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**Annual report of the United Nations High Commissioner
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High Commissioner and the Secretary-General**

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

Summary of the Human Rights Council panel discussion on the theme of remedies for women subjected to violence

Report of the Office of the United Nations High Commissioner for Human Rights

Summary

The present report is submitted pursuant to Human Rights Council resolutions 17/11 and 20/12. It provides a summary of the discussions, including conclusions and recommendations made by participants, of the annual full-day discussion on women's human rights at the twentieth session of the Human Rights Council on the theme of remedies for women who have been subjected to violence.

Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction	1–4	3
II. Panel I: Remedies and reparations for women who have been subjected to violence	5–24	3
A. Opening statements	5–11	3
B. Good practices in gender-responsive remedies	12–14	5
C. Remedies in post-conflict settings	15–17	5
D. Remedies in traditional and informal justice processes	18–20	6
E. Comments from States and non-governmental organizations on good practices and challenges	21–23	6
F. Conclusions	24	7
III. Panel II: Protecting women human rights defenders	25–37	7
A. Opening statements	25–26	7
B. Gender aspect of violence against human rights defenders	27–28	8
C. International, regional and national mechanisms for the protection of women human rights defenders	29–30	9
D. Comments from States and non-governmental organizations on good practices and challenges	31–33	10
E. Conclusions	34–37	10

I. Introduction

1. On 25 and 26 June 2012, the Human Rights Council panel discussion on women's human rights took place pursuant to resolution 6/30, in which the Council decided to incorporate sufficient and adequate time, at minimum an annual full-day meeting, to discuss the human rights of women, including measures that can be adopted by States and other stakeholders, to address human rights violations experienced by women.

2. In resolution 17/11 the Human Rights Council decided to include in the annual full-day discussion on women's human rights, at its twentieth session, the theme of remedies, with a focus on transformative and culturally sensitive reparations for women who have been subjected to violence. The Council, in its resolution 20/12, welcomed the 2012 annual discussion on women's rights, and in paragraph 11, requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to prepare a summary report of the proceedings, including conclusions and recommendations made by participants, to be submitted to the Council at its twenty-first session.

3. Pursuant to resolution 17/11, OHCHR organized two panels: one on remedies and reparations for women who have been subjected to violence (Panel I) and one on protecting women human rights defenders (Panel II). Panel I discussions focused on promising practices and challenges in addressing issues and measures taken to provide effective, prompt, just, transformative and culturally sensitive reparations for women who have been subjected to violence in different contexts. Panel II focused on women human rights defenders; participants discussed existing efforts and practices with regard to prevention and the protection of women human rights defenders, including the adoption of national plans and development of gender-specific mechanisms.

4. The following summary of discussions sets out the main issues raised during the discussions, including conclusions and recommendations which could be useful to the continuing consideration of the theme of reparations for women who experience violence. The present summary is aimed at capturing the main points raised by the panellists. As separate but related issues were addressed throughout the course of the annual full-day discussions, the summary presents a separate record of the discussions for the two panels and groups them under specific themes.

II. Panel I: Remedies and reparations for women who have been subjected to violence

A. Opening statements

5. The High Commissioner for Human Rights, Navi Pillay, opened the discussion by recalling Human Rights Committee general comment No. 31 (2004) on the nature of the general legal obligation on States parties to the Covenant, in which the Committee stated that without reparations, the obligation of States to provide effective remedies was not discharged (para. 16). She stressed that in addition to compensation, reparations encompassed restitution, rehabilitation, measures of satisfaction and guarantees of non-repetition. The High Commissioner highlighted and welcomed progress in the area of the conceptualization of gender-sensitive reparations, including the 2007 Nairobi Declaration

on Women's and Girls' Rights to a Remedy and Reparation¹ and the report by the Special Rapporteur on violence against women, its causes and consequences, on reparations (A/HRC/14/22), as well as other current developments in reparation policies and measures. The High Commissioner also recalled some of the general principles and programmatic guidelines that had been developed to ensure reparation measures were guided by non-discrimination and gender-specific considerations. Those included, inter alia, ensuring that women and girls are adequately informed of their rights to reparations; that violations targeting women and girls are properly included in reparation programmes; and that the definition of "victims" takes into account differences between women and their children and other dependants.

6. In the area of programmatic responses, the High Commissioner stressed that reparation processes should allow for women and girls to come forward when they are ready and the registration processes should take into account obstacles women may face if displacement is necessary or other costs are implicated. Furthermore, reparation processes must not expose women to further harm, stigmatization and ostracism and should take into account their safety and best interest at all times, including by ensuring confidentiality and avoiding public disclosure of violations suffered. The High Commissioner highlighted that reparation policies and measures should ensure that eligibility standards for reparations for victims of certain crimes, such as sexual violence, ensure inclusiveness and avoid re-victimization. For example, the documentation required for restitution should take into account the greater difficulties faced by women in proving property titles. Gender considerations must be paramount in assessing the harm suffered. In the case of sexual violence and other gender-based crimes, the multidimensional and long-term consequences of the harm affecting women and girls, their families and their communities must be taken into account and addressed through multidisciplinary approaches. Furthermore, in deciding the form of reparations, a number of elements must be kept in mind, including, for example, existing obstacles and challenges women may face in owing land or receiving and managing money.

7. The High Commissioner further stressed that one overarching lesson that had been learned was the need to ensure genuine and informed participation of women in the design and delivery of reparations. Only women and girls themselves could determine what forms of reparation were best suited to their situation, what was culturally appropriate and did not expose them to further harm and victimization, what could lead to reconciliation, and what had the potential to address the underlying causes that exposed them to violence in the first place. Ensuring meaningful participation required an investment of time and resources to reach out to women and provide information in accessible and understandable formats.

8. The High Commissioner underlined the importance of the conclusions made by the Special Rapporteur on violence against women in her report on reparations for women who have been subjected to violence, especially how guarantees of non-repetition offered the greatest potential for transforming gender relations, and the need for States to ensure that economic compensation and reintegration measures enhance the autonomy of women.

9. The High Commissioner emphasized that, while the conceptual framework had been advanced, there remained a gap between the conception and delivery of reparation programmes, and called for greater international accountability in order to bridge that gap. She urged the Human Rights Council to further engage with and advocate for increased commitment to ensure prompt, adequate and effective reparations for women who have been subjected to violence, at the international, regional and national levels.

¹ See Coalition for Women's Human Rights in Conflict Situations, <http://m.idasa.org/media/uploads/outputs/files/Nairobi%20Declaration.pdf>.

10. András Dékány, Vice-President of the Human Rights Council, Permanent Representative of Hungary, reiterated the findings of the Special Rapporteur's report on reparations, in particular that reparations should strive to have a transformative potential, and welcomed the discussion as an opportunity to identify areas that required further study.

11. The moderator, Rashida Manjoo, Special Rapporteur on violence against women, emphasized that the law of remedies included two aspects: the substantive and the procedural, and highlighted the areas that the panellists were invited to focus on. She also thanked the panellists for making themselves available to share their expertise in different country contexts and areas of work.

B. Good practices in gender-responsive remedies

12. Patricia Guerrero, Director of the Liga de Mujeres Desplazadas, hailed the Inter-American Court of Human Rights decision in the case of *González et al. ("Cotton Field") v. Mexico* as a historic reparation ruling that placed an obligation on States in the region to ensure that women victims of violence have full access to justice, including reparations. She briefly outlined three elements to the ruling: it reaffirmed that a lack of justice for women victims of violence amounted to gender discrimination; it formed part of the conceptual development of gender violence; and, through the provision of legal and political tools in the ruling, allowed for engagement with the judiciary and the executive to review public policy. Additionally, she noted that the ground-breaking ruling was also the result of civil society mobilization. Civil society was also involved in the monitoring of the implementation of the ruling and translation into the public policies of States.

13. Carla Ferstman, Director of REDRESS, referred to States' generic compensation schemes for victims of crimes, noting that they were not specifically designed to address violence against women, but rather catered to a wide array of crimes. Those compensation schemes were based on harm done and, in some circumstances, the method of assessing harm could have a negative impact on gender-based violence and sexual violence. She noted however that victims could access generic compensation schemes without the requirement of prosecution or conviction which, given the low rate of convictions in cases of gender-based violence, represented a potentially significant positive avenue through which women who experience violence could claim compensation. Ms. Ferstman underlined the importance of those schemes and called for States to critically reflect on and review how they could ensure that those schemes take into account the gendered nature of the harm suffered.

14. Chris Dolan, Director of the Refugee Law Project, briefed participants on progress in the understanding of reparations as combining physical and economic repair for victims with psychological and political healing in acknowledgment of past crimes. He however noted that the transformative potential of reparations had yet to be realized, and urged States to regard reparations within the transitional justice framework as of equal importance to prosecutions.

C. Remedies in post-conflict settings

15. Ms. Ferstman compared the promising efforts being made by the International Criminal Court's Trust Fund for Victims as regards complementing the narrow criminal prosecutorial process of the court with the reparation regime of the ad hoc International Criminal Tribunal for Rwanda. She noted that unlike the reparative function of the ad hoc court, the Trust Fund for Victims, in addition to implementing Court-ordered reparations awards against a convicted person when directed by the Court to do so, provided assistance

with physical rehabilitation, material support, and/or psychological rehabilitation to victims and their families in situations where the Court was active.

16. In his follow-up intervention, Mr. Dolan expressed doubts as to the effectiveness of the Trust Fund for Victims in ensuring the transformative nature of reparations, especially as it did not adequately address the collective nature of mass violence. Mr. Dolan called for a shift in the prioritization of resources by the international community and by States, irrespective of whether a country was resource poor or resource rich. He cited the example of Sierra Leone, where the ratio of spending on prosecution as opposed to reparation was 100 to 1 – with \$300 million spent for the Special Court and \$3 million devoted to the reparation programme. That amounted to \$35,000 per prosecution and \$80 per victim.

17. Ms. Guerrero underlined that the lack of development could not be used as an excuse by States for lack of reparations, as they had a legal obligation in that sense and access to justice was essential for development and sustainable peace.

D. Remedies in traditional and informal justice processes

18. The Special Rapporteur in the field of cultural rights, Farida Shaheed, affirmed that mechanisms for reparations should strive to have a transformative potential so as to subvert rather than reinforce pre-existing patterns of structural subordination and systemic hierarchies. She noted that many informal justice models, ranging from those that operated independently of the justice system to fully institutionalized programmes, were built on foundations that had historically excluded women and had made it almost impossible for women to articulate their issues or to participate in decisions that had an impact on their rights. Ms. Shaheed expressed concern that those alternative forums may be replicating State subordination by providing legitimacy to non-formal influential groups, often without provision for appealing decisions. Care should, therefore, be taken to monitor customary dispute-resolution mechanisms to ensure that women are integrated and play an active role in the design, implementation and monitoring of those mechanisms.

19. Ms. Shaheed stressed that issues of cultural sensitivity and cultural heritage could also impact on the implementation of non-formal justice mechanisms. For example, in many countries where there were multiple alternative systems of dispute resolutions, the decisions relating to which mechanisms and violations were sanctioned by the State further facilitated and entrenched existing discriminatory practices. She urged States to take those factors into account when considering and identifying culturally appropriate mechanisms. Ms. Shaheed called for further focus on transformative reparations that would not only address violence against women but also assess the outcomes and the impact on women of the implementation of reparation decisions.

20. With regard to non-formal justice mechanisms and administrative reparation orders, Ms. Ferstman noted that although significant progress had been made in developing a normative legal framework for ensuring that remedies were effective, prompt and specific, there continued to be a dichotomy between advancements in norms at the judicial level and decisions emanating from non-formal processes, most notably their frequent failure to protect women's rights. It was critical, therefore, that States factor in that dichotomy when adopting or endorsing non-formal justice mechanisms.

E. Comments from States and non-governmental organizations on good practices and challenges

21. In the ensuing discussion, 35 State representatives, two United Nations entities and five representatives from non-governmental organizations made statements. Speakers

acknowledged that States bore ultimate responsibility and were obliged to act with due diligence vis-à-vis violence against women, including by ensuring effective, prompt, just, transformative and culturally sensitive remedies and reparations for women who have been subjected to violence. They agreed that effective remedies entailed those complex considerations and that effective access to justice was a prerequisite to increasing women's awareness of the available mechanisms. Speakers emphasized that remedies and reparations were a part of a comprehensive and holistic approach to eliminating violence against women that drew together prevention, protection and punishment alongside the rights of victims to assistance, compensation, rehabilitation and non-repetition.

22. In relation to developing reparation policies and programmes, a number of speakers called for the substantive participation of women who have been subjected to violence and civil society actors, such as women's groups and community leaders, alongside men and boys, to ensure a holistic concept of remedies and reparations. Among reparation examples provided by States, it was argued that remedies and reparations included: social workers in police stations; shelters and crisis centres for abused women; financial support for legal-aid centres; mobile courts in isolated communities; programmes to raise public awareness; and the involvement of women in the decision-making processes of shaping policies and mechanisms.

23. Speakers requested that more effort be put into ensuring that remedies and reparations that are available to women victims of violence are specific to individual circumstances and culture in order to prevent discrimination, stigmatization and re-victimization of victims of violence, particularly women victims of sexual violence. Speakers also urged for careful reflection on ingrained patriarchal norms, stereotyping and gender assumptions that contributed to the re-victimization of women who experience violence. There was discussion on challenges in developing consistent policies in view of differing countries' religious and cultural specificities and difficulties in ensuring linkages between judicial and administrative reparation orders. In addition, questions were raised as regards the ways in which international mechanisms could contribute to ensuring that national reparation programmes and schemes engage with civil society; form part of good practices; and are adequately resourced. Furthermore, questions pertaining to effective communication and cooperation at the international, regional and national levels to counter underlying causes of discrimination were answered by the panellists.

F. Conclusions

24. In their concluding remarks, panellists called for a shift in thinking on reparations for women who experience violence as a gender equality issue and called on States to uphold their human rights obligations in that regard. Panellists called for reparation programmes not to be limited to financial compensation, but to focus on restoring the respect for and dignity of women who experience violence while ensuring the transformative potential of mechanisms in catalysing new thinking that would have a substantial impact on women's lives and address the root cause of the violence that women experience.

III. Panel II: Protecting women human rights defenders

A. Opening statements

25. The panel was opened by Mona Rishmawi, Chief of the Rule of Law, Equality and Non-Discrimination Branch, on behalf of the Deputy High Commissioner for Human

Rights, Kyung-wha Kang. In her opening remarks, Ms. Rishmawi stressed that the role and contribution of women human rights defenders was fully recognized by the international community, and that the specific risks and threats faced by women human rights defenders were well documented. She highlighted that women human rights defenders were subjected to the same risks as their male counterparts but that they were subjected to additional risks and threats due to their sex and the transgression of gender norms. However, protection mechanisms for human rights defenders did not respond to the specific needs of women human rights defenders in appropriate ways. Other obstacles highlighted in the statement included persistent gender stereotypes on the role of women human rights defenders in the public and private spheres and the existence of linkages between perpetrators and those in power. Ms. Rishmawi referred to various OHCHR activities aimed at ensuring support to and, where needed, also protection for, women human rights defenders.

26. Ambassador Laura Dupuy Lasserre, President of the Human Rights Council and moderator of the panel, reiterated the importance of the role of women human rights defenders to the work of the Council. The President recalled the report on women human rights defenders submitted by the Special Rapporteur on the situation of human rights defenders to the Human Rights Council in 2011, in which the Special Rapporteur emphasized that where protection mechanisms existed for human rights defenders, they often lacked a gender-specific approach (A/HRC/16/44 and Corr.1, para. 92). The President noted that the panel offered an opportunity to enhance the understanding of the risks that women human rights defenders faced in carrying out their work, and the way in which protection mechanisms should be designed to respond to those gender-specific risks. She underlined that the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (known as the Declaration on Human Rights Defenders) provided an effective framework for the rights of human rights defenders, which must be guaranteed equally for women, and that understanding the gender dimensions of ensuring those rights was critical to guaranteeing effective protection to women human rights defenders.

B. Gender aspect of violence against human rights defenders

27. The Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, defined the threats and risks faced by women human rights defenders. She pointed out that both women and men human rights defenders faced the same risks but that, in addition, women were exposed to gender-specific risks, ranging from verbal abuse based on their gender to sexual violence, and that those forms of threats were particularly common in conflict situations. Ms. Sekaggya drew attention to the stigmatization of women human rights defenders, who were often perceived in their communities as challenging accepted social, cultural and religious norms as well as patriarchal systems that perpetuated harmful gender stereotypes. Globalization policies had also contributed to the targeting of women who advocated for the rights of minorities, indigenous peoples, lesbian, gay, bisexual and transgender persons, and reproductive rights. She emphasized the link between militarization and an increase in sexual violence against women human rights defenders, especially in times of conflict. Ms. Sekaggya noted that the threats faced by women human rights defenders had multiple sources and stemmed primarily from social, cultural and religious norms, the effects of globalization and the militarization of society, especially in times of war.

28. In her intervention, Sunila Abeysekera, a member of the Executive Committee of the International Coalition of Women Human Rights Defenders, highlighted the ways in which women human rights defenders were targeted, as well as the root causes of those threats. Ms. Abeysekera noted that the violations experienced by women human rights defenders related to civil, political, economic, social and cultural rights. She added that those

violations took place both in the private and public spheres and in all situations and were perpetrated by both State and non-State actors, including family members, private companies, transnational corporations and mercenaries. She reported that certain groups of women human rights defenders were increasingly vulnerable to attacks. Those women included those who defended the right of peoples to land, water and a clean environment; women who defended reproductive rights and rights relating to sexuality; women who advocated for equality and non-discrimination for non-normative individuals and communities; women who organized and mobilized communities; and women living in societies in transition. Ms. Abeysekera stressed that the context in which violations took place was as important as the nature of the violations. Those contexts included the existing societal framework of patriarchy and hetero-normativity, which justified violence against women and allowed violence to be perpetrated against women with impunity, alongside religious fundamentalism, extreme nationalist politics, the deterioration of democratic norms, the current global economic crisis, and the militarization of society and conflicts in every part of the world. Those contexts limited the capacity of women to promote and defend human rights.

C. International, regional and national mechanisms for the protection of women human rights defenders

29. The Rapporteur on the rights of human rights defenders of the Inter-American Commission on Human Rights, José de Jesús Orozco, spoke of the recognition that the Commission had given to the issue of protection of women human rights defenders. He cited as evidence the establishment of a special office headed by a rapporteur; a resolution in which the General Assembly of the Organization of American States recognized the work of women human rights defenders in the region;² and the creation of a network of human rights defenders by the Commission. The Commission had in place mechanisms for the protection of women human rights defenders, such as precautionary measures, public hearings, opinions issued on cases referring to the acts of States, and thematic hearings alongside thematic reports listing violations. Mr. Orozco expressed regret that the situation for women human rights defenders in some countries in the region had worsened due to gender stereotyping, discrimination and obstacles in the administration of justice, particularly in rural areas. He urged States and civil society to ensure that women human rights defenders are aware of existing protection mechanisms.

30. Nazar Abdelgadir, Executive Director of the Geneva Institute for Human Rights, commented on the role, challenges and outcomes of women in North Africa and the Middle East within the context of the current political transitions in the region. Mr. Abdelgadir stated that despite the very effective and active role played by women in overcoming legal, political, social and cultural challenges in creating change, women had yet to be fully recognized or included in decision-making. He insisted that women human rights defenders in the region should be fully consulted when States are designing protection mechanisms. Furthermore, he called for training of women human rights defenders in the region so as to allow them to be able to better claim and defend their rights.

² General Assembly of the Organization of American States, resolution 2067 (XXXV-O/05) of June 7 2005, para. 2.

D. Comments from States and non-governmental organizations on good practices and challenges

31. During the subsequent dialogue, statements from the floor were made by State representatives as well as by representatives from non-governmental organizations and United Nations entities. Speakers acknowledged the work carried out by the United Nations Special Rapporteur on the situation of human rights defenders, including her 2011 report to the Human Rights Council, which focused on the situation of women human rights defenders (A/HRC/16/44 and Corr.1). The majority of speakers acknowledged, with sympathy and concern, the gender-specific nature of human rights violations against women human rights defenders and applauded the courage shown by those women. The need for gender-specific protection mechanisms was widely agreed as needed in the context of existing inequality and discrimination against women. It was further emphasized that the responsibility for developing those mechanisms and the protection of women human rights defenders lay with States. In meeting that obligation, it was agreed that it was critical for States to cooperate and exchange good practices at the international, regional and national levels, as well as to actively engage with women human rights defenders.

32. Several State representatives proposed in their interventions that, as agents of social transition and due to the specific violations targeted towards them, women human rights defenders should be engaged both in the development of those protection mechanisms and in the decision-making process of such programmes. Furthermore, States stressed the detrimental effect that impunity had on society, and noted the importance of punishing perpetrators of attacks against women human rights defenders, whether carried out by States or non-State actors in the private or in the public sphere.

33. Speakers made several recommendations as to how States and the United Nations system could build on and strengthen current efforts. Among the initiatives mentioned were: increased representation of women in decision-making positions; funding and grants for women rights defenders; enactment of laws enforcing a legal prohibition of attacks on women who are merely claiming or defending their rights or the rights of others; and ensuring the independence of judges and lawyers in the administration of justice. Regarding challenges and obstacles faced by women human rights defenders, speakers mentioned, among others, cultural, societal and religious barriers; a lack of adequate sex-disaggregated data to guide protection mechanisms; the reactive nature of many current systems; a lack of protection for family members; and the particular impact on women journalists acting as women human rights defenders.

E. Conclusions

34. **The panel offered recommendations for helping women human rights defenders. Ms. Sekaggya pointed out that the intersectional and multiple forms of discrimination faced by women human rights defenders needed to be addressed so as to foster the empowerment of those women. She called for gender-specific protection mechanisms for women, noting that the threats that they faced often exceeded those experienced by their male counterparts. Ms. Sekaggya stressed that States should recognize good practices and examples from programmes implemented at the domestic level to avoid duplication, and should work in closer cooperation and consultation with human rights defenders themselves in the design of policies.**

35. **Ms. Abeysekera suggested that the fight against impunity was critical in combating violence against women and protecting women human rights defenders. Regarding existing protection mechanisms, she noted that those mechanisms required more constructive engagement with women human rights defenders and a shift away**

from the perception of women human rights defenders as victims of violations, which rendered their role as conscious agents and initiators of positive action invisible. She also noted that effective mechanisms must address the specificity of each case as well as the broader social and political structures.

36. Mr. Abdelgadir emphasized that countries in transition should implement protective measures so that women human rights defenders could continue working without the risk of violence.

37. In their concluding remarks, the panellists referred to existing efforts and practices with regard to prevention and the protection of women human rights defenders, including the adoption of national plans and the development of gender-specific mechanisms. The panellists urged the United Nations system to continue to pay particular attention to the implementation of the principle of civil society participation in all its activities and to support national and regional human rights processes. They requested the Human Rights Council and States to publicly recognize and support the work of women human rights defenders, including through awareness-raising, the documentation of violations and good practices, and the challenging of stereotypes of women. This would forge a path towards equality in all areas, including that of protection for women human rights defenders. Political will was highlighted as a fundamental requirement for improving the protection of women human rights defenders. The participants agreed that combatting impunity was critical in combating violence against women and offered recommendations for assisting women human rights defenders.
