



HUMAN RIGHTS COUNCIL

Seventeenth session

**Statement by Rashida Manjoo
Special Rapporteur on violence against women, its causes and consequences
Geneva, 3 June 2011**

Mr. President, distinguished delegates, representatives of the United Nations and the NGO community,

It is an honour for me to address the 17th session of the Human Rights Council for the second time in my capacity as Special Rapporteur on violence against women, its causes and consequences.

Thematic Report

Since last June, I am pleased to report that I have prepared a thematic report on multiple and intersecting forms of discrimination and violence against women. This report analyzes the forms, causes and consequences of multiple forms of discrimination as regards violence against women; highlights the reality that multiple and intersecting forms of discrimination have contributed to and exacerbated violence against women; and argues, that the intersections between gender-based discrimination and other forms of discrimination, and the consequences thereof, are too often overlooked. Furthermore, the problematic nature of human rights discourse regarding violence, which regards real violence as public violence perpetrated by or at the behest of the state, and which often carries with it the elements of spectacle, has led to the marginalization and invisibility of violence perpetrated against women. It is not the more everyday ordinary violence that takes place within ostensibly private spaces, thought to be beyond the control and regulation of the state, which receives attention.

The report proposes a holistic approach which requires amongst others: (a) treating rights as universal, interdependent and indivisible; (b) situating violence on a continuum that spans interpersonal and structural violence; (c) accounting for both individual and structural discrimination, including structural and institutional inequalities; and (d) analyzing social and/or economic hierarchies among women, and, between women and men i.e. both intra-gender and inter-gender. I argue that a one-size-fits-all programmatic approach is insufficient for combating gender-based violence. Violence results from a complex interplay of individual, family, community and social factors – and, even though all women are at risk for violence in every society in the world, not all women are equally vulnerable to acts and structures of violence. A holistic approach for the elimination of all forms of violence against all women requires addressing systematic discrimination and marginalization, through the

adoption of measures that address both inter-gender and intra-gender inequality and discrimination. The lack of recognition of intra-gender inequality and discrimination, has led to the privileging of experiences of urban middle-class women, despite the importance of social location on women's vulnerability to and experiences with violence. The consequence is that program designs and goals advanced in the interest of women may only reach the rights violations experienced by some women.

Violence violates the equality and non-discrimination rights of women and girls in ways that are contingent on women's material conditions, individual attributes and social locations. The holistic approach considers each woman's social location and bodily integrity as a starting point for intervention and treatment. Such an approach counters efforts that focus on violence against women as solely a woman's issue, as such an approach risks minimizing the role that socio-economic, cultural/religious, racial/ethnic, ability, education, access to citizenship and resource allocation inequalities play in maintaining epidemic levels of violence against women. Factors such as geographic location, level of education, employment situation, household size, marital relationships, and access to political and civic participation, all impact women's vulnerability for violence. Further contributory factors for risk of violence include individual aspects of women's bodily attributes such as race, skin color, intellectual and physical abilities, age, language skills and fluency, ethnic identity, and sexual orientation.

The holistic approach, to understanding the relationship between discrimination and violence against women, draws upon a well-established foundation of human rights treaties and declarations passed by various bodies of the United Nations over four decades. The UN treaties and declarations provide the institutional framework within which governments, non-states actors, and local activists can promote a holistic response to identifying, preventing, and ultimately ending, all forms of violence against women. Efforts to-date has been well-intentioned but has produced limited success, largely as a result of a silo approach to addressing violence against women. In meeting their international legal obligations, States must bear in mind that discrimination affects women in different ways depending on how they are positioned within the social, economic and cultural hierarchies that prohibit or further compromise certain women's ability to enjoy universal human rights.

A holistic approach requires that attention be paid to the particular in order to fully realize the universal. It would require international treaties and national laws to counter the conclusion that the universality of human rights renders the particularities of violence against women largely irrelevant. This means grappling with the fact that the rhetoric of universality is not borne out by the material reality in which women live. In pursuing a holistic approach to understanding discrimination and violence against women, it is imperative that this approach includes an analysis of the right to basic needs and also a focus on amongst others: bodily integrity rights, education, civil and political engagement and self determination. These fundamentals directly affect a woman's ability to equitably and holistically participate in public and private spaces.

Violence against women cannot be resolved with a one-size-fits-all programmatic approach. Combating violence against women requires multiple approaches for its elimination. In adopting multiple approaches, preventing and combating violence must become localized, but also take into account differences within their community populations. In addition, multiple approaches require adequate human and material resources in order to assess and monitor how policies, laws and institutions impact violence and discrimination, including in the areas of redress and compensation to victims. This report proposes a holistic approach to conceptualizing remedies which take into account that human rights are universal, interdependent, and indivisible; that violence against women functions on a continuum; that structural and institutional discrimination and inequalities have to be factored in; and that an analysis of both inter-gender and intra-gender hierarchies is essential.

Country Visits

Mr. President,

I would now like to present an overview of the findings from the country missions I conducted during the reporting period. At the outset let me take this opportunity to thank the Governments of El Salvador, Algeria, Zambia and the United States of America for their cooperation and hospitality during my visits. I am particularly pleased to report that each mission generated a positive dialogue at both governmental and non-governmental levels, and I look forward to a fruitful and continued dialogue with the Governments of these countries and other stakeholders on the implementation of my recommendations.

El Salvador¹

From 17 to 19 March 2010 I conducted a follow-up visit to El Salvador, last visited by the mandate in 2004². The objective of this visit was to review progress made on the recommendations provided by my predecessor, assessing the current situation of violence against women and the State response to such violence.

El Salvador has come a long way in institution building and human rights protection since the end of the twelve year civil war in 1992. By acceding to numerous international human rights treaties, El Salvador has shown its commitment to place the human rights of individuals at the centre of its policies, laws and institutions. In the area of gender equality and violence against women, the Government's intention to fulfil its due diligence obligations is reflected in significant developments both in the legislative and the institutional and policy frameworks. The most recent example is the adoption this year of the comprehensive law on violence against women.

However, significant challenges remain. As pointed out in the 2004 report, "[...] the failure of authorities to investigate, prosecute and punish those responsible for gender-based violence has contributed to an environment of impunity that has resulted in little confidence in the

¹ Country mission report on El Salvador, A/HRC/17/26/Add.3

² 2004 country mission report on El Salvador, E/CN.4/2005/72/Add.2

justice system. Impunity for crimes, the socio-economic disparities and the *machista* culture foster a generalized state of violence, subjecting women to a continuum of multiple violent acts, including murder, rape, domestic violence, sexual harassment and commercial sexual exploitation". Discussions held and information received during the visit reflects the continuing accuracy of the findings of my predecessor.

Of particular concern to me is the growing prevalence and forms of violence, especially relating to kidnapping, sexual assault and murders of women and girls, and the brutality inflicted on their bodies. Some of my interlocutors during the mission described this phenomenon as reflecting a "culture of hatred towards women" and an indicator of the failure of the criminal justice system. Other forms of violence that continue to be prevalent and pervasive are domestic violence, sexual abuse against women and children in the home and the community, violence and sexual harassment in the workplace, particularly in the maquila sector and the domestic sphere, sexual commercial exploitation, and attacks against lesbians, bisexuals and transgender persons.

I consider the recommendations in my predecessor's report still relevant and applicable.

*Algeria*³

I visited Algeria from 1 to 10 November 2010, three years after the visit of my predecessor, and subsequent to the invitation extended by the Government of Algeria to seven special procedures mandate holders during the UPR in April 2010. As in El Salvador, the objective of this follow-up visit was to deepen, build continuity and review progress made on the situation of violence against women, its causes and consequences, the State response to such violence, and the remaining challenges, including by reviewing the progress made since the visit in 2007.

This mission was underpinned by the recognition of the historical, sociological and environmental context of Algeria and its particular impact on women. This context is marked by deep wounds from the past from different sources, including the war of liberation from French colonial domination and the Black Decade, which was characterised by large-scale violence that lasted nearly 10 years and which reflected the exploitation of religion for political ends. While I fully acknowledge the complexity of addressing sensitive issues, including those relating to the painful past, and understand the fears that associate social change with the break-up of national unity, I consider that the principles and values of peace, reconciliation and social cohesion that sustain the foundations of the new Algerian State, should not preclude the addressing of violations of human rights in general and women's human rights in particular. As one of the interlocutors stressed "... the past is extremely painful and it is too near. Currently it is more important to find a space for just living. But the past will have to be dealt with. Distance is fundamental and it is a question of time."

³ Country mission report to Algeria, A/HRC/17/26/Add.4

Recent legal, institutional and policy developments, as well as the State's acknowledgement of the reality of violence against women, reflect the Government's intention to fulfil its due diligence obligations with regard to the promotion and protection of women's rights. In the area of law reform, in recent years there have been significant developments in the Nationality, the Family and the Penal Codes which are aimed at eliminating critical areas of inequality between men and women. Developments in the Family Code illustrate the Government's approach to respond to the context and challenges of Algerian society, which is ultimately aimed at gradually effecting social change with the participation of the community. This is clearly illustrated, for instance, by the widespread perception among high-level officials that the strict requirements in the 2005 Family Code relating to the practice of polygamy constitute effective preventative measures to protect women from this practice, while responding to the social and cultural reality of the country. The State's commitment to fulfill its due diligence obligation also include institutional mechanisms, such as the National Consultative Commission on the Promotion and Protection of Human Rights, the Delegate Minister responsible for the Family and the Condition of Women, the National Council for the Family and Women, and the National Strategy to Combat Violence against Women. I welcome as well the proposal to establish a National Centre for Studies, Information and Documentation on the Family, Women and Children.

However, these laws and policies have not been able to remove all obstacles to de jure and/or de facto discrimination and to fully transform entrenched attitudes and stereotypes that relegate women to a subordinate role. Violence against women in the family, sexual harassment at work and in educational and training institutions, and stigmatization of and hostility towards unmarried women and women living on their own, are areas of concern. The effective implementation and interpretation of the law, the need for a reinforced institutional protection framework for victims of gender-based violence, the establishment of a comprehensive and coordinated system on data collection, and the enhancement of collaborative processes and mechanisms with civil society institutions remain major challenges to effectively address and combat violence against women.

In my report I offered a number of recommendations to ensure enhanced protection of women and girls through further legislative reforms, strengthening the institutional framework, and ensuring adequate resources to improve existing services.

Zambia⁴

At the invitation of the Government I visited Zambia from 6 to 11 December 2010. The objective of this visit was to examine the situation of violence against women in the country taking into account its causes and consequences, and the State's responses.

My visit took place during a very exciting time in the country when the review process of the Constitution, which started in 2007 with the establishment of the National Constitutional

⁴ Country mission report to Zambia, A/HRC/17/26/Add.5

Conference⁵, was almost close to completion. Also, I noted the general excitement concerning the Anti-Gender Based Violence Bill 2010, which was before Parliament then and is now awaiting Presidential approval. The production of specific legislation aimed at providing protection for women who have been subjected to violence was long overdue. This Bill, which, according to stakeholders, went through a highly consultative process, is believed by many to introduce important innovations, including stipulating that one single act may amount to gender-based violence; focusing on protecting the victims including removing them from violent environments and making provision for the creation of Government-run shelters.

Despite the significant achievement brought about by the Constitutional review process, I have expressed my concern at the fact that article 23.4 in the current Constitution which permits discriminatory laws and practices in the area of personal and customary laws has been retained in the draft text (article 48) despite the guarantee of equal status of women found in article 11 of the current Constitution. Despite the numerous calls by national and international entities including the UN Committee on the Elimination of Discrimination against Women and the UN, Human Rights Committee, both the current and draft Constitution stipulates that in case of conflict between customary and statutory laws, the former prevails and excludes the application of the gender equality principle in matters such as “adoption, marriage, divorce, burial, devolution of property on death” (Article 23.4(c)).

While acknowledging the important step forward made through the development of the Anti-Gender-Based Violence Bill, 2010, I also noted that, because the Bill is so comprehensive, it appears ambitious. To my knowledge the Bill is not yet accompanied by financial and capacity-building plans, which are key for its effective implementation.

I concluded my report by noting that overall the Government has secured a number of important legal and institutional achievements in the areas of gender, equality and protection from violence against women in the context of complex and difficult social and economic challenges. Yet these achievements have not translated into concrete improvements in the lives of the majority of women in the country who remain marginalized, discriminated against and at high risk of being subjected to violence. Women’s access to justice and protection is impeded by generalised impunity, limited numbers of shelters, lack or insufficient legal representation and limited awareness of their rights, as well as by economic dependency and societal reluctance to recognize numerous forms of violence as crimes and human rights violations requiring serious attention. The persistence of negative customary and religious practices, despite efforts by State institutions to regulate some of them, continues to exacerbate discrimination against women and women’s position of dependence and subordination. In light of my observations, I offered the Government a number of recommendations concerning law and policy reforms, statistics and data collection, and education and behavioral and mindset changes related to the specific social and cultural context.

⁵ The National Constitutional Conference was established by Act No. 19 of 2007 and amended by the National Constitutional Conference (Amendment) Act No. 5 of 2010.

*United States of America*⁶

At the invitation of the Government, I conducted a country mission to the United States of America from January 24 to February 7, 2011. The objective of this visit was to examine the situation of violence against women broadly, including issues such as violence in custodial settings, domestic violence, violence against women in the military, and violence against women who face multiple, intersecting forms of discrimination, particularly Native-American, immigrant and African-American women. In 1998, the first Special Rapporteur on violence against women visited eight prisons in the United States to study specifically the issue of violence against women in custodial settings. My mission report examines some of the issues raised in the 1998 report, but it includes a broader focus on violence against women.

I met with state officials at the national and local level, civil society advocates and service providers, as well as with women survivors of violence and women in custody who shared their personal stories and experiences with me.

The government has taken positive legislative and policy initiatives to reduce the prevalence of violence against women, including the enactment and subsequent reauthorizations of the Violence against Women Act, and the establishment of dedicated offices on violence against women at the highest level of the Executive. There are high levels of interagency coordination between the government departments in charge of implementing policies and programs to address violence against women, and through which substantial resources have been allocated that benefit advocates and service providers, particularly at the grassroots level.

The Violence against Women Act has steadily expanded funding to address domestic violence and with each reauthorization has included historically underserved groups. Nevertheless, there is little in terms of actual legally binding federal provisions which provide substantive protection or prevention for acts of domestic violence against women. This lack of substantive protective legislation, and the inadequate implementation of some laws, policies and programs, has resulted in the continued prevalence of violence against women and the discriminatory treatment of victims, with particularly detrimental effects on poor, minority, and immigrant women.

In relation to violence against women in detention, my report highlights the improvements made since the 1998 mission and identifies some remaining challenges, particularly with regard to the high levels of incarceration of women for non-violent crimes, the poor conditions of detention and the persistent obstacles faced by detained women to file grievances when facing victimization.

⁶ Country mission report to Zambia, A/HRC/17/26/Add.6

With regard to violence against women in the military, I noted with appreciation the efforts undertaken to address this pressing issue, particularly the work done through the Sexual Assault Prevention and Response Office. Challenges remain particularly in relation to reporting incidents of sexual violence, addressing impunity, and providing adequate services and support to survivors.

In light of these findings, my report offers specific recommendations which focus on providing remedies for women victims of violence, investigating and prosecuting violence against women in the military, improving the conditions of women in detention and tackling the multiple forms of discrimination faced by some groups of women that make the more vulnerable to violence.

Group of Experts on the Democratic Republic of the Congo

Mr. Chair,

Pursuant to Human Rights Council resolution 13/22, I contributed to the third joint report by seven thematic special procedures on the situation in the Democratic Republic of Congo, which was presented to the Human Rights Council in March 2011⁷.

In the report, I express my deep concern at the serious violations of the human rights of women and girls by both State and non-State actors, and join my peers in reiterating our call on the Human Rights Council to once again consider the creation of a Special Procedures country-specific mandate.

Communications

The communications contained in my report this year⁸ concern a wide array of issues which reflect a pattern of inequality and discrimination related to violence against women, its causes and consequences. I regret to note that only three Governments, out of the 13 concerned, replied to my communications. I would like to reiterate that communications are an important part of the cooperation and the dialogue of Governments with my mandate.

Regional Consultations with Civil Society

In March 2010, I attended the first ever Central American and Caribbean Regional Consultation, which took place in El Salvador, and which addressed a number of key challenges relating to violence against women in that region. Of major concern in the region is the alarming rise in the number of femicides or extremely violent murders of girls and women. Most often femicides are simply the final and most serious consequence of a continuum of violence rooted in gender inequality, discrimination and economic

⁷ Third joint report of seven United Nations experts on the situation in the Democratic Republic of the Congo, A/HRC/16/68

⁸ Communications report, A/HRC/17/26/Add.1

disempowerment that result in a systematic disregard for women's human rights and the failure of States to comply with their due diligence obligations.

In September last year, along with the Independent Expert in the field of cultural rights, I attended a regional consultation in Nepal, which focused on women, culture and human rights. In January this year, an Asia Pacific Regional Consultation was held in Malaysia on the theme of multiple forms of discrimination, and was followed by a national consultation on violence against women.

Conclusion

Mr. President,

Despite the global focus on violence against women, the reality on the ground shows that violence against women remains the most pervasive human rights violation that exists, whether in times of peace, conflict or post-conflict. I believe that the current major challenge in combating this phenomenon relates to the effective implementation of existing human rights standards to ensure that the root causes and consequences of violence against women are tackled at all levels, from the home to the transnational arena.

In this respect, it is key to ensure States' compliance with their due diligence obligation to prevent, investigate, prosecute and punish the perpetrators of violence against women so that we move towards a conception of human rights that meets our aspirations for a world where women's lives are free of discrimination, inequality and violence.

I thank you for your attention and I look forward, Mr. President, to a constructive dialogue with the distinguished members of this Council.

