

COMMISSION ON THE STATUS OF WOMEN

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**STATEMENT BY RASHIDA MANJOO
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ITS CAUSES AND CONSEQUENCES**

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

It is an honour for me to address the Commission on the Status of Women (CSW) for the second time since my appointment in June 2009 as Special Rapporteur on violence against women, its causes and consequences. I am grateful for this opportunity to engage with the Commission and trust that our continuing dialogue will enhance our efforts and strategies in advancing the protection of women's rights, including the right to be free from all forms of violence, both public and private.

At the outset let me commend the Commission for having chosen, as the main theme for this session, such an important topic as access and participation of women and girls in education, training, science and technology, including for the promotion of women's equal access to full employment and decent work. The importance of equality in accessing education, training and information, and the interrelations of the right to education, full employment and decent work with other rights, including the right to be free from violence, cannot be overemphasized.

In the work of my mandate, my predecessors and I have noted that education acts as a critical link in the realization of fundamental human rights and is a crucial means to empowering women and girls to participate in the economic, social and political life of their societies. Quality education, full employment and decent work have a direct effect on unlocking women's potential, including making noticeable improvements in the economic and social situation, and generally, the overall well-being of both women and their families. Lack of substantive access to, or the exclusion from, education or employment on the other hand, can be a major source of marginalization and isolation for a woman within and outside of her home, leading to lower status and increased vulnerability to discrimination, human rights violations, including violence and abuse in myriad forms.

My mandate has consistently included education and gender equality requirements within the scope of its recommendations, and has placed emphasis on these interventions as part of the due diligence obligation of the State to prevent violence against women. Accordingly, in addition to recommendations directed at context-specific forms of violence, my work emphasizes the role of the State in ensuring gender equality frameworks, bringing in attitudinal change, proactively ensuring women's participation in decision-making and undertaking programmes with a strong focus on promoting women's empowerment and agency. It is only through empowering strategies that women's resistance to violence will be enhanced, not only to fight oppression on a daily basis, but more importantly, to overcome

disempowering forces, and to the challenging and transforming of gender hierarchies.

I am hopeful that discussions during this session will enable us to identify good practices and also the continuing challenges that exist.

Mr. Chair,

I would like to take this opportunity to brief the Commission about the work that my mandate has carried out in the past year.

Thematic report on reparations to women who have been subjected to violence

My first thematic report to the Human Rights Council in June 2010 addressed the issue of reparations to women who have been subjected to violence.¹

The legal basis for a right to a remedy and, linked to it, a right to reparation has become firmly enshrined in the corpus of international human rights and humanitarian instruments, particularly in the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law. States are responsible for their failure to meet their international obligations, even when substantive breaches originate in the conduct of private persons, as States have to exercise due diligence to eliminate, reduce and mitigate the incidence and consequences of private discrimination.

Nevertheless, the implementation of the due diligence obligation to reparations, and in particular to women who have been subjected to violence, remains grossly underdeveloped. The little attention devoted to reparations, both at a substantive and procedural level, contrasts with the fact that women are often the target of both sex-specific and other forms of violence in times of peace, conflict and post-conflict. Given the disparate and differentiated impact that violence has on women and given that the violence perpetrated against individual women or different groups of women feeds into patterns of pre-existing and often cross-cutting structural subordination and systemic marginalization, my report argues for specific measures of redress that address both individual reparation and the wider structural factors that enable violations of rights.

Mr. Chair,

In view of the structural and multiple forms of discrimination that women face during conflict and post-conflict as well as in times of peace, I argue that reparations cannot be just about returning women to the situation in which they were found before the individual instance of violence. Instead, reparations should strive to have a transformative potential. This implies that reparations should aspire, to the extent possible, to subvert instead of reinforce pre-existing patterns of cross-cutting structural subordination, gender hierarchies, systemic marginalization and structural inequalities that may be at the root cause of the violence that women experience. In this regard, complex schemes of reparations, such as those that provide a variety of

¹ Thematic report on reparations for women subjected to violence, A/HRC/14/22

benefits, including guarantees of non-repetition, can better address the needs of female beneficiaries in terms of transformative potential, both on a practical material level and in terms of their self-confidence and esteem. Measures of symbolic recognition are also crucial as they can simultaneously address both the recognition of victims and the dismantling of discriminatory understandings that give meaning to the violations.

This year, my thematic report to the Human Rights Council will address the issue of multiple and intersecting forms of discrimination in the context of violence against women. This area remains a less developed and visible area of concern in the international human rights fora. The mandate has consistently drawn attention to the imperative of applying an intersectional approach to identify and address the effects of multiple forms of discrimination operating simultaneously and perpetuating the continuum of violence, rather than addressing each form in isolation. While this framework has drawn attention to the experiences of women on the margins, the violations and structural barriers they face, as well as the contexts that heighten their risks and vulnerabilities to violence, it has also highlighted the need to take into account that gender-based discrimination intersects with discrimination based on other forms of “otherness”, including amongst others, race, ethnicity, religion, disability and economic status, thus forcing the majority of the world’s women into situations of double or triple marginalization.

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 will be presented to the Human Rights Council in March 2011².

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. The reports on sexual violence perpetrated by armed groups against hundreds of women and girls that took place in Walikale territory in August 2010 is another horrendous manifestation of the pervasiveness of sexual violence in the DRC, and reflects the culture of impunity that continues to exist.

I welcome the recent decision by a military court in Eastern DRC which for the first time sentenced a high-ranking commander for crimes against humanity for having sent his troops to rape, beat and loot from the population in Fizi on New Year’s Day. Besides sending a clear signal that sexual violence in conflict will not be tolerated, this verdict shows that accountability for sexual violence is possible when there is political will. In this regard, I call on the Government of the DRC to bring to justice other perpetrators of sexual violence crimes, while simultaneously retaining a focus

² Third joint report of seven United Nations experts on the situation in the Democratic Republic of the Congo, A/HRC/16/68

on the needs of victims of such crimes.

Country Visits

Concerning country visits, I will be submitting to the 17th session of the Human Rights Council in June 2011 the reports on my official visits to El Salvador, Algeria, Zambia and the United States of America. I would like to take this opportunity to thank the Governments of these countries for their full cooperation and look forward to a fruitful and continued dialogue on the implementation of my recommendations.

I have recently received a positive reply to conduct a visit to Italy in May this year. I also hope that my request to visit Jordan in the second semester of 2011 will be favorably considered. Earlier requests for country visits to the Governments of Uzbekistan, Turkmenistan, Zimbabwe, Somalia, Nepal and Bangladesh, have to date remained unanswered. It is my hope that the Governments of these countries will soon engage with my mandate in order to advance the promotion and protection of women's human rights.

I would like to take this opportunity to highlight one specific aspect of violence against women which I systematically examine during my country missions: the situation of women in detention and the challenges they face. During my visits, I have observed that female detainees often endure harsh and at times degrading living conditions, including overcrowding, lack of adequate water, sanitation and health services. I have also heard accounts of verbal, physical and sexual abuse against women in detention, as well as allegations of humiliating or degrading treatment, either as a form of punishment or as a means to extract confessions. Many of the incarcerated women I have interviewed have undergone judicial proceedings without adequate legal representation and with little knowledge of proceedings in general, and the charges against them in particular. In many cases, these women have been victims of domestic and other forms of violence, who have received no form of redress and whose experiences of discrimination and poverty have contributed to the reasons for their incarceration. These women then face further punishment when obstacles such as visiting restrictions and geographical distance keep them separated from their families and their children. This is an area that that I will continue to pay particular attention to throughout the exercise of my mandate.

Communications

The communications contained in my report to the Human Rights Council this year³ concerned a wide array of issues which reflect a pattern of inequality and discrimination related to violence against women, its causes and consequences, as defined in General Recommendation 19 of the CEDAW Committee and the United Nations Declaration on the Elimination of Violence against Women. The communications I sent to Governments largely reflect the following trends: a pervasiveness of sexual violence and other forms of violence amounting to torture or

³ Communications report, A/HRC/14/22/Add.1

ill-treatment; an increase in cases of violence against women human rights defenders, as well as women facing multiple and intersecting layers of discrimination; the failure of States to prevent and respond to violence against women; and the challenges and obstacles posed by laws, regulations, drafts and specific legal provisions which allegedly discriminate against women and may condone or cause violence against women.

Regional Consultations with Civil Society

This mandate, through regional consultations with civil society organisations, has kept abreast of regional and domestic trends pertaining to violence against women and has established direct contact with women's rights organisations, academics and victims in different parts of the world. 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, which reflect what some of my interlocutors called a "culture of hatred towards women" and an indicator of the failure of the criminal justice system. Most often, however, femicide is simply the final and most serious consequence of a continuum of violence rooted in gender inequality, discrimination and economic disempowerment that result in a systematic disregard for women's human rights and the failure of States to comply with their due diligence obligations. Throughout my mandate, I will continue to look into this extreme form of gender-based violence, including its causes and consequences.

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.

Such consultations also offer an opportunity to inform civil society on the work of special procedures and my mandate in particular, with a view to promoting and facilitating cooperation, including in relation to the communications procedure and country visits. I continue valuing the exchanges during these consultations and hope that civil society organisations in all regions remain engaged and are supported in such important endeavours.

Mr. Chair,

Despite the global focus on violence against women, the reality on the ground shows that violence against women remains the most prevalent and pervasive form of human rights violations that exists, whether in times of peace, conflict or post-conflict. In my view, the current major challenge in combating this phenomenon depends on 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.

Over the past years, the Security Council, the Human Rights Council and the General Assembly have reiterated that States have the obligation to promote and protect all human rights and fundamental freedoms of women and girls. They have also highlighted the States' obligation to exercise due diligence to prevent, investigate, prosecute and punish the perpetrators of violence against women and girls, to fight against impunity and to provide protection to victims. These bodies have consistently stressed that failure to do so violates, impairs or nullifies the enjoyment of women's human rights and fundamental freedoms. Furthermore, the CEDAW Committee, in its most recent general recommendation on the core obligations of States parties under Article 2 of the Convention, reinforces the perspective that States must address all aspects of their legal obligations under the Convention to respect, protect and fulfill women's right to non-discrimination and to the enjoyment of equality. It underscores that States parties have an obligation not to cause discrimination against women through acts or omissions, and also that States must react actively against discrimination against women, regardless of whether such acts or omissions are perpetrated by the State or by private actors.

If we continue, in a substantive and sustainable manner, to push for the observance of all States to meet their due diligence obligation, then we will move towards a conception of human rights that meets our aspirations for a just world, where women's lives are free of discrimination, inequality and violence, whether public or private.

I thank you for your attention.