

Researching livelihoods and
services affected by conflict

Getting the balance right?

Sexual violence response in the
Democratic Republic of Congo
A comparison between
2011 and 2014

Report 9 – a joint SLRC-JSRP publication
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About us



The **Secure Livelihoods Research Consortium (SLRC)** aims to generate a stronger evidence base on how people make a living, educate their children, deal with illness and access other basic services in conflict-affected situations (CAS). Providing better access to basic services, social protection and support to livelihoods matters for the human welfare of people affected by conflict, the achievement of development targets such as the Sustainable Development Goals (SDGs) and international efforts at peace- and state-building.

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- Livelihood trajectories and economic activity under conflict

The Overseas Development Institute (ODI) is the lead organisation. SLRC partners include the Centre for Poverty Analysis (CEPA) in Sri Lanka, Feinstein International Center (FIC, Tufts University), the Afghanistan Research and Evaluation Unit (AREU), the Sustainable Development Policy Institute (SDPI) in Pakistan, Disaster Studies of Wageningen University (WUR) in the Netherlands, the Nepal Centre for Contemporary Research (NCCR), and the Food and Agriculture Organization (FAO).

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Public mutuality: the discourse and exercise of public life based upon norms and rules that exemplify the values of respect for persons.

The London School of Economics and Political Science is the lead partner, working with the Conflict Research Group at Ghent University, the Social Science Research Council, the World Peace Foundation, the South-Eastern European Research Network, Justice Africa, and the VJ Movement.

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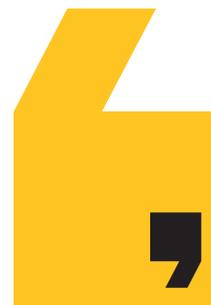
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Acronyms

ABA	American Bar Association	M23	<i>Mouvement du 23 Mars</i>
ADF	<i>Allied Democratic Forces</i>	MDTF	Multi-Donor Trust Fund
ASF	<i>Avocats Sans Frontières</i>	MONUSCO	<i>Mission de Nations Unies au Congo</i>
CA	<i>Cour d'Appel</i>	MSF	<i>Médecins Sans Frontières</i>
CAMPS	<i>Centre d'Assistance Médico Psychosociale</i>	NGO	Non-governmental organisation
CM	<i>Cour Militaire</i>	PARECO	<i>Patriotes Résistants Congolais</i>
CNDP	<i>Congrès National pour la Défense du Peuple</i>	PARJ-E	<i>Programme d'Appui en Renforcement de la Justice à l'Est</i>
COOPI	<i>Cooperazione Internazionale</i>	PEP-kit	Post-exposure prophylaxis
CPLVS	<i>Comité Provincial de la Lutte Contre les Violences Sexuelles</i>	PELVS	<i>Police d'Enfance et la Lutte contre les Violences Sexuelles</i>
DDR	Disarmament, Demobilisation and Reintegration	PG	<i>Parquet Général</i>
DFID	Department for International Development	PGI	<i>Parquet de Grande Instance</i>
DFJ	<i>Dynamique des Femmes Juristes</i>	PMU	Pentecostal Mission Unlimited
DRC	Democratic Republic of Congo	PNC	<i>Police Nationale Congolaise</i>
ECHO	European Commission's Humanitarian Aid Department	REJUSCO	Restoration of the Judicial System in Eastern Congo
EU	European Union	RFDP	<i>Réseau de Femmes pour le Développement et la Paix</i>
FARDC	<i>Forces Armées de la République Démocratique du Congo</i>	RNE	Royal Netherlands Embassy
FDLR	<i>Forces Démocratiques de Libération du Rwanda</i>	SCIAF	Scottish Catholic International Aid Fund
GIZ	<i>Gesellschaft für Internationale Zusammenarbeit</i>	SFVS	<i>Synergie des Femmes Contre les Violences Sexuelles</i>
HIV	Human Immunodeficiency Virus	SGBV	Sexual and gender-based violence
ICC	International Criminal Court	SIDA	Swedish International Development Cooperation Agency
ICRC	International Committee of the Red Cross	SRFF	Stabilisation and Recovery Funding Facility
IFEDI	<i>Initiative des Femmes pour le Développement Intégré</i>	STAREC	Stabilisation Strategy for Eastern Congo
IMA	Inter-Church Medical Assistance	TGI	<i>Tribunal de Grande Instance</i>
IMC	International Medical Corps	TMG	<i>Tribunal Militaire de Grande Instance</i>
INGO	International non-governmental organisation	UNDP	United Nations Development Programme
IRC	International Rescue Committee	UNFPA	United Nations Population Fund
ISSSS	International Security and Stabilisation Support Strategy	UNHCR	Office of the United Nations High Commissioner for Refugees
JHRO	Joint Human Rights Office of MONUSCO	UNICEF	United Nations Children's Fund
		UNOPS	United Nations Office for Project Services
		UNSCR	United Nations Security Council Resolution

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Executive summary

The Democratic Republic of Congo (DRC) is known internationally for its vast mineral resources, its wars and the conflict-related sexual violence that has affected the lives of a very large number of victims. With growing awareness on the phenomena, the number of programmes addressing sexual violence in DRC has grown, with remarkable achievements in diminishing taboos, helping victims in healing, and criminalising and prosecuting perpetrators.

However, over the past five years questions have emerged about the effects and effectiveness of sexual violence response programmes. This motivated research that the authors of this report conducted in 2011. The research revealed a number of negative effects related to the complexity of the problem, the political, social and cultural context in DRC, and false assumptions and biases in the interventions. Based on our findings, we argued that sexual violence in DRC was often understood as a single-cause, single-type phenomenon (rape caused by conflict), without taking the complex context into consideration. We also noted that programmes too often dealt with symptoms rather than contributing factors, and failed to include broader themes and wider community needs. This risked creating false victims and parallel services. Furthermore, coordination was poor and sexual violence assistance was largely detached from overall development planning. Finally, the interventions in the justice sector failed to ensure the independent functioning of Congolese legal actors and often created unfair trials.

In 2011 most of these critiques had already been identified by Congolese stakeholders and some international actors, but they had not yet been openly debated. As this was expected to change, this follow-up research was conducted in 2014 to identify what happened to the sexual violence response three years later, addressing the following questions:

- How has the engagement of responding actors and their approaches to sexual violence in eastern DRC evolved since 2011?
- How have practices of sexual violence assistance evolved in eastern DRC?
- What are the social effects of increased legal action against sexual violence in urban areas of eastern DRC?
- How can sexual violence assistance programmes be improved?

Methodology of the research and report structure

In May 2014, 49 semi-structured interviews were conducted with representatives of organisations responding to sexual violence (UN, international NGOs, Congolese NGOs), political actors, legal professionals and donor structures. There were also 10 focus groups with 57 respondents, some in rural areas with a high density of NGO programmes, as well as with urban respondents largely removed from NGO activity. Recent publications (from 2011 to mid-2014) were analysed by an intern from the University of Amsterdam. Funds available for sexual violence were also reviewed. Finally, 46 legal files of sexual violence cases in five different civil and military jurisdictions at first degree and appeal level in South Kivu were studied. There was also follow-up on 18 out of the 40 files examined in 2011. All of the data have been coded and analysed through the use of N-vivo.

Background to sexual and gender-based violence in Congo

The narrative of sexual violence in DRC has been reductionist in nature, mainly addressing rape and focusing on its relation with conflict (the ‘rape as a weapon of war’ discourse). Conflict-related sexual violence in DRC is indeed real and the presence of a large number of rebel groups in the Kivus, along with increasingly decentralised recurring armed conflict, continues to claim new victims. Several scholars, however, have found that sexual violence is much less organised than the ‘weapon’ discourse evokes, and

that this discourse obscures understanding of sexual violence. Also, a single focus on conflict-related sexual violence normalises other forms of violence, including other forms of sexual violence. And the emphasis on female victimhood means that male victims do not get recognised.

Owing in part to civil society lobbying, DRC now has a comprehensive legal framework on gender and sexual violence (including ratification of important international conventions). However, customary practice continues to box women in a secondary position, whether it concerns the institutional domain (women's leadership) or socio-economic participation. Norms around masculinity, in part influenced by warfare and its consequences, further shape practices of sexual 'access' to women. Yet, it must be recognised that the realities of non-conflict sexual violence in DRC may not be so different from those in other countries that score higher on the social development index and are not affected by conflict.

Engagement and approaches of actors responding to sexual violence

Intervening actors: The 2011 report noted that there were hundreds of organisations working on sexual violence, both at the international and community level. In 2014 their number had not diminished, but the volume of activities had gone down. This is part of a wider trend of reduced funding for Congolese NGOs. As in 2011, intervention strategies were still mainly guided by the 2009 national strategy and orientation provided by the thematically organised working-group system of UN agencies.

Coordination: The previous report criticised organisations for victim appropriation and duplication of efforts. Efforts to coordinate sexual violence assistance and referencing of victims had greatly improved since 2011. The Ministry of Gender has taken greater ownership in guiding coordination, stimulating alignment of the UN working groups with provincial coordination structures. Several respondents were satisfied with improved coordination of medical assistance, with the Ministry of Health cited as a strong partner. What stood out was the lack of engagement with parliamentary representatives, who claimed to have an interest in collaborating with NGOs but felt left out of discussions. Their attachment to geographical constituencies and the realities on the ground would make them an interesting partner to engage with.

Prevalence: The 2011 report found there was a preoccupation with reporting on the scale of the problem through statistics. However, data collection and analysis was problematic, including problems with extrapolation to the wider context, overlapping datasets, false reports of cases, and perverse incentives to report cases. Media headlines further contributed to reductionist information. The report concluded that statistics should be used with the utmost care, complemented with qualitative and contextualised information to avoid distortion and encourage transparency. This conclusion continued to be valid in 2014. Improvements had, however, been noted since a specific working group on data gathering and analysis was initiated in 2012, spearheaded by the UN Population Fund (UNFPA). No major change in the number of sexual violence cases reported was observed.

Changing views and approaches: Over the past few years, international policy attention on sexual violence has remained high, as a 2013 G8 declaration, new UN resolutions, and an international summit on sexual violence in London showed. The International Criminal Court (ICC) has also intensified its prosecution of Congolese warlords. Attention to sexual violence in DRC continued to relay the rape as a weapon of war discourse. A significant number of international NGOs also presented a similar discourse on their websites, even though actual programming was less geared to conflict-related violence than in 2011.

Organisations increasingly emphasised sexual violence committed by civilians, impunity, women's empowerment as a means to reduce vulnerability, and the need to target men as allies in fighting sexual violence and changing social norms. Organisations have incorporated broader gender notions, moved to address gender-based violence in geographical areas that are currently more peaceful, and tried to embed sexual violence responses in other programming.

Funding for sexual violence: Based on data from the major Multi Donor Trust Funds, there was a clear decrease in funding available to DRC over the 2012-2013 period as compared to 2010-2011. Trust funds on peacebuilding and security sector reform have been reduced, adding further evidence to the finding that attention to the conflict-related causes of sexual violence have diminished. The Stabilisation and Recovery Funding Facility (SRFF) on sexual violence had a same proportion of the total as before. Other large programmes on sexual violence represented a budget of \$124 million between 2009 and 2015. As there was an increasing tendency to

incorporate sexual violence assistance in other domains (for example, health), actual available funds may continue without being earmarked as such. The Congolese state budget on gender (and its actual disbursement) had increased in comparison to 2011, yet continued to be marginal compared to international engagement.

The 2014 research found an evolution in understanding sexual violence and increasing embeddedness in broader gender and health approaches. This has had many positive effects, yet also created some new problems. In particular, it has complicated monitoring on the effects of programming on the prevalence of sexual violence. In addition, it has increased the gap between international policy representation of the issue (still emphasising the weapon of war component) and realities of programme implementation on the ground.

Sexual violence response

Immediate response to rape in conflict settings:

While there was activity to follow up emergency cases, the issue of under-servicing these cases was generally acknowledged, for example in the case of the Beni area where Allied Democratic Forces-Nalu (ADF-Nalu) were abusing victims at the time of research. This confirmed findings from 2011 that sexual violence programming has been much more focused on reachable areas, relatively close to the provincial capitals, with an increased focus on community/civilian forms of sexual violence to the extent that conflict-related sexual violence may be neglected.

Medical response: With regard to medical response, four major findings stood out in 2014. Firstly, there was increased effort (especially by the specialised hospitals Panzi and Heal Africa) to introduce one-stop centres with all facilities related to sexual violence collected under one roof. Many respondents feared that this would reinforce the creation of parallel structures and leave other health issues unaddressed. Secondly, an opposite trend among some donors was to strengthen the capacities of regular health services in order to mainstream care for sexual violence. This generated discussion about the extent of free medical services for violated women. Thirdly, the 2011 report raised attention to the fact that only around 3% of fistulas operated on by Panzi and Heal Africa have been directly caused by sexual violence, while international funding and media categorised nearly all fistulas as caused by rape. Even though more recognition of this issue could be observed in the current report, there remained a lack of attention and means for the main cause of fistula: childbirth in dire conditions or by

very young women. Fourthly, in past years there was a high level of distribution of post-exposure prophylaxis (PEP) kits (against HIV contamination) for women affected by sexual violence. This over-supply created misuse (selling parts of the content), but recent improvements in coordination of the PEP-kit distribution under auspices of the Ministry of Health had improved this situation.

Psycho-social assistance: Statistics claimed that more than 90% of victims received psycho-social assistance, yet this was considered by many respondents the weakest sector. In many cases this may have been limited to a single session. Much assistance in 2014 was still taking shape through listening projects (*maison d'écoute*). Specialised care, for example to deal with post-traumatic stress syndrome, remained largely absent.

Socio-economic reintegration: This type of service targeted very few women and was mostly shaped through the provision of some material incentive, such as a small monetary incentives or food items, on top of medical care. The trend had shifted to '*autonomisation*' (self-reliance), with attention on saving and credit initiatives, as well as micro-business development at community level, rather than focusing on individual beneficiaries.

Capacity development for prevention: A large variety of awareness raising and training for institutions, women and communities on topics related to sexual violence (assistance) has been organised. A lack of coordination, however, led to duplication. The duration and quality of trainers was contested, especially by professional target groups.

Aid effectiveness and appropriateness: The 2014 findings confirmed a trend identified in 2011 that people inside and especially outside of NGOs shared a frustration over the lack of results from the many millions of dollars invested in sexual violence assistance and other domains of aid. The special attention to sexual violence has fed frustration about other development needs not being covered, or other serious crimes not being addressed. This caused some people to form negative opinions about action against sexual violence.

Legal action against sexual violence

Progress in legal action against sexual violence was observed in the 2014 research as more cases came before justice and the quality of proceedings improved. However, the Congolese justice system continued to be characterised by high levels of corruption and weak

investigation capacities. High-ranking officers and resourceful civilians continued to escape justice or prison and victims did not receive compensation.

The Minova trial had become a case in point. The mass rape committed by the Congolese army was tried by a military court but led only to few convictions of lower-ranked personnel. Whereas this could be blamed partly on assumptions that all suspects were guilty, it appeared that problems had mainly occurred in the pre-judicial phase with a poor level of investigation and evidence.

Types of legal support: Legal assistance was in a large majority of cases limited to providing basic advice on legal rights. Only rarely did it concern actual legal accompaniment of victims. Added to the impunity challenges addressed above, actual court cases on sexual violence were low in number. A number of projects were intended to strengthen the presence and functioning of legal institutions, especially in rural areas. A lot of support continued to be channelled to the organisation of mobile courts (where jurisdiction travels to rural areas for trial). The 2011 report observed perverse effects of these mobile courts for the independence of jurisdiction (pressure to convict, payments made to legal staff, cases selected by NGOs rather than the court) and the potential unfairness of trials (no defence for the suspects, short duration affecting the quality of proceedings). In 2014 significant improvements were noted, with the initiative for mobile courts largely restored to legal institutions, motivation payments harmonised, and the accused's right to a defence more effectively assured.

Sexual violence against minors: In 2014 there appeared to be a growing trend of sexual violence cases being reported in which one or both parties were adolescents of minor age. These were referred to as '*cas de copinage*' (boyfriend-girlfriend). The North Kivu prosecutor estimated these represented 90% of all cases reported to police, especially in urban settings. Such cases posed a dilemma. On the one hand the law defines (any attempt to have) sex with a minor as a crime that should be prosecuted. On the other hand, certain legal practitioners called for greater liberty in dealing with this type of case.

Comparative analysis of sexual violence cases: 46 recent court cases on sexual violence from five jurisdictions in South Kivu were examined (two first-degree civil tribunals, a military tribunal, the civil appeal court, and the military high court). They represented cases registered and dealt with between 2012 and

2013 where the files were physically present (many more cases were registered but files had disappeared). The investigators were refused access to pre-judicial files (prosecutor level). In addition, 18 cases that resulted in 2011 in conviction were re-analysed.

As in 2011, all but two cases concerned rape as other types of sexual violence are hardly filed. The age of the victim and relationship between the parties seemed to confirm that at least a quarter of the cases concerned *copinage*. No improvement was noted with regard to the respect of legal timeframe, as nearly all cases vastly surpassed the three-month limit fixed for sexual violence. With regard to evidence present in files, a general improvement was noted – especially concerning the presence of medical reports (absent in 41% of the cases in 2014, as compared to 75% in 2011). The percentage of convictions increased from 60% to 80%. As in 2011, motivations for acquittal were relatively well developed, but in 2014 the quality of motivations for conviction had significantly improved. The type of penalties remained the same (and are quite severe) and compensation payments continued not to be made. Even though the overall quality of proceedings improved, progress was mainly noted for the appeal courts and to a lesser degree the military tribunal. For the civil tribunal, only one in eight judgements was deemed to have sufficient grounds for the conclusion reached.

As for the 18 cases that resulted in conviction in 2011, four out of the five convicts whose term officially ended in the meantime were still in prison by 2014. On average, they served two years beyond their initial penalty, which constituted a clear violation of their rights. None of the 12 eligible cases received conditional liberty. None of the 14 cases convicted to a compensation payment actually paid the victim. In spite of a general belief that sexual violence convicts escape en masse, of the 13 convicts whose term had not yet finished by 2014, only one was no longer in prison. The sample only concerned poor men and low-ranking military personnel, confirming claims that influential perpetrators never make it before justice.

Social practices around legal cases on sexual violence: The 2011 report found evidence of people framing disputes or failed consensual relations as rape, in order to take revenge or gain material benefit. In 2014, more traces were found of such practices, for example in the many cases of *copinage*. Rumours about policy involvement in framing rape cases for purposes of extortion had swelled between 2011 and 2014. A focus group of Bukavu youths reported wariness to engage in

love relationships out of fear of being accused. Cases of abuse and fake police-cases over sexual violence claims increase the risk ordinary that citizens stop seeing sexual violence as a serious problem.

Conclusion

The response to sexual violence in eastern DRC peaked around 2012, but since then a reduction has set in. In 2011, many perverse effects were observed, as it invited misuse of funds at all levels of society. One of the questions informing this report was how this would continue? Would the negative effects become more dominant? Or could this hype usher in more serious attention to gender issues in DRC?

We find that attention to sexual violence has indeed become more regulated and coordination has improved, including with regard to the engagement of the Congolese government. The approaches of actors dealing with sexual violence have changed. There has been more attention for other forms of gender-based violence, women's empowerment and leadership. Victim-oriented support has largely transformed into community-based responses. There is also more recognition of other medical needs.

However, the discrepancy between international rhetoric and realities on the ground is large, with international representations still focusing on the conflict-related rape. This is problematic from an ethical point of view, comes at the expense of transparency, and makes it difficult to scrutinise programmes for their effectiveness.

The gap between the discourse and practice of sexual violence response has been widened. A major concern remains that the fight against impunity has found a way in the political economy of survival and corruption, especially in the cities, where accusations of sexual violence are often used for revenge or extortion. Citizen disengagement with the issue of sexual violence has become stronger as a result.

Recommendations

On the basis of this report, the following recommendations are made:

- **Be more transparent about sexual violence response:** International agencies should review the conflict-related sexual violence discourse to match it better to local realities of violence and their programmes to end violence, including more precise theories of change.
- **Develop a comprehensive policy on sexual violence response:** The government, together with the UN, should develop a clear strategy on sexual violence response and clarify how the creation of parallel services through one-stop approaches relate to policy perspectives of the health system, including free service provision.
- **Be more transparent on fistula operations:** Notwithstanding the enormous benefits of specialised hospitals, it is important to become more transparent about fistula causes which should lead to more attention to reproductive health care.
- **Review sectoral sexual violence response:** In light of substantial turnaround of public funds and private donations for sexual violence, concerns ought to be externally and transparently evaluated, throughout the sector. Topics that stand out are: the methods and effectiveness of psycho-social response; the practices and effectiveness of training facilities; the coverage and effectiveness of response in armed encounters/rebel attacks; and attention to male victims of sexual violence.
- **Continue capacity development of the medical and legal sector:** Despite improvements in medical and legal response, capacity development of these sectors is of paramount importance (e.g. pre-judicial investigative capacities, respect for the rights of suspects). This is a much broader concern than sexual violence alone and should also address the health sector.
- **Have an honest discussion on the social effects of the fight against impunity:** Thanks to the attention to fighting impunity, many cases are brought to court that in fact concern cases of *copinage* (consensual relations). The question is whether this is desirable. The exclusively legal approach to sexual violence should at least be accompanied by more educational approaches on contraceptives and reproductive rights.

1 Introduction



The Democratic Republic of Congo (DRC) is known for its vast mineral resources, its wars and its conflict-related sexual violence. During the wars of the 1990s, large numbers of women were subjected to violent forms of rape and sexual mutilation. The victims' lives were often destroyed: they suffered physically and mentally and risked social rejection by their families and communities. Terms like 'endemic', 'sexual terrorism', and 'the war within the war' have been used to describe these acts.¹ In later years, in addition to sexual violence committed by non-Congolese armed groups, sexual abuse by the Congolese army or rebel groups appeared to increase and, more recently, rape-crimes by civilians have said to be increased. Sexual violence continues to have a high prevalence in the country.

Especially since the 2002-2003 peace agreements, a large and growing number of programmes have been implemented to end sexual violence in DRC and provide services to the victims. In an unprecedented way, the international community, civilian forces and the Congolese government and judiciary have pushed an agenda to fight impunity, provide service to victims and create consciousness in society that women who have suffered abuse deserve justice rather than stigmatisation. The concerted efforts of these different actors have led to numerous medical programmes, court cases, and education activities despite a context of insecurity and an institutional landscape that is considered among the weakest in the world, in a country scoring extremely poorly on the human development index.

Despite the remarkable achievements, over the course of years, people in DRC and staff engaged in sexual violence programmes have raised a number of questions about the practices that had evolved to combat sexual violence. These questions concerned the way the issue was framed, the focus of the programmes, and forms of abuse of these programmes on all levels. It was often heard that sexual violence had become a '*fond de commerce*' (business). This expression became the name of the report we wrote in 2012 on the responses to sexual violence (Douma and Hilhorst, 2012).² The report, based on the 2011 research, revealed a number of negative side-effects of programmes against sexual violence that were related to the complexity of the problem, the political, social and cultural context in DRC, and false assumptions and biases

1 RFDA, 2005 quoted in Bastick *et al* (2007, p.41).

2 For the 2011 research 58 key informants were interviewed from UN agencies, (inter)national NGOs, state actors and representatives of the legal system. In addition 40 legal cases of sexual violence were analysed from six jurisdictions in South Kivu.

in the interventions. It argued that responses should be based on the broader socio-cultural dimensions of sexual violence in DRC, should be better coordinated, and better connect to long-term development approaches to address root causes of sexual violence. The main recommendation was that the aid sector would perform a rigorous review of its sexual violence response.

This report concerns follow-up research on the responses to sexual violence in DRC. The fieldwork was done in 2014, three years after the previous research, because we wanted to follow what happened to sexual violence response (and the sectoral evaluation we recommended has not yet happened). The problems revealed in our previous report were mainly voiced by staff members of relevant organisations and surrounding actors. The fact that the problems had already been identified (although rarely addressed in public) made us confident that there were changes underway, and this follow-up research provided an opportunity to see how the response had evolved over three years. Special attention has been paid to the effects of legal action, which was especially problematic in the previous research. This report aims to identify recent trends in sexual violence response and its societal effects, and addresses the following questions:

- How has the engagement of responding actors and their approaches to sexual violence in eastern DRC evolved since 2011?
- How have practices of sexual violence assistance evolved in eastern DRC?
- What are the social effects of increased legal action against sexual violence in urban areas of eastern DRC?
- How can sexual violence assistance programmes be improved?

The scope of this report is limited to DRC. Many of the issues discussed in this report may equally apply elsewhere, but a systematic comparative analysis was outside of the scope of the research. The report will be particularly relevant to other conflict-affected areas with a high prevalence of sexual violence and sexual violence programming. At the same time, it is important to emphasise that there is a wide body of literature not reviewed here that shows that problems with sexual violence and justice are not limited to conflict-affected countries that score low on the human development index.

This research is partly motivated by the importance we attach to the opinions of Congolese people with regard to issues of sexual violence and the responses it triggers. This rests on the idea that success in combatting sexual

violence will ultimately depend on the willingness of people within DRC to address the issue. Apart from Congolese respondents in international and national agencies, we have conducted a number of focus group discussions in communities in and around Bukavu (South Kivu) and Goma (North Kivu).

Before reviewing the issues of sexual violence in DRC, gender relations and the security situation, this section first summarises our previous report.

1.1 Summary of the Fond de Commerce report

Between September and December 2011, the authors of this report conducted research to understand how actors in the field of sexual violence assistance interpret the problem and define intervention strategies, and how these programmes trigger certain unintended outcomes and adverse societal responses. While the high prevalence of sexual violence in DRC and the need to eradicate it stood unquestioned, the research was initiated in response to growing discomfort about the side effects of programmes against sexual violence.

The research addressed:

- The framing of sexual violence in DRC.
- The ways the understanding of violence was translated into programmes.
- The accumulated and unintended effects of medical, social and economic assistance to victims of sexual violence.
- The accumulated and unintended effects of legal assistance to victims of sexual violence.

The report was based on a document review, 58 interviews and the study of 40 legal case files. The interviews were held in South and North Kivu and the legal cases were examined from courts in North Kivu. We focused on these two provinces because of the concentration of assistance programmes there. The research concerned the *ensemble* of interventions, not specific programmes. Main findings included:

- **Conflict-related sexual violence:** Sexual violence was in DRC mostly seen and represented by international media as extremely brutal, conflict-related rape. This led to large numbers of international agencies addressing sexual violence in DRC. They failed to acknowledge that war-related sexual violence also affects men, and male victims were rarely assisted. Political and military structures and practices that (in part related to the legacy of the war) were among the

causal problems of sexual violence, yet preventive actions such as the reform of armed forces, however, received little attention.

- **Non-conflict sexual violence:** The conflict-related interpretation of sexual violence in DRC was narrow and failed to recognise that sexual violence was mainly happening among civilians.
- **The use of statistics:** There were many problems with data gathering and analysis. There was a general assumption that the taboo on sexual violence led to under-reporting, yet we also found many factors leading to inflated statistics. These included deliberate exaggeration for fund-raising, double counts of victims receiving assistance from multiple sources, medical treatment of non-victims in need of care, women falsely posing as victims and multiple registrations by beneficiaries of programmes. Data were often not specific on types of sexual violence, localities of data collection, and the timeframe of reported offenses. The unwarranted extrapolation of data and one-liner media representations reinforced the stereotypical notion of war-related brutal rape. The subsequent representations of the DRC as the 'rape capital of the world' undermined the constituency of Congolese actors working to combat sexual violence.
- **Actors and budgets:** The large budgets available for combating sexual violence had led to a multiplication of organisations on the ground that were not sufficiently coordinated or monitored. Initiatives ranged from the sincere and professional to "gold-diggers" using human suffering to obtain funds. International funds completely overwhelmed government resources for addressing sexual violence, contributing to a notion that the attention to sexual violence was imposed and managed by international actors.
- **Budgets and approaches:** Analysis of sexual violence budgets revealed that these were highly directed to curative assistance to victims of violence. Much less attention was given to addressing gender relations and cultural practices at the community level, strengthening women's positions and fostering women's leadership, and addressing continuing problems in the domain of security, peacebuilding and justice. The budgets available to sexual violence under Multi-Donor Trust Funds (MDTFs) were high compared to, for example, budgets for general health programmes, education and security sector reform.
- **The type of assistance:** Most projects claimed to adopt a holistic approach to assistance, seeking to combine medical, psycho-social, economic and legal assistance to victims. However, the programmes displayed humanitarian-style short durations and an emphasis on assisting individual victims. This was seen to hinder more preventive, socio-cultural and community-based interventions. Targeting programmes on victims of sexual violence was especially problematic in medical care, where sexual violence programmes in practice compensated for the lack of reproductive health facilities. The two most renowned hospitals for the treatment of fistulas estimated that only a few cases were the result of rape, while the others resulted from complications in childbirth.³
- **Awareness raising:** These programmes highlighted messages that sexual violence is not tolerated and would be punished, and that victims are never to be blamed. This was complicated in the case of the many acts considered sexual violence according to the law but not in customary practice. Importantly, it led to cases where disputes resulting from consensual relations were transformed into fabricated accusations of sexual violence.
- **Beneficiary identification:** The emphasis on numbers in project management had created a situation where beneficiaries were 'appropriated' by organisations to justify activities and expenditures. Beneficiary identification usually prioritised accessible areas, which became 'assistance-hubs' at the expense of under-served localities. A situation evolved where services were reserved for victims of sexual violence, leading to widespread false reporting when all beneficiaries were counted as victims. International agencies maintained that programmes were 'abuse-proof' because the stigma attached to rape would inhibit the presentation of fake cases. None of the Congolese respondents supported this view. They maintained that women in dire need of medical or socio-economic assistance would pretend to be a victim of sexual violence.
- **Governance and the legal system:** The impunity of sexual violence, associated with imperfections in the legal system and corruption in relation to arrest and prosecution, had led to many initiatives to bring rape suspects to court. However, the response mechanisms continued to be governed by the same Congolese justice system. Justice continued to be complicated to achieve and seemed to lead to new biases towards convicting suspects of sexual violence

3 Heal Africa reported that 3% resulted from rape. Panzi Hospital reported only one out of 350 cases of 2010.

that were vulnerable in terms of their age, socio-economic position and – in the case of military – low ranks. The 19 convictions from 40 cases that were reviewed all lacked crucial evidence. None of the files contained evidence of medical examinations. Our legal experts considered 50% of the convictions ungrounded from a legal procedure perspective.

- **Legal support by NGOs and the judicial treatment of sexual violence cases:** NGO support to the justice sector took shape through training, programmes to improve working conditions, accompanying rape cases and financially supporting the organisation of public hearings (*chambre foraine*). While the culture of impunity was changing, it resulted in a system that was biased towards producing rape convictions, with the rights of suspects severely breached. Judicial actors felt pressured by the zero-tolerance policy of the government, NGO advocacy and public opinion to convict suspects. As a result, they disregarded actual evidence, especially when NGOs were paying for the mobile court hearings and selecting the cases to be heard.

The different processes that we observed were strongly inter-related and set into motion a negative spiral, whereby sexual violence evoked responses that were prone to abuse by organisations and misuse by victims (and non-victims). This in turn led to exaggerated figures that added to the statistics evoking a further response. This had several consequences. Importantly, it eroded the Congolese constituency for combating sexual violence. It directed the attention away from the socio-cultural gender relations in which much sexual violence is rooted. It led to cynicism with the result that real victims of sexual violence were no longer heard. It led to biased problem statements, policies and programmes that failed to address the domestic character of sexual violence, the lack of reproductive health, the prevention of teenage pregnancies, the malfunctioning of justice and the dire poverty underlying requests for assistance.

The report recommended that:

- sexual violence had to be understood in context, and not be limited to a single cause–single type phenomenon (rape caused by the conflict)
- assistance programmes needed stronger embedding in longer-term development approaches addressing development, security and gender relations
- the mandate of sexual violence assistance should be made more inclusive of broader themes and target groups to avoid would-be victims and parallel services

- interventions in the justice sector needed to ensure the independent functioning of Congolese legal actors and should guarantee fair and equal procedures for all parties involved
- coordination of sexual violence programmes needed to be improved and made more integral to overall development planning.

1.2 Sexual and gender-based violence in DRC

The significance of this research has been underpinned by several recent publications.

In an influential article in *African Affairs* in 2012, Séverine Autesserre demonstrated how the complexity of conflicts in DRC has been reduced to three interdependent narratives: that the cause of violence is the illegal exploitation of mineral resources, the main consequence is sexual abuse of women and girls, and the central solution the extension of state authority (Autesserre, 2012). As a result, she argues, well-meaning international interventions have perverse effects. The paper states:

Rape is the main theme of countless media reports on the Congo. According to an insider, since 2009, there has been no interest in the DRC at the United Nations (UN) Security Council except when it discussed incidents of mass rapes and potential responses to them. Similarly, United States State Department top officials reportedly pay no attention to the DRC except when sexual violence grabs the headlines. As a result, visiting a hospital treating victims of sexual abuse (notably the Panzi hospital in Bukavu or Heal Africa in Goma) seems to have become an obligatory stop during diplomatic visits to the eastern Congo, to the point that aid workers on the ground find it appalling. (2012: 214)

She also notes that ‘sexual violence is such a buzzword that many foreign and Congolese organisations insert references to it in all kinds of project proposals to increase their chances of obtaining funding.’ (ibid) While the international focus has brought about assistance, it also led to unintentionally counterproductive results. The article points to the neglect of other-than-sexual-violence victims as well as male victims, who are estimated to constitute 4-10% of rape victims. The paper analyses the narrative of sexual violence in the context of a broader reductionist story on DRC, yet does not analyse specific response programmes.

The issue of male victims has been highlighted in recent

years, particularly through the work of the Refugee Law Project in Uganda and DRC. United Nations Security Council Resolution (UNSCR) 1325 marked international recognition of the effects of war on women with special attention to sexual violence, but was silent on the subject of male victims.⁴ Only 13 years later, a subsequent UNSCR on sexual violence recognised (in a few words) that sexual violence also affects men and boys (Dolan, 2014). Male victims of sexual violence experience additional problems compared to women because their problems are not easily recognised. Few dare to speak out, out of shame or fear, and their abuse is associated with homosexuality which is illegal or unacceptable in many countries. Despite the overwhelming attention to sexual violence in DRC, the number of programmes directed at male victims is very small. Because the respondents in our study usually worked on sexual response programmes aimed exclusively at women, the issue of male victims of sexual violence is unfortunately also hardly addressed in this report.

The issue of sexual violence in DRC was raised in relation to the series of wars that started in 1996, and over the course of the early 2000s it became clear that it affected large number of women. A study conducted by Peterman and others alarmingly estimated that 1.8 million women had been raped in DRC (Peterman *et al.*, 2011). The numbers provided by that report have been contested,⁵ yet they continue to be widely cited and contributed to the notion of DRC as the rape capital of the world. Sexual violence in DRC was soon framed in the discourse of ‘rape as a weapon of war’, which came about in relation to ethnic cleansing through rape during the war in the former republic of Yugoslavia (1992-1995). The phrase is now broadly used to refer to sexual violence committed against women in a context of war (Kleppe Bolseth, 2013: 32-33).⁶

The ‘rape as a weapon of war’ line was very powerful in generating international policy attention for sexual violence, yet has in some respects also become a misleading statement for guiding policy. Ojlic pointed out how sexual violence in former Yugoslavia could be used to terrorise women precisely because of the concepts of ‘honor, shame and sexuality that are attached to women’s bodies in peacetime’ (Ojlic, 1998: 31-32). Eriksson-Baaz and Stern found that sexual violence is much less

organised than the discourse of a ‘weapon’ evokes, and that the discourse obscures a good understanding of sexual violence. Cohen *et al.* argue that the rape as a weapon of war discourse is generally guided by a number of misconceptions (Cohen *et al.*, 2013). These include that victims are always female and perpetrators male, that rape is ubiquitous in war, that it is an African problem, that it is more common among rebel groups than the state army, and that high prevalence indicates it is a strategy of war. One of the effects of the ‘weapon of war’ line is that it has a single focus on the causal effects of war, and normalises other forms of violence, including other forms of sexual violence (Eriksson-Baaz and Stern, 2013). It precludes attention to sexual violence committed by state authorities in peacetime, as part of interrogations and torture (Freedom from Torture, 2014). It has also become clear in DRC that today’s sexual violence perpetrators are mainly civilians. While this can be partly attributed to secondary effects of war (for instance, when perpetrators are traumatised former combatants), sexual violence is also related to other issues, including factors related to gender relations in society. The relationship between these different factors and sexual violence has not been proven scientifically, but the point here is that the mono-causal explanation of sexual violence as stemming directly from the conflict is too narrow.

1.3 Gender in DRC

There are some recent reports on gender in DRC, but these usually rely on data that is several years old, sometimes dating back to 2006 (see Sida, 2009; Ministry of Gender, 2011). Although women have an important role as food providers in the family, they still have a low position in the political, social and economic sphere of DRC. The situation has deteriorated in the last two decades due to the war and the resulting displacement and gender-based violence.

DRC set up a first gender secretariat under Mobutu Sese Seko in the early 1980s, and ratified the Convention on the Elimination of all Forms of Discrimination against Women in 1985. DRC adopted several additional African and UN resolutions relating to women’s rights, including the influential UNSCR 1325. The broad international attention to sexual violence resulted in a law on sexual violence in 2006, even before the ratification of the new constitution of the DRC. Even though gender equality before the law is guaranteed in the constitution, many pieces of national law are pending for revision, including the family law that contains a number of clauses that turn women into second-rate citizens who, for example, can

4 For more information on UNSC resolutions referencing sexual violence see Dammers (2010).

5 The extrapolation was particularly contested, and in addition the report was often misread. The numbers included domestic violence and forced marital sex, whereas they were often cited as if they all constituted conflict-affected rape.

6 See www.ohchr.org/en/newsevents/pages/rapeweaponwar.aspx.

only obtain property with the permission of their husband. In 2009, a national strategy to combat sexual and gender-based violence was adopted taking into account a broad conception of violence, including violation of rights to inheritance and other issues.

Women's political representation has been marginal until recently. It is now a major point of attention of international and national NGO programmes to encourage and train women for political positions. In 2012, the senate adopted a policy which calls for a minimum of 30% representation of women in all institutions.⁷ In a cabinet reshuffle in South Kivu in 2013, seven women ministers were appointed, the most ever, and three female generals were appointed in the Armed Forces the same year.

Despite the equality of men and women before the law, many domains of life, including marriage, continue to be dominated by customary practice. The low level of women's education makes them more vulnerable to external life shocks. The costs of education are inhibitive and most families cannot afford to send all their children to school. They usually prioritise boys' education, guided by a gender expectation that grown-up women will be confined to the house and the fields. Strong disparities exist between women and men in the economic domain, expressed particularly in the control of and access to resources. Men formally own all the resources of the household. The National Gender Report of 2011 (p.95) provides statistical evidence of the lower level of women's revenue compared to men. More than half of all small and informal activities are performed by women. The level of control women have over their revenue differs between urban and rural areas. According to the same report (p.35), urban women principally take decisions themselves about the use of their income, whereas in rural areas these decisions are taken by the men. It has to be noted that there must be regional differences with regard to the position of women among different ethnic groups, yet gender relations in the country continue to be under-researched. As in many other African countries, Congolese women in rural areas are in charge of agricultural activities. Women also find employment in the mining areas. The importance of mining for the livelihoods of women is poorly understood, yet appears to be significant (Bashwira *et al.*, 2013).

The DRC has a high rate of early marriage of girls between the age of 15 and 19 years, mostly in rural areas, despite the legal age of marriage being 18. This gap between the gender norms laid down in the 2006 law and subsequent policies and the social norms regarding gender, especially with regard to the age of marriage, raises much confusion, especially among young people. Furthermore, unmarried women do not have the same status as married women, and the same accounts for women without children. Lack of children is also a legitimate cause for divorce, or for taking a second or a third wife in many ethnic groups in the DRC. While the law defines men forcing their spouses to have sex as rape, customary norms dictate that as part of the 'social contract' between spouses, where the man is expected to provide for the family, married women must always be available to their husbands. The 'right to sex to satisfy needs' is strongly interrelated with conflict-influenced constructs of heterosexual masculinity, whereby militarisation of society both alters and frustrates male identities (Eriksson-Baaz and Stern, 2009). The pervasive reality for most women and men in DRC is one of dire poverty. Years of conflict and weak governance, exacerbated by the prevalence of pests in agriculture, have strongly disabled livelihood activities. Urban populations have rapidly grown. For many women, especially in the urban areas, petit commerce (small trade) is not sufficient to feed the family, and they supplement their income through diverse forms of transactional sex. Transactional sex is a significant reality in the milieu of poor neighbourhood, trade, educational institutes, workplaces, and even religious institutions.⁸

There is often an implicit understanding among Congolese and international agencies that reduced conflict, reduced poverty and changing cultural practices (including increased female leadership) will also reduce sexual violence. This may not be the case, considering that there is no real evidence on such causalities. Sexual violence prevails in many contexts that are generally peaceful and less poor. Leaving aside the causality question, the issues of poverty, gender-based violence and cultural practices are high on the agenda of Congolese women's organisations.

Since the turn of the century, there has been a considerable degree of new formation of women's groups in rural areas and women's NGOs in the cities of eastern DRC. Today, many of these groups continue to work on sexual violence and they have substantially

⁷ The bill was passed by the Senate on 7 November 2012, but it is not yet enacted because the Supreme Court of Justice had found the law unconstitutional as it goes against gender equality.

⁸ Ongoing research into this topic is conducted by the Institut Supérieur de Développement Rural of Bukavu.

broadened their agenda to include women's leadership, gender-based violence and women's rights with regard to access to land and inheritance, and women's economic empowerment. Research into the women's movement in South Kivu found that this movement is vocal and active, but is hampered by a lack of recognition civil society more widely, which is partly related to its complete dependence on international funding and support (Hilhorst and Baswira, 2014).

1.4 The security situation and sexual violence

Since 2011, the factors forging gender-based and sexual violence in DRC have not changed much and sexual abuse continues to be widespread. While most of the sexual violence is inflicted by civilians, it continues to be related to insecurity. In particular, North and South Kivu have seen several outbreaks of (renewed) conflict, which involved sexual violence crimes committed against civilians by a number of rebel groups. In North Kivu violence is mostly concentrated in the territories of Masisi, Walikale, Rutshuru, Beni and parts of Lubero. In 2012, violence in Masisi territory (North Kivu), 'was worse than at any time since the 1990s, contributing to the displacement of up to half a million people in North Kivu' (IRIN News, 2013). Amongst these rebels are various *maï-maï* militias such as the *maï-maï* Cheka, Nyatura, Raïa Mutomboki, Kifuafua, and rebel groups such as the *Front de Défense du Congo*, the *Alliance des Patriotes pour un Congo Libre et Souverain*, the *Patriotes Résistants Congolais*, and the *Forces Démocratiques de Libération du Rwanda* (FDLR). In addition to this list of rebel formations, the *Mouvement du 23 Mars* (M23) and more recently ADF/Nalu insurgencies have affected stability in North Kivu since 2011 (Netherlands Ministry of Foreign Affairs, 2013).

The Tutsi-dominated M23 rebellion (a sort of rebirth of Laurent Nkunda's *Congrès National pour la Défense du Peuple* rebellion, 2006-2009) was created with support from Rwanda⁹ when General Bosco Ntaganda (formerly military chief of staff under the CNDP) defected from the Congolese army in early 2012. The M23 took the city of Goma in November 2012 without much resistance, where there was heavy sexual violence and widespread looting. In early 2013 Ntaganda was arrested (he is now in ICC custody) and the M23 became divided, its main branch continuing under the leadership of General Sultani Makenga. In November 2013 the M23 surrendered, with key figures fleeing to Uganda and Rwanda.

9 Even though Rwanda has firmly denied its involvement in the M23 rebellion, the UN Group of Experts and others have published a body of evidence showing the Rwandan influence over the M23.

In that same month, the ADF-Nalu (Allied Democratic Forces-Nalu), a Ugandan rebel group¹⁰ with most of its bases in DRC, launched an insurgency in Beni territory. Since then a large number of civilians (including women and children) have been massacred, mostly with machetes. Mass abductions and rape have also been reported. Congo's armed forces, the *Forces Armées de la République Démocratique du Congo* (FARDC), and the UN peacekeeping mission MONUSCO (*Mission des Organisations des Nations Unies au Congo*) launched a joint intervention brigade to push back the ADF-Nalu, but it has had mixed success. The ADF-Nalu insurgency appears to receive less attention than the troubles caused by M23.

In South Kivu, a voluntary repatriation process for the FDLR led by MONUSCO until the end of 2014, combined with military actions by the FARDC, have weakened rebel groups in Walungu/Mwenga (including *Maï Maï Raia Mutomboki* and *Maï Maï Maheshe*). However, the Plaine de la Ruzizi area (between Bukavu and Uvira) has seen conflict between three ethnic groups, involving killings and cattle raids.¹¹ Further south towards Baraka-Fizi, there have been continued insurgencies caused by the *Maï Maï Yakutumba* as well as the Burundian rebel *Forces Nationales de Libération* that has taken refuge in South Kivu.¹²

Several respondents note that conflict has increasingly become decentralised. Since 2005, many insurgencies have withdrawn to rural (remote) areas, and since 2010 the intensity of fighting appears to have gradually diminished. The areas that are stable have become larger, although violence continues in the problem-areas and may flare up in others.

1.5 Structure of the report

The next section of the report elaborates the methodology of our research. Section 3 deals with the first question of how the understanding and perceptions of sexual violence assistance in eastern DRC have evolved over the past few years, including a discussion on statistics about the prevalence of violence. Section

10 The ADF is a Ugandan rebel group that has fought the Museveni regime since the late 1990s, and is composed of Islamic sects and other opposition groups. From 2004 they mostly lost their bases in Western Uganda and took refuge in the Beni-area in North Kivu. Since early 2013 they allegedly started new recruitment of Ugandan youth and have intensified its military operations.

11 In June 2014, there has been a major incident whereby over 30 Bafulero civilians were killed in the village of Mutarule, for which fears of retaliation are widespread.

12 Please refer to Annex 6 for a map showing spheres of influence of rebel groups in the Kivus.

4 concerns the second question of how practices of sexual violence assistance have evolved in eastern DRC, looking into emergency assistance, medical services, psychosocial and socio-economic programmes and capacity development for prevention. Section 5 elaborates on legal action against sexual violence in urban areas of eastern DRC. It details the findings of a

review of 64 judicial cases concerning sexual violence and discusses a number of social effects to the increased legal attention to violence. Section 6 concludes the report and makes a number of recommendations to improve action against sexual violence and services to victims.

2 The research methodology



2.1 Longitudinal approach

This research follows up research done in 2011. Changes in a fragile environment like DRC are often fast and highly non-linear, reflecting rapid changes in the political environment and changing trends in donor behaviour and aid programmes. In this case, we found in 2011 that there was much discussion among agency personnel about the approaches and effects of sexual violence programmes. These discussions, which our report captured, were not held in the open yet it seemed to us that change was imminent considering the widely held critiques among people in the field. For this reason, a review within three years of the original research was deemed important.

We set out the research as a panel research, aiming to ask the same questions to the same set of people. Given the high turnover in the international aid sphere, this was often not possible, yet the research did to a large extent cover the same organisations (national and international) and state authorities. We also interviewed additional and new actors, including donor representatives.

We also did research into the legal files of sexual violence cases, following up files examined in 2011 and adding new files. The original motivation of this part of the research was based on concerns raised about justice in initial interviews and a case one of the researchers encountered of legal injustice during the production of a documentary.¹³

An important difference with the 2011 research is that we incorporated focus group discussions with people in villages and urban environments. The previous research focused solely on respondents in and around state and aid agencies. At the time, we decided that interviewing a limited number of local people would be tokenistic, and did not want to add to the large number of visitors interested in 'meeting victims'. This time, a number of focus group discussions were organised with community members to learn from their experiences with assistance around sexual violence, but we did not aim to single out women who had been directly targeted by these programmes. There were also two focus groups with Congolese politicians from the Provincial Assemblies in North and South Kivu.

The research took place in Goma and the locality of Bweremana in North Kivu (Masisi Territory), and in Bukavu and the territory of Walungu in South Kivu. The majority of sexual violence programmes take place in

13 'Justice for Sale' (2011, IFPRODUCTIONS).

these two provinces. In addition, telephone interviews were done with donor representatives based in Kinshasa. The interviews were held by Nynke Douma and Dorothea Hillhorst in May 2014. The legal research was done by Jocelyne Matabaro. This took place from the beginning of June until mid-July 2014.

2.2 Semi-structured interviews

We conducted 49 semi-structured interviews. The questionnaire used for the interviews is included in Annex 4. A total of 36 interviews were held with representatives of organisations responding to sexual violence: 10 with UN agencies, 17 with international NGOs, and 9 with Congolese NGOs. In addition, 5 interviews were held with international donor organisations based in Kinshasa, and 8 with Congolese political and administrative actors. These include representatives of the national police force (PNC), customary authorities, the Divisions of Gender, Justice and Social Affairs and the public prosecutor (North Kivu) and president of the court of appeal (South Kivu).

Of the 49 interviews, 9 were with the same person as in

2011, and an additional 13 interviews were held with the same organisation and the same post, which had come to be held by a different person.

The interviews documented the experiences and opinions of the interviewees. Basing an analysis on individual opinions expressed during interviews presents the risk of generalising isolated opinions or making some opinions more important than others. To address this risk, we have only incorporated those viewpoints that were shared by multiple informants, even though we often present a single quote expressing the point of view. Interviewed persons often stressed that their statements were personal and did not reflect the viewpoint of the organisation. We therefore do not attribute quotes to organisations and have instead used a codification of respondents. GOV, UN, CNGO and INGO refer respectively to representatives of the government, United Nations agencies, Congolese NGOs and International NGOs. F and M refers to female and male respondents. To allow cross-referencing of quotes, we have numbered the respondents of each category. UN-M-3 thus represents number 3 of our male UN respondents.

Table 1: Overview of focus group discussions

	Date	Place	Participants	Description	Focus
FG1	20-05	Bukavu	7	Members of provincial parliament	Perception on SV, SV response and role politicians
FG2	22-05	Izege, Walungu	6	Female community members	Experiences with SV and SV response in community
FG3	22-05	Izege, Walungu	7	Male community members, including the chief of the village	Experiences with SV and SV response in community
FG4	23-05	Bukavu	4	Adult female sex workers of nightclubs in Bukavu ¹⁴	Labour conditions of prostitution, experiences with (sexual) violence, and role of authorities
FG5	23-05	Bukavu	7	5 men and 2 women from one of the older neighbourhoods of Bukavu, i.e. not extremely poor and not rich (participants represented different generations, including some students)	Social effects of the attention for sexual violence in Bukavu
FG6	28-05	Goma	4	Members of provincial parliament	Perception on SV, SV response and role politicians
FG7	28-05	Bweremana	8	Female community members	Experiences with SV and SV response in community
FG8	28-05	Bweremana	5	Male community members	Experiences with SV and SV response in community
FG9	29-05	Goma	4	Urban poor women, Members of network of [NGO]	Experiences with SV and transactional sex in community
FG10	29-05	Goma	5	Urban poor men, Members of network of [NGO]	Experiences with SV, SV response and domestic violence in community

¹⁴ This focus group was facilitated by the Congolese organisation *Réseau de Femmes de Développement et Paix*. The women were not previously in touch with the NGO, and were requested for the interview by a staff member visiting the clubs for this purpose.

2.3 Focus group discussions

In addition to the individual interviews, we held 10 focus group discussions, comprising 57 respondents. Focus groups 2, 3, 7 and 8 were held in areas with a high density of NGO programmes and were meant to distil what people had absorbed from training and what they identified as outcomes and possible problems. The focus groups in urban contexts were largely removed from NGO activity. Participants in these groups based their opinions on sexual violence programming mainly on personal stories and/or radio programmes.

A strength of focus groups is that people can comment on each other's experiences and opinions, but conversely there is a risk that participants just repeat what the first – more powerful – respondent says in response to a question. There may, then, have been more diversity in opinion than was reflected in the focus groups. An exception was the focus groups with politicians in Bukavu, where the opposite seemed to happen: all participants strived to have a different opinion from previous speakers. Their limitations aside, we were able to draw many insights from these groups. We encouraged speakers to provide us with concrete examples. When different examples were used, we considered this as evidence for a broadly shared experience.

2.4 Literature and funding review

Publications from the period 2011 to mid-2014 were analysed. This review was done between May and August 2014 by Léonie Mol, an intern from the University of Amsterdam. The literature review incorporated available 'grey literature', policy documents and reports of NGOs, as well as websites of aid providers. Around 45 documents have been analysed, and a similar number of websites. The literature review questionnaire can be found in Annex 4.

In addition, funds available for sexual violence were also reviewed. This built upon the previous review of 2011, and was done on the basis of websites and information from interviews.

2.5 Legal analysis

The legal analysis consisted of the examination of court files on sexual violence. Annex 4 provides the list of questions of the examination. The legal analysis consisted of two parts.

Firstly, the research followed up 18 cases examined in 2011. These concern cases that resulted in conviction (there were 19 convictions in total, but one file had disappeared). They were analysed to assess how the implementation of judgements and respect of procedures was assured.

Secondly, the research analysed 46 legal cases on sexual violence that were introduced between 2012 and 2013. All cases concerned rape, with the exception of one case of attempted rape and one case dealing with indecent behaviour. We examined those cases of which the file was physically present in the office and complete. There are many more cases listed than files are available for. In addition, there are many cases where the files are empty or have too little information to allow analysis. The cases were taken from five judicial sections in the province of South Kivu, as below. As our researcher was not allowed access to files held by the prosecutor's office (pre-judicial phase) we cannot make claims about factors that influence whether cases qualify for prosecution or not.

- The High Tribunal in Bukavu, 8 cases
- The Court of Appeal, 10 cases¹⁵
- A decentralised tribunal in Kavumu,¹⁶ 8 cases
- The Military Tribunal in Bukavu, 11 cases
- The Military Court, 9 cases

The analysis provided a description of the case, including the age of the victim and defendant, the relation between both parties, the type of charge, the involvement of pregnancy, the length of treatment (time), the type of hearing, the conclusion of the case and penalties involved. The type of hearing refers to the question whether the case was dealt with in a mobile court of in the 'normal' court proceedings. The data in the files were further analysed on the following issues:

- Differences in proceeding between civil and military courts
- The status of the defendant
- Evidence presented or lacking in the files
- Legal arguments underpinning the court's conclusion
- Penalty applied in convictions
- Impressions of the quality of legal proceedings of the studied cases.

¹⁵ The file of the cases from the Court for Appeal included documents of both the 1st and 2nd degree.

¹⁶ The tribunal in Kavumu is operating under the High Tribunal of Uvira.

There were some difficulties during the legal analysis. Some legal personnel were suspicious when the investigating lawyer requested insight into cases. The legal team was sent away empty-handed several times before being granted access. In addition, a massive prison break occurred in Bukavu during the period of research, when 300 inmates escaped. In the weeks following the event, judicial authorities refused to grant visitors or researchers access to the prison and the files of the inmates. As a consequence it was not possible to access all the 2011 files that had led to a conviction.

2.6 Expert group

The research was accompanied by four Congolese experts, who have been involved in an inception meeting prior to the fieldwork and have provided comments on the draft report. These experts are:

- Professor Murhega Mashanda of the Institut Supérieur de Développement Rural
- Venantie Bisimwa Nabintu, Secrétaire exécutive du RFDP
- Mme Claudine Tsongo, Coordinatrice de la Dynamique des Femmes Juristes (DFJ)
- Mathilde Muhindo Mwamini, former Director of the Centre Olame

2.7 Data analysis for reporting

For the analysis of the interview data, use was made of the software for qualitative research N-vivo. We predefined a number of keywords that helped to categorise the interview transcripts. During the process, the two main researchers validated each other's categorisations and discussed the results on a daily basis. This resulted in keywords being added or altered as part of the analysis process.

3 Engagement and approaches of actors responding to sexual violence

This section focuses on the way responding actors approach the problem of sexual violence and how the commitment to the issue has evolved since 2011. The section starts with an overview of the type of actors responding to sexual violence, including the Congolese government, international actors and Congolese NGOs and women groups. We then focus on the changing discourses and approaches to sexual violence. This is based on a review of selected agency websites and information from the interviewees and their comments and observations on prevailing approaches. Section 3.3 deals with the question of how responding actors find and deal with evidence on the prevalence of sexual violence. Section 3.4 maps and analyses the funding available for sexual violence (in as much as this is possible, considering that there is no central recording system of funds).

3.1 Actors responding to sexual violence

The attention to sexual violence started around the turn of this century, with a number of Congolese women's organisations in local communities and in the provincial capitals of North and South Kivu. Since then, the response to sexual violence has come to involve hundreds of institutional actors, including community-based organisations, Congolese NGOs, international NGOs, Congolese government agencies, and international donors. There is no overall registration of organisations working on the subject.

The leading policy is Congo's governmental national strategy against sexual violence (Ministry of Gender, 2009). The National Strategy is operationalised under the programme. This government programme for stabilising eastern DRC is focusing on three domains – security, humanitarian and social assistance, and economic development – and is divided into five pillars of which fighting sexual violence is one. The Stabilisation Strategy for Eastern Congo (STAREC) is supported under the international support strategy (ISSSS, phase 1 2008-2012, phase 2 2013-2017). The pillar on combating sexual violence consists of five components or working groups. These are considered to be interdependent, and should be approached in a multi-sectoral and holistic way. Originally, the pillars were chaired by different UN agencies, but the trend now is to make government agencies the primary coordinators of the pillars.

The five components are: fight against impunity, coordinated by the Ministry of Justice and the joint human rights office of MONUSCO; multi-sectoral assistance, coordinated by the Ministry of Health and UNICEF;

protection and prevention, coordinated by the Ministry of Social Affairs and UNHCR; data and mapping, coordinated by the Ministry of Gender and UNFPA; and security sector reform, coordinated by the Ministry of Defence and MONUSCO-Security Sector Reform, although this one is not functioning in practice.¹⁷ The components are coordinated by the MONUSCO Sexual Violence in Conflict Unit ('in conflict' was recently added to the name to emphasise that MONUSCO only has a mandate for conflict).

The responsibility for overall coordination from the side of the national government lies with the Ministry of Gender, Family and Children and its technical branches of the Divisions of Gender in the provinces. At the provincial level, there also is a Ministry of Gender, Family and Children, which is coordinated by the provincial government and is seen as the political authority. In practice, the provincial ministry usually uses the division office of the national ministry to implement programmes in the province. The Division of Gender, Family and Children coordinates a number of programmes. Significantly, the government budget for the Ministry in the provinces is small, and allocated funds are not actually disbursed, making the Division to a large extent dependent on UN organisations and international donors.¹⁸ Implementation often involves partnerships with local NGOs. For the Division, the 2006 Law on Sexual Violence is a leading policy framework, as well as UN resolution 1325, and the 2009 national strategy on sexual violence.

The ministry has formed two provincial coordination mechanisms in 2012, one dealing with sexual violence (complementing the STAREC mechanism) and one on the implementation of SC resolution 1325. This leads to some confusing duplication in the eyes of local actors.¹⁹

There are numerous INGOs and NGOs working on the topic of sexual violence. After the war formally ended in 2002, and especially after the establishment of a large humanitarian pooled fund, most NGOs started to incorporate sexual violence responses in their activities, and many local NGOs were formed with a special mandate on sexual violence, often in order to profit from the availability of funding.

To give an indication of numbers of local organisations in South Kivu: the Women's Component of the Bureau of Civil Society has 93 member organisations. Among the

member organisations of the *Composante Femme*, three are considered platforms in themselves: the *Caucus de Femmes*, the *Cadre permanent de Concertation de la Femme Congolaise* (63 members) and the *Conseil des Organisations de Femmes Agissant en Synergie* (44 members) (Hilhorst and Baswira, 2014: 29). Most of these agencies continue to have a (partial) mandate on sexual violence response. With reduced funding in recent years (see below), many Congolese members of the Women's Component have become non-functional (39). It is estimated that as much as two-thirds of the membership has no funding, and has shrunk to two or three women who keep the organisation formally alive. In Walungu, the reduction in NGO activity was also visible, with many fading placards indicating women's organisations previously working on sexual violence. Many of the small NGOs concerned with community-based work had no funding left. The director of the hospital in Walungu territory observed: 'There was a time when there was a big boom of NGOs all working on these issues. That was more or less from 2009 to 2012. Now, I increasingly see organisations that tell me that they do not have funding anymore.' While the numbers of local NGOs working on sexual violence has thus not decreased, the volume of their activities has gone down. This is part of a wider trend of reduced funding for Congolese NGOs.

There continue to be many local women's associations in the different territories of eastern DRC. These associations do not depend on funding as such, as their membership is local and voluntary, but the level of their activities will go up and down with opportunities and activities organised by (I) NGOs. The women's associations are often connected to multiple NGOs as a local 'antenna' to follow-up on cases of sexual violence and other forms of gender-based violence.

3.2 Trends in coordination

For a long time, sexual violence working groups co-existed in parallel with the *Comité Provincial de la Lutte Contre les Violences Sexuelles* (CPLVS), a provincial body presided over by the Ministry of Gender. The Ministry of Gender now seems to take greater ownership in guiding coordination, and aims to align the two coordination structures. We also found state agents more motivated to take part in these structures, despite their low salaries, as one of them mentioned: 'Sometimes I use my own money to pay for transport to get to coordination meetings because I have to save the image of our state'.²⁰

¹⁷ Interview UN-M-1 (19 May 2014).

¹⁸ Interview GOV-F-3 (22 November 2013).

¹⁹ Interview CNGO-F-2 (20 May 2014).

²⁰ Interview GOV-M-2 (21 May 2014).

Also, several respondents commented very positively about the improved coordination for medical assistance, where the Ministry of Health is a strong partner. In this group, evaluations on approaches to sexual violence have for example been done and shared with relevant actors. Legal assistance was also said to improve, with the initiation of two taskforces (one on civil justice, one on military justice). Here also an increased collaboration with and ownership by legal authorities is noticed.

There is a gap in the collaboration and coordination with political actors at the provincial level. Each of the provinces has a parliament, but those involved in action against sexual violence rarely involve the parliamentarians and make little use of their influence and knowledge. The parliamentarians often know a lot about what happens in their constituency areas. In both focus groups held with parliamentarians they said they hardly interact with NGOs. As one deputy said: 'They only come to look for us to present their results, but we need to be involved in the identification from the start of programmes. There is insufficient dialogue.'²¹ The lack of dialogue between the parliament and NGOs evolved during the period of data gathering, and we did not ask NGO representatives explicitly about this theme. On the other hand, we can confirm that the respondents from the agencies never referred spontaneously to parliament as a source of information or a centre of power that could be drawn upon to engender change.

The interviews did suggest that collaboration between programmes has been strengthened in recent years. The complementarity of actions and referral of victims has improved. In 2011, a highly competitive field was found where competition even existed over victims to enlist in programmes. The working groups for coordination, where discussions on aid effectiveness are increasingly being held, seem to have made a difference. Improved coordination does raise a question of how the privacy of victims can be protected. The sharing of data is important to avoid duplication of assistance but may jeopardise privacy issues. *Médécins sans Frontières* raised this issue, especially in relation to MONUSCO, as it feared that revealing the identity of victims could be abused in security operations.²² The organisation does not share data about patients.

21 Focus Group-1, deputies Provincial Parliament South Kivu (20 May 2014).

22 Interview INGO-F-2/INGO-M-3 (29 May 2014).

3.3 Prevalence of sexual violence

This section deals with the efforts to estimate the level of sexual violence in DRC. We first capture some of the trends and concerns up to 2011, then discuss the Luvungi case as an illustration of the difficulties in assessing the number of victims in cases of mass rape, and then discuss some recent trends.

3.3.1 Trends until 2011

In the period prior to 2011, responding actors made a lot of effort to try to estimate the prevalence of sexual violence in DRC. We found vastly varying figures in different sources.²³ Most sources assumed that their estimates were conservative because women would be reluctant to speak out about sexual violence. However, we found there were also many reasons why estimates could be exaggerated. It is important to reiterate these, because many of the older data and reports are still cited as authoritative sources.

Over-reporting of sexual violence cases happened through different mechanisms, including:

- extrapolation of data from hotspots to large geographical areas
- aggregation of data based on partially overlapping datasets of aid agencies dealing with the same cases
- false reports, where women looking for services because of poverty or medical problems could only find programmes for sexually violated women
- other perverse incentives in the aid system, such as local representatives (antennas) being encouraged to report as many cases as possible.

There were thus many contradictions and shortcomings in data collection, analysis and interpretation, leading to contentious figures. The problem was exacerbated by the fact that the international media reduced nuanced discussion of data to crude headlines such as '48 women raped per hour' (Peterman *et al.*, 2011), reinforcing an image of DRC as the 'rape capital of the world'.²⁴ Our report concluded that statistics should be used with the utmost care, and always complemented by qualitative and contextualised information.

23 See also Pratt and Werchick (2004), who already noted problems with data gathering.

24 This phrase was used by UN's special representative on sexual violence, Margareth Wallstrom.

3.3.2 Mass rape: the case of Luvungi

One of the most controversial issues concerns the figures about mass rape. There have been several instances where rebel attacks resulted in rape cases and media and agencies started circulating high estimates of the number of women involved. One such instance concerned a rebel invasion of the village of Luvungi in North Kivu in August 2010, where a large number of women were reportedly mass-raped (Heaton, 2013; *Global Post*, 2014b; *New York Times*, 2010; Cordaid, 2014a).

Initial reports about the Luvungi mass rape were aired by International Medical Corps (IMC), an international medical NGO working in the area. Numerous reports and investigations followed and the number of victims cited varied greatly and tended to be inflated with time: from 37 to 242 and then up to 387. The international media picked up on the story and questions were raised about why the nearby MONUSCO contingent did not intervene, casting doubt on the effectiveness of the UN. Immediately after the mass rape, however, stories abounded in DRC of how the numbers of affected women were inflated (Hilhorst, 2010). Three years later, in 2013, *Foreign Policy* journalist Laura Heaton investigated the issue (Heaton, 2013).

Heaton spoke with a large number of villagers in Luvungi and other relevant stakeholders and concluded that the figures were overblown. The high number of rapes was inconsistent with the UN investigation on the day after the attack: the (classified) report makes no mention of rape, but mentions other issues such as burned houses. Heaton, who has previous experience of interviewing rape survivors, found that the Luvungi women's accounts came across as rehearsed. A local doctor said he had, during that period, treated six women for rape, and two of these rapes were committed by civilians. One way in which the figure came to be bloated was because everyone who accessed the free medical aid that became available after the attack was listed as 'raped'.

There are different explanations for what happened. One is that aid agencies distorted figures for the purpose of raising funds; another is that the local staff reported on rape at the request of their headquarters because funds were not earmarked for other medical problems. Yet another explanation came from a woman from the village: 'After the rebels left the village, elders decided that the community would say that many women had been raped to avoid ostracising those who were.' It was for the sake of community cohesion, she said. Once aid groups came it

was important to protect this story so that everyone could benefit from assistance.

While rape did happen during the 2010 attack of Luvungi, the episode is now taken as an example of how distorted reports can become if they are not done with care, detail and transparency.

3.3.3 Current trends

In the past few years, efforts have been made to better harmonise and streamline available data. Under the cluster-working group approach of the UN system, a specific working group on data gathering and analysis was initiated in 2012, spearheaded by UNFPA in collaboration with the Ministry of Gender and other partners. The principle is that every victim gets coded to avoid duplications.²⁵ The working group has, however, suffered since funding dwindled after 2012. In early 2014 some new funding prospects came from the Belgian government (\$5 million), but only for North Kivu and Province Orientale. It is estimated that approximately 70% of the actors active in the field of sexual violence share their data with the data analysis working group.

Among the agencies that do not share their data are *Médécins sans Frontières* and the American Bar Association. They cite reasons of patient confidentiality and humanitarian principles.

There are several other reporting systems but it isn't clear whether or how they relate to the data analysis of the working group. The Ministry of Health collects medical data on sexual violence victims from health clinics. Police records are not included in the database either. This brings about bias in the data of the working group with regard to young victims: under-18-year-olds constitute a large share of police cases but are much less represented in the working group's data.

Reports do not show strong changes in the number of cases of sexual violence. The Panzi hospital in South Kivu included in its 2013 annual report 10-year figures on its sexual violence programme (excluding mobile clinics). It shows that between 2004 and 2010 figures fluctuated between 1,900 and 2,500 cases per year. While they dipped in the years 2011 and 2012 to 1,172, in 2013 they went up again to 1,772. The Ministry of Gender in North Kivu has reported 4,689 incidents in 2011,

25 Interview GOV-M-5 (26 May 2014).

Getting the balance right?

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6,931 in 2012 and 4,925 in 2013. The 2012 increase is probably related to the M23 insurgency.

The problems with data gathering, and the prevalence of multiple systems, render it impossible to give a total estimate of the numbers of sexual violence in North and South Kivu. The table below presents the data on North and South Kivu by data analysis working group (UNFPA, Ministry of Gender). They represent the number of cases that have been reported in the year 2013, including cases that happened in the past and were only reported on this year.

Table 2: Reported sexual violence cases in 2013 for North and South Kivu

South Kivu - Territory/location	Total reported cases	Of which new incidents
Bukavu	2,510	1,302
Fizi	846	589
Idwji	116	65
Kabare	531	302
Kalehe	1,564	1,253
Shabunda	801	592
Mwenga	1,869	1,263
Uvira	1,488	785
Walungu	981	463
Total	10,706	6,614
North Kivu – Territory/location		
Goma	814	814
Nyiragongo	473	473
Rutshuru	1,794	1,529
Beni	857	764
Lubero	1,237	1,035
Masisi	1,492	1,086
Walikale	231	231
Total	6,898	5,932

There are some qualifications to make about these data, illustrating the difficulties involved.

- Why the percentage of old cases in South Kivu (38%) is much higher than for North Kivu (14%) is not explained.

- Approximately half of the new cases in South Kivu are derived from 2013 figures reported by the Panzi hospital.²⁶ The latter database, however, does not distinguish old cases from new.
- The UNFPA report states that 98-99.7% of the recorded victims are female, which may indicate underreporting of male victims, especially in the conflict zones.
- The report specifies the types of sexual violence. While in South Kivu 97% of the cases concern rape, North Kivu figures also include sexual aggression (10.2%), sexual harassment (3.1%), physical assault (1.8%) and forced marriage (1.8%), with the remaining 82% representing rape cases.
- Interestingly, the suspect profile in the report states that in South Kivu 71% of the cases are committed by armed groups, against 32% in North Kivu, with a further 13.5% of the cases committed by the army or police (7.3% in North Kivu). These outcomes are surprising, because most violence in 2013 was concentrated in North Kivu, and because of the general understanding that today the majority of cases are of civilian origin. It is unclear how these percentages relate to 'old' and 'new' cases reported.

Although the routine collection of data has become more streamlined in the past few years, questions can still be raised about the accuracy of the data. It seems that the urge to prove the extent of sexual violence that characterised the years prior to 2011 has diminished. None of the respondents made reference to new initiatives of large-scale or in-depth research on the scale of sexual violence.

3.4 Changing views and approaches

In this section we look at views and approaches to sexual violence at different levels. We start with a review of recent international policies, then how international agencies active in the field present their views, and finally how approaches in DRC are changing on the ground.

3.4.1 International policy attention to sexual violence

Sexual violence in conflict-affected areas continues to be on international policy agendas as an issue that concerns human rights as well as international security.

²⁶ Interview, UN-M-1 (19 May 2014).

In April 2013, the G8 foreign ministers adopted the Declaration on Preventing Sexual Violence in Conflict, stating that (Foreign and Commonwealth Office, 2013):

Sexual violence in armed conflict represents one of the most serious forms of violation or abuse of international humanitarian law and international human rights law. Preventing sexual violence in armed conflict is therefore both a matter of upholding universal human rights and of maintaining international security, in keeping with UN Security Council Resolution 1820. Ministers emphasised that more must be done to address these ongoing crimes, including by challenging the myths that sexual violence in armed conflict is a cultural phenomenon or an inevitable consequence of war or a lesser crime.

In 2013, the Security Council adopted the Women Peace and Security resolution, highlighting the nexus between rape and the politics of war, and emphasising the fight against impunity. Resolution 2106 reads (UN Security Council, 2013: 2):

The Security Council ... notes that sexual violence can constitute a crime against humanity or a constitutive act with respect to genocide; further recalls that rape and other forms of serious sexual violence in armed conflict are war crimes; calls upon Member States to comply with their relevant obligations to continue to fight impunity by investigating and prosecuting those subject to their jurisdiction who are responsible for such crimes.

There is a first international case on sexual violence. Rebel leader Bosco Ntaganda has been in the custody of the ICC since March 2013. Among the 13 counts of war crimes and five counts of crimes against humanity against him, the trial seems to focus its attention on sexual violence. The trial is significant according to the Director of the Women's Initiatives for Gender Justice because 'for the first time in international criminal law, the ICC has charged a senior military figure with acts of rape and sexual slavery committed against child soldiers within his own militia group and under his command' (ICC Women, 2014).

In June 2014, the Summit to End Sexual Violence in Conflict was held in London. The summit was a joint initiative of the British Foreign Secretary William Hague and the Special Envoy for the UN High Commissioner for Refugees, Angelina Jolie. It was part of the Preventing Sexual Violence in Conflict Initiative launched by the UK

government in 2012. The summit was attended by 1,700 delegates from 123 countries and aimed to develop action to tackle impunity for the use of rape as a weapon of war and to begin to change global attitudes to these crimes. The summit is evidence of the attention being given to sexual violence in war, yet it was also criticised for a lack of follow-up. According to an article in *The Guardian* the initiative has had negligible impact while British funding for the issue has been diminished rather than increased (*The Guardian*, 2015).

3.4.2 Sexual violence and gender approaches of International NGOs

Conflict-related sexual violence figures on all the websites of INGOs working in DRC that were consulted for this research. Action against sexual violence is an important element in the story of why aid agencies are active in the country.

Websites usually describe sexual violence in general terms, for example: 'Advocates on the ground estimate that over half a million women and girls have been raped since the conflict began'.²⁷ Some explicitly say that sexual violence by civilians is now more common than rape by military actors, which is seen as a spin-off from the war. Without time-markers, locations, source references or trend analysis, such general statements make the story of sexual violence oddly disembodied. We do not get to know where in DRC the problems are worse, what patterns exist in the types of crime and assailants, or how the current situation has evolved. Women's personal testimonies are often undated. There is no assessment of how past interventions have resulted in improvements in the situation or why the problem is so persistent despite years of intervention.

Websites differ in the space they give to explaining sexual violence. Several additional factors are explained as aggravating the effects of conflict on sexual violence. Gender relations and impunity are often cited as an underlying factor. The Enough Project, for example, states: 'SGBV [Sexual and Gender-Based Violence] in Congo is a practice entrenched by widespread impunity and gender inequality norms'. It emphasises the link between SGBV, conflict and mineral wealth. 'Ending and preventing sexual violence in eastern Congo will require political and financial commitments to reforming Congo's

27 V-Day city of joy website: <http://drc.vday.org/about-city-of-joy/congo/#sthash.LK8DCbV4.dpuf>

security, justice, and economic institutions.’²⁸ This quote also brings up a second explanation, which is related to the government. This explanation varies from attention for sexual crimes committed by government agents such as military or the police, to a lack of robust action against impunity. Thirdly, some websites mention poverty as an underlying factor, explaining that poverty makes women more vulnerable to sexual violence.

The lack of specific analysis on sexual violence means the relation between programmes and the problem of sexual violence are equally unspecific. Against a generalised background of sexual violence, every programme directed at any women becomes without question part of the action against sexual violence. It forfeits questions such as what the most effective approach would be, what the priority needs are, and who the most urgent target groups are. Importantly, there are no geographical markers that ensure that programmes are implemented in those areas where sexual violence is most common.

The most common answer to sexual violence is empowering women. Websites combine two opposite discourses on women: the victim who is always vulnerable to rape and the strong leader of the nation. An example of the quotes that point at women’s strengths: ‘Women are crucial contributors to their societies. They are the ones who cross ethnic and religious borders and who see to the healthy development of their children. They are the ones to advocate for education, employment and new opportunities for young people’ (Cordaid, 2014b).²⁹ When women’s economic, political and social empowerment becomes the ultimate answer to sexual violence, every programme strengthening women’s position becomes some form of action against sexual violence. This can result in the neglect of other factors that may lead to change, such as the reform of the security forces or the improvement of governance.

There are few websites that recognise the problem of sexual violence against men, albeit in passing, such as in the following quote: ‘for the past 15 years, thousands of women, children and *even men* have been subjected to sexual violence’ (italics added) (Merlin, 2011). No question marks are placed with the low percentage of male victims in official statistics. Men are in some cases part of the target group of sexual violence programmes, but as part of

the projected solutions: ‘...to tackle the culture of impunity that allows perpetrators of rape to roam freely, Women for Women International believes that we need to engage men in the dialogue about women’s rights and value to society’ (Women for Women, 2012: 2).

3.4.3 Changing approaches to sexual violence

In 2011, the dominant approach to sexual violence was a holistic or multi-sector approach. This meant combining medical, psycho-social, economic, and judicial assistance to survivors of sexual violence (Pratt and Werchick, 2004: 6). We found that in practice this approach was not effectively implemented. Responses were often disjointed and uneven, with a high level of medical support but less psycho-social and economic support, and with only small proportion of women receiving legal assistance.

We also noted that the assistance was highly victim-oriented, with a strong emphasis on direct service delivery to victims, rather than strengthening institutions that can respond to sexual violence. A representative of a peace-building organisation said: ‘I see the issue of sexual violence as colonised by humanitarian organisations. It is almost treated equal as women need shelter, and other needs, instead of looking at the situation in general’.³⁰

We found several changes in approaches to sexual violence in our recent research. The issue of disjointed services for sexually violated women has led to several initiatives. On the one hand, there is a trend to make services more integrated through, among other things, more recognition of organisational specialisation and better referral between different organisations. On the other hand, there is a trend to develop parallel service delivery with specialised agencies offering all forms of assistance for sexual violence victims in one place. Panzi hospital in Bukavu has, for example, constructed a large building where 160 women can live temporarily to receive integrated care, including facilities to rebuild their livelihoods. At the time of our fieldwork, the World Bank was preparing a large programme (around \$55 million) based on a one-stop approach, where victims can go to one centre to receive all types of assistance.

Striking changes were found in how responses to sexual violence are embedded in broader programming. An international coordinator of gender summarised the

28 See Enough Project website: www.enoughproject.org/conflicts/eastern-congo/sexual-violence.

29 Also see Cordaid website: www.cordaid.org/en/topics/womens-leadership/about-topic.

30 Interview INGO-F-5 (28 May 2014).

changes as: 'we now see a change of focus towards longer-term causes, and a focus on gender-inequality more broadly.'³¹

For example, in the health sector, sexual violence responses are increasingly integrated in programmes on maternal health or reproductive health care. This approach aims to equip the normal health facilities to deal with sexual violence better in order to reduce dependency on specialised hospitals: 'In South Kivu, people come to Panzi from very far. Panzi then organises mobile clinics and then people wait for days along the road until the clinic will arrive, instead of going to local health structures.'³² The policy to strengthen general health services can, however, also mean that the attention to sexual violence becomes de-centred to the extent that it is not clear if and how it is addressed at all. We found, for example, a case where a general primary health care programme was framed as action against sexual violence following the rationale that women who are healthy are less vulnerable and so less likely to be attacked.

We also observed a trend where responses to sexual violence are embedded in broader approaches to gender. As one donor representative said:

More people are seeing the need to connect action against sexual violence to a much broader gender agenda. Internationally, rape as a weapon of war still continues to be the dominant discourse despite the limited evidence of it being a conscious military strategy.³³

UN agencies such as the United Nations Development Programme (UNDP) and international NGOs such as IMA World Health point to the multi-dimensionality of gender issues, and local NGOs have come to define their programmes in more general terms of gender-based violence. As one NGO stated: 'we are still being pulled into sexual violence by donors, but we want to travel away from this, as our mandate is much broader and we want to focus on all rights of women'.³⁴ Many NGOs make reference to other types of gender-based violence including access to land and inheritance issues. Even MONUSCO is in the process of broadening its mandate, which was restricted to conflict-related sexual violence, to

focus more broadly on gender-based violence.³⁵ UNHCR in Goma also said that it now focuses on gender issues more broadly, including social norms and family values.

The broadening of programmes to gender-based violence more generally is a response to data that show that sexual violence is more often committed by civilians than armed groups. Respondents also argue civilian cases outnumber military cases.³⁶ Some respondents still attribute this to conflict, noting that these sexual violence crimes are an indirect consequence of conflict.³⁷ Eight respondents specifically cited poverty and unemployment as one of the causes contributing to sexual violence committed by civilians, referring to the general economic malaise observed in DRC and how a lack of prospects drives people to develop delinquent behaviour. 17 respondents emphasised the need to analyse sexual violence in a broader sense, paying much more attention to the position of women in general, as well as prostitution/ transactional sex, and domestic violence (in its various forms, including sexual violence). Cultural factors were considered by many respondents as among the root causes of violence. During one of the focus groups in Goma, a man living in an urban poor neighbourhood said:

Imagine, since I was little I have seen my father hitting my mother so bad that she started bleeding from her nose and mouth. What would I become with such an example? Some youth from our neighbourhood are now married and become real dictators in their homes. They repeat what they learned. There is a real need to make youth aware that such behaviour is not acceptable.³⁸

A related trend is that most of the agencies we spoke with had changed their approach to become more community-based. Again, this was found throughout the system. MONUSCO and UNICEF promote community-based approaches among their partners. Large INGOs such as the International Rescue Committee (IRC) and IMA World Health, as well as local NGOs now tend to favour such approaches. Community-based approaches mainly concern socio-economic projects. The reasons for shifting to community-based approaches are several. When services are only made available to violated women, this

31 Interview UN-M-1 (19 May 2014).

32 Interview UN-M-1 (19 May 2014).

33 Interview DO-F-3 (27 May 2014).

34 Interview CNGO-F-2/CNGO-M-3/CNGO-M-4 (20 May 2014).

35 Interview UN-M-1 (19 May 2014).

36 Interview CNGO-M-5/CNGO-M-6/CNGO-M-7 (21 May 2014); Interview GOV-F-2 (21 May 2014); Interview INGO-M-6/INGO-M-7/INGO-F-8/INGO-F-9 (28 May 2014); Interview UN-M-6 (28 May 2014).

37 CNGO-F-3 (20 May 2014).

38 Focus group-10 (29 May 2014).

may stigmatise them in the community and it may also invite fake cases.³⁹ There is also the problem of follow-up when individual women are given a package (usually cash) for socio-economic recovery.⁴⁰ Community-based approaches can be coupled to strategies to make the government more responsible for the pursuit of cases of sexual violence, by strengthening the police or civil servants working on gender.

The broadening of scope in gender programming is also seen in programmes that have started in recent years and have veered away from sexual violence programming. Kvinna till Kvinna, for example, organised scoping visits prior to the start of its DRC programme (2009) with the initial intention of working on sexual violence.⁴¹ According to the staff based in DRC, the programme focused instead on broader themes such as gender, human rights, female leadership and citizenship.⁴² The organisation's website, however, continues to emphasise sexual violence as a driver of the programme.

The broadening of the scope of sexual violence response leads to programming where the direct relation with sexual violence becomes remote. Many actors continue to label their work as response to sexual violence. A number of actors have now redefined their gender programmes away from sexual violence. DFID, for example, has abandoned using sexual violence as a main frame. It embeds violence response in healthcare and multi-sectoral assistance, while its gender programme now focuses more broadly on young women as an especially vulnerable and largely neglected category of women.

In 2011 we found a number of organisations considering involving men in their programmes. Three years later, this was still the case, and some respondents considered this a significant trend. There was little evidence of a systematic involvement of men in programmes on sexual violence, apart from training sessions (see next section). In Bukavu, a group of 'V-men' has emerged around the organisation of V-day, whose statement reads (V-Day, 2014):

We understand that women are our most precious resource, pillar of the family, the basic cell of the Nation, and backbone of the economy. Today, in the twenty-first century, despite their daily struggle,

determination and courage, some customs and cultural practices of our retrograde patriarchal societies keep them in an inferior status of second-class citizens and modern slaves.

In Goma, we visited the office of the Congo Men's Network. Created in 2009, it has gained more visibility in recent years and several international respondents referred to it. The network distances itself from the 'rape as a weapon of war' discourse and focuses instead on cultural aspects and customs as the basis of gender-based violence.⁴³ Some Congolese church-based agencies are more inclined to involve men in their activities but have little connection to the organisations specialised in gender-based violence (Hilhorst and Bashwira, 2014).

A final remarkable trend is the absence of any reference to conflict-related sexual violence in many interviews. It appears that only a few organisations continue to work on this issue, while the majority have moved to address gender-based violence in geographical areas that are currently more peaceful.

3.5 Funding for sexual violence

There is no central database on funding for programmes against sexual violence. Data in this section are thus compiled from different sources and are not complete, so it is difficult to demonstrate a direct link between changes in support as addressed in the previous paragraph and type of funds made available. The information here is mostly illustrative in presenting how earmarked funds for sexual violence relate to other thematic funding areas, and how funding over the 2012-2013 period compares to 2010-2011.

3.5.1 Multi-donor trust funds and sexual violence response

Some of the most substantial programmes on sexual violence have been funded through the SRFF (SRFF, 2009). This Multi Donor Trust Fund (MDTF) operated until its closure in mid-2014 with the support of the UN International Security and Stabilisation Support Strategy (ISSSS), in line with STAREC. Several governments have contributed, such as Belgium, the Netherlands, Norway and Sweden, with a total pledge of \$22.8 million.⁴⁴ The Pooled Fund, where

39 UN-M-1 (19 May 2014).

40 INGO-M-9 (29 May 2014).

41 Based on an unrecorded informal meeting with the scoping team years ago.

42 INGO-F-13/INGO-F-14 (May 2015), interview conducted for another mission scoping the need for a gender research centre in South Kivu.

43 CNGO-M-0/CNGO-M-10/CNGO-M-11/CNGO-M-12/CNGO-M-13 (26 May 2014).

44 Multi Donor Trust Fund Gateway at <http://mptf.undp.org/factsheet/fund/CFEQ0>, under 'projects' (period selected from January 2009 until December 2013).

humanitarian funds are brought together, also allocates funds to sexual violence response, mainly under the Medical Cluster and the Protection Cluster, although the figures in the annual reports do not specify the proportion of funds under these headings for sexual violence (Pooled Fund, 2012: 19; Pooled Fund, 2013: 35). Aside from these, some of the other MDTF facilities probably also fund some (indirect) sexual-violence related projects and sub-themes.

Table 3 summarises the expenditure from the MDTFs for two 24-month periods: 2010-2011 and 2012-2013. The most important change is that the MDTFs have been reduced. Overall, it seems support for DRC is reducing. There are currently many competing crisis situations and some respondents mention donor fatigue exacerbated by the lack of commitment to reform by the Congolese government.⁴⁵

Table 3: Multi trust fund modalities for DRC, approved projects between 2010 and 2011 (24 months), as well as between 2012 and 2013 (24 months)

MDTF ⁴⁷	Themes, focus	Period A: 2010-2011			Period B: 2012-2013			Absolute A-B
		Approved \$ millions	% total	SRFF-SV prop.	Approved \$ millions	% total	SRFF-SV prop.	
SRFF	Sexual violence	8.14	3.43	1	6.84 ⁴⁸	3.6	1	-
2010-2014	Internally Displaced Persons	3.95	1.66	0.5	0.0		na	---
Fighting impunity 2013-2018	Support to legal sector reform, legal assistance				5.79 (2013 only!)		0.8	+
SSR 2008-2011	Non-lethal support to FARDC, military justice (training and rehabilitation of infrastructures), living conditions of military personnel (ex. building barracks)	5.33	2.24	0.6	0.25		0.03	---
Peace building 2006-2015	Returnees, DDR, police reform and training, restoration of state authority (training, infrastructure), military justice, prison conditions, human rights	17.94	7.55	2.2	5.09 ⁴⁹		0.7	---
Pooled Fund 2006-to date	Coordination, early recovery, education, food security, health, logistics, refugees, nutrition, protection, shelter and non-food item, water-sanitation and hygiene	195.42	82.23	n/a	167.96		n/a	-
...of which ⁵⁰	Water, sanitation and hygiene	16.83	7.08	2.0	15.09		2.3	-
	Education	4.83	2.03	0.6	5.86		0.9	+
	Health	10.46	4.40	1.3	14.27		2.1	++
	Food security	11.87	4.99	1.3	19.87		2.9	++
	Nutrition	6.39	2.69	0.8	15.11		2.2	+++
	Protection	7.15	3.00	0.9	9.87		1.4	+
MDG 2007-2013	Economic reintegration of returnees and victims of sexual violence, improving basic social services	1.37	0.58	0.2	0.87		0.1	-
UN-REDD 2008-2015	Deforestation, nature conservation	5.50	2.31	0.7	2.88		0.4	-
UN Action against sexual violence 2009-2017	DRC-based projects (mostly studies and evaluations)				0.93 ⁵¹		0.1	
TOTAL		237.65	100%		189.74			

45 UN-M-1 (19 May 2014)

46 MONUSCO-Sexual Violence Unit (2011, internal); Smits and Cruz (2011), Multi-Partner Trustfund (webpage), individual donor information. NK=North Kivu; SK=South Kivu; IT=Ituri; MN=Maniema. The MDTF for microfinance has been left out of the comparison, since it was the only MDTF for which approved budgets covered a 12-month period from 2011-2012. This made comparison with the other MDTFs difficult.

47 The timeframe is based on years cited MDTF website.

48 Please note that this figures represents the actual expenditure, as it was significantly higher than the approved budget of \$4.6 million

49 Idem

50 In line with the degree of detail provided by the database on the Multi Partner Trustfund website some of the thematic areas of spending of the Pooled Fund are clarified here. The remaining (biggest share) of the Pooled Fund budget is not thematically labelled and referred to as 'Pooled Fund'.

51 The total budget of the UN Action against sexual violence funds for 2012-2013 stood at \$9.5 million.

Spending on responses to sexual violence under the SRFF also reduced, but its share remained at the same proportion of the total as in the previous years. In the 2011 report we argued that spending on areas considered to address some of the root causes of sexual violence (conflict, security sector reform) was relatively low in comparison to the SRFF funds (2010-2011). For the 2012-2013 period this is even more the case, as the Security Sector Reform trust fund came to an end in late 2011 and the peacebuilding fund has been significantly reduced, restricting the capacity available to address root causes of sexual violence. Instead, a new trust fund on fighting impunity has been created (2013-2018), which is likely to include legal support for sexual violence, although this is not earmarked as such.

The proportion of health, food security and nutrition under the Pooled Fund has risen compared to the previous years. In 2010-2011, healthcare spending under the Pooled Fund was just 30% higher than sexual violence funding under SSRF, but it is now two to three times more. This confirms the trend outlined in the interviews above that donors have increasingly broadened their attention from addressing sexual violence to strengthening the capacity of general health facilities.

3.5.2 Earmarked funds for sexual violence response

In the previous section we found that actors responding to sexual violence increasingly integrate their work into other domains, such as health care or multi-sectoral assistance. This does not preclude continued supply of funds earmarked for sexual violence response. Table 4 lists programmes for which funds were earmarked for sexual violence between 2009 and 2015. It lists the funds allocated to sexual violence by the MDTFs as well as bilateral programmes allocated by different donors. The large funds we identified totalled \$124 million over seven years. This figure does not include funds made available through INGOs. It shows that there is a reduction in funds earmarked for sexual violence in the past few years. This can be explained by overall diminished funding for DRC, but can also mean that funds for sexual violence assistance are increasingly incorporated in broader programme budgets. For example, there are bilateral funds for adjacent domains, such as reproductive health, where the EU alone allocated \$201 million for the period of 2014-2020 (European Commission, 2014: 11).

3.5.3 DRC government expenditures for sexual violence response

The Congolese state budget for 2014 shows a budget of 16,746,934,000 Congolese francs (or \$18.6 million) for

the Ministry of Gender, which represents 0.22% of the total state budget. While extremely small compared to the international funds and the overall state budget, this already represents a large growth compared to 2011, when this was only 0.1% of the total state budget. At the end of 2014, 33% of the budget for the Ministry of Gender was paid out.

In 2011, 75% of the Ministry's budget went to the administration of the Ministry, leaving a budget of \$838,000 for research on the status of women and a variety of services, including the planning and coordination of sexual violence interventions (Ministry of Budget, 2011). In 2014, 60% went to the administration of the ministry and \$2.4 million was reserved for activities and sub-grants to partners. The figures corroborate the observation that the Ministry of Gender has become more active. At the same time it illustrates how the government's contribution continues to be almost negligible compared to the international commitment, which is the case for many sectors.

3.6 Conclusion

This section discussed the actors active in sexual violence response, their understanding of the issue, the way they explain their programme on their website and changing approaches in practice.

There have been efforts to improve and streamline data collection and analysis, and statistics are still subject to problems with interpretation and representation. Available data indicate that reported incidents on sexual violence remain on similar levels.

The support for actions against sexual violence is still substantial, yet there is also a reduction in clearly earmarked support in the past few years. This partly coincides with a general reduction of funds available to DRC, but it may also be a signal that the attention to sexual violence is reduced and sexual violence becomes more mainstreamed in other types of assistance.

Compared to the findings in 2011, coordination of sexual violence response has improved, with a strengthened role for and commitment from Congolese government agents.

We found some remarkable trends. International policy and agencies' websites continue to highlight the conflict-affected nature of sexual violence, often with reference to the 'rape as a weapon of war' discourse. Approaches on the ground have started to substantially move away from this discourse. Recognising deeper gender

issues, agencies have increasingly incorporated sexual violence in broader approaches to health, gender-based violence, women's empowerment and community-based approaches.

On the one hand, this shows an evolution in understanding sexual violence as requiring institutional changes and community approaches. On the other hand, there are also some questions to be raised with this trend. When action on sexual violence becomes embedded in

broader approaches, it is virtually impossible to monitor its effects on the prevalence of sexual violence.

There are also questions to be asked about the gap between the representation of sexual violence concerns on websites and in international policy and the realities of programme implementation on the ground. While some agencies no longer present their programmes as action against sexual violence, many do. We will come back to these questions in the remaining sections.

Table 4: Earmarked funds allocated for sexual violence response

Donor	Funds ⁵²	Year(s) allocated	No. years	Operational partners	Location ⁵³	Focus of projects
US (Hillary Clinton visit)/USAID ⁵⁴	\$17,000,000	2009	3	IRC, ⁵⁵ Engender Health, others		Medical training, police training, assistance to victims of SGBV
SIDA	\$3,200,000	2009-2010	2	REJUSCO, UNDP	NK, SK	Justice reform, training, case-assistance, justice infrastructure (including SGBV components)
SRFF	\$10,441,088	2010- 2012	2.2	UNOPS, UNHCR, UNESCO, OHCHR, UNFPA	SK, IT	Impunity, protection and prevention, FARDC, services to victims, data mapping (2010-2011)
Pooled Fund	\$2,200,000	2010	1	UN agencies	Mostly east	2010 alone
SIDA	\$1,563,506	2010-2011	2	UNDP	NK, SK	Socio-economic integration of SGBV victims
RNE	\$9,000,000	2010-2012	3	Heal Africa, ABA	MN	Access to justice for SGBV survivors
EU ¹	\$8,761,241	2010-2011 2010-2013	2-4	SCIAF, COOPI, Heal Africa, AMI	NK, SK	Holistic assistance for SGBV survivors
DFID	\$1,300,000	2011-2013	3		National	Ministry of Gender capacity building
USAID	\$32,200,000	2011-2015	5	IMC ⁵⁷ , ABA, COOPI / IMA, World Health, Heal Africa, Panzi	NK, SK, IT, MN	USHINDI and CASE: Promoting reintegration, behaviour change, care, empowerment, psychological support
USAID	\$10,000,000	2011-2015	5	IMC	NK, SK	BBC: Community cohesion in SGBV affected areas
ECHO/PMU	\$2,437,355	2012- 2013 ¹³	2	PANZI hospital	SK	Medical assistance for SGBV survivors under (SSV)
SRFF	\$11,021,876	2012-2014	3	UNHCR, UNFPA, UNICEF, UNESCO, UNDP, UNOPS	DRC	Holistic assistance to SGBV survivors
EU	\$12,195,122 (€10,000,000)	2012-2016	5	ASF, RCN, DRC-partners	NK, SK, IT	PAR-J/UHAKI SAFI: Strengthening functioning of and access to justice (including SGBV components)
EU ⁵⁶	\$2,439,024 (€2,000,000)	2013	?	?	DRC	Healthcare for SGBV victims (pilot project)
UK Foreign Office	\$310,000	2013	1	PANZI hospital	SK	Ultrasound and other equipment (pledged after visit of William Hague to Panzi)
TOTAL earmarked funds for SGBV				\$124 million Average annual spending \$17.7 million⁵⁹		

52 Recalculated against the exchange rates on 31st December 2014.

53 NK=North Kivu; SK=South Kivu; IT=Ituri; MN=Maniema.

54 There is some overlap between the Hillary grant and the USAID projects, of which part is funded from the grant.

55 IRC is the main grantee with \$7 million.

56 This amount, representing €6,637,304, originates from the 10th EU Development Fund. With a total budget of €561.7 for the period 2008-2013 it is most likely that other parts of this funding modality are also allocated towards sexual violence. The rough thematic division of the 10th EU Development Fund: governance €130 million, infrastructure €251 million, health €51 million, environment €29 million and other themes (ex. emergency aid, agriculture, food security and regional initiatives) €100.6 million (European Commission, 2008: 12).

57 IMC is the main grantee with \$10 million.

58 Note that the SSV project at Panzi is running since 2004, and also secured funding for 2014 (11th year).

59 The relative value of the budget-share of one project running into 2016 is not taken into account, the average has been calculated for the period of 7 years (running from 2009 up to 2015 included).

4 Sexual violence response

This section addresses different domains of sexual violence response to find out how practices of sexual violence response in eastern DRC are evolving. It starts with a subsection on immediate responses to follow-up rape cases through assistance and investigation in violent settings. The next subsections deal with sectoral assistance, starting with the medical sector: the provision of the general medical facilities and specialised medical assistance to sexual violence victims. This is followed by psycho-social support, socio-economic support aiming at reintegration into community life, capacity development, and community response to sexual violence assistance. Responses concerning the justice sector and action to halt impunity surrounding sexual violence crimes will be addressed in the next section.

4.1 Immediate response to rape in violent settings

Eastern DRC consists of some areas that are relatively peaceful and other, often more remote, areas that continue to experience rebel attacks and violent encounters. The question is what responses are being made to sexual violence in areas in which rape is happening as part of armed conflict or by civilians.

In 2012, the hostilities around the rebel movement M23 resulted in many rape cases. When M23 took Goma, the provincial capital of North Kivu, most agencies had to evacuate just when the number of women in need of assistance was at its peak. This episode has been described by *Médécins Sans Frontières* (MSF) in their report *Where is Everyone?* (MSF, 2014). Aid agencies operate under different security regimes, and many had a policy of evacuating their staff and ceasing operations when violent encounters happen. The MSF report raised questions about the efficiency and independent decisiveness of aid. As one of the MSF employees in Goma said during our research: 'When shit hit the fan, everybody left. We faced a long and lonely period.' The M23 episode is an example of a broader phenomenon, according to MSF. The organisation found that only a few agencies were able to respond to needs of people caught in violent encounters between rebels and government troops. This is the case for all problems, not just sexual violence. 'Activities are highly concentrated on Goma and Bukavu, except for some fieldtrips. We feel there is a limited provision of services in conflict areas. In Fizi we are fairly lonely. Shabunda has a few more.'⁶⁰

⁶⁰ Idem.

A number of respondents point out that there are in fact other agencies as well that respond to sexual violence in areas of active conflict, even though they have no longer-term presence like MSF has in a few places. Emergency situations where attacks are reported are discussed during coordination meetings to consider which agencies can respond.⁶¹ The International Rescue Committee formed an emergency task force in 2012 to respond to signals about attacks. IRC sends in teams of community workers, psycho-social care, medical and logistical personnel to investigate cases and provide emergency services.⁶² A new initiative is *Femme-au-fone*, which provides women in remote areas with the facilities to report sexual violence.⁶³ The ambition of the project is to link the documented cases with actors that can provide (immediate) assistance.

While there is activity to follow up emergency cases, the issue of under-servicing these cases is generally acknowledged. A group of parliamentarians in North Kivu were very concerned about the situation in Beni in the north of North Kivu where humanitarian needs caused by (renewed) conflict involving the Uganda rebel group ADF-Nalu are very high. There are large volumes of displaced people who are largely deprived of humanitarian assistance. There are also many cases of sexual violence: 'Most organisations concentrate their actions in Rutshuru, Kiwandja, and Masisi [petit Nord]. ... People say that there are a lot of means available for the petit Nord. We in the "grand Nord" appear to be forgotten.'

Our findings confirm the picture that sexual violence programming is much more focused on reachable areas relatively close to the provincial capitals. We also found that most respondents have shifted to areas where sexual violence is mainly committed by civilians and hence have changed their approach to address community-level violence. Only few respondents raised questions of continued conflict-related violence and, for example, the need for security sector reform. One respondent complained about this, stating: 'I insist that partners need to change their approach by studying the real causes. If I am sick the doctor cannot prescribe me medicines without examining what is wrong with me.'⁶⁴

4.2 Medical response

There has been much emphasis in eastern DRC on providing medical care to victims of sexual violence. Most eye-catching has been the work of two hospitals: Panzi hospital in Bukavu and Heal Africa's hospital in Goma. Both specialise in complicated fistula operations. General health facilities are also tasked with dealing with sexual violence.

4.2.1 One-stop approaches

The previous sections described the initiatives to introduce one-stop approaches in DRC. This means that all services related to sexual violence are found under one roof, often combined with transit houses where victims can stay for a while. Especially Panzi and Heal Africa have been advocating and establishing auxiliary branches in rural areas, supported by the World Bank among others.

The idea of the one-stop approach centres throughout the provinces is that victims do not need to travel to the main cities to find a place for integrated assistance. Nonetheless, the one-stop approach, which was mainly associated with the Panzi hospital, was reviewed critically by our respondents. This response may have been intensified by institutional envy or competition between international agencies, but the objections resonated with a number of problems identified in our previous report. Some respondents argued that victims of sexual violence often have additional health problems that warrant an *integrated health approach* more than an *integrated sexual violence approach*.⁶⁵ The one-stop approach, on the other hand, sets services for sexual violence apart, and some argue that it would be better in the long run to integrate this type of care into normal health services.⁶⁶ These respondents doubted the capacity of health personnel, already overburdened, to take on new tasks.⁶⁷ This concern seems justified considering the difficulties we observed in previous years where services turned out to be integrated in name only. One problem is the different timeframe required for the responses. Medical care is usually short term, whereas legal procedures can drag on for a long time.⁶⁸ The notion of a one-stop approach also brings back former discussions on the issue of pressure on victims to turn to prosecution. This was the case in integrated

61 Interview GOV-M-5 (26 May 2014).

62 Interview INGO-F-15 (May 2014).

63 See *Femme au Fone* website: <http://femmeaufone.net/fr/femme-au-fone>.

64 Interview GOV-M-6 (27 May 2014).

65 Interview UN-F-6 (27 May 2014).

66 Interview UN-M-1 (19 May 2014).

67 Interview INGO-M-8 (28 May 2014); Interview UN-M-1 (19 May 2014).

68 Interview UN-M-4 (27 May 2014).

legal programmes of the past, especially when these programmes had a mandate or log-frame detailing a specific number of cases to bring to court every year.⁶⁹

4.2.2 Specialised care or strengthening rural health structures?

The one-stop approach builds up specialised care for sexual violence provided by hospitals like Panzi and Heal Africa, creating a parallel system of care for sexual violence. In practice these institutes tend to respond to broader health concerns: Panzi has been expanding its services to incorporate neo-natal care, family planning and HIV treatment.⁷⁰

A different approach is to use funding earmarked for sexual violence to build the capacity of medical facilities in the state-defined *zones de santé*. This approach is taken by the USAID-financed Ushindi programme.

One of the issues with integrating responses to sexual violence concerns the costs of treatment. The national protocol on sexual violence response prescribes that victims of sexual violence must be given free treatment in the hospitals. In that sense, there is no difference between a specialised hospital and a general hospital. However, as a director of a general hospital explained, it is difficult to decide what falls under free treatment, as many women have additional health problems that are not the direct result of sexual violence. General hospitals only provide free care for issues directly related to sexual violence, whereas the specialised hospitals – with a lot of external funding – can afford to provide all care for free. As the director said: ‘Only Panzi can do everything for free, including social support.’⁷¹

Several respondents were concerned that creating a separate system for sexual violence assistance creates an imbalance. First, there is the risk that specialised institutions increasingly function outside of the governance of the normal health system: ‘There are many small clinics in the Province, but the means are not going there. All successful clinics and hospitals are run by Panzi and it is difficult to be in competition with them.’⁷² Several stakeholders also fear that medical facilities continue to be disproportionately available for sexual violence, but not for other diseases like malaria (300,000 cases a year in

South Kivu), respiratory diseases (more or less similar numbers) and simple conditions like diarrhoea.⁷³ D’Errico *et al.* (2013) also present evidence that the needs of vulnerable women are much broader than just those related to rape: ‘vulnerability is caused by a variety of barriers to health, of which rape is just one among many’ (53).

The issue was also well illustrated by the following story narrated by a director of a Congolese NGO, showing the continued need to build health facilities and capacities from a sustainability perspective:

One day we were in Fizi. There was a government health clinic, renovated by Oxfam or another NGO. It was well constructed, but it had not been in operation for 15 months. The operator left. He had no assistant. There was nothing at all. People would die from a simple fever.

That same week, a mobile clinic came with a doctor and a nurse. They registered 177 women patients. They did not even look at men. They planned to stay for 24 hours, worked the whole night, and were able to extend for one day. Still, the military had to come in, because people were angry when they left. They came to look for victims of sexual violence, but people came with all kinds of different problems.⁷⁴

4.2.3 Fistula operations

A fistula is a tear in the vaginal or rectal wall resulting in incontinence. The condition of fistula is often associated with social isolation because the women suffering from this condition always smell of urine. Fistula is therefore considered a major contributing factor to stigmatising victims of sexual violence.

While the condition of fistula is often discussed in relation to violent sexual crimes, in reality it occurs much more often as a result from complications during childbirth. In 2011, we quoted medical doctors working on fistula programmes that less than 3% of the cases could be attributed to a direct consequence of sexual violence. This was in sharp contrast with the representation of fistula projects as sexual violence response. Our interviews in 2014 with representatives of the hospitals and other medical agencies confirmed that the vast majority of fistula cases (over 95%) result from labour

69 Interview UN-F-6 (27 May 2014).

70 Interview CNGO-F-3 (20 May 2014).

71 Interview MEDICAL PROFESSIONAL, November 2013

72 Interview CNGO-F-2/CNGO-M3/CNGO-M-4 (20 May 2014).

73 Interview UN-M-1 (19 May 2014).

74 Interview CNGO-F-1/CNGO-M-2 (19 May 2014).

complications.⁷⁵ Heal Africa states on its website that fistula 'is caused by labour complications due to lack of access to basic healthcare, giving birth at a premature age, or heinous rape.'⁷⁶ The annual reports of Panzi hospital provide a similar message, but the website of the hospital is less clear. The section on the fistula project does not make reference to the cause of the condition, and as the entire site is focused on sexual violence, the text on fistulas can easily be understood as referring to sexual violence.⁷⁷

It could be argued that the relative lack of transparency about the links between fistula surgery and sexual violence is not a major problem. After all, the story of sexual violence helps to generate the funding required for surgery and allows the hospitals to assist women with this condition, often at no cost. From a medical ethics point of view, women's entitlement to surgery should not depend on what caused the condition, and it could be considered a blessing in disguise that these services are now freely available to all women.

There are, however, also problematic sides to the idea that fistula mainly results from sexual violence. It means that the major cause of fistula, namely childbirth in dire conditions or by very young women, is not sufficiently recognised and addressed. Pregnancy among young girls, in particular, is prevalent but the problem is overlooked because of the overwhelming attention being paid to rape.

4.2.4 Distribution of PEP kits and other medicines

PEP kits are Post-Exposure Prophylaxis kits that are meant for people that have accidentally been exposed to the HIV virus. In eastern DRC, PEP kits are emergency kits containing different items for victims of sexual violence. They usually include antibiotics to prevent sexually transmitted diseases and HIV infection, a pregnancy test and the morning-after pill. The content varies and there are, for example, kits distributed by faith-based organisations that do not contain the morning-after pill. The PEP kits are supposed to be administered within a 72-hour timeframe after exposure to sexual violence.

In response to concerns about a lack of medical equipment for sexual violence victims, there has been a rush of PEP kit programmes in the past years. As one

respondent said: 'You would find them everywhere'.⁷⁸ PEP kits were largely distributed through general medical hospitals, clinics and pharmacies.

The oversupply and lack of coordination resulted in a disorderly use of the kits. They were often opened for the antibiotics that were sold for all kinds of ailments, while morning-after pills were sold to girls having had unprotected sex. Yet the large number of PEP kits distributed was reported as if it were an indicator for the prevalence of sexual violence.

In view of these problems, since late 2012 all medication that is provided by medical agencies has to be kept by and distributed through the designated pharmacy of the health zone. This includes the distribution of PEP kits. This vastly increased centralised control over the distribution of the kits and made it possible to better support the pharmacies with generic medicines for other medical conditions.⁷⁹ It also contributed to the mainstreaming of sexual violence response, and it enhanced the status of government health structures because patients feel it is the government providing them, rather than a variety of NGOs.⁸⁰ The Ministry of Health has also issued instructions on the reporting of the distribution. Health facilities need to be clear on the conditions of patients treated, to prevent a generalised report about the treatment of sexual violence victims.

4.3 Psycho-social assistance

Psycho-social assistance is an important aspect of sexual violence care given the grave psychological problems that may result from rape, often aggravated by social problems caused by the lack of a safe and supportive environment.

Psycho-social assistance is being delivered in a variety of ways. Different forms of listening projects are organised where participants are counselled by trained psycho-social workers, either individually or in groups. The listening projects are often embedded in the setting of temporary shelters created for rape victims (*maisons d'écoute*, or *centres de transit*). There are also community-based approaches: for example, the *Centre d'Assistance Médico Psychosociale* (CAMPS), one of the most specialised agencies in psycho-social care, works through the formation of community-based groups of

75 Interview INGO-M-9 (29 May 2014); Interview UN-M-4 (27 May 2014).

76 <http://archives.healafrika.org/health-care-p-20.html>.

77 Panzi Hospital, www.panzihospital.org/projects/panzi-hospital/fistula-project.

78 Interview UN-M-5 (27 May 2014).

79 Interview UN-M-4 (27 May 2014).

80 Idem.

around ten women, who organise small projects and sessions together. IMA World Health in North Kivu has a similar approach with community groups headed by a woman leader who is a trained volunteer.⁸¹ These are not only directed to the needs of the participants, combining psychological care with socio-economic projects, but also to awareness-raising to promote the social acceptance of victims of sexual violence. Psycho-social care then blends into prevention: raising awareness about sexual violence in communities.

According to UNFPA figures, psycho-social care is the kind of service that is most available to victims of sexual violence. In the first half of 2013, 90% of reported sexual violence victims received some kind of psycho-social and socio-economic support (Douma and Hilhorst, 2012). In 2013, according to the cumulated statistics issued by the data analysis working group (under the lead of UNFPA), 67% of the victims in North Kivu and 99% of victims in South Kivu received psycho-social assistance (UNFPA, 2013a; UNFPA, 2013b).

The reality behind these impressive figures is not very clear. There are some intensive programmes around the shelters, for example in the project of V-day in Bukavu, where a small number of women reside for a year and have their confidence boosted through a range of training programmes, including leadership training and self-defence. Among the 99% figure for South Kivu, however, there may also be many one-off conversations held with women when they report to NGOs to seek assistance.

A number of respondents considered psycho-social care a weakly developed domain, as trained psychologists and psychiatric care are rare.⁸² Several respondents cite a study that found that in 15% of cases, post-traumatic stress syndromes develop, requiring specialised care.⁸³ Thus, specialised care needs to be provided for these 15%, whereas the 85% could thus be assisted with less intensive care, such as community-based counselling. One of the rationales behind the one-stop approach discussed earlier was to enable medical personnel to provide counselling as well.

4.4 Socio-economic reintegration

According to the statistics of UNFPA over 2013, socio-economic reintegration services for women survivors of sexual violence was extremely small: 0.5% in North Kivu and 3.7% in South Kivu. This number refers to individual packages given to women who were reported as victims of sexual violence in 2013.

Activities traditionally include the provision of small livestock for home breeding, vocational training (such as sewing lessons), or the provision of support for micro-business. Socio-economic activities are often part of the formation of groups for awareness-raising or psycho-social support, but evaluations have shown they may be too small to have any significant impact.⁸⁴ During a focus group discussion among men in Walungu, they complained: 'The support given to women is a problem. There are moments when they gave 10 dollar, but that is only for one day. There is no real support to raise their children.' Also, such monetary support is also mostly used for other urgent family needs, such as medical care or school fees.

A number of respondents suggested that socio-economic monetary or in-kind packages are being reduced, and a lack of funding available for the socio-economic component was mentioned.⁸⁵ Instead, community-based approaches have increasingly become the norm. Rather than 'reintegration' of individual victims, the discourse seems to have shifted towards community *autonomisation* (self-reliance).

Several agencies work with local groups of women and men who are encouraged to start rotating saving and credit groups (village saving and loan associations)⁸⁶ in which participants pay a small amount of money every week. A part of these contributions is set aside for emergency situations and the remainder is given to each of the members in rotation, so that each occasionally receives a slightly larger sum of money, for example to buy some goods to trade.

In addition to these associations, there are also some more business-oriented activities. The International Medical Corps, for example, helps women to develop a micro-business case and provide support and supervision to realise these plans (for example in trading

81 For a study on a similar programme implemented between 2007 and 2009 by Maltheser, see Steiner *et al.* (2009).

82 Interview CNGO-M-14/CNGO-F-8 (27 May 2014); Interview UN-M-5 (27 May 2014); Interview UN-F-5 (29 May 2014).

83 Interview INGO-F-1 (22 May 2014); Interview INGO-M-8 (28 May 2014).

84 Interview GOV-M-5 (27 May 2014).

85 Interview UN-M-6 (28 May 2014).

86 Interview INGO-F-10 (29 May 2014).

tomatoes).⁸⁷ Even though support is still modest, it is now mostly non-monetary and increasingly focused on the supervision and accompaniment of the business cases. One respondent explained that the provision of socio-economic support is a complex matter: 'When we do it seriously, people always complain that we have too few beneficiaries'.⁸⁸

4.5 Capacity development for prevention

Many actors responding to sexual violence incorporate activities for capacity development for prevention in their programme. Because these activities often cut across other activities and are not specifically addressed by one of the coordination working groups, the effectiveness of capacity development is rarely reviewed in coordination meetings. Monitoring of training efforts is almost entirely absent.⁸⁹

Capacity development is directed to institutions, especially in the medical and legal domains, and to communities. Capacity development can take the form of financial support or the deployment of personnel, such as the transfer of gynaecological surgery techniques to staff of local hospitals. The main method of capacity development, however, concerns training.

There is a large variety of training for women, communities and institutions. Examples of the latter are training of legal practitioners on various aspects of Congolese and international legislation in relation to the repression of impunity surrounding sexual violence, courses offered to police officers in investigation techniques for the pre-judicial phase, or awareness training to government representatives or politicians. Training at the community level mainly concerns awareness-raising to prevent sexual violence and to avoid the social rejection of violated women or children born from rape.

There is little coordination, which causes duplication, overlap or contradiction in what is offered. During the focus group with male citizens of Walungu the following issue was raised:

*There was a time they came in great numbers to train us. We had more than 15 awareness trainings. The difficulty was they did not know what others had already given. They were almost the same. They separate the men from the women and then discussion together. 'Why did you not intervene when your women were raped?' They only differ in the way they do it, like in school, when teachers have different teaching styles.*⁹⁰

In the case of training for professionals like the police, legal officers or state agents, there is also the issue of multiplication. One top legal person said: 'I have told my magistrates to stop attending these trainings. The *Conseil Supérieur de la Magistrature* told all magistrates to go to Kinshasa for training again. All these workshops and trainings only paralyse our legal institutions.'⁹¹

While there are many training events, they are each of a short duration, and hence only scratch the surface, not offering truly professional training. Questions are also raised with regard to the capacities of the trainers. One public prosecutor interviewed was particularly sceptical: 'They want to explain the law to us through seminars. I have a career of 24 years as a magistrate. Do they really think they can teach me something by sending a young American lawyer that maybe got his degree three years ago, and has not seen anything of the realities of our country? It is an insult.'⁹²

Capacity development of the government beyond training is not widespread. More attention has recently been given to collaboration with coordinating state institutions in the domain of sexual violence (Section 3), yet this has not translated into structural capacity development efforts. NGOs are often critical of the Congolese state functioning, which is seen as ineffective and corrupt, and are therefore reluctant to finance the government. 'There is now more commitment in the Ministry of Health, but their human and financial capacity is a different question. It will take a really long time for them to get it right.'⁹³ Another respondent from the health sector said: 'We are looking at how to disengage, but the government does not know how to put structures in place and does not pay salaries.'⁹⁴

87 Interview INGO-F-1 (22 May 2014).

88 Interview CNGO-M-2 (22 November 2014).

89 Interview INGO-F-12 (22 May 2014).

90 Focus group-3, male citizens Izege/Walungu (14 May 2014).

91 Interview GOV-M-4 (28 May 2014).

92 Idem.

93 Interview INGO-F-1 (22 May 2014).

94 Interview INGO-M-9 (29 May 2014).

Many actors make no distinction between different parts of the state. They see the central government that is not disbursing allocated budgets, yet local government officials charged with programme assistance may be willing but unable to do a good job. As a local officer of one of South Kivu's divisions says: 'Everybody says the state does nothing and is incapable. It is true: I have never seen that funds from the state budget for sexual violence are disbursed for my work. Yet I am here, but who will listen to me?'⁹⁵

4.6 Aid effectiveness and appropriateness

This section addresses some concerns raised by respondents about the effectiveness and appropriateness of the assistance for sexual violence. Citizens involved in the focus group discussion often have strong opinions about aid. Also, respondents from aid organisations and state institutions are often very critical in the confidential environment of an interview. One problem with these opinions, especially citizen opinions, is that they may be based on experiences in the past. But they do give an indication of how sexual violence response is being perceived.

A major critique concerns the effectiveness of funds allocated to sexual violence assistance. The general idea is that the lion's share of multi-million dollar projects is consumed by programme management costs of international organisations operating in DRC, and does not reach or benefit beneficiaries. A coordinator of one of these large programmes says: 'It is a problem with all types of assistance. On paper programmes are large, but in the field the impact is very limited. We stir up a lot of foam. ... The way in which the reality is addressed gives a feeling of marketing to raise funds.'⁹⁶ Accountability is a related concern, as another NGO officer adds: 'There is a complete lack of quality, proximity and accountability on the ground level. ... It is common and still continuing.'⁹⁷

Community members are sceptical about aid effectiveness. The critique is directed not only at sexual violence programmes but more generally at the credibility of aid organisations and state institutions. These are mainly seen as '*bouffeurs*' (eating up the funds) or '*bouffons*' (dodgers, not doing anything, not respecting promises). Many people interviewed express feelings of frustration and incapability to influence aid flows. A Goma

citizen stated: 'If only I would have the possibility to visit the World Bank, I would tell them to stop giving money to our government. We hear on the radio they give millions. When they come for monitoring, they only show schools that were built long before. All the money goes into the pockets and stomachs of certain people, but we don't see any impact.'⁹⁸

The highly critical attitude to aid agencies is particularly strong in urban areas, where people hear many rumours on the radio or from their neighbours and are confronted on a daily basis with the large cars of aid workers with a large spending capacity.

A second issue that recurs in many interviews is an imbalance between the attention paid to sexual violence and the attention given to other conflict-related atrocities or other problems. There is a famous joke about a woman coming to an aid agency to seek help:

Woman: 'The rebels came, they killed my husband and destroyed my house and burnt my field. I have nothing left'

Aid agent: 'And have you been raped'?

Woman: 'No, I was not raped'.

Aid agent: 'Sorry, then we cannot help you'.

The lack of attention for crimes that are not related to sexual violence frustrates the public and feeds negative opinions about action against sexual violence. 'When you kill somebody in Congo, there is no follow-up. People lose goods, they are beaten, they are injured – there are all kinds of abuses that receive no follow-up. But when you rape somebody everybody comes after you.'⁹⁹

4.7 Conclusion

This section addressed how assistance is taking shape (and changing) within the different domains of sexual violence response, in particular emergency aid and medical, psycho-social and socio-economic assistance as well as capacity development. Action against impunity and legal assistance will be addressed in the next section.

The section shows some major trends in assistance. First, we notice that agencies are increasingly veering away from addressing sexual violence in relation to conflict and concentrating on sexual violence committed by civilians.

95 Interview GOV-M-2 (21 May 2014).

96 Interview INGO-M-6 (26 May 2014).

97 Interview INGO-F-2/INGO-M-3 (29 May 2014).

98 Focus group-10, male citizens from Goma (29 May 2014).

99 Interview DO-F-2 (21 May 2014).

This contrasts with the attention to sexual violence on agency websites, which continue to emphasise conflict-related violence.

Second, we found that aid has become more integrated. There are two strategies being implemented simultaneously but which may be contradictory in practice. On the one hand, there is the tendency to build specialised institutions for action on sexual violence, with increasingly broad services, including general health services and psychological and legal assistance. On the other hand, there is the tendency to mainstream the attention to sexual violence by strengthening existing

health facilities so that they can better respond to sexual violence in their area.

A final major finding is that respondents in this research often consider assistance for sexual violence ineffective, in particular because of the overhead and programme costs, where agencies are seen to 'eat' the assistance themselves. They also complain of the neglect of crimes and problems not related to sexual violence. The fact that people complain about the unevenness of international assistance is also a token of the fact that the awareness campaigns around sexual violence have been effective in their reach, albeit with mixed results.

5 Legal action against sexual violence



One of the more prominent aspects of the response to sexual violence in DRC is the fight against impunity. Through the concerted efforts of international, national and civic actors, awareness about the need to use the law to combat sexual violence has increased and the number of cases that have been brought to court has grown significantly over the years. The way in which victims of sexual violence are taken seriously in legal practice stands out positively compared to many other countries, despite the generally weak institutional development and continued insecurity. The international community's interventions, working in conjunction with local civil society, are seen to have shifted governance in the domain of sexual violence considerably, leading to a higher level of prosecution and a growing local awareness that victims should be cared for and protected (Lake, 2014a).

This chapter first summarises how the need to fight impunity is constructed by the international community, as well as through measures taken by the Congolese government. Subsection 5.2 discusses the Minova trial against army personnel accused of mass rape. Subsection 5.3 summarises the findings of the 2011 research into legal action against sexual violence, and presents findings about current trends in the types of support for legal action. Subsection 5.4 looks into the specific challenge of dealing with legal cases involving minors. Subsection 5.5 presents the 2014 findings on the legal cases and compares them with the outcomes of 2011 to analyse similarities, differences and trends. Finally, subsection 5.6 details some of the social impact of legal action against sexual violence, mainly in the city of Bukavu. There are many indicators that the increased opportunity to bring sexual violence charges to court brings about widespread threats, accusations and distortion.

5.1 The compelling need to fight impunity

A lot more sexual violence cases come before court now than some years ago. It can thus be said that the Congolese justice system, influenced by and international pressure and awareness-raising, now takes prosecution of sexual violence seriously. This is also supported by improvements in proceedings, as our legal analysis in subsection 5.5 demonstrates.

Yet, at the same time, high levels of impunity persist, which international actors ascribe to the failing of the system: weak governance, low capacities, and the lack of material and financial resources of the Congolese state to create an effective judicial system (Maya, 2011; BCNUDH, 2014: 14-25).

It is generally argued that the number of sexual violence crimes that result in prosecution is minimal compared to the number of incidents. This is caused by major difficulties in identifying and arresting perpetrators, especially those from rebel factions. The weak forensic investigation capacities of the police also mean that solid proof is absent in most cases, which adversely affects the ability of judges to make a well-informed judgement. Corrupt practices mean that rich and powerful perpetrators in particular escape justice or are wrongfully released from prison.

The crisis of confidence in the justice system causes the majority of victims to refrain from filing a case. They fear retaliation by the accused and know that compensation is hardly ever paid, which for many victims is a more important means of redress than incarceration.

As also addressed in section 3.4.1, these aspects lead the international community to put a high premium on fighting impunity in case of sexual violence crimes, including prosecution of sexual violence as a war crime by the ICC. The primary aim of the 2014 Global Summit to End Sexual Violence in Conflict was 'to shatter the culture of impunity for sexual violence in conflict'. The idea is that without the threat of prosecution and punishment, sexual violence will not be ended. This should start with a cultural change to acknowledge sexual violence as a crime.

In DRC, legal action against sexual violence has been a major priority. The 2006 law on sexual violence was adopted even before the new constitution. In a further attempt to fight impunity, the government voted in a new law in 2013 to make it possible for Appeal Courts to prosecute international war crimes (including sexual violence) under ICC charters.¹⁰⁰ This is a major step, as sexual violence crimes committed by foreign troops could previously not be prosecuted in the country.

The government has also recently changed the rules for provisional liberty. Normally, the constitution and relevant legislation allows convicts to get provisional liberty after having served one-third of their sentence, provided they receive a recommendation from the prison director for 'good behaviour'. We observed in 2011 that with international organisations paying so much attention to sexual violence, prison directors and prosecutors were reluctant to recommend violence convicts. In 2013, the highest military prosecutor circulated a formal communiqué to all military courts in DRC that provisional

liberty for military convicts of sexual violence should no longer be granted. In early 2015, the Ministry of Justice formalised the exclusion of provisional liberty for sexual violence convicts. According to a highly experienced lawyer from Kinshasa, this exclusion was the direct result of international pressure, while the measure is profoundly unconstitutional.¹⁰¹ As a result, the rights of people convicted of sexual violence are increasingly restricted.

The need to fight impunity is based on the idea that prosecution and conviction sets an example and has a deterring influence. This may well be the case in situations where the justice system generally functions well. In DRC, however, there is a severe crisis of confidence and legitimacy in the system, whereby trials more often confirm people's perceptions of the unfairness of the system than have a deterring effect.¹⁰²

5.2 The Minova trial

The problems with the prosecution of sexual violence crimes in DRC, as well as the problems of supporting justice by external means, are well illustrated by the Minova trial. On the 20 November 2012, 135 Minova citizens were said to have been raped by members of the Congolese army. The exact number is not clear, and like in the Luvungi case discussed in section 3.3.2, the estimates are varying and disputed, with one source even estimating 1,000 victims.¹⁰³

The international community strongly pushed for a trial and in November 2013 the Minova trial started in Goma, with 39 soldiers charged with rape and a variety of other crimes. The trial started with high expectations, a 'beacon of hope' (Enough Project, 2014), where the Congolese government took active responsibility for prosecuting alleged perpetrators of sexual violence. International media followed the proceeding of the trials closely. A BBC documentary suggested that the rapes had even been carried out on the orders of some in army hierarchy. Based on very thin evidence, FARDC-experts Baaz and Verweijen considered this documentary 'irresponsible, sensationalist journalism that hampers, rather than facilitates, the efforts to tackle the problems of large-scale sexual violence' (Congo Siasa, 2013).

¹⁰¹ Telephone interview by one of the authors with a lawyer about a particular court case (June 2015).

¹⁰² See for example Baaz, Stern and Verweijen (2013); Lake (2014a); Lake (2014b).

¹⁰³ The 1,000 estimate most likely includes victims of looting, by media reports presented as rape victims. See for example the numbers cited at: Cordaid (2014a), Al Jazeera (2014) and *Global Post* (2014a).

100 Interview GOV-M-3 (24 May 2014).

The verdict was pronounced in May 2014: Of the 39 defendants, 14 were acquitted, 22 sentenced to 10 or 20 years in prison for pillaging and breaking rank, and three given a life sentence in relation to rape charges. Thirteen of the 14 acquitted were officers, whereas nearly all convicts were low-ranking soldiers. There was an outcry from the UN, international human rights organisations as well as a large number of Congolese organisations. The UN human rights office said it was ‘disappointed’ about the verdict, adding the ‘decision fell short of the expectations of the numerous victims and confirmed the shortcoming of the country’s justice system’ (UN, 2014). Martin Kobler, the head of the UN mission in DRC, said he was ‘personally disappointed’. The International Federation for Human Rights called the high level of acquittals ‘a new insult to the victims of sexual violence’ (International Federation of Human Rights, 2014). Lawyers Without Borders calls the verdict ‘unsatisfactory’.

The outrage seemed to assume that all soldiers put to trial were guilty, and that the sole acceptable outcome would have been conviction. There was no presumption of innocence until proven guilty. In the months after the verdict, more nuanced reactions came out, providing some windows on the multi-layered realities of this trial. Human Rights Watch considered the military judge as one with experience and spoke positively about the application of the definitions of crimes and modes of liability under the Rome Statute of the International Criminal Court, which is a very rare thing for a domestic court to do (Lake, 2014c). The degree of participation of victims in the proceedings was significant, compared to other court cases, and measures to disguise and protect the victims (such as closed hearings) were respected (Human Rights Watch, 2014).

A Congolese human rights activist pointed out that the core problem of the Minova trial were flaws in the pre-judicial phase. ‘The main problem is that investigations have not been done well. It is not up to the judge to re-do that work.’¹⁰⁴ In other words, the evidence presented at trial was insufficient and could not have legally motivated conviction in most of the cases. Human Rights Watch adds ‘there were also indications of interference by senior military officers and an unwillingness to investigate and prosecute the most senior officers bearing command responsibility’ (Human Rights Watch, 2014). This is supported by work done by Lake, who argues that the outcomes of criminal trials involving military officers

in DRC very much depends on internal arrangements, whereby those who have fallen out with hierarchy are at greater risk of conviction (Lake, 2014c).

In relation to this, the Enough Project draws two important lessons from the Minova trial experience: ‘The Minova trial offers constructive lessons as DRC continues to pursue justice: prosecutors and defense attorneys need more time, coordination, and resources to build viable cases and high-level perpetrators must be stripped of their de facto impunity’ (Enough Project, 2014).

A Kinshasa-based diplomat stated that donor representatives in Kinshasa realised that the pressure they had exercised on the Congolese government had in fact contributed to an imbalanced trial – a hasty decision to charge the highest military court with the task of dealing with the trial. The operational war tribunal (the Marshall court) was only established in 2010 and its limited experience affected the proceedings. A further disadvantage of the tribunal is that it does not offer the possibility of appeal.

What the Minova trial shows is that expectations of the deterrent effect of prosecutions in the Congolese context are overrated. The characteristics and functioning of the Congolese justice system and the specific (conflict) context in which it operates mean that impunity, real or perceived, prevails.

5.3 Support to the justice sector

In recent years, the lion’s share of legal support offered by organisations has been for the prosecution of sexual violence cases, mainly through the provision of legal assistance to victims in both civil and military trials. Such assistance takes the shape of advice, based on which victims can decide whether they prefer to go to court or not, and by providing them with a lawyer and accompanying them during the trial.

In relation to legal assistance, there is a large discrepancy between the number of victims that are reported to have had legal assistance and the actual number of court cases. First, the number of cases that receive legal assistance is low in comparison with the total number of cases reported. In 2013, UNFPA reports state that 15% of the 10,706 sexual violence cases reported in South Kivu were given legal assistance, i.e. 1,605 cases. In North Kivu, 29% of 6,898 cases were given legal assistance, i.e. 2,000 cases. Second, the percentage of sexual violence cases that make it to the prosecutor’s office

104 Interview UN-M-1 (21 May 2014).

(meaning the prosecutor will look into them) is small. A high-ranking legal officer in North Kivu said during the interview that the four civil prosecution institutions in North Kivu (PG Goma, PGI Goma, PG Butembo, PG Beni) together registered 1,293 cases of sexual violence between 2006 (when the law on sexual violence was adopted) and 2013. This means on average 162 per year in the entire province. It can be reasonably argued that even fewer were concluded. When figures are released on 'legal assistance', the assistance may be limited in many cases to providing basic advice on legal rights, only rarely standing for actual legal accompaniment of victims.

Other projects intend to strengthen the presence and functioning of legal institutions, especially in rural areas, through infrastructural and material support (refurbishing court rooms and prisons, providing office equipment). For example, the Congolese state, in part with support from international organisations, has in recent years boosted the number of *Tribunaux de Paix* (smaller courts in rural areas). But as these have no competency on sexual violence (or other capital crimes for that matter), cases still have to be referred to and handled by auxiliaries of *Tribunaux de Grande Instance* (High Tribunals), which are only found in the provincial capitals or larger urban conglomerations. The distance and costs involved continue to present a major obstacle to rural victims' access to justice. To overcome this, organisations support and fund mobile courts (*chambres foraines*), on which we will further elaborate in following subsection.

In recent years organisations have also invested in capacity development of legal personnel, for example by raising awareness about laws and procedures on sexual violence. The weak performance of the justice sector has prompted capacity-building efforts, such as in 2012 the start of a multi-million-dollar programme to strengthen the justice system in eastern DRC *Uhaki Safi* (or *Programme d'Appui en Renforcement de la Justice à l'Est*, PARJ-E, a follow-up programme of REJUSCO), funded by the EU, *Avocats Sans Frontières* (ASF) and *RCN Justice & Démocratie*. The programme focuses on institutional capacity building in order to redress systemic injustices, and is not specifically earmarked for sexual violence. As discussed in section 4.5, however, there are concerns about the quality and effectiveness of such training.

5.3.1 The mobile courts

The mobile courts in DRC are a temporary facility to provide justice. They are 'temporary courts that are explicitly contemplated under Congolese law and which

operate for a limited period of time in remote areas. A full team of justice sector professionals participate in these trials, including judges, prosecutors, defence lawyers, and bailiffs' (Maya, 2011: 34). Mobile courts usually last around 10 days. They are usually funded and in part organised by INGOs and they privilege areas with weak investigation or prosecution capacities. They are organised on an ad-hoc basis. For example, under a UNDP project over a two-year period (2011-2012), 16 mobile courts were organised. In total, 198 days of hearings were held, 206 cases disposed (with a 60% benchmark for SGBV cases attached to funding eligibility) and – as noted in the project evaluation cited under 'achievements' – a conviction rate of 78% (UNDP, 2014: 9-11). For the organisation of the mobile courts, UNDP collaborates with organisations like the American Bar Association (ABA), ASF, MONUSCO, and the joint human rights office of the UN. The budget for the UNDP project was \$155,000, with costs per mobile court in general being estimated at \$25,000 with 70% allocated to per diems of mobile court staff (legal personnel).

The 2011 research noted a number of critical issues with regard to the mobile courts that can be briefly summarised as follows:

- Scattered and uncoordinated support to mobile courts by various actors, giving courts the chance to negotiate or seek out the highest-funding partner.
- Their timeframes were generally too short to allow for detailed investigations and hearings.
- Linked to this, procedural violations were noted, especially in the pre-jurisdictional phase and in some cases the absence of the possibility of appeal.
- Mobile courts were in some cases organised away from the communities where the crimes happened, diminishing the awareness-raising effect of the trials.
- The large influence of supporting INGOs, who suggested cases and areas for mobile courts, undermined the independence of the judiciary.
- Sexual violence cases were privileged over other crimes, as funding was earmarked for sexual violence, again undermining the independence of the judiciary.
- Support for military courts was privileged over civilian mobile courts, because the former are seen to be more competent, effective and rigorous in relation to sexual violence crimes.
- Legal support was provided for victims but was weak or absent for the defence of suspects to the detriment of just proceedings.

- Moral pressure was put on judges to convict. Per diems and in some cases motivational fees paid to the legal staff may have resulted in subjective treatment of cases.
- Time-consuming multiple trips to the field for the mobile courts often left permanent jurisdictions in urban settings understaffed, with other cases stockpiling and lingering.

Three years later, in 2014, a number of substantial improvements were found in relation to these issues. The main stakeholders have made efforts to harmonise approaches to supporting mobile courts through a coordinating task force. International organisations increasingly leave the decision of when and how to organise the mobile hearings (including the cases to be dealt with) to the court, having realised that their support created a 'state within a state'. Motivational payments to legal staff are increasingly avoided, and daily allowance standards have been harmonised.¹⁰⁵ Fees for lawyers who defend victims have also been streamlined. The task force has also worked to improve the defence capacities of the accused by giving support to the bar association that offers pro-deo assistance to suspects.¹⁰⁶ As the Judge-President of the Bukavu tribunal stated: 'We should not interpret impunity in a single manner, or else we will convict the innocent.'¹⁰⁷

Problems remain with limited time available and the pressure to deal with a lot of cases in each trial. Finally, it seems that funding for mobile courts continues to be mainly earmarked for sexual violence, although some organisations such as ASF also support cases on land rights.¹⁰⁸

5.4 Sexual violence against minors

In 2011, it was found that a large share of the cases that are reported to the police concern cases of youths of minor age. Intercourse with a girl below the age of 18 is considered rape in the law on sexual violence. However, behind many of these cases were stories of consensual liaisons between a girl and her boyfriend (locally called *copinage*), or a girl and an older lover, the so-called sugar daddy.

¹⁰⁵ Interview UN-F-5 (29 May 2014).

¹⁰⁶ Interview INGO-M-1 (21 May 2014); Interview UN-M-3/UN-F-4 (23 May 2014); Interview UN-F-5 (29 May 2014).

¹⁰⁷ Interview GOV-M-3 (24 May 2014)

¹⁰⁸ Idem.

In 2014, this trend was even stronger. Several respondents quoted the Prosecutor of North Kivu's estimate that 90% of the cases reported to police concern cases of *copinage* between two minors, or between a minor girl and a young man.¹⁰⁹ In North Kivu, figures of the Division of Justice show that 60% of those imprisoned for sexual violence are aged between 18 and 25.¹¹⁰ Interviewees in South Kivu mention that 80% of those in prison for sexual violence are young men (up to 35 years of age). The vast majority of people in prison have not yet been prosecuted: 92% of all inmates in the Goma prison according to figures of the Division of Justice, while the situation in Bukavu prison probably little different. Many young men accused of rape are actually the boyfriend of the girl under 18 who was the 'victim' of rape and have been arrested and imprisoned on that account. There are quite a number of accounts of cases where the girl stood by the accused and denied that sexual violence took place.

The issue of minors concerns a dilemma. The law defines any attempt to have sex with a minor as a crime that should be prosecuted. A respondent put it in relation to a case involving a 17-year-old girl whose parents accused her boyfriend of rape. 'Unfortunately the law does not allow her to love at that age.' Judges differ in their interpretation of the law. Some magistrates maintain a strict interpretation, while others maintain that consensual relations of adolescents are not rape under certain circumstances. Organisations generally state it is not up to them to engage in a debate about whether the law is applied too strictly or is in need of reform as they operate in a sovereign nation state. It is not possible to determine if such cases are included in statistics on sexual violence or if they draw on assistance programmes for combatting sexual violence.

5.5 A comparative analysis of sexual violence cases

Perhaps not surprisingly, given the large shifts in legal practice, legal action against sexual violence generated a lot of problems according to our 2011 research. Many faults were found in the 40 court cases that were examined, leading to the conclusion that there was too much pressure to convict in cases of sexual violence. In 2014, these cases were revisited, and an additional 46

¹⁰⁹ Interview INGO-M-6 (26 May 2014); Interview GOV-M-4 (28 May 2014).

¹¹⁰ Figures of the Goma prison for May 2014 show that there are 1,042 prisoners in total. Approximately 300 are in prison for sexual violence (29% of the total in prison), of which nearly all are below 35 years of age. One third of these come from Goma, two thirds from rural areas.

recent court cases on sexual violence were examined in terms of the profile of the victims and accused, the proceedings and the evidence. The cases that resulted in 2011 in conviction (18) were also re-analysed.

This section analyses 46 sexual violence cases originating from four different jurisdictions in South Kivu covering the period 2012-2013. The cases were taken from five courts, of which two were military. All cases that were introduced and concluded between 2012-2013 and for which the file was physically present were included in the analysis. As our team was refused

access to files at the level of the state prosecutor (where cases that did not make it to court can be found), it is difficult to compare the outcomes of cases judged with the overall number of cases reported. The data cannot be used to make any statistically significant claims about the overall quality of sexual violence proceedings in DRC.

5.5.1 Details of the cases

The table below presents a summary overview of the cases.

Table 5: Overview of the cases – 2014 and reference to 2011 findings

Jurisdictions ¹¹¹	Victim's minors	Professional	Family relation	Neighbour/friend	Suspect unknown to the victim	Not specified	More than one suspect	Pregnancy	Rape charge	Indecent behaviour/or sexual harassment	Attempted rape	Crucial evidence absent ¹¹²	Legal timeframe respected	Conviction	Release
TMG – 1 st (11 cases)	10	1	0	3	3	3	2	4	11	0	0	1	0	9 ¹¹³	1 ¹¹⁴
TGI (BKV)- 1 st (8 cases)	6	1	1	5	1	0	1	1	7	0	1	8	0	5	4 ¹¹⁵
TGI (KVM) – 1 st (8 cases)	6	1	0	5	1	1	0	1	8	0	0	8	0	7	1
CM – 2 nd (9 cases)	9	9	2	2	5	0	0	0	8	1	0	0	1	9	0
CA – 2 nd (10 cases)	5	1	0	8	1	0	0	0	10	0	0	2	2	7 ¹¹⁶	3
TOTAL	36	13	3	23	11	4	3	6	44	1	1	19	3	37	9
% in total in 2014 (46 cases)¹¹⁷	78	28	7	50	24	9	7	13	96	2	2	41	6.5	80	19
% in total in 2011 (40 cases)¹¹⁸	72	10	13	13	65	0	0	25	100	5	0	78	10	60	40

111 Explanation of abbreviations: TGI-BKV/KVM (*Tribunal de Grande Instance*, the Civil Court in respectively Bukavu and Kavumu), CA (*Cour d'Appel*, the Civil High Appeal Court), TMG (*Tribunal Militaire de Grande Instance*, the Military Court), CM (*Cour Militaire*, the Military High Appeal Court), PGI (*Parquet de Grande Instance*, the office of the Public Prosecutor).

112 Here we mainly refer to the medical report, by Congolese law considered to be a crucial element of proof.

113 In one of the cases the court (TMG) has refrained from pronouncing a judgment, declaring itself incompetent to deal with the case. This is also why the total of convictions and releases does not add up to 100%.

114 In one of the cases where there were two accused, one has been convicted and the other acquitted.

115 Idem.

116 Two of these convictions concerns an indirect confirmation of the first-degree conviction by the appeal court (CA) as it declared the appeal non-receivable.

117 The percentages in the grey cells are calculated on the basis of 30 cases because those indicators concern prosecution, hence excluding the 10 cases of the PGI that were not prosecuted.

118 Idem.

- **Type of sexual violence:** All but two of the cases (N=46) concern charges of rape. As in 2011, rape charges are predominant in sexual violence cases.
- **Relationship with the accused:** In 2011, two-thirds of the cases concerned accused that were unknown to the victim. In 2014, this was only true for 24% of the cases. Half of the cases in 2014 concerned a family or friend. Half of these (12 cases) specifically mention the suspect was a 'friend', 'boyfriend', or 'pseudo-fiancé'. There was no such qualification in 2011, which confirms the trend from the interviews that cases of *copinage* are increasing. The remaining cases concern relatives, neighbours or professionals, such as teachers or doctors.
- **Pregnancy:** Compared to 2011, there are fewer cases where the victim was pregnant. All of these cases concern girls of 13-18 years old; four out of six cases were registered with the military tribunal.
- **Age of victim and accused:** In both samples, the vast majority of cases concerned minors. In 2011, however, half of the minors concerned children under 14 years old, whereas in 2014 80% were over 14, usually 16 or 17. 15% of the accused are over 35 years of age, and 28% of are under 25 years. In 2011, there were even more young men, around 50%.
- **Status of suspects:** As in 2011, none of the studied cases included a suspect with a certain degree of wealth or status, confirming the frequently voiced criticism that people of power can escape responsibility for sexual violence (Human Rights Watch, 2009). In the 18 military trials, 11 of the accused are foot soldiers, five are under-officers (up to lieutenant), and one is a policeman. Only two are officers. As for the civilian court cases, 11 cases concern unemployed men, five schoolboys or students, and five are said to have a job (driver, money exchanger and hospital nurse).
- **Legal timeframe:** The legal timeframe for treatment of sexual violence cases is a maximum of three months from instruction to judgement, according to the law. In both samples, this was rarely respected. It should be noted that the delays in most cases are caused by the pre-judicial phase. There seems to have been no improvement, as the average procedure took 6.5 months in 2011 and 9.5 months in 2014. Still, sexual violence cases are generally handled and concluded faster than other offenses, which may linger on for years.
- **Evidence present in files:** The most important piece of evidence expected to be present in a sexual violence file is the medical attestation with evidence of rape. Other elements of proof include proof of school enrolment, birth certificates, medical leaflets, identity cards, or objects gathered at crime scene. In 2011, 75% of all first- and second-degree cases lacked a medical report. None of the convictions were based on a medical report.
- In comparison to this, the 2014 analysis shows the following:
 - 41% of the cases lacked a medical report. Though still a high percentage, it is a significant improvement from 75% in 2011.
 - None of the first-degree cases dealt with by the civil courts (TGI Bukavu and Kavumu) contain a medical examination report. Once a medical attestation was used to prove minority of the victim. No other pieces of evidence appear to have been present in the first-degree files of the TGI either (except for a school bulletin and a birth certificate in two files). This means that in 13 cases no element of proof was presented in the file (of which 10 resulted in conviction).
 - In contrast, all of the cases dealt with at first degree by the military tribunal (TMG) contain a medical report. Three files also contain witness testimonies.
 - Out of the 19 cases dealt with in the appeal, for both the civil and military court, all but two have a medical report on file. In two cases clothing was seized on the crime scene.
- **Conclusion of cases:** In 2014, 80% of the cases resulted in conviction and 17% in acquittal of the suspect. In 2011, convictions were 60%. As in 2011, almost all of the military cases studied (N=20) resulted in conviction, so the increase is account of the civilian court outcomes.
- **Reasons to release:** In the nine cases of acquittal, the judges' arguments were relatively well developed (as they were in 2011), especially for those dealt with in appeal. The reasons for acquittal included cases where bystanders or people trying to help the victim had been arrested, the absence of a medical report, and the fact the victim was absent during the hearing or unclear in her testimony.

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- **Reasons to convict:** On first-degree convictions, reasons put forward by the tribunals (both civil and military, 27 cases in total) are diverse and sometimes presented in combination. In two cases the suspect admitted to rape. In one of the cases a suspect was captured in the act and in one case the presence of a witness was used. In the six cases where pregnancy was involved, the pregnancy itself was used as argument to convict. In all of these cases the suspect admitted to being the father of the child, which the court took as an indirect admission of rape. The medical report was cited 11 times as key reason for conviction. In three cases the tribunal based its decision solely on the police report.

As for the appeal courts (both military and civil), the medical report was used as a reason to convict in seven cases, in combination with a witness statement (four times) and a guilty plea (twice). Twice the testimony of the victim was given as a reason. In five cases the judge only confirmed the opinion of the first-degree judge without complementary reasons. What stands out in comparison to 2011 is that the judges' arguments seem to be more developed.

- **Prison penalties:** There were 37 convictions at the first-degree level and cases treated in appeal. According to the law, the minimum sentence for sexual violence is five years. Nonetheless, six cases got penalties of less than five years, of which the lowest was three months. Five cases got the maximum penalty of 20 years and one case applied capital punishment. The remaining 25 cases got penalties of between 5 and 20 years. This spread is similar to the 2011 findings. The average penalties pronounced differ by jurisdiction. As in 2011, military courts were more severe (TMG on average 12 years, and the Military Court [CM] on average 16 years) than civil courts (TGI Bukavu on average 5 years, TGI Kavumu 9 years and the CA on average 5.6 years).
- **Fines and compensation.** Of the 37 convictions, 32 (first-degree judgement) were convicted with legal fees/penalties ranging widely between \$13 and \$1,100 (\$150 on average). This is slightly lower than the \$230 average of 2011. For 34 convictions compensation payments were requested, ranging \$90 to \$15,000 (on average \$3,200, which is higher than the \$2,030 average in 2011). The TGI in Kavumu and the have a particular tendency to pronounce high compensation payments of thousands of dollars. None of the files included documents proving the

actual payment of compensation. The enactment of compensation requires a civil procedure for which the victim is expected to pay 6% of the allocated sum in advance. This is often impossible for victims, especially the poorest. Also, many of the convicted are incapable of paying and the state has never paid in military cases. Legal redress through compensation is just as problematic as it was in 2011.

- **Results of higher appeal:** Of the cases that were dealt with in the higher appeal court (civil and military) (N=19), three civil convictions (*Cour d'Appel* – CA) were nullified because of doubtful evidence. In two cases the CA vastly reduced the penalty on appeal. One case was reduced from 7 years to 11 months because a witness declared that the victim consented and enjoyed the act. One case was reduced from 11 years to 15 months for extenuating circumstances. The suspect in this case was a student of nearly the same age as the victim (23 and 24). In the absence of a medical report this did not appear to be forced rape. Based on these arguments, it is unclear why these sentences were not nullified on appeal. As for the CM, no penalty was nullified, but for three cases the penalties were reduced by a number of years. For all the other second-degree cases the higher court confirmed first-degree penalties. The CM has a tendency to raise penalties on second-degree cases. Unlike 2011, when none of the higher appeal cases involved complementary research and merely confirmed what was pronounced at first degree, now the appeal cases demonstrate a more thorough examination of the elements of proof in file – although there were still no cases where complementary investigations or new elements of proof were brought in.

The legal expert conducting the analysis of the cases assessed the overall quality of the proceedings in each case. Overall, she observed an improvement in the quality in how cases have been dealt with and presented. The TGI first-degree level continues to have low-quality files without elements of evidence, but in the other courts the arguments put forward by judges to convict or acquit are better developed. The respect of the legal timeframe remains very weak, especially at the CA/CM level.

Table 6: Overall quality of proceedings of cases studied

Jurisdiction	No. of cases studied	Quality of proceedings	Respect of timeframe observed
TGI (Bukavu and Kavumu)	16	2 cases (12.5%)	10 cases (62.5%)
TMG	11	4 cases (36%)	10 cases (91%)
CA	10	9 cases (90%)	2 cases (20%)
CM	9	8 cases (89%)	3 cases (33%)

5.5.2 The 2011 cases re-analysed

Eighteen convictions that occurred with the cases that were studied in 2011 were reviewed again to assess whether prison terms are respected.¹¹⁹ The starting date of the first-degree trial is considered the start of the prison term (sexual violence suspects are not allowed bail awaiting their trial). The following stands out:

- Five out of the 18 cases had officially finished their sentence by the time of this analysis. Their terms had ended between late-2011 and mid-2012 (with one finishing in September 2013), yet four out of the five were still in prison in mid-2014, meaning they had served at least two additional years.
- According to Congo’s laws, after having served a quarter of the prison term conditional liberty can be requested. None of the cases have been granted conditional liberty. Twelve cases that are eligible have formally requested conditional liberty. Of these, three were refused on the basis of ‘bad behaviour’ and nine never received a response to their request. It is to be noted that legislation restricting the rights of sexual violence convicts was effected after the analysis, in 2014, so these prisoners would have been eligible for conditional liberty.
- Of the 18 cases, 14 were also ordered to pay compensation to the victim (on average \$1,700). None of the files, however, include proof of payment.
- Of those convicted whose term had not yet finished (13), all but one were still in prison. The one that was no longer in prison concerns a military case. It is unclear if he escaped or if corruption was involved. His case was among those with the highest possible sentence (20 years) and he had the highest compensation to pay (\$8,000). There is a persistent idea that convicted perpetrators escape *en masse*

from prison. Even if this true for higher-ranking or influential people (whose cases would not have appeared in our sample because their files would have conveniently disappeared), for poorer people our sample indicates the contrary.

5.6 Social practices around legal cases on sexual violence

In 2011, there were different stories and rumours that indicated that knowledge of the sexual violence law brought about a practice of people bending the law to their own interest, either to settle conflicts or to criminalise consensual relationships for economic gain. There were many stories in Bukavu and Goma about how consensual relationships or conflicts were framed as rape. One woman said: ‘In our neighbourhood, nearly all pregnancies of unmarried girls are sooner or later transformed into a sexual violence case. In my opinion, rape is abused to get money’ (Douma and Hilhorst, 2012: 53). An NGO representative summarised the situation as: ‘The severity of the law is abused; intimidations and requests for money are widely present. People know that someone will “tremble” once accused of sexual violence and is immediately ready to give some money’ (ibid).

The research in 2014 found more traces of the social appropriation of legal action on sexual violence. As mentioned above, the law on sexual violence criminalises any type of sexual relation with a person under the age of 18. Parents who don’t like the boyfriend of their daughter can easily accuse him of rape if she is below 18. When a girl becomes pregnant, there are numerous accounts of parents filing a rape case in the hope that legal proceedings might help them claim compensation. There are also examples of evidence of age being altered when the girl in question is over 18.

In 2011 our report mentioned a controversy that had risen in Bukavu around the *Police d’Enfance et la Lutte contre les Violences Sexuelles* (PNC-PELVS), led by one of the highest-ranking and most internationally praised female police officers in DRC. A number of people claimed that the unit was involved in staging sexual violence for corrupt purposes, and this time around the rumours appeared to have swollen. People told us that many people in Bukavu know of a man being set up for rape in their social network. Examples come from all levels in society. A group of youths interviewed in Bukavu say that they hear of such cases at least once every two weeks.

¹¹⁹ There were 19 convictions in 2011 but one file could not be found.

An additional rumour that gained strength is that this officer or her direct family owns a bar-nightclub called Espace Schengen in one of the poorer neighbourhoods of Bukavu where a lot of prostitution is alleged to go on. For this research we held a focus group with four young women who work as prostitutes in this particular bar. The girls deny that minors work in the bar as prostitutes, but without the researcher asking them about this police officer, they came up with the following testimony:

When we are in the Schengen bar that is owned by [name], and we encounter a man that does not want to pay you for our services, we call [name]. She then arrives with her policemen and they arrest the man in question. We have to go with her to the police station so that we can file a complaint. She says it is rape. For the situation to be solved, the man has to pay. I think that when she talks about rape, she really talks about us, because 'elle mange chez nous'.

In the focus group with citizens in Bukavu, participants said this had affected courtship in the city. Students said that when a guy has set his eyes on a pretty girl, friends will tell him: 'So you are not afraid of [name]?'¹²⁰ In another focus group with urban poor women, a woman said: 'You hear parents in our area say: why don't you cope like the other girls and find a man to accuse of rape?' Below the surface of actual court cases, a reality seems to have evolved where people can take advantage of the fear of prosecution. Men who are accused, whether they know the girl or not, have no choice but to pay their way out of a threat of accusation. Threats to accuse a man of rape are also used in nightclubs, for example when a man does not pay what he owes a sex worker.¹²¹

Cases of abuse and fake police cases over sexual violence claims may result in ordinary citizens underestimating the existence of real sexual violence.

In the early days, we were really happy to see organisations that came to help victims. But when we saw that people started to abuse the problem, the perception towards sexual violence changed. People now just don't give a damn. ... It becomes difficult to believe a woman that has really been raped and people will say: Uko natafuta makuta tu (you only look for money).

Conclusion

This section has detailed the findings on legal action against sexual violence. With regard to interventions against impunity, it appears that approaches have broadened from a focus on prosecution (whereby actions were concentrated on the provision of legal assistance to victims) to increasingly include system-wide institutional capacity building. Regardless, the Congolese justice system is still widely mistrusted. The deterrent effect of prosecution should not be overestimated, nor should it be the main motivation for legal support to sexual violence cases.

In 2011, the state of legal action was found to be dismal. A major finding of the current research is that court proceedings have improved compared to 2011, at least in the appeal courts. There have also been substantial improvements in the organisation of mobile courts to restore their independence, respect the rights of the accused by ensuring they have access to legal counsel and better coordinate the courts. There continue to be problems, especially in the pre-judicial phase where police investigations are slow and lack rigour. The performance of courts has improved.

There are still concerns with the rights of the accused. The percentage of the cases resulted in conviction in the 2014 analysis is higher than in 2011, and stands at 80%. Cases involving minors (below the age of 18) constitute the vast majority of cases that are reported to the police and prosecution level. A number of these cases concern young couples where a boyfriend is accused against the wishes of the girl. For those cases that do make it to court, judges are struggling with these cases, with some punishing severely and others refusing such cases. The rights of prisoners are disrespected when it comes to conditional liberty, where the majority of requests hardly receive an answer. In the sample of 2011 were five cases where the sentence of the convicted had elapsed. Four of them were still in prison more than two years after their sentences had been served.

Finally, we found that the legal approach to sexual violence has created some disturbing social practices in urban centres, where the threat of being accused of rape has become a way to extort money.

¹²⁰ Focus group-5, Bukavu citizens (23 May 2014).

¹²¹ Focus group-4, Female sex workers from a Bukavu nightclub (23 May 2014).

6 Conclusion

This report has analysed how the responses to sexual violence have taken shape in DRC and how they have evolved over the past few years. It followed research done in 2011 that produced evidence of a number of weaknesses and perverse effects in the response to sexual violence. The title of the previous report, *Fond de commerce*, reflected a general view among respondents that the abundant and largely uncoordinated funding for action against sexual violence had resulted in a situation where different actors could profit from the political attention and funds available. A number of these shortcomings were observed in other articles and reports on DRC.

Follow-up research is important to observe changes in practice and to identify areas where further efforts to strengthen the response is required. Sexual violence in various forms continues to affect the lives of many in DRC. Conflict-related rape still occurs in some areas and gender-based violence in civilian and domestic settings is a widespread phenomenon.

This report addressed the following questions:

- How has the engagement of responding actors and their approaches to sexual violence in eastern DRC evolved since 2011?
- How have practices of sexual violence assistance evolved in eastern DRC?
- What are the social effects of increased legal action against sexual violence in urban areas of eastern DRC?

How has the engagement of responding actors and their approaches to sexual violence in eastern DRC evolved over the past few years?

Looking back at the sexual violence response in eastern DRC, we can see that it mounted up from 2008 and reached enormous proportions by 2012. We have been hesitant to refer to the response as 'hype', but the term has been used by Eriksson-Baaz and Stern (2013) among others. The urgent calls for action led to a response where hundreds of agencies started engaging in sexual violence response, largely uncoordinated.

In 2011, we observed many perverse effects including the misuse of funds at all levels of society. Poor women could only find services and support from programmes for sexual violence victims; citizens started using sexual violence court cases to extort money or take revenge for other forms of injustice; doctors could only treat

fistula patients under sexual violence funds; local NGOs survived by pushing their sexual violence 'expertise'; and international agencies raised funds by presenting ever-larger numbers on sexual violence. One of the damaging effects was that local actors increasingly disengaged from the issue of sexual violence, considering it an 'international thing' and suspecting victims of faking it. Another damaging effect was that the attention to sexual violence threw many other important issues in the shadow, including other types of violence.

Hype never lasts, and one of the questions in the back of our minds was how it would end? Would the negatives become more dominant? Would the hype bring about positive effects in the end? Could it be the beginning of serious attention to gender issues in DRC?

Attention to sexual violence has become more regulated in many ways in the past three years. Coordination has improved. The coordination and engagement of the Congolese government has also improved, yet remains relatively minor. Funding has gone down, which may have negative effects but also some positive ones as the number of quick-and-dirty projects and NGOs that suddenly develop expertise on sexual violence has also gone down.

The approach of actors dealing with sexual violence has also changed. There is more recognition that conflict was not the only cause of sexual violence, and attention has shifted to gender relations and violence against women by civilians. A number of Congolese NGOs that were once at the forefront of action against sexual violence have now completely shifted to other gender issues. In general, there is much more attention being paid to other forms of gender-based violence, women's empowerment and leadership. The focus is now much less on women-as-victims, and has become more complete. Victim-oriented support has largely transformed into community-based responses. There is also more recognition of other medical needs. The fact that 95% of fistula is childbirth-related is now recognised.

While these changes are happening on the ground, the international representation of gender-based violence remains largely unchanged. An international summit in 2014 centred on the rape-as-a-weapon-of-war narrative, most international NGOs' websites continue to focus on conflict-related violence, and many programmes, notwithstanding the broader approach in practice, continue to fall under the response to sexual violence. A few actors now engage in gender programming without

referring to sexual violence. Often, the discrepancy between international rhetoric and the realities of interventions on the ground are large. This is problematic from an ethical point of view, comes at the expense of transparency, and makes it difficult to scrutinise programmes for their effectiveness.

Attention to continuing conflict-related sexual violence appears to be overshadowed. Interventions overwhelmingly happen in more reachable areas, not where the conflicts occur. The very problem that triggered the response (and still dominates international narratives) tends thus to be under-served. Attention to other-than-sexual violence has not increased and the plight of male victims is not addressed. The commitment to resolving the causes of conflict-related violence, through peacebuilding or security sector reform, appears to have ebbed.

How have practices of sexual violence assistance evolved in eastern DRC?

Compared to 2011, we see many improvements in the response to sexual violence, especially in the key domains of the medical and legal response. This is not to say there are no problems. The situation in the legal domain was dismal in 2011, with a vast majority of cases leading to conviction without a shred of evidence. It is thus a big improvement to see that 13-36% of our sample of first-degree cases qualified as satisfactory, even though this means that the majority of cases still lack proper documentation. Our samples are moreover biased in a positive direction, as we can only study cases where a file exists. In a similar vein, we see improved respect for the rights of suspects, while concerns remain. Nonetheless, these are positive developments when we compare the two samples.

Issues persist in the medical domain, especially with the general capacities of health care in DRC. Recent years saw the country flooded with PEP kits supplied a numerous actors responding in an uncoordinated fashion, leading to the disorderly use of the kits. This has now been brought under control.

A major issue concerns the overall strategy for responses to sexual violence. There are initiatives, now boosted by a large programme of the World Bank, to create a one-stop approach where victims of sexual violence can find all the services they need. This risks creating a parallel system for sexual violence response throughout the provinces. An alternative approach, favoured by USAID for example,

is to strengthen the general medical facilities. Interwoven with this discussion about approaches is a discussion on cost-recovery that permeates the entire health sector. Health care in DRC is based on cost-recovery. Sexual violence is exempted and provided for free. However, this is only the case for medical treatment directly related to the sexual violence. Specialised hospitals using the one-stop approach like Panzi provide all care for free. At the moment, both these different approaches are being developed as long as donors are interested, and there is no clear policy that takes into account the question of sustainable healthcare.

Other domains, like psycho-social care and socio-economic reintegration, are less developed. While UN statistics show a remarkably high coverage of psycho-social care, there is very little verifiable insight in the methods used and their effects. Socio-economic reintegration seems to consist of high-level support for a few, and highly insignificant projects for many. Mutual help and saving groups are often encouraged, but it is unclear how helpful this is for responding to dire poverty in DRC. Efforts at capacity development, likewise, are not well monitored. Capacity development is part of every domain of intervention, yet it seems to escape scrutiny from the different coordinating bodies.

Reviewing responses to sexual violence strengthens the notion of a mismatch between discourse and practice in this field. This is seen in the relative under-servicing of areas where conflict and related sexual violence continues. It is also seen in reduced attention to root causes of such violence, expressed through security sector reform and peacebuilding. It is also seen in the legal domain. The urgent need to fighting impunity for sexual violence has led to a legal practice where sexual violence cases are being tried based on the 2006 law on sexual violence. A majority of cases involve girls of minor age, of which a large number concerns consensual relationships with boyfriends or sugar daddies. Sexual intercourse with any woman under 18 is punishable by law, and there are incidents of prosecution against the will of the 'victim'. Protection of young women is interspersed with moral convictions about sexuality and runs counter to social practices where many girls are sexually active before their 18th birthday. It is questionable whether those who urged the fight against impunity had this effect in mind.

What are the social effects of increased legal action against sexual violence in urban areas of eastern DRC?

As detailed above, the increased legal action against sexual violence is to a large extent manifested in cases concerning young women who have engaged in sexual relations before the age of 18 years. This affects young men, who fear the threat of prosecution (and the possible 15 years of imprisonment) when they have a girlfriend, especially when she becomes pregnant. The legalisation of sexuality is not matched with equal efforts to educate youths about the use of contraceptives or the pros and cons of early relationships.

There are also many stories of how the fight against impunity is used by citizens and law enforcers to extort money. Threats to prosecute can be give vulnerable women a line of defence, such as prostitutes using them to force their clients to pay. It can also be a means of survival in poor conditions: we quoted one student whose mother told her: 'Why don't you cope like everybody else, and find a man you can accuse of rape'?

Rumours that the police stages cases for corrupt gain are widespread and sustained by people from all levels in society, especially in Bukavu and in relation to the police force that specialises on sexual violence (PELVS). These rumours are often based on first-hand knowledge (when for example the narrator's cousin or neighbour was put to prison or forced to pay) and were sustained by a focus group of girls working in nightclubs.

The fight against impunity has thus found a way in the political economy of survival and corruption, especially in the cities of eastern DRC. The citizen disengagement with the issue of sexual violence detected in 2011 has become stronger as a result. People tend not to take the issue seriously and expect women to accuse for personal gain. This results in the negative opinion many people have of aid agencies as '*bouffer*' – eating the money they receive rather than spending it on the population.

Conclusion

The response to sexual violence in eastern DRC peaked around 2012, but since then a reduction has set in. In 2011, many perverse effects were observed, as it invited misuse of funds at all levels of society. One of the questions informing this report was how this would continue? Would the negative effects become more dominant? Or could this hype usher in more serious attention to gender issues in DRC?

We find that attention to sexual violence has indeed become more regulated and coordination has improved, including with regard to the engagement of the Congolese government. The approaches of actors dealing with sexual violence have changed. There has been more attention for other forms of gender-based violence, women's empowerment and leadership. Victim-oriented support has largely transformed into community-based responses. There is also more recognition of other medical needs. However, the discrepancy between international rhetoric and realities on the ground is large, with international representations still focusing on the conflict-related rape. This is problematic from an ethical point of view, comes at the expense of transparency, and makes it difficult to scrutinise programmes for their effectiveness. The gap between the discourse and practice of sexual violence response has been widened. A major concern remains that the fight against impunity has found a way in the political economy of survival and corruption, especially in the cities, where accusations of sexual violence are often used for revenge or extortion. Citizen disengagement with the issue of sexual violence has become stronger as a result.

Recommendations

The findings lead to the following recommendations.

- **Be more transparent about sexual violence response**
International agencies should review their narratives and adjust the conflict-related sexual violence discourse to better match it both to local realities and the work they are currently doing. More precise analyses of how programmes are expected to contribute to change (systematic use of theories of change, for instance) will enable more internal and external scrutiny of the effectiveness of aid.
- **Develop a comprehensive policy on sexual violence response**
The government together with the UN should develop a clear strategy on sexual violence response and clarify how the creation of parallel services through one-stop approaches relates to policy perspectives on the health system. This should also include discussion of free service provision.
- **Be more transparent on fistula operations**
Thanks to the attention to sexual violence there are now two hospitals specialised in the complex fistula operations, allowing hundreds of women to receive surgery to repair the damage caused by fistula. Notwithstanding the enormous benefits of these services, it is important to become more transparent about its causes, which should lead to more attention to reproductive health care and the prevention of teenage pregnancy.
- **Review sectoral sexual violence response**
Although the response to sexual violence is not as overwhelming as it was between 2008 and 2012, it continues to be substantial, involving a large amount of public funding and private donations. Interviews with workers in the sector raise concerns that ought to be externally and transparently evaluated. Topics that stand out are:
 - Methods and effectiveness of psycho-social response
 - Practices and effectiveness of training facilities
 - Coverage and effectiveness of sexual violence response in armed encounters or rebel attacks
 - Attention to male victims of sexual violence.
- **Continue capacity development of the medical and legal sector**
Despite improvements in medical and legal responses, capacity development is of paramount importance in these sectors. This is a much broader concern than sexual violence alone. The Congolese health sector has an enormous capacity deficit. In the legal sector, special attention needs to be given to pre-judicial investigative capacities and the respect for rights of suspects of violence.
- **Have an honest discussion on the social effects of the fight against impunity**
As a result of the attention now paid to fighting impunity, many cases are brought to court that in fact concern cases of *copinage* (consensual relations). The question is if this desirable. The exclusively legal approach to sexual violence should at least be accompanied by more educational approaches on contraceptives.

References



- Al Jazeera (2014) 'They will be heard: The rape survivors of Minova', 14 March (<http://america.aljazeera.com/multimedia/2014/3/they-will-be-heard-therapesurvivorsofminova.html>).
- Autesserre, S. (2012) 'Dangerous tales: Dominant narratives on the Congo and their unintended consequences', *African Affairs* 111(443): 202-222.
- Baaz, M.E., Stern, M. and Verweijen, J. (2013) 'Will UN "rape ultimatums" end abuses by the Congolese army?' Mats Utas blog (<https://matsutas.wordpress.com/2013/03/12/will-un-rape-ultimatums-end-abuses-by-the-congolese-army-by-maria-eriksson-baaz-maria-stern-judith-verweijen>).
- Bashwira, R., Cuvelier, J., Hilhorst, D., and van der Haar, G. (2013) 'Not only a man's world: Women's involvement in artisanal mining'. *Resources Policy* 40: 109-16.
- Congo Siasa (2013) 'Was the Congolese army ordered to rape in Minova?', 10 April (<http://congosiasa.blogspot.nl/2013/04/was-congolese-army-ordered-to-rape-in.html>).
- Cohen, D.K., Hoover Green, A., Wood, E.J. (2013) *Wartime sexual violence: Misconceptions, implications and ways forward*. United States Institutes of Peace, special report 323. Washington: USIP.
- Cordaid (2014a) 'How can we avoid another Minova'. 13 May (www.cordaid.org/en/news/sexual-violence-how-can-we-avoid-another-minova).
- Cordaid (2014b) 'Women's leadership'. Institute for Peace and Security. The Hague: Cordaid.
- Dammers, T. (2010) 'The hidden crisis: Armed conflict and education, the response of the international community to sexual violence in conflict-affected states'. Background paper prepared for the Education for All Global Monitoring Report 2011. Paris: UNESCO. (<http://unesdoc.unesco.org/images/0019/001907/190705e.pdf>).
- D'Errico, N.C., Kalala, T., Nzigire, L.B., Maisha, F., Kalisye, L.M. (2013) "'You say rape, I say hospitals. But whose voice is louder?'" Health, aid and decision-making in the Democratic Republic of Congo'. *Review of African Political Economy* 40(135): 51-66.
- Dolan, C. (2014) 'Has Patriarchy been Stealing the Feminists' Clothes? Conflict-related Sexual Violence and UN Security Council Resolutions'. *IDS Bulletin-institute Of Development Studies* 45(1): 80-84.
- Douma, N. and Hilhorst, T. (2012). *Fond de commerce? Sexual violence assistance in the Democratic Republic of Congo*. Wageningen: Wageningen University.
- Enough Project (2014) 'Op-ed: Minova's Rape Acquittals Reveal Lessons for Congo'. 20 May. Enough Project Blog (www.enoughproject.org/blogs/op-ed-minovas-rape-acquittals-reveal-lessons-congo).
- Eriksson-Baaz, M. and Stern, M. (2009), 'Why do Soldiers Rape? Masculinity, Violence and Sexuality in the Armed Forces in the Congo'. *International Studies Quarterly*, (2009)53, 495-518.
- Eriksson-Baaz, M. and Stern, M. (2013) *Sexual Violence as a Weapon of War? Perceptions, Prescriptions, Problems in the Congo and Beyond*. London: Zed Books.
- European Commission (2014) 'Programme indicatif national: 11ème fonds européen de développement 2014-2020'. Brussels: European Commission and DRC government.
- Foreign and Commonwealth Office (2013) 'Declaration on preventing sexual violence in conflict', adopted during the G8 in London on 11 April 2013.
- Freedom from Torture (2014) *Freedom for Torture. Medical Foundation for the Care of Victims of Torture. Rape as torture in the DRC: Sexual violence beyond the conflict zone*. Freedom from Torture Country Reporting Programme.
- Global Post (2014a) 'Two of 39 soldiers convicted of rape in historic DRC trial, all military officers acquitted of rape'. 5 May (www.globalpost.com/dispatches/globalpost-blogs/rights/Two-of-39-soldiers-convicted-rape-drc-trial-all-officers-acquitted).
- Global Post (2014b) 'Seeking justice for victims of rape in Minova, DRC'. News video, 1 May (www.globalpost.com/dispatch/news/regions/africa/140430/Justice-for-rape-victims-Minova-DRC-Laws-of-Men).
- Heaton, L. (2013) 'What happened in Luvungi? On rape and truth in Congo'. *Foreign Policy Magazine*. 4 March.
- Hilhorst, D. (2010) 'Hoeveel vrouwen zijn er nu echt verkracht in Congo?'. Blog, 31 August (www.joop.nl/opinies/detail/artikel/4716_hoeveel_vrouwen_zijn_er_nu_echt_verkracht_in_congo).
- Hilhorst D. and Baswira, R. (2014) *The Women's Movement in South Kivu, DRC: A civil society analysis*. Humanitarian Aid and Reconstruction Occasional Paper 11. Wageningen University and Research Center.
- Human Rights Watch (2014) 'Democratic Republic of Congo: Ending Impunity for Sexual Violence, New judicial mechanisms needed to bring perpetrators to justice'. Human Rights Watch news item, 10 June (www.hrw.org/news/2014/06/10/democratic-republic-congo-ending-impunity-sexual-violence).
- Human Rights Watch (2009) *Soldiers Who Rape, Commanders Who Condone*. New York: Human Rights Watch.
- ICC Women (2014) 'ICC Commencement of the Confirmation of Charges Hearing: The prosecutor vs Bosco Ntaganda'. Press release, 10 February (www.iccwomen.org/documents/Ntaganda-Press-Statement-February-2014.pdf).
- International Federation of Human Rights (2014) 'Acquittal of Minova soldiers : a new insult to victims of sexual violence in the DRC'. IFHR (FIDH), 10 May (www.fidh.org/International-Federation-for-Human-Rights/Africa/democratic-republic-of-congo/15510-acquittal-of-minova-soldiers-a-new-insult-to-victims-of-sexual-violence-in).
- IRIN News (2013) 'Briefing: Militias in Masisi', 6 March (www.irinnews.org/Report/97602).
- Kleppe Bolseth, C. (2013) 'The Democratic Republic of Congo conceptualised as the rape capital of the world: A discourse analysis'. Master thesis for the Department of International Environment and Development Studies, Norwegian University of Life Sciences (UMB).
- Lake, M. (2014a) 'Organizing hypocrisy: providing legal accountability for human rights violations in areas of limited statehood'. *International Studies Quarterly* 58(3): 515-526.
- Lake, M. (2014b) 'Ending Impunity for Sexual and Gender-Based Crimes: The International Criminal Court and Complementarity in the Democratic Republic of Congo'. *African Conflict & Peacebuilding Review*, 4(1): 1-32.
- Lake, M. (2014c) 'After Minova: Can War Crimes Trials Overcome Violence in the DRC'. 8 May (<http://africanarguments.org/2014/05/08/after-minova-can-war-crimes-trials-overcome-violence-in-the-drc-by-millie-lake>).
- Maya, M. (2011) 'Mobile Courts in the Democratic Republic of Congo: Complementarity in Action?'. American Bar Association Rule of Law Initiative (http://worldjusticeproject.org/sites/default/files/mobile_courts_in_the_democratic_republic_of_congo_maya.pdf).
- MSF (2014) 'Where is Everyone? Responding to emergencies in the most difficult places', Médecins sans Frontières (www.msf.org/sites/msf.org/files/msf-whereiseveryone-def-lr-july.pdf).

- Merlin (2011) 'Confronting every aspect of sexual violence in the DRC'. News item, 26 September (<http://globalpr.net/merlin/past-press/confronting-every-aspect-of-sexual-violence-in-the>).
- Ministry of Budget (2011) 'Dépenses par administration et chapitre: Exécution au 31 octobre 2011'. Kinshasa: Ministry of Budget. cd).
- Ministry of Gender (2011) 'National Gender Report on DRC'. Kinshasa: Ministry of Gender, Family and Children.
- Ministry of Gender (2009) 'Stratégie nationale de lutte contre les violences basées sur le genre'. Kinshasa: Ministry of Gender, Family and Children.
- Netherlands Ministry of Foreign Affairs (2013) 'Algemeen Ambtsbericht Democratische Republic Congo'. (www.rijksoverheid.nl/ministeries/bz/documenten-en-publicaties/ambtsberichten/2013/11/27/democratische-republiek-congo-2013-11-27.html).
- New York Times* (2010) 'Mass Rapes in Congo Reveals U.N. Weakness'. 3 October (www.nytimes.com/2010/10/04/world/africa/04congo.html?pagewanted=all&r=2).
- Peterman, A., Palermo, T. and Bredekamp, C. (2011) 'Estimates and Determinants of Sexual Violence Against Women in the Democratic Republic of Congo'. *American Journal of Public Health* 101(6): 1060-1067.
- Pooled Fund (2012) Common Humanitarian Fund Annual Report: Democratic Republic of Congo.
- Pooled Fund (2013) Common Humanitarian Fund Annual Report: Democratic Republic of Congo.
- Pratt, M. and Werchick, L. (2004) 'Sexual terrorism: Rape as a weapon of war in Eastern Democratic Republic of Congo. An assessment of programmatic responses to sexual violence in North Kivu, South Kivu, Maniema and Orientale Provinces'. USAID/DCHA Assessment Report. Kinshasa: USAID.
- Sida (2009) 'The Democratic Republic of Congo: Country gender profile'. (www.sida.se/contentassets/64bf42eb34534fc6900703edf9a7c9a6/the-democratic-republic-of-congo-drc-country-gender-profile_328.pdf).
- Smits, R. and Cruz, S. (2011) 'Increasing security in DRC: Gender responsive strategies for combatting sexual violence'. Policy brief 17. The Hague: Conflict Research Unit Clingendael (www.clingendael.nl/sites/default/files/20110531_cru_policybrief_rsmits.pdf).
- Steiner, B., Benner, M.T., Sondorp, E., Schmitz, K.P., Mesmer, U. and Rosenberger, S. (2009) 'Sexual violence in the protracted conflict of DRC programming for rape survivors in South Kivu'. *Conflict and Health* 3 (www.conflictandhealth.com/content/3/1/3).
- The Guardian* (2015) 'William Hague's summit against warzone rape seen as "costly failure"'. 13 June (www.theguardian.com/global-development/2015/jun/13/warzone-rape-congo-questions-uk-campaign?CMP=share_btn_tw).
- UN Human Rights Office (undated) 'Rape: Weapon of war'. 19 June 2014 (<http://www.ohchr.org/en/newsevents/pages/rapeweaponwar.aspx>)
- UN (2014) 'UN Human Rights Office 'disappointed' by ruling in DR Congo mass rape trial'. News item, 6 May (www.un.org/apps/news/story.asp?NewsID=47732#_VW28GetGxFl).
- BCNUDH (2014) 'Avancées et obstacles dans la lutte contre l'impunité des violences sexuelles en République Démocratique du Congo'. UN Joint Human Rights Office.
- UN Security Council (2013) 'Resolution 2106: Women, Peace and Security'. (<http://unscr.com/en/resolutions/2106>).
- UNDP (2014) 'Evaluation of UNDP's support to Mobile Courts in Sierra Leone, Democratic Republic of Congo and Somalia'. (www.undp.org/content/dam/undp/library/crisis%20prevention/UNDP_ROL_Mobile%20CourtsEvaluation_Nov2014.pdf).
- UNFPA (2013a) 'Indicators of sexual and gender-based violence in the South Kivu territories'. UNFPA DRC, unpublished.
- UNFPA (2013b) 'Indicators of sexual and gender-based violence in the North Kivu territories'. UNFPA DRC, unpublished.
- V-Day (10 March 2014) 'Statement of V-Men Congo at the launch of their movement in Bukavu'. Press release (<http://drc.vday.org/releases/statement-v-men-congo-launch-movement-bukavu-bodega-7-march->).
- Women for Women (2012) Women Hold the Key to Peace and Prosperity in the Democratic Republic of Congo. Washington/London: Women for Women.



Annex 1: Resource persons

As many of the respondents requested that their points of view were to be taken into consideration as individual points of view, not engaging the organisation they work for, it has been decided to quote respondents in a coded manner. The coding system makes reference to the gender of the respondent (F/M) and the type of organisation they work for: UN (UN agency), INGO (international NGO), CNGO (Congolese NGO) and GOV (government agency). Each respondent has also been given a number, hence resulting in coding like GOV-F-1, INGO-M-6, CNGO-F-3 or UN-M-4.

The following organisations and institutes have been interviewed. On some occasions more than one person was present during the interview, for other structures a number of employees were interviewed separately, hence resulting in the total number of 51 interviews and 8 focus groups. The numerical part of the coding does not reflect the order in which they are presented below and has been attributed at random. Those marked with (**) concern the same organisations/persons as interviewed in 2011 (those marked with * concern the same organisation but a different staff member).

Bukavu:

UN structures: MONUSCO-SGBV*, UNICEF*, UNWOMEN, UNDP, UNJHRO

Government: Cours d'Appel*, Police PELVS**, Provincial Gender Division**, Provincial Social Affairs Division, Provincial Assembly Members, Customary authority (Mwami)

INGOs: American Bar Association (ABA)**, Avocats Sans Frontières (ASF)*, International Medical Corps (IMC), RCN, International Rescue Committee (IRC), GIZ/Health, Médecins Sans Frontières, TPO DRC, International Alert*, V-Day/City of Joy

CNGOs: Panzi Foundation**, Caucus des Femmes, RFDP**, CAMPS**, Centre Olame, Arche d'Alliance

Goma:

UN structures: MONUSCO-SGBV*, UNICEF*, UNHCR*, UNFPA*

Government: Public prosecutor, Provincial gender division*, Provincial Justice Division*, Provincial Assembly Members

INGOs: Médecins Sans Frontières-Holland (MSF), ICRC, Uhaki Safi, International Alert, American Bar Association (ABA)**, IMA World Health, Finn Church Aid*, Heal Africa*

CNGOs: DFJ**, SFVS**, Congo Men Network, IFEDI

Kinshasa:

Donor organisations: Swiss Embassy, Norwegian Embassy, Netherlands Embassy, DFID.

Annex 2: Data collection tools

Framework for the legal analysis of sexual violence cases

■ Quantitative analysis:

- Nombre d'acquittements, nombre de condamnations (et à quel peine), nombre de dossiers classés sans suite, durée de la procédure (instruction par chambre foraine ou pas), type d'infraction, type d'acteur, l'âge de la victime (mineure ou majeure), nombre de cas traités en appel

■ Qualitative analysis:

- Quels cas sont conclus par une condamnation alors que les éléments de preuves présentés dans les dossiers devraient amener le tribunal à acquitter
- Quels sont les cas conclu par un acquittement alors que les éléments de preuves présentés dans le dossier devraient amener le tribunal à condamner
- Pour quels cas des pièces manquent (et lesquels pièces, quel est leur importance, pourquoi ça manque dans le dossier – est-ce que c'est une instruction incomplet ou par volonté/corruption)
- Est-ce qu'il existe de pièces dans un ou plusieurs dossiers qui ont l'allure d'être fabriqué, comment le savoir
- Pour les cas qui ont été traités en appel, est-ce qu'il existe des incompatibilités par rapport aux arguments/faits présentés (nouveaux éléments, éléments changés)
- Qu'est-ce qu'on constate par rapport au nombre de cas ou la victime n'a pas été remise dans ces droits (acquittement, légère peine, présumé pris fuite)
- Qu'est-ce qu'on peut observer par rapport au traitement juridiques des cas jugés en chambre foraine ? (eg. durée, profondeur de l'enquête, influence des ONGs, effets)
- Qu'est-ce qu'on constate (différence, comparaison) par rapport aux cas traités par la justice militaire et ceux traités par la justice civile
- Qu'est-ce qu'on constate (différences, comparaison) par rapport aux cas traités par le tribunal de grande instance et ceux traités par le tribunal de Kavumu
- Sur base des cas étudiés (ou votre expérience personnel), quels généralisations ou analyses peuvent être faits par rapport à la légèreté, l'influence de corruption, trafic d'influence et les faux condamnations qui peuvent exister au tour de dossiers de violences sexuelles

- Quel est le statut actuel des cas qui étaient condamnés, analysés en 2011 (exécution du jugement, condamné toujours en prison)?

Please note that not all the questions above have been answered or dealt with in detail in the judicial analysis. On the basis of the file analysis it proved impossible to formulate a conclusive response to some of the questions.

Literature review

Definitions

- 1 How is sexual violence defined? Is attention paid to the 'root causes' of the problem?
- 2 Which man/woman images are (implicitly) used?

Humanitarian aid and side effects

- 3 Which possible solutions and response strategies are mentioned in order to restrain sexual violence? (For example medical aid, psychosocial aid, livelihood.)
- 4 Is there attention paid to the juridical facets of the problem? What legal response strategies are mentioned?

Actors in the field

- 5 Who are the actors and why? (What are the tasks of (local) NGOs and the government?)
- 6 To what extent are the Congolese government and/or Congolese organisations involved in the response strategies?

Evidence and claims

- 7 Are the claims that are made in accordance with the scope of the research?
- 8 Can there be seen a pattern in the used source (expert knowledge)? Are some sources used more than others? Are these sources reliable?

Authors

- 9 Who has written the text? Is this author bound to any institution?

Analysis/patterns

- 10 Which causes are mentioned for sexual violence?
- 11 How does the text reflect on humanitarian aid? Is there attention paid to side effects of humanitarian aid?
- 12 Which patterns can be seen in the way sexual violence is analysed? Which patterns can be found in the positions taken by the authors?

Annex 3: Keywords used in N-vivo

Context DR Congo

Conflict / context analysis / development / economy / general information / politics / stabilisation

Gender and perceptions

Cultural practices / development / general violence / mainstreaming / male engagement / poverty and unemployment / sexual violence (civil / military) / status of women / gender based violence / women leadership / women's movement

Fonds de commerce

Reactions to 2011 research

Statistics

Strategies and policies

Code de la famille / constitution / gender policy / ISSSS / legislation / protocols / provincial level / SGBV strategy 2009 / STAREC / UN resolutions

Responses to SV

Approaches / capacity building / challenges / changes / community approaches / confidentiality / coverage / donor driven responses / emergency response / fake cases / future / history / integrated approach / malpractice / minors / results / suggestions / unintended consequences

Legal interventions

Activities / amiable solutions / bar association / capacities / case balance / challenges / chambres foraines / changes / CIDA UNDP / Colonel Honorine / compensation / corruption / EU Uhaki Safi / impunity / international justice / military versus civilian justice / minors / Minova case / monitoring / neutrality judges / OPJ level / prison / prosecutor / reform / results / suggestions / unintended consequences

Medical interventions

Activities / broader health concerns / capacities / challenges / changes / fistulas / free health care / medical certificate / PEP kits / reproductive health / results / sexual violence / suggestions / unintended consequences / World Bank Panzi

Protection and prevention interventions

Activities / awareness raising / challenges / changes / education / lobby and advocacy / protection / results / suggestions / unintended consequences

Psychosocial interventions

Activities / approaches / capacities / challenges / changes / results / suggestions / unintended consequences

Socio-economic interventions

Activities / capacities / challenges / changes / micro credits / results / suggestions / unintended consequences

Actors

Armed actors / beneficiaries / children born from SV / civil society / communities / customary chiefs / donors / government national / government provincial / INGOs and UN / international community / male victims / media / perpetrators / public opinion / religious / youth

Organisations

ABA / International Alert / Arche d'Alliance / ASF / Assembly / BCNUDH / CAMPS / Centre Olame / Congo Men Network / Cordaid / DFID / DFJ / Norwegian Embassy / Finn Church Aid / GIZ / Harvard Humanitarian Initiative / Heal Africa / Hillary Clinton / ICRC / IFEDI / World Health / IMC / IRC / Mary Robinson / Medecins du Monde / MONUSCO / MSF / NL Embassy / Panzi / RCN / Rejusco / RFDP / Swiss Embassy / UN women / UNDP / UNFPA / UNHCR / UNICEF / UNWOMEN / USAID / Ushindi / V-day / WFP / World Bank

Coordination structures

Coordination / changes / civil society coordination / donor coordination / governance and evaluation / provincial CPLVS / psycho-social network / results / taskforce civilian justice / taskforce military justice / UN cluster working groups



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