

Women Human Rights Defenders: From State Absence to Stigmatisation

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Abstract

The dynamics of the women's movement in Indonesia since the Reform era are inextricably linked to the vital role of women human rights defenders (WHRDs), who have driven the advocacy agenda to achieve gender equality and the protection of women in Indonesia. However, WHRDs face various challenges, ranging from state-imposed obstacles, such as gaps in legal protection, to internal challenges within the movement itself. These challenges hinder advocacy efforts and impact the safety and well-being of WHRDs. This study uses qualitative methods and a feminist legal theory approach to analyse data collected through in-depth interviews with six WHRDs from diverse backgrounds. The findings suggest that the primary needs of WHRDs include legal protection, security, and well-being guarantees, as well as the integration of a gender perspective into every decision and legal instrument. The study details the nature and dynamics of the challenges and legal gaps faced by WHRDs in their struggle in Indonesia.

Keywords: women's movement, Women Human Rights Defenders (WHRDs), legal protection

Introduction

The women's movement in Indonesia is evident in the work of women human rights defenders (WHRDs), spanning grassroots activism to government policy advocacy. A WHRD is defined as anyone who fights to uphold and advance human rights, particularly women's rights. This includes supporting women who are victims of violence, discrimination and exploitation (Komnas Perempuan 2022). WHRDs may be women, men, or people of other genders working together. Every individual and organisation working as a WHRD faces certain risk factors in their work supporting victims, ranging from threats and violence to vulnerability. These risks arise because they are human rights defenders, because they are women, and because of their work supporting victims of violence.

Several studies and findings over the past few years have highlighted the urgent need for legal instruments that protect and support WHRDs. For instance, a 2022 survey by the Indonesia Protection for Women Human Rights Defenders (WHRDs) Network, which involved 521 respondents from six provinces, revealed that 5 per cent of WHRDs lacked health insurance and that only 25 per cent had BPJS Ketenagakerjaan. This lack of basic protection for WHRDs is in stark contrast to the various cases of violence they have experienced. The National

Commission on Violence Against Women (Komnas Perempuan) recorded seven cases of gender-based violence against WHRDs in 2023, rising to nine in 2024 (Komnas Perempuan 2025). However, these figures likely represent only a fraction of the actual number of cases. Conversely, many cases of criminalisation and intimidation have entered the public sphere.

In this post-Reform era, WHRDs from various backgrounds experience different types of violence. One of the most recent cases occurred in a public space during the May Day protests in 2025, when Jorgiana Augustine, then working as a paramedic paralegal, was threatened by state officials. This aligns with Komnas Perempuan's identification of the state as a perpetrator of violence against WHRDs (Komnas Perempuan 2007).

In a separate incident, a female journalist, Francisca Christy Rosana, received a pig's head and a dead rat. Given that both packages were addressed to a female journalist who was actively investigating national cases and had been subjected to digital attacks in the form of doxing, this case constitutes a serious threat of violence against human rights defenders.

Environmental WHRDs also face criminalisation when presenting their research. For example, Fatia Maulidiyanti was subjected to legal proceedings after presenting the findings of her study on mining

investments in Papua, which were subsequently reported by Luhut Binsar Pandjaitan. In another case relating to environmental issues, Siti Hawa (also known as Nek Awe), an Indigenous woman from Rempang, highlights the vulnerability of WHRDs. She was deprived of her living space and faced attempts at criminalisation and intimidation after being designated a suspect, although the investigation was ultimately halted.

Within Indonesian social movements, women's participation in the movements' agenda remains minimal and tends to be confined to domestic matters. For example, in participation initiatives, women are often only involved in cooking. This may stem from the deeply ingrained perception of women's role as caregivers (Sigiro et al. 2018). This view is consistent with the traditional role of women as caregivers, a role which is still predominantly undertaken by women, including WHRDs, with as many as 35,588 women working as unpaid family carers (Pratiwi et al. 2024).

In fact, women's participation could be extended further, for instance, through active engagement in ensuring women's rights are upheld within local policies. Furthermore, women face challenges within movements that are still viewed as mere symbols of participation (tokenism), failing to accommodate their needs within the movement's dynamics. Due to societal constructs and perceptions that confine women to domestic affairs and limit their involvement in public matters, women are still often considered less capable of leadership.

WHRDs may come from diverse backgrounds, such as civil society representatives, non-governmental organisations, lawyers, journalists, grassroots activists, or service providers working to ensure the fulfilment of women's rights. The risks faced by WHRDs generally include targeted attacks by state and non-state actors, as well as various threats and forms of violence, including gender-based violence such as rape and sexual violence. These contribute to the stigmatisation and discrimination against WHRDs.

The experiences of WHRDs are often directed at aspects of their reputation and sexuality, particularly

when their existence and expression are perceived as inconsistent with dominant gender stereotypes. This can result in their marginalisation within their communities. In a number of study findings, WHRDs are also reported to face specific labelling, such as being perceived as holding values deemed 'foreign' or different from mainstream views, including those relating to religious expression. Furthermore, WHRDs face a double burden of work when carrying out their duties within their respective organisations. For example, they support victims and empower victim communities, while also carrying out administrative tasks within the organisation. This can lead to burnout and frustration, sometimes resulting in their resignation from the organisation (Service Providers Forum 2018 in Indonesia, Protection for WHRD Network 2022).

Another issue that exacerbates the vulnerability of WHRDs is the absence of national-level regulations that specifically recognise their role. To date, Indonesia has no regulations that explicitly recognise the role of WHRDs or provide comprehensive legal protection for physical, psychological, digital, and socio-economic safety and well-being. The available protection is scattered and non-specific. For instance, journalists are protected under Law No. 40 of 1999 on the Press, but this legislation does not address the specific vulnerabilities faced by WHRDs.

Nevertheless, international human rights instruments such as the UN Declaration on Human Rights Defenders (1998), as well as a number of UN Human Rights Council resolutions on the protection of WHRDs, have provided states with normative guidance on respecting, protecting, and fulfilling the rights of human rights defenders, including WHRDs. The absence of national policies and the limited documentation of cases imply a lack of structural recognition of WHRDs' roles and conditions. This leaves WHRDs in a vulnerable position, exposing them to various forms of violence and the potential for stigmatisation, delegitimation, and criminalisation, all of which hinder their advocacy work. Nevertheless, the work of WHRDs is vital for society and the state, particularly in promoting, respecting and protecting human rights.

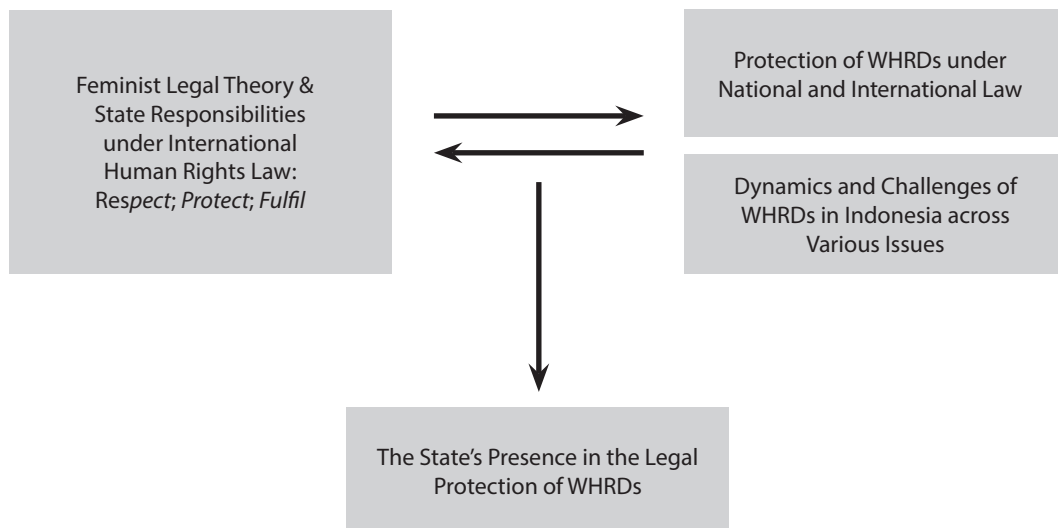


Figure 1. Conceptual Framework

This paper examines the challenges faced by WHRDs within organisations and movements, as well as the challenges they face as individuals. Furthermore, the study addresses the state's failure to protect WHRDs, whether due to a lack of legal instruments recognising their work or to actions by state institutions that delegitimise their movements.

As shown in Figure 1 (Conceptual Framework), the study employs a qualitative approach, including in-depth interviews with WHRDs who have long been active in the field of human rights. These interviews aim to provide a clearer picture of the lives and work of WHRDs, as well as the dynamics and challenges they face across various issues. Additionally, the legal instruments and protections already in place for WHRDs under national and international law will be examined in depth. To complement these findings, the study will also compare various countries that have recognised or are set to recognise WHRDs and provide them with protection. Data analysis and conclusion-drawing were carried out using the Feminist Legal Theory (FLT) approach to identify legal innovations in the protection of WHRDs that incorporate a gender perspective and address their needs. This analysis was also combined

with the state's human rights obligations to respect, protect and fulfil human rights — one manifestation of which is the recognition and provision of legal protection for WHRDs.

Research Methodology

This research takes a qualitative approach, using in-depth interviews with key figures in the women's movement and WHRDs themselves. Qualitative data were collected through interviews with six WHRDs from five different organisations, conducted both in person and online. The WHRDs were selected for their involvement in various areas, including the labour movement, the movement against violence against women, policy advocacy, the rights of Indigenous peoples, gender diversity, and mental health.

In order to identify legal gaps relating to the protection of WHRDs, it is crucial to gain an understanding of the challenges they encounter in their daily lives and humanitarian work. Therefore, in-depth interviews were also conducted with WHRDs figures who have been involved in activism and humanitarian work for a long time.

Table 1.
WHRD Resource People

No	Name	Key Issue/Advocacy Area	Affiliation at the Time of Interview	Year of Activism
1	Isnah Ayunda	Indigenous communities	Women’s AMAN; BRWA	2015
2	Dania Joedo	Gender and sexual diversity	KontraS	2016
3	Uli Pangaribuan	Protection of women and children Legal services	LBH APIK Jakarta	2011
4	Revita Alfi	Women with disabilities	HWDI	2009
5	Jumisih	Labour and domestic workers	FSBPI; JALA PRT	2001
6	Ika Putri Dewi	Psychological support for victims of human rights violations WHRDs	Pulih Foundation	2011

The research aims to understand the experiences, perceptions, and meanings constructed by WHRDs within legal and social contexts. A qualitative approach was chosen as it allows for an in-depth exploration of phenomena through direct interaction with participants (Creswell 2014). The analytical framework employed is Feminist Legal Theory (FLT), which posits that the law is not gender-neutral, but is instead shaped by patriarchal structures that often disadvantage or disregard women (Bartlett & Kennedy 2018).

Although the six WHRDs come from different issue backgrounds, they face similar challenges, particularly with regard to patriarchal dominance in society and gender bias in the legal system. This study uses FLT to focus not only on legal texts, but also on the empirical experiences of WHRDs. This reveals structural practices of discrimination, intimidation, and threats, and shows how such legal biases affect the freedom of movement and safety of WHRDs.

This study uses qualitative methods and the FLT approach to examine the specific experiences of WHRDs as frontline advocates. It does so by investigating their vulnerability to intersecting discrimination, critiquing legal biases and protection policies that lack gender sensitivity, and proposing a more inclusive and just legal perspective for women. Data analysis was conducted through thematic analysis of the interview results, which were then linked to the FLT framework and triangulated with legal documents and reports from civil society organisations.

Furthermore, the interview results were mapped using indicators that formed the focus of the research: (1) general challenges faced by all WHRDs; (2) specific challenges arising from the background and advocacy context of each WHRD; and (3) challenges relating to the fulfilment of civil and political rights, economic, social and cultural rights, and psychological support. These

indicators were formulated based on the theory of the state’s human rights obligations to assess the extent to which the state respects, protects, and fulfils the rights of WHRDs, and to highlight gaps in legal protection. To provide an overview of the standards for the protection of WHRDs, the study also employed comparative methods, drawing comparisons with the Philippines, Mongolia, and the United States. These comparisons help to identify best practices and legal norms that can inform the development of national regulations.

International and National Legal Protection for Women Human Rights Defenders

Human rights defenders are individuals or groups who promote and protect human rights and fundamental freedoms, or advocate their protection and enforcement, through peaceful means. Various human rights violations naturally lead to the emergence of activists addressing different issues, each with their own distinct aspirations. Women and female activists face unique vulnerabilities and challenges when carrying out their humanitarian work. In 1999, the UN General Assembly adopted Resolution A/RES/53/144, which set out a declaration on the rights and responsibilities of individuals, groups, and civil society organisations to promote and protect human rights and fundamental freedoms. Article 1 of this resolution emphasises that everyone has the right to protection when advocating for human rights at national and international levels.

Specifically, UN General Assembly Resolution A/RES/68/181 sets out a declaration outlining the rights and responsibilities of WHRDs when carrying out their humanitarian work. The resolution acknowledges and affirms the importance of protecting the work of WHRDs, while recognising the various challenges and obstacles they face in different countries when trying to advance human rights. Parliamentary Resolution 2554 of the

Council of Europe recommends that its member states implement nineteen measures to ensure the well-being and safety of WHRDs in their respective countries. These measures include training law enforcement officials in gender equality and the work of WHRDs, advocating for the role and work of WHRDs, ensuring WHRDs' mental health, and supporting programmes to ensure their safety. These various international regulations and legal instruments could inform the development of national legislation focused on protecting and supporting the work of WHRDs in Indonesia. The 19 measures demonstrate the Council of Europe's commitment to addressing the needs relating to civil and political rights (CPR), economic, social and cultural rights (ESCR), and the psychological well-being of WHRDs.

Article 28C(2) of the 1945 Constitution of the Republic of Indonesia guarantees every person the right to advance themselves by collectively striving for rights in order to build society, the nation and the state. This right is further emphasised in Articles 100 to 103 of Law No. 39 of 1999 on Human Rights, which state that individuals, groups, political organisations, community organisations, and non-governmental organisations have the right to participate in, and to submit reports on, human rights violations to protect, uphold, and promote human rights. Human rights defenders, including WHRDs, are entitled to social security, including the right to BPJS, as set out in Law No. 24 of 2011 on the Social Security Administration Agency. This law should form the basis for the fulfilment of the economic, social, and cultural rights of human rights defenders.

If we look more closely, we see that human rights defenders have different professional backgrounds and focus on different issues. For instance, journalists are protected by press freedom under Article 4 of Law No. 40 of 1999 on the Press. Similarly, those from the labour sector who are members of trade unions are protected by Law No. 21 of 2000 on Trade Unions. Those from legal aid institutions are protected by Article 66 of Law No. 18 of 2003 on Advocates. Additionally, Article 11 of Law No. 16 of 2011 on Legal Aid states that legal aid providers cannot be prosecuted in civil or criminal proceedings for providing legal aid within their remit, provided it is carried out in good faith. Regarding environmental issues, human rights defenders fighting for a healthy and safe environment cannot be prosecuted or sued in a civil court, as set out in Article 66 of Law No. 32 of 2009 on the Protection and Management of the Environment, as further clarified in Decision No. 36/KMA/SK/II/2013 of the Chief Justice of the Supreme

Court on the Implementation of Guidelines for Handling Environmental Cases. These five legal instruments reinforce the protection of human rights defenders and their civil and political rights.

Law No. 12 of 2022 on Sexual Violence Crimes (UU TPKS) does not recognise the term 'women human rights defender'. However, Article 26(2) of the same law states that legal support persons include psychologists, psychiatrists, legal representatives (including lawyers and paralegals), community service provider staff, and other support persons. Regarding persons providing support to victims, Article 29 of UU TPKS explicitly states that they cannot be held legally liable, either criminally or civilly, for providing support or services to victims unless such support or services are provided in bad faith. Article 13 of Law No. 23 of 2004 on the Elimination of Domestic Violence stipulates that the government shall endeavour to provide protection for support workers.

The National Commission on Human Rights issued Regulation No. 5 of 2015 on Procedures for the Protection of Human Rights Defenders, as well as Standard Norms and Regulations (SNP) No. 6 of 2021 on Human Rights Defenders. In October 2022, the National Commission on Violence Against Women (Komnas Perempuan) published the Manual on the Safety and Security of Women Human Rights Defenders in Indonesia. This manual aims to provide WHRDs and women's organisations with the knowledge and tools to enhance their understanding of safety and protection. It also aims to help them develop protection and safety strategies in accordance with the principles of protection and safety (Komnas Perempuan 2022). The manual was published to address the policy gap regarding the protection of WHRDs.

The Dynamics and Challenges Faced by Women Human Rights Defenders in Various Movements in Indonesia

Interviews with six WHRDs revealed the challenges and obstacles they face, despite coming from various backgrounds. An analysis of legal protection at national and international levels shows that legal instruments broadly aim to provide protection for civil and political rights, economic, social and cultural rights, and psychological protection. These were categorised into three groups: "Civil and Political Rights", "Economic, Social and Cultural Rights", and "Psychological Challenges". In-depth interviews with the six WHRDs revealed that they face additional, individual-specific challenges. These will be summarised in a single column labelled "General Challenges" in the table below.

Table 2.
Challenges and Vulnerabilities of WHRDs

	General Challenges	Civil and Political Rights	Economic, Social and Cultural Rights	Psychological Challenges
WHRDs in relation to Indigenous Women	<ol style="list-style-type: none"> 1. Structural violence perpetrated by the state exacerbates the challenges faced by WHRDs in carrying out their work. 2. Criminalisation of Indigenous communities by the state and corporations. 3. Stigma against Indigenous women. 4. There is still no recognition of Indigenous Peoples. 5. Law enforcement officials lack a gender and sexuality perspective. 6. Issues raised by queer WHRDs affect not only them, but also other queer communities who are unaware of the problem. 	<ol style="list-style-type: none"> 1. A patriarchal public sphere that leaves no space for WHRDs. 2. Not involved in decision-making. 3. Criminalisation by state authorities and corporations. 	<ol style="list-style-type: none"> 1. A double burden within the household and the movement. 2. Empowered because AMAN Women's Organisation is an empowered organisation. 	<ol style="list-style-type: none"> 1. WHRDs experience burnout and depression. 2. WHRDs attempt suicide due to threats and intimidation.
WHRDs on the Issue of Gender Diversity	<ol style="list-style-type: none"> 1. Symbolic participation (tokenism) for queer individuals and WHRDs. 2. Lack of a gender perspective within internal non-governmental organisations (NGOs). 3. A patriarchal environment. 4. An egalitarian culture. 	<ol style="list-style-type: none"> 1. Obstruction of legal aid for victims by law enforcement officials. 2. Unjustified searches by law enforcement agencies. 3. Involvement of thugs by the authorities. 4. Digital attacks against the lives of WHRDs and their queer friends. 	<ol style="list-style-type: none"> 1. Glorification of service and volunteering becoming a culture of heroism within NGOs. 	<ol style="list-style-type: none"> 1. Threatening letters in the form of legal notices cause legal advisers to feel frightened and psychologically distressed.
WHRDs on the issue of Legal Aid Services	<ol style="list-style-type: none"> 1. Law enforcement officials lack a gender perspective. 2. The state fails to protect WHRDs when threats, intimidation, and criminalisation occur. 	<ol style="list-style-type: none"> 1. The presence of patriarchy and perpetrators of sexual harassment within the NGO environment. 	<ol style="list-style-type: none"> 1. Financial stability becomes the organisation's strength. 2. WHRDs need support for psychological, physical, reproductive, and sexual health. 	<ol style="list-style-type: none"> 1. There is no psychological support available for WHRDs.

	General Challenges	Civil and Political Rights	Economic, Social and Cultural Rights	Psychological Challenges
WHRDs on the Issue of Women with Disabilities	<ol style="list-style-type: none"> 1. Law enforcement officials lack an understanding of the disability community. 2. Limited human and economic resources. 3. Stigma from the community and family regarding the role of women and WHRDs. 4. Communication channels for reporting that do not take into account the needs of people with disabilities. 	<ol style="list-style-type: none"> 1. It is difficult to recruit WHRD disability cadres. 2. Intimidation by the families of perpetrators of violence. 	<ol style="list-style-type: none"> 1. The double burden of being a caregiver. 2. Limited logistics budget and donor funding. 3. Knowledge gap of movements in rural and urban areas. 4. Lack of funding from donors and the state for case support. 	<ol style="list-style-type: none"> 1. For WHRDs, emotional stress stems from stigma and the double burden, as well as from handling cases of violence and experiencing burnout. There is also a sense of exhaustion resulting from case management due to lengthy procedures and limited human resources.
WHRDs on the Issue of Female Workers	<ol style="list-style-type: none"> 1. WHRDs lack confidence. 2. Stigma surrounding women being expected to manage the household. 3. Discrimination by law enforcement officials. 4. Verbal abuse from the press. 5. There is currently no recognition or protection for domestic workers. 	<ol style="list-style-type: none"> 1. Stigma of not being independent (linked to party politics). 2. Erosion of space for expression. 3. Spaces for leadership and discussion are dominated by patriarchal men. 	<ol style="list-style-type: none"> 1. Uneven knowledge among women labour defenders. 2. Funding is required to carry out work by WHRDs. 3. Reporting to the police incurs costs, even just for transport. 4. The welfare of women labour defenders varies depending on their affiliation. 	<ol style="list-style-type: none"> 1. Verbal abuse that leads to prolonged depression and emotional distress.
WHRDs in relation to Psychological Service	<ol style="list-style-type: none"> 1. Insufficient human resources. 2. The state has not yet recognised the presence and importance of WHRDs. 3. The procedures for promoting human rights and the lack of trust in state institutions have an impact on the mental well-being of victims and WHRDs. 	<ol style="list-style-type: none"> 1. The state does not recognise WHRD as a profession. 	<ol style="list-style-type: none"> 1. The need to care for caregivers. 2. Economic resilience is sufficient if you are affiliated with an established organisation. 3. The state does not provide WHRDs with funding for mental health services. 	<ol style="list-style-type: none"> 1. WHRDs often adopt a heroic stance, which leads to exhaustion and burnout. 2. WHRDs face internal and external vulnerabilities that affect their well-being.

Source: Compiled by the author from interviews with resource persons (2025)

Several common themes emerge from the various challenges and obstacles faced by WHRDs who served as resource persons for this research. The most prominent challenge is the pervasive nature of patriarchal structures across all human rights issues, including the provision of legal services for cases of violence against women. These structures hinder the work of WHRDs, leading to discrimination within their own organisations and across the broader human rights movement. There are also internal challenges within WHRD-affiliated organisations, such as the stigma surrounding women, which restricts the scope of action and freedom of expression of WHRDs. This stigma also results in many WHRDs lacking the confidence to carry out their humanitarian work.

Additionally, there are challenges closely linked to specific issues. For example, individuals from gender-diverse backgrounds frequently encounter tokenism within Civil Society Organisations (CSOs), which presents its own set of challenges. Strong patriarchal structures and gender biases in societal constructs also influence the internal dynamics of CSOs with regard to WHRDs.

Another significant challenge is the absence of the perspective of law enforcement officials (APHs) on issues related to gender, gender diversity, disability, and Indigenous peoples. As human rights defenders, they interact with numerous law enforcement officials, including lawyers, police officers, prosecutors, and judges. This poses a significant obstacle to their work. For WHRDs with disabilities, the lack of legal accessibility and inclusive perspectives is clear evidence of institutional discrimination within Indonesian law (Wulandari et al. 2024). For those from gender-diverse communities and Indigenous peoples, APHs criminalise and intimidate their work. These examples demonstrate that the patriarchal structure of the legal system constitutes a form of inequality against WHRDs, in terms of its substance, structure, or culture. The law is not neutral; it is shaped by masculine values and patriarchal power structures (Barlett 2018).

Conversely, people with disabilities encounter communication challenges when interacting with law enforcement officials or within the NGO system. In interviews with gender-diverse WHRDs and psychologists, the heroic nature attributed to WHRDs was also highlighted as a double-edged sword, rendering them vulnerable both psychologically and economically. Economic vulnerability arises because

many WHRDs do not have their economic rights fulfilled on the grounds that their work is considered “humanitarian”. Psychologically, WHRDs, particularly those working in legal aid, feel under pressure to constantly push themselves for the sake of the movement’s continuity and the victims’ recovery, often without considering their own needs. This reflects the reproduction of masculine hegemony within the human rights movement, which demands resilience and sacrifice and prohibits the display of vulnerability. Consequently, emotional strain, exhaustion, and economic instability are often considered the inevitable consequences of activism, rather than the result of patriarchal structures. Masculine hegemony’s tendency to involve specific patterns of internal division and emotional conflict stems precisely from its relationship with gender power (Connel in Yang 2020).

The experiences of the six WHRDs provide empirical evidence of the patriarchal structures and gender biases created by the legal system in relation to the issues that WHRDs advocate for in Indonesia. These structures and biases have resulted in specific vulnerabilities for WHRDs in each of these areas. The table above also illustrates aspects of intersectionality. Women’s lives are shaped by a system of layered, intersecting oppression and inaccurate stereotypes. The challenges faced by the six WHRDs highlight the state’s failure to fulfil its general human rights protection obligations, including those relating to civil and political rights, economic, social and cultural rights, and psychological protection. These challenges manifest as forms of layered oppression continuously experienced by women, and specifically by WHRDs in this context.

The main challenges faced by WHRDs relate to their economic, social, cultural and psychological well-being. The double burden of being both a WHRD and a carer is a common theme across all of these issues. Furthermore, there is a knowledge gap between major city movements and large organisations, and grassroots movements and smaller organisations. This poses a barrier to consolidation and large-scale campaigns. Additionally, WHRDs require funding for their work. Some WHRDs are affiliated with established organisations, which resolves this issue. However, many grassroots WHRDs require more support. Finally, WHRDs require psychological support for their highly vulnerable and exhausting work. Ika Putri Dewi also confirmed this in an interview. Having supported many WHRDs with their mental health, she believes that legal protection is needed to ensure they receive the necessary support.

This research indicates that many WHRDs in Indonesia face limited support in carrying out their human rights defence work, particularly with regard to protection and recognition of their roles. On certain issues, such as those concerning Indigenous communities and gender and sexual diversity, WHRDs report that policies and practices do not yet fully support their working environment. This research maps out these various challenges and the need for protection mechanisms for WHRDs through a comprehensive legal framework. A recurring highlight was the need to recognise WHRDs' work as a form of employment with distinctive characteristics and risks, and to provide appropriate support and protection.

In this study, the resource persons emphasised the importance of recognising WHRDs in national law through explicit, stand-alone legislation that does not limit the scope of their advocacy work. This includes recognising Indigenous peoples through the enactment of the Indigenous Peoples Bill, recognising domestic workers through the Domestic Workers Protection Bill, and recognising the rights of gender-diverse individuals through the Gender Mainstreaming Bill. To date, however, these advocacy efforts have not fully achieved their objectives. At the same time, the resource persons emphasised the need for specific, explicit mechanisms to support their work across various issue areas.

According to the resource persons, rather than fulfilling the primary objectives of WHRD advocacy, the state risks neglecting its responsibility to protect the rights of WHRDs. This is evident in the absence of explicit regulations governing the protection of WHRDs across various sectors and the lack of welfare guarantees that account for their vulnerabilities. In fact, the work carried out by WHRDs greatly assists the state in fulfilling its duties. For instance, WHRDs face stigma and a double burden when campaigning for and fighting for their communities. This helps the state to provide services to the public to prevent and address cases of gender-based violence, despite the government's minimal legal aid budget. Furthermore, with regard to disability issues, WHRDs stated that women with disabilities facing legal proceedings require access to healthcare and adequate facilities for legal support, yet receive no government funding whatsoever.

In addition to highlighting the limitations of state protection, the resource persons described incidents that affected WHRDs' ability to fulfil their rights. Some recounted experiences of physical violence at the hands of state officials during demonstrations by women

workers, for example. With regard to disability, the resource persons described the stigma faced by WHRDs providing support at police stations and the lack of internal regulations ensuring appropriate provisions, such as interpreters or security guarantees, for WHRDs with disabilities when providing support until late at night.

The resource persons also highlighted inadequate protection in the digital sphere. For example, WHRDs working on gender diversity issues reported receiving threats, personal attacks and derogatory comments on social media. WHRDs working on various issues reported experiencing negative narratives in the digital sphere when speaking out for the rights of the groups they support.

A Comparison of Legal Protection for WHRDs in Different Countries

The section on country comparisons focuses on three countries selected for their characteristics relevant to the Indonesian context. Mongolia was chosen as an example of a developing Asian country with regulations protecting WHRDs. The United States was chosen as it is a presidential democracy that can provide Indonesia with valuable insights. Although the US currently lacks specific legislation to protect WHRDs, a bill is already in the legislative process, indicating a serious policy shift towards protecting human rights defenders. The Philippines was chosen because it is a Southeast Asian country with similar socio-political dynamics and a legal culture that can serve as an important example for Indonesia to examine regarding protection mechanisms grounded in strong principles.

Mongolia

On 1 July 2021, Mongolia became the first Asian country to enact the Law on the Legal Status of Human Rights Defenders. The Law primarily regulates human rights defenders carrying out human rights protection activities within Mongolia. Mongolia's international treaties protect Mongolian citizens carrying out such activities in a foreign country.

According to Mongolian legislation, Article 4 defines a human rights defender as any individual acting alone or in concert with others to carry out human rights protection activities. The Law stipulates that 'the protection of the rights of human rights defenders' is a state obligation. This includes preventing violations of their rights or freedoms by the state, individuals,

legal entities, or other bodies; restoring violated rights; and providing compensation for any loss or damage incurred.

Furthermore, the Law clarifies that ‘respecting the rights of human rights defenders’ obliges state organisations, individuals and legal entities to refrain from interfering with or obstructing the lawful activities of human rights defenders, and to avoid any unlawful infringement of their rights and freedoms. Judging by the provisions of this Mongolian law, it prioritises safeguarding human rights defenders from criminalisation and threats to their work in protecting human rights.

In addition to the general provisions set out in Chapter II of the Law, it also regulates the rights of human rights defenders, funding and certain prohibitions. Article 7 sets out the sources of funding that cannot be used to finance human rights defenders’ activities. These include funds originating from international intelligence agencies, front organisations or their affiliates, and organisations or individuals engaged in activities detrimental to national unity. Funds from those involved in money laundering, terrorism or extremism are also prohibited. Funds from unknown donors are also prohibited. Receipt and use of funds are subject to restrictions that could affect human rights defenders’ access to the resources needed to carry out their activities.

Several Mongolian civil society organisations and human rights defenders have raised concerns about the Law, particularly Article 8.1.3, which criminalises the defamation of ‘another person’s honour or reputation’. The Law’s broad wording is considered potentially misused to silence or criminalise human rights defenders, particularly those working on issues related to the extractive industries.

The protection mechanism for human rights defenders is with the Human Rights Defenders Committee of the National Human Rights Commission. The Committee is authorised to conduct investigations, risk assessments, analyses and research, and to draw conclusions regarding existing risk assessments. Article 10.5 stipulates that the Committee’s membership must reflect gender equality and the diversity of human rights defenders working at the national level. Other provisions for selecting committee members include having a minimum of seven years’ experience in human rights protection, as well as the relevant knowledge and experience. They must also not have held a senior

position in a political party during the past five years. However, despite this group often facing multiple layers of vulnerability in carrying out their roles, the Law has not yet introduced specific provisions to protect WHRDs.

United States

On 31 January 2024, a group of US senators introduced the Human Rights Defender Protection Act of 2024 (S.3705), which aims to safeguard human rights defenders who are under threat for their work defending human rights and democracy worldwide. The Act reaffirms the US’s commitment to protecting human rights defenders both within and beyond its borders. The Alliance for Land, Indigenous and Environmental Defenders (ALLIED), a URG member, has long advocated for the vital work of human rights defenders, particularly environmental human rights defenders.

The second section of this draft legislation, titled ‘Findings’, outlines the challenges faced by human rights defenders in different sectors. It outlines the various risks reported, including threats, violence, torture, enforced disappearance, and sexual violence. It identifies individuals advocating for land rights, environmental issues, Indigenous peoples, freedom of expression, assembly and association, minority communities, gender-diverse groups, women, youth, and religious communities as being among those experiencing the highest levels of violence. In particular, Article 8 highlights the risks faced by women human rights defenders, including gender-based violence, threats involving family members, disinformation campaigns in the digital sphere, and stigmatisation from their social circles.

This draft bill recognises that the United States lacks an overarching strategy to prevent and address attacks on human rights defenders. While various instruments exist, such as sanctions, visa restrictions, export controls, and diplomatic pressure, they are considered inconsistent and not fully integrated into a comprehensive protection framework.

Section 3, Article 3: A human rights defender is defined as an individual who promotes or protects human rights and fundamental freedoms, either alone or as part of a group, using non-violent means and in a manner consistent with the principles set out in the UN Declaration on Human Rights Defenders. This may include members of civil society organisations, journalists, activists, lawyers, community leaders, land and environmental defenders, labour leaders and

activists, anti-corruption campaigners, whistleblowers, political prisoners, and members of opposition political parties, as well as any other individuals involved in advocacy, action, or peaceful political protest. The Bill defines 'reprisals' as acts or omissions that violate, are intended to violate, or encourage the violation of the rights of human rights defenders or otherwise hinder them from carrying out their work.

This Bill sets out several elements of a global strategy for human rights defenders. These include assessing the availability of tools and resources at US embassies and missions, strengthening the capacity of diplomatic representatives to respond to risks to human rights defenders, and reducing impunity by holding perpetrators of reprisals accountable. Implementation of the strategy is coordinated by a National Security Council official. The draft legislation also contains provisions regarding the United States' role in multilateral and regional forums. These include enhanced monitoring and reporting of reprisal cases, support for the mandate of the UN Special Rapporteur on the situation of human rights defenders, preparation of annual reports, training programmes for foreign service officials, and allocation of funds to support the implementation of the strategy and the protection of at-risk human rights defenders.

Philippines

On 23 September 2021, the Philippines enacted the Act Defining the Rights and Fundamental Freedoms of Human Rights Defenders, Declaring State Responsibilities, and Instituting Effective Mechanisms for the Protection and Promotion of These Rights and Freedoms as a form of legal protection for human rights defenders in general. The Philippine Parliament recognised the importance of protecting human rights defenders due to their work in safeguarding, promoting, and realising human rights. The Senate acknowledged that human rights defenders are vulnerable to intimidation, persecution, arbitrary execution, enforced disappearance, and prosecution, and that legislation was therefore required to protect their work. The Act establishes 11 rights for human rights defenders:

- 1) The right to promote and protect human rights and fundamental freedoms;
- 2) The right to form groups, associations and organisations;
- 3) The right to peaceful assembly;

- 4) The right to seek, receive and impart information;
- 5) The right to privacy;
- 6) The right to develop and advocate human rights ideas;
- 7) The right to mobilise, receive and utilise resources;
- 8) The right to access, communicate with, and cooperate with international and regional human rights bodies and mechanisms;
- 9) The right to an effective remedy and full reparation;
- 10) Freedom from intimidation and reprisals; and
- 11) Freedom of movement.

This Law establishes the Committee for the Protection of Human Rights Defenders, an independent body responsible for protecting human rights defenders and their work. In addition to recognising human rights defenders, the Law imposes obligations on the government and public authorities to comply with 17 key principles relating to their protection:

- 1) The obligation to respect, promote, protect and fulfil the rights of human rights defenders;
- 2) The obligation to facilitate the activities and work of human rights defenders;
- 3) The obligation to provide free access to materials relating to human rights and fundamental freedoms;
- 4) The obligation not to disclose confidential sources;
- 5) The obligation to prevent intimidation or reprisals and ensure protection from them;
- 6) The obligation to punish intimidation or retaliation;
- 7) The obligation to refrain from derogatory and unfounded labelling;
- 8) The obligation to ensure protection from arbitrary or unlawful interference;
- 9) The obligation not to participate in violations of human rights and fundamental freedoms;
- 10) The obligation to conduct investigations;
- 11) The obligation to guarantee an effective remedy and full compensation;
- 12) The obligation to enforce and institutionalise command responsibility;
- 13) The obligation to adopt human rights-based governance;

- 14) The obligation to strengthen protection programmes;
- 15) The obligation to respect the principle of non-refoulement;
- 16) The obligation to promote and facilitate human rights education; and
- 17) Discipline in addressing reports and complaints regarding human rights violations.

A distinctive feature of Philippine legislation is its commitment to protecting human rights defenders, as evidenced by the penalties imposed for violating the Law's provisions. With regard to WHRDs specifically, the Law states that, when formulating rules and regulations for its implementation, due consideration must be given to the risks and challenges faced by WHRDs, as well as to issues of women and gender diversity that require further attention (Article 51(2)(h)). Future regulations in Indonesia and this research could be informed by the various laws and regulations concerning human rights defenders and WHRDs in Mongolia, the United States, and the Philippines.

Addressing Contemporary Challenges and Obstacles for WHRDs and the Urgency of Legal Protection for WHRDs

WHRDs face vulnerabilities that differ from those experienced by other groups. Consequently, they require specific protection that takes into account the above-outlined challenges and their needs. Under international human rights law, states have a duty to fulfil the three core obligations: to respect, to protect, and to fulfil. The first of these is the obligation to respect: the state must not act in a manner that causes individuals or citizens to lose their rights, be unable to fulfil them, or face difficulties in accessing them. Secondly, the state must ensure that law enforcement agencies provide protection when human rights violations occur. Thirdly, the state must formulate legal policies and allocate budgets to fulfil its citizens' human rights (OHCHR 2016).

The extent to which the state fulfils its obligation to respect human rights, including those of WHRDs, can be seen in its failure to restrict access to justice or their rights. Based on the results of the interviews conducted for this study, the resource persons described the criminalisation experienced by various groups of WHRDs on a range of issues, including Indigenous communities and gender-diverse groups. In some cases, law enforcement was reported to have acted arbitrarily

towards gender-diverse groups. The resource persons also highlighted the limited capacity of law enforcement officials to understand issues such as gender diversity, disability, and indigenous peoples. By contrast, draft legislation in the United States focuses on enhancing officials' capacity to address human rights issues by training on the rights of human rights defenders.

The Indonesian state is responsible for protecting the rights of WHRDs, who face different risks and vulnerabilities compared to human rights defenders in general. Risks to the civil and political rights of WHRDs include defamation, stigmatisation, digital attacks and intimidation by non-state actors. These risks affect not only the WHRDs themselves, but also their families and close associates. For example, WHRDs working on Indigenous peoples' issues may be criminalised when third parties or companies take legal action against them. The state should establish safe reporting mechanisms for WHRDs that lead to state-provided protection. Secondly, the state must ensure the protection of economic, social, and cultural rights. This could include ensuring that WHRDs are paid a fair wage, particularly those affiliated with foundations or non-governmental organisations. It would also involve ensuring that their social security and basic labour rights are met, including maternity leave, sick leave, and menstrual leave.

In order to fulfil the rights of WHRDs, the state is expected to develop a regulatory framework that explicitly includes protection mechanisms for WHRDs and takes into account their specific vulnerabilities, such as gender-based violence and sexual offences. Although Mongolia has not yet addressed WHRDs specifically, draft legislation in the United States and existing laws in the Philippines acknowledge the risks faced by WHRDs. However, they have not yet formulated affirmative action provisions. Therefore, when drafting regulations, Indonesia must consider the specific needs of WHRDs on various issues. The direct participation of WHRDs in the regulatory drafting process is also crucial to ensuring an intersectional approach.

The draft law in the United States includes provisions on funding human rights defenders. This is a crucial section, given that human rights defenders, whether acting individually or as part of non-governmental organisations, receive little financial support from the state and experience financial instability within their institutions. Nevertheless, their work helps the state achieve its objectives in line with human rights principles. This funding is also closely linked to the economic well-being and psychological health of human rights

defenders. Regulations or legal instruments that ensure the availability of funds for human rights defenders and their organisations, or guarantee the fulfilment of their basic economic needs, would demonstrate the state's commitment to realising human rights.

The Indonesian government has sought to establish protection mechanisms for human rights defenders, including rapid response mechanisms, through independent institutions such as the National Commission on Human Rights (Komnas HAM), the National Commission on Women (Komnas Perempuan), and the Witness and Victim Protection Agency (LPSK). These independent institutions operate within various constraints regarding their activities. Nevertheless, the state is required to explicitly grant WHRDs status, rights, and protection mechanisms through an intersectional approach, whilst strengthening the involvement of state institutions — including the executive, legislative and judicial branches — in addressing complex, intersectional challenges. This would ensure that WHRDs experiencing various issues can benefit from comprehensive state protection of their civil, political, economic, social, and cultural rights.

The above findings are analysed through the methodological frameworks of Feminist Legal Theory (FLT) and the theory of state obligations regarding human rights (respect, protect, and fulfil). FLT highlights how gender bias and patriarchal structures are embedded within legal texts, institutional practices and the dynamics of civil society organisations, and how these shape the vulnerability experienced by WHRDs. Meanwhile, the framework of state obligations helps determine the extent to which the state is present in, or absent from, its respect for, protection of, and fulfilment of the rights of WHRDs through regulation, policy, or resource allocation. Together, these two frameworks present the demand for legal protection for WHRDs as a structural gender justice and human rights issue, rather than a mere technical regulatory matter.

Conclusion

Drawing on empirical findings and an analysis through the lens of FLT, this study demonstrates that protection for WHRDs must be designed holistically. This should encompass aspects of welfare, digital security, physical security, and recognition of WHRDs' work as legitimate and of public value. FLT reveals how patriarchy and gender bias operate within the state and civil society organisations. This means the vulnerability of WHRDs cannot be understood as merely an individual

risk, but rather as a consequence of legal and social structures that are not gender-neutral.

Within the framework of the state's obligation to respect, protect, and fulfil human rights, interviews with six WHRDs suggest that recognition of their issues (e.g., the enactment of the Indigenous Peoples Bill and the Domestic Workers Protection Bill) is crucial before their status and rights can be formally recognised. The absence of specific regulations recognising and protecting WHRDs at the civil, political, economic, social and cultural levels demonstrates that the state has not yet fully and comprehensively fulfilled these obligations.

This research reveals that WHRDs are not yet comprehensively protected in terms of welfare, digital, and physical security, or formal recognition of their work. WHRDs consider the recognition of their respective issues crucial: for example, Indigenous communities require the passage of the Indigenous Peoples Bill, while labour groups need the passage of the Domestic Workers Bill. The state's limited role in addressing the need for legislation on various human rights issues in Indonesia has led many WHRDs to deprioritise their interests and protection as WHRDs and as women. Six WHRDs were interviewed, and all provided testimony regarding the state's absence and even state-perpetrated crimes against WHRDs through existing legal vacuums (by omission) and actions (by commission).

This research explores the various forms of anxiety and vulnerability experienced by each WHRD from different intersectional perspectives. Aside from the state's absence, it can be concluded that patriarchy, gender bias, and the hegemony of masculinity persist. Indeed, even within the civil society organisations with which WHRDs are affiliated, various issues are overlooked by the government, and WHRDs face challenges within these organisations. This demonstrates that such issues can occur at both the state level and the most grassroots level of civil society organisations. Deeply ingrained patriarchal social constructs hinder the work of WHRDs and Indonesian women, and gender bias has a detrimental effect on the mental health of WHRDs.

The state's failure to protect various human rights in Indonesia has led to a fragmented movement, with each group focusing on its own specific issues. Consequently, the protection, interests, and well-being of WHRDs are not prioritised. The unclear status of WHRDs, coupled with the state's failure to protect them by respecting, protecting, and fulfilling their fundamental rights, remains a significant issue. WHRDs require specific and

holistic legal frameworks to harmonise the roles of state institutions in protecting their rights. Regulations concerning WHRDs could consolidate the movement and address recurring patterns of violence and complex challenges. This would enable WHRDs to carry out their humanitarian work more safely and effectively.

Both the state and organisations must accommodate the needs of WHRDs in Indonesia. This would benefit the movement for the fulfilment of human rights in Indonesia, both directly and indirectly, whether on gender issues or other matters. Advocating for legal instruments proposed by WHRDs from a gender perspective can assist WHRDs and represent a necessary step forward. From an organisational perspective, an internal audit is needed to assess performance and the needs of WHRD members, and to advocate for issues championed by civil society organisations. Ultimately, the state must recognise the work of human rights defenders, particularly WHRDs, and provide them with the protections and fundamental rights they have yet to receive. This is essential for progress and the fulfilment of human rights in Indonesia.

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