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Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development

Report on the expert workshop: “The elimination of all forms of violence against women – challenges, good practices and opportunities” (Geneva, 24–25 November 2010)

Summary

The present report contains a summary of discussions of the expert workshop entitled “The elimination of all forms of violence against women – challenges, good practices and opportunities”, which was held in Geneva on 24 and 25 November 2010, pursuant to Human Rights Council resolution 11/2 on “Accelerating efforts to eliminate all forms of violence against women”. The programme of work and list of panellists at the workshop can be found in annexes I and II.

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I. Introduction

1. The Human Rights Council, in its resolution 11/2, requested the Office of the High Commissioner for Human Rights (OHCHR) to convene “an expert workshop, open to the participation of Governments, regional organizations, relevant United Nations bodies, civil society organizations and experts from different legal systems, to discuss specific measures for overcoming obstacles and challenges that States may face in preventing, investigating, prosecuting and punishing the perpetrators of violence against women and girls, as well as measures for providing protection, support, assistance and redress for victims” (para. 11(d)). This workshop was held in Geneva on 24 and 25 November 2010.

II. Organization of the expert workshop

2. The workshop was announced on the OHCHR website and a note verbale dated 27 October 2010 invited permanent missions, United Nations programmes and agencies and non-governmental organizations (NGOs) to participate. The workshop, with an audience of approximately 100 participants, considered the challenges, good practices and opportunities in relation to five essential and cross-cutting aspects of the elimination of violence against women: (a) investigating cases of violence against women; (b) the prosecution of violence against women and punishment of perpetrators; (c) remedy and reparation for women subjected to violence; (d) prevention of violence against women; and (e) protection of women subjected to violence.

3. The present report contains a summary of the presentations and ensuing discussions. The outcome of the workshop has also informed the compilation of good practices in efforts aimed at eliminating violence against women, contained in document A/HRC/17/23, for consideration by the Human Rights Council.

III. Summary of proceedings

4. The Director of the Research and Right to Development Division of OHCHR, Marcia V. J. Kran, underlined in her opening remarks that the Human Rights Council had been tasked by the General Assembly with setting priorities in addressing violence against women as a follow-up to the consideration of the Secretary-General’s study on the subject. She emphasized that the experts were to present their work with the understanding that eliminating violence against women is a cross-cutting issue. Some presentations and reflections would be of a global nature, while others would focus on experiences and findings in particular regions, countries or contexts. The Director expressed the wish that the workshop’s presentations and discussions would inspire the Human Rights Council members to take further steps to accelerate the elimination of violence against women.

5. Introductory remarks from the floor were made by the Deputy Permanent Representative of Canada, the main co-sponsor of resolution 11/2. The representative noted that the workshop was being held at a very opportune time, after the 15-year review of the Beijing Declaration and Platform for Action and the 10th anniversary of Security Council resolution 1325 (2000) on women, peace and security. The representative said she was shocked by the reported horrific acts committed against women worldwide. She recognized that Canada also faced challenges, including higher rates of violence against aboriginal and migrant women, and underreporting of cases of domestic violence.

A. Panel 1: Challenges, good practices and opportunities in investigating cases of violence against women

6. The first panel comprised Françoise Roth, director of the NGO Corporación Punto de Vista; Serena Tiberia, Human Rights Officer from the United Nations Joint Human Rights Office in the Democratic Republic of the Congo; and Gillian Holmes, Senior Adviser in the Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict.

7. Ms. Roth presented reflections around the topic of information and data gathering and analysis resulting from a study conducted in 2010 by her organization and the Benetech Human Rights Data Analysis Group on sexual violence in Colombia. She said that sexual violence in the Colombian armed conflict had not been perpetrated massively, but had been used strategically over decades. Hundreds of cases of sexual violence had been documented, mainly by women's organizations, but until recently the issue had remained silenced. Nevertheless, the information gathered so far could not support the inference that conflict-related sexual violence had been widespread and systematic in Colombia.

8. Ms. Roth explained that the analysis of what kind of data exists or is absent, and how it is constructed and used, offers insight on how an issue is perceived, understood and dealt with. In Colombia, data-gathering efforts showed politicization around human rights violations. She added that existing statistics about sexual violence were strongly influenced by the perception that it is a domestic issue and/or a criminal justice problem to be dealt with from a purely legal perspective. This resulted in data collection being constrained by the legal definitions of both "sexual" and "violence" and information not necessary for judicial purposes not being systematically gathered or registered. Ms. Roth also emphasized access to information as an essential element to conduct a reliable analysis of sexual violence. In the context of the study, despite provisions in the Colombian Constitution¹, accessing information from the military establishment and governmental agencies, in particular data related to the armed conflict, proved especially difficult.

9. Ms. Roth pointed out that the interpretation, analysis and use of information on sexual violence presented a number of unique challenges to any investigator, including those stemming from the multiple biases sexual violence is prone to. In the context of the Colombian internal armed conflict, it was also difficult to separate "conflict-related" from "normal" sexual violence. The study's assessment of available data led to the conclusion that the existing data provided no basis for any quantitative claim about sexual violence in Colombia taking place at a broad population level. In order to craft accurate estimates of patterns of sexual violence, it was essential for researchers to understand the process by which data is collected, the underlying assumptions of their own hypotheses, and the potential limitations and biases of the data. Ms. Roth concluded by advocating for an increased investment in data and information research.

10. Ms. Tiberia presented ideas and impressions from quantitative approaches to the study of sexual violence in the Democratic Republic of the Congo, based on numerous interviews with victims and service providers. There is growing attention to sexual violence in the country, with a strong focus on quantitative data and statistics as the main basis for policymaking and limited attention paid to subjective perception of the phenomenon.

¹ The 1991 Colombian Constitution, as amended in 1997, recognizes the right to individual privacy and recognizes that the citizens shall have "the right to know, access, update and rectify any information gathered about them in databases, both public and private."

11. Ms. Tiberia explained the project's assumptions that: (a) victims of sexual violence suffered stigma when the assault was known about by others, thus stigma could be one of the reasons for a victim to conceal the sexual violence experienced; (b) victims of sexual violence were rational actors who made decisions about what was in their interest; and (c) when it was possible to keep a sexual assault secret, a victim could calculate whether and to whom to disclose information about the assault. Disclosing information had different effects depending on whom the information was disclosed to (close friends or relatives, the police or courts, service providers, human rights activists, customary leaders, anonymous surveys, etc).

12. Ms. Tiberia noted that the decision to conceal or disclose an assault was linked to the characteristics of both the sexual assault and the victim. The victim's age, sex, and marital status, as well as the number of perpetrators, degree of violence used, and location of the assault, influenced the reporting process. Data collection was similarly likely to reflect cases with certain characteristics while missing others. She concluded with case studies where different factors led to different results in disclosing or concealing sexual violence.

13. Ms. Holmes presented an analytical framing of conflict-related sexual violence, crafted in response to Security Council resolution 1888 (2009). She recalled that resolution 1888 was a follow-up to Security Council resolution 1820 (2008), which recognized sexual violence as an explicit tactic of war. Sexual violence is not collateral damage from armed conflicts, but a crime per se, which could constitute a war crime, crime against humanity, act of torture, or part of an act of genocide. The International Criminal Tribunal for the Former Yugoslavia, the International Criminal Tribunal for Rwanda, the Special Court for Sierra Leone and the International Criminal Court defined conflict-related sexual violence to encompass sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other forms of sexual violence of comparable gravity, which may include indecent assault, trafficking, inappropriate medical examinations and strip searches.

14. Ms. Holmes presented a "six pillar test" designed to determine when sexual violence is a security issue: (a) the crime must be of concern to the international community as a whole; (b) command responsibility is entailed; (c) civilians are targeted; (d) there is a climate of impunity – sexual violence is "normalized" after the conflict; (e) there are cross-border implications, such as displacement or trafficking; (f) there is a ceasefire violation. Recognition of sexual violence as a security issue justified a response from a broad range of actors, including peacekeepers, peacemakers, and humanitarian and development actors.

15. Ms. Holmes recalled that Security Council resolution 1888 (2009) called for the appointment of a Special Representative of the Secretary-General on Sexual Violence in Conflict; the creation of a team of rapidly deployable experts to bolster national rule of law responses; and better data to inform the deliberations of the Security Council, inter alia. A number of practical challenges were highlighted: the unreliable sexual violence statistics; difficulty engaging with non-State actors/armed groups; establishing command responsibility; building public trust in post-conflict security institutions; the normalization of rape as a chronic social problem; the threat of sexual violence as a barrier to women's participation in public life; and the logistical and infrastructural challenges to delivering services to survivors.

16. In the discussions that followed, the representative of Timor-Leste outlined some of the challenges in effectively addressing violence against women and highlighted in particular the limited knowledge about women's rights and existing judicial and other procedures and the underlying problem of lack of resources. He also wondered how the issue of rape and other forms of sexual violence committed by United Nations peacekeepers had been addressed and what measures could be envisaged to avoid impunity. The representative of Colombia acknowledged the challenges with respect to systematic

collection of data, in particular in the context of sexual violence, and noted that this issue had been highlighted in the context of Colombia's Universal Periodic Review. She mentioned several initiatives, including at the Government level, to remedy this situation. The representative of the European Union underlined that unreliable data should not prevent attempts to identify gaps and challenges and stressed the need for confidentiality of information. It was also emphasized that the research process is key to data collection and qualifying quantitative data.

17. Ms. Holmes affirmed that "zero-tolerance" for sexual violence by peacekeepers was now well-established, although she agreed that implementation remained a challenge. Ms. Roth insisted that coherent and proactive data collection systems based on "footprints" and "indicators" of violence against women should be developed, rather than expecting and requesting victims, perpetrators and witnesses to come forward. Ms. Tiberia concluded that several elements were essential to prevent violence against women: combating impunity, education/awareness of both women and men, and gender equality in the society.

B. Panel 2: Challenges, good practices and opportunities in the prosecution of violence against women and punishment of perpetrators

18. The second panel comprised Patricia Viseur Sellers, independent legal expert, former legal adviser for gender and acting senior trial attorney at the International Criminal Tribunal for the Former Yugoslavia; Andrea Coomber, legal practice director at Interights; and Zoya Rouhana, director of Kafa (enough) violence and exploitation, Lebanon.

19. Ms. Sellers focused on the crime of genocide, recalling that genocide is an international crime which did not necessarily have to be linked to a conflict, even if it often was. She noted that the Genocide Convention of 1948 contained no explicit provisions against sexual crimes but that one recent manifestation of the "genderization" of genocide was the inclusion in the jurisprudence of the International Criminal Tribunal for Rwanda of rape as an element of genocide if it occurred once there was intent to commit genocide. Given this and other developments, Ms. Sellers underlined that the gender perspective to genocide should be recognized.

20. Nevertheless, Ms. Sellers pointed to the fact that the existing definition of genocide was limited in two ways: by the list of acts that can constitute genocide and the categories of targeted groups. Simply adding the term "rape" to the list of acts would not be enough, since it would not cover instances of imposing methods to prevent reproduction, or forced marriages and breeding. Issues also arose with the categories of targeted groups; for instance, the definition does not include women, gender, sex, or political groups, showing a need to question the nature of groups protected by the current definition of genocide. However, infliction of rape and other forms of sexual violence can meet the evidentiary requirements of an "attack" against the civilian population, a prerequisite jurisdictional element of crimes against humanity.

21. Ms. Coomber's presentation was based on her experience as a law practitioner with a focus on the European Court of Human Rights jurisprudence regarding violations of women's rights. She noted the dearth of case law concerning violence against women and hoped that the convention on violence against women currently under preparation at the Council of Europe would provide a better framework. The Court recognized gender-based violence as a form of discrimination under the European Convention for the Protection of Human Rights and Fundamental Freedoms only in 2009.

22. Ms. Coomber presented a review of the key cases defined as "domestic violence" and "rape" in which the Court had developed its jurisprudence on due diligence obligations. In *Kontrova v. Slovakia* – regarding a woman whose husband killed himself and their two

children after she reported years of violence and threats to the police – was the first case where the Court applied the notion of due diligence to domestic violence. The Court deemed the State responsible for failure of the police to take action. In *Bevacqua and S. v. Bulgaria*, the Court acknowledged the limitations of private prosecution of domestic violence, confirming domestic violence as a matter of public concern and the State's responsibility for failing to impose sanctions. In *Branko Tomasic and others v. Croatia*, the Court confirmed that the State had the obligation to protect the victims, noting the failure to provide adequate mental health care to the perpetrator. In the landmark case *Opuz v. Turkey*, the Court found a breach of the principle of due diligence, arguing that prosecution should have continued even in the face of repeated withdrawal of complaints from the alleged victim and confirmed gender-based violence as discrimination. In the most recent case of *A v. Croatia* concerning prolonged domestic violence and the effectiveness of protective orders, the Court found that the State's failure to effectively enforce these measures violated the convention.

23. Ms. Coomber also referred to three rape cases before the Court. In *C. R. and S. W. v. the United Kingdom*, the Court underlined the State duty to protect women, including by criminalizing marital rape. *Aydin v. Turkey* confirmed that the crime of rape against a female detainee constitutes torture prohibited by the convention. Finally, in *M.C. v. Bulgaria*, the Court decided that physical resistance from the victim should not be a necessary requirement for convictions for rape, the focus lying on the lack of consent as a constituent element of the offence. Ms. Coomber concluded that with such limited jurisprudence, the discrepancy between the European Court of Human Rights case law on rape and domestic violence and the challenges and experiences of women on the ground was immense. She highlighted the challenge of finding women prepared to pursue litigation in light of the length of judicial proceedings and limited access to justice. Ms. Coomber pleaded for the strengthening of legal aid programmes, investments in the training of police and prosecutors to work with victims of violence against women, and a gender balance in the criminal justice system.

24. Ms. Rouhana talked about her participation in the drafting of a new law to protect women from family violence in Lebanon. She explained that authority regarding family law was delegated to the many different recognized religious groups that shared the same patriarchal background. She added that the penal code still discriminated against women in many aspects and tolerated harmful practices, such as providing for mitigating excuses for crimes committed under the pretext of honour, or allowing for marital rape. Domestic violence was also not specifically addressed in the penal code, providing for a context of unlimited authority of men over women.

25. Ms. Rouhana said the process of drafting this law started in 2007 as a result of collaborative efforts of a committee of experts from the internal security forces, judges and lawyers, and civil society representatives. After two years of continuous advocacy and lobbying, the draft law was approved by the Council of Ministers in April 2010 and was pending approbation of the joint Parliament Committees and the general assembly of the Parliament. She said the law was designed to criminalize practices harmful to women but tolerated by traditional or religious cultures, and to extend protection to all familial relationships and include preventive, protective and punitive aspects.

26. Ms. Rouhana finally stressed that, even if the law was approved, there would still be major challenges to its implementation, mainly the unstable political and security situation in Lebanon, which had a negative impact on social issues in general and women's issues in particular. Financial resources would be essential to implement the law effectively. However she recognized that much more needed to be done on a more general level, such as dealing with legal illiteracy and poor service delivery, change of attitudes, and educating women on their own rights. She also acknowledged the shortfalls of the draft law itself; i.e.

the persistence of the religious personal codes and courts – two articles had been introduced into the law to make sure that the power and authority of religious courts would not be contradicted or hindered – and the inability of the law to deal with abuses stemming directly from the personal status laws, for instance when these deal with custody of children.

27. In the discussions that followed, a question was asked about examples in European Court of Human Rights jurisprudence of how dealing with impunity would imply a local transformation in interpreting the law. The representative of the European Union noted the importance of addressing impunity, especially concerning female human rights defenders, and wondered if any good practices could be shared on how to combine punitive and preventive measures. A civil society representative insisted on the urgency of setting up specialized centres for reinsertion and rehabilitation. The representative of Turkey mentioned the national campaign launched on the international day against violence against women and noted that Turkey had implemented the decision of the Court in the *Opuz* case. Comments were further made about the importance of human rights education to addressing violence against women and on how universities could reinforce their participation in the work of the International Criminal Court and other courts.

28. Ms. Coomber recognized that, while legal aid was essential, there was also a need to consider how to improve investigative measures and evidentiary requirements. Regarding the European Court of Human Rights cases, she noticed that, while governments are quick to pay monetary compensations, law reform is a slower and less transparent process. Ms. Sellers reiterated the need for applying a gender lens when addressing issues related to genocide and crimes against humanity, not underestimating the relevance of the gender of victims. Ms. Rouhana mentioned that her organization had created a “clinic for men under stress” adopting the strategy of not naming it a clinic for abusers.

C. Panel 3: Challenges, good practices and opportunities regarding remedy and reparations for women subjected to violence

29. The panel comprised Ruth Rubio-Marín, Chair in Comparative Public Law at the European University Institute; Sara Hossain, a lawyer and member of the consultative group of Bangladesh Legal Aid Service Trust; and Ruben Carranza, Director of the Reporative Justice Programme of the International Center on Transitional Justice.

30. Ms. Rubio-Marín underlined three main challenges in setting up gender-sensitive reparations: (a) identification of facts through data gathering and investigation which needs to take violence against women seriously and consider the difficulties encountered in providing evidence; (b) understanding the extent of the harm caused by the violations when there is a lack of knowledge and ability to establish patterns of sequels and consequences for the victims; and (c) understanding the harm caused to family members and communities beyond the realm of the right-holder. Ms. Rubio-Marín added two subsequent challenges, namely how to craft gender-specific reparations and ensure that they are an opportunity to transform the hierarchies of power that led to the violence.

31. Ms. Rubio-Marín reviewed the Inter-American Court of Human Rights landmark judgement in *González et al. (“Cotton Field”) v. Mexico* that dealt with femicide in Ciudad Juárez, noting that it was the first time that an international human rights court had endorsed the notion that reparations have to be gender-sensitive and transformative. She explained that the judgement was made possible by the fact that the Court was willing to rely on soft evidence and various sources of documentation to set an adequate standard of proof. This broad understanding was also facilitated because the Court was open to taking the Inter-American Convention on the Prevention, Punishment and Eradication of Violence

against Women (“Belém do Pará”) as a framework for the due diligence requirements. The Court said that restoration of the situation prior to the violation was not sufficient and confirmed that the structural inequalities had to be subverted. Ms. Rubio-Marín stressed that, for the first time, a case highlighted the gendered nature of the harms and applied a gender perspective to the reparations.

32. Ms. Hossain presented examples of public interest cases where national courts in Bangladesh had applied various international standards, including CEDAW and its general recommendation No. 19, regarding cases of gender-based violence. In these cases, focusing mainly on forced veiling and corporal punishment in public institutions, the remedies provided for by the courts not only focused on individual relief, but also on broader structural changes needed. Ms. Hossain explained that public interest litigation had also been used to prevent extra-judicial penalties against women in the name of “fatwa”, citing a case where the court acknowledged that “fatwas” are not recognized by Bangladesh law and referred to the constitution and international norms that prohibit violence against women.

33. Ms. Hossain noted that the main challenges were, inter alia: (a) the endemic level of non-compliance with judgements; (b) the difficulty in implementing the judgements from the Supreme Court at the local level; (c) the lack of access to justice and legal aid; (d) the lack of witness and victim protection measures; (e) gender bias in the criminal justice system; and (f) widespread structural poverty. In terms of good practices, these public interest cases provided for a combination of individual relief and broader social remedy; the possibility for women’s organizations to petition on behalf of the claimant; the use of international law in a progressive and strategic manner; and the focus of remedies on preventive aspects. She concluded by recommending the dissemination of progressive judgements promoting the use of international law at national level.

34. Mr. Carranza structured his presentation around three types of challenges: conceptual, practical and ideological. He argued that making reparations transformative conceptually went beyond gender. He also pointed out the need to recognize the larger context of violence that affects women, not only the direct victims of this violence. In Nepal for instance, there were important issues at stake, including caste, class, ethnicity and other forms of discrimination, which are usually not dealt with in the reparations programmes, in addition to gender discrimination. In Sierra Leone, the original reparations proposed by the truth commission could not be implemented for lack of resources.

35. Mr. Carranza also emphasized some practical challenges, including the mapping and registration of victims and beneficiaries, their participation in designing the reparation programmes, and the financial resources needed for implementation of the reparation programme itself and its longer-term sustainability, citing the problem of Nepal, where implementation of reparations was dependent on donors. Regarding ideological challenges, Mr. Carranza affirmed that, if they were to be transformative, reparations should not be limited to civil and political rights. He stated that one should wonder about the goals of reparations and transitional justice (is it truth, justice or equality?). Reparations should strive to subvert gender hierarchies, the systemic marginalization of groups and structural inequalities.

36. In the discussion session that followed, questions were asked about good practices in reaching out to religious leaders; the responsibilities of the State and donors regarding funding for reparation programmes; and the direction taken by the International Criminal Court vis-à-vis reparations. The representative of Nepal affirmed his country’s commitment to address the issues stemming from the conflict via the two commissions on truth and reconciliation. The representative of Peru asked how to overcome obstacles regarding registration of victims and ascertainment of facts. The representative of Timor-Leste pointed to the uniqueness of the case of Timor-Leste, where most of the perpetrators of the

violations were not from Timor-Leste, and wondered how to bring third countries to participate in reparations. The issue of the definition of rehabilitation, which had been traditionally understood through a medicalized lens, was raised. It was also noted that in the case of the so-called “comfort women”, reparations claimed went beyond monetary compensation, including a dimension of remembrance and recognition of victims. The representative of Bangladesh mentioned that one major challenge was to reach the totality of victims of violence against women and raise awareness at community level. There was a need to face the issue of awareness at the community level and to address poverty. Finally, it was highlighted that in Latin America there had been an increasing acknowledgement of State responsibility regarding violence against women which influenced the outcome of the *Cotton Field* case.

37. Ms. Hossain explained that international human rights law was used to identify the nature of the discrimination and violations; reaching out to elected officials and making them aware of the existing law and penalties even for acts committed by private persons. Mr. Carranza indicated that some truth commissions had recommended that corporations that had profited from the conflict should fund reparations programmes, but these recommendations had not been implemented. He added that the International Criminal Court still had no reparations system in place, the issue being complicated by the fact that the Court convicts individuals and not States. Finally, Ms. Rubio-Marín noted that the European Court of Human Rights had a narrow interpretation of reparations, intended mainly as monetary compensations, while the Inter-American Court of Human Rights had taken a broader interpretation. She concluded by insisting that creativity and flexibility are needed to reach out to the victims.

D. Panel 4: Challenges, good practices and opportunities in the prevention of violence against women

38. The fourth panel comprised: Jacqui True, senior lecturer at the University of Auckland, New Zealand; Zarizana Abdul Aziz, a lawyer and director of the Due Diligence Project at the Northeastern University School of Law, Boston, United States; Andrea Medina Rosas, representing the network of women from Ciudad Juárez, Mexico; Ahmad Zia Langari, a Commissioner of the Afghanistan Independent Human Rights Commission; Rita Sabat, assistant professor at Notre-Dame University; and John Kapito, Chairperson of the Malawi Human Rights Commission.

39. Ms. True explored the broader political and economic context of the violence and insecurity as experienced by women, and how economic empowerment could serve as a deterrent to violence. She observed that global and local economic power and structures played a role in reinforcing gender inequalities that made women more vulnerable to violence, in particular women living in poverty, migrant women, indigenous women, and young or elderly women. However, the United Nations Secretary-General’s in-depth study on violence against women acknowledged that legal and policy provisions on violence against women had not extended to the economic sphere or explored the economic causes and impact of this violence.

40. Ms. True highlighted the lack of research on what preventative factors to violence against women are, as opposed to risk factors. Risk factors at economic, political and social levels included the acceptance of violence in the society, the acceptance of male superiority, the low status of women, and, at the individual level, a low level of education, lack of economic power, alcohol abuse, lack of adequate housing, or lack of independent outcome. Preventative factors at the economic, social and political levels included property/land rights for women, adequate housing, economic independence, secondary education, gender equality norms, and norms on violence. At the individual level,

preventative factors included belonging to an association, healthy parenting, gender equality in the family, and education. Political economy theory is helpful to identify the causal mechanisms through which these factors affect violence against women, and therefore to inform policy interventions.

41. Ms. True indicated that violence against women should be addressed in any economic development scenario, since it had considerable health-care, employment, productivity and criminal justice costs. Preventing violence against women and promoting economic development could be mutually reinforcing. She stressed, however, that women's rising social and economic status was also associated with increased violence against women, explaining that this could be the result of increasing economic activity being perceived as a "threat" to existing male entitlements. Ms. True concluded that every policy should be scrutinized to see if it would increase or reduce violence against women, whether at local, national or international level.

42. Concerning law reform, Ms. Abdul Aziz suggested that there was a need to consider the goals and objectives expected from reforming the law. She said that when the law is not enforced properly, for instance by the police, the State sends a contradictory message to society. Ms. Abdul Aziz insisted on the necessity of providing for an enabling environment to enforce the legislation and obtain the support of the various authorities, such as the police or religious leaders.

43. Ms. Abdul Aziz added that, as violence against women is often an issue that involves private or non-State actors, applying the principle of due diligence is key. She stated that when linking the issue of violence against women to State responsibility, it was not possible to limit this to simply using criminal law. She affirmed that criminal law also needs to be customized to address violence against women. Criminal law is adequate for one-time offences, but she wondered how to deal with cases of continuous harm, such as domestic violence. She explained that the due diligence principle is applied to the inaction of the State, because when a State decides not to act, it does not stay neutral, but takes a stance for which it should be accountable. Ms. Abdul Aziz concluded that using law reform to lead changes was a positive measure, but it was not sufficient and must be accompanied by the creation of an enabling environment to garner the support of the society's various structures and institutions.

44. Ms. Medina Rosas noted that the judgment in the *Cotton Field* case was important because the Inter-American Court of Human Rights had applied all the contributions of previous work regarding the duty to prevent. The plaintiffs' legal team had also tried to ensure that the court would request Mexico to set up a full programme to prevent violence against women. The court had said that the laws and specific institutions already existing in Mexico were insufficient in terms of prevention. Yet, she stated, one year after the issuing of the judgment, the Mexican State had only published the judgement through the media and had just recently adopted a budget line for the compensations ordered in the ruling. According to the panellist, the promises to create databases, a memorial, training, protocols, counselling, etc. had not been acted upon. She also claimed that little had been done in terms of coordination with the various authorities and to fight the persisting impunity. In 2010, in Ciudad Juárez and the State of Chihuahua, no decrease in the murder rate for women had been observed.

45. Nevertheless, Ms. Medina underscored three good practices stemming from the case. She said that, despite the impunity, new victims and their relatives were still trying to obtain justice by organizing themselves and filing lawsuits, rather than trying to dispense justice themselves. She also noted that a strong network of organizations and people existed at local, national and international levels, providing for strong support without which she believed the situation would have become worse. Finally, she mentioned that a commission had been set up to assess access to justice and justice administration at the local level.

46. Mr. Langari explained that in Afghanistan the main causes of violence against women were found at family, society and structural/institutional levels. In the family, causes for violence were many and diverse, ranging from illiteracy, poverty, the male-dominated culture, polygamy, and the prohibition on working outside of the home. At the societal level, Mr. Langari cited the abusive environment, cultural and security barriers to female education, misinterpretation of Islamic texts, a weak civil society, and lack of awareness of women's rights, among other causes of violence against women. At the governmental level, he said that a weak political commitment to ensuring the presence of women in decision-making and managerial positions, the non-existence of affirmative measures to empower women, the inadequate educational facilities for girls, poor enforcement of the rule of law, and the influence of conservatism and discriminatory misperceptions all played a role in favouring violence against women.

47. Mr. Langari referred to the recent law on the elimination of violence against women adopted by presidential decree in August 2009, but not yet by the Parliament. He said that the law, based on both sharia and civil law, had the objectives of protecting the human dignity of women, the family and the victims of violence against women, as well as promoting public awareness of the issue, and prevention. The law, which recognized 22 categories of violence, defined violence against women as a crime and a practice that goes against Islam, and provided for punishments for perpetrators. Mr. Langari concluded by noting that the law on violence against women should be applied over any other contradictory legal provision and that the Attorney General's office had established a new prosecution department for perpetrators of violence against women.

48. Ms. Sabat said that while violence against women was internationally defined, at the local level State and non-State actors changed the norm or prevented it from being applied locally. She added that preventing violence against women requires understanding of the circumstances and factors that influence it. One cannot create effective prevention strategies for violence against women without identifying all the stages, agents and conditions needed to translate the international norm into local reality. She said that in Lebanon the prevention of violence against women had to take into account the social structural conditions which are tied closely to the country's history of civil war, domination and occupation. Ms. Sabat emphasized that in Lebanon politics were conflated with religion, and the role of religious leaders and confessional laws is particularly important, with up to 15 different personal status codes existing in parallel.

49. Ms. Sabat indicated that there are inherent practices in society that pose obstacles to addressing violence against women: (a) family honour – whereby the society places the burden of upholding family honour on women, shifting the balance of power in favour of men who have to protect the family and women's honour; (b) family cohesion – whereby women are perceived as ultimately responsible for the preservation of the family; and (c) language – whereby gender-specific language is used to structure relations. There is an urgent need to address the underlying causes of violence against women, with a focus on individuals, relationships, communities, and society as a whole at the same time.

50. Mr. Kapito highlighted the preventive interventions in Malawi. He acknowledged that, despite significant progress, women and girls remained highly vulnerable to violence and other types of abuse. The forms of violence against women were diverse, including high rates of domestic violence, violence related to HIV/AIDS, sexual exploitation, harmful traditional practices, and trafficking. Mr. Kapito attributed this situation to a combination of factors including high illiteracy rates, the underrepresentation of women in employment and the public sector, limited access to and control of productive resources, less access to legal and financial assistance, and discriminatory inheritance practices. He noted that all these trends led to a feminization of poverty and a perpetuation of the subordination of women and their economic dependency.

51. Mr. Kapito mentioned that Malawi had a strong legal framework relating to women's rights. He said that the law review in progress (including review of the penal code and the domestic violence act) and the new legislation being drafted, in particular in the areas of human trafficking, gender equality, and HIV/AIDS, also constituted positive developments. However, he recognized that subsidiary policy instruments, such as implementation regulations, standards of operations and national plans of action, were lacking; that financial and human resources were often inadequate; and that services were often limited and no enforcement or monitoring systems had been put in place. The factors that impeded efforts for combating violence against women were mostly structural and deeply rooted, so the programmes for surmounting them should be sustainable and long-term oriented.

52. In the discussion that followed, the representative of Mexico underlined the commitment to implement the *Cotton Field* ruling. The representatives of Algeria, Italy, Tunisia and Sweden expressed their countries' support for the elimination of violence against women, and highlighted concrete initiatives to this end, such as the recent launching in Italy of a campaign against female genital mutilation. The representative from the Russian Federation mentioned that violence against women linked to poverty and alcohol were being tackled in all regions of Russia as a matter of priority. The representative of Canada asked for specific recommendations on how to address violence against girls at school. The representative of the European Union inquired about the role of the new Working Group on discrimination against women in law and practice with respect to the prevention of violence against women. The representative of UNFPA noted the importance of community-based prevention strategies, explaining how traditional justice mechanisms can be used to support prevention mechanisms but also to deepen discrimination. The important role of civil society in preventing violence against women was also underlined.

53. Ms. Abdul Aziz referred to good practices in Indonesia of women's groups reaching out to religious schools. She underlined the importance of not using religion as an excuse for harmful traditional practices, and concluded that this applies to all religions. Mr. Kapito highlighted the crucial role played by men in stopping violence against women. Ms. True stated that no country had adopted an approach of considering the impact on violence against women across all its policies.

E. Panel 5: Challenges, good practices and opportunities in the protection of women subjected to violence

54. The last panel comprised Sarah Buel, clinical professor of law and director of the Diane Halle Center for Family Justice at Arizona State University; and Leanne MacMillan, Director of Policy and External affairs at the Medical Foundation for the care of victims of torture in the United Kingdom.

55. Ms. Buel, a domestic violence survivor herself, presented five strategies to enhance victims' protection. Firstly, she indicated that women must be provided with the means and information to stay alive at home, at school, at work, before the courts, etc., via a survivor-centred action plan. Secondly, Ms. Buel said that interventions to protect survivors should be holistic; they should include community education to counter victim-blaming, teach survivors about their rights, force the media to report accurately, and monitor court hearings. These interventions should be "wrapping victims in services" and provide them with, for instance, budgeting skills, access to safety funds, job hunting assistance, and court accompaniment.

56. Ms. Buel stated that the third and crucial strategy was the economic empowerment of survivors to help them become self-sufficient and independent of the abuser. She said

that it was important to see beyond the abuse and ask the survivor what she or he wished for or dreamt of. However, Ms. Buel insisted that the interventions must be sustainable and available in the long term. Finally, Ms. Buel said that interventions should have a three-pronged approach to problem-solving by identifying the problem, identifying who has the power or authority to remedy the problem, and how to remedy the problem. She concluded by highlighting the importance of the notion of respect for the survivors.

57. Ms. MacMillan stated the need to combine different approaches to reach a holistic human rights-based approach to victims' protection, including protecting survivors, contributing to the survivors' resilience and enabling them to access justice. Ms. MacMillan pointed out survivors' desire for rehabilitation, but also overall justice. She said it was important to learn from and work with the survivors to define the kind of redress they are seeking and use the power of their testimonies to inform and convince decision-makers. She added that there were a number of strategies and interventions to rehabilitate a torture survivor, the community and the society, but that it was a complex and non-linear process. Traumas were not easily conducive to official reporting and producing evidence needed for the litigation of cases.

58. Ms. MacMillan explained that the rationale behind a long-term holistic approach driven by the survivor is that torture has devastating impacts, shattering one's identity, with consequences for the community and society over generations. She also stressed that survivors often did not have the same aspirations as human rights activists, and that redress through litigation had limits. Ms. MacMillan recommended developing a human rights-based awareness of the signs of trauma, especially in asylum contexts; using data from survivors to inform the bilateral and multilateral prevention agenda; and using the mechanisms available at the United Nations and regional level.

59. In the discussion that followed, the representative of Hungary mentioned the excellent results obtained in Hungary through the national strategy for promotion of gender equality and the strategy for crime prevention. The representative of the European Union insisted that particular attention should be paid to violence against women belonging to vulnerable groups and noted that national borders were an obstacle to the continuity of measures of protection. It was also noted that there were many forms of torture with different direct and indirect consequences that had larger repercussions, for instance on children. The representative of Australia noted that there were remote areas where protection systems could not be built. It was also stressed that litigation put the burden on the victims. The need for support programmes for human rights defenders was mentioned. Finally, the need to empower victims in the criminal justice system was highlighted.

60. Ms. MacMillan explained that in the context of asylum in the EU, it was difficult not to have the survivors sent back, but that they had recently been trying to argue for people not to be returned to places where they cannot get access to the necessary rehabilitation services, not only to places where there is a risk of torture. She also underscored the importance of being honest with the victims, especially regarding litigation proceedings, and not making any promises, so as to allow for an informed decision. Ms. Buel insisted on the importance of involving men in combating violence against women.

IV. Conclusions of the expert workshop

61. **The United Nations High Commissioner for Human Rights, Navanethem Pillay, closed the two-day expert workshop by expressing her appreciation to all experts and participants for the efforts to shed light on challenges, good practices and opportunities in combating all forms of violence against women. She said the ideas, experiences, perspectives and contributions shared by all were instrumental in**

improving the ways and means through which cases of violence against women are investigated, perpetrators are held accountable and reparations are granted to victims, and in contributing to protecting women and ultimately preventing violence from occurring.

62. She highlighted that analyses from the international level, paired with concrete examples on regional and national experiences made for a constructive approach of the issue of violence against women. However, in-depth reflection on what works and what hampers progress in the elimination of violence against women was still essential. The High Commissioner stressed the need to spur further progress in implementing and enforcing women's rights, and countering gender-based discrimination and violence that persisted in both public and private spheres, in peace, conflict and transition times.

63. The High Commissioner acknowledged that violence against women continues to be one of the most entrenched forms of discrimination worldwide and tangible improvements in the daily lives of millions of women lag well behind commitments and intentions. She pointed out that it is everyone's responsibility to continue breaking down the wall of silence surrounding the countless women who face violence and exclusion and to counter the underlying prejudices and discrimination with holistic strategies. She concluded that addressing violence against women as a human rights issue encouraged an indivisible, holistic and multi-sectoral response.

Annex I

[English only]

Programme of work

Wednesday, 24 November 2010

Time	Activity
1000-1030	<p>Opening session</p> <p>Introductory statement, Marcia V. J. Kran, Director, Research and Right to Development Division, OHCHR</p>
1030-1200	<p>Panel 1: Challenges, good practices and opportunities in investigating cases of violence against women</p> <p><i>“Understanding conflict-related sexual violence: challenges and opportunities. A case study: Colombia”</i>, Françoise Roth</p> <p><i>“Dare I tell my tale? The social determinants of disclosing or concealing sexual violence in the DRC”</i>, Serena Tiberia</p> <p><i>“An analytical framing of conflict-related sexual violence: its dynamics and consequences”</i>, Gillian Holmes</p> <p>Questions and comments session</p>
1200-1300	<p>Panel 2: Challenges, good practices and opportunities in the prosecution of violence against women and punishment of perpetrators</p> <p><i>“Genocide gendered”</i>, Patricia Viseur Sellers</p> <p><i>“Due diligence and the prosecution of violence against women: the approach of the European Court of Human Rights”</i>, Andrea Coomber</p> <p><i>“The law to protect women from family violence: a major breakthrough in a patriarchal society; opportunities and shortfalls”</i>, Zoya Rouhana</p>
1300-1500	Lunch break
1500-1600	<p>Panel 2 (continued)</p> <p>Questions and comments session</p>
1600-1745	<p>Panel 3: Challenges, good practices and opportunities regarding remedy and reparation for women subjected to violence</p> <p><i>“Reparations for women subjected to violence: identifying opportunities”</i>, Ruth Rubio-Marín</p> <p><i>“Realising remedies for everyday violence against women – Bangladesh perspectives”</i>, Sara Hossain</p> <p><i>“Implementing reparations for women as victims of violence during armed conflict: challenges in different contexts”</i>, Ruben Carranza</p> <p>Questions and comments session</p>

Thursday, 25 November 2010

<i>Time</i>	<i>Activity</i>
1000-1300	<p>Panel 4: Challenges, good practices and opportunities in the prevention of violence against women</p> <p><i>“Preventing violence against women: frameworks and evidence”</i>, Dr. Jacqui True</p> <p><i>“Shaping State response to violence against women: the challenges of law reform”</i>, Zarizana Abdul Aziz</p> <p><i>“Prevention of violence against women in the Latin American context. Starting point: Ciudad Juárez, Mexico”</i>, Andrea Medina Rosas</p> <p><i>“The main causes of violence against women in Afghanistan and the law of elimination of violence against women”</i>, Ahmad Zia Langari</p> <p><i>“Lost in translation: the process of translating the international norm of combating violence against women into a complex socio-political Lebanon”</i>, Dr. Rita Sabat</p> <p><i>“The status of women’s and girls’ rights in Malawi”</i>, John Kapito</p> <p>Questions and comments session</p>
1300-1500	Lunch break
1500-1545	<p>Panel 4 (continued)</p> <p>Questions and comments session (continued)</p>
1600-1715	<p>Panel 5: Challenges, good practices and opportunities in the protection of women subjected to violence</p> <p><i>“Overcoming obstacles in providing protection, support and redress for abuse victims”</i>, Sarah Buel</p> <p><i>“Lessons from survivors on the prevention of torture, their protection and their rehabilitation needs”</i>, Leanne MacMillan</p> <p>Questions and comments session</p>
1715-1730	<p>Closing session</p> <p>Closing remarks, Navanethem Pillay, United Nations High Commissioner for Human Rights</p>

Annex II

[English only]

List of panellists

Ms. Zarizana Abdul Aziz	Lawyer, Director of the Due Diligence Project, Northeastern University School of Law
Ms. Sarah Buel	Clinical Professor of Law and Director, Diane Halle Center for Family Justice, Sandra Day O'Connor College of Law, Arizona State University
Mr. Ruben Carranza	Director, Reparative Justice Programme, International Center for Transitional Justice
Ms. Andrea Coomber	Legal Practice Director, Interights
Ms. Gillian Holmes	Senior Adviser, Office of the Special Representative of the Secretary General on Sexual Violence in Conflict
Ms. Sara Hossain	Partner, Dr. Kamal Hossain and Associates, and Member, Consultative Group, Bangladesh Legal Aid Services Trust
Mr. John Kapito	Chairperson, Malawi Human Rights Commission
Mr. Ahmad Zia Langari	Commissioner, Afghanistan Independent Human Rights Commission
Ms. Leanne Macmillan	Director of Policy & External Affairs, Medical Foundation for the care of victims of torture, United Kingdom
Ms. Andrea Medina Rosas	Lawyer, Member of the Enlace de la Red Mesa de Mujeres de Ciudad Juárez, Mexico
Ms. Françoise Roth	Director, Corporación Punto de Vista, Colombia
Ms. Zoya Rouhana	Director, KAFA (enough) Violence and Exploitation, Lebanon
Ms. Ruth Rubio-Marín	Chair in Comparative Public Law, European University Institute
Ms. Rita Sabat	Assistant Professor, Notre Dame University
Ms. Serena Tiberia	Human Rights Officer, United Nations Joint Human Rights Office (OHCHR-MONUSCO)
Ms. Jacqui True	Senior Lecturer, University of Auckland
Ms. Patricia Viseur Sellers	Independent Legal Expert, former Legal Officer and Legal Advisor for Gender and Acting Senior Trial Attorney at the International Criminal Tribunal for the former Yugoslavia.
