Keynote Statement

by Rashida Manjoo

Special Rapporteur on violence against women, its causes and consequences
Excellency’s, colleagues and friends,

I would like to thank UN Women for inviting me as a keynote speaker to this preparatory meeting. It is an honour for me to address you on the issue of violence against women, and the particular manifestations of this human rights violation on the African continent. It is my hope that this meeting will generate valuable information which will contribute to the discussions and outcome of this year’s CSW. This is a crucial moment for governments, activists, civil society organisations, and UN agencies to come together and ensure that the 57th CSW session has a positive outcome which furthers the goals of promoting and protecting women’s human rights globally.

Violence against women is a cause and a consequence of discrimination against women. It is also the most pervasive human rights violation affecting women in every country in the world. Ongoing international and regional efforts to address this endemic phenomenon include the development of human rights standards aimed at preventing, investigating and punishing acts of violence against women, as well as providing just and effective remedies to women victims of violence. At the international level, the Convention on the Elimination of All Forms of Discrimination against Women and the Declaration on the Elimination of Violence against Women, aim to assert women’s right to equal enjoyment and protection of all human rights, including the right to a life free of violence.

Through General Recommendation No. 19, the Committee on the Elimination of Discrimination against Women has explicitly defined gender-based violence as a form of discrimination on the grounds of sex within the meaning of the Convention. Much of what is set forth in general recommendation No. 19 was then reiterated and refined in the Declaration on the Elimination of Violence against Women.

A crucial article of the Declaration, article 4 (c and d), refers to the State’s due diligence obligation to ‘prevent, investigate and in accordance with national legislation punish acts of violence against women - whether those actions are perpetrated by the State or private persons.’ States have an obligation to take appropriate measures to ensure women are free from all forms of violence. To achieve this, States must develop penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs caused to women who are subjected to violence.

Therefore, a State not only has a negative obligation to refrain from acts of violence against women, but also has positive duties to prevent and protect women from violence, punish perpetrators and compensate victims of violence. The State may be held responsible under international law for the failure to provide reasonable and adequate measures to prevent or address the violations of women’s rights. The “due diligence” principle provides a standard to measure whether a State has complied with its international obligations.

At the regional level, the Additional Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa is groundbreaking as it aims to protect women in a comprehensive manner and codifies rights never before ensured in existing legal instruments in the region. Although not exclusively dedicated to violence against women, the Protocol adopts international definitions in respect of violence, includes provisions relating to women’s reproductive rights, the legal prohibition of female genital mutilation, and also the abuse of women in advertising and pornography.
Furthermore, a number of regional human rights mechanisms have been established to monitor the implementation of these human rights standards, such as the African Court on Human Rights and the African Commission on Human and Peoples’ Rights, including its system of thematic special mechanisms. For example the mandate of the Special Rapporteur on the Rights of Women in Africa serves as the main focal point for the promotion and protection of the rights of women in Africa.

Despite the existence of these standards and protection mechanisms, violence against women is widespread, systemic and it affects the majority of women in all countries of Africa. Women and girls are disproportionally affected by different manifestation of violence including domestic violence, rape, sexual harassment, sex trafficking, bonded labour, internal displacement, environmental violence, and harmful practices such as female genital mutilation, witchcraft-related violence, and forced and early marriages, to name a few. High levels of interpersonal violence is intertwined with structural factors linked to the colonial and current history of discrimination and marginalization experienced by many African women, which fosters poverty, lack of access to land and natural resources, and limited access to education and health services.

Other manifestations of violence against women on the African continent that have been researched by this mandate include the high levels of violence experienced by indigenous Batwa women of central African countries such as Uganda, with 100% of women surveyed saying they are victims of all forms of violence, including marital rape, in the home. Research in South Africa reflects alarming levels of different manifestations of violence against women, particularly domestic violence and rape. My mandate has also been following closely the issue of rapes and murders perpetrated against lesbian women in the country. In Nigeria’s volatile Niger Delta, women and girls are not just killed; they are sexually attacked, raped, mutilated and humiliated by the armed militant groups and state agents in the oil-rich area. In the public protests in Egypt in 2011, women were particularly targeted and violated by the military including being subjected to virginity testing. A 2009 study in Central African Republic showed that one in four women had experienced some forms of violence at the hands of a partner, including witchcraft-related violence in the community.

Some manifestations of violence against women are more emphasized and highlighted in the African context. Incidents of rape in conflict situations such as in the eastern DRC and Darfur are extremely high and have been reported on by this mandate. During the recent political clashes in Mali, reports of rape and the abduction of women and girls by armed groups in the

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2 In a 2011 report, one in three women from a group of 4000 reported that she had been raped in the past year. A study conducted by the Medical Research Council states that 25% of men interviewed admitted to raping someone and half of them had done it more than once.
4 For details see report, Militarism and Violence Against Women: The Case of Rape at the Niger Delta available at [http://www.w-geconline.org/blog/?p=709](http://www.w-geconline.org/blog/?p=709)
6 See report by Mercy Corps and the Central African Women’s Organisation entitled “When peace is not peaceful; Violence against Women in the central African Republic”. Available at [http://hdptcar.net/sites/default/files/MercyCorpsBaselineStudyENG.pdf](http://hdptcar.net/sites/default/files/MercyCorpsBaselineStudyENG.pdf)
7 See for example the mission reports of the former Special Rapporteur on Violence against Women, to the Democratic Republic of the Congo (A/HRC/7/6/Add.4) and the Darfur region of the Sudan (E/CN.4/2005/72/Add.5).
northern parts of the country have been brought to the attention of several Special Procedures mandate holders, including my mandate. Allegations have also included the targeting and execution of unmarried pregnant women and women charged with adultery.

Limited literature and a lack of statistics on violence against women and girls, prevents the design of evidence-based policies. This is coupled with limited domestic enforcement of international treaties, along with the lack of accessibility of treaty bodies. Another barrier is a lack of familiarity with formal requirements of the international and regional human rights framework among most women, which limits the efficacy of international and regional treaties.

During the last 19 years, whether through country visits, expert consultations, or thematic research, this mandate has kept abreast of the main developments and challenges in respect of violence against women on the continent. I have conducted three official country missions on the African continent in the last three years and have participated in a large number of workshops and expert meetings, including in Tunisia, Uganda, Zambia, and South Africa.

In November 2010, I conducted a mission to Algeria. My findings acknowledged legal, institutional and policy developments, such as reforms to the Nationality, the Family and the Penal Codes aimed at eliminating critical areas of inequality between men and women, as well as the establishment of relevant institutional protection mechanisms. In my report I have stressed that 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, remain 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 Algeria.

My visit to Zambia in December 2010 highlighted challenges as regards women’s access to justice and protection; the limited provision of services, including shelters; the lack of or insufficient legal representation; and limited awareness among women of their rights. All these factors contribute to a generalized impunity for crimes of violence against women. Furthermore, the persistence of negative customary and religious practices, despite efforts by State institutions to regulate some of them, exacerbate discrimination against women; contribute to women’s position of economic dependence and subordination; and further entrench societal reluctance to recognize numerous forms of violence as crimes and human rights violations. My visit noted with concern the existence of discriminatory laws and practices in the area of personal and customary laws, despite Constitutional guarantees of equal status of women. I also identified as one of the root causes of such discrimination and violence, the Constitutional provision that stipulates that in case of conflict between customary and statutory laws, customary law prevails and excludes the application of the gender equality principle in matters such as adoption, marriage, divorce, burial, devolution of

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8 Country mission report to Algeria, A/HRC/17/26/Add.3
9 Country mission report to Zambia, A/HRC/17/26/Add.4
property on death. This constitutional provision constitutes legalized discrimination and is a violation of Zambia’s international and regional human rights obligations.

My mission to Somalia10 in December 2011 was underpinned by the recognition of the historical, sociological and environmental context within which Somalis continue to live today, including the deep wounds of the long-standing internal conflict, extreme poverty and under-development, food insecurity, and massive internal displacement of the population. I heard anecdotal evidence of sexual violence, especially affecting internally displaced women; FGM and forced and early marriages; and high levels of domestic violence. Unfortunately I noted a lack of substantive reporting of violence against women and girls, whether to state or non-state actors. The absence of proper statistics and data by the authorities, international agencies and civil society was confirmed in my discussions with all stakeholders. The absence of accountability mechanisms and specialized services for women and girl victims of various forms of violence, also contributes to such invisibility and silencing. Furthermore, due to the huge focus on sexual violence in the IDP camps, the problem of domestic violence, which is the most pervasive form of violence against women, was not receiving the attention that it deserved. I noted how, as in other conflict affected countries, the invisibility of violence in the private sphere and the absence of accountability mechanisms, leads to generalized impunity for acts of violence against women and girls, when they occur in the private sphere of the home.

In Somalia I also heard about the fragmentation of programs and policies of UN agencies, donors and other humanitarian stakeholders. In my report I have urged the UN community, donors and other stakeholders to develop more coherent and consistent approaches so that international assistance can address, more directly, the needs of the people. I also stressed that there must be a balance between immediate humanitarian needs and the promotion and protection of women’s human rights.

Despite these alarming allegations of violence against women, and the increased pressure on governments to treat violence against women as a human rights issue, the interventions by many African states have been weak and unsatisfactory. In several countries there is no legislation specifically addressing various forms of violence against women. Prosecution of perpetrators of violence is low, the police and other law enforcement agents are not adequately trained to deal with victims of violence, or to properly investigate allegations, prosecute successfully and secure convictions. While some countries have passed laws, developed policies, programmes and actions plans, implementation has remained weak and ineffective mainly due to the lack of resources and political will. Many states have failed to take sustained efforts to address both the empowerment of women and the transformation of society - through measures to sensitize the public on violence against women and to change attitudes, behaviours and practices that perpetuate, condone and reward violence against women.

The failure of African states to effectively deal with violence against women at the national level also means that more needs to be done beyond the domestic interventions in order to increase pressure for compliance and action. This includes increased political pressure on governments at the regional and international levels through the work of human rights

10 See mission report at: http://www.ohchr.org/
monitoring bodies and other mechanisms. Regional and international human rights mechanisms should play a greater political role to ensure governments fulfilment of their obligations to protect women from violence and to ensure that adequate mechanisms are put in place for redress of any violations.

At the national level there exists an urgent need for the effective implementation of human rights obligations through responsive accountability measures. The effective investigation, prosecution, protection and redress measures, offered to women victims of violence, will have a direct effect on the prevalence rates of such violence. The ultimate objective of States’ efforts when investigating and punishing acts of violence against women, and when protecting and offering redress to victims, should be the avoidance of revictimization and also the prevention of future acts of violence. States’ efforts to comply with their due diligence obligation should not only focus on legislative reform, access to justice and the provision of services for victims, but must also address the structural causes that lead to violence against women.

States should ensure that the root causes and consequences of violence against women are tackled at all levels of society, starting within the family and up to the transnational sphere. In doing so, States should consider the multiple forms of violence suffered by women and the different types of discrimination they encounter, in order to adopt multifaceted strategies to effectively prevent and combat this violence.

I believe that the lack of a holistic approach to violence against women has been an obstacle in identifying, preventing, and ultimately ending, all forms of violence against women. In 2011, I presented a thematic report to the Human Rights Council which studies the multiple and intersecting forms of discrimination experienced by women and its nexus to violence. My report proposes a holistic approach to addressing the problem. Such an approach would include: (1) treating all human rights as universal, interdependent and indivisible; (2) situating violence against women on a continuum which spans both interpersonal and structural violence, and also spans both time (peace, conflict, post-conflict, transitions) and space (home, community, institutions, transnational sphere); (3) acknowledges the structural aspects and factors of discrimination, which include structural and institutional inequalities; and (4) analyses social and/or economic hierarchies between women and men - but also among women, i.e. intra-gender and inter-gender differences and the ways in which they differentially impact women. I argue in my report that a one-size-fits-all approach is not ideal as it tends to ignore the multiple and intersecting forms of discrimination experienced by women and ignores their lived realities.

As governments, UN and regional human rights mechanisms, and importantly non-state actors and activists, we should continue to engage on how to assess and monitor how laws, policies, and institutions are impacting violence and discrimination against women in reality. The fight for the human rights of women remains a collective endeavour in which all of us should jointly take action.

I hope that this meeting will allow us to identify the gaps and challenges in effectively responding to and preventing violence against women; and to adequately transmit this important message to all member States at this year’s CSW.

I thank you for your attention and wish you well in your deliberations over the next two days.