Defending the defenders: An analysis of violence against human rights defenders in India

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Accepted 20 October, 2011

Despite global, regional and national initiatives in protection of human rights defenders which have not proved effectively in the ground reality. There are instances of human rights defenders are humiliated, harassed and victimized globally including in India. The National Human Rights Commission (NHRC) of India has reported many cases pertaining to violence against human rights defenders in different parts of the country. Over the years, the Commission has been observing an increasing trend and pattern of human rights violations of defenders. Hence, it is pertinent to assess the situation of human rights defenders in the largest democracy of the world. The present study aims to understand the nature and extent of violence against human rights defenders. A total number of twenty five cases were selected from National Human Rights Commissions (NHRC) and analyzed within case and cross through case study method. The study found that the defenders of human rights were victimized by State and Non-State Actors and perceived as a vital challenge for protection of human rights in India. Finally, the paper suggests synergetic strategy of Governant, corporate and civil society organizations to work together in strengthening special protection for human rights defenders in democracy.

Key words: Human rights defenders, violence, victimization, human rights, India.

INTRODUCTION

One of the best ways to understand the progress of a nation is through to studying the protection of human rights of that culture or society. In the contemporary time, the primary challenge to the human rights is violence faced by human rights defenders around the world including India. Every year, thousands of human rights defenders are harassed, abused, unjustly jailed and murdered. Some of them who were unjustly detained became the subject of international efforts to win their freedom. Most of those detained by repressive authorities languish largely unnoticed in jails, under house arrest, in and after ‘re-education centers’ often their families are targeted as well. Were after some of those even killed like Russian Journalist was after Anna Politkovskaya, murdered outside her apartment in 2006, and Floribert Chebeya Bahizire, the Congolese human rights defender found dead in his car in 2010 are remembered and revered. But, many of those less well known defenders who are murdered for their belief in human rights remain unknown to the wider world (Pillay, 2010).

In India, since the inception of the Indian National Human Rights Commission (NHRC) in 1993 has been making determined efforts to prevent violation of neglect of human rights occurring anywhere in the country coming to its notice. Besides, the need for protection and promotion of civil and political rights of the citizens of the country, NHRC is aware of the fact that a large number of citizens also suffer from deprivation of their economic, social and cultural rights. There is inter-linkage between these rights. Over a period of time, the Human Rights Commission has observed that there had been "growing concern in the country and abroad about issues relating to human rights defenders ". Having regard to this, and to changing social realities and emerging trends in the nature of human rights violations in the country, the National Human Right Commission has marked “Human Rights Day” on the 10th December 2010 and dedicated this to the Human Right Defenders. According to the National Human Rights Commission, the Human Rights Defenders play a vital role in the fight against violation as well as in place of promotion and protection of human rights of poor, marginalized and weaker sections of society. In fact, human rights defenders in their efforts to protect the human rights of others often personal risks
DEFENDING HUMAN RIGHTS

‘Defending human rights’ means something more than the daily struggles to secure rights and ongoing task of creating the laws, policies, and institutions needed to respect, protect, promote and fulfill them although there are obviously of the utmost importance. By defending them, I mean the idea of human rights, the human rights paradigm or discourse from broad, significant challenges to its legitimacy and viability (Goodhart, 2009).

Human rights defenders (HRDs)

Human rights defenders are people who either individually or in a group, act to promote or protect human rights peacefully. Human Rights Defender can act to address any human right (or rights) on behalf of individuals or groups; Human rights defenders investigate, gather information regarding and report on human rights violations. The defenders can be characterized as acting in support of victims of human rights violations. They work to secure accountability for respect for human rights legal standards and encouraging a Government as a whole to fulfill its human rights obligations. Thus, human rights defenders make a major contribution, particularly through their organizations to the implementation of international human rights treaties and imparting human rights education, training and capacity building (UN, 1998).

Human rights defenders in India

In India, human rights defenders come from all walks of life, ranging from princesses and politicians, to professionals such as journalists, teachers and doctors (Individuals) and groups of people and organizations, NGO's as well as media (both print and electronic) in particular have played a significant role as defenders of human rights in the promotion and protection of human rights activities. As promoter of human rights, these defenders groups are spreading awareness about human rights and act as protector of human rights; these defenders groups taken up the issues of education, health, food, water, shelter, sanitation and clean environment as well as rights of children women, dalits, minority and victims of violence by state and non-state actors and refugee rights along with exposing incident of corruption and in the context of violations of human rights. The efforts made by the human rights defenders are worth mentioning. The organizations or groups of people have done commendable work through fact findings or social investigation for cause of human rights and dignity, networking, lobbying, advocacy, research and training, developing capacity building, documentation of human rights violations and mobilizing resources with great hurdles and generally face or encounter discriminations, abuses and sometime faced violence too.

The legal framework

The legal framework for protection of human rights defenders including Constitutional and Human Rights policy, law and mechanism both National and International applicable in India.

Indian constitution, 1950

The status of human rights in India has been subject to many great changes over the decades. After Independence, the Government of India has adopted its Constitution in 1950. The Constitution of India was in the process of making when the Universal Declaration of Human Rights was adopted by the United Nations General Assembly and many of these rights were given a concrete shape in our domestic law by incorporating them in Part-3 and Part-4 of the Constitution dealing with the Fundamental Rights and Directive Principles of the State Policy including Right to life, personal liberty and others Social, Economic, Educational, Religious and Cultural Rights and Rights to Constitutional Remedies. While noting that India is a party to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, both of which were adopted by the United Nations General Assembly on 16 December, 1966, and that the rights embodied in those covenants stood substantially protected by the Constitution of India (Basu, 1993)

The protection of human rights act, 1993

The Indian Parliament has enacted the Protection of Human Rights (PHR) Act, 1993 and also constituted new mechanism such as National/State Human Rights Commissions at the level of the Union and Provincial for better protection and promotion of human rights. The human rights are defined in Section 2(1) (d) of the PHR Act, “the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India”. The National Human Rights
Commission (NHRC) of India is working for protection and promotion of human rights. Its functions include enquiring *suo motu* or on petitions into complaints of violations of human rights, review safeguard provided under the Constitution or any law and study laws, treaties and other international instruments of human rights and make recommendations for their effective implementations, undertake and promote research on human rights issues, spread human rights awareness and encourage efforts of individuals, non-governmental organizations working and media and other civil society (human rights defenders) in the field of human rights under the provisions and its implementations of the protection of human rights Act in the country (PHRA, 1993).

**United Nations Human Right Framework**

The UN High Commissioner for Human Rights addressing the Human Rights Day on December 10, 2010 said that, “Since the United Nations was established over 60 years ago, there have been dramatic advances in crafting and implementing a system of Universal of Human Rights-which are, under international law, applicable to each of us: old and young, male and female, rich and poor, whoever we are and wherever we are from and whatever circumstances.” On December 10, 1948, the General Assembly of United Nations adopted the Universal Declaration of Human Rights (UDHR, 1948). It is primarily international articulation of the fundamental and inalienable rights of all members of the human family and represents the first comprehensive agreement among nations as to the specific rights and freedoms of all human being. Among others, these include civil and political rights such as the right not to be subjected to torture, to equality before the law, to a fair trial, to freedom of movement, to asylum and to freedom of thought, conscience, religion, opinion and expression. It also includes economic, social and cultural rights such as the right to food, to clothing, to housing, to medical care to social security, to work, to equal pay for equal work, to form trade unions and to education. Originally intended as a “common standard for achievement for all people and for all nations” over the years, the UDHR has become a cornerstone of customary international law and all Governments are now bound to apply its principles.

**Declaration on human rights defenders (1998)**

The United Nations has been elaborated of the declaration on human rights defenders began in 1984 and ended with the adoption of the text by the General Assembly in 1998, on the occasion of the fiftieth anniversary of the Universal Declaration of Human Rights. A collective effort by a number of human rights non-governmental organizations and some State delegations helped to ensure that the final result was a strong, very useful and pragmatic text. Perhaps most importantly, the Declaration is addressed not just to States and to human rights defenders, but to everyone. It tells us that we all have a role to fulfill as human rights defenders and emphasizes that there is a global human rights movement that involves us all. The Declaration’s full name is the “Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms” – with this longer title is frequently abbreviated to “The Declaration on human rights defenders.”

**Protections and Rights under Declaration**

*The declaration provides specific protections including the rights to human rights defenders*

To Seek the protection and realization of human rights at the national and international levels; To conduct human rights work individually and in association with others; To form associations and non-governmental organizations; To meet or assemble peacefully; To seek, obtain, receive and hold information relating to human rights; To develop and discuss new human rights ideas and principles and to advocate their acceptance; To submit to governmental bodies and agencies and organizations concerned with public affairs criticism and proposals for improving their functioning and to draw attention to any aspect of their work that may impede the realization of human rights; To make complaints about official policies and acts relating to human rights and to have such complaints reviewed; To offer and provide professionally qualified legal assistance or other advice and assistance in defence of human rights; To attend public hearings, proceedings and trials in order to assess their compliance with national law and international human rights obligations; have unhindered access to and communication with nongovernmental and intergovernmental organizations; To benefit from an effective remedy; To the lawful exercise of the occupation or profession of human rights defender; To effective protection under national law in reacting against or opposing, through peaceful means, acts or omissions attributable to the State that result in violations of human rights; To solicit, receive and utilize resources for the purpose of protecting human rights.

**Protection mechanisms**

Following the adoption of the Declaration on Human Rights Defenders in 1998, a number of initiatives were taken, both at the international and regional level, to
increase the protection of defenders and contribute to the full implementation of the Declaration. In this context, the following mechanisms were established (Wikipedia Free Encyclopedia, 2011).

1) The mandate of the UN Special Rapporteur on human rights defenders (2000)
5) Supreme Court and High Courts of India
6) National Human Rights Commission (NHRC) in India
7) State Human Rights Commissions (SHRCs) in India
8) Distract Courts and District Human Rights Courts in India
9) United Nations Human Rights Council (UNHRC)
10) The Office of the High Commissioner for Human Rights (OHCHR)

Objectives of the present study
1) To understand the nature and extent of violence against Human Rights Defenders.
2) To examine the support system to protect the rights of the Human Rights Defenders.
3) To suggest ways and means to combat violence against Human Rights Defenders.

METHODOLOGY
The study aims to explore violence faced by human rights defenders in India. The theoretical Sampling in place of sample was adopted and 25 case studies were examined for the purpose of the study. The data was retrieved from NHRC official website (www.nhrc.inc.in). The cases of human rights defenders were reproduced, and analyzed within case and cross cases. The emerged themes were identified and discussed.

Case studies on violence against human rights defenders
Let us see the violence faced by human rights defenders in India. These illustrated cases are reported by the National Human Rights Commission India during the year 2010(NHRC, 2010).

Case-1
(1) The complainant alleged in his complaint dated 11/1/2010 that one of the human rights defenders was abducted by four persons, abused and misbehaved. The police got medical examination of the victim done, recorded his statement, but no FIR was registered under pressure from a local politician. The victim has been threatened of dire consequences. Registration of FIR (First Information Report to Police or law enforcement) and action against the accused is requested. The case was transferred to Rajasthan State Human Rights Commission u/s 13 (6) of the Protection of Human Rights Act for disposal in accordance with the provisions of the Act. However, in the meantime a notice was issued to Superintendent of Police, District Sikar, Rajasthan requiring him to report direct to the State Human Rights Commission.

Case-2
(2) The Non Governmental Organization (Peoples Watch) from district Madurai from State of Tamilnadu in its vide complaint dated 1/2/2010 alleged that a human rights defender associated with national project on prevention of torture in India, the project of Peoples Watch, was falsely implicated by the police personnel of P.S.Adarsh Nagar, Ajmer, Rajasthan, since they were irritated by his refusal to withdraw some case. His bail was rejected and he was remanded to judicial custody. As per directions of the National Human Rights Commission, the case was dismissed in limini, the matter being sub-judice and not entertainable in accordance with the provisions of Section 36 of the Protection of Human Rights Act, 1993 read with Regulation 9 of the NHRC (Procedure) Regulations, 1994, as amended.

Case-3
(3) An employee of Anti Corruption Council, District Lucknow of Uttar Pradesh in its complaint dated 22/1/2010 alleged that acting chairman of his organization’s Kausambi Branch district in Uttar Pradesh was abused and humiliated in a highly disgraceful manner by DIG (Deputy Inspector of General Police), Allahabad, Uttar Pradesh State. The complaint stands transmitted to (DGP, Director General of Police), Uttar Pradesh for appropriate action.

Case-4
(4) According to General Secretary, PUCL, Rajasthan vide complaint dated 9/2/2010 alleged that police of Andhra Pradesh State had picked up two Human Rights Activists from Allahabad Railway Station. The complainant apprehended that they might be implicated in a false case or subjected to unpleasant incident. He prayed for their immediate release and action against the erring police men. Similarly another e-mail was received from PUCL (NGO), District Allahabad (Uttar Pradesh) with similar allegation. The National Human Rights Commission (NHRC) took cognizance and requested Director General Investigation (DGI) to collect facts on telephone. The Commission perused the note submitted by (DGI) and found that the victims are in judicial custody (Prison) and it directed that no further action by the Commission is called for. The complainants and the victims are, however, at liberty to raise their grievance, if any, in the competent Court.

Case-5
(5) A Member, Amnesty International, from District Etah, State of Uttar Pradesh registered a complaint dated 9/2/2010 alleged that he being a Human Rights Defender takes up cases of human rights violations and therefore is being threatened by the perpetrators. Inaction on the part of the police authorities of Etah is alleged. The case was transferred to Uttar Pradesh State Human Rights Commission u/s 13 (6) of the Protection of Human Rights Act for disposal in accordance with the provisions of the Act. A notice was issued to SSP (Senior Superintendent of Police), District Etah, Uttar Pradesh requiring him to report to the State Human Rights Commission whether FIR has been registered in the matter with details.

Case-6
(6) The District Secretary, Rashtriya Manvadhikar Forum, Kausambi
district of Uttar Pradesh State in his complaint alleged that Chowki in Charge of Sindhya, Kausambi, misuses his power and demands bribe form people when they go for complaints. The complainant was humiliated by the In-charge when he went there along with the victim. As per directions of the National Human Rights Commission, the case was dismissed in limini, the matter being outside the purview of the Commission in accordance with the provisions of Section 36 of the Protection of Human Rights Act, 1993 read with Regulation 9 of the NHRC (Procedure) Regulations, 1994, as amended.

Case-7

(7) A social worker from District Jaunpur, Uttar Pradesh State in his vide complaint dated 5/4/2010 alleged misbehaved by police with him. While fighting for the rights of vulnerable persons and he espoused the cause of a lady belonging to scheduled caste who had a quarrel dispute with the opponents. At the instance of the police lock up for four hours because he had highlighted the case of the poor lady. The Commission transmitted the complaint to the concerned authority to investigate and report to the Commission.

Case-8

(8) The Chairman Bhrashtachar Anveshan Evam Unmulan Sanstha (NGO), Lucknow, Uttar Pradesh State in his vide complaint dated 27/4/2010 alleged an activist of his organization along with the victim went with a complaint to meet Superintendent of Police, Ambedkarnagar, Uttar Pradesh where the Superintendent of Police (SP) and other police officials assaulted the victim and his family members. The cases were transferred to UP State Human Rights Commission u/s 13 (6) of the Protection of Human Rights Act for disposal in accordance with the provisions of the Act for disposal.

Case-9

(9) As per version from the District President, Manavadhikar Kranti Association (NGO), Giridih, Jharkhand vide complaint dated 25/7/2009 alleged that on 20/7/2009 SHO (station house officer) of PS (Police Station) Hirodih and other officials forcible entered his house, picked him up, tortured him and illegally confined him in the police lock up for four hours because he had highlighted the case of violation of human rights of a women. In response to the National Human Rights Commission's notice, the Superintendent of Police, Giridih, Jharkhand sent the report confirming the allegations and informing that the SHO (Station House Officer) was found guilty of taking biased action against the complainant and he was asked to explain why disciplinary action should not be taken against him. On consideration of the matter, the Commission observed that "SHO Hirodih has taken biased action against the complainant. The Commission has also directed the SuPo. Of Police, Giridih to submit the outcome of the disciplinary action initiated against the SHO.

Case-10

(10) According to the Secretary, World Human Rights Commission and Rescue Centre, New Delhi vide complaint dated 3/4/2010 alleged that being irritated on a complaint made by her to the National Human Rights Commission in the case of violence at Dr.Ambedkar Law College, Chennai the Tamil Nadu police trespassed into her premises in Delhi, took away lap-top, pen-drive, cheque books, keys of the car etc. She was allegedly falsely implicated, took in police custody and tortured physically. State Human Rights Commission has already seized of the matter, this case has also been transferred to the State Commission u/s13 (6) of the PHR Act, 1993 for disposal in accordance with the provisions of the Act.

Case-11

(11) The Editor-in-Chief, World Human Rights Commission and Rescue Centre, Chennai, Tamilnadu State vide complaint dated 30/6/2010 alleged that the Tamil Nadu Police, in retaliation of his complaint against the police lodged with the Commission, victimized him. It is alleged that he was falsely implicated, arrested and subjected to severe physical torture in custody. As the State Commission had taken cognizance prior to National Human Rights Commission (NHRC) and since the Tamil Nadu State Human Rights Commission has already seized of the matter, this case has also been transferred to the State Commission u/s13 (6) of the PHR Act, 1993 for disposal in accordance with the provisions of the Act.

Case-12

(12) A Human Rights Defender, in his complaint dated 01.4.2010 has apprehended that the Additional Superintendent of Police, Sant Ravidas Nagar district of Uttar Pradesh State may implicate him in some false cases or kill him in a fake encounter as he showed his reluctance to withdraw his statement made against some police officials of Police Station Gopiganj in his case before the National Human Rights Commission (case No. 224/24/73/09-10). He has requested immediate intervention of the Commission and to render justice. The Commission directed Director General (Investigation), NHRC to collect facts, telephonically.

Case-13


Case-14

(14) The International Foundation for the Protection of Human Rights Defenders, Ireland through an email dated 22/7/2010 alleged that a Public Interest Law Practitioner and Right to Information (RTI) Activist was killed in Gujarat on 20/7/2010. The complainant alleged that he was killed as a direct result of his human rights activities, particularly in relation to allegations he had made into illegal mining activities in the Gir forests and corruption in the Forest Department of Gujarat State. The National Human Rights Commission has issued notice to the Commissioner of Police, Ahmedabad, Gujarat calling for a report within four weeks. Two other cases bearing Nos.731/6/1/2010 & 877/6/1/2010 are also linked with this file.

Case-15

(15) According to a victims from district Etah, Uttar Pradesh vide
complaint dated 11/6/2010 alleged that he is being harassed by accused policemen because he has filed a case against them of human rights violation. The policemen also got him implicated in a false case. The case was transferred to Uttar Pradesh State Human Rights Commission u/s 13 (6) of the Protection of Human Rights Act for disposal in accordance with the provisions of the Act. A notice was issued to (Director General of Police) DGP, Uttar Pradesh requiring him to report to the State Human Rights Commission.

Case-16

(16) The Ambassador, European Union (Delegation to India) vide his complaint dated 27/7/2010 has brought to the notice of the National Human Rights Commission about the arrest and imprisonment of three activists of the Keonjhar Integrated Rural Development and Training Institute (KIRDITI), a development organization based in Orissa State working in the fields of ecological and tribal protection in 2008 and requesting to follow up the matter with the Orissa State Government. The commission took cognizance of the matter on 30/7/2010 and issued notice to the District Magistrate and Superintendent of Police, Keonjhar, Orissa calling for a report. The report is awaited.

Case-17

(17) The emergency helpline association, New Delhi vide a complaint dated 5/8/2010 alleged that some anti-social elements have threatened to kill him on the telephone. The complainant has prayed for help. The National Human Rights Commission has transmitted the complaint to the Commissioner of Police, Delhi for taking appropriate action as deemed fit to protect the life and property of the complainant.

Case-18

(18) The national coordinator, Human Rights Defenders Alert-India, Madurai, Tamil Nadu State and Executive Director, Peoples Vigilance Committee on Human Rights, Varanasi, Uttar Pradesh State through separate complaints dated 17/8/2010 alleged about the killing of a leader of Organization "Voice of People (VOP) and an activist who had been vocal on the corruption plaguing the implementation of the Mahatma Gandhi Rural Employment Guarantee Act (MNREGA) allegedly by killers hired by the Gram Peahen (Panchayat leader) because of his fight against his corrupt practices on 15/8/2010. The National Human Rights Commission issued notice to the Director General of Police, Uttar Pradesh calling for a detailed report to the Commission.

Case-19

(19) The Sanchetna, a NGO, from District Allahabad, Uttar Pradesh vide complaint dated 10/8/2010 the activists of his organization who are raising the issue of 4th grade malnutrition among children of village Kaanti, Tahsil Bara, Allahabad, Uttar Pradesh were being misbehaved by C.D.O. Allahabad, who is hushing up the matter and one of the activist was illegally detained at the instance of the CDO (chief development officer). The National Human Rights Commission issued notice to the Chief Secretary, Uttar Pradesh and District Magistrate, Allahabad, Uttar Pradesh calling for a report to the Commission.

Case-20

(20) According to the Convenor, Jharkhand Indigenous People's Forum, Ranchi, Jharkhand State vide complaint dated 18/5/2010 alleged that on 15/5/2010, he along with other Human Rights Activists were detained illegally by the police for six hours. The complainant prayed for high level inquiry into the incident. The Commission issued notice to the DGP (Director General of Police), Jharkhand calling for a report to the Commission.

Case-21

(21) The Convenor of working group on human rights vide complaint dated 17/8/2010 draw attention of the commission to a case involving the arrest on false charges of five human rights defenders, including three women in Tamil Nadu and has prayed for immediate intervention of the National Human Rights Commission. The commission received some other complaints also on the same incident. These complaints are from General Secretary, National Dalit Movement for Justice, New Delhi (Case No.898/22/37/2010), Managing Trustee, Society for Community Organization, Tamil Nadu (Case No.901/22/37/2010), Coordinator, Asian NGOs Network on NHRLs (ANNI) (Case No.907/22/37/2010), Inter -Frontline, Ireland based organisation (Case No.908/22/37/2010), Executive Director, South India Cell for Human Rights Education and Monitoring, Bangalore, Karnataka State (Case No.910/22/37/2010). The Commission has directed its Investigation Division to depute an officer and submit report. Simultaneously the Commission has also issued notice to the Director General of Police, Tamil Nadu for a report within four weeks. Both these reports are awaited.

Case-22

(22) According to an Advocate, Agra (Uttar Pradesh State) in his complaint dated 22.07.2010 has alleged that local police has been harassing him and his family members after he made a complaint to the National Human Rights Commission regarding the raids conducted in villages Udhanpura and Pyampura in the late night of 18.5.2010. He further alleged that he and his family members have been implicated in two false cases.

Case-23

(23) The Secretary from Jagriti Mahila Sewa Sansthan, Allahabad (Uttar Pradesh State) in her complaint dated 08.10.2010 alleged that on 28.9.2010 about 06.30 pm she was abused, assaulted and beaten up by a Police Constable under Sabji Mandi Police Chowki, Khuldabad, Allahabad, Uttar Pradesh State when she took up the grievances of a victim lady against him. The National Human Rights Commission directed issuance of a Notice to Superintendent of Police, Allahabad, calling for a report to the Commission.

CASE-24

(24) The General Secretary of Bhartiya Manav Adhikar Sanrakshan Sangh and crime reporter of NAI_News, Ghazibad, (Uttar Pradesh, UP) in his complaint dated 12.10.2010 alleged that he has reported the acts of black marketing by the accused to the authorities, due to which, the accused has given false complaint against him to the police just to harass him. The matter is under consideration of the National Human Rights Commission.

Case-25

(25) According to the Secretary, Banglar Manabadhikar Suraksha
Manch, (MASUM—a Kolkata based NGO), West Bengal State vide an email complaint dated 09.9.2010 alleged that nine human rights defenders (activists) were detained by Nihati police without assigning any reason and released them after illegal detention of nine hours. The complainant requested for investigation of the incident by the Commission. The National Human Rights Commission has issued Notice to the Director General of Police, West Bengal calling for a factual report within four weeks. The report is being awaited.

RESULTS

These case studies give a fair sense of the insights into violence, victimization and violations faced by human rights defenders in India during the year 2010.

Case studies on violence human rights defenders

The National Human Rights Commission has recorded 25 complaints of human rights defenders from the different states in India during the year 2010. The case studies revealed that 10 cases represent from State of Uttar Pradesh, 4 cases from State of Rajasthan, 3 cases from Tamilnadu State, 2 cases from Jharkhand State and 1 case from each States like Manipur, Gujarat, Orissa (now Odhisa) and Wes-Bengal respectively. These cases were filed/reported by individuals and organizations (NGOs) working in the field of human rights at different capacity in different states in India and abroad. The 18 cases were filed / reported by Indian NGOs and 2 Cases reported by International NGOs to the National Human Rights Commission as well as 5 cases sent to the Commission by the Individual capacities as by Human rights advocate (2 cases ), by social workers (1case), by Media person( 1case) and Human Rights educator (1 case). The followings Indian and International NGOs, Media and Individuals professionals had approached the National Human Rights Commission and highlighted the plights of the human rights defenders in India.

Criminalization of human rights defenders

These case studies indicate that the criminalization of human rights defenders’ activities by state or its agency like police authority. These human rights defenders were victimized because of advocating women, children, dalits; tribal’s and human rights (torture) cases and also reported cases of human rights violations against authorities. The others were victimized due to refusal of their cases to withdrawn and shown biased action against the complainants (defenders). In few cases, the dynamics of police violence reflected such as police collusion with powerful people to non-registration of cases, abused and use of force against human rights defenders.

Violence by state and non-state Actors

The majority of cases related with police atrocities against human rights defenders. The defenders are illegally arrested and detained in police custody. They have also faced abused, misbehaved, assaulted, harassed, humiliated, false charged, tortured and were treated inhumanly. It was found that majority of the cases belong to State of Uttar Pradesh. In some cases, high police officials were also involved like SP/DIG/IGP level which indicates zero level tolerance and sensitivity among police towards human rights defenders.

The non-state actors were also indulged in inflicting violence against human rights defenders. The non—state actors including individuals, local politicians and others anti-social elements (criminals) etc. The victims (human rights defenders including social workers and media persons) were abused, misbehaved, threatened and also faced false charges, physical beating and killings by non-state actors due to exposing cases pertaining to corruption, violations of human rights and black-marketing of goods and illegal mining activities.

Protection in dilemma

The National/State Human Rights Commissions (NHRC/SHRCs) have not played an active role in protection of human rights of defenders. In most of the cases, NHRC is taken stand to transferred the cases to the respective State Human Rights Commissions u/s 13 (6) of the Protection of Human Rights Act, 1993 for disposal. In some cases, the NHRC commission has dismissed in liming at their end due to the matter being sub-judice (matter pending in court of law) and not entertainable by the NHRC in accordance with the provisions of Section 36 of the Protection of Human Rights Act, 1993 read with Regulation 9 of the NHRC (Procedure) Regulations, 1994, as amended. In few cases, the National Human Rights Commission has directed to appropriate action, to collect facts, telephonically, to investigate the matters and calling reports for compliance of the order of the Commissions within timeframe. In fact, the matters are under considerations and reports are awaited. Surprisingly, none of the case under the study has been disposed off nor victims got any sort of relief by the National or State Human Rights Commissions.

DISCUSSION

The paper examined empirically through case studies methods nature and extent of violation against human rights defenders in India. Using case study methods and data retrieved from the official website of the National
Human Rights Commission (NHRC) of India (www.nhrc.nic.in). As 25 case studies were examined, themes indentified within case and cross case analysis and discussed in the lights of the development of human in India. The findings are not making generalization rather contextualize in the Indian context. The study found the evidence that human rights violations faced by human rights defenders in India in across states but majority from state of Uttar Pradesh. The human rights defenders faced violence, victimization and violations of human rights not only individual level but their families’ too. Both the genders (male and female) were victimized by state actors like police and other civil servants as well non-state actors. These human rights defenders were criminalized by their activities because of advocating women, children, dalit, and tribal’s issues as well as raising and reporting issues of torture, corruption and acts of black marketing and illegal mining cases etc. in public life. Even the National and State Human Rights Commissions have seen as eyewash for protection of the rights of the human rights defenders. No concrete remedy availed by the victims (human rights defenders). Our results suggested that special protection need to be provided to the human rights defenders at their individual and family level (safety and security).

CONCLUSION

This paper concludes that it is duty of all of us at our end and specifically Government, corporate body and local institutions to work together in synergy and convergence forms of strategies for protection of human rights of defenders as well as democracy and development of human rights in India.

RECOMMENDATIONS

1) The obligations should the Government of India with reference to international standards to protect the human rights defenders in promotion and protection of human rights and fundamental freedoms;

   a) It is the obligation of the State to protect human rights of all. Individuals, groups or associations who work for promotion and protection of human rights, commonly referred to as Human Rights Defenders, should also be provided protection by the State (both Union and Provincials) against any violence, threats, retaliation, adverse discrimination, pressure or any arbitrary action as a consequence of their activities for promotion and protection of human rights and fundamental freedom.

b) The National and State Human Rights Commissions (NHRC and SHRCs) can also play an important role in this regard. There is a need to set up a Focal Point for human rights defenders, preferably at District level.

   (setting up of District Human Rights Courts and District Complaints Authority under provisions of the protection of human rights Act, 1993) so that human rights defenders can reach out to it for support. The focal point should be accessible through a phone no. or email etc (helpline in collaboration with telephone department).

c) The Local bodies including Panchayti Raj Institutions (PRIs) should incorporate human rights protection of citizen in general and human defenders in particular in their developmental agenda of local areas (at village, Block and District level).

2) The Corporate business enterprises should include the support of human rights defenders under Corporate Social Responsibility. This way, the company can became one of responsible partner as corporate citizenship in protection of human rights.

3) The Civil society including NGOs and Citizenry should realize their role and responsibilities (individual citizens, civil society organizations, media and other professionals) in protection of defenders and effective implementation of the UN Declaration on the “Rights and responsibilities of Individuals, Groups and Organisations of society to promote and protect universally recognized human rights and Fundamental Freedoms”.

4) The special training programme organized by Academic Institutions/ National Law Universities for sensitization of police personnel regarding respect, rights and freedom of human rights defenders in India in general and Uttar Pradesh Police in particular.

ACKNOWLEDGEMENTS

The author have deep regards to Prof. Arvind Tiwari, Centre for Socio-Legal Studies and Human Rights, School of Social Sciences, Tata Institute of Social Sciences, Mumbai, India and Prof. Anil Sutar, Centre for Research Methodology, Tata Institute of Social Sciences, Mumbai, India, for their valuable comments for the revision of draft article.

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