

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.