

Chapter 2

‘Bridging the Divide’: An Interview with Professor Rashida Manjoo, UN Special Rapporteur on Violence Against Women

Rashida Manjoo and Daniela Nadj

Introduction

Violence against women, in all its manifestations, has been a topic engaging feminist legal scholars for a long time, with a renewed feminist advocacy emerging to highlight sexual violence experienced by women during the armed conflicts in the former Yugoslavia and Rwanda in the early 1990s. One of the most important legal developments to emerge from this engagement has been the creation of the office of the Special Rapporteur on Violence Against Women, its Causes and Consequences,¹ as part of a series of developments at the UN level that finally accorded explicit recognition to violence against women (VAW) as a human rights concern. This happened 13 years after the coming into force of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)—the ‘Women’s International Bill of Rights’.² The expert committee monitoring the Convention then adopted General Recommendation 19 in 1992 filling a major gap in the Convention.³ In 1993, at the Vienna Conference, the international community

¹For more information, see: <http://www.ohchr.org/EN/Issues/Women/SRWomen/Pages/RashidaManjoo.aspx>. Accessed 30 September 2015.

²United Nations, General Assembly, *Convention on the Elimination of all Forms of Violence Against Women* (CEDAW), 1249 U.N.T.S. 13, 19 ILM 33 (1980), adopted by GA. Res. 180 (XXXIV) (18 Dec. 1979), entered into force: 3 Sept. 1981. See further <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>. Accessed 30 September 2015.

³United Nations, General Assembly, United Nations Committee on the Elimination of all Forms of Discrimination Against Women, General Recommendation No. 19, U.N. Doc A/47/38 (Eleventh session, 1992). [Hereinafter General Recommendation, No. 19].

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officially recognised violence against women as a human rights violation. In the same year the General Assembly adopted the Declaration on the Elimination of Violence Against Women.⁴ These developments set the stage for the creation of a special mechanism to monitor violence against women worldwide.

Always acting on her belief that ‘town and gown’ need to be brought together, Professor Rashida Manjoo was appointed to the post of UN Special Rapporteur on Violence Against Women, its Causes and Consequences in 2009 as the third post holder. To coincide with the end of her mandate as Special Rapporteur, Professor Manjoo gave the Criminal Justice Centre’s Annual Lecture in May 2015.⁵ The Lecture addressed “Normativity without Legality: 20 Years of UN Developments on Violence Against Women, its Causes and Consequences”. Before the Lecture, Dr. Daniela Nadj, Lecturer in Law at Queen Mary University of London, whose research focuses on gender-based violence against women and international human rights law, interviewed Professor Manjoo. In this wide-ranging interview, an edited version of which is presented here, themes such as the meaning of liberation for women, especially in a post-conflict setting, and the pervasive socio-economic inequality faced by women around the world were discussed. What emerged is a portrait of a woman who has given new vigour to the mandate of UN Special Rapporteur on Violence Against Women by vocalising the pervasive and systemic discrimination suffered by women at the hands of state authorities and in the private sphere, while at the same time continuing the important work of her predecessors. This has contextualised the multiple forms of violence experienced by women by locating it within deep socio-economic inequality and injustice.

Manjoo and Nadj first met in September 2014 at an informal workshop at the offices of the UK-based black feminist organisation IMKAAN.⁶ IMKAAM brought together a number of feminist legal scholars to discuss the implications of the Istanbul Convention,⁷ as a potential template for a future convention on the elimination of violence against women. The idea of inviting Professor Manjoo to speak at Queen Mary and to open the talk to a diverse audience ranging from legal scholars, feminist activists, NGO workers and students to members of the public with an interest in women’s rights issues first took shape then. This came against the backdrop of the renewed visibility of wartime sexual violence in the UK media throughout 2014, largely as a result of high-profile campaigns by celebrities such as Angelina Jolie, who played a pivotal role at the

⁴The concluding document formally recognises the human rights of women as “an inalienable integral and indivisible part of human rights”; see General Assembly A/CONF. 157/23 World Conference on Human Rights, Vienna Declaration and Programme of Action, *adopted* at the World Conference on Human Rights in Vienna, U.N. Doc. A/CONF. 157/23 (12 July 1993).

⁵A podcast of the lecture is available here: <http://www.law.qmul.ac.uk/events/podcasts/manjoo/index.html>. Accessed 30 September 2015.

⁶For more information, see <http://imkaan.org.uk>. Accessed 30 September 2015.

⁷Council of Europe: Convention on Preventing and Combating Violence Against Women and Domestic Violence, CETS: No. 210 (in force 1 August 2014); <http://www.coe.int/en/web/istanbul-convention>. Accessed 11 October 2015.

Global Summit to End Sexual Violence Against Women in London in June 2014.⁸ Moreover, there was renewed media emphasis on the systematic nature of violence faced by women in detention as a result of Manjoo's criticism of the UK government's refusal to allow her permission to inspect the treatment of female detainees in the Yarl's Wood Detention Centre.⁹ This decision had come under close scrutiny for the authority's failure to address allegations of inappropriate sexual conduct against female detainees at the hands of male guards in January 2015.¹⁰

Rashida Manjoo's life's work and her dedication to issues of social justice, and challenging all forms of discrimination and oppression, provided the backdrop to the conversation. She started the interview by talking about her early years as an anti-apartheid activist and women's liberation campaigner in the South Africa of the 1970s and 1980s. Trained as a lawyer, she also served as a member on the Commission on Gender Equality (CGE) of South Africa, where she was involved in active research and in the monitoring of the country's progress in promoting and protecting women's human rights and the attainment of gender equality. This high-profile role later led to an academic appointment at the University of Cape Town, where she holds a Professorship in Law and continues to co-convene the Human Rights Programme. Her prolific academic and activist work eventually culminated in her 2009 appointment as UN Special Rapporteur on Violence Against Women, its Causes and Consequences.

In the latter capacity, she has engaged with numerous governments around the world with her country missions including states such as Honduras,¹¹ India¹² and Afghanistan.¹³ She inspected first-hand the level of discrimination faced by women in public spaces and reported her findings to the UN Human Rights Council.

⁸Martinson, Jane. 2014. The Angelina Jolie Effect at the Sexual Violence Summit. *The Guardian*, 12 June. See <http://www.theguardian.com/lifeandstyle/womens-blog/2014/jun/12/the-angelina-jolie-effect-at-the-sexual-violence-summit>. Accessed 11 October 2015.

⁹United Nations, General Assembly, *Report of the Special Rapporteur on Violence Against Women, its Causes and Consequences*, Addendum, Mission to the United Kingdom, A/HRC/29/27/Add.2 (19 May 2015); available at: http://ap.ohchr.org/documents/dpage_e.aspx?m=106. Accessed 11 October 2015.

¹⁰Townsend, Mark. 2015. Yarl's Wood: UN Special Rapporteur to Censure UK Government. *The Guardian*, 2 January <http://www.theguardian.com/uk-news/2015/jan/03/yarls-wood-un-special-rapporteur-censure>. Accessed 11 October 2015.

¹¹United Nations, General Assembly, *Report of the Special Rapporteur on Violence Against Women, its Causes and Consequences*, Addendum, Mission to Honduras, A/HRC/29/27/Add 1 (31 March 2015) available at: http://ap.ohchr.org/documents/dpage_e.aspx?m=106. Accessed 11 October 2015.

¹²United Nations, General Assembly, *Report of the Special Rapporteur on Violence Against Women, its Causes and Consequences*, Addendum, Mission to India, A/HRC/26/38/Add 1 (1 April 2014); available at: http://ap.ohchr.org/documents/dpage_e.aspx?m=106. Accessed 11 October 2015.

¹³United Nations, General Assembly, *Report of the Special Rapporteur on Violence Against Women, its Causes and Consequences*, Addendum, Mission to Afghanistan, A/HRC/29/27/Add 3 (12 May 2015); available at: http://ap.ohchr.org/documents/dpage_e.aspx?m=106. Accessed 11 October 2015.

She has closely monitored state compliance with international human rights treaties by focusing on four specific areas in particular: the home, community, state institutions, and the transnational level. She has also provided a range of thematic reports to the Human Rights Council and the General Assembly on themes such as the gender-motivated killings of women¹⁴ and reparations for women who have been subjected to violence.¹⁵ She adopts, at all times, an intersectional approach, which focuses on the multiple strands of discrimination, more especially the relationship between sex, gender, socio-economic conditions, race and the historical and cultural contexts underpinning violence. Her reports have particularly highlighted the interaction of interpersonal, institutional and structural violence, and she has advocated a holistic approach that is grounded in an understanding of human rights as interdependent and indivisible while emphasising that violence against women is best understood on a continuum of violence, which can manifest itself in multiple forms. Professor Manjoo's work, moreover, addresses the normative gap in international law between human rights standards and violence against women occurring on the ground in all its manifestations. She has identified this as one of the remaining challenges facing her successor.

Her work in the mandate was informed by numerous reports, including the report *15 years of the United Nations Special Rapporteur on Violence, its Causes and Consequences (1994–2009)—A Critical Review*.¹⁶ This report outlined in detail the achievements of the mandate, the violence against women movements and campaigns, while reflecting upon the gains and the potential for future progress and directions for the mandate of the Special Rapporteur. One of the key objectives of her work has been to highlight and assess the extent to which issues such as reproductive health and rights, poverty, migration, internally displaced persons (IDPs), women refugees, trafficking, older women and adolescent girls have been addressed by the mandate. This would enable the proposing of ideas on how best to integrate those issues into future work within the context of the VAW mandate. It is clear that the contextualisation of violence and socio-economic inequality, be it the lack of access to education, high illiteracy rates and the pervasive gender pay gap, remain key challenges in the enduring fight to eliminate gender-based violence against women.

¹⁴United Nations, General Assembly, *Report of the Special Rapporteur on Violence Against Women, its Causes and Consequences: Gender-related killings of women*, A/HRC/20/16 (23 May 2012); available at: http://ap.ohchr.org/documents/dpage_e.aspx?m=106. Accessed 11 October 2015.

¹⁵United Nations, General Assembly, *Report of the Special Rapporteur on Violence Against Women, its Causes and Consequences: Reparations to women who have been subjected to violence in contexts of both peace and post-conflict*, A/HRC/14/22 (23 April 2010); available at: http://ap.ohchr.org/documents/dpage_e.aspx?m=106. Accessed 11 October 2015.

¹⁶*15 years of the United Nations Special Rapporteur on Violence, its Causes and Consequences*, A/HRC/11/6/Add.5 (27 May 2009); available at: <http://www.ohchr.org/Documents/Issues/Women/15YearReviewofVAWMandate.pdf>. Accessed 11 October 2015.

Interview

History

Daniela Nadj (DN): Good afternoon, I'm here with the UN Special Rapporteur on Violence Against Women, Professor Rashida Manjoo. It's a great pleasure to have you here with us at Queen Mary and thank you for agreeing to do the interview.

What led you to the position of UN Special Rapporteur on Violence Against Women (UNSRVAW), its Causes and Consequences? What was your career trajectory? Was there a particular women's human rights moment that influenced you? Did you become interested in violence against women because it seems to be a pervasive issue in South Africa? Did the domestic context inform your work?

Rashida Manjoo (RM): I think the position as UNSRVAW chose me rather than me choosing the position, which is an important distinction for me. My life's work has been on social justice, and challenging all forms of oppression and discrimination. Having been born in South Africa with a history of colonisation, legalised apartheid and living my whole life under a system that considered me unequal and inferior, it was natural to be part of the struggle against all forms of injustice and discrimination. As a black woman, my work on social justice, initially against race discrimination, also led to work on gender equality struggles, due to the multiple and intersecting nature of inequality and discrimination. The intersectional approach became more important as the possibility of freedom in the 1980s approached, and we recognised that the liberation from racial oppression would not necessarily result in the liberation of women in a substantive way. The added focus for many of us in the late 1980s and early 1990s in South Africa included a women's human rights focus to ensure that the discussions on political transition included women at the table negotiating our future, but also a focus on the strategic and practical needs of all women in the country, politically, economically, legally and socially. This required us to form new networks and coalitions, as women, across our political and ideological divides—to ensure both presence and participation in shaping a new country. My involvement in the Women's Coalition led to working in my province on gathering information for a 'Women's Charter' which would reflect the aspirations and demands of women. Our goal was to gather thoughts, ideas and demands as voiced by women, that we hoped would then be articulated in the new constitution of South Africa.

Looking at the context of apartheid South Africa, factors such as the state-sponsored violence against women in detention, against women in public spaces and experiences such as being a student participating in marches on university campuses, being assaulted by the police, being arrested, are all part of what shaped the consciousness of many of us about how women are seen as easier targets for victimisation. Living through that and seeing the implications of a lack of accountability was also a strong motivation for getting involved in the kind of work that I ended up doing over the years. It was not just about domestic violence because, quite frankly, thinking about domestic violence in South

Africa, as a black woman in the 1980s, was a luxury. We had the awful problem of state-sponsored violence to think about—there was a larger enemy out there that needed our attention.

Another important phase in the 1990s was my work in the sector of violence against women. Through my association with civil society organisations and my work heading the gender unit in a university law clinic, I began reflecting on the pervasiveness of domestic violence in our society. Being aware of the brutality of public violence and especially state-sponsored violence under apartheid, the hidden manifestations of violence against women in private spaces led to a deeper and broader focus on this issue. The implications for, and the impact on, women's participation and autonomy in public and private spaces led to my questioning what liberation actually means for women, including in post-conflict settings. The specialisation in our law clinic on women's human rights led to numerous activities, including providing free legal services to women victims of violence, participating in the drafting of legislation in the area of domestic violence, setting up of a domestic violence intervention unit in a court (the first ever in South Africa) and providing educative services to communities on human rights, among other activities. I was also a founder member of the Network on Violence Against Women and served at the executive level in both the national and the provincial levels. This network was crucial in numerous law reform efforts through its educative and advocacy work and, importantly, also worked on the issue of effective service provision by state and non-state actors.

The national-level work then led to me getting involved in regional and international discussions around justice for women, including through the use of regional and international human rights instruments. My involvement in discussions and advocacy on the Protocol on Women in Africa (Maputo Protocol); the African Court on Human Rights and also the Rome Treaty (International Criminal Court) further deepened my passion for access to justice, but also justice itself, for women. Part of the work on the Rome Treaty was the issue of how to translate manifestations of violence against women into categories of crime recognised under international criminal law, but also how to shape our thinking about remedies and victims' rights in an international court context, including through engendering evidentiary rules and rules of procedures. The Women's Caucus for Gender Justice was a wonderful feminist organisation that honoured and reinforced the importance of linking local knowledge to global initiatives, when shaping the discourse on women's human rights. The Coalition on Sexual Violence in Conflict was also another amazing international organisation based at Rights & Democracy in Canada, which I was part of as a member of a global group of feminist activists involved in gender justice and international criminal law. Being a human rights lawyer, I was also involved in drafting 'shadow reports' to UN bodies, when South Africa reported. A seminal report was a CEDAW submission that I worked on with numerous activists, which focused just on the issue of violence against women and provided a different perspective for the committee. Again, this was an amazing experience that bridged the local and the global and reinforced for me how important it is to remain engaged in both theory and practice.

Over the years, I had also served 5 years as the Parliamentary Commissioner in a constitutional commission, that is, the Commission on Gender Equality. The experience at a national level in a constitutional commission involved holding the government accountable to the promise of the Constitution. The legislative oversight function was informed by consultations and educative work, prior to making submissions to Parliament. Also, participating in litigation on seminal constitutional issues was a great experience. This was a very interesting 5-year experience—as it is one thing to be an advocate for human rights and women's rights when you are not part of state structures, but different when you are within a state structure, but as part of an independent body. Effectively I was doing state responsibility and accountability work at a national level in this constitutional commission.

I had also taught at different universities, both nationally and overseas, including working in a judicial education project at a local university. My work on social justice and human rights work stood me in good stead when interacting with judicial officers.

When the nomination for this position of UNSRVAW came up, friends and colleagues approached me and asked if I would agree to be nominated. The concern by many feminists was that we needed to ensure a pool of candidates that had the experience and expertise, but also the independence to undertake the mandate in an impartial manner. I was not sure that I wanted this position, although it seemed like a natural progression reflecting my expertise and experience, due to my concerns about the UN as a multilateral organisation that had not been very successful in addressing women's human rights issues. When the discussion on nominations began, I had lots of support from civil society organisations in particular. I was shortlisted and the rest is history.

Theoretical Approach

DN: One of the noticeable features of your work emerging from the reports is that they contextualise violence against women linking it with socio-economic issues, such as access to education, income inequality, stereotyping and patriarchy. Why did you adopt this approach? Why is it so important to adopt an intersectional approach in your work?

RM: The main reason would be that I come from the 'Global South' and I tend to look at the world in a different way. I tend not to privilege civil and political rights. I think they are really important, but I can also see, especially in the developing world, how civil and political rights can be seen as meaningless, if the socio-economic reality and the developmental realities continue to remain a challenge. For example, it broke my heart to hear a rural woman in South Africa, 5 years after the start of democracy, asking me what was the point in having the vote—when her children cried with hunger, when she could not pay school fees or put food on the table. We fought over 350 years of colonisation and apartheid, and to hear that from a black woman was a stark reminder of how multi-layered our lives are and how some human rights cannot be privileged above others.

So you have to look at human rights holistically, through an indivisibility and interdependence lens, as we cannot talk about any human rights, let alone women's right to a life free of all forms of violence, without acknowledging that there is this interdependence between violence and root causes. My predecessors in this mandate are two amazing women who have delved into the causes and consequences and have identified causes that arise due to your sex and/or gender, poverty, underdevelopment, the rural/urban divide, race, indigenous status, age, sexual orientation and gender identity and so on. My subsequent work has been about pulling these threads together to highlight a deeper understanding of the causes and consequences.

Intersectionality became a really useful tool in this endeavour as I delved further into looking at holistic solutions that address individual, institutional and structural causes and consequences. My reports became another way of trying to stress to governments, UN agencies and civil society that when you adopt a 'cookie cutter model' towards violence against women, treating all manifestations as part of the same problem for which only certain remedies apply, it is not enough. Similarly, if you adopt a 'one-size-fits-all' approach, you are doing a disservice to victims, and you are never going to reach the goal of elimination, whether through immediate or progressive elimination efforts. The goal ultimately has to be about changing the realities on the ground, not only for the individual who has been harmed, but also for society as a whole, because of the systemic nature of the problem. It became really important in the last 6 years for me to push the intersectionality approach, whatever the factors underlying the violence, and also looking at the consequences of a lack of a holistic approach to women's rights. Whether it is the death of a woman as the ultimate act of violence, whether it is the violence we see in conflict situations or in transitional situations, it is crucial to get member states to understand that violence does not arise out of a vacuum. There are clear links and you need to follow these in order to see where the root causes are. My predecessors highlighted some of these issues, and I have now had the opportunity in the last 6 years to stress that even more clearly in my reports.

DN: How does your background as an academic inform your work?

RM: I see myself as an activist-academic. I think academia can be very sterile if one focuses on theorising with no experience of practice, whether through actual involvement in the lived realities of people or through field research. I would say that I started off more as an activist than as an academic, in the formal sense. My academic life started with my activism in the legal aid clinic at the university providing legal services to indigent people. One of the first things that struck me was that we had to address the issue of us sitting in an ivory tower context, with the community coming to us to access services. We needed to take the legal services to the communities. But in the late 1980s and 1990s it was still dangerous to go into certain communities, including townships, so we sought the advice of communities as to what would work to benefit communities, but also address the safety needs of students and attorneys. We approached the corporate sector to donate shipping containers that we placed in taxi ranks, and the community could then come to us in a location closer to home. We also used community halls to conduct educative work—with our students being directly involved in legal casework and also the

educative work. In this way, it was about bringing 'town and gown together' and getting the university and the law clinic to remain true to their social justice mission, and also a way for universities to understand that they are there to serve the public, not only through their teaching or research and writing, but also through being engaged in changing the reality on the ground through clinical and research work. I have used the same logic for what I have done with this UN work, where possible. It has been very unfortunate that it has been mostly US-based universities that have been so responsive to my calls for assistance for research and submissions etc. More recently, a few UK-based universities have also understood how important it is to bridge the gap. It is about bringing theory and practice together and for academics to see what the relevance of this kind of work is to the community. University teaching is not only about us teaching law etc., but it is about asking how does that knowledge translate into people's lives today? For me it has always been about bridging the divide and bringing theory and practice together, whether through teaching, research or advocacy work.

Challenges

DN: What other main challenges do you believe we are facing in combating violence against women? You once said that the ultimate goal is elimination of violence against woman, what areas would you prioritise? What do you regard as one of the greatest remaining obstacles in the pursuit of gender equality and gender justice?

RM: One of the challenges is that whereas the rhetoric is that violence against women is a human rights violation, the reality is that there is an absence of responding to that in a deeper way that demands a different response. So when the rhetoric is that it is a human rights violation, and we do not acknowledge that it is pervasive, that it is systemic and that it has numerous structural causes, including socio-economic causes, then actions must reflect this reality. We cannot treat violence against women as just a welfare or health or justice issue, rather than as a human rights issue that requires responses to address protection and prevention, as well as addressing causal links such as inequality and discrimination, among others. More recently we are seeing a shift in discussions and reports that we need to look at violence against women from an economic point of view, especially 'what does it cost the country' to deal with the problem? I have concerns about this approach because there are countries where governments spend very little on the health sector, or on the service provision sector, such as on shelters. So what are we computing? Is it in terms of numbers so that we can show impact of resource spending and limited efforts—or should the focus rather be on the impact of violence on the human beings that are subjected to this? The concern for me remains that the rhetoric is that violence against women is a human rights violation, yet the reality is that it is not taken as seriously as other human rights violations. Is it because gendered violence disproportionately impacts women and girls, a constituency that is undervalued and devalued in most part of the world? Probably.

The second issue is that far fewer resources are going towards addressing this human rights issue as compared to other violations. I am not talking about reactive responses, but proactive responses, including through prevention and protection measures. Another crucial issue is the lack of accountability, which is not the norm for crimes against women and girls, as impunity still continues to be the norm in many parts of the world. My report to the Human Rights Council in June 2014 identifies some challenges that are continuing, and also new challenges that have emerged. The accountability deficit is one continuing challenge, while the shift to a discourse on men and boys is a new challenge that I identify. The distortion of understanding of equality and gendered responses, is leading to gender-neutral responses and an abandonment of a focus on women's empowerment. International human rights law demands substantive equality, not formal equality. Unfortunately we see a move towards neutrality and consequently towards formal equality, under the guise of equality. This is a challenge facing the developing world but also the developed world. Countries that have not even started the hard work of redress for harms suffered by women have found it an easy way out by adopting this approach.

The public/private dichotomy in responses to violence is also a continuing challenge. We know that crimes against women and girls are often treated differently and in some countries it is argued that mediation is the better way to go to resolve such crimes. So compulsory mediation in family violence situations is advocated, because of the view that private matters are not a public concern. Mediation, or wanting to address redress in a less adversarial way rather than going through the court system that is viewed as adversarial, is seen as the way forward. So, I think this is another challenge we are facing: how do we do accountability in a context where the criminal justice system considers crimes perpetrated within family relationship as different, thus requiring a different response? The harms are not seen in the same way as the harms occurring outside the family, when in fact the harms are worse, because they occur in a context of a relationship of trust. I think that we need a zero tolerance approach and response, so that we can send a message to society that violence against women is not acceptable, it is not normal, that it is a crime, and that accountability must be the norm. Moving from the rhetoric to the reality is something that I have not seen in the last 6 years. It is not sufficient to acknowledge violence against women as a human rights violation, and then to not act on treating such violations as a human rights issue.

In addition to the lack of transformative remedies, including accountability, for gendered crimes against women, the goal of substantive equality will be difficult to attain in a context of growing gender neutrality in laws, policies and practices. The lack of a sustained focus on the empowerment of women and girls through a holistic human rights lens has resulted in challenges in achieving goals on gender justice, equality, non-discrimination and dignity.

DN: It seems that the more public the violence, the more it's conducted in a public context, say in the theatre of war, or in the space of war, the more it gets vocalised. Whereas we know what happens when international criminal tribunals that have jurisdiction to prosecute certain crimes leave the low-level offences aside. It means that crimes, such as domestic violence are rendered invisible.

RM: It is what many women in Africa highlight as the ignoring of the low-level warfare which they face on an everyday basis, in their homes and in their communities, whether it is the sexual violence experienced when going to fetch water, or the sexual offences that they experience in the community, or the family violence that they are often subjected to. This is the sort of local level, widespread and pervasive violence that they refer to as being ignored due to the more public manifestations that are currently the focus of the global community.

DN: It is invisible to the law.

RM: Yes, and it is rendered even more invisible in situations of conflict. The conflict situation is the theatre now, and the privileging of sexual violence in conflict, is being questioned by women's rights activists in different contexts.

DN: Because it also seems to get a lot of funding and it generates a lot of interest.

RM: It gets a lot of political support, a lot of money and a lot of media coverage.

If there is blood and gore, as we hear and see in conflict situations, then we are expected to take it seriously, as opposed to when there is blood and gore behind closed doors, in private spaces.

DN: Is there a difference in approach between so-called developing and developed states? Is there a difference in how state officials deal with you, how the press deals with you, how NGOs engage with you, depending on the country context or cultural context? Also, how do countries in the Global North react to the UN these days? Do they see it as an irrelevance?

RM: I think that relationships or developing dialogues with governments depends to some extent on the approach of the mandate holder. I am very clear as a starting point with governments—whether in the developed world or the developing world—that I am not there to judge the country. I am trying to understand the context and the reality, so that I can have a discussion and a dialogue with them about the situation and make some recommendations. If the government is defensive, and in denial about the reality, then the discussion is going to be much more difficult. I try to avoid an adversarial approach, and it does help that I am from the Global South with multiple identities and sites of knowledge, whether religion, custom or tradition; or poverty and underdevelopment; or historical legacies of colonisation and apartheid. In some ways, I am able to bridge divides quite easily, but also to make people much more comfortable, as I am not coming from a context with a complete blank slate of understanding what the context and reality are, or what the cultural and religious sensitivities are.

Respect for the local cultures is important, as it can lead to trust and openness, and thus allows you to gain access to information that is needed for an objective analysis of the situation. Being respectful does not mean that one is being 'soft' or 'playing politics'—it is part of according dignity to all people that you engage with during your fact-finding mission. I have found that I am comfortable in both the developed and the developing world because of my mode of interaction. Our role as independent experts is to start the process of dialogue with the government during a mission, while gathering information for our reports, and to provide recommendations based on our objective findings. Of course, the government can ignore all your

findings and your recommendations—which defeats one of the goals of the Human Rights Council: to try through its work, to change the reality on the ground. You cannot influence and change the reality, unless you try and walk in someone else's shoes, even for a short time. And you cannot expect people to be open and accessible, unless you accord them dignity and respect before, during and after your visit.

In the developed world context, I have had different experiences where I have felt some level of discrimination, as a black woman with a Muslim name coming from the Global South. I think assumptions get made when people look at you through these aspects, rather than from the perspective of your expertise and intellect. Reactions and behaviour are often very polite, even when there is a racist and sexist element to it. In the developing world contexts, the issue of stereotypes about women and the way they should behave sometimes leads to tension. But your strength of character, self-confidence and understanding of what your role is, and how you persist in trying to get the information and meet relevant people—these are crucial components to accomplish a successful country mission. The response of governments in different contexts, to your preliminary findings in a press release, can lead to criticism and attacks from the government, the media and also civil society in some cases. This has happened in a minority of cases only, and I accept that governments (and also that society) have the right to challenge my views and reports, and that is fine. It can lead to interesting views and counter-views in that society and also at the international level. Even in contexts where the attacks are personal, I prefer this, rather than silences or a silencing of dissenting voices.

Regarding views about the utility and value of the UN, criticisms emanate from both the developed and developing world, whether it is about the negativity about a certain country in reports or press statements, or about being named and shamed in front of your global peers. The Universal Periodic Review process is a peer review process by governments of governments, and it is the first time ever in the history of the UN that we have a much fairer system of looking at the human rights records of every member state every 4 years. I think it is a much more collegial environment because it is a peer review than when you are reporting to treaty bodies or when special procedures mandate holders are coming into your country on a mission. It is not a perfect system as regards scrutiny, but it is a more democratic system that subjects all countries to the review. The review findings may also lead to criticisms from developed countries that view their human rights records as far better than many other countries. Often countries do not want to be publicly identified as violating universal human rights standards and this can lead to comments such as 'Well, the UN is a useless entity, or the Special Rapporteurs are well-paid loonies' and so on.

The UN as a 70-year-old institution has not had countries withdrawing. Criticism, the withholding of subscriptions, the cutting of financial support to the administrative organs of the UN, these issues will continue to occur, but the membership of countries to this multinational institution will also continue. Instead of the question being 'why is this useless institution picking on us', governments should be asking what is it that we are doing wrong, or why is it that our credibility

and legitimacy is being questioned by this multilateral human rights institution that we as governments created. So, governments need to turn the question around and reflect on both culpability and accountability.

Highlights

DN: What would you say is the key highlight of your work so far? What have been some of the positive developments? Can you give us an example of where this was effectively implemented?

RM: Something that I have enjoyed, that I did not anticipate, is my interaction with governments during my reporting sessions and also during country visits. I found it both enlightening and fascinating having discussions with government officials and reflecting on (and often challenging) their understandings of violence against women as a human rights issue. This has been a positive experience, as employing a dialogical mode allows for challenges and conversations in a way that is less threatening. It has been a useful experience, because in the human rights world, if you are working outside the system, you see your interactions with member states in a more adversarial way. It is not necessarily a dialogical process in the same way, because you see your NGO role as policing the compliance of human rights obligations and assessing the functioning of the state in this regard. As an independent expert within the UN system, you stand in a different space when assessing compliance with human rights obligations.

The other very positive aspect has been civil society engagement. That has formed a huge part of my mandate, not only during country missions but also more broadly, through receiving complaints, holding consultations and attending conferences. The constant interaction with individuals, academic institutions and NGOs has been a source of amazing interactions, contributing to my understanding and knowledge development. I really appreciated the civil society responsiveness to me personally and to the work of my mandate in particular. My constant request to them has been that they needed to be doing the harder work of holding their governments accountable on a national level. My limited engagement in the life of their country could include a 2-week visit, a press statement, and then a report with recommendations for the Human Rights Council and the General Assembly. The harder task is to give life to the report and to use it as an accountability tool at the national level. Citizens have the responsibility to hold their governments accountable. It has been gratifying to see that people get this aspect, and are using the language of accountability and state responsibility to act with due diligence.

Even at the grass roots level, my educative work has helped to demystify the relevant human rights terminology, and this has been gratifying to observe. For example, in workshops held in different parts of the world, explaining what state responsibility to act with due diligence is, and also understanding the nor-

mative gap in international law, which has resulted in positive developments, including submissions received on country situations which reflect the learning from the workshops. This comes out of the simple act of explaining due diligence as a duty of care owed to citizens, then explaining how to articulate how their government understands, interprets and implements its obligations in terms of protection, prevention, punishment and provision of effective remedies.

DN: Deconstructing these concepts to an ordinary person who is not familiar with the legal jargon is important.

RM: It is an imperative that all human rights advocates should be involved in. Something that I find positive is that, once you deconstruct, once you demystify these concepts to people, who consider themselves human rights activists, they are able to share so much more information and in a more nuanced manner. It is a win-win situation when people can see violations and omissions as part of state responsibility to protect, prevent and provide effective remedies. I would love to do more of this work as I think it is needed and I think there is a responsive environment to engage in this work. It is just a matter of doing it in a way that does not patronise people and the person teaching does not act as if this knowledge and language is the preserve of human rights experts.

DN: Is it about making the law accessible, putting it in plain language that is accessible and clearly structured?

RM: Yes, it is about making it accessible and putting the law into language that is understood. But it is also about giving people the tools to use the law. One often observes in the UN system, how the international human rights NGOs who know the language, and know how to use the system. They make submissions based on their research or cases they work on, sometimes in conjunction with local people. Their resources, financial and intellectual, allow them to construct their submissions into a professional human rights framework, which is palatable for the international community, based on the fact that this is the strategy that ensures that they will be heard. But how do you empower people so that their own direct voices are heard and are not dismissed, based on the fact that they may not be able to articulate it in the same way in terms of violations, state responsibility and accountability?

We cannot get to the goal of achieving justice, unless we can do more educative work in this field. The deconstructing that happens when we teach women that the things they talk about are actually linked to human rights as captured in international law documents is very important. It is argued that statistics capture quantitative data, but I think statistics can also capture stories, if one is open to listening and hearing. Numbers can tell stories if we listen to the narratives and also provide and assist with the necessary tools. How do you get women to articulate their reality so that you honour that story, experience and reality—but at the same time understand the reality through a legal lens. I think that is what we need to be doing more; that is, we need to teach human rights more broadly—in schools, communities, and in all disciplines in universities, not just in law schools.

Violence Against Women

DN: Why has a holistic, comprehensive treaty on violence against women not been adopted yet at the UN level? What is the greatest obstacle to the adoption of a comprehensive treaty?

RM: The main reason in my view is the lack of political will. Twenty years ago three arguments were used to avoid addressing the normative gap in international law: proliferation of treaties, cost implications of another treaty and the implications of a new treaty for CEDAW. The concern was that it would negatively impact on CEDAW—which is considered the bill of rights for women. Twenty years down the line, I am still hearing the same arguments come up again. The lack of political will is significant, but so is the resistance by the CEDAW committee and some UN agencies. It is appalling that a treaty that would comprehensively address the normative gap on a human rights issue that is widespread, pervasive, systemic, systematic, cutting across geographic/race/class boundaries is resisted by people who should know better. The understanding of violence against women as a human rights violation in and of itself, thereby requiring specificity in international law, is a notion that is foreign to some people.

In my view, having a specific treaty on violence against women would provide for a dedicated accountability mechanism, that is, a mechanism that would hold states accountable more stringently to standards that are clearly articulated, including being specific about state obligations. When one talks about the cost implications of another treaty, the reality is simply another treaty body requiring administrative support, that meets in Geneva three times a year and that conducts the monitoring of state party reports. I am sure that money can be found if there was real political will by states, to the goal of elimination of violence against women.

As regards CEDAW, the question for me is: how can a new treaty negatively impact CEDAW? This is a weak argument, as CEDAW does not have any direct relevant provisions, except for article six on prostitution and sex work. The functioning of the Committee regarding violence against women is to try and fit this pervasive human rights violation under the discrimination label and to then find ways to justify the Committee's jurisdiction by using other provisions in the CEDAW. When it receives a complaint, or when it interrogates the state parties' reports, it does what I call jurisdictional gymnastics—to address the issue of violence against women. It has to ask questions such as: Is violence against women discrimination? Is the violence due to stereotyping? Is it due to family relations? I do not minimise the work of the Committee, and I acknowledge that they have tried to interpret CEDAW to include violence. But when you have a human rights violation that is so pervasive, specificity becomes crucial in addressing the obligations of states. Other human rights violations that are systemic and pervasive would not face a problem when discussions take place about a specific treaty. We need to acknowledge there is political reluctance to address women's human rights issues, including violence against women, through a legal lens of state responsibility and accountability, which would move it beyond the political rhetoric that we currently observe.

DN: One of the emerging themes you identify in your reports is sexual identity. Specifically, you say, there has to be greater recognition of sexual identity, sexual orientation, gender identity and a greater focus on intimate partner violence. Have there been improvements in these areas?

RM: I think the challenges facing the LGBTI communities have moved a huge step forward in the last 18 months. In addition to my reports, there has been real leadership on this issue in terms of statements by the UN High Commissioner and the Secretary-General making it clear that discrimination and violence experienced by this constituency is a human rights issue under international human rights law. Even though the Universal Declaration of Human Rights might not have spoken directly about sexual orientation or gender identity, this is a human rights issue impacting the right to equality, non-discrimination and dignity. I think there has been a very clear shift in the international and regional human rights systems. For example, the Inter-American system has been very proactive, including having a Special Rapporteur, who looks at LGBTI issues. We are on the right track in terms of the issue being out in the open now, so we cannot go back. The challenge is going to be for governments to be held accountable.

DN: To what extent has modern-day armed conflict highlighted the prevalence of violence against women? What do you think have been the most effective steps taken by the UN in combating violence against women in that field? What about the post-conflict mechanisms and the UN Security Council Resolutions, such as Resolution 1325 or Resolution 1888? Have women benefited from these, or is there also a negative side effect to having violence against woman visibilised through the context of armed conflict? Might this mean that women would be victimised again through the heightened emphasis on violence?

RM: Starting with the case of Rwanda and the former Yugoslavia, it took strong women to highlight the issue of sexual violence. We have had the ad hoc tribunals in Rwanda and in the former Yugoslavia, which have rendered visible the sexual harms that emanated during conflict. The kinds of violations women experienced were so different, so the visibility was a good thing. I think those moments were particularly important, and the jurisprudence from the two tribunals in particular has been very helpful in shaping the Rome Treaty for the International Criminal Court. If we had not recognised these harms, if we did not recognise the gendered nature of these harms, I do not think that we would have succeeded in getting the explicit language we did in the Rome Treaty, whether in relation to the categories of crimes, the elements of crimes, the evidentiary rules, the rules of procedures, and so on. We did not get it completely right, but I think we got far more than we expected. Having been part of the discussions on these issues, I know that we were very aware of what went wrong in the two tribunals, and we really tried to avoid some of those mistakes and gaps. I remember one side event at the UN, listening to the testimony of a woman from Rwanda. She spoke of when you send a UN plane to Rwanda to pick up a victim witness to go and testify in Arusha, and how the whole village knows where she is going, and the consequences of this for her safety and also her reputation. So we learned a lot of things because of the functioning of the

tribunals, and we then tried to help shape the core documents of the ICC to try and build in protection and prevention measures, as well as victim support and victim participation measures.

Rendering violence against women in conflict visible has helped in subsequent UN developments such as the Security Council resolutions. Unfortunately the politicised discourse has privileged sexual violence in conflict instead of understanding that sexual violence in conflict is part of a continuum of violence, discrimination and of inequality. I think that this framing has led to more political support, more ideological support, more money and more media coverage. As I said previously, it is easier to talk about the horrific rather than to talk about the 'everyday horrific'—which is what we should be talking about. I have challenged that privileging, not because I think we should not talk about sexual violence in conflict, but because we need to contextualise it and see it as part of the continuum of how women's bodies get used in times of peace, conflict, post-conflict, transitions and displacements. Why do men violate women in 'normal' contexts, and why is this exacerbated in conflict situations? Is it because they are allowed to get away with violations in peacetime and there is no accountability and it is normalised? There are a few people in the UN who get it, who speak of the privileging, but then there is the political rhetoric of making it seem like this is the worst possible thing the world is facing today. It is horrific and it is horrendous and we need to focus on it, but we also need to understand it as part of a continuum. We do not need to be privileging it, as we then do a huge disservice to the women who continue to live in conditions where their harm is not acknowledged and where the national system does not think that they have to do something about the low-level warfare that is part of the everyday reality. In the UN there is an inter-agency network on sexual violence and conflict headed by UN Women, and they have also been part of shaping this problematic ideological discourse. The seven Security Council resolutions on women, peace and security, including Resolution 1325, have led to governments developing national actions plans. The challenge of course is that these resolutions are not legally binding, and there is no accountability or enforcement of the provisions.

Currently, there is a review of Resolution 1325 within the UN, and it will be interesting to see the findings of the report. The Secretary-General's annual reports on women, peace and security indicate numerous concerns, including the lack of or minimal participation of women in peace-making processes and also in peacekeeping missions. The UN is not doing very well in either sphere, as its own hiring practices are implicated in this field.

DN: Is that because the National Action Plans have not been implemented by many governments?

RM: No, the National Action Plans are developed after a conflict/transition negotiation process. When a country is negotiating peace, the notion of including women at the table, and at the highest levels, is still not internalised. In the UN peacekeeping system, reports indicate very few women heading peacekeeping missions. This is a challenge because the participation of women that was envisioned and which gave rise to expectations, especially for activists, unfortunately, has been a disap-

pointment. In every conflict subsequent to Resolution 1325, we have seen horrific examples of violations of women, with some of this information highlighted in the Secretary-General's reports. In such circumstances, one needs to ask: so there is the political statement, there was the adoption of the seven resolutions and a progressive and nuanced development of each of the resolutions—but ultimately what does this mean for women? How are their realities being changed?

DN: The question can also become what kind of woman should be included in these processes, or who gets to speak for women?

RM: Although this is an important issue, it is not a question that gets raised when we talk about the inclusion of men. We need to be conscious about participation, voice, agency, legitimacy, credibility, representivity, and so on—but we should not create the conditions that demand 'suitability' based on some criteria created by elites in the UN or in society generally. Furthermore, we have to be vigilant about the nominations of diplomats who have no experience or expertise or national-level political leaders or the wives of political figures, etc. The contestations within civil society also need to be acknowledged, as the 'cult of personality' also exists among some constituencies. The challenge of 'elitism' is also a factor that needs to be considered when UN appointments are made.

DN: How effective do you think the role of the Human Rights Council in visualising violence against women has been?

RM: The violence mandate was created 22 years ago by the then Commission on Human Rights. The Human Rights Council has created a working group on laws and practices that discriminate against women. Over the years, the Council has also adopted numerous resolutions on violence against women. The Annual Day on Women is an event hosted by the Council in June each year. There have been more appointments of women within the Special Procedures system, and there is generally a consciousness about gender representation. During the Universal Review Process, the Council also makes sure that questions on women's rights and violence are articulated. These measures are important, but I am not sure how they contribute substantively to effectiveness in influencing and shaping the responses of states in the quest to eliminate violence against women. Again, political rhetoric does not necessarily translate into changing the reality on the ground for women who live in a state of everyday low-level warfare.

Future

DN: What would you wish your successors to focus on?

RM: My wish would be, firstly, that my successor continues the work on the normative gap and the need for a universal instrument on violence against women, whether it is in the form of a stand-alone Treaty or an Optional Protocol to CEDAW, but with its own monitoring body (similar to the Optional Protocol on the Convention Against Torture). There is a lot of work that has already been done to date and it needs to continue. My second hope would be that specific reports will be produced

in some of the areas of invisibility, such as on indigenous women, media-linked violence and violence due to being a member of the LGBTI community. Another issue that we have to highlight more concretely, at the global level, is the situation of rural women: everything from access to justice to quality of life. My hope is also that the interaction with and the participation of civil society individuals and organisations continue to be a large part of the work of the mandate. It is, after all, the source of information for many of our reports and statements. I also wish my successor the best as she continues the work of three predecessors who have pushed the boundaries on the issue of violence against women.

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