

# **Twenty Years of Normativity without Legality – United Nations Developments on Violence against Women, its Causes and Consequences**

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## **Abstract**

This contribution provides a reflection of the author's reports and interventions within the United Nations human rights system, during her tenure as the UN Special Rapporteur on Violence against Women. It provides an overview of the 'soft law' approach in the international human rights system regarding violence against women. The article provides an overview of current concerns, highlights the developments over twenty years within the United Nations system of norms generation without legal obligations, and concludes with some thoughts on State responsibility to act with due diligence in the elimination of violence against women.

## **Keywords**

Violence against women – international human rights law – norms development – state responsibility – United Nations.

## **1. Introduction**

Violence against women has been acknowledged as a pervasive human rights violation, whether in times of peace, conflict, post-conflict, transitions or displacement. It occurs in public and private spaces, whether in the home, the community, the workplace, in State institutions or in the transnational sphere. Unfortunately, very often violence begins in the family, in the form of domestic violence broadly, particularly intimate partner violence, child abuse, or through harmful and degrading practices that are violent to and/or subordinate women, and that are justified on the basis of religious, customary or other societal laws and practices. Alarming, in many societies violence against women and girls continues to be perceived both as socially acceptable and legitimate, and it is extremely underreported. Victims hesitate to report out of fear of retaliation, family or community pressure not to reveal the violence, poor awareness

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\* Address by Rashida Manjoo, UN Special Rapporteur on Violence against Women (UNSRVAW), to the Queen Mary University of London, Criminal Justice Centre, May 7 2015. Professor Manjoo works in the Department of Public Law at the University of Cape Town, South Africa and she is the former UN Special Rapporteur on Violence against Women.

of rights, lack of support services, economic dependency, or perceptions that the justice system will not respond adequately.

In 2011, in my role as United Nations Special Rapporteur on Violence against Women I prepared a thematic report on multiple and intersecting forms of discrimination and violence against women.<sup>1</sup> My report questions the human rights discourse regarding violence, which regards real violence as public violence perpetrated by or at the behest of the State. I argue that this discourse has led to the marginalisation and invisibility of violence perpetrated against women, and I highlight how the more everyday, ordinary violence that women experience most often, does not receive sufficient attention. Due to increasing concerns about rising prevalence rates, in 2012 I presented a thematic report on the topic of gender-related killings of women.<sup>2</sup> The prevalence of different manifestations of gender-related killings is an indicator of the failure of States to respond to and to prevent other acts of violence which form part of the continuum of violence, with the death of a woman being the ultimate act of violence. Women subjected to continuous violence and living under conditions of subordination, oppression, gender-based discrimination and threat, are always in fear of execution. Impunity, rather than accountability, for crimes against women and girls, is the norm in many countries. This is a reflection of the failure of the State to hold perpetrators accountable, but also a failure in the State's response and prevention efforts. Such failures send a message to society that violence against women is acceptable, inevitable and normal.

As noted in my 2014 report to the General Assembly,<sup>3</sup> violence against women is a pervasive and widespread violation of human rights, resulting in violations of women's civil, political, social, cultural, economic and development rights. An often-overlooked impact of violence against women is the role it plays in obstructing the realisation of women's citizenship rights, including participation and the exercise of agency. The citizenship framework also exposes the role that gender-based violence plays in impeding women's realisation of a broad range of human rights that are essential to the exercise of full participatory citizenship; it emphasises the need for States to fulfil their responsibilities for preventing and responding to such violence; and it demands a holistic response that addresses the violence itself, but also the causes and consequences.

The 20<sup>th</sup> anniversary of the establishment of the mandate of the Special Rapporteur on Violence against Women, provided an opportunity to reflect on global developments, and also on gaps and challenges in the elimination of violence. Over the past two decades, the work of the mandate has included conceptual developments and also the oversight of application and compliance practices, as part of a State's obligation to effectively implement international standards. The mandate has consistently argued that violence against women cannot be fully understood without also considering interpersonal, institutional and structural forms of violence and discrimination that form the reality of women's lives. The thematic and country mission reports produced by the mandate help provide a framework for addressing distinct forms of gender-based violence, analyse the causes and consequences of violence,

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<sup>1</sup> UNHRC Report of the Special Rapporteur on Violence against Women, Rashida Manjoo (2 May 2011) UN Doc A/HRC/17/26.

<sup>2</sup> UNHRC Report of the Special Rapporteur on Violence against Women, Rashida Manjoo (23 May 2012) UN Doc A/HRC/20/16.

<sup>3</sup> UNGA Report of the Special Rapporteur on Violence against Women, Rashida Manjoo (1 September 2014) UN Doc A/69/368.

and elaborate on the role of the State, non-State actors, and regional and international stakeholders in addressing such violence.

Since 1994, the mandate's thematic reports have addressed numerous issues including issues of multiple and intersecting forms of discrimination and violence against women; intersections between culture and violence against women; the situation of women in custodial settings; violence against women with disabilities; gender-related killings of women; and more recently the issue of State responsibility for eliminating violence against women. In addition, the mandate's country mission reports have focused on: a) legislative measures, including the ratification of international human rights instruments, the harmonisation of national legislation, or the adoption of specific legislation on violence against women; b) institutional and policy measures, including the introduction of specialised mechanisms to investigate and prosecute violence against women, provide support and services to victims, and enhance cooperation and information-sharing between authorities and service providers; and c) awareness raising and capacity-building activities, including training, awareness raising campaigns, and the integration of a gender equality perspective into all spheres.<sup>4</sup>

My 2014 report to the Human Rights Council provides a mapping of soft law developments within the United Nations over the past twenty years. It critically analyses the challenges of twenty years of normativity without legality, as reflected in the endorsement of principles by States, through declarations and resolutions, but without the development and adoption of specific binding legal commitments, as regards violence against women.<sup>5</sup> The lack of a legally binding instrument, to hold both States and non-state actors accountable, constitutes one of the main challenges that my mandate has identified over the last five years. I argue that despite the existence of interpretative guidelines and monitoring by human rights treaty bodies and the Universal Periodic Review process, the limitations of large and varied monitoring mandates, coupled with time constraints when examining State party reports, results in insufficient interrogation of the information relating to violence against women, its causes and consequences; and more importantly insufficient assessment of responses.

## 2. Developments within the United Nations

For more than four decades, the global movement to combat violence against women has strived to ensure that the issues relating to women and gender-based violence are discussed within a human rights discourse. UN sponsored world conferences in Mexico (1975), Copenhagen (1980), Nairobi (1985) and Beijing (1995) led to an acknowledgement of the existence of domestic violence, but not to other manifestations of violence against women. The Nairobi conference in 1985, marked the end of the UN Decade for Women, and it was at this conference that a broader

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<sup>4</sup> The annual and thematic reports can be found at: <http://www.ohchr.org/EN/Issues/Women/SRWomen/Pages/AnnualReports.aspx> accessed 14 March 2016; Country mission reports are located at: <http://www.ohchr.org/EN/Issues/Women/SRWomen/Pages/CountryVisits.aspx> accessed 14 March 2016.

<sup>5</sup> UNHRC Report of the Special Rapporteur on Violence against Women, Rashida Manjoo: Violence against women: Twenty years of developments within the United Nations (28 May 2014) UN Doc A/HRC/26/38.

understanding of violence against women emerged as a serious topic of international concern.<sup>6</sup> The Copenhagen conference in 1980 led to a UN resolution being adopted on battered women and violence within the family.<sup>7</sup> Violence against women was not characterised as a human rights violation, but rather a social problem within the ambit of health and welfare policies.

The debates and views of activists, at meetings and conferences that focused on women's rights, resulted in the decision to adopt a dedicated treaty focused on women's rights. Some of the views are reflected in the text of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which was adopted in December 1979, and which entered into force in September 1981.<sup>8</sup> CEDAW Article 2 refers to the obligation of States to pursue by all appropriate means, and without delay, a policy of eliminating discrimination against women. Except for the provision in Article 6 of CEDAW on traffic in women and exploitation of prostitution of women, there is no specific provision within the treaty which deals specifically with all forms of violence against women, or the obligations of States to respond to and eliminate all forms of violence against women.

To address the gap, and by adopting an interpretative analysis, the CEDAW Committee has established that gender-based violence, which impairs or nullifies the enjoyment by women of human rights and fundamental freedoms under general international law or under human rights conventions, is discrimination within the meaning of Article 1 of the Convention.<sup>9</sup> Through General Recommendations 12 and 19 in 1989 and 1992 respectively, the Committee has linked gender-based violence to the different substantive areas covered by the Articles of CEDAW.<sup>10</sup> In practice, the Committee has used numerous substantive provisions to address violence against women, including Article 5 on stereotyping and the consequences thereof; Article 11 on sexual harassment; Article 12 on sexual and reproductive health violations; and Article 16 to address domestic violence in family relationships. The adoption of the Optional Protocol to CEDAW in 1999,<sup>11</sup> and the subsequent jurisprudence, further reinforces the CEDAW position that equates violence against women with gender discrimination that disproportionately impacts women. These interpretive guidelines do not recognise violence against women as a human rights violation in and of itself – but as a form of discrimination.

The explicit recognition by the United Nations of violence against women as a human rights violation occurred at the 1993 World Conference on Human Rights in Vienna. The Vienna Declaration and Programme of Action noted that 'the human rights of women and of the girl child are an inalienable, integral and indivisible part of universal human rights'.<sup>12</sup> Further, the document emphasised that the elimination of

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<sup>6</sup> Report of the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development and Peace, Nairobi, 15-26 July 1985 (United Nations Publication, Sales No. E.85.IV.10).

<sup>7</sup> Report of the World Conference of the United Nations Decade for Women: Equality, Development and Peace (Copenhagen, 14 – 30 July 1980) UN Doc A/Conf/94/35 Resolution 5.

<sup>8</sup> Convention on the Elimination of All Forms of Discrimination against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13.

<sup>9</sup> UN CEDAW, 'General Recommendation No 19' in 'Note by the Secretariat, Compilation of General Comments and General Recommendations Adopted by the Human Rights Treaty Bodies (29 July 1994) UN Doc HRI/Gen/1 Rev 1, para 7.

<sup>10</sup> UN CEDAW, 'General Recommendation No. 12' and 'General Recommendation No. 19' in *ibid*.

<sup>11</sup> Optional Protocol to the 1979 Convention on the Elimination of All Forms of Discrimination against Women (adopted 6 October 1999, entered into force 22 December 2000) 2131 UNTS 83.

<sup>12</sup> Vienna Declaration and Programme of Action (adopted 25 June 1993) 32 ILM 1661 Part I, para 18.

violence against women in all areas of life, the public and the private, was central to the attainment of women's human rights. The document outlined the steps necessary for the realisation of these goals, including that the human rights of women should be 'integrated into the mainstream of United Nations system-wide activity'<sup>13</sup> through the treaty monitoring bodies, through the effective use of existing procedures, and through the creation of new procedures to 'strengthen implementation of the commitment to women's equality and the human rights of women'.<sup>14</sup>

Also in 1993, the General Assembly adopted two groundbreaking resolutions, one setting out the Declaration on the Elimination of Violence against Women (DEVAW),<sup>15</sup> as recommended by the UN Economic and Social Council (ECOSOC); and the other establishing the mandate of the Special Rapporteur on Violence against Women (SRVAW), its Causes and Consequences, as recommended by the Commission on Human Rights.<sup>16</sup> The General Assembly Declaration on the Elimination of Violence against Women reflects provisions found in CEDAW General Recommendation No. 19,<sup>17</sup> but provides a more thorough and explicit statement on violence against women. The Declaration incorporates State responsibility to act within a due diligence standard, which requires States to 'prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons.'<sup>18</sup> This Declaration is not legally binding on States, but is of persuasive value in standard setting and norms development.

The Committee against Torture, in paragraph 18 of General Comment 2 of 2007, addresses the issue of State responsibility to act with due diligence as regards violence against women, specifically when it occurs when:

State authorities or others acting in an official capacity or under colour of law, know or have reasonable ground to believe that acts of torture or ill-treatment are being committed by non-State officials or private actors, and they fail to exercise due diligence to prevent, investigate, prosecute and punish such non-State officials or private actors consistently with the Convention.<sup>19</sup>

While some may argue that the Convention against Torture<sup>20</sup> (CAT) can serve as a useful means of addressing violence against women,<sup>21</sup> the Committee against Torture

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<sup>13</sup> Ibid Part II, para 37.

<sup>14</sup> Ibid Part II, para 40.

<sup>15</sup> Declaration on the Elimination of Violence against Women UNGA Res/48/104 (20 December 1993) UN Doc A/Res/48/104.

<sup>16</sup> UNCHR Res 1994/45 (4 March 1994) UN Doc E/CN.4/RES/1994/45.

<sup>17</sup> CEDAW General Recommendation No. 19 (n 9).

<sup>18</sup> DEVAW (n 15) Article 4 generally and 4 (c) specifically.

<sup>19</sup> UN CAT, General Comment No. 2: Implementation of Article 2 by States Parties (24 January 2008) UN Doc CAT/C/GC/2 para 18.

<sup>20</sup> Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (adopted 10 December 1984, entered into force 26 June 1987) 1465 UNTS 85.

<sup>21</sup> See for example Catharine MacKinnon 'On Torture: A Feminist Perspective on Human Rights' in Mohoney and Mahoney (eds) *Human Rights in the 21<sup>st</sup> Century: A Global Challenge* (Martinus Nijhoff 1993); Rhonda Copelon, 'Intimate Terror: Understanding Domestic Violence as Torture' in Rebecca Cook, (ed) *Human Rights of Women: National and International Perspectives* (University of Pennsylvania Press 1994); Barbara Cochrane Alexander, 'Convention Against Torture: A Viable

has so far only defined rape as torture,<sup>22</sup> without explicitly addressing other forms of violence against women.

Cases of violence against women in conflict situations are covered in greater depth by other international treaties, including the Geneva Conventions and the additional Protocols, which focus among other crimes on rape, sexual exploitation and forced pregnancy.<sup>23</sup> The Rome Statute of the International Criminal Court of 1998 also covers certain aspects of violence against women including rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation, or any other form of sexual violence constituting grave breaches of the Geneva Conventions.<sup>24</sup> The recent adoption of General Recommendation 30 by CEDAW provides further guidance on States Parties' obligations in conflict and post-conflict situations.<sup>25</sup>

Institutionally, the UN Commission on the Status of Women (CSW), founded in 1946, has been instrumental in initiating and developing groundbreaking normative frameworks on women's human rights, including CEDAW. Through a 1991 ECOSOC resolution, the Commission was mandated to develop an international framework to discuss violence against women, in consultation with CEDAW. Unfortunately they chose to pursue the adoption of a draft declaration on violence against women. One author argues that the debates at that time, included a view that a specific convention on violence against women was a long-term measure, that would be implemented if the CEDAW general recommendations, the Declaration on the Elimination of Violence against Women, and the mandate of the Special Rapporteur proved ineffective.<sup>26</sup> It is also argued that a Declaration was adopted, as opposed to a Convention, because of fears of confusion between the scope of CEDAW and a new binding treaty on violence against women; fears that a new binding instrument might run the risk of limited ratification;<sup>27</sup> and also concerns about the expense of implementing a new binding instrument. Twenty years later, these same arguments are currently used to avoid addressing the normative gap in international law, regarding violence against women.<sup>28</sup>

The CSW is increasingly being viewed by many as a contested forum for political negotiations on women's human rights, with a growing practice of 'clawbacks' on gains made.<sup>29</sup> The articulation of broad and sweeping statements in the outcome

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Alternative Legal Remedy for Domestic Violence Victims' (2000) 15 American University International Law Review 895.

<sup>22</sup> CT and KM v Sweden, UN Doc CAT/C/37/D/279/2005 (17 November 2006).

<sup>23</sup> On the Geneva Conventions and Additional Protocols, see <<https://www.icrc.org/eng/war-and-law/treaties-customary-law/geneva-conventions/overview-geneva-conventions.htm>> accessed 14 March 2017.

<sup>24</sup> Rome Statute of the International Criminal Court (adopted 17 July 1998, entered into force 1 July 2002) 2187 UNTS 90 Articles 8(2)(b)(xxii) and (e)(vi).

<sup>25</sup> CEDAW, General Recommendation No. 30 on Women in Conflict Prevention, Conflict and Post-Conflict Situations, (18 October 2013) UN Doc CEDAW/C/GC/30.

<sup>26</sup> Jutta Joachim, 'Shaping the Human Rights Agenda: the Case of Violence against Women,' in Mary K Meyer and Elisabeth Prugl (eds) *Gender Politics in Global Governance*, (Rowman and Littlefield 1999) 152.

<sup>27</sup> Joan Fitzpatrick, 'The Use of International Human Rights Norms to Combat Violence against Women,' in Rebecca Cook (ed) *Human Rights of Women: National and International Perspectives*, (University of Pennsylvania Press 1994) 537-538.

<sup>28</sup> Personal communications between the author, CEDAW Committee members, some representatives of UN Member States and staff of UN agencies.

<sup>29</sup> Personal communication with women's rights activists attending the CSW meetings between 2010 and 2015.

documents is also seen as an attempt to deflect attention from the need to address the reality of widespread and persistent violations of women's human rights globally.<sup>30</sup> These perceptions have led to questions being raised about the utility of the CSW, which is the premier UN policymaking body on normative standards on women's rights.

International political commitments to end violence against women are largely reflected in the resolutions emanating from the General Assembly, the Human Rights Council and the Security Council. Resolutions on violence against women emanating from these standard setting bodies have called upon States to put in place civil and criminal measures to address offender accountability; to ensure victim safety; and to provide redress and justice measures that are accessible to victims.<sup>31</sup> The Commission on Human Rights passed 12 resolutions between 1994 and 2005 relating to the 'question of integrating the rights of women into the human rights mechanisms of the United Nations and the elimination of violence against women'.<sup>32</sup> In 2006, the Human Rights Council replaced the Commission and in essence retained the wording of previous resolutions. The Council passed 28 resolutions between 2007 and 2013 that relate directly or indirectly to violence against women.<sup>33</sup> The seven resolutions that are directly applicable to the mandate revolve largely on the theme of 'accelerating efforts to eliminate all forms of violence against women'. The General Assembly has passed 57 resolutions between 1993 and 2013, either related directly or indirectly to the work of the mandate.<sup>34</sup>

The engagement of the Security Council as regards violence against women is reflected in the seven resolutions adopted between 2000 and 2013. Resolution 1325 is focused on implementing a gendered perspective in conflict resolution by looking at the special needs of women, ensuring that humanitarian law is used to address women's rights, and highlighting the critical role of women in peace-building.<sup>35</sup> Subsequent resolutions of the Security Council focus on protecting civilians generally, particularly those who have been displaced; stress the importance of education to prevent sexual exploitation and trafficking in humans; condemn all acts of sexual exploitation, abuse and trafficking of women and children by the military, the police, and civilian personnel involved in United Nations operations, and recommend a zero-tolerance policy for such violations.<sup>36</sup> The resolutions adopted subsequent to SC Resolution 1325 continue to raise concerns about under-representation of women in formal peace processes, the continuing prevalence of sexual violence in conflict situations, and the slow progress in addressing this issue.<sup>37</sup>

The 1995 Beijing Declaration and Platform for Action further elaborates on different manifestations of violence against women, including those that were not

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<sup>30</sup> See generally: Commission on the Status of Women, conclusions on women and armed conflict (see E/1998/27-E/CN.6/1998/12); agreed conclusions on the elimination of all forms of discrimination and violence against the girl child (see E/2007/27-E/CN.6/2007/9); agreed conclusions on the elimination and prevention of all forms of violence against women (see E/2013/27-E/CN.6/2013/11).

<sup>31</sup> Report of the Special Rapporteur on Violence against Women, Rashida Manjoo: Violence against women: Twenty years of developments within the United Nations (n 5).

<sup>32</sup> *Ibid.*

<sup>33</sup> *Ibid.*

<sup>34</sup> *Ibid.*

<sup>35</sup> UNSC Res 1325 (31 October 2000) UN Doc S/Res/1325.

<sup>36</sup> See UNSC Res 1820 (19 June 2008) UN Doc S/Res/1820; UNSC Res 1888 (30 September 2009) UN Doc S/Res 1888; UNSC Res 1889 (5 October 2009) UN Doc S/Res/1889; UNSC Res 1960 (16 December 2010) UN Doc S/Res/1960; UNSC Res 2106 (24 June 2013) UN Doc S/Res/2106; UNSC Res 2122 (18 October 2013) UN Doc S/Res/2122.

<sup>37</sup> *Ibid.*

specifically addressed in previous declarations.<sup>38</sup> Among others, these include systematic rape and forced pregnancy during armed conflict, sexual slavery, forced sterilisation and forced abortion, female infanticide, and prenatal sex selection.<sup>39</sup> The three strategic objectives regarding violence against women include the taking of measures to eliminate violence against women; studying the causes of that violence; and the elimination of trafficking in women.<sup>40</sup> The Beijing Declaration has a list of steps to be taken by States, including to adopt and/or implement and periodically review and analyse legislation to ensure its effectiveness in eliminating violence against women.<sup>41</sup>

Declarations and resolutions, as discussed above, serve as a consensus statement by member States, but are not legally enforceable. They may be of persuasive value in influencing international norms around the elimination of violence against women, and also in providing normative standards for States to follow at the national level.

### 3. The Implications of Normativity without Legality

The lack of specific legally enforceable standards impacts attempts to ensure appropriate responses, and also State accountability for failure to protect against and prevent violence against women. The State is the ultimate duty bearer and it has the responsibility to act with due diligence to protect women and girls, and to prevent acts of violence. It is my view that States are not being held accountable for failing in their responsibility to promote the rights of women and girls, including through the provision of effective redress measures for all human rights violations.

As a general rule, State responsibility is based on acts or omissions committed either by State actors or by actors whose actions are attributable to the State.<sup>42</sup> An exception to this rule is that a State may incur responsibility where there is a failure to exercise due diligence to prevent or respond to acts or omissions of non-State actors.<sup>43</sup> The basic guiding elements in respect of State responsibility to act with due diligence include, among others: recognising the problem; reviewing current policies to identify problem areas; modifying laws and policies to prevent harm or protect a right; ensuring both State and non-state actor accountability; addressing root causes of violence and the sources of discrimination that intersect in the actual experiences of women; punishing and/or rehabilitating the perpetrator; providing compensation and other remedial measures to the victim; reporting to an international body in respect of measures taken towards compliance; monitoring cases; and adopting indicators to follow up and further modify laws and policies.<sup>44</sup>

My 2013 report to the Human Rights Council<sup>45</sup> reiterates that State responsibility to act with due diligence requires that there is a framework for discussing

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<sup>38</sup> Beijing Declaration and Platform for Action, (27 October 1995) A/CONF.177/20 (1995) and A/Conf/177/20/Add.1 (1995).

<sup>39</sup> Ibid paras 114-115; and A/CONF.177/20/Add.1 (1995).

<sup>40</sup> Beijing Declaration (n 38).

<sup>41</sup> Ibid.

<sup>42</sup> ILC Draft Articles of States for Internationally Wrongful Acts, November 2001 A/56/10 chp.IV.E.1 Adopted by the UN General Assembly in A/Res/62/61 (8 January 2008) UN Doc A/Res/62/61.

<sup>43</sup> See, for eg, *Velasquez Rodriguez v Honduras* Inter-American Court of Human Rights Series C No 4 (29 July 1988).

<sup>44</sup> UNHRC 'Report of the Special Rapporteur on Violence against Women, its Causes and Consequences, Rashida Manjoo' (14 May 2013) UN Doc A/HRC/23/49, para. 23.

<sup>45</sup> Ibid.

the responsibility of States through a dual lens of individual due diligence and systemic due diligence. Individual due diligence refers to the obligations that States owe to particular individuals, or groups of individuals, including to prevent, protect, punish and provide effective remedies. Individual due diligence places an obligation on the State to assist victims in rebuilding their lives and moving forward, and also requires States to punish not just the perpetrators, but also State authorities who fail in their duty to respond to the violation. Systemic due diligence refers to the obligations that States have to create a functioning system to eliminate violence against women, and to ensure a holistic and sustained model of prevention, protection, punishment and reparations for acts of violence against women and girls.

Some challenges as regards State responsibility include: the lack of acceptance of violence against women as a human rights issue; inadequate State responses; minimum effort to deal with the problem in a systematic, comprehensive and sustained manner; minimum time, effort and resources being devoted to the problem; inadequate attention to investigating patterns, causes and consequences of violence; where cases are reported, few perpetrators are prosecuted, and even fewer convicted; and sanctions often do not reflect the seriousness of the crime perpetrated. Also, there continues to be a lack of response to addressing individual, institutional and structural factors, including inequality and multiple and intersecting forms of discrimination.

#### 4. Conclusion

The principles of equality, non-discrimination and good faith in international law, inform and nurture State responsibility for observing the normative framework through which obligations and accountability emanate. In this context, States must take positive steps to effectively meet their responsibility to respect, protect and fulfil human rights obligations. The adoption of a United Nations binding international instrument on violence against women and girls, with its own universal monitoring body, would ensure that States are held accountable to standards that are legally binding; it would provide a clear normative framework for the protection of women and girls globally; and it would have a specific monitoring body to substantively provide in-depth analysis of both general and country-level developments. With a legally binding instrument a protective, preventive and educative framework would be established that reaffirms the commitment of the international community to its articulation that women's rights are human rights, and that violence against women is a pervasive and widespread human rights violation, in and of itself.

As highlighted in the May 2012 Report of the UN System Task Team on the Post-2015 UN Development Agenda, inequalities, including gender discrimination and gender-based violence, need to be one of the top priorities of concern for the post-2015 agenda.<sup>46</sup>

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<sup>46</sup> UN Task Team on the Post-2015 UN Development Agenda 'Realizing the Future We Want for All: Report to the Secretary General' (June 2012) available at [www.un.org/en/development/desa/policy/untaskteam\\_undf/untt\\_report.pdf](http://www.un.org/en/development/desa/policy/untaskteam_undf/untt_report.pdf), accessed 26 April 2017 paras 60-62 and 91.