

**Lecture by Rashida Manjoo, UN Special Rapporteur on Violence against Women, its causes and consequences**

**Organised by BLAST and the Department of Law, Dhaka University**

20 May, 2013 5:00 pm to 7:00 pm

Nabab Nawab Ali Chowdhury Senate Bhaban, University of Dhaka

**SUMMARY NOTE**

Ms Rashida Manjoo, the UN Special Rapporteur on Violence against Women, its causes and consequences, delivered a lecture at the Dhaka University Senate Hall on 20 May 2013, the first stop in her mission to Bangladesh.

**Dr Shahnaz Huda, Chairman of the Faculty** welcomed Ms Manjoo.

**Dr Kamal Hossain, Senior Advocate and Chairman of BLAST**, also welcomed the speaker, noting the role of a special rapporteur as an independent expert. He also noted Ms Manjoo's academic interest and backgrounds and her involvement in scrutiny of gender-discriminatory laws and practices, underscoring the urgent need to track developments regarding increasing women's empowerment and the backlash in terms of fundamentalist movements.

**Ms Manjoo** thanked the organisers for the opportunity to speak at Dhaka University, stating she was grateful to see the presence of so many students, as there was a need for the next generation to take over the struggles to ensure women's rights. The key points of her lecture are summarised below.

The mandate of the SRVAW is now nineteen years old and it was renewed in 2011 by resolution [16/7](#). According to her mandate, the SRVAW is requested to:

(a) Seek and receive information on violence against women, its causes and consequences from Governments, treaty bodies, specialized agencies, other special rapporteurs responsible for various human rights questions and intergovernmental and non-governmental organizations, including women's organizations, and to respond effectively to such information;

(b) Recommend measures, ways and means at the local, national, regional and international levels to eliminate all forms of violence against women and its causes, and to remedy its consequences;

(c) Work closely with all special procedures and other human rights mechanisms of the Human Rights Council and with the treaty bodies, taking into account the request of the Council that they regularly and systematically integrate the human rights of women and a gender perspective into their work, and cooperate closely with the Commission on the Status of Women in the discharge of its functions;

(d) Continue to adopt a comprehensive and universal approach to the elimination of violence against women, its causes and consequences, including causes of violence against women relating to the civil, cultural, economic, political and social spheres.

- Liberation struggles have ended formally. However, women's liberation is still a huge challenge. When talking about women's empowerment and legislative reform, there are two issues that need to be addressed:
  - Empowerment pre-supposes that all women are free and equal. This notion of equality has to be revisited. It may exist on paper in the Constitution, but we are still struggling with its realization.
  - Feminism has become a dirty word. However, we cannot talk about women's empowerment without looking at feminism.

- Violence against women is a cause and consequence of inequality and discrimination. Hence, this mandate has to view VAW through the lens of discrimination and equality.
- During Ms Manjoo's mandate, reports to the UNHRC have focused on the following topics:
  - **Reparations:** a due diligence obligation of the State in order to protect, prevent, punish and provide redress for human rights violations. Reparations could be a transformative tool to address structural, institutional and individual factors that are a cause and a consequence of VAW. .
  - **Multiple and intersectional forms of violence:** Alleviation of VAW will not happen if the Government adopts a one-size-fits-all approach. Women are different on the basis of their places of origin, geographical location, ethnicity, religion, age, sexual orientation, socio-economic status, and ability. We need to encourage Governments to think of the layers of differences and factor these in responding to VAW and in measures to prevent VAW.
  - **Gender-related killings:** There is no consensus in the terminology, and this has been called 'femicide' in Europe, 'feminicide' in South America, 'honour killings' in the Middle East and North Africa, 'crimes of passion' in Italy. It also takes different forms such as 'witchcraft-related killings' in Papua New Guinea, 'infanticide' in India, and 'acid violence' in Bangladesh. Killing of women is the ultimate act of violence. When there is impunity for acts of violence and root causes of violence are not addressed, there is a continuum of violence. If impunity is the norm, it normalizes the violence. The prevention and responses of most Governments fail to address root causes. The Government does not keep disaggregated data which makes it difficult to track gender-related killings
  - **State responsibility:** State must act with **due diligence** to eliminate VAW. The Principle of Due Diligence has developed well in the Environment and Corporate sector, but not in the Violence sector. The Principle emanates from International Law. The fact that there is no legally binding framework to address VAW is a barrier. Provisions in the CEDAW and the Declaration on the Elimination of Violence against Women are not binding. All Governments have some legislation, most Constitutions contain equality and non-discrimination clauses, but there is a lack of specificity in addressing issues of VAW and therefore there is a normative gap that needs to be addressed. For example, the South African Constitution stipulates the right to be free from all forms of violence, whether private or public. The lack of a normative framework poses challenges for the mandate holder to assess whether or not governments are meeting their international obligations
- The SRVAW's reports to the UN General Assembly focused on the following issues:
  - **Violence against women with disabilities:** This is largely an invisible issue. There is a tendency to fixate on two issues 1) access and 2) forced sterilization. However, the report looks broadly at access to justice issues, and also stigmatization, media portrayal and so on
  - **Upcoming report on VAW in Custodial Settings:** This will consider (a) conditions under which people live; (b) violation of human rights by institutional authorities in the form of violence; and (c) failure by the state to protect by condoning such violence and (d) the pathways to custody
- **Violence: Spatial Spheres**
  - **Home**, including sexual violence, domestic violence, and violence against the girl child, such as denial of educational opportunities, incest, abuse, early & forced marriages;
  - **Community**, which includes sexual harassment within academic institutions, workplace and the streets, sexual violence broadly including rape;
  - **Perpetrated** by State or **Condoned** by State (ie. failure to protect);

- **Transnational**, including violence faced by migrants, refugees, trafficked persons. The mandate also looks at both intra- and inter-community manifestations of violence.
- **Violence: Temporal Spheres**
  - **'So-called' Peace** - 'so called' as it is difficult to speak of a situation of peace in which around 50% of the population that is women are still being subjected to violence;
  - **Conflict**;
  - **Post-conflict**, in which the continuum of violence often leads to privatization of violence.
  - **Displacement/transitions.**
- **Domestic Violence** is the most prevalent worldwide. It is seen by some women as normal. Other barriers to access justice include stigmatization, fear and lack of family support. How does one escape domestic violence, if divorce is stigmatized and you are welcome by neither family if you take legal action?
- **Violence is not part of anyone's culture**; it is used to defend practices, traditions and norms. Often men cannot accept that women are reaching a new place, and feel the need to 'teach them a lesson'. Usually, killings take place by men who are in the women's lives - by family members, friends, or boyfriends. This attitude is pervasive at home, workplaces and the community.
- **Women as Perpetrators**: Older women sometimes perpetrate violence against younger women (eg. in-laws). How do you we begin to talk about this? Layers include inter- and intra-gender violence (women & men; women & women).
- **Police detentions** - Violence is pretty extreme in these cases; you have legal rights, but sexual violence, rape, threats of rape, virginity testing; withholding of hygiene products are instances of violence.
- **Access to Justice** is not a reality for women –there is little or no legal representation available; they often plead guilty thinking they will receive lower sentences, but that is not the case. Women tend to commit petty crimes, largely due to low economic status. Should we incarcerate these women considering the disproportionate impact of incarceration of women? We must think of the impact on families & their children; and the communities in general. During periods of armed conflict, violence against women and trafficking of women in detention is pervasive.
- **Needs**: There is a need to look at (a) structural forms of inequality and discrimination, (b) inadequate responses of the State (shaped by patriarchy), and (c) lack of responsiveness of the justice system from the first port of call (including police, health facilities).
- **The Usual approach** has been institutional, legislative, and awareness. There is a need to address the structural and systemic issues that are a cause and consequence of VAW. It also requires commitment and resources to make sure that policies are implemented. Prevention is under developed as a due diligence measure. In practice, we see that governments tend to be more reactive than proactive.
- **Holistic approach**: The following factors need to be put into any anti-VAW effort
  - (1) Treating all rights (civil, social, political, economic, cultural) as universal, indivisible, inter-dependent and inter-related, and taking into account the layers of VAW;

- (2) Situating VAW in a continuum of violence and acknowledging that violence is not the root problem, it is structural and institutional issues
- (3) Individual and structural discrimination must be addressed
- (4) Address economic hierarchies between women and men, and women and women
- (5) VAW is not a cultural or religious issue; it is a human rights issue. The norms and standards of human rights need to govern responses that address VAW.

### Questions & Comments:

**Sigma Huda, Founder BNWLA and former Chairman UN Special Rapporteur on Trafficking:**

In my own work, I had focused on issues of migrant workers and women in detention as these women are the most deprived. I welcome the attention to the situation of women in custodial institutions and prisons in particular. It is also important to consider whether current policies of encouraging women's migration to countries where they may be at risk of violence should be examined more closely.

**Khushi Kabir, Coordinator, Nijera Kori:** There is a need to focus on the impact of globalisation on VAW. VAW is often a result of disputes over resources, for example here in Bangladesh, we see violence against workers, or in relation to certain industries, such as shrimp cultivation, with resulting landlessness and violence, and abuse of the legal process. There is a need to address VAW that arises as a consequence of this new economic order.

**UNSRVAW:** Former mandate holders have addressed this issue. I have considered this in my report on Papua New Guinea with reference to the extractive industry. The issue of corporate responsibility for protecting human rights is addressed by the UN Guiding Principles on the subject. Another aspect of the issue of the new economic order, manifests in the form of depriving women of resources in countries that are undergoing austerity measures as government makes the first cuts from social spending.

**Nahid Sultana, Lawyer/Journalist:** Feminism or feminist - why are we scared of these words?

**UNSRVAW:** Feminism became viewed as a generational issue as opposed to one needing constant diligence. Feminism is about looking at the world through a woman's lens. I don't know when it got tainted. We have to return to basics- it is not a dirty or out-dated word. Mainstreaming gender became the norm and we forgot about the specificity of the issue – gender became everyone's responsibility and no one's job. If we looked at VAW as a medical disease, it would be declared a global emergency.

**Mahbulul Islam, LL.M Student, Dhaka University Law Faculty:** There is a perception that where religious personal laws operate, VAW is higher than where secular laws operate. What is your view on this?

**UNSRVAW:** There is no empirical evidence to suggest that; however, in societies that allow religious laws to govern women, inevitably there is more discrimination in the way that culture, traditions and religion are interpreted. The lack of codification leads to diverse interpretations; and although codification brings certainty, there may also be ossification(evolutionary change is restricted). It is important to challenge the public-private dichotomy with regard to access to justice for all citizens.

**Mahbulul Islam, LL.M Student, Dhaka University Law Faculty:** Women's Leadership how can we address the paradox of Bangladesh's women leaders?

A: Having women's leadership in public spheres does have an impact, whether in politics or not; women at the table bring their viewpoint, their presence has an impact, as they may raise issues that would not normally be raised. Using reserved seats/quota laws in encouraging women to stand is only one aspect. It must be combined with an enabling and responsive environment; as the practicalities are geared towards male participation. In many cases, women still carry the double burden of dealing with

their workplaces and responsibility for the home, and so the environment must cater for the realities of their life.

**Shahnaz Huda, Chairman, Department of Law, Dhaka University:** What is the utility of having a binding legal instrument?

**UNSRVAW:** Having a binding legal instrument sets a normative standard which will enable governments to reflect on their own domestic standards. This is how International Law works. Importance of treaties lies in the fact that they set standards that can be helpful for governments as they address human rights violations

**Chairing the event, Dr Meghna Guhathakurta, Executive Director of Research Initiatives Bangladesh,** thanked Ms Rasheda Manjoo for her presentation, especially so because she spoke from the context of struggles in her own country, South Africa from which the people of Bangladesh drew inspiration and hence readily related. She concluded saying that the audience went back with much food for thought from the speech, especially on the speaker's comments about taking a holistic as well as proactive perspective on violence against women. It is only when this holistic outlook takes into account preventive measures to forestall violence against women in society that one could create a genuine ground for moving towards constructing a treaty against violence against women that would be legally binding for all states.