

# Session 6

## Legal Rights and Justice for Women Human Rights Defenders

### **OBJECTIVES:**

- To explore what rights women have to advocate for human rights.
- To review international laws that protect women and men from arbitrary arrest and that ensure them due process and equality before the law.
- To consider the interconnectedness of human rights that protect all people and the rights of human rights defenders: freedom of speech, freedom of assembly, freedom from arbitrary arrest, right to due process and a fair trial, and freedom from cruel, inhuman and degrading treatment.

### **In This Session:**

In this session, we will consider the responsibilities and vulnerabilities of women human rights advocates. We will read about the international law that protects women human rights defenders and about Bahareh Hedayat, an Iranian rights activist, whose situation highlights the challenges that many women face who fight discrimination. We will study the 1998 UN Declaration on the Rights of Human Rights Defenders and discuss whether the Declaration's drafters sufficiently address the unique challenges faced by women. Finally, we will consider whether special considerations for women are in themselves discriminatory.

### **Reading Assignment:**

#### **The Situation of Women Human Rights Defenders**

The following paragraphs, from a fact sheet by the UN Office of the High Commissioner for Human Rights, provide a few examples (but by no means an exhaustive list) of how women human rights defenders can face different pressures from those confronting men and so require special protection:

[T]he State is the primary perpetrator of violations against human rights defenders. Women human rights defenders, however, have often found that their rights are violated by members of their own communities, who may resent and oppose their human rights activities, which some community leaders may see as challenging their perceptions of the tradi-

tional role of women. In such cases, State authorities have often failed to provide adequate protection for women defenders and their work against social forces that threaten them.

In many parts of the world, the traditional role of women is perceived as integral to a society's culture. This can make it especially hard for women human rights defenders to question and oppose aspects of their tradition and culture when they violate human rights. Female genital mutilation is a good example of such practices, although there are many others.

Similarly, many women are perceived by their communities as an extension of the community itself. If a woman human rights defender is the victim of a rape because of her human rights work she may be perceived by her extended family as having brought shame on both the family and the wider community. . . . Even where no rape or other attack has occurred, women who choose to be human rights defenders must often confront the anger of families and communities that consider them to be jeopardizing both honor and culture. The pressures to stop human rights work can be very strong.

Women human rights defenders having day-to-day responsibility for the care of young children or elderly parents often find it very hard to continue their human rights work knowing that arrest and detention would prevent them from fulfilling that role in the family.

This remains a concern for women human rights defenders even though, across the world, men are increasingly sharing responsibility for the care of dependants [sic]. However, women have also used this role to strengthen their work as human rights defenders, for example where "mothers of disappeared persons" have formed human rights organizations. The fact that they are mothers of victims of human rights violations has provided a very strong rallying point and advocacy tool for these defenders.

The complexities that influence a particular human rights issue can sometimes impose unique pressures on women human rights defenders. In many cultures, the requirement for women to defer to men in public can be an obstacle to their publicly questioning action by men in violation of human rights. Similarly, certain interpretations of religious texts are often used to determine laws or practices having a major influence on human rights. Women human rights defenders who wish to challenge such laws or practices and their negative impact on human rights are often barred, because they are women, from [being accepted] as an authority qualified to interpret such religious scriptures. These women defenders are thus excluded from addressing, on equal terms with men, the primary arguments being used against them. Again, they may also face hostility from the community in which they must continue to live.<sup>30</sup>

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<sup>30</sup> Excerpted from "Fact Sheet 29: Human Rights Defenders: Protecting the Right to Defend Human Rights," from the UN Office of the High Commissioner for Human Rights, <http://www.ohchr.org/Documents/Publications/FactSheet29en.pdf>

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### Questions for Discussion:

- Do you agree with the analysis above? In which ways? Are there assumptions that you do not agree with? Which ones?
- Do women human rights defenders face issues or risks that were not mentioned? What are they?
- The paragraphs above talk about women human rights defenders bringing “shame” on their families. Do women have a special responsibility to protect the dignity of their family and community (to not cause shame) when defending their own dignity and rights? If you believe they do, why do you think women have this special responsibility? Is it right that women have this unique burden? Why or why not?

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### Reading Assignment:

#### Bahareh Hedayat’s Story:

#### Iranian Human Rights Advocate Fights for Justice

While Bahareh Hedayat was a student at Tehran’s Economic and Finance University, she rapidly became one of the most active members of her university’s branch of the national student union, the Office of for Strengthening Unity (OSU). In 2005, she founded the OSU’s Women’s Commission to promote and encourage female students’ participation in various student activities and the publication of the women’s movement’s demands. She was also one of the key founders of the *One Million Signatures Campaign* for changing Iran’s discriminatory laws against women.

Bahareh was elected to the OSU’s Central Committee and took responsibility for its human rights committee, where she pursued human rights abuse and rape cases in Iran’s universities and reported them to the related organizations.

In June 2006, as the secretary of the OSU’s Women’s Commission, she helped issue a call to protest against Iran’s discriminatory laws against women. While participating in this rally, she faced severe police brutality and was arrested for the first time, charged with unlawful assembly, and sentenced to two years imprisonment, which was suspended. However, despite warnings and threats from the security and information forces, she continued to organize meetings and seminars for political, civil society, and women activists on threats and resistance to the women’s movement.

On July 9, 2007, she was arrested while organizing a sit-in at Amir Kabir University to protest the unwarranted detention and torture of students. After spending a month in solitary confinement, she was released on bail. On July 13, 2008, her wedding night, she was rearrested, and after spending a month in solitary confinement, she was released again. In March 2009 she was arrested once again for participating in a peaceful assembly of political prisoners’ families in front of Iran’s notorious Evin prison.

Like many others, Bahareh was an active critic of Iranian President Mahmoud Ahmadinejad's politics. Following Iran's heavily disputed 2009 presidential election and intensified actions by the security forces, Bahareh, as one of the student movement's key figures, became a main target for arrest. They raided her home twice that summer to arrest her, but did not succeed.

As a result of her messages to university students in Europe and Iran in late 2009, Bahareh was arrested on December 30, 2009, charged with propaganda against the regime (for her interviews with the foreign press), insulting the Leader, insulting the President, working against national security by participating in social and public gatherings, and helping organize group protests. She was tried by the Revolutionary Court and sentenced to nine and half years' punitive imprisonment. In December 2010 an additional six-month sentence was added as punishment for having written a letter encouraging students to continue their peaceful struggle for freedom. For extended periods she has been deprived of basic rights such as the right to have a lawyer, speak with her family, or meet with visitors.

Bahareh is still in prison and has been under extreme pressure from the security forces as well as the judiciary to petition for forgiveness and amnesty by expressing regret over her past activities and positions. However she has refused to give in to this pressure.<sup>31</sup>

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### **Team Exercise:**

Divide the group into teams of three or four members. Each team should be provided with two large pieces of paper and a pen for recording their lists. Write **RIGHTS EXERCISED** at the top of one sheet and **RIGHTS DENIED** at the top of the other.

Ask each team to review Bahareh's story carefully and to list under **RIGHTS EXERCISED** the activities she undertook that exercised her rights to hold opinions, speak out, and participate in advocating for causes she believed in. Under the heading **RIGHTS DENIED** each team should list the activities for which she was detained and punished and the international rights she was denied by her country's criminal justice system.

When the group reconvenes, post the lists on a wall where everyone can see them. Ask a volunteer from each team to explain their lists to the group.

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31 Information and excerpts for this piece are from [http://www.fidh.org/IMG/pdf/biography\\_of\\_bahareh\\_hedayat.pdf](http://www.fidh.org/IMG/pdf/biography_of_bahareh_hedayat.pdf). The International Federation for Human Rights (FIDH) is an international NGO defending civil, political, economic, social and cultural rights set out in the Universal Declaration of Human Rights.

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### Questions for Group Discussion:

- Do you believe that Bahareh deserved the consequences of her actions? Why or why not?
- Do you think Bahareh could have agitated for what she believed in, in a manner that would have brought attention to the issues but avoided her being arrested and imprisoned? If so, how?
- How can the right to express one's opinion strengthen society?
- Do you think there are times when expressing one's opinion weakens society? If so, explain your thoughts.
- Why do you think the Iranian courts treated Bahareh so severely? What do you think they hoped to accomplish by their actions?
- Do you think a state that punishes peaceful human rights protestors and uses imprisonment to silence political dissent is a strong state or a weak state? Explain your answer.

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### Reading Assignments:

#### Convention on the Elimination of Discrimination against Women (CEDAW)

##### *Excerpts*

##### Article 7

States Parties shall . . . eliminate discrimination against women in the political and public life . . . and . . . ensure to women, on equal terms with men, the right:

- To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;
- To participate in the formulation of government policy and . . . to hold public office and perform all public functions at all levels of government;
- To participate in non-governmental organizations and associations concerned with the public and political life of the country.

#### International Covenant on Civil and Political Rights (ICCPR)

##### *Excerpts*

##### Article 9

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. . .
2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.

3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial. . .

#### **Article 10**

1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person. . . .

#### **Article 19**

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in Paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
  - a. For respect of the rights or reputations of others;
  - b. For the protection of national security or of public order (ordre public), or of public health or morals.

#### **Article 21**

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

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### Questions for Group Discussion:

- Several of the articles cited above protect anyone arrested for any crime, but they have a special significance for human rights defenders and other detained or arrested for their opinion or for advocating for their opinion.
- Are there any rights described in the Articles above about which you were not aware?
- Are there any rights described in the Articles above that you feel should be protected better in your own country or internationally?
- Are there any rights described in the Articles above that you would revise using different language? Which ones? What changes would you make?
- Articles 19 and 21 of the ICCPR mention certain restrictions on rights in the interest of public order and security. Do either of these exceptions apply to Bahareh Hedayat's story? Why or why not?

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### Reading Assignments:

#### The Rights of Human Rights Defenders

In 1998, the UN General Assembly adopted a declaration on the rights of human rights defenders, entitled the Declaration on the Right and Responsibilities of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms.<sup>32</sup> The Declaration is not a legally binding document; nor does it create new rights. Its purpose is to underscore the importance of human rights defenders and the many existing rights that protect their activities.

The UN Office of the High Commission for Human Rights' summary of the Declaration's protections includes the rights:<sup>33</sup>

- 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;

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32 General Assembly Resolution [A/RES/53/144](#)

33 <http://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/Declaration.aspx>

- To make complaints about official policies and acts relating to human rights and to have such complaints reviewed;
- To offer and provide legal assistance or other advice and assistance in defense of human rights;
- To attend public hearings, proceedings and trials in order to assess their compliance with national law and international human rights obligations;
- To solicit, receive and utilize resources for the purpose of protecting human rights (including funds from abroad).

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### **Team Exercise:**

At the beginning of this session we discussed the unique challenges that women human rights advocates face in challenging cultural, religious, and community practices that violate the rights of women. Do the rights listed above adequately address these challenges?

Break the group into pairs or into teams of three. Ask each team to draft a law (in one to three sentences) that specifically addresses protecting a right or rights of women to defend their human rights. The law can either declare an activity or activities to be legal for women advocates (or women and men) or declare an activity to be illegal because it hinders women's rights activism.

*Example: Women arrested for any reason, whether for illegal protesting or murder, shall not be subject to virginity tests, which are deemed demeaning and discriminatory for women.*

After each team has drafted a law, ask the group to reconvene and to share what they have written.

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### **Questions for Group Discussion:**

- Do you think that special laws, addressing the rights of women specifically, are necessary to protect women rights defenders? Why or why not?
- Are such "special laws" in themselves discriminatory? Why or why not?