year-old English teacher who went to the saloon for a haircut, was murdered and robbed of her jewelry, which was worth a little over Rs.100,000 (around USD 1000). The alleged murderers, a couple, paid a mortgage with the money. They put the dead body in a toy box and dumped it far away. Srini's body was found on 25 September 2011 at Elakanda, Wattala, in Gampaha District by Wattala police officers while on patrol at around 3am.



Srini was married and a mother of two children. She was a music teacher by profession and worked at the Loyola College, Kochchikade, Negombo. Srini's husband is employed overseas and she lived with her mother and two children. On the morning of September 24, Srini left her home in Daluwakotuwa, Kochchikade for Negombo town to pay some bills after having her breakfast with her family. Before she left she told her mother that she need not cook since she would be bringing home lunch. But as did not return home the worried family members made a complaint to the Negombo Police and requested

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the officers on duty to take all the possible measures to search for her. Her colleagues too started their own search.

On the morning of September 25, the victim's family were informed that a team of police officers attached to the Wattala Police Station found a woman's body from a canal at Elakanda. Srimi's relatives later went to the hospital and identified her body. According to the police, there were no visible external injuries on her body and there was no evidence of her having been raped. There were some burn marks around her mouth however. According to the government analyst's department, where certain parts of her body were sent for examination, she died three hours after breakfast. Her earrings, gold bracelet, chain, and two rings were missing.

In the last two months alone, there have been many similar robberies in the Negombo Police Division and other parts of Gampaha and Colombo Districts. The families of the victims have blamed the police for failing to solve any of these crimes.

Human rights activists believe that a gang of women could very well be behind these crimes, but as the police have so far failed to investigate any of these cases this is not confirmed. It is believed the victims are followed and then enticed with narcotic drugs before the robberies. The gang act in a systematic method, where one group is responsible for befriending and drugging the women, and another given the responsibility of stealing their valuables including gold jewellery before abandoning them in a desolate spot.

There is more to these incidents than meets the eye, and state protection for women and children leaves a lot to be desired. In the last two or three months alone, more than a hundred cases of murder, abuse and rape were reported in different parts of the country.

Despite laws aplenty in Sri Lanka vis-à-vis protection for women and children, and major religions professing non-violence, violence has beset the nation since independence and there are no signs of it abating.

There is an exceptional collapse of the rule of law in the country, with the law enforcement agencies simply turning a blind eye to the situation and forgetting their statutory duties. The lethargic approach of these officers and the undue delays in the judicial system has exasperated the situation to the point where the general public lives in constant fear. Srimi's relatives fear they will not be able to obtain justice due to the apathy of the police. They note that even after they made a complaint on September 24, the officers of the Negombo Police Station did not take appropriate measures to undertake a meaningful investigation.

## **Rape of a 9 year-old girl - Peradeniya Police Station**

Mr. Mohammad Mulafar and Ms. Siththi Farina are the parents of three children, two boys and a girl, residing in Mowbray Estate, Mahakanda, Hindagala. Their only girl is 9-years-old. She was a student at Peradeniya Tamil School in year 5. The father is a labourer and the mother a domestic helper. They are the only Muslim family living in Mowbray Estate.

On 5 October 2010, their daughter could not go to school due to the heavy rain and her elder brother also stayed at home; only the second brother went to school. On that day both parents left for work. The elder brother went to play with some other children at the estate.

Around 11am a well known neighbour, Sinnamuttu Kirubakiran, alias Raja, came to the house and asked the girl to come to his sister's house, which was very close. The child complied and when she entered the house, she was raped by him. After the assault she was given five 20 rupee notes. She was also threatened with murder if she revealed to anyone what had happened to her. In addition, she was forced to bathe and wash her clothes.

A few hours later, the girl went to a boutique which is close to the house to buy biscuits with the money given to her by the suspect. She then met Raja's wife, who beat her, accusing her of stealing the money. The girl fainted and the neighbours came to assist. With their intervention they were able to rescue the child. When she regained full consciousness, she revealed what had happened to her. When her parents learned what had happened they took her to the Peradeniya Police Station at around 8pm and made a complaint. Immediately after registering the complaint, they took her to the Teaching Hospital of Kandy, where she was admitted for treatment upon examination. She was treated in ward 7 of the hospital until October 7. Before she was discharged, the Judicial Medical Officer (JMO) also examined her and recorded the medical situation.

Officers attached to the Peradeniya Police Station visited Mowbray Estate that evening and searched for the suspect. However, he was not arrested and after the police left the estate he went to the child's house and pleaded with the parents for a settlement instead of going to court. The family members learned that the suspect was subsequently arrested. He was produced before the court on October 7. He was represented by a lawyer, denied the charge of rape and accused the child of stealing money.

The suspect is a wealthy and influential entrepreneur, owning two business shops and a passenger bus. The parents fear he will influence the police officers to withdraw the original case of rape and file a fabricated charge of stealing money against their daughter.

The victim's family stated that the police did not take sufficient steps to complete the investigation into the rape.

Meanwhile the suspect's brother-in-law threatened to kill the victim's parents if they pursue this case. The parents made a complaint to the Peradeniya Police Station regarding this on October 8, which was recorded under reference No. CIB 390/210. However, no investigation or further action was conducted by the police, leaving the victim and her family in fear of their lives.

The suspect was accused of raping another 14-year-old Tamil girl living in the same estate on October 14. Though the case was reported to the Peradeniya Police Station, the police have still not taken appropriate steps to either arrest the suspect or take the necessary legal action against him. The residents of the estate and the victim believe this is due to him bribing the police.

Furthermore, the parents fear that the medical report pertaining to the case, which has not yet been submitted to court, could be changed due to the influence of the suspect.

The parents of the victim are pleading for protection and are seeking speedy justice, which alone will alleviate the threat and danger to the child and family.

### **Rape of a 10 year-old girl - Nawalapitiya Police**

On 31 December 2010 Anoma (not her real name), a brilliant year 10 student of a reputed girls school in Nawalapitiya was home alone. Her mother, Mrs. Manori Chamini Perera was out at a nearby house helping for an almsgiving, while her father was out of the country for work. While she was having her lunch at around 11:30am, there was a knock on the door; a man asked for a knife in order to do some repair work on his vehicle. However, when she handed over the knife, the man forced his way into the house.

The man threatened the child and attempted to rape her but she started to struggle. In the course of this attempt he stabbed the child on her head and neck. He further slapped her, knocking out a tooth and breaking her nose. Finally the child was able to run out of the house and shout for help.

The suspect fled when a neighbour came to the scene. This neighbour then took the girl to the Nawalapitiya hospital, but due to the seriousness of her injuries, she was transferred to the Kandy Teaching Hospital where she was treated at ward 4 for eight days.



The hospital authorities informed the Nawalapitiya Police Station and officers came to the hospital and visited the house at around 10pm. After the child was discharged from the hospital, she was called to the Police Station several times by the police to identify the perpetrator. The child and the eye witness both gave enough information regarding the identity of the perpetrator but until now, the police have failed to arrest him.

On 31 January 2011 Anoma went to school for the first time after the incident, and saw the perpetrator waiting at the school gate. Sure of his identity, she informed her mother, who in turn informed the officers at the Nawalapitiya Police Station. By the time the officers arrived however, he had already left.

According to Mrs. Monari, the suspect was a resident of the house where she was helping with the almsgiving. He belongs to an influential family and is closely associated with the police. She believes that it is due to this relationship that the officers are reluctant to arrest him or take any legal action against him.

Mrs. Manori believes that the suspect came to the school when her victim daughter was there with the intention of causing further harm to the child. She further states that her daughter and the witness are now exposed to danger as the police officers are not implementing the law. They should be provided with protection and the case should be referred to the Magistrate's Court so that the learned Magistrate can be made aware of the situation, says Mrs. Manori.

It is clear that when the police as a law enforcement agency fail to carry out impartial investigations into an incident and bring the culprit before the law, it curtails the rights of the victims for redress.

### **The abduction of a 17 year old girl**

Mr. Mohamed Niyasdeen of No. 439 Peradeniya Road Kandy is a businessman by profession in Kandy. He is married with one daughter aged 17 years. On 24 December 2010, his daughter Aaesha (not her real name) went for her tuition classes as usual, but never returned home. Later in the evening she called Mr. Niyasdeen and informed him that she was in a train, and then the line got cut. Following the telephone message, Mr. Niyasdeen made a complaint at the Kandy Headquarters Police Station and it was registered with the number CIB (i) 381/509 on the same day. Though Niyasdeen explained his grievances the police did not pay proper attention and take any necessary measures to search for his daughter. Then he made another complaint to the Child & Women Care Bureau on December 28.

In March 2011, Mr. Niyasdeen received a message that his daughter was abducted by a person named Yasitha Yohan who is working at George Goonaratne Optometrists in Piliyandala, and that she was being kept in his house at No. 9 Heraliyawa, Temple Road, Polgasowita, Kahathuduwa.

Mr. Niyasdeen went to the Kahathuduwa Police Station on 29 March 2011 and made a complaint regarding the abduction of his daughter; CIB 283/482. Then he went to the house at Temple Road with two police officers. Yasitha, his mother, brother and brother's wife were all at the house. The police officers went inside the house and found that Aaesha was also present, but Mr. Niyasdeen was not allowed to talk to her or see her. After having a confidential talk with the residents, the police officers informed Mr. Niyasdeen that if he wants to take his daughter back, he should come with the Kandy Police officers, and that they cannot do anything.

Mr. Niyasdeen returned to the Kandy Headquarters Police Station and informed the officers of the situation, seeking their assistance to retrieve his child. The response of the Kandy officers was no better; they said they could only inform the Kahathuduwa Police Station, but could do nothing. Mr. Niyasdeen believes that the police officers are under the influence of a powerful politician and that Yasitha has his support.

A month later, in April, Mr. Niyasdeen received a message that Yasitha has married Aaesha by providing false details to the registrar.

Mr. Niyasdeen is seeking justice as he believes that his daughter was abducted and detained by force and that the police have failed in their duty to investigate the matter. Furthermore, when the child was found they blatantly refused to take any action to retrieve her or ascertain as to whether she was, in fact, abducted or had gone of her own free will.

### **The lady editor of the Sunday Leader threatened with death**

The Editor of the Sunday Leader, Frederica Jansz received a death threat via the post to her residence on 27 October 2011. Frederica lodged a complaint with the Mirihana Police regarding the threat, but no protection has been provided her, or any action known to be taken to investigate into the matter.

This is not the first time and it certainly will not be the last that Editors at this newspaper receive death threats. Sometimes handwritten, sometimes typed, these vicious notes (this time it was four pages long and written in the most abusive and insulting language) always come anonymously posted by persons too cowardly to be identified.

Since 2008, there have been four murders of journalists in Sri Lanka. Each of these journalists spoke against prevailing state forces. None of the cases has been solved. The well-known cartoonist, Prageeth Eknaligoda, has been missing since January 2010. Over the past few years, more than 50 journalists and activists have fled Sri Lanka because their lives are in danger. Impunity continues to encourage the perpetrators.

## **Conclusion**

Thousands of incidents similar to those cited above have created a sense of helplessness in the Sri Lankan population at large. Generally there is agreement on the part of the public that the police and the courts are not interested in their problems.

Deep insecurity is the result of the realisation that the state is unable to provide basic protection and that there are lawless elements who will exploit the situation to their advantage.

Women try to solve this situation by imposing huge restrictions on themselves. They avoid travel in the evening and even during the day they will ensure that they are accompanied by someone. Particularly the mothers of teenage girls accompany them to schools, tutorials and any other place due to the fear that they might be harmed if not accompanied.

Nowadays, most women do not wear jewellery, not only to prevent theft but also to not draw attention to themselves.

Added to all this, the language used by the police as well as the criminal elements against women is most crude. References to their genitalia and the sexual abuse they could be exposed to are routinely made in uncouth language.

What worries everyone is that there is no solution to these problems as the state has abandoned its duty to protect the rule of law.

# **Asia: No end to violence against women without access to justice**

*A Statement by the Asian Human Rights Commission on the International Day for the Elimination of Violence against Women: AHRC-STM-181-2011, 25 November 2011*

Incidences of violence against women are not isolated or sporadic, but a daily occurrence in Asian countries. While women are subjected to various forms of violence in private and public domains, such as sexual assault, rape and acid throwing, the Asian Human Rights Commission (AHRC) wishes to draw attention to the increasing tendency of violations perpetrated by state agents, mostly the police and military, in the form of torture, rape, extrajudicial killing and being used as sex slaves in military torture cells.

From social and cultural norms to ineffective legal procedures, women are thwarted at every turn as they attempt to complain against their abuse, seek punishment of those responsible and improve their own circumstances. While the denial of justice is a fundamental human rights violation, it is also key in perpetuating the cycle of violence, as the perpetrators remain free to continue their abusive and illegal behaviour.

Supporting all women confronting the denial of justice, the AHRC urges states to improve their complaint making procedures and available remedies.

## **Complaint making procedure**

Registering a complaint is the first step for women in speaking out against any abuse suffered, and addressing it. Without any complaint being made, little can be done. State agencies and complaint receiving bodies are generally not conducive to registering complaints of abuse against fellow officials, or against wealthy and influential individuals. Their attitude towards women also makes them indifferent to their complaints. Furthermore, the corruption prevalent within policing institutions throughout Asia makes the police an easy target for perpetrators of violence to bribe and silence. Meanwhile, those bodies specifically meant to receive complaints from women, such as women's commissions, tend to have limited resources, budgets and authority, which are obstacles in carrying out their functions effectively. For instance, Indonesia's National Commission on Violence Against Women, is often not able to conduct its own investigations, or, at best, may conduct investigations and make recommendations to other state institutions for further action. However, law enforcement bodies do not always

take up its recommendations. Similarly, the Commission for Women in India receives a large number of complaints and conducts its own investigations, but these, along with its recommendations, are often ignored by India's law enforcement bodies.

The police attitude to registering complaints is manifested in their investigation procedure as well. As seen in a case of a 16-year-old girl who was kidnapped and gang-raped in Pakistan in October 2010, the police refused to record the gang-rape complaint. Her father finally filed an application in court, which then ordered the police to register a First Information Report. The police eventually arrested two persons, yet they were released within two hours after bribing members of the police. Since then, no legal action has been taken against the perpetrators or the police, whereas the girl's family is being harassed to drop the case, including being threatened with the rape of their other two children.

The militarization of various Asian countries—or regions within countries—means there is considerable violence committed against women by the military. In Burma, not only is rape condoned as a strategy of war in conflict areas, but it is also committed widely in non-conflict areas. In 2011 itself, there have been large numbers of rapes of girls and women documented in various areas of the country. Not only do government agencies refuse to take up cases involving the military, but complaints of rape or sexual abuse could land the victim and/or her family in prison for 'supporting rebels'.

Regardless of whom they are complaining against, it is disturbingly common for women victims to be subjected to further abuse and harassment for filing complaints. They must also deal with social stigmas and obstacles. As a result, women tend to remain silent regarding the violence against them.

### ***Social obstacles***

Aside from the procedural problems of making a complaint, women also face numerous social and cultural obstacles to speaking out against the abuse they suffer, many of which are in fact promoted by the government. In Indonesia, Jakarta governor Fauzi Bowo on September 16, 2011 stated, in response to the increase of rape and sexual harassment on public transportation, that this was the women's own fault: "Wear sensible clothes, don't wear 'inviting' clothes. You can imagine, if [a woman] wears short skirt and sits next to the driver, it could be 'inviting'." How can women voice their complaints to public officials holding such attitudes?

Cabinet ministers in Pakistan have also been known to defend violence against women. Balochistan Senator Sardar Isarullah Zehri defended the jirga-ordered burying of three teenage girls and two of their aunts alive in his province as 'custom' in August 2008. "This is our centuries old traditions and customs, and we will continue it," he said. Despite

such a disavowal for rule of law, and despite the fact that the case was yet to be properly investigated, Mr. Zehri today is a federal minister.

The social stigma surrounding domestic violence is the biggest obstacle for women to complain against it. Many cases show that police and other public officials urge women to resolve the issue at home, rather than making a complaint to obtain legal remedy. Dowry related violence in India continues today, with daily media reports of women committing suicide or being killed by family members. In fact, about 20 percent of those committing suicide in India are housewives. That women would rather end their lives than speak out is the most critical assessment of the environment they find themselves in.

## **Remedies**

If women succeed in getting their cases to court, despite all the obstacles, they are most likely to then face delays in court hearings, as well as insensitive prosecutors, lawyers and judges. The justice system also fails to protect the women from threats and harassment by the perpetrators and social ostracism, a significant aspect of remedies.

All of the above can be seen in the case of Pakistani rights activist and gang-rape victim Mukhtaran Mai, who struggled hard to secure justice and challenge the impunity of the men who raped her some nine years ago. Finally, on April 21, 2011, the Supreme Court of Pakistan upheld the verdict of the Multan bench of Lahore High Court releasing five of the six men responsible on the basis of 'insufficient evidence' and 'faulty investigations'. Only one perpetrator remains in prison to serve a life sentence. In upholding the legally flawed Multan bench verdict, the Supreme Court gravely disappointed all those who support justice and women's rights. Such rulings can only serve to further dissuade victims of rape from seeking justice.

In order to ensure justice for victims, it is essential to provide them with protection and counselling, as part of the remedies available. In many cases of sexual violence, the woman victim is both the complainant and the primary witness of the crime. These women are vulnerable to harassment and abuse by the perpetrators of these crimes and it is the fundamental obligation of the state to protect them. Cases of victims in Sri Lanka, Bangladesh, India, Pakistan have been documented however, where no protection was given to victims making complaints of rape or assault.

## **Societal change**

The incidents of violence against women are directly related to the wider society's understanding of women and the level of respect they are accorded. The AHRC reiterates

the state's obligations to stop the perpetuation of violence against women with a holistic approach that adopts comprehensive laws not only to criminalize violence against women, but also mandates prevention measures—including awareness raising, sensitizing and the empowerment of women—aimed at changing societal attitudes and practices. National plans comprising of educational curricula as well as advocacy programmes to promote public awareness of gender stereotyping and the unacceptability of violence against women should be urgently and effectively initiated. Civil society also has an important role to play, particularly in identifying and understanding rights violations faced by women, as well as providing them the necessary support and structures to overcome these violations. Only when such a holistic approach targeting the criminal justice system as well as cultural and patriarchal norms that seek to silence women is in place, can violence against women be truly eliminated.

# Practicing Ethics in Action

*Ethics in Action* begins with the realization that both law and morality have failed the people of many countries, who are today facing incredible forms of cruelty that they have little power to eradicate. Despite all the rhetoric of empowerment, the reality witnessed in most Asian countries is desperation and powerlessness. The two ingredients necessary for any real empowerment of ordinary people are law and morality. If living conditions are to improve, defective legal systems and the failures of upholding ethics and morality cannot be ignored. *article 2*, a publication of the Asian Legal Resource Centre, sister organization of the Asian Human Rights Commission, is devoted to discussing matters relating to defective legal systems obstructing the implementation of human rights. *Ethics in Action* will be devoted to discussing how movements and leaderships claiming to uphold ethics and morality have failed to promote and protect human rights.

## Other regular publications by the Asian Human Rights Commission:

***Article 2*** – This quarterly publication covers issues relating to the implementation of human rights standards as proposed by article 2 of the International Covenant on Civil and Political Rights.

***Human Rights Solidarity*** – Also a bi-monthly publication and available both in hard copy (from July 2007) and on-line. This publication covers stories and analysis of human rights violations in Asia.

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