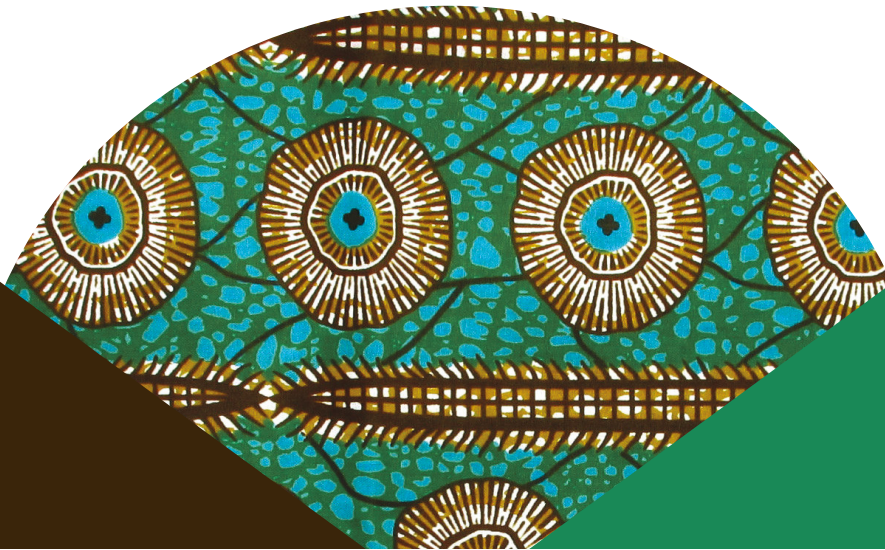


MAKING JUSTICE WORK FOR WOMEN

*Democratic Republic of Congo
Country Report*

RITA SHACKEL
& LUCY FISKE



Making Transitional Justice Work for Women:
Rights, Resilience, and Responses to Violence
Against Women in Democratic Republic of the
Congo, Northern Uganda, and Kenya



THE UNIVERSITY OF
SYDNEY

IN CONJUNCTION WITH



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Violence Against Women in Democratic Republic of the Congo, Northern Uganda, and
Kenya

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MAKING JUSTICE WORK FOR WOMEN IN DEMOCRATIC REPUBLIC OF CONGO (DRC)

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LIST OF ACRONYMS

ABA	American Bar Association
ADFL	Alliance of Democratic Forces for the Liberation of Congo-Zaire (Alliance des Forces Démocratiques pour la libération du Congo-Zaire)
ASF	Advocats Sans Frontières
CEDAW	Committee/Convention on the Elimination of Discrimination against Women
CNDP	National Congress for the Defence of the People (Congrès national pour la défense du peuple)
DRC	Democratic Republic of Congo
ECC	Ethics and Corruption Commission (Commission de l’Ethique et de la Lutte contre la corruption)
ECOSOC	United Nations Economic and Social Council
FARDC	Armed Forces of the Democratic Republic of the Congo (Forces Armées de la République Démocratique du Congo)
FDLR	Democratic Forces for the Liberation of Rwanda (Forces Démocratiques de Libération du Rwanda)
FRPI	Front for Patriotic Resistance of Ituri (Forces de Résistance Patriotique d’Ituri)
GDP	Gross Domestic Product
HRW	Human Rights Watch
ICC	International Criminal Court
ICTJ	International Centre for Transitional Justice
IDP	Internally displaced persons
IPSV	Intimate partner sexual violence
IRIN	Integrated Regional Information Networks
LRA	Lord’s Resistance Army
M23	March 23 Movement
MONUC	United Nations Mission to the Congo (Mission d’Organisation Nations Unis au Congo)
MONUSCO	United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (formerly MONUC)
MSF	Médecins Sans Frontières
NGO	Non-governmental organisation
NHRO	National Human Rights Observatory
OCHA	United Nations Office for the Coordination of Humanitarian Affairs
OHCHR	Office of the United Nations High Commissioner for Human Rights
OSISA	Open Society Initiative for Southern Africa
RCD	Congolese Rally for Democracy (Rassemblement Congolaise pour la Démocratie)
RCD-ML	RCD—Liberation Movement (RCD—Mouvement de Libération)
SGBV	Sexual gender-based violence
TRC	Truth and Reconciliation Commission

UN	United Nations
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNFPA	United Nations Population Fund
UNICEF	United Nations Children's Fund
UNHCR	United Nations High Commissioner for Refugees
UNHRC	United Nations Human Rights Council
UNSC	United Nations Security Council
WFP	World Food Programme
WHO	World Health Organisation

CHAPTER 1: INTRODUCTION AND BACKGROUND

1.1 Background to the project

In a series of three country reports, we present the findings of the project, *Making Transitional Justice Work for Women: Rights, Resilience and Responses to Violence Against Women in Democratic Republic of Congo, Northern Uganda and Kenya* (Grant ID: G160214). This report details findings from the Democratic Republic of Congo; the other two country reports present findings from northern Uganda and Kenya.¹ Summary reports for each country are also available.²

The Australian Department of Foreign Affairs and Trade (DFAT) funded this project under the Australian Development Research Awards Scheme (ADRAS) 2012.³ The scheme, which is no longer available, funded primary research into Australia's priority development themes, with the purpose of informing policy development. This research project addressed the priority themes of "Gender" and "Africa." It was a multi-partner collaboration between the University of Sydney (Sydney Law School), University of Technology Sydney (Arts and Social Sciences), and ActionAid Australia, DRC, Uganda, and Kenya. The project ran from April 2013 to October 2015.

The research was designed to investigate transitional justice processes for addressing women's rights and justice priorities in three countries in sub-Saharan Africa: Democratic Republic of Congo (DRC), Uganda, and Kenya. This regional focus reflects the priority accorded by the international community to transitional justice, as a means to address past human rights violations experienced during civil war and other mass violence, and to promote lasting peace and stability. The countries for study were selected because: each has transitional justice processes in place; Gender Based Violence (GBV) is significantly prevalent in each conflict; and the researchers had existing partners on the ground who could facilitate a logistically feasible, meaningful, and culturally and gender-sensitive research process.

1.2 Project methodology

1.2.1 Introduction

This project investigates the efficacy of transitional justice for women in conflict and post-conflict contexts in eastern Democratic Republic of Congo, northern Uganda, and Kenya.

¹ Rita Shackel and Lucy Fiske, "Making Justice Work for Women: Kenya Country Report" (August 2016) <http://opac.library.usyd.edu.au:80/record=b5334992~S4>; Lucy Fiske and Rita Shackel, "Making Justice Work for Women: Uganda Country Report" (August 2016) <http://opac.library.usyd.edu.au:80/record=b5336181~S4>.

² Rita Shackel and Lucy Fiske, "Making Justice Work for Women: Democratic Republic of Congo Summary Report" (August 2016) <http://opac.library.usyd.edu.au:80/record=b5365440~S4>; Rita Shackel and Lucy Fiske, "Making Justice Work for Women: Kenya Summary Report" (August 2016) <http://opac.library.usyd.edu.au:80/record=b5365443~S4>; Lucy Fiske and Rita Shackel, "Making Justice Work for Women: Uganda Summary Report" (August 2016) <http://opac.library.usyd.edu.au:80/record=b5365444~S4>.

³ This grant scheme was originally administered by the office of Australian Aid for International Development (AusAID).

The research sought to identify women's priorities for justice, their experiences when seeking justice, and both enabling factors and obstacles in justice processes. Justice was defined in a fluid, broad, and holistic way to include legal, health, economic, social, and psychological elements (Olsen et al. 2010b, 983; Fischer 2011, 412; Szablewska and Bradley 2015, 261). The project has developed a rigorous, reliable, and substantive evidence base of the experiences, views, and opinions of women affected by violence in the research sites. The project entailed researchers travelling to multiple locations within each country, including major regional towns and villages in remote and difficult to access areas; this was done to enable women who are rarely, if ever, able to participate in research, consultations, and decision-making processes to contribute to this project. The extensive fieldwork, conducted over a two-year period and engaging 274 women affected by violence, provides unique insights into women's access to justice, and the efficacy of different justice strategies and mechanisms in conflict and post-conflict sites. These insights are extended further by interviews with 68 key informants, including local community leaders, prosecutors, judges, health and welfare workers, policy workers, and development workers, as well as those working in transitional justice, human rights, and women's rights internationally.

1.2.2 The research questions

The research addressed the following key research questions:

1. What do women in northern Uganda, Kenya, and eastern DRC identify as their priorities in relation to justice?
2. What efforts have been made to provide justice and rights protection for women who have experienced violence in northern Uganda, Kenya, and eastern DRC?
3. How have women responded to these justice interventions, and what impact have these had on addressing women's rights and justice priorities?
4. How can transitional justice interventions be adapted to better address women's rights and justice priorities, build resilience, and prevent violence against women?

The research partners, in consultation with in-country researchers, formulated the research questions for this project.

1.2.3 Methodology

Epistemology and paradigm

The research is qualitative, feminist, and phenomenological. It was designed to capture and interpret women's experiences and opinions of justice in conflict and post-conflict settings. The methodology recognises that the voices of women are often muted by social, economic, and political factors, which are further enlivened during war, and then systemically embedded in justice processes. This project proactively sought to understand transitional or post-conflict justice from the perspective of women affected by conflict and post-conflict justice initiatives. A phenomenological method was selected as it is particularly suited to research of this kind, where the aim is to make women's perspectives a central concern in policy development and practice. Phenomenological enquiry begins with individuals' unique accounts of a shared experience, and uses multiple individuals' accounts to discern key structural characteristics of the meanings the participants ascribed to the experience, in order to situate personal experience within a broader political context (Dukes 1984, 198; Gatta 2010, 12). Individuals' experiences and perspectives are then triangulated with key informant

perspectives, and with existing literature and research. It is in this way that phenomenological enquiry mediates the transition of private experience to public political concern. Phenomenological research requires in-depth interviews with multiple participants, and secondary research and analysis to enable the generation of knowledge with relevance beyond the anecdotal.

The research team

The research was conducted by a multidisciplinary and multi-country research team with expertise in a range of fields necessary to conduct a rigorous, high-quality research project with vulnerable and difficult-to-access populations.

Researchers

Name	Organisation/Position	Role in Project
Associate Professor Rita Shackel	Sydney Law School, The University of Sydney	Principal Investigator, Project Lead
Dr Lucy Fiske	Social and Political Sciences (Sociology), University of Technology Sydney	Principal Investigator (2)
Carol Angir	ActionAid Australia, Senior Policy and Program Coordinator	Principal Investigator (2)
Casey McCowan	ActionAid Australia, Partnership Co-ordinator (April 2013 to September 2015)	Program Manager
Michelle Higelin	ActionAid Australia. Deputy Executive Director	Advisor
Miriam Chelo Huguet	ActionAid DRC, Consultant	Transcription and Interpreting
Nicole Iafola	ActionAid DRC, Youth Advisor	Researcher
Serge Kalubi	ActionAid DRC, Consultant	Transcription
Clement Kone	ActionAid DRC, Country Director	Advisor
Adalbert Lumpali	ActionAid DRC, Consultant	Transcription
Anne Songa Murekatete	ActionAid DRC, Consultant	Interpreting
Justine Ndabugi	ActionAid DRC, Administrative and Logistical Assistant	Administration and Logistics Support
Raisa Ndogole	ActionAid DRC Policy and Campaigns Coordinator	Researcher
Mireille Ntambuka Nzigire	ActionAid DRC, Consultant (September 2013 to April 2014)	Researcher
David Abwang	ActionAid Uganda, Local Rights Program Coordinator	Researcher

	Amuru	
Kevin Aciro	ActionAid Uganda, Local Rights Program Coordinator Pader	Researcher
Martha Wanda Mercy Achiro	ActionAid Uganda, Research Assistant (April 2013 to December 2014)	Data Collector, Research Assistant, Interpreter and Transcriber
Hellen Malinga Apila	ActionAid Uganda, National Women's Rights Coordinator (April 2013 to October 2015)	Principal Researcher, In-Country Uganda
Okello Emmanuel	ActionAid Uganda, Lango Language Board	Translator
Josephine Laker	ActionAid Uganda, Women Protection Centre Project Officer Amuru/Nwoya	Researcher
Arthur Larok	ActionAid Uganda, Country Director (April 2013-October 2015)	Co-Researcher and Advisor
Hope Masika	ActionAid Uganda, Women Protection Centre Project Officer Gulu	Field Research Assistant
Nickson Ogwal	ActionAid Uganda, Director, Partnership Funding and Sponsorship)	Advisor
Lucy Atieno	ActionAid Kenya, Consultant	Transcriber
Mabel Isoilo	ActionAid Kenya, Consultant	Lead Researcher
Alice Kimani	ActionAid Kenya, Project Officer August 2013-August 2014	Researcher
EllyJoy Kithure	ActionAid Kenya, Women Rights Coordinator (June 2013 to September 2014)	Researcher
Lawrence Mwachidudu	ActionAid Kenya, Local Rights Program Manager	Translator
Makena Mwobobia	ActionAid Kenya, Acting Country A/Director (August 2013-March 2014), Head of Programs	Researcher, In-country Coordinator, Kenya
Naomi Wambui	ActionAid Kenya, PO Women Rights (July 2013-August 2015)	Researcher, Administration and Logistics

A number of other people also participated in the project in various roles. Appendix A lists all research assistants that contributed to, and were a part of, this research project.

Research management and process

Associate Professor Rita Shackel, Dr Lucy Fiske, and Ms Carol Angir designed and coordinated the research project. ActionAid’s Country Directors and Women’s Rights Coordinators in Uganda, DRC, and Kenya provided context-specific input throughout the project, coordinated activities in each country, participated in data gathering, and assisted with aspects of data analysis. The two academic researchers made numerous fieldwork trips and provided mentoring, research methods, skills training and support to in-country researchers, as well as conducting a large number of research interviews and focus groups in all three countries. Several strategies were established to ensure consistency, quality, and integrity of data across a large and diverse team; these included:

- Regular Skype meetings between researchers throughout the project
- Regular and ongoing email correspondence
- A week-long intensive induction and training program involving Australian and country researchers (Nairobi, September 2013)
- Collaborative pre-test fieldwork in each country, with one-on-one mentoring and debriefing between in-country and academic researchers (September – November 2013)
- A follow-up skills and inception workshop with Australian, DRC, and Kenyan researchers (Goma, November 2013)
- A public stakeholder forum including Australian, DRC, and Kenyan researchers (November 2013)
- A follow-up interview skills workshop with Australian and Ugandan researchers (Kampala, April 2014)
- Multiple fieldwork trips (3–4 each year) by academic researchers working with in-country researchers in each country (2013–2015), including detailed planning and exit meetings
- Development of a comprehensive “Fieldwork Handbook” tailored for each country (available at <http://www.justiceforwomen.net.au>)
- Staged collection and transcription of interviews, with written and verbal feedback on interviews, data quality, and emerging themes for further probing provided after each transfer of data
- Additional in-person team meetings in New York (March 2014), Netherlands (April 2015), and Sydney (September 2015) with researchers from ActionAid Australia, Kenya, and DRC

The multidisciplinary and multi-country collaboration enhanced the quality of the research, as it enabled the team to draw on expertise in several different fields, including social and legal theory; legal frameworks; qualitative research methods; development work; and country- and culture-specific knowledge. The collaboration with in-country ActionAid offices meant that otherwise difficult-to-reach populations and locations were included in the research. The project’s reach beyond larger regional towns, into remote villages, is a distinguishing feature of this research.

Definitions

In recognising justice as fluid, we defined it broadly and in a holistic way to include legal, health, economic, social, and psychological elements (Olsen et al. 2010b, 983; Fischer 2011, 412; Szablewska and Bradley 2015, 261). This definition was expanded and refined through the input of women participants, who were invited to reflect on what was necessary for them

to feel justice had been done. This open question led to a rich understanding of justice as understood or desired by women participants, and forms the backbone of the reports. Justice was often expressed as a process spanning the past, present, and future, with the elements of, and demands for, justice varying in each temporal phase. Restoration, however, was consistently viewed as a key element; women wanted to be restored to a position which resembled, at least subjectively, their pre-conflict state. For example, truth-telling was important to establish recent history and acknowledge wrongs done; reparations, health, and detraumatization were required in the present; while education of children and enabling them to have a “better future” was almost universally cited as central to justice.

Data collection

Data was gathered from three distinct sources:

- Women affected by violence
- Key informants with experience in justice initiatives
- Documentary and other secondary sources

Primary data was gathered using semi-structured interviews and focus group discussions with both women affected by violence and key informants. Documentary and secondary data was gathered through extensive literature reviews addressing the conflicts in each country, the histories of each country, justice interventions, and reform in each country; these were supplemented by thematic searches addressing transitional justice, justice, gender, human rights, development, poverty, violence, and related themes in law, anthropology, sociology, psychology, history, and women’s studies. Documentary and secondary material included academic articles and books, policy and research reports, relevant public databases, case law, legislation, reports of government and non-government inquiries and investigations, and media reports.

Women affected by violence

The project interviewed a total of 274 women affected by violence, with 113 women in DRC, 98 in Uganda, and 63 in Kenya. Women were selected for inclusion in the project if they met the following criteria:

- They were 18 years of age or older.
- They were living in a conflict affected area and a selected research site.
- They had been affected by conflict, either directly or indirectly.
- They had experience of some form of transitional justice process (including criminal prosecutions, truth commissions, amnesties, reparations, informal traditional approaches, or community-based initiatives).
- They were willing and able to speak about her experiences.

Fieldwork in eastern DRC was conducted in multiple sites in the territories of Goma (along the Rutshuru–Nyiragongo axis, and the Masisi–Sake–Bweremana–Kamuronza axis) and Bukavu (along the Hombo–Bunyakiri axis, and the Kalehe–Minova axis). A total of 113 women in eastern DRC participated in the research – 41 through individual interviews and 72 through focus group discussions (a breakdown by site is included in Table 1). Ages ranged from 18 to 90 years old. Women participants were married, cohabiting, never married, separated, divorced, and widowed. Most of the women participants in DRC had had children

(ranging from 1–12 births). Women’s educational levels were variable (ranging from no education to diploma level); the majority of women had no formal schooling. Appendix B shows the demographics (including age, marital status, number of children, and level of education) for women participants in DRC.

Table 1

	By site	Number of interviewees
FGD WAV	TOTAL	72
	Bunyakiri	9
	Bweremana	12
	Goma	13
	Minova	15
	Rutshuru	13
	Sake	10
IWAV	TOTAL	41
	Bunyakiri	3
	Bweremana	7
	Goma	4
	Minova	12
	Rutshuru	15
	Sake	0

All interviews were conducted in a language in which the participant self-assessed as proficient. The majority of interviews used a female interpreter. Interpreters were sourced locally through ActionAid networks. Interviews and focus groups lasted between 45 minutes and almost three hours, with most taking 90 minutes to two hours. Focus groups had between three and six women participants. Interviews were conducted in stages to ensure a broadly representative sample of women was recruited (age, marital status, ethnicity, experience of war [i.e. internally displaced, abducted, or both], experience of justice [i.e. formal and informal]), to enable transcription of data and feedback to non-academic researchers from the academic researchers, and to enable identification of emerging themes and further probing of particular issues that emerged. Interviews in DRC were conducted from September 2013 to June 2015, both by ActionAid DRC staff members and by academic researchers. Most participants consented to interviews being audio recorded and transcribed. Notes were also taken by researchers during the interviews.

Interviews and focus group discussions were semi-structured, following pre-identified themes and following relevant unanticipated themes as raised by participants during the interview. Pre-identified themes were generated through consultation with ActionAid staff, a literature search conducted before fieldwork, and through a one-week pre-test fieldwork trip in September 2013. Initially identified themes included: legal, economic, social, political and health justice, psycho-social and emotional well-being, traditional and/or informal justice mechanisms, roles of women in justice processes, and the effects of justice. Women were advised during the consent process that violence was not the focus of the research, and that

researchers would not be asking direct questions about their experiences of violence. Participants were however, asked indirectly about the sort of violence experienced, in order to provide context to their subsequent discussion of justice.

The number and diversity of women interviewed provided an extensive survey of issues, such that saturation, although not a goal of the research, had been reached by the end of the fieldwork process. The semi-structured in-depth interviews allowed for rich information to be elicited and probed thoroughly. Focus group discussions helped present women with a range of views for them to reflect upon and compare and contrast with their own experiences, views, and opinions. The staged nature of the fieldwork enabled emerging themes to be further explored with later respondents, thereby allowing them to be tested for structural, rather than individual, significance. The resulting evidence base is rich; it is both extensive and of a high quality.

Key informants

Interviews with key informants were conducted from September 2013 through to June 2015. A total of 68 key informants participated in the research across the three countries under study; this consisted of 28 in DRC, 26 in Kenya, and 14 in Uganda. The 28 key informants interviewed in DRC included community leaders, health and non-governmental organisation workers, police, prosecutors, court, judicial officers, and international experts. Interviews with key informants were conducted by the academic researchers, together with the DRC country researchers. Most of the interviews were audio recorded and transcribed; notes were also taken. However, only 12 key informants consented to being identified as research participants in the reports. Appendix C lists the details of those of the DRC related key informants who participated in this research project and consented to identification.

Interviews with key informants were semi-structured, and the focus of each interview varied depending on the participant's area of expertise and experience in justice processes. For example, the interview with local magistrates followed very different themes to that with health care workers, who were different again from interviews with local leaders and territory administrators.

Most of the interviews with key informants in DRC were individual face-to-face interviews; two focus groups were conducted with magistrates in Goma, and women leaders in Rutshuru.

Overall, a diverse group of key informants, with knowledge and experience of different justice sites and sectors, were interviewed in DRC. This allowed for a spread of views and perspectives to be put forward, including regional and international perspectives.

Data Analysis

The majority of recorded interviews and focus groups were transcribed. The two academic researchers read and re-read these multiple times to identify themes using inductive analysis – that is, by allowing the patterns, themes, and categories of analysis to come from the data (Srivastava and Hopwood 2009, 77). This method of analysis was chosen, because the primary objective of the research was to understand women's experiences and opinions on justice post-conflict. The research did not seek to test any pre-existing theories or hypotheses. To pre-determine themes risked imposing external meanings on participants' accounts,

thereby skewing the analysis and working against the feminist epistemology of the research by displacing women's views from the centre to the margins.

Themes were identified and pursued if they related to the research questions, and:

- were repeated frequently (either in a single interview, or across more than one interview);
- were discussed by several participants;
- extended existing theoretical understandings or provided further insights into literature available on the theme; or
- provided a basis for developing new theoretical insights and a contribution to understanding women's experiences of justice processes (Bryman 2012, 580).

Emerging themes were incorporated into later interviews, with women affected by violence and key informants asked to elicit their perspectives on issues or opinions put forward by earlier participants. This process of continual review and analysis of data enabled further probing of issues, as the project progressed and assisted in refining participant-generated understandings of key issues.

Identified themes then formed the basis for further secondary research, and provided the structure for the reports on each country.

Transcripts were also analysed with NVivo software for word repetition and thematic repetition. This analysis confirmed the strength of recurring issues and themes raised by women as identified by the researchers. Despite the use of NVivo, the primary mode of analysis was manual.

This project also incorporated a novel and important step in analysis and validation of themes. The two academic researchers travelled to each country in June 2015, and, together with the ActionAid researchers, conducted "validation" workshops in Goma, Kampala, and Nairobi. In DRC, a full day "validation" workshop was conducted with 16 women who had already participated in the research (15 June). A half-day workshop was conducted with a small group of key informants, including local magistrates, NGO workers, and a women's community leader (16 June).

Women participants for the validation workshop were selected on a number of criteria, including:

- Ensuring a spread of research site location, age, and experience of war
- Including all women who had asked for follow-up about the research
- Including women who were particularly articulate in their interviews
- Including women whose interview transcripts provided insight on particular themes
- Including women whose transcripts were largely emblematic of identified themes

In the workshop with women affected by violence, an overview of themes and issues identified was presented to the participants. Participants were then given the opportunity to discuss the findings in small groups, including using (non-identifiable) key, emblematic, or potentially controversial quotes from research participants (both key informants and women affected by violence). Small group and plenary discussions were audio recorded with the women's permission, and transcribed. The benefits of this process include the ethical benefit

of feeding back progress on the research to participants, and, furthermore, of including women as co-analysts (an advantage for which all women participants expressed great appreciation); providing confirmation and/or clarification of particular issues put to the group; enabling further refining of themes, and enabling researchers to hear how women spoke with one another about justice without a researcher or NGO worker present. The validation workshop in the DRC confirmed the themes identified by the researchers. Importantly, it provided useful insight into the potential for DRC women to be actively engaged in addressing major issues facing them and their communities. Women in conflict zones are more commonly engaged as recipients of services, rarely as collaborators in problem-solving. The small group discussions among women participants were conducted without facilitation from the research team, and with a structure, time and space provided, the women engaged in enthusiastic and insightful discussion of their own issues. Although not an objective of this research, the women's demonstrated capacity and willingness to participate in analysis and problem-solving is relevant for future engagement with this population.

The researchers presented an outline of initial themes at the workshop with key informants, distinguishing between perspectives of women affected by violence, different categories of key informants, and areas of convergence and divergence between the two. Participants were then invited to discuss issues raised in an unstructured format. This process enabled key informant participants to hear what issues and priorities women affected by violence had identified, hear what other key informants had raised, and respond to themes. This workshop provided further validation of the themes identified, and initial analysis of those themes. In DRC, an important outcome of the key informant "validation" workshop was that participants strongly echoed the views of women on barriers to access to justice for women.

The DRC country researchers also participated in the key informant workshops, adding their perspectives and views to discussion and analysis.

Ethical approval and permissions

Formal ethics approval for this project was granted by the University of Sydney Human Research Ethics Committee (approval number 2013/380). Ethics approval was also granted by University of Technology Sydney (UTS HREC 2014000246), Uganda National Council for Science and Technology, National HIV/AIDS Research Committee (approval number ARC 144), and Kenyan National Council for Science and Technology (approval number NCST/RCD/14/013/1335). DRC does not have a formal human research ethics committee; however, an extensive consultation process was undertaken, including hosting a public inception and stakeholder workshop – the project was introduced in this forum, and stakeholders were invited to ask researchers any questions or raise concerns. Attendees provided feedback on the current state of conflict and security in the area, the project's methodology, and the recruitment of participants and site selection. Following the workshop, key stakeholders were further engaged in a consultative process through which the research sites in eastern DRC were finally selected. Approval for the research was granted by the Provincial Minister of Justice in Goma, Christophe Ndibeshe Byemero. Local permissions were also obtained as necessary during conduct of fieldwork from relevant formal and traditional authorities in each research site.

In addition to complying with all formal ethics requirements, the researchers embedded ethical research processes throughout the project, and engaged in critical reflective practices at all stages (including design, development, fieldwork, data handling, research team

relations, analysis, and writing). The well-being of individuals participating in the research (both as informants and researchers) was held as paramount at all times.

It is important to canvas, albeit briefly, at least some of the ethical issues raised in this research, and steps taken to care for people and principles that underpinned this work.

Recruitment processes

This project sought the views of adult women and did not include children. Research with children requires specific design and methodology, responsive to children's levels of development, cognition, capacity to give informed consent, and particular vulnerabilities. It also requires particular knowledge and skills from the researchers. At the outset, we took the definition of adult as 18 years and over, and sought ethics approval accordingly. However, once in the field (particularly in DRC), it became clear that this age cut-off excluded some young women who were, in many respects, living adult lives, and who wanted to participate in the research. In every stage of fieldwork in the DRC, teenage girls approached the research team asking to be included. These girls were typically between 13 and 17 years of age, and were responsible for the care of younger children (whether younger siblings, their own children, or orphaned children). No girls under the age of 18 years were included in the project; chronological age was carefully scrutinised during the consent process. However, turning away young women/girls raised significant ethical dilemmas for the researchers. The concept of "adult" and "child" is contextual and contingent on a range of social, emotional, political, and individual factors. The experiences, opinions, and views of young women/girls acting as heads of households, despite being under 18 years of age, are important and need to be considered in future research projects (Arnett and Galambos 2004, 92; Nugin 2010, 49-50). Due to ActionAid's involvement in the project, underage girls who were not included in the research were able to be counseled and provided support through appropriate ActionAid services and programs, and, as appropriate, were referred to other services and agencies.

Recruitment occurred through multiple channels, including referral by health, legal, and social service providers, as well as self-referral. However, most participants were recruited indirectly through ActionAid's networks. Furthermore, ActionAid in each country provided all logistical support during fieldwork. This meant using ActionAid vehicles for transport, and ActionAid managed travel reimbursements for participants (see below). Although all researchers stressed that the research project was led by the University of Sydney, and was not an ActionAid project, it must be acknowledged that this distinction may not have been clear to some participants. Given the prominence of NGOs in essential service delivery in many of the research sites, particularly in eastern DRC where there is still live conflict and humanitarian aid is much relied upon, it is possible that ActionAid's lead role in recruitment may have impacted on expectations of prospective participants, and on populations targeted for recruitment.

These issues were addressed in a number of ways. Demographic information of participants and fieldwork included recruitment process as a standard field. This enabled academic researchers to provide feedback about diversity of recruitment sources as the project progressed. The issue of participant expectations was addressed directly during the information sessions with women participants, and is explained in greater detail below. Nonetheless, while partnering with an NGO enabled the conduct of in-depth and extensive fieldwork with difficult-to-reach populations, the possible impacts of visible NGO

participation in the project need to be considered; it is possible that some women saw participation in the research as an opportunity to also access other services and assistance.

Free and informed consent

Particular care was taken to ensure that consent was both informed and freely given. Information about the project was provided both individually and to groups of prospective participants. Project information was provided through written participant information sheets, which participants could take away, as well as orally in a language understood by participants. Information provided to participants covered the membership of the research team (taking care to distinguish between academic and NGO organisations, and the individuals involved); the aims and methodology of the research, confidentiality; storage and security of data; the nature of questions to be asked; participants' rights to not participate, to withdraw at any stage, and to decline to answer some questions and not others; and the risks and benefits of participation. The project's public documents were translated into the languages spoken by women participants. Translated public documents were certified locally. Prospective participants were encouraged to ask questions, and any concerns raised were addressed by the research team. Participants provided consent in writing or orally, and were specifically asked if they consented to their interview being recorded. In the case of focus group discussions, it was made clear to participants that it was not possible to erase recordings if they decided to withdraw after the focus group discussion had commenced, because of the group nature of the interview. No participants withdrew from the research after consenting.

A significant number of women affected by violence in DRC (as in the other research countries) asked how the research would benefit them, and whether the researchers would bring the research back to them later in the project. Several women said that they had participated in research before, and had neither personally benefited nor been informed of the progress or outcomes of the research. The researchers explained that there would be no direct benefit to individuals who participated in the research, and possibly not to the population of women affected by violence in DRC (or in the other countries under study). The researchers explained that the research would produce reports with particular attention to amplifying the views and experiences of women who participated in the project, and that the reports would be disseminated widely. The academic researchers would write the reports, drawing together views of all women interviewed, and would present the analysis at a range of academic and policy forums. The NGO partner would use the reports to inform their programming and advocacy. It was explained that neither the universities nor the NGOs had the power to promise changes in the women's lives, and that while this research would make a significant contribution to the field, it could not assure direct benefit to participants or their communities.

The researchers assured prospective participants that every attempt would be made to return and present the research to them, and to provide access to the report. This aim has been partially achieved through holding the validation workshops in June 2015, during which much of the initial analysis was presented to the women present. Every participant who had asked for follow up on the research was invited to attend this workshop, although not all were able to attend. ActionAid DRC, ActionAid Kenya and ActionAid Uganda will deliver the report to women who participated in the study, when it is complete.

Reimbursement of travel costs were provided to all participants in the research. This was typically the equivalent of AU\$1.25–AU\$2.50 in local currency. Refreshments (water and lunch) were sometimes served. No rewards that might rise to the level of inducement were offered, being particularly mindful of the particular context of poverty and need amongst participants.

The interview

In recognition of the fine balance that people affected by violence may find talking about traumatic experiences difficult, and yet may also have a strong desire to testify to their experiences and participate in the research process, interviews with women affected by violence were designed to enable the women respondents to have as much control over the interview process as possible. All interviewers had experience working with women affected by violence. Additionally, the researcher induction to the project emphasised the primary value of participant well-being, and that the respondents' well-being was more important than eliciting data. Researcher induction also included significant training on research interviews addressing sensitive topics, responding to trauma in an interview, referral options for participants, and role plays on sensitive interviewing. This was further included in the fieldwork manual, and embedded in all fieldwork briefings and debriefings.

An example of sensitive interviewing

Violence was not a key focus of the research; however, some information about the nature of violence experienced was necessary, in order to provide context for participants' subsequent discussion of justice. Interviewers avoided asking directly about experiences of violence, instead asking open questions to which the participant could decide how to respond. A typical phrasing of this line of questioning was to ask, "How has the conflict affected your life?" Respondents were then able to respond with as much or as little detail as possible, and were able to avoid recounting traumatic episodes, focusing instead on the present day after-effects of the conflict. Alternatively, respondents were able to tell their stories of violation and injustice if they wanted to. Most of the women in DRC chose to share details of their accounts of violence, to varying degrees. Some women stated that talking about their experiences was comforting, and they appreciated the opportunity to participate in the research: "*We get relief by just talking about our pains. Maybe this I could try in my relationship, in my house, and it might lead to improvement...*"⁴ "*we thank you for having come to talk to us and learn about our thoughts, about how we live especially these days. We have been suffering from wars... you have decided on coming and pay us a visit ... we also thank you.*"⁵ The way in which women responded to this question provided important information to the interviewer, both about possible themes to be further explored, and about the probable boundaries for further probing. This was an important element in enabling maximum control of the interview to reside with the respondent, while still meeting the research focus and requirements. Despite using open-ended questions to enable women to control the interview, and to choose whether or not to discuss their experiences of violence (including how, and to what extent), we initially perceived that women's responses may have reflected their pre-existing expectations about what information they should be providing in the interviews – expectations that were perhaps influenced by their previous interactions with NGOs, the media, or other researchers. However, by allowing the women to control the

⁴ Interviewed in Bunyakiri, September 26, 2014.

⁵ Interviewed in Rutshuru, September 22, 2014.

interview, most women, in time, moved beyond this expected script and into opinion, emotion, the meaning of violence on their lives, and shared deep insights on a number of issues important to their personhoods. This is reflected in the length of most of the interviews. This self-constructed space for deep reflection and sharing by the women made the interviews themselves affirming, enabling them to be more than a “victim” of violent experience, and acknowledging their own persons.

Ongoing consent

Even though consent was given prior to any interview beginning, this project took consent to be an ongoing and iterative process. The onus was placed on the researcher to check in with respondents periodically throughout the interview about her continued willingness to participate, particularly if a respondent became distressed during the interview. When respondents did feel upset, they were offered the opportunity to take a break, abandon the interview, or to move to a new area of questioning. Very often, enabling women to have control of the direction and depth of the interview assisted in reducing the level of distress, and, in some instances, helped participants feel better after the interview than they did before. By way of example, one woman said at the end of her interview:

Especially for us who has been raped. Sometimes you feel like dying because you are ashamed but we thank you to come and talk to us... And we thank the Doctors when we go to the hospital, they advise us, they talk to us, they comfort us. Because many of the women kill themselves because sometimes when you have been raped you are old and you go to the hospital and they tell you that you have been attained of HIV and you decide directly to kill yourself as me, my age, I'm old ... So thank you very much for come and talk to us and to comfort us.⁶

A counsellor or support person was present during most interviews with women affected by violence in DRC, to support women during and after the interview if necessary. Referral options for further counselling, if needed, were also available to women post-interview.

Confidentiality and security

Women participants were reassured in the consent process that interviews were confidential, that what they shared with the researchers would only be used for the purposes of this research, and that they would not be individually identifiable in any reports. It was explained to participants that this would be achieved by removing any identifiable information from the interview transcripts, so that they could not be identified, and that any quotes used in reports would not be attributed to a woman by name. In the case of focus group discussions, the importance of confidentiality amongst participants was stressed as part of the consent process.

Key informants were given the option of consenting to be identifiable in whole, in part, or not at all, in the reports. 12 out of 28 informants in DRC consented to being identified by name; of these, 11 agreed to also be identified by position and organisational affiliation.

All interviews were conducted in a safe and secure location. Interviews were rescheduled or relocated where security concerns warranted such a response.

⁶ Interviewed in Rutshuru, September 23, 2014.

Data management and security

Interviews were recorded on hand-held recorders. During fieldwork, all recordings of interviews were coded and copied onto the researchers' password protected laptops, backed up onto a password protected external hard drive, and then deleted from recorders. Project materials were copied and stored on the academic researchers' password protected desktop computers, located in their Sydney offices. Project materials were at times temporarily stored on Dropbox and/or exchanged via USB sticks between researchers, and then permanently deleted.

Secondary trauma

The potential for secondary or vicarious trauma of researchers (Alexander et al. 1989, 58), as well as others working with traumatic material and trauma survivors, is well recognised (McCann and Pearlman 1990, 134–35; Mouldern and Firestone 2007, 67–68). Several strategies were used to support team members throughout the project, including researchers, interpreters, transcribers, and research assistants.

Self-care principles and practices were discussed during training and induction workshops. A section on self-care was included in the project handbooks. Most interviews were conducted by at least two people. Debriefs were integrated into fieldwork, most commonly at the end of each day, and/or when work was completed at a research site. At the end of each period of fieldwork, which typically extended for two to three weeks, an exit meeting was held; this created a space for team members to talk about their experiences of the fieldwork, their feelings, and raise any issues of concern. It also created an opportunity to check in with one another. The academic researchers also regularly checked in with research assistants through face-to-face meetings, via Skype or email, to allow issues to be raised and discussed. At the end of the validation workshops (conducted in June 2015), secondary trauma and strategies for self-care were directly discussed within the research team.

1.3 History and context of the conflict and transitional justice in DRC

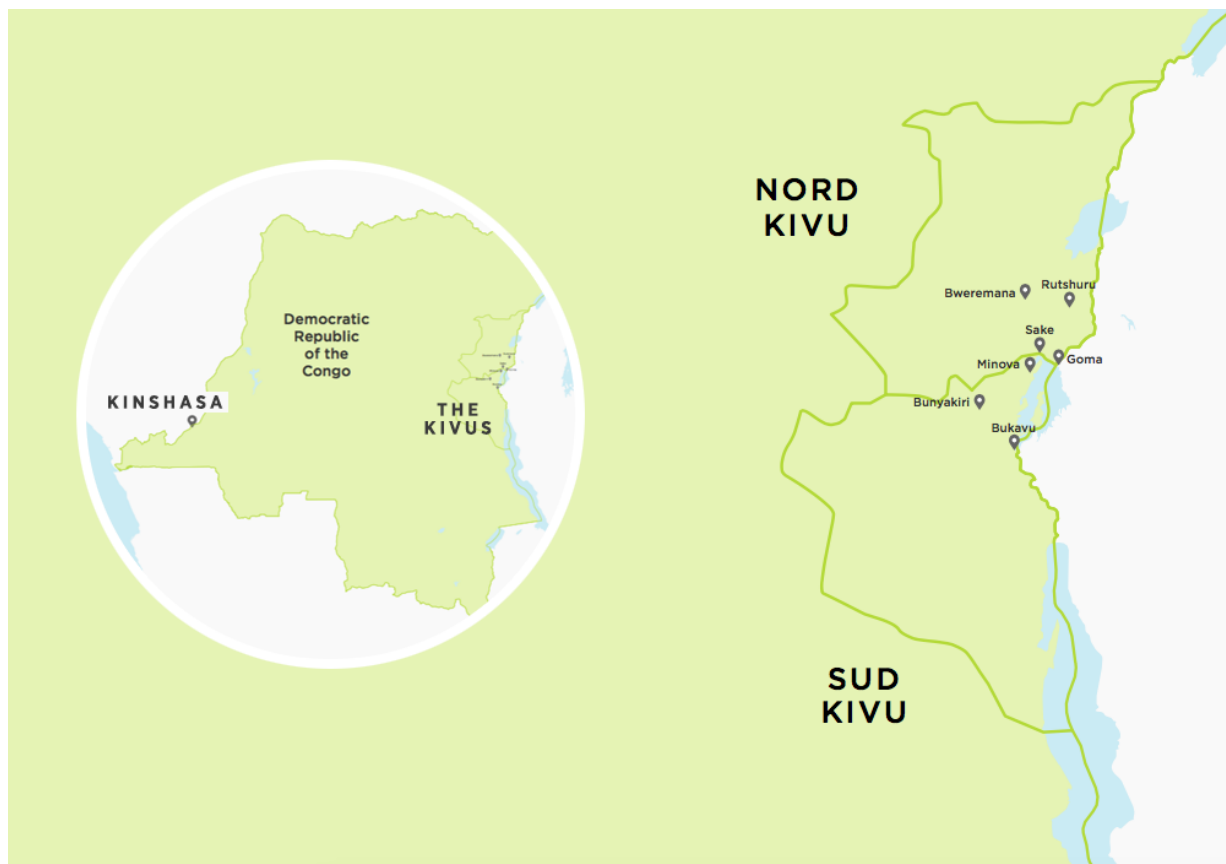
Women affected by violence in this project were interviewed at multiple sites in eastern Democratic Republic of Congo (DRC), within the provinces of Nord-Kivu (North-Kivu) and Sud-Kivu (South-Kivu) (see map below). The sites were chosen in consultation with local stakeholders,⁷ to ensure that diverse contexts and experiences were captured in the voices of women who participated in the research. Stakeholders were conscious of including women from areas recognised for recurring, brutal, and ongoing waves of violence, and sites where women are known to have had limited opportunities to speak about their experiences of violence and access to justice.

1.3.1 A snapshot of DRC and its people

DRC is a vast Central African country covering 2,344,858 sq km in size (UN Data Statistics 2014); it is one of the largest countries both in Africa, and in the world (Cusack 2005, 204). It shares borders with nine nations: Angola, Burundi, Central African Republic (CAR),

⁷ Stakeholders consulted include the two provincial ministries (North and South Kivu Provincial Ministry of Justice), and national and international NGOs.

Republic of the Congo, Rwanda, Sudan, Tanzania, Uganda, and Zambia. DRC is thus particularly susceptible to multiple cross-border influences, and the impacts of regional instability. It boasts only a very narrow outlet to the Atlantic Ocean; otherwise, it is landlocked. DRC is known for its rich mineral and natural resources – a factor that has fuelled ongoing conflict in DRC (Banwell 2012, 52). According to the World Bank, “[w]ith 80 million hectares of arable land and over 1,100 minerals and precious metals, the DRC has the potential to be one of the richest countries on the African continent and a driver of African growth” (World Bank 2015a). However, foreign countries and corporations have taken economic advantage of the unstable conflict situation in DRC, to extract minerals and other resources; militia also have an interest in maintaining disorder, to exploit resources (Banwell 2012, 52). Rape and sexual violence have been extensively used as a tool of domination in DRC, to “terrorise the civilian population, enabling ... access to and control over regional mines which contain most of Congo’s mineral wealth” (Banwell 2012, 47), and as a tool for destabilisation (Meger 2010). Clearly, management of its natural resources must be a priority in rebuilding and development in the DRC. Responses to violence against women however, must recognise that the causes of such violence are multifactorial and complex. Idealised heterosexual masculinities and corresponding normative standards are, for example, recognised as perpetuating beliefs that men’s “sexual needs” must be satisfied (Baaz and Stern 2009, 509), with an attendant belief that there is a right to women’s bodies. Though this is exacerbated by the history of poverty and social conditions – which manifests itself in sexual violence and, indeed, violence more generally (Baaz and Stern 2009, 514) – it is not in itself endemic to the DRC; rather, it is informed by contexts of militarisation and hegemonic masculinity.



Post-conflict rebuilding and development of effective modalities for transitional justice in DRC is challenged by a number of factors. A major barrier to access to justice, and for the administration of justice in DRC, is the geographic expanse and the great distances involved in traversing provinces, and the country as a whole. This is a fact exacerbated by rugged terrain, severely fractured and depleted infrastructure, and a multitude of other hardships faced by the Congolese population (especially women), who are disproportionately disadvantaged socially and economically (Meger 2010, 127).

DRC today has a population of almost 75 million people (World Bank 2015a), consisting of over 450 different ethnic groups (Kasay 2013, 332; Karbo and Mutisi 2012, 381). There are 210 living languages in DRC (Ethnologue 2015). Only 35% of DRC's population live in urban areas (Njingulula et al. 2014, 1005), with approximately 17% of the population living in North and South Kivu. 45% of the population are aged 0–14 years old; only 4% of the population is aged over 60. As of 2012, the overall life expectancy for a Congolese person is 49.6 years (UNICEF 2013a, under “Basic Indicators”). In 2013, the UN documented that over 3.3 million refugees and other persons of concern to UNHCR were living in DRC. The Human Development Index (HDI) – a standard measure of basic human development achievements in a country – places DRC at 186 out of 187 countries (UNDP 2014, 2). The majority of Congolese are living in poverty; according to the UNDP, 87.7% of the population in DRC live below the income poverty line; 46.2% live in severe poverty; and 15.5% in near poverty (2014, 6). Three-quarters of the population in DRC face multidimensional poverty, and another 15.5% are nearing multidimensional poverty (UNDP 2014, 6). Ten percent of the population in DRC in 2014 were living in a situation of acute food insecurity, with most food-insecure people living in the conflict-affected provinces of eastern DRC (World Food Programme). According to the most recent DRC Demographic and Health Survey (Ministry of Planning and Ministry of Public Health 2014), 8% of children under the age of five – nearly one million children – suffer from acute malnutrition, and 43% – or about six million children – suffer from chronic malnutrition. Child mortality rates are among the highest in the world (World Food Programme). Women and communities in eastern DRC are undoubtedly facing very harsh living conditions.

Women in DRC, however, are disproportionately experiencing hardships compared to men, on various fronts. These inequalities are well documented (UNDP 2014, 4–5; Brown 2012, 29–32; Meger 2010, 127). For example, only 10.7% of adult Congolese women have reached at least some secondary level of education, compared to 36.2% of men; also, the mean number of years of schooling for women is only 2.1. Only 8% of parliamentary seats are held by women in DRC (UNDP 2014, 4).

Importantly, women are disproportionately the targets of violence, especially sexual violence, and experience a multitude of adverse impacts associated with sexual and gender based violence (SGBV). Such impacts include physical and psychological trauma (Brown 2012, 33), social ostracism, and economic disadvantage (Babalola et al. 2015, 178). Indeed, the mutually constitutive reinforcing nature of poverty, gender, and violence is recognised (Fiske and Shackel 2014, 127–8). A study of quantitative data extrapolated from nationally representative household data for 3,436 women (Ministry of Planning and Ministry of Health 2007) and population estimates, using multivariate regression analysis, found much higher and more generalised instances of sexual violence than previously thought in DRC. This study estimated 1.69–1.80 million women have been raped in their lifetime in DRC; and 3.07–3.37 million women in DRC had experienced intimate partner sexual violence (Peterman et al. 2011, 1063).

A study conducted by UNFPA (2013) across seven provinces (Bandundu, Bas Congo, Katanga, Kinshasa, North Kivu, Province Orientale, and South Kivu) found 15,654 reported cases of sexual violence. Rape accounted for 82% of these instances (UNFPA 2013, 1). In 2012, 98% of reported cases were perpetrated against females; 44% of all survivors were aged between 12 and 17 (17); and 82% of all survivors had not completed primary school (2). According to the UN Report of the Secretary-General (2014), 15,352 incidents of sexual and gender-based violence (SGBV) were recorded in 2013 by the Congolese Government, in eastern DRC (North Kivu, South Kivu, Katanga, and Ituri district) (UN Secretary-General 2014, 8). The United Nations Organization Stabilisation Mission in the Democratic Republic of Congo (MONUSCO) investigated and verified 860 cases of sexual violence in 2013 committed by parties to the conflict (an increase of 13% since 2013) (8). Of these, non-State armed groups were involved in 71% of cases, while national security forces (mostly the FARDC and the national police) were responsible for 29% of cases (8). The actual rate of sexual violence is likely to be much higher than is suggested by these figures, as many survivors are known not to disclose or report sexual violence perpetrated against them due to fear of stigmatisation, retribution, and feelings of shame or humiliation (Peterman et al. 2011, 1066). In the present research, every woman participant in DRC disclosed that sexual violence had been perpetrated against her. Most women said that they kept this a secret from their families and communities, and few had made an official report; even obtaining medical assistance was, for some women, difficult because of the fear and stigma. It is not surprising, even with this limited snapshot, that DRC has been dubbed the “rape capital of the world” (BBC News 2010) – the persistent and pervasive sexual violence against women in DRC is well documented, and continues with impunity (Ohambe et al. 2005, 9; Meger 2010, 127). The impunity for sexual violence in DRC is reflected in the large number of documented cases of sexual violence perpetrated by the military itself; this arguably has served to further normalise rape (Trenholm et al. 2011, 149), and contributed to the rise of civilian perpetration of sexual violence in DRC (Bartels et al. 2010, 38).

1.3.2 Context of conflict in research sites and surrounding areas

The research was conducted along several axes of Goma and Bukavu. While conflict in eastern DRC has been widespread, different townships have experienced diverse cycles of violence, with varied tactics employed.

Bukavu

Bukavu is the capital city of the province of South Kivu, with an estimated population of just over 800,000 people (MONUSCO 2015b, 1).

The recent wave of conflict in Bukavu can be traced back to the influx of refugees fleeing the Rwandan Civil War and Genocide in 1994: by the end of August 1994, there were some 332,000 refugees present in the Bukavu region. Refugee camps were targeted by a number of different military and paramilitary groups. Heavy fighting between these groups occurred in Bukavu on October 29, 1996, forcing the UNHCR to suspend their operations in the region (American Red Cross 1996, under “Background”).

Human Rights Watch documented several instances of war crimes committed in Bukavu in mid-2004, by forces loyal to General Nkunda⁸ and Colonel Mutebutsi, and by soldiers of the Tenth Military Region under the command of General Mbuza Mabe (HRW 2004, 2–3).

A particularly violent attack occurred in June 2004, when rebels under the command of General Nkunda terrorised Bukavu and raped 16,000 women in three days (Schwabe 2006). Local leaders in Bukavu have described this mass rape as “a systematic and politically strategic weapon used by militias and official military,” “designed to destroy the very fabric of society through public humiliation, moral destruction and erosion of both mental and physical health and security” (Trenholm et al. 2011, 142–43).

Women and communities in Bukavu have been deeply impacted by the conflict and its attendant violence. Victims have sought to access justice through a range of channels. A study conducted by the Security Sector Accountability and Police Reform (SSAPR) programme (2013) reported that victims of crime in Bukavu were more likely to take their cases to non-formal and/or local or administrative authorities, with 42.8% seeking justice through such institutions; this is compared to 39.8% through the formal security sector and 17.3% through the formal justice sector. However, the pathways of justice accessed by women specifically, and their efficacy in delivering justice to women, were not evaluated in the SSAPR study (SSAPR Programme 2013, 24).

Evidence suggests that justice processes in Bukavu are failing to deliver justice to women and the community (Trenholm et al. 2011, 139). Trenholm et al. interviewed ten local leaders from diverse backgrounds, including from government, hospital, Christian denominations and judicial-focused NGOs; only one leader interviewed was a woman (141). According to one of the interviewees, justice might be proving elusive for the community in Bukavu because “[t]here is the law but the mechanism for the perpetrators ... is not functioning. The law is nothing when it is not applied” (Trenholm et al. 2011, 147). International aid agencies were also criticised by interviewees for fuelling hardships and injustices within the area; specifically, they were criticised for not properly assessing the needs of the local people, exploiting rape survivors as a “marketing” tool for money for other projects, and failing to follow up and to be accountable (Trenholm et al. 2011, 146). On the other hand, praise was given for the local hospital, as a significant place for allowing the exchange of information and helping encourage self-care for rape survivors (147). Some NGOs have been rolling out programs to improve access to justice for the local community in Bukavu (and adjacent areas), and particularly for women. For example, ActionAid, in the face of general lack of access to lawyers in remote areas, has trained women to become paralegals and form clinics to provide legal advice; one such clinic has been established in Bukavu town (ActionAid 2012, 24). Several community-based NGOs operate out of Bukavu, including Panzi Hospital and Panzi Foundation, which serves more than 8000 women a year; the Center of Promotion for Economic and Social Support (CAPES), which serves vulnerable

⁸ Nkunda, a Congolese Tutsi, was a major in the RCD during the Second Congo War. After the end of that war, he joined the national army for a brief period, before he rejected the government’s authority. He retreated to the forest of North Kivu before, in 2004, he started clashing with the DRC army and occupied Bukavu, His defence to committing war crimes was his claim that he was trying to prevent the genocide of the Banyamulege; he denied that he was following Rwandan orders (IRIN 2004). In 2005, he continued calling for overthrowing the government, due to corruption and more former RCD-Goma soldiers deserting the official army to join him. His troops then clashed with the army in Sake in 2006. In 2007, he had control over parts of Masisi and Rutshuru, and set up a political organisation (CNDP). He then, in 2008, started fighting against the army/its UN support, and kicked off the 2008 North-Kivu conflict (Tran 2009). He has not yet been indicted by the International Criminal Court, but an investigation has been opened (Reuters 2011).

groups, and particularly women; Voluntary Work for the Integral Development of the Rural Milieu (VODIMIR), which runs services for vulnerable groups in rural areas (including survivors of SGBV, and women more generally) (Eastern Congo Initiative 2015).

Bunyakiri

Bunyakiri is a remote town in South Kivu, about 70km north-west of Bukavu, and with a population of almost 137,000 (ACF International 2009, 5). Although the beginning of the route to Bunyakiri is a new road, it ends after less than fifteen kilometres; after this, it becomes a “dusty, potholed track winding through Kahuzi-Biega National Park” (Harris 2012a). Even more problematically, this park also shelters several armed groups (Harris 2012a).

Human Rights Watch (2000) reports that Bunyakiri was occupied by Mai-Mai and Hutu combatants from as early as September 1998. The Rally for Congolese Democracy (RCD) was formed in Goma in 1998, in the face of dissatisfaction with the Kabila government headed by Joseph Lumbala, and fomented by Ugandan and Rwandan machinations (Mampilly 2011, 168). At its inception, it was a unified force under Wamba dia Wamba; even so, “it was from the beginning an awkward coalition,” with different goals and backgrounds, and included a diverse range of individuals, from former ADFL soldiers and ex-Mobutuists to civil society activists and intellectuals (Longman 2002, 140). Although it aimed to be a “government-in-waiting,” with stated objectives of democratic participation and expression, the diversity of actors in the group necessarily resulted in divisions, with tensions between the militarist wing and the academic/political wing (Afoaku 2002, 116–18). By 1999, the group had splintered into its rival branches (Mampilly 2011, 183).

The Wamba dia Wamba faction went through various naming iterations, including RCD-Kisangani, RCD-Bunia, and the RCD-Mouvement pour la Libération du Congo (Afoaku 2002, 119). After merging with the Mouvement pour la Libération du Congo in the north, it became the Front de Libération du Congo; it had less presence in the Kivu regions, and was concentrated around Equateur province (Mampilly 2011, 185).

RCD-Goma, on the other hand, came to control a substantive portion of eastern DRC, including parts of the Kivus (Mampilly 2011, 185). It comprised the militarist wing of the original RCD, including former ADFL and Congolese Armed Forces soldiers, ex-Mobutuists, and the Bayamulenge Tutsi (Afoaku 2002, 119); it was aligned with Rwandan interests.

In 1999, the RCD killed civilians and burned homes while moving through the northern Bunyakiri region. Rebel groups opposing the RCD attacked homes, killed civilians, and committed rapes on a number of occasions throughout 1999 and 2000, in the Kolonge area of Bunyakiri.

From 1998–2003, RCD ruled North Kivu. Despite the RCD claiming to be the legitimate authority in the Bunyakiri region, Human Rights Watch quotes several civilians who stated that the RCD offered little protection or assistance (HRW 2000).

Several massacres in May 2012 stand out as particularly brutal and well-documented instances of violence by the Democratic Forces for the Liberation of Rwanda (FDLR) in the region. Thirty-seven civilians, including 9 children, were killed on May 9 in Kamananga, and 32 civilians, including 6 children, were killed in Lumenje on May 13 (UNICEF 2012).

Access to justice for the women and communities of Bunyakiri is remote and little documented. However, recent work in the area by the American Bar Association and International Medical Corps has seen 25 cases of SGBV presented in mobile courts in Bunyakiri (Harris 2012b). UNICEF has also funded some initiatives in Bunyakiri, including a health centre with a new maternity ward (Seck 2011), and the provision of medical supplies to the hospital, including post-exposure prophylactics for victims of sexual violence.⁹ UNICEF also provided some psychosocial care (Seck 2011). In addition, CAPES, which operates out of Bukavu, has provided additional services in Bunyakiri (Eastern Congo Initiative 2015). According to the agencies involved in these initiatives, this work is making a difference in women's lives, and is responding to some of their needs. This is also reflected in what some of the women participants told us:

They welcomed me. They gave me a document. They escorted me and went to ask for medicines for me at Bunyakiri... they gave me medicines; they also counseled and consoled us. Because I was not the only woman there. ... This was all free of charge.¹⁰

When I went to the hospital they came something like pulp. The pulp me inside me to check all those dirty things in me. And then they give me medicine after they took me to Panzi hospital ... When I was at the hospital I felt happy in my heart and was full of joy. They gave me medicine. After finishing my medicines then I start feeling pain again.¹¹

The only help I've got is those tablets I've received from the Health Centre. When, despite those tablets I continue feeling pains, I go and see a doctor, who prescribes other medicines. After you take them, if you are still suffering, you go to hospital, they give you other medicines and you take them. But all in all, those medicines you have to buy are most effective against the pains.¹²

Bweremana

Bweremana is a small town in North Kivu, with an estimated population of 16,000.

According to Human Rights Watch (2005), a complicated conflict over Bweremana took place between local affiliates of the DRC national army (FARDC), and RCD-affiliated forces. Armed civilians also joined the conflict on various sides (HRW 2005).

In 2012, the FARDC occupied Bweremana soon after the M23 briefly conquered Goma. "Following the fall of Sake to the M23 on 22 November 2012, about 6,000 to 8,000 FARDC soldiers, with dependents, retreated towards Bweremana, Masisi territory, North Kivu province, and Minova, South Kivu province, where the operational centre of the 8th Military Region was subsequently installed" (OHCHR 2013, quoted in Africa Focus 2013). 135 rape cases were reported in the first week of the army's occupation (Christian Aid 2014; HRW 2014a).

⁹ PEP (Post-Exposure Prophylaxis) medical treatment programs involve a range of medications aimed at preventing unwanted pregnancies, and reducing the chances of a sexual assault survivor contracting HIV or other STIs. To be effective, PEP treatment must begin within 72 hours of the assault. For more information about the treatment, see Chacko et al. (2012).

¹⁰ Interviewed in Bunyakiri, September 25, 2014.

¹¹ Interviewed in Bunyakiri, September 25, 2014.

¹² Interviewed in Bunyakiri, September 26, 2014.

Following the defeat of the M23 Rebellion in 2013, many soldiers and rebels who were previously involved in the conflict were effectively dumped in Bweremana. Most of these soldiers (and rebels from M23, and various armed groups) were soon transferred to military bases, but not before numerous cases of rape and crop looting were reported (HRW 2014a).

Human Rights Watch reports that by October 2014, 100 demobilised combatants, their wives, and children had died from starvation in camps at the military bases outside Bweremana (HRW 2014b). Many of the surviving former combatants have since left the camps (HRW 2015d).

Goma

Goma is the capital of North Kivu province, connecting to the Rwandan border. Approximately 1 million people lived in Goma in 2012 (BBC News 2012). It has been described as having an “aid economy” – that is, the influx of a humanitarian presence in Goma as a result of the conflict is driving the economy, and creating new jobs and businesses (e.g. in construction) (IRIN 2013). The head of coordination at the UN Office for the Coordination of Humanitarian Affairs Eastern Africa (UNOCHA) has suggested that aid agencies have created an “emerging middle class in Goma,” which is driving its economy (IRIN 2013).

Goma was at the centre of the refugee crisis in the wake of the Rwandan genocide, and had very similar experiences to Bukavu during the First and Second Congo Wars.

Goma was also one of the most intensely fought-over regions during the M23 uprising. M23 Rebels captured the city in November 2012; up to 200,000 people were displaced by the M23 Rebellion at this time (Rosen 2012), while the UN estimated that a further 130,000 people fled the Goma region between November 2012 and January 2013 (Tran 2013).

Human Rights Watch (2013) notes that between March and July in 2013, M23 rebels summarily executed at least 44 people and raped at least 61 women and girls in the region, reportedly with the support of the Rwandan government (HRW 2013). In late 2013, M23 was defeated; however, new data from Human Rights Watch has found that since the arrest warrant for Sylvestre Mudacumura was issued on July 13, 2012, more atrocities have been committed by FDLR fighters, including at least killings of 94 civilians, rapes of dozens of women and girls, and the destruction of countless homes (HRW 2015a).

Many survivors of violence and victims of crime from across eastern DRC have travelled to Goma to try and obtain justice. In 2008, an operational military court was set up in Goma to address acts committed by military officers during the course of military operations. However, it has faced problems, including insufficient staffing, an inability to conduct independent investigations, and an inability to hear high-level prosecutions. There are also concerns about whether due process is respected in the court (Bureau of Democracy, Human Rights and Labor 2010). In the first quarter of 2009, the Auditorat de garnison (military court for lower ranked soldiers) heard seventeen rape trials in Goma, and four in Walikale; the military court convicted twenty soldiers (HRW 2009b).

Other local criminal justice processes, including police, prosecution, and courts in Goma, are stifled by under-resourcing, corruption, and lack of expertise. These broader systemic problems in criminal justice in DRC are discussed more fully in Chapter 4.

Minova

Minova is a town in South Kivu province. In 2012, more than 47,000 Internally Displaced Persons (IDPs) arrived in and around the towns of Minova (in South Kivu's Kalehe territory) and Bweremana (on the South Kivu-North Kivu border) over a period of two weeks (UNHCR 2012).

Government soldiers committed a mass rape in Minova following the fall of Goma in November 2012: "On the night of November 23, 2012, the Congolese army entered Minova, pushed north from Goma in a state of humiliation by the M23 rebel group. By the next morning, reports emerged that over 200 civilians were raped by army elements" (Enough Project 2014b; Jones and Smith 2012). The violence against civilians continued for several days, with homes pillaged, brutal gang-rapes of women in front of their children, severe beatings and torture, and men killed; even some abductions were reported (Reynolds 2015). Women were a particular target, with over 100 women estimated to have been raped in the ten days following November 23 (Reynolds 2015). Al-Jazeera put the number of victims of the ten days of rape and violence in Minova in November 2012 at 1000 (Zeyneb Alhinadawi 2014).

One of the perpetrators of the mass rape, interviewed by The Guardian in 2013, claimed to have raped 53 women. The article claims that the mass rape occurred in part because the commanders of the government forces abandoned their soldiers once they arrived in Minova: "Their retreat was haphazard and chaotic. The soldiers were embarrassed, angry, upset and out of control; their commanders had disappeared and the battalion and regiment structures had disintegrated" (Jones 2013).

As further discussed in Chapter 4, thirty-nine Congolese troops (25 soldiers and 14 officers) involved in the 2012 attacks on Minova were tried for their crimes in a military court in 2014 (Zeyneb Alhinadawi 2014). The trial relied on the Rome Statute; the soldiers were accused of raping 130 women (Kirby 2015, 467). However, only two of the accused were ultimately convicted (Cordaid 2014). A recent report produced by Human Rights Watch (2015), while recognising some positive aspects of the "Minova Trial," identified three key problems: (i) the prosecution lacked a clear strategy and expertise; (ii) the rights of the accused were compromised; and (iii) selection of the accused by military prosecutors raised questions about the political will to hold all responsible for the numerous crimes perpetrated in Minova, as some of the officers indicted appeared to be "uninvolved scapegoats for other officers with genuine command roles" (3–4). According to the Human Rights Watch, there was a lack of genuine effort in investigating suspects beyond field commanders, to include high level officers:

These three failings exemplify some of the major problems that hamper accountability for serious crimes in Congo. These difficulties remain unaddressed despite years of international assistance and training of military justice officials aimed at strengthening the capacity of the national judicial system to handle grave international crimes, and promoting accountability before national courts to complement work of the ICC. (HRW 2015c, 4)

Justice processes that are not “credible, fair, and impartial” risk “discouraging victims and entrenching the perception that justice is arbitrary,” rather than “fostering longer term peace and stability by signalling that atrocities will not be tolerated” (HRW 2015c, 4).

There are five local courts operating in the Kalehe territory, with one situated in Minova; these courts represent important vehicles for justice, but they are under-resourced, with only two magistrates. Additionally, the language of the court is French, which may render the court inaccessible to many (Scheye, 2011). Similar problems of under-resourcing and poor accessibility to justice processes are present throughout eastern DRC, and are discussed in further detail in Chapter 4.

Rutshuru

Rutshuru is located in North Kivu province, and is headquarters of the district of Rutshuru Territory. It lies within 30km of both the Ugandan and Rwandan borders. A 2003 study on a sub-district of Rutshuru Territory found that almost half the people in that district were reliant on agriculture; other economic activities included trading, brewing of alcohol, and logging (Guluma 2003). Economic activities may have altered somewhat by the recent conflict in the area, but finding more recent detailed information about local economic activities is difficult.

Conflict has occurred sporadically in Rutshuru since at least 1992. According to Human Rights Watch, in January 2006, rebel forces under the control of General Nkunda attacked several towns in the Rutshuru region, committing rapes and looting civilian property. This caused most of the residents in the region to flee (HRW 2006). According to UNICEF, rebels also recruited child soldiers in the Rutshuru region in 2008 (IRIN 2008); upticks in violence corresponded to the number of children being recruited. Generally boys were forced to fight, whereas girls were forced into “marriages” with the soldiers.

MONUSCO was able to restore peace and security to Rutshuru in June 2011 (Padovan and Nyangi 2011). However, by July 2012, the M23 Movement had taken control of Rutshuru (Al Jazeera 2012). The New York Times reported in late 2012 that the M23’s administration of Rutshuru was, for some residents, preferable to that of the central government (Gettleman 2012). Rutshuru was retaken by the DRC Army in October 2013.

Rutshuru continues to struggle to rebuild a justice infrastructure.

Sake

Sake is a town located in North Kivu, approximately 25km north-west of Goma. In 2004, it had an estimated population of about 17,000.

In 2006, Laurent Nkunda attacked the town, with ensuing battles between his forces and the Congolese army. This conflict caused thousands of residents to flee (Gangale 2006). Sake was retaken by UN and government troops in November 2006 (IRIN 2006).

The M23 Rebels occupied the town of Sake in November 2012 (BBC News 2012), causing thousands of residents to flee (McConnell 2012). CNN reported summary executions, forced conscription of minors, and other atrocities, in the wake of this occupation (McKenzie and Smith-Spark 2012).

Sake, like many eastern DRC towns, also continues to struggle to rebuild a justice infrastructure that will effectively serve the needs of the local community.

1.3.3 Transitional justice efforts in DRC

Despite the largest and most expensive United Nations peace keeping mission in the world (ICTJ 2015b, under “Challenges to Peace in the DRC”), a new constitution in 2006, and the first free elections in 40 years, the government of DRC has had limited success in its transitional justice efforts. It continues to struggle with a failing justice system too weak to fight against widespread corruption and prevailing impunity (ICTJ 2015b, under “Challenges to Peace in the DRC”). As discussed in Chapter 4, several attempts at institutional reform have failed, including the Truth and Reconciliation Commission (TRC) (2003–2007), “which failed to investigate atrocities or hold public hearings to establish the truth about the conflict and the mass killings” (ICTJ 2015b, under “Challenges to Peace in the DRC”); the National Human Rights Observatory (NHRO); and the Ethics and Corruption Commission (ECC), established as part of the peace process following the Inter-Congolese Dialogue (Afrimap and Open Society Initiative for Southern Africa 2009), which similarly failed in their mandates due to major resourcing and logistical problems, as well as political interference. Given the widespread documented mass atrocities in DRC, the small number of cases investigated at national level is disquieting. The International Centre for Transitional Justice (ICTJ) have identified only 39 prosecutions of serious crimes committed in eastern DRC that have been initiated by the national jurisdiction over the period of 2009–2014 (ICTJ 2015b, under “ICTJ’s Role”).

In 2004, the Congolese government referred the ICC to investigate and prosecute international crimes that had occurred in DRC since 2002. Five arrest warrants have been issued by the ICC in DRC and related cases for the following individuals: Thomas Lubanga Dyilo (leader of the FPLC); Germain Katanga (former senior commander of the “FRPI”); Mathieu Ngudjolo Chui (former senior commander of the FNI; Bosco Ntaganda (former Deputy Chief of the General Staff of the FPLC); Callixte Mbarushimana (alleged Executive Secretary FDLR-FCA, FDLR); and Sylvestre Mudacumura (war crimes in the context of the conflict in the Kivus). Dyilo and Katanga have been convicted and sentenced by the ICC; Dyilo of the war crimes of enlisting and conscripting of children under the age of 15 years, and using them to participate actively in hostilities; and Katanga of being an accessory to crimes against humanity (murder), and four counts of war crimes (murder, attacking a civilian population, destroying property, and pillaging). Ntaganda is currently in ICC custody after turning himself in; his trial opened September 2, 2015 and is underway. The prosecution declined to confirm charges against Mbarushimana, and he was released from custody in December 2011. Mudacumura is at large, with charges against him on several grounds, including rape. Specifically in Goma, the FDLR, under Mudacumura’s command, has been responsible for what has been described by Kenneth Roth, Executive Director of Human Rights Watch, as “some of eastern Congo’s worst atrocities” (quoted in HRW 2015a). The efficacy of the ICC in deterrence, and as a vehicle for delivering justice to victims of violence has been questioned by some scholars and practitioners (Lake 2014). The ICC has also been criticised for taking cases away from national courts, and thereby hindering “progress towards the rebuilding of a functioning national justice system” (Kambale 2012, under “Failure to support national prosecutions and reforms”).

The need and demand for national action in DRC is strong. Despite negative views of formal justice in DRC, many Congolese believe that justice and lasting peace is possible; a recent survey of 5166 randomly selected residents in DRC found that a majority of people surveyed believed that the national court system and processes were more appropriate to achieve justice for war related crimes in DRC than the ICC (Vinck and Pham 2014, v). Only one in five respondents viewed the ICC as having a positive impact on peace and justice (72). The most important areas identified by respondents for government action to improve justice in DRC included: fighting corruption; training judges and lawyers; paying staff and judges, and informing the population about justice (67). The decentralisation of public offices from Kinshasa has also been identified as an important step in post-conflict transition in DRC (Gaynor 2014).

Access to justice

For many women in eastern DRC and their communities, it is clear that access to services and justice is thwarted by many challenges. “In terms of service provision, geographic coverage is uneven and there are significant challenges to equipping remote health facilities, ensuring the adequate quality of the assistance and preventing attacks on facilities by parties to the conflict” (UN Secretary-General 2014, 9). It is well documented that significant gaps exist in the implementation of the legal framework for access to justice for survivors (UN Secretary-General 2014, 9). As discussed in more detail elsewhere in this report, women’s economic disadvantage is a major barrier to access to justice, one often compounded ‘in cases where justice is pursued ... [by] insolvency and a lack of funding for legal assistance and reparations’ (UN Secretary-General 2014, 9). As discussed further in Chapter 4 women also often come under pressure to rely on traditional forms of justice by families and communities, as these mechanisms may translate into some form of immediate and tangible compensation for families, such as payment of livestock (Varanasi 2014). If the outcomes of justice for women in DRC are to be more than merely nominal, with potential to empower women, post-conflict justice must recognise and respond to the multiple and mutually constitutive disadvantages faced by women in accessing justice and more generally in their lives.

1.3.4 Conclusion

The conflict in the DRC remains ongoing. Though the official wars have ended, various armed militia groups remain active in eastern DRC. As has been discussed in this chapter the reasons behind this are multiple and complex. The ethnic tensions in DR Congo that have fuelled the conflict have been highlighted with existing ethnic cleavages utilised by various politicians and foreign nations, thus fanning the flames of conflict (Autessere 2010, 7).

These tensions have been exacerbated by economic interests (Montague 2002, 104); the natural wealth of the DRC has been a grounding point of the conflict. The instability in the Congo has benefited those with interests in the wealth of the Congo (UNSC 2001, 7; Clark 2002, 4); Dunn (2002, 70) described the DRC as “an economy colony for its combatants”. Local militia have been used to maintain access and/or control over natural resources (UNSC 2001, 6); indeed, Meger (2010, 131) writes that it is said that militia “actively maintain the chaos necessary to loot the DRC’s vast resources.”

This is not limited to militia; the army itself has been used as such. Moreover, the lack of discipline has contributed to their perpetuation of violence (Baaz and Stern 2008). Even

though a Disarmament, Demobilisation and Reintegration programme was instituted and attempts at reform made after the conclusion of the Second Congo War, the army is “ill-disciplined and badly paid”, with a culture of impunity that continues today (Davis 2013, 293).

These factors are compounded further by decimated traditional economies which create ever more fertile ground for conflict; as opportunities for young men and boys to access employment and work shrink, the militia becomes a viable way of having needs met and achieving status (Baaz and Stern 2009, 497, 513-14; Jourdan 2011, 90).

The situation in DRC thus remains a fragile and insecure one. For women in DRC the potential threat of resurgence of violence is stifling. The process towards rebuilding DRC is slow and remains a tentative one in the face of continued insecurity and lack of strong political commitment and action.

CHAPTER 2: WOMEN IN DRC SPEAK TO JUSTICE

*Justice means everyone has a place.*¹³

2.1 The research focus

In examining the efficacy of transitional justice strategies for women impacted by violence in DRC, this research project asked women participants some broad questions about what justice means to them, and how they feel justice is working for women within their communities. Understanding how women see justice, its role, and how they experience different justice processes, is important to inform development of justice mechanisms and strategies that are responsive to women's needs and priorities for justice; this is especially the case within the specific context of communities transitioning from conflict to post-conflict states, in the course of rebuilding communities.

This chapter presents the voices of women speaking directly on justice. It presents how the women in this research project have experienced, thought and felt about justice. Women's voices alone are presented here so that they are clearly heard and not muted in any way by the voices and views of others. Chapters 3 and 4 of this report situate the voices of women participants within broader discourses of justice, by drawing also on the views of key informants interviewed in this research, the opinions of other commentators, and the findings of other research studies.

2.2 Gender in context in the DRC

The women we spoke with in the DRC consistently talked about deeply entrenched attitudes within their communities that perpetuated multiple harms and inequalities for women; such attitudes led to women and girls being undervalued, and often to women being stigmatised, which in turn generates feelings of dehumanisation, isolation, and a lack of purpose. The normative values and practices that women described as pervasive within their communities were revealed, through their own voices, as constituting destructive sites that disabled women, negated their agency, and denied them their status as autonomous rights-bearing individuals. This far-reaching subordination of women represents a key challenge for justice mechanisms in DRC to address. As one woman we spoke with from South Kivu so boldly asserted:

*I am not going to only talk for the women of this place, Bunyakiri, but all the women in Congo. The women are suffering a lot. And in our culture, our women cannot be a leader and cannot talk when the men are there. Women do not have rights to everything or anything from her father or her family. When they are sharing the goods of her father they are not going to give anything to a lady, to a woman, which is her right.*¹⁴

¹³ Interviewed in Rutshuru, September 23, 2014.

¹⁴ Interviewed in Bunyakiri, September 26, 2014.

Women, across all the sites in our study, strongly affirmed this picture of women's repression: "You see that traditional customs have kept us under oppression."¹⁵

Sadly, some of the women we spoke with seemed resigned to a life of subordination. As one woman from Rutshuru explained, "If I'm a woman, I cannot change the situation. I cannot change my body, become taller or bigger."¹⁶ Another woman, also from Rutshuru, simply proclaimed, "I am powerless."¹⁷ This domination rendered many women impotent and without voice in their pursuit of justice: "I am good for nothing... I would not have any opinion to give about doing this or that."¹⁸ Some women took the view that "one has only to keep silent to avoid creating more problems."¹⁹ This degree of perceived powerlessness and acquiescence by women to those who are "stronger" testifies to the failings of justice in protecting women's rights, and guaranteeing women a position of equality in both opportunity and voice.

Many women, however, strongly contested – with palpable frustration – the subordinate position accorded to women within their communities:

*A woman ... is stronger than a man. Because there is no aspect in which a man is superior to a woman.*²⁰

*I know that a woman should have the same right like a man. A woman can do whichever job a man does.*²¹

Some women recognised the increased burden that has been placed on women, precipitated by conflict, changed gender roles, and changed social structures and norms (Lwambo 2011; Ohambe et al. 2005):

*Although we know that the woman is even stronger than a man. And I think people who say so are right. Do you think that if you asked a man to carry pregnancy and deliver, he will make it? ... As a woman, I am the one to carry pregnancy, do household work and the husband is still there for his needs even when you are already very tired.*²²

*Your intention as a woman was to push and move ahead with the aim of assisting the family or improving your living conditions ... And sometimes, they simply reject the woman's candidature under the pretext that women are not capable of anything at all whereas women may even do better than some men sometimes.*²³

Multiple sites of female disadvantage and disempowerment were identified by the women with whom we spoke. Most notably, women participants talked about economic disempowerment, political invisibility, and a lack of access to education, legal processes, and other social capital. Education, in particular, was identified by women both as a site of

¹⁵ Interviewed in Rutshuru, April 21, 2014.

¹⁶ Interviewed in Rutshuru, September 23, 2014.

¹⁷ Interviewed in Rutshuru, September 23, 2014.

¹⁸ Interviewed in Rutshuru, April 21, 2014.

¹⁹ Interviewed in Bweremana, September 20, 2014.

²⁰ Interviewed in Rutshuru, September 23, 2014.

²¹ Interviewed in Minova, September 21, 2014.

²² Interviewed during Validation Workshop, June 15, 2015.

²³ Interviewed during Validation Workshop, June 15, 2015.

women's repression, and as a potential source for enabling and empowering women post-conflict; one woman stated that "[t]he woman's right is not respected because in so many families they do not school girls, but only boys. They ignore that a girl can help the way a boy does. Due to the fact that a girl did not go to school, everyone takes her as worthless,"²⁴ and another stated that "we [should] teach women how to become self-sufficient. They should not wait to get everything from their husbands."²⁵ Women in this study repeatedly identified access to education for women and children as a key component of achieving justice for women.

The right of women to access and receive justice of any kind was revealed by the women in this research project as being little recognised in actual fact.

2.3 Women's lived experiences of violence in DRC

Central to the lived experiences of women in DRC, and their rapport with justice, is the reality of widespread SGBV on a mass scale. Women participants in DRC documented a widespread culture of impunity for such violence – a finding also well documented in other research discussed elsewhere in this report (Ohambe et al. 2005, 9; Meger 2010, 127). Many of the women with whom we spoke also recounted devastating histories of dispossession (including of property, land, and kinship). Women described an existence shackled by poverty, insecurity, uncertainty, and fear. As one 22-year-old young woman from Rutshuru explained, "It is terrible to live here, they can beat you and threaten you, the following day you go to the hospital, you tell the nurses what happened. That is the way we live here, sometimes if we can see morning we praise the Lord."²⁶ Her neighbour – a mother of seven, aged 34 – also described a precarious existence: "You don't feel safe here you have nothing, nothing. I have nothing, so you just have a small thing, and even the small thing they come and steal it, how are you going to be secure?"²⁷ When asked how many times she had been robbed, this woman replied, "You can't count ... One day they came to my house three times in the day and four times at night ... They are just waiting for you to get something, and then they come back." Another woman from Sake (in North Kivu) described the following scene faced by the many women in her village, after it was pillaged: "In their house when she returned ... she found that everything was stolen even clothes, even beds, everything. They found nothing in the house."²⁸ Across the border in South Kivu, the situation described by women was much the same: "They stole everything, up to now I don't have anything, even to dress they have to give me, even some saucapans I have to borrow."²⁹ Most women participants described being left exposed, unsettled, depleted, and uncared for by their families and communities.

Women were not only robbed of their physical possessions; many women also spoke about their bodies, dignity, and spirit being stripped:

*They had broken my body. I had nothing left. I felt naked and felt I had had all the possible troubles.*³⁰

²⁴ Interviewed in Minova, September 21, 2014.

²⁵ Interviewed during Validation Workshop, June 15, 2015.

²⁶ Interviewed in Rutshuru, April 22, 2014.

²⁷ Interviewed in Rutshuru, September 23, 2014.

²⁸ Interviewed in Sake, September 20, 2014.

²⁹ Interviewed in Rutshuru, September 23, 2014.

³⁰ Interviewed in Rutshuru, September 23, 2014.

*You make as if you were still living, but in reality you are half-dead ... I mean you become like ... it is rather your corpse that people see but they think you are still alive.*³¹

*If we look at sexual exploitation as a condition for the woman to get a job ... and that makes that we have no value and, hence, we are not given any value in our own community. We are not considered in our Congo. The woman's consideration is really so little.*³²

Overwhelmingly, the women in DRC described a very hard, basic, and brutal life, with few options, great suffering, and a loss of sense and dignity; for too many women, they even experienced a loss of hope. The following account of life in Rutshuru, by a 35-year-old woman, makes this plain:

I can tell you about our life in Rutshuru. The life we are living here in Rutshuru is not a happy life or a good life because there is so much hatred, jealousy and suicide. If you get something they will come and harass you, take it away from you or kill you. That's how we live in Rutshuru. It is not a good life.

*You know life is difficult here Even I tried to kill myself twice ... I went to the river, I wanted to jump, I fell inside and thought – no, don't kill yourself. But what pushes us to do that is because of life – you feel abandoned, you cannot do anything to survive. Life is becoming very difficult so you decide to kill yourself.*³³

Put simply by yet another, older woman, “*I have no life left.*”³⁴ Her neighbour further stated, “*I'm just afraid.*”³⁵

Many of the women interviewed were struggling with the basic needs of survival:

*There's no food, there's no medicine, there's nothing.*³⁶

*I'm here alone with children, I have no place to sleep. I have no food, I have no money to pay for the school fees.*³⁷

One woman from Minova explained, “*There is just suffering, can you imagine someone going to beg every time. It is suffering. It's not a good life.*”³⁸ Another woman from the same village also talked about the difficulties she faced in her day-to-day life: “*Things have become difficult ... to eat is difficult, everything is difficult ... we live a difficult life.*” When describing her typical day, this woman revealed a deep sense of hopelessness and quiet despair: “*I just stay at home, sometimes sleep, my mind goes far but what do I do and when I go to bed, I feel pain, weak, my body is not good... I don't know what I can give my children*

³¹ Interviewed during Validation Workshop, June 15, 2015.

³² Interviewed during Validation Workshop, June 15, 2015.

³³ Interviewed in Rutshuru, September 23, 2014.

³⁴ Interviewed in Rutshuru, September 23, 2014.

³⁵ Interviewed in Rutshuru, September 23, 2014.

³⁶ Interviewed in Sake, September 20, 2014.

³⁷ Interviewed in Minova, September 21, 2014.

³⁸ Interviewed in Minova, September 21, 2014.

to eat... I just... I don't know what to do. When I wake up I can't do anything just look up and down, there's nothing I can do."³⁹

Women commonly recounted living in a state of turmoil and unease – an indicator of their unresolved and ongoing trauma (Ohambe et al. 2005, 35). Another woman also from Bweramana described the unrest in her life: *"We don't have peace and I can't even sleep at night. I just think every day and sometimes even when I want to eat, I lose my appetite and leave the food there."*⁴⁰ An absence of 'inner' peace for women was echoed by many of the women we interviewed, and usually with profound impacts being recounted: *"I don't have peace in my heart and every day I have a headache because I think a lot about how I was living with my husband and he abandoned me, my kids are not okay, I don't have peace in my heart and when I start thinking about it, I have a fever. I will get a fever and start trembling."*⁴¹

The women we spoke with in DRC said they were tired, and they were visibly so – physically, mentally, and emotionally. They consistently expressed an overwhelming sense of hopelessness, fear, and, for most, a profound desperation with their life situation, as well as the few options for change that they perceived might lay before them: *"My tomorrow, my future is not good. I don't have a place. I don't have a house, I don't have a garden. I'm just like that."*⁴² The following account by a 49 year old woman in Rutshuru depicts the physical pain endured by many of the women with whom we spoke: *"I cannot do anything. Even work. I cannot... I feel very exhausted. I am sick every day... I am just here enduring my unbearable sufferings. That's it."*⁴³ In describing how the conflict altered her "inside," another woman from Sake stated, *"Your heart is tired... you feel disappointed... it has changed people's hearts."*⁴⁴ In Bweramana, one woman outlined her day as follows: *"You can be working, helping others, we work with tiredness. You have no courage you had before being raped and got damaged. You only have fear where you are."*⁴⁵ In trying to rationalise their experiences of pain and suffering, women questioned themselves, and the very heart of their communities; one woman, aged 34, concluded, *"[P]eople don't love each other."*⁴⁶ The women universally depicted a life burdened by bad memories and unresolved trauma, pain and loss. One woman in Bunyakiri explained, *"If I hear the sounds of guns, I feel like losing my mind and my heart begins beating so fast, and then I collapse."*⁴⁷ Another woman from Bweramana stated, *"I have no longer joy. Where ever I am, I only feel furious."*⁴⁸ One woman from Rutshuru echoed the many voices of the women heard in this project: *"My energy is totally spent."*⁴⁹

This picture of the lives of women in DRC is immensely disquieting, and points to the failings of justice for women. It also provokes thinking about the sites for justice that need to be innervated, in order for women's justice needs to be better served.

³⁹ Interviewed in Bweremana, September 20, 2014.

⁴⁰ Interviewed in Bweremana, September 20, 2014.

⁴¹ Interviewed in Bweremana, September 20, 2014.

⁴² Interviewed in Minova, September 21, 2014.

⁴³ Interviewed in Rutshuru, April 21, 2014.

⁴⁴ Interviewed in Sake, September 20, 2014.

⁴⁵ Interviewed in Bweremana, September 20, 2014.

⁴⁶ Interviewed in Rutshuru, September 23, 2014.

⁴⁷ Interviewed in Bunyakiri, September 26, 2014.

⁴⁸ Interviewed in Bweremana, September 20, 2014.

⁴⁹ Interviewed in Rutshuru, September 23, 2014.

2.4 The distance between women and justice

Against this backdrop of women's lived experiences, it is thus not surprising that, overwhelmingly, the women in DRC see justice as illusory, elusive, remote, and disconnected from their actual lives and their day-to-day struggles, pain, and suffering. Some women seemed to wrestle with the profound schism between their experiences of mass atrocities and violence, the aftermath, and the possibility of obtaining any justice. For some women, justice in whatever shape and configuration was deemed to have already fatally failed them. The dissonance between women's lives at the moment and any notion of justice rendered some women reluctant (maybe unwilling), and some unable, to engage with or contemplate the contours of what might possibly be a realisable and more productive justice for women. Some women saw justice as clearly beyond the realms of their reach: "*We don't know what can change. It is only leaders who know.*"⁵⁰ Other women struggled to understand how justice could address their lived experiences, and the complex social configurations of power and injustices diffused throughout their society: "*Even to jail him is useless, to leave him free is equally useless because he is poor, he has nowhere to live... he profited from us, it is true ...*"⁵¹ Other women simply took the view that "*there is no justice.*"⁵²

Many women lamented their abandonment – at the societal, communal, and political levels – resulting in an unbearable degree of neglect for so many women; such abandonment is often marked by an absence of care, humanity, and respect for women, often with profound impacts. As one woman in Bweramana stated that "*[t]hey don't respect me, everyone neglected me, just the way they [are speaking] to me, the way I am living in a house, I don't have anything. If I have to eat, I have to go and beg. They have neglected me.*"⁵³ A woman from Minova decried, "*The wars destroyed my life. The consequence – I have been raped. I never have peace in the area that I live in and my neighbours they don't greet me, so I just found out that I am not a human being like others.*"⁵⁴ This woman's neighbour also claimed that "*we no longer have value in the eyes of the community.*"⁵⁵ In chorus, the women across the DRC research sites time and time again stated, "*[T]hey keep neglecting us. In the village, they keep neglecting us.*"⁵⁶ So very many of the women with whom we spoke rebuked the lack of respect they faced from within their communities. Many women expressed torment at the disrespect they felt, and the neglect they were experiencing: "*I feel really pain ... when [family] don't greet me, when they abuse me. I feel really pain inside my heart.*"⁵⁷ A woman from Minova expressed her anguish in particularly stark terms: "*When we are walking, you may think that someone is walking whereas it is a carcass walking in the streets. My spirit is like a thing tormented.*"⁵⁸ This haunting image sadly captures what so many other women similarly depicted in their lives.

For many women, their experienced neglect, abandonment, and ostracism symbolises how society (de)values them, and evinces the failures of justice for women. Some women

⁵⁰ Interviewed in Minova, September 21, 2014.

⁵¹ Interviewed in Rutshuru, September 23, 2014.

⁵² Interviewed in Bweremana, September 20, 2014.

⁵³ Interviewed in Bweremana, September 20, 2014.

⁵⁴ Interviewed in Minova, September 21, 2014.

⁵⁵ Interviewed in Minova, September 21, 2014.

⁵⁶ Interviewed in Minova, September 21, 2014.

⁵⁷ Interviewed in Goma, September 24, 2014.

⁵⁸ Interviewed in Minova, April 19, 2014.

disturbingly spoke about themselves as not only having nothing, but also being nothing. One woman from Minova stated, “*You are neglected so you feel like you are not in this world.*”⁵⁹

Some women clearly identified the connectedness of broader systemic and societal problems as a root cause of their disadvantage and maltreatment in society. In particular, many women recognised poverty as a key determinant: “*Here in Congo we cannot ... help those who are suffering because we are all poor. And here in Congo they don’t care about poor people. If you want you can die because you are poor; they don’t care about you.*”⁶⁰ Another woman living in Rutshuru explained, “*I no longer have a husband ... he is neglecting me because there is poverty, we have nothing and we have been victims of violence. This is the source of the negligence we are victims of.*”⁶¹ So many of the women’s voices make apparent the mutually constitutive nature of gender, poverty, and violence – a complex dynamic that justice must inevitably recognise and address on multiple levels, if the needs of women are to be well served (Fiske and Shackel 2014).

This brutal and deprived existence positioned notions of justice for some women as far removed from their reality, and at total disconnect from their lived experiences.

Other women expressed anger at their abandonment, the lack of action on the part of the government, and in failed processes of justice: “*[W]e have the impression that they do not care about women’s rights. They behave as if they have abandoned us. They violate our rights. Women’s rights are not their concern.*”⁶² This sentiment was most acute with regards to the clear lack of justice afforded to women who have been affected by violence. Several women from Minova explained:

I think that justice does not emphasise on rape matters. Because when someone has been raped, they arrest the author but release him some days after. Once released he has so many ways to come back to you. We have been victims and have discovered that we are nothing.

*According to me, the Government does not care so much about justice referring as far as rape is concerned. After being arrested because of rape, people pay money and get released. This means that we victims of rape have no right. I think they should be punishing them so much so that this act gets abolished. This will help us see that we have got our rights if the actors of rape are punished. The fact of releasing them shows that we women do not have any right.*⁶³

2.5 Women’s views on justice

Many women clearly expressed what justice is, what it should be, and what receiving justice would look like for her as an individual woman, and for other women within her community.

In exploring with women what justice means to them, a number of strongly recurring themes emerged. Through the voices of women who shared their feelings, thoughts, and experiences

⁵⁹ Interviewed in Minova, September 21, 2014.

⁶⁰ Interviewed in Rutshuru, September 23, 2014.

⁶¹ Interviewed in Minova, September 21, 2014.

⁶² Interviewed in Rutshuru, April 21, 2014.

⁶³ Interviewed in Minova, September 21, 2014.

of justice, some key elements of what justice should look like and how it might work for women in eastern DRC have been distilled.

2.5.1 *The pillars of justice*

The women from eastern DRC who participated in this research collectively identified several key pillars of justice – pillars that shape what justice is and what it does (or should do) and what it can deliver to women. Truth was identified clearly by many women as a key element of justice:

*“Justice is to say the truth.”*⁶⁴

*“For me, the justice is the truth.”*⁶⁵

Other women viewed justice as a site for enabling the truth to be told: *“We feel bad about her situation and the remedy is to help her and support her morally telling her people can still live even after they have undergone situations like hers, that she should not avoid sitting with other people rather than living aloof and that doing so will help her forget her worries. She should not avoid people. If she sees two – three sitting together she has to join them and seek to get advice from them.”*⁶⁶

Many women also identified equality as being central to justice: *“[L]et us be brothers and sisters without discrimination. That is how things should be. That is more useful.”*⁶⁷ Women also frequently spoke about the need for justice to be impartial and unbiased: *“I would like the tomorrow’s justice of DRC to be independent, we do not like favouring some to the detriment of others for the sheer fact that some are richer than others.”*⁶⁸ Fairness was also identified by many women as a hallmark of justice, both procedurally and substantively: *“Everything needs to be done in a right way and agree to have the influence of someone else. People need to be punished when necessary regardless of the money they could have.”*⁶⁹

2.5.2 *The role of justice for women*

Many women talked about justice not as an aspiration or an ideal grounded in principle, but rather as a functional tool – a fundamental resource that could serve women for practical and positive effect. Most commonly, women characterised justice and its purpose in either restorative and/or remedial terms: *“My concern is to get back to a normal life as it was before to be able to take care of my children”;*⁷⁰ *“[i]n order for this wound to dry may be just help me.”*⁷¹ Justice was viewed by many women as essential to women rebuilding their lives post-conflict. Many women saw justice as a vehicle for restoring peace, for reconciliation, and for assuring their safety, health, and well-being; importantly, it was also perceived as essential for restoring their dignity and status in the eyes of their community. One woman from Bweramana explained that *“justice is to bring people together to bring peace, so you do*

⁶⁴ Interviewed in Minova, September 21, 2014.

⁶⁵ Interviewed in Goma, September 26, 2013.

⁶⁶ Interviewed during Validation Workshop, June 15, 2015.

⁶⁷ Interviewed in Rutshuru, September 23, 2014.

⁶⁸ Interviewed in Goma, September 26, 2013.

⁶⁹ Interviewed in Goma, September 26, 2013.

⁷⁰ Interviewed in Minova, September 21, 2014.

⁷¹ Interviewed in Bweremana, April 23, 2014.

*not fight neighbours and you share things with others. And [know] how to live with military and [they know] how to live with us.”*⁷² Another woman from Rutshuru believed that “[t]he justice may help me because I live in a bad situation and would like to live peacefully.”⁷³ Numerous other women echoed the role of justice for women in reconciliation:

*I would like my neighbour to respect me and to know how we can live together again.*⁷⁴

*I would like to live with my neighbour and my neighbour to see me as a human being, now he doesn't see me as a human being that's why you can never come next to me. And every night I would like my neighbour to respect me and I respect him, if they had food we can share and if I have too we can share with them.*⁷⁵

A role for justice as a vehicle for restoring harmony to women's lives was also identified by some women. These women saw justice as being able to create safe spaces for people, where it is possible to “*show you your faults and you show them their faults.*”⁷⁶

Core to the restorative potential of justice was its perceived capacity to restore women's identity, value, and role in society: “*To have something to do, you go to the market, you have like other women, you sell things, you have at least an activity that can generate for you money.*”⁷⁷ A number of women saw justice as a means through which they could be afforded a secure and stable place in society:

*[I]t is important that someone at least respect you. Can see at least you are a person. Can see you are a human being also. ... You normally feel like ... the whole world has left you.*⁷⁸

*Justice means ... when people from the community peacefully live with me. When they know that they should not neglect others because they are also important.*⁷⁹

Also, importantly, some women saw justice as a vehicle for being heard within their communities, for regaining their stature, and for obtaining a voice and a place in society: “*Justice is so important for us because it helps one know her place.*”⁸⁰ In echo, other women explained that “[j]ustice is so important for me because, here at home, people always say that women have no right to speak among men or in the conference room. But justice helps us find a place”,⁸¹ “*We know that justice has given us a place to talk.*”⁸²

From a remedial perspective, many women also saw justice as a vehicle for reparations and women's economic empowerment:

⁷² Interviewed in Bweremana, September 20, 2014.

⁷³ Interviewed in Rutshuru, April 22, 2014.

⁷⁴ Interviewed in Bweremana, September 20, 2014.

⁷⁵ Interviewed in Bweremana, September 20, 2014.

⁷⁶ Interviewed in Minova, September 21, 2014.

⁷⁷ Interviewed in Minova, September 21, 2014.

⁷⁸ Interviewed in Minova, September 21, 2014.

⁷⁹ Interviewed in Bweremana, September 20, 2014.

⁸⁰ Interviewed in Bunyakiri, September 26, 2014.

⁸¹ Interviewed in Bunyakiri, September 26, 2014.

⁸² Interviewed in Bunyakiri, September 26, 2014.

*As for me, what I would like them to do when they get that perpetrator, after arresting him, I should get my own rights as a woman.*⁸³

*As a woman, to give me money that's to help me survive with my kids or buy me clothes, where I can build the house and live with my kids.*⁸⁴

*To have justice is to be paid what is due to you. If something had been taken from you, when you go to the authority, they would say, you are wrong, and this one is right. You have to give him what is due to him. And when he receives what is due to him, he feels free.*⁸⁵

For many women, economic empowerment and being productive was seen as an important link to winning respect from their communities:

*I would like to be respected like other people. Because people always neglect others when they are poor.*⁸⁶

*I would like to be respected ... we are so much neglected. I could be respected if I could have small commerce.*⁸⁷

Some women viewed justice as a pathway towards forgiveness for wrongs done and harm suffered within communities. Forgiveness and truth-telling were seen by many women as constituting essential scaffolding for reconciliation and rebuilding. With peace, reconciliation, and rebuilding constituting the most important goals for many of the women with whom we spoke in this research, forgiveness was frequently identified as being more important than punishment: *"I am of the opinion that the only way out is to forgive him."*⁸⁸ For many women participants, however, a firm precondition to forgiveness and reconciliation was receiving acknowledgment from the perpetrator(s) of their wrong doing, the harms suffered by others, and asking those they hurt for forgiveness:

*On my point of view, if any rebels ask forgiveness for his perpetrations of sexual violence, they have to be forgiven for that.*⁸⁹

*[T]he chance for them to be forgiven is always there; we cannot apply "an eye for an eye, a tooth for a tooth," we have to forgive them.*⁹⁰

*If I could see them, I could ask him to beg their pardon and on my side I will also forgive them.*⁹¹

*I even told to the lawyer that I have forgiven the perpetrator already, I do not care how many years he could be sentenced, I have forgiven him, I do not have any problem with him, I have already forgiven him.*⁹²

⁸³ Interviewed in Bweremana, September 20, 2014.

⁸⁴ Interviewed in Bweremana, September 20, 2014.

⁸⁵ Interviewed in Rutshuru, September 23, 2014.

⁸⁶ Interviewed in Minova, September 21, 2014.

⁸⁷ Interviewed in Minova, September 21, 2014.

⁸⁸ Interviewed in Rutshuru, September 23, 2014.

⁸⁹ Interviewed in Rutshuru, April 22, 2014.

⁹⁰ Interviewed in Rutshuru, April 21, 2014.

⁹¹ Interviewed in Rutshuru, April 22, 2014.

Women in DRC almost universally craved a return to pre-conflict life (at least in part), reaching to justice to achieve “*a speedy end to this war forever and everything can be as before, we can be safe as it was before, we can go and dig without any problem. We want our children to be able to study.*”⁹³ In chorus, many other women similarly stated:

*My expectation is to get back to a normal life as before, to have a safe city. ... My concern is to get back to a normal life as it was before to be able to take care of my children.*⁹⁴

For those women physically dispossessed and displaced by the conflict, justice represented a means of restoring stability, security, and identity. As one woman from Rutshuru, aged in her early 30s, emphasised, “*A place to stay with my children. That is the most important thing that I’d like to have and that is what is disturbing me.*”⁹⁵ Another woman from Minova declared her desire to have “*a place to stay or to be buried.*”⁹⁶ These were strongly recurring themes in the women’s voices – justice was seen as a conduit for reconnecting with their communities and restoring “normality.”

Yet other women viewed justice as an instrument for enforcing or protecting their rights. As one woman from Bweremana stated, “*Giving you justice consists in ensuring that your rights are not violated.*”⁹⁷ Other women stated:

*Justice helps us get our rights.*⁹⁸

*They have abandoned us. We would like to have the woman’s rights. This will help us in the future life because we are so much neglected.*⁹⁹

*A woman she’s a human being like others ... so they should not take her like nothing. And they have to consider her and ... they should give her own right like others.*¹⁰⁰

Again, the vital role seen for justice in rebuilding women’s lives is clearly apparent. Women expressed a range of views on rights. For many women, rights were often linked not to a social or political agenda, not to legal instruments or authority, but to their basic *felt* and *lived* human needs. As one woman stated, “*My right is to be helped.*”¹⁰¹ Another young woman stated that she would have justice when “*I don’t have any problem with anyone.*”¹⁰² A common theme expressed by women was the role that justice might play as a leveller in the community – namely, as an instrument geared towards greater equality for women. For example, one woman from Minova explained that justice “*can help us so that we can be like others.*”¹⁰³ In particular, many women talked about the role of justice in enforcing women’s

⁹² Interviewed in Rutshuru, April 22, 2014.

⁹³ Interviewed in Rutshuru, April 22, 2014.

⁹⁴ Interviewed in Minova, April 18, 2014.

⁹⁵ Interviewed in Rutshuru, September 23, 2014.

⁹⁶ Interviewed in Minova, April 19, 2014.

⁹⁷ Interviewed in Bweremana, April 23, 2014.

⁹⁸ Interviewed in Bunyakiri, September 26, 2014.

⁹⁹ Interviewed in Minova, September 21, 2014.

¹⁰⁰ Interviewed in Rutshuru, September 23, 2014.

¹⁰¹ Interviewed in Bweremana, September 20, 2014.

¹⁰² Interviewed in Goma, September 24, 2014.

¹⁰³ Interviewed in Minova, April 19, 2014.

economic rights; justice was described as a conduit for women's economic development and empowerment. Compensation and reparations for women survivors were seen to be an important element of the justice response for women:

*We women are so much neglected because of missing financial means. ... There is no financial means that life is becoming more and more difficult.*¹⁰⁴

*Whether you have studied or not, you have no rights to what your father left. They just leave you without anything. They give everything out and forget about you.*¹⁰⁵

Women commonly viewed justice as a potent site for opportunity; justice was seen by many women as a vehicle for the creation of opportunities geared towards women and children's greater well-being. One theme almost unanimously talked about by women was the role of justice in creating pathways for education:

*And another thing I want to add on the list is someone to take care of my kids, to pay for their school fees. I don't want them to be like me. I didn't go to school. I want them at least to go to school.*¹⁰⁶

*I don't have peace because I have kids who were studying but now is not going to school anymore and getting food, something to eat is a problem but I have to go to work for people to get something to eat. I don't have peace because I don't have anywhere or do anything that I can do so my kids can go to school and be happy because they are living as if they don't have parents.*¹⁰⁷

*This is my opinion of justice ... I would like to have something to do so as I'm able to provide for the needs of my child ... If I find that kind of help. I'll say that justice has been done to me. I would be at peace.*¹⁰⁸

Furthermore, women participants also frequently spoke about justice more broadly as a source or site for opportunity, to empower women in various other spheres of their life: "[W]hen we are on our own we are powerless."¹⁰⁹ From this perspective, some of the women viewed justice as offering a transformative site – both by drawing on the past, and moving into the future:

*If I may go to the justice will they change me again like I was for the first time.*¹¹⁰

*We would like to have our lives changed.*¹¹¹

The Truth and Reconciliation process can help women speak openly... Because many a woman said they had moral wounds... And those women said that they must recover

¹⁰⁴ Interviewed in Minova, September 21, 2014.

¹⁰⁵ Interviewed during Validation Workshop, June 15, 2015.

¹⁰⁶ Interviewed in Rutshuru, September 23, 2014.

¹⁰⁷ Interviewed in Bweremana, September 20, 2014.

¹⁰⁸ Interviewed in Rutshuru, September 23, 2014.

¹⁰⁹ Interviewed in Rutshuru, September 23, 2014.

¹¹⁰ Interviewed in Rutshuru, April 22, 2014.

¹¹¹ Interviewed in Bweremana, September 20, 2014.

*their human rights...human dignity.... Also, they must be respected as human beings. They need that respect.*¹¹²

*She should also be encouraged to study; send her to school so that she can develop the same intelligence as the man does; making her become as powerful ... She has to become apt to do all things, capable of doing and strong to do anything that the man can do.*¹¹³

Some women, however, clearly viewed justice as a vehicle for punishment and retribution:

*No they have to kill them, because he destroyed me.*¹¹⁴

*Justice is when someone is condemned.*¹¹⁵

*I want them to be punished because when I see my children ... I feel very badly and I weep.*¹¹⁶

*I would like also those perpetrators to be convicted and sentenced because they made me a widow.*¹¹⁷

Nevertheless, for many women, the role of justice in meting out punishment was not seen merely for its punitive function, but was considered also as important for protection and deterrence: *“The perpetrators of rape must be punished ... they must be taught lessons so that they can stop doing that and so that others can learn from there and fear to do evil.”*¹¹⁸ One woman from Goma explained, *“Justice is very useful and helps people to behave, consequently if you know that doing evil against your neighbour will be punished, you will behave. If you know that whatever evil you will do against your neighbour, nothing will happen to you, you will do whatever you want to do, so justice is really a good thing.”*¹¹⁹ Another woman from Minova stated, *“Ask [the perpetrator] a fine so that he cannot repeat his behaviour.”*¹²⁰ Her neighbour further explained, *“Justice means whoever rapes should be punished. Because if they could be punished, they would not rape any more. Once they have raped us, they arrest and release them some days after. Could they be punishing them they would not be raping any more.”* For some women, justice also represented a tool for the rehabilitation of wrong-doers, and as a vehicle for addressing serious and pervasive social problems and concerns. For example, a 68 year old woman from Bweramana said she would seek justice that *“teach [her perpetrator] so that he cannot do it again.”*¹²¹ Others indicated that by talking about some of these serious concerns and common experiences, it would aid in the de-traumatisation of women and communities:

And then we thought that the first thing we could for this woman was to talk to her and have her understand that she is not the only one in that situation. We provide her

¹¹² Interviewed during Validation Workshop, June 15, 2015.

¹¹³ Interviewed during Validation Workshop, June 15, 2015.

¹¹⁴ Interviewed in Rutshuru, April 22, 2014.

¹¹⁵ Interviewed in Rutshuru, September 23, 2014.

¹¹⁶ Interviewed in Rutshuru, April 22, 2014.

¹¹⁷ Interviewed in Minova, April 19, 2014.

¹¹⁸ Interviewed during Validation Workshop, June 15, 2015.

¹¹⁹ Interviewed in Goma, September 26, 2013.

¹²⁰ Interviewed in Minova, September 21, 2014.

¹²¹ Interviewed in Bweremana, April 23, 2014.

*psychosocial support to show her that she is not the only woman to have such problems. Other women have problems. It requires that we show to this woman that she has to join other women's associations for her to be de-traumatized.*¹²²

*But when you hear from other women saying for e.g. my daughter was also a victim of rape, or underwent so and so problems, you will feel that your wound is not more serious than that of that other woman.*¹²³

Ultimately, many women saw justice as a pathway towards simply feeling happier, healthier, and more productive and (re)-connected with their communities: *“When justice is done, you feel free ... and your heart will be at peace.”*¹²⁴ A 50 year old woman from Bweramana simply yearned for justice to *“help locals love one another... and avoid hatred between us.”*¹²⁵ A woman from Minova, echoing the voices of many women, declared, *“To feel cured we need someone to look after us. This would help start life anew and help ourselves. This would cure our hearts. This wound will not be cured as long as we still eat hardly, and there is no financial means. But if one could sit comfortably without being neglected by others this would cure the wound.”*¹²⁶

2.6 Towards greater gender justice

In discussing justice, many women spoke about the barriers to justice for women, and the challenges women face in accessing justice. Many women expressed a lack of trust and confidence in the institutions responsible for the administration of justice, and in other actors that might play a role in delivering justice for women. This lack of trust was not confined to the government, but extended also to the international community, and to NGOs.¹²⁷ Often, this lack of trust was borne of interactions with agencies and organisations that seemed to the women to be extractive, and of unfulfilled promises to return and aid women. This pervasive lack of trust on the part of women reflects the deep sense of betrayal and neglect felt by many women:

*Yet, you are the one who had to be given your right. You had witnessed how they destroyed/harmed your child but simply because you are poor, you cannot follow up the case; you lose justice where you had to win the cause.*¹²⁸

*We are both direct and indirect victims when we are involved in advocacy.*¹²⁹

*Those counselling houses do not meet the needs of victims although they are the ones available.*¹³⁰

Women described defective systems – processes of justice that lacked accountability, were vulnerable to corruption, were not gender sensitive, and simply failed to be responsive to the

¹²² Interviewed during Validation Workshop, June 15, 2015.

¹²³ Interviewed during Validation Workshop, June 15, 2015.

¹²⁴ Interviewed in Rutshuru, September 23, 2014.

¹²⁵ Interviewed in Bweremana, September 20, 2014.

¹²⁶ Interviewed in Minova, September 21, 2014.

¹²⁷ Interviewed in Rutshuru, September 23, 2014.

¹²⁸ Interviewed in Validation Workshop, June 15, 2015.

¹²⁹ Interviewed in Validation Workshop, June 15, 2015.

¹³⁰ Interviewed during Validation Workshop, June 15, 2015.

lived experiences of women. Women identified different pathways through which they might be able to access some form of justice – both formal and informal avenues, legal and non-legal channels, as well as traditional forms of justice, but overwhelmingly, women viewed justice as remote and disconnected to their lives and communities: “[Justice] is not with the people that I’m living with, the community. He has to go to the courts, to the court where there is a magistrate, the people who knows the law.”¹³¹ There was no sense of women’s presence, voice, or current ownership in any sites of justice in DRC.

Women time and time again documented their futile attempts in accessing justice: “By reporting to the justice institution every day, you will end up saying ‘I am wasting my time: I have already been raped and damaged; what then am I killing myself for?’ At once, you feel discouraged and you keep quiet and drop everything. And the story ends there and no-one will ever pay, there is nothing at all. And after a few days, you will see the same bandit back in the village. His family managed to get him out of prison. The complainant got tired to go to appear to the court in vain.”¹³² One woman from Minova described her experience of taking her grievance to court: “What is the point of spending a whole day waiting, we were out of energy, starving and finally you benefit nothing from the trial.”¹³³ Many women expressed extreme frustration and discontent with unresponsive and failing systems of justice – at all levels – formal and informal. One woman from Minova stated: “We know that there is no justice in this country, the place where you cannot get your justice.”¹³⁴ Speaking more broadly, a young woman from Rutshuru decried:

Would I move up to the international level if at the local level I did not get any solution? ... Non-one ... So what will I go to the International Criminal Court if already at the local level I did not get a solution?

*We are overwhelmed ... if you come here to talk with women [again one day], you will miss them.*¹³⁵

Importantly though, in coming together, women recognised their power as a collective force.

*Our customs teach us that the woman must shut up and the fact that we know that we have to shut up not knowing our rights we decided the following: “The woman must start by knowing her rights, especially we members of women’s associations because we had some knowledge about how we can conduct researches ... those researches.”*¹³⁶

*The solution we found as we discussed altogether, we saw that we women have to know our rights and have them respected ... Because once we are taught them, it requires that we, in our turn, have them respected ... So it requires that we first know them, then have them respected and it is only after that that we can bring about some behaviour change.*¹³⁷

¹³¹ Interviewed in Bweremana, September 20, 2014.

¹³² Interviewed in Rutshuru, April 22, 2014.

¹³³ Interviewed in Minova, April 19, 2014.

¹³⁴ Interviewed in Minova, April 19, 2014.

¹³⁵ Interviewed in Rutshuru, April 22, 2014.

¹³⁶ Interviewed during Validation Workshop, June 15, 2015.

¹³⁷ Interviewed during Validation Workshop, June 15, 2015.

CHAPTER 3: WOMEN’S NEEDS AND PRIORITIES FOR JUSTICE IDENTIFIED

This research invited women participants in eastern DRC to speak about their justice needs and priorities. The women shared diverse lived experiences and views about what they need from justice, and their priorities in obtaining justice. Though diverse experiences and views emerged, a number of common priorities for post-conflict justice and rebuilding communities are discernible in the women’s voices.

This chapter discusses women’s needs and priorities for justice around six key themes distilled from interviews with women participants:

- Trauma, health, and well-being
- Peace, safety, and security
- Truth-telling and reconciliation
- Compensation and economic empowerment
- Equality and protection of women’s rights
- Justice for children

The discussion in this chapter also draws on interviews conducted with key informants, relevant published literature, and other materials, to better understand how justice outcomes can be improved for women in DRC.

3.1 Trauma, health, and well-being

*Just detraumatise us because we have wounds, and those wounds, if we know how to cure them, we will be strong to do any work you may give us.*¹³⁸

Women participants in this research overwhelmingly identified restoration of their mental and physical health and well-being as a priority for justice. As mentioned in Chapter 1, sexual and gender based violence (SGBV) perpetrated against women is pervasive in DRC (UNHCR 2013; Ohambe et al. 2005, 9; Meger 2010, 127). This fact was unanimously attested to by women participants in this research project. Every woman participant had experienced some form of sexual violence, and many women told of multiple experiences of such violence:

The M23 militaries, after capturing the city, 2 days later, it was in the night we heard at the door someone saying, “Mzee Mzee Mzee Mzee”¹³⁹ can you open the door,” we kept quiet and we did not open the door and they said that they are going to burn the house and they were preparing to burn the house, as the house is made of wood and straw, we decided to go out for the fear to be burnt inside because they could block the door from outside. We opened the door, we saw two militaries, one stayed with my husband and the other one went with me, and in the place he brought me I found another military, they asked me to lie down, I objected and the one who brought me hit me and they raped me, the first one raped me and the second one who brought me

¹³⁸ KI FGD, interviewed in Rutshuru, April 22, 2014.

¹³⁹ Swahili for “old sage.”

*raped me too. ... And the second military ... said he is not satisfied and raped me for the second time.*¹⁴⁰

*The first time I was in the field, at Kanyabayonga. When I was in the field, the Nterahamwe came. They demanded fruits. I told them they were not ripe yet. They refused to accept the fact. Straight away, they demanded to have sex with me. And they were three. When they saw that I was strong, they tied me to a tree, to a eucalyptus. They tied my shoulders, my legs. They inserted a stick in me. You see how my legs have been damaged (showing the scars). I can no longer stretch them nor fold them. They tied me tight. I suffered a lot. Finally, they went off and I stayed there, tied to the tree...When the child was four months old, they attacked again, but this time at home. They tortured us all; they sliced savagely my husband with a knife. When they finished killing him in my presence (I was just lying there), they burned down the house with one of my children inside ... I remained [at Rutshuru hospital] six months. After this period, the soldiers came again. I can no longer walk because of the sticks they had inserted in me the first time. They raped me again brutally, very brutally.*¹⁴¹

*They said, “Shut up, if we want we can kill you at this time” ... so I went with them from here until Katebe there at Kichuro and that the place they went to rape me, it was just close to the river, they took the baby and put him aside and that day, it was so cold but the baby saved me because he wept too much and one of them said “you can leave her now” they were talking Kiswahili and strong Kinyarwanda ... the time I arrived home, I was bleeding a little bit, after that my husband asked to wash my body so that we can go to the hospital in the morning, I washed my body and in the morning we went to hospital, this was my first time to be subjected to HIV/AIDs test and the results has been positive and now I am a member of the Associations of people living with HIV as a result of rape because I’ve already been raped three times because I was raped again with some Tutsi people when I was 4 months pregnant, I went again at the hospital I followed all the prescribed treatments.*¹⁴²

Recent data from the *Standard Demographic and Health Survey for the Democratic Republic of Congo 2013–14* (Ministry of Planning and Ministry of Public Health 2014) revealed that 27% of women in DRC disclosed having ever experienced sexual violence, with 16% experiencing sexual violence in the preceding twelve months (Ministry of Planning and Ministry of Public Health 2013–14, 18). Beyond conflict-related violence, widespread intimate partner and family related violence have also profoundly impacted on Congolese women’s health and well-being (Kidman et al. 2015; Decker et al. 2015; Peterman et al. 2011):

*A woman is who takes care of the kids... but a man maybe sometimes is a drunkard, he got his money going drunk, drink beer and get drunk, when he comes back he starts beating you ... If your husband beats you, you cannot run away from him, but for really you can run if it is too much you can even go to your neighbours.*¹⁴³

There are some husbands they go and drink and they come back home drunk, you’re the first person they take and then start beating you seriously. That’s also ... when he

¹⁴⁰ Interviewed in Rutshuru, April 22, 2014.

¹⁴¹ Interviewed in Rutshuru, September 23, 2014.

¹⁴² Interviewed in Rutshuru, April 22, 2014.

¹⁴³ Interviewed in Rutshuru, September 23, 2014.

*goes to drink you just runaway because he just beat you seriously ... Well you know, you develop a strategy whereby when your husband has gone to ... you know that at this time he is going to come drunk, you know how to handle him. Maybe you run away, you skip for some time or he starts talking and you keep quiet so they don't beat you. Because being beaten everyday – uh uh – that's not good.*¹⁴⁴

In DRC, the number of women reporting intimate partner sexual violence (IPSV) has been placed at almost double those reporting rape (Myers Tlapek 2015, 2527; Peterman et al. 2011, 1065); this translates into 35% of women in DRC reporting IPSV, compared with 12% in Rwanda, and 15% in Kenya (Peterman et al. 2011, 1065).¹⁴⁵ In 2007, almost 32% of ever-married or cohabiting 15–24 year old women had experienced sexual partner violence (Decker et al. 2015, 190–91). Over 32 per cent of 15–49 old women in DRC had experienced IPSV (Kidman et al. 2015, 6). The most recent Congolese national demographic and health data indicates that 57% of married women in DRC have ever experienced emotional, physical, or spousal violence by a current or former husband or partner (Ministry of Planning and Ministry of Public Health, 2013–2014, 18). Decker et al. (2015, 190–91) reports that 53% of partnered adolescents (15–19 years) and 64.7% of young adult women (20–24 years) are affected by intimate partner violence (physical or sexual). The rate of reported intimate partner violence in DRC is the highest of any country in the world (2015, 192).

3.1.1 The impacts of violence

The women with whom we spoke in this research described an array of mental, physical, health, and social impacts related to sexual violence:

*Especially for us who has been raped. Sometimes you feel like dying because you are ashamed ... you feel abandoned, you cannot do anything to survive. Life is becoming very difficult so you decide to kill yourself.*¹⁴⁶

*To be raped in my life it's really changed my life because I cannot even talk in my house. Every time I want to talk to my husband, it will be like, keep quiet or follow your husband... the one [who] raped you.*¹⁴⁷

*[W]hen I came back home I told my husband and my husband said, "I cannot share my wife with another person so you can go and stay with the children and I leave you," so that's how I am living alone now with my kids and finding food for them that's how I live.*¹⁴⁸

*It's just you see, your heart is paining, you feel ashamed when you walk, you don't feel yourself, you don't feel comfortable among other people, you just don't feel OK at all.*¹⁴⁹

¹⁴⁴ Interviewed in Sake, September 20, 2014.

¹⁴⁵ Instances of intimate partner sexual violence were identified for women who answered "often" or "sometimes" to the question: "Has your partner ever physically forced you to have sex or perform sexual acts against your will?" (Peterman et al. 2011, 1062). Instances of rape were defined as women who answered "yes" to either of the following questions: "Has anyone ever forced you to have sexual relations with them against your will?" and/or "Was your first sexual encounter against your will (forced)?" (Peterman et al. 2011, 1061).

¹⁴⁶ Interviewed in Rutshuru, September 23, 2014.

¹⁴⁷ Interviewed in Minova, September 21, 2014.

¹⁴⁸ Interviewed in Bweremana, September 20, 2014.

¹⁴⁹ Interviewed in Sake, September 20, 2014.

Yes, you feel different because once someone has seen you they just talk to other people they raped this girl and this one and this. So you don't, you're not the same people, but the same people also destroy your reputation among others.¹⁵⁰

My life has really changed. Can you try to compare me with another woman that has got my age? I have become so much older than all the women of my age. I am suffering from hemorrhoids these last four days. I did not suffer from that before. And I think I have this problem because of having been raped.¹⁵¹

The impacts of sexual violence on women are well documented (WHO 2003; WHO 2002, 147–74; Liebling et al. 2012). Health impacts associated with sexual violence are wide ranging, and include: HIV/AIDS; reproductive and gynaecological health problems, such as unwanted pregnancies, unsafe abortions (and pregnancies carried to term); fistulas; infertility; genital injuries; vaginal bleeding and infection; physical injuries, most commonly urinary tract infections; pelvic pain and pelvic inflammatory disease; bruising following blunt-force trauma; incised and stab wounds; abrasions (e.g. grazes and scratches); bruises and contusions; lacerations; ligature marks on ankles, wrists and neck; pattern injuries (e.g. hand prints, finger marks, belt marks, and bite marks); anal or rectal trauma; and sexual dysfunction (WHO 2003, 12–3, 39–44, 51–2; WHO 2002, 101, 162–68; Ohambe et al. 2005, 39).

In a 2005 study in which female rape victims in South Kivu were asked about the consequences of rape, 85.4% reported leucorrhoea, 85.6% dyspareunia, 65% dysuria (difficult or painful urination), 56.9% dysmenorrhea (painful menstruation), 65.2% irregular periods, and 79.5% lower abdominal pain (Ohambe et al. 2005, 39). Over 91% of victims suffered from at least one rape-related physical or psychological problem.

In Bartels et al.'s 2010 study of 1851 women presenting to Panzi Hospital¹⁵² for post-sexual violence care, 22% reported pelvic pain, 11% lumbar pain, 7% abdominal pain, and 6% pregnancy. 36% admitted to being anxious about their health (40-41). Symptoms in this study were only recorded if openly disclosed by the victim; as such, these figures might be underestimates.

A broader cross-sectional population-based study conducted by Johnson et al. (2010) in DRC on the consequences of sexual violence found that, based on self-reporting, 31.6% of female respondents reported bleeding, 21.7% reported tearing, 17.6% bruising, 18.7% were beaten, 20.9% had an STI, 17% fell pregnant, 7% suffered a miscarriage, 15.6% had a fear of contracting AIDS/HIV, 5.6% suffered anxiety, and 1.2% depression. However, this study also administered the PTSD Symptom Scale Interview (PSS-I) and the Patient Health Questionnaire-9 (PHQ-9) to assess symptoms of PTSD and major depressive disorder, and asked questions about suicide ideation and suicide attempts. For those women that had experienced conflict-related sexual violence, 67.7% met the criteria for MDD, 75.9% for PTSD, 37% answered “yes” on suicidal ideation, and 32.8% answered “yes” to suicide attempts.

¹⁵⁰ Interviewed in Sake, September 20, 2014.

¹⁵¹ Interviewed in Rutshuru, September 22, 2014.

¹⁵² Panzi Hospital is a hospital located in Bukavu. Although it is a general hospital, it is known for its work with and support of victims of sexual violence.

UN Aids 2014 estimates between 200,000–250,000 women aged 15 and over live with HIV in DRC (UN Aids 2014). Steiner et al. (2009), using data from Malteser International’s medico-social support programme for rape survivors, found that 66% of the survivors in their 2005 sample received STI treatment (6).

Most of the women participants who shared details of their sexual violence in the present research documented many of these impacts. Frequently, women described persistent health problems over many years. In particular, women described ongoing problems due to genital trauma and HIV/AIDS:

Even if you bring me to the hospital, up to now, I have a disease. I am affected with the disease, it has never stopped. Up to now, I have some, some yellow things coming out of my vagina, up to now. And I don’t know where I might need to go because of the money, I don’t have enough money to go to the hospital ... I have a disease in my vagina up to now which is [hurting] me a lot. [It is] so painful.¹⁵³

[M]any of the women kill themselves because sometimes when you have been raped you are old and you go to the hospital and they tell you that you have attained HIV and you decide directly to kill yourself as me, my age, I’m old.¹⁵⁴

I had a lot of pains in the lower abdomen and there are times my periods become very painful and my uterus hurts so much when I have sexual intercourses and I have to stop.¹⁵⁵

The impacts of sexual violence are not limited to physical and health consequences. Sexual violence is also associated with adverse mental health, social, and economic sequelae for women (Brown 2012, 33–5; Babalola et al. 2015, 182). Ohambe et al. (2005, 42) reported that 91% of women survivors of sexual violence interviewed in South Kivu had behavioural problems, including permanent anxiety, shame and self-loathing, excessive sweating, insomnia, nightmares, memory loss, and aggression.¹⁵⁶ Furthermore, “[r]esulting psychological trauma can have a negative effect on sexual behaviour and relationships, the ability to negotiate safer sex, and increased potential for drug abuse” (Kilonzo et al. 2009, 10). As discussed further below, in Chapter 3.4, many women who are raped also leave their communities due to pervading insecurity and the fear of stigma, exacerbating their social isolation and economic disadvantage (Ohambe et al. 2005, 44).

This conflict changed my life because before I used to do my business and get my money and I was happy. But now life has changed, I’m not happy since they raped me. And when I’m passing on the road everyone is looking at me, pointing fingers on me, you are neglected so you feel like you are not in this world ... I don’t feel good – I feel suicide and sometimes I even think about killing myself. Going to the lake and throwing myself but when I remember my kids I remember the way they will suffer

¹⁵³ Interviewed in Minova, September 21, 2014.

¹⁵⁴ Interviewed in Rutshuru, September 23, 2014.

¹⁵⁵ Interviewed in Bweremana, April 23, 2014.

¹⁵⁶ A total of 492 women and young girls between the ages of 12 and 86 (with an average age of 32) participated in the survey. 50 soldiers and 2 Mai-Mai rebels also participated in the survey. The research took place from September 15 to December 15, 2003. Three data collection techniques were used: one-on-one interviews, focus groups, and a review of current literature. Data collection took place in the following geographical areas: in the south of South Kivu – Uvira, the Ruzizi plain, Mboko, Baraka, and Kazimia; in the north of South Kivu – Bukavu, Walungu, Kabare, Kalehe, and Shabunda (Ohambe et al. 2011, 14–5, 32).

*because they are orphans, they don't have parents, that's why I keep on going ahead.*¹⁵⁷

*My body immediately changed and my husband hated me because I was raped from that day. He lost all the value he was giving me and started considering me as a worthless thing ... In the community, our reputation has been lost. Everyone is referring to us as "those who were raped." We no longer have value in the eyes of the community.*¹⁵⁸

*There is rejection from the neighbours: "This one will infect us with Aids" they will tell one another. But you try to disregard his rejection because you still need him, you cannot find help beyond him. When his child wants to play with yours, he would oppose the move telling him not to do so. This will depress you.*¹⁵⁹

Women participants in this research said that they were able (generally) to access basic acute medical care post-rape in most conflict affected areas; for example, the majority of women indicated that they were able to access medical treatment (specifically, PEP) within 72 hours of being raped;¹⁶⁰ however, some women said that they continued to be fearful about seeking medical assistance, due to fears that the rape might be revealed to their husbands, and thus possibly lead to their subsequent abandonment and stigmatisation (Liebling et al. 2012, 33; Scott et al. 2013, e205–7; Kelly et al. 2012, 290–91):

*They will give you medicine and someone will say: "The medicines that they gave to my wife are medicines that one has to take for 7 days. Also, when you have started taking them, you have the condition not to make love with your husband. Now how will you take them without your husband knowing it? What will you tell him when he needs you? Will you refuse? Will you tell him that you are taking medicines? What sicknesses have you, which could make you refuse to make love with me? You see that it becomes a problem. Because of all this, many women get raped but they prefer to shut up, very quietly. May be on the first day she got raped, she could tell her husband: "today I worked so hard that I am very tired. I am not strong enough to make love with you." But two days later or right after that first day, she will keep silent and even refuse to take the medicines because she will be put under a one week treatment, i.e. 7 days. Seven days! Her husband must be informed that she is taking those medicines. Because they are medicines which do not allow you to make love with your husband; so what will you do? And they will not keep you in the hospital! They will not keep you in the hospital for having been raped unless you were raped by six or seven people and then fainted, that one would generally be hospitalized and put under serum. So that is the main problem with those women. Many of them do not speak of what happened to them.*¹⁶¹

My husband had already heard about it. As a consequence, he told me that he was not ready to live with me anymore. You who got raped by three men, and from what I

¹⁵⁷ Interviewed in Minova, September 21, 2014.

¹⁵⁸ Interviewed in Minova, September 21, 2014.

¹⁵⁹ Interviewed in Rutshuru, September 23, 2014.

¹⁶⁰ For further discussion, see Chapter 1.

¹⁶¹ Interviewed during KI FGD in Rutshuru, April 22, 2014.

*know, those Nyatura in the forest are infected (with diseases). I will no longer be your husband.*¹⁶²

*Because they are women who stick to their dignity/honor...they have renown in the community; they prefer not to talk about it. You will not go and tell them “go for medical care”, they just don’t talk about it. And they also tell themselves that if they go for medical care, their husbands will start asking them “where did you get these medicines from? How come you are taking them?” They just shut up.*¹⁶³

Other research, however, suggests that for some women, the barriers in accessing health care may be greater than was indicated by women participants in this research. For example, Ohambe et al. (2005, 41) reported that 70% of the women who were interviewed in their study did not receive any medical treatment after being raped. Kelly et al. (2011), in a study of 255 women attending a referral hospital (Panzi) and two local non-governmental organizations in eastern DRC, reported that “[f]ifty-five per cent of women stated it took more than a day to travel to SGBV service locations; only 4.2% of the women received SGBV services within 72 hours of the attack” (5). Almost half of the women (44.6%) waited for more than a year before seeking medical care (5). Liebling et al. (2012) conclude:

The poorly resourced state health system struggles to respond to the needs of rape survivors within the 48 and 72 hour timeframe required, and health care stops at delivery. Crucially, this is when young women need it most. The free treatment that exists is only available for those who can prove they were raped, creating a difficult situation for both women who need treatment, and health care providers who feel they have to establish this link prior to health care. (34)

3.1.2 Two priorities: Good physical and mental health

Given the far-reaching and profound impacts of sexual violence, it is not surprising that women participants in the present research repeatedly identified two priorities as essential for restoring women’s well-being, and achieving justice for women:

*Women must be in good health. Women must have the right to good physical and mental health.*¹⁶⁴

The first priority identified by women, in terms of health and well-being, is the need for accessible, quality, and ongoing medical care. As mentioned above, a large proportion of women in DRC suffer from a range of ongoing physical and health problems resulting from sexual violence, including serious physical disabilities.

As many women in DRC are living in extreme poverty, accessing ongoing treatment and medications is difficult due to a lack of financial means (Scott et al. 2013, e201; D’Errico et al. 2013, 56). A number of women told us that they could not afford travel to medical facilities to access specialised health services, such as surgical treatments (D’Errico et al. 2013, 56; Liebling et al. 2012, 28). Moreover, a number of women stated that the ongoing cost of medical care was burdening to an already strained relationship with their husbands, a strain often exacerbated by the woman’s physical pain and suffering, and general poor health:

¹⁶² Interviewed in Bweremana, April 23, 2014.

¹⁶³ KI FGD, interviewed in Rutshuru, April 22, 2014.

¹⁶⁴ Interviewed during Validation Workshop, June 16, 2015.

- Woman 1: *To me, if I could get medical help so as to stop the sufferings, even without conceiving, I would be at peace. Because, what he finds unbearable is to have to pay for my treatment. He's always saying: "If you are always suffering from the womb, why can't they just deal with the problem once and for all by removing that womb?" So here I am, I would like to conceive but cannot do so, instead, I am feeling pains. That is my situation.*
- Woman 2: *Me, I would like to have medical help to help the pain I endure when I become pregnant. Sometimes I have to bleed on and on, and have all sorts of troubles with the pregnancy. Then he wouldn't have to pay himself for this situation which happens to me when I get pregnant while he had no part in the cause of this problem due to the AFDLR, when they raped me. So, if I could get medical help to have myself treated, I would have peace of mind.*
- Woman 3: *For me, it is about mending my relationship with my husband, because whenever I get pregnant, that is the beginning of a strained relationship with my husband...whenever I become pregnant, I have bad health and since he has to pay for the medical bills, he is not happy at all, far from it.¹⁶⁵*

Secondly, the women with whom we spoke in this project unanimously identified the need for psychosocial support and trauma counselling as a leading justice priority for the women of DRC. In a Médecins Sans Frontières (MSF) survey of 600 IDPs in DR Congo, 71% of respondents said that they had nightmares related to violence they had witnessed, and 74% said that they had flashbacks of violent events at least some of the time (MSF 2014). In a survey of 998 households in eastern DRC, Johnson et al. (2010) reported that 40.5% of sampled individuals met criteria for major depressive disorder; 50.1% for PTSD; 25.9% for suicidal ideation in the past year; and 16% had attempted suicide in their lives (559).

Women in our research unanimously stated that, through detraumatization, they would “recover good health; regain their mental stability, regain respect.”¹⁶⁶ Psychosocial support was seen by many women as a path back to “normality” and reintegration:

*They have lost a lot even on the psychological level...
They have been affected by moral wounds.
They must be assisted psychosocially.
And also this “being assisted mentally” means “being de-traumatized.”
If she was detraumatized, she ends up realizing that all her problems are over and she feels herself as normal again as other people.
The one we are finally talking about is the one who should approach others so that they can also come near to her.
She should have ... she should have psychosocial assistance.
And that psychosocial assistance is what will push others to visit her as a priority then, they will start de-traumatizing her. It is only after de-traumatization that she can, in her turn, start feeling normal again as a human being.
As a human being!¹⁶⁷*

¹⁶⁵ Interviewed in Bunyakiri, September 26, 2014.

¹⁶⁶ Interviewed during Validation Workshop, June 15, 2015.

¹⁶⁷ Interviewed during Validation Workshop, June 15, 2015.

Some women participants stated that detraumatization is an important first step in rebuilding women's lives:

*All we want you to do is helping us with a detraumatization...Just detraumatize us because we have wounds, and those wounds, if we know how to cure them, we will be strong to do any work you may give us. Because, I have wounds; and you give me money to start some business. Am I mentally ready to do calculation? My mental condition is not good. So the first thing to do would be detraumatization. Once you have achieved that, then you can give me money and be sure I will keep it well; because you have already prepared me.*¹⁶⁸

*All the women from here in Busanza and everywhere in Rutshuru suffered a lot. And that is why women here are psychologically hurt. Thanks to these people helping us with medical, psychosocial support, training we are overcoming our trauma; but we suffered a lot, the insecurity, the conflict which prevailed in Rutshuru imposed a lot of sufferings on us. All the women suffered because of rape.*¹⁶⁹

*Those women who had problems during war should receive psychosocial support, counseling. That way they will be stable, they will recover their mental health. Those who were already traumatized will be mentally well.*¹⁷⁰

*Counseling turns our negative thoughts into positive ones.*¹⁷¹

Many women revealed that they had, at best, only received ad hoc counselling following rape and sexual violence. Under-resourced and unspecialised services were identified as a problem by many women, as well as key informants:

*They are just ready to talk to me but they are not giving me what I need ... I am very surprised by them. What if they were the ones in my situation? The problem is that we don't have any psychologist; furthermore, we need to reinforce counseling houses be well equipped!*¹⁷²

*Psycho-social houses have not necessary means to help victims.*¹⁷³

There we only have counselling points. There are no counselling houses. Normally, counselling houses have reception rooms, kitchens and, of course, they should also have frizzeries.

When you get there with your clothes already torn out, because there are victims brought tied on a stretcher but completely naked.

Will you go to the centre with the person? And if you do so, will you cover them with a bed sheet or with a wrapper and a small blouse?

*Those counselling houses do not meet the needs of victims although they are the ones available.*¹⁷⁴

¹⁶⁸ KI FGD, interviewed in Rutshuru, April 22, 2014.

¹⁶⁹ Interviewed in Rutshuru, April 21, 2014.

¹⁷⁰ Interviewed during Validation Workshop, June 15, 2015.

¹⁷¹ Interviewed in Bweremana, April 23, 2014.

¹⁷² Interviewed during Validation Workshop, June 15, 2015.

¹⁷³ Interviewed in Rutshuru, April 22, 2014.

¹⁷⁴ Interviewed during Validation Workshop, June 15, 2015.

Other research confirms the gross lack of appropriate psycho-social and trauma counselling for women survivors of sexual violence in DRC (Liebling et al. 2012, 29; Scott 2013, e208):

The research found that professionals working in the mental health sector in eastern Congo were insufficient in number. The psychosocial assistance and mental health care were almost exclusively performed by community-based organisations. Basic health infrastructures appropriate to mental health needs, as well as qualified personnel to address these, were missing. The mental health of all women and girls that participated in the research had been seriously affected, and there was a lack of appropriately skilled professional responses. A senior NGO representative highlighted the enormous need for professional mental health care, and the absence of culturally appropriate responses. She particularly emphasised the inappropriate importation of western counselling methods for the Congolese culture. The representative also argued for more capacity building to develop local culturally appropriate counselling for survivors. (Liebling et al. 2012, 29)

The women interviewed in this research essentially posited that a two-pronged approach is needed for effective detraumatization of women survivors. Firstly, there should be specialised trauma counselling responsive to their experience of complex trauma, followed by (or in conjunction with) other psychosocial supports. This approach is consistent with recognised trauma counselling models and feminist therapy (WHO 2003, 14–5; Dass-Brailsford 2007). The type of counselling and psychosocial support that is typically delivered to women in post-conflict contexts is not appropriate to the complex trauma they have suffered as survivors of sexual violence (Scott et al. 2013, e207). Women participants were concerned by the deficit in service provision – a concern also echoed by some of the key informants we interviewed:

Counselling helps them, what is the kind of professional level of that counselling I always wonder...So often times it is often an older woman who may have been raped herself years past, or has some experience in this who talks to the women. But I'm not a counsellor and I don't know what is required but I always wonder, is what they're talking about enough because this is traumatic and doesn't go away after one session...They need counselling for months or possibly years and these local associations don't have the backing or the financing to do that.¹⁷⁵

Generally it brings back vivid emotions; unfortunately all of them are not psychologically taken care of. We know that there are clinics and all the media speaks of these clinics. Juridical clinics generally have psychologists but do we know if they are trained enough to take care of such situations? Imagine we are rural areas where women have difficulties to be opened to the so called psychologists. So, it is not so evident, because there are women that go there without being well prepared enough.¹⁷⁶

The other difficulty is about the care provisions facilities (counselling houses) in favor of victims of violence. You may benefit from their psychosocial [services] but you will still miss what they call the "consumables" in their counselling houses. "Consumables" make it possible to ensure the patients' transport, observation. Also the patient's orientation may be legal or judiciary but to make life easier for her, you

¹⁷⁵ KI, interviewed in Goma, April 23, 2014.

¹⁷⁶ Joyeaux Mushekeru, interviewed in Bukavu, September 26, 2014.

*need to facilitate her transport to the place where she will access the appropriate services.*¹⁷⁷

Additionally, women participants recognised a need for more safe spaces to enable women to come together and share their experiences, support one another, and build their collective agency:

Women should approach (come closer to) us. Because through our association, we can be relieved; because when you are with other women like you; only sitting with them for two to three days will clear your concerns about the life you are leading.

So women, be they from our close communities or from remote ones, should not forget the pieces of advice we are receiving now.

We want to be assisted by other women!

Because other women's coming closer to us will help us. Because, there are times one feels lonely, but when you are with the others, we will learn that they also underwent your situation.

*But when you hear from other women saying for e.g. my daughter was also a victim of rape, or underwent so and so problems, you will feel that your wound is not more serious than that of other woman.*¹⁷⁸

A concern for many women was their isolation from other women, often borne of shame and fear of stigmatisation:

*According to them, I should go back to my household. For them, I was raped because of my stupidity, although the entire village was raped. No one knew where they came from.*¹⁷⁹

Many women identified the critical role of such spaces to enable women to come together, to learn that other women have had similar experiences, and to share common problems:

We thought that the first thing we could do for this woman was to talk to her and have her understand that she is not the only one in that situation. We provide her psychosocial support to show her that she is not the only woman to have such problems. Other women have problems...

It requires that we show to this woman that she has to join other women's associations for her to be de-traumatized.

*Because when she will hear about difficulties that other women like her are going through and compares them with hers, she will go: "eeee! I thought I was the only one to have problems."*¹⁸⁰

Although women identified psychosocial support as a key priority, they also cautioned the need to ensure that such support was responsive to women's individual needs, and was coupled with initiatives that addressed some of their other needs as well (e.g. economic empowerment programs and education):

¹⁷⁷ KI FGD, interviewed in Rutshuru, April 22, 2014.

¹⁷⁸ Interviewed during Validation Workshop, June 15, 2015.

¹⁷⁹ Interviewed in Minova, September 21, 2014.

¹⁸⁰ Interviewed during Validation Workshop, June 15, 2015.

*You have treated her with words!
Her concern is to have a start-up capital, start some activity because she has to be self-sufficient.
But you... Oh! Words! Words! Words!
Nowadays, counselling houses are not receiving any cases!
Then in the counselling house, you talk, you discuss but she shows you that she can no longer go to the field.¹⁸¹*

*When we have to do counseling, a woman may come in a given state ... they don't all come in the same condition ... she may come with problems which are visible/palpable while she is overwhelmed by others which are not visible/palpable at all ... maybe they have deprived her of her clothes ... Or blood has already run over her clothes in which case you would not be able to talk with her while she is still dirty ... She did not eat; she is tired ... all of that!
Counselling houses need to be reinforced to receive people, do counselling and put them at this stage of "De-trauma center."¹⁸²*

At the core of what women said they need to feel better, and to feel they have received justice, is being recognised as a whole person with multiple needs – in other words, the need for justice to recognise that her needs are interconnected, and require a holistic response (HHI 2014, 13; Scott et al. 2013, e213):

First of all, we need to provide counseling to her ... for her to get out of her current situation. Once this is done, we help her make income because if she has income, her thoughts will slowly and slowly be cleared away ... her thoughts that make her believe that any persons she runs into are talking about her... That way, she will also start feeling better because she will be happy in her heart.

But, if we also involve her in groups' work, we make up groups and we supervise people from within those groups through handcraft, finding for them such activities where they can meet and work together and then from those activities they happen to make income, I think her life can change ... at times, when you are having problems and on top of that you start thinking too much, you do not have any financial resources while you have people urging you to meet their needs, that also worsens your situation and weakens you more and more.¹⁸³

3.2 Peace, safety, and security

We need to have peace, and hope.¹⁸⁴

A key barrier identified by women participants to healing post-conflict, to resuming a functional and productive life, and to rebuilding communities, is the ongoing fear of further violence and conflict, and a lack of security regionally and within communities (Women for Women International 2010, 5).

¹⁸¹ Interviewed during Validation Workshop, June 15, 2015.

¹⁸² Interviewed during Validation Workshop, June 15, 2015.

¹⁸³ Interviewed during Validation Workshop, June 15, 2015.

¹⁸⁴ Interviewed during Validation Workshop, June 15, 2015.

Despite the defeat of the M23 rebel group in 2013, the security situation in eastern DRC remains precarious as a result of the activities of numerous other armed groups (UNSC 2015). Most recently, and most prominently, despite the capture of its leader, Jamil Mukulu, in April in Tanzania, the Allied Democratic Forces in North Kivu have continued attacking civilian populations, as well as FARDC and MONUSCO. 347 civilian deaths were reported between October 2014 and June 2015 (UNSC 2015, 4). The FDLR also continues to be active in South Kivu, despite some success by FARDC and MONUSCO in dislodging FDLR from some of its strongholds (UNSC 2015, 5). In Fizi territory more specifically, skirmishes continue between Mai-Mai Yakutumba and FARDC, including a violent attack on Kikamba village in Shabunda territory, during which allegations of mass rapes were reported (UNSC 2015, 5). In Orientale, the Forces de resistance patriotiques de l'Ituri (FRPI) were active in Gety and Aveba in Ituri District, committing human rights abuses (including allegations of rape and gang rape); however, surrender talks are being held between FRPI and FARDC, in cooperation with MONUSCO, as of June 2015 (UNSC 2015, 6). In Haut-Uele and Bas-Uele, the Lord's Resistance Army (LRA) has also continued operating, including by attacking FARDC forces, kidnapping civilians, and committing acts of general looting and banditry (UNSC 2015, 6). Northern Katanga has experienced an increase in spillover of FDLR activities from South Kivu. IDP camps have been attacked (by arson) by Luba self-defence groups called "Elements Katangais." However, the activities of Mai-Mai Kata-Katanga have declined in the province, following a number of successful FARDC operations (UNSC 2015, 6).

There continues to be broader regional instability in the Great Lakes area; in relation to the DRC, the primary issues continue to be related to the FDLR's activities (UNSC 2015, 4–8). Therefore, the joint DRC-Rwanda border demarcation commission has commenced construction of 22 border markings in disputed border areas in April, which may help to reduce border skirmishes and diffuse tensions between both nations (UNSC 2015, 8).

Many of the women participants in this research identified peace as the leading priority for justice for women:¹⁸⁵

*We first requested that WAR ends and PEACE comes back. Because we have noticed that the war is at the gist of all other issues. If there is no war, women will not experience all these issues of rape, acute poverty; war is creating poverty. Children not going to school. So we put as first priority that WAR should END and leave room to PEACE. If we have peace, we will have all we need.*¹⁸⁶

*[T]he best of the best that I can highlight [to enable women to access justice and get their justice] is peace; if we can have peace and be safe that is going to be interesting. Yes, peace is the key of everything.*¹⁸⁷

¹⁸⁵ See also Scott et al. (2013): "In regard to SGBV prevention, participants stated that men and women of the community should be more sensitised to/aware of the nature of SGBV, *the war should be ended and peace established*, and impunity should be brought to an end ... They also stated that perpetrators should be brought to justice and punished, *that external rebel forces should be driven out of the country* and that existing laws against sexual violence should be enforced" (e207–08; emphasis added); "Overwhelmingly, the community felt that *the end to the conflict*, the end to impunity and strengthened justice mechanisms were a large part of feeling safe and secure in their communities" (e213; emphasis added).

¹⁸⁶ Interviewed during Validation Workshop, July 15, 2015.

¹⁸⁷ KI, interviewed in Goma, September 26, 2013.

*The first need is peace as a top priority where women live.*¹⁸⁸

*My suggestion is to pray for a speedy end to this war forever and everything can be as before, we can be safe as it was before we can go and dig without any problem. We want our children can study.*¹⁸⁹

3.2.1 Peace building from within communities

Women participants desire long-term peace and stability. Some women said that if peace is to be achieved, it must be initiated from within the community rather than imposed from outside. For these women, identifying and addressing the root causes of conflict, such as poverty, is key to achieving peace:¹⁹⁰

*Durable peace. Not an unstable peace. Lasting peace. Today it is M23, tomorrow M26 ... after tomorrow it will be M30, and then the next day M50. So better that the peace we need be a lasting one. And the solution will not come from outside. It has to come from ourselves.*¹⁹¹

It's our own kids who are destroying this country. They are the ones that are doing all these things to us. They are the one who decided to be rebels ... to go and live in the bushes. But if they decided today because someone who lives outside your house will never know what is happening in your house, so it is our own kids who are destroying. So if they decide to leave the bushes and come back in the villages and the peace will be and everything will be fine.

*It's because of poverty. There are some kids that go to school, finish their studies but they don't get job too. So they decided to go to the bush and started stealing, jabbering, so they can survive.*¹⁹²

Community-based approaches to peacebuilding recognise that the community is better placed to identify issues and needs, and to subsequently develop appropriate actions. This gives the community direct control over investment and planning decisions, and monitoring. Such empowerment can lead to more sustainable solutions (Haider 2009, 4). For example, the 2008–2010 project to integrate community empowerment and peacebuilding support in Ituri, backed by the UN Trust for Human Security, addressed a range of issues faced by the community, and promoted collaborative and peaceful activities (UN Trust Fund for Human Security 2013, 11). Infrastructure was built to house vocational centres and to strengthen the region's agricultural services; 50 community organisations were empowered with the task of promoting a culture of peace; and training was provided for community health workers, police, and teachers (UN Trust Fund for Human Security 2013, 12–3). The local ownership of the project guaranteed longer-term peace and stability, and demonstrated the importance of peacebuilding at the community level (UN Trust Fund for Human Security 2013, 13).

As already mentioned, the causes of the conflict in DRC are complex (Hall and LaRocco 2012; Ahere 2012); in some respects, as the women's words above suggest, they are also self-perpetuating. The conflict has had a protracted history spanning over two decades, with the

¹⁸⁸ KI, interviewed in Goma, April 24, 2014.

¹⁸⁹ Interviewed in Rutshuru, April 22, 2014.

¹⁹⁰ See also Scott et al. (2013) and Women for Women International (2010).

¹⁹¹ Interviewed during Validation Workshop, June 15, 2015.

¹⁹² Interviewed in Rutshuru, September 23, 2014,

communities impacted facing instability and lack of security. Many younger Congolese have only known deprivation and conflict in their lives (Bentrovato 2014, 9–10; Christman 2010; IRIN 2007, 43). Communities have been devastated. Insecurity, too, has

caused massive death, displacement, and disease, as well as a general disruption of every-day life activities and a consequent aggravation of socio-economic hardship. The lack of security is a primary cause of the region's chronic condition of poverty, unemployment, famine and malnutrition (Bentrovato 2014, 15).

Approximately 6.5 million people are estimated today to be in a situation of acute food insecurity in DRC (UN 2015, 7). Many of the women in this research told of being driven off their land and losing their source of food and livelihood: *“Before the war, we were on our native land, digging and we had livestock and in case you are short of money, you may sell one goat or hen and get money but here in Minova we hardly get a land to dig, our desire is our native land can be secure so that we can go back to do our farm works.”*¹⁹³

3.2.2 Ongoing insecurity and fears

Women participants frequently said that they wanted to return home, but could not do so in the face of insecurity; they feared for their safety, and feared that conflict could break out again at any time.¹⁹⁴

*[I would like] that we have peace and return to our home villages ... If there wasn't war anymore, we could have already returned.*¹⁹⁵

*Better living conditions could be improved back in our home villages so that we can return there. If war is over, one will return home.*¹⁹⁶

*I will never go [back home]. I'm scared of those ones who killed my husband and could also come and kill me.*¹⁹⁷

Recent data suggests that many displaced people in eastern DRC have returned home. As of June 2015, the UN Office for the Coordination of Humanitarian Affairs (OCHA) reported 1,491,769 Internally Displaced Persons (IDPs) in DRC (OCHA 2015), compared to the 2,857,446 IDPs reported in March 2015 (OCHA 2015; UNHCR 2015).

Women participants repeatedly described daily situations where they did not feel safe, but were fearful of being attacked; this was especially the case when they were collecting water or food, or tending to their land:¹⁹⁸

... The Government should provide security for the woman with regards to diverse means, violence... Without peace, there is nothing one can do because if you see

¹⁹³ Interviewed in Minova, April 19, 2014.

¹⁹⁴ See also Oxfam (2014, 10).

¹⁹⁵ Interviewed in Bweremana, April 23, 2014.

¹⁹⁶ Interviewed in Bweremana, April 23, 2014.

¹⁹⁷ Interviewed in Minova, September 21, 2014.

¹⁹⁸ See also UNJHRO (2014, 8) and Oxfam (2014, 7).

women in the countryside... You are constantly concerned about the time you will fetch water. You are hunted by fear that they will rape you.¹⁹⁹

*If WAR stops, then RAPE will also stop ... wars to end so that we can recover peace and security.*²⁰⁰

*And we people from Bunyakiri considered issues caused by the WAR as our priorities. It is because of the war that there is rape; poverty but we saw that if war ends and peace is restored, we will be well.*²⁰¹

Out of necessity, some women have formed “community-led initiatives for mitigating or removing the risk of exposure to rape ... For example, women often assemble in groups when travelling to their farms, reporting that this decreases the likelihood of violence against them” (D’Errico 2010, 62):

*Our Rutshuru was secure. We used to walk any time, go to the field when you like. Can you imagine that it was possible to still be in the field at 19:00 p.m.? You would not even be thinking of returning home. But today, you cannot any more. At 16:00, you have to start leaving the field – and do not...these days, people ... one can no longer go to the field alone – Unhun – Unhun (no) — You have to go ... like we are used to organizing them in groups, in associations; women have started cultivating in groups. That is it! Even weeding your beans field, you have to do it that way because, in most cases, your field will be far away from the village. You invite one another within the same group to go and weed one of your group member’s fields.*²⁰²

Rebuilding essential infrastructure, such as roads, was identified by some women participants – particularly those from rural and remote regions in eastern DRC – as important to achieving peace and security.²⁰³

In our area “Bunyakiri”, the road is in a very poor condition. And this said, wars that we experience which are caused by armed groups, namely those Raia Mutomboki and the Mai-Mai, when they come looting in the community and that we have to request intervention from the Government, even if this support is deployed from Bukavu, it will not arrive faster. What happens is that they may spend two days on the way and, in the meantime, those who came to loot have already looted, those who came to rape have already raped.

As a recommendation we thought that having a road in good condition can slightly reduce those problems; because if we have to cry out for help, a truck may depart from Bukavu and reach Bunyakiri easily. But if we don’t have a good road, they will take advantage of this, let’s say, today they profit and enter Bunyakiri rape, loot ... Why? Because they know that even if we call for help, the intervention will never get there on time.

But if we have our road repaired, we are sure that we may have some defense/protection ...

¹⁹⁹ Interviewed during Validation Workshop, June 15, 2015.

²⁰⁰ Interviewed during Validation Workshop, June 15, 2015.

²⁰¹ Interviewed during Validation Workshop, June 15, 2015.

²⁰² KI FGD, interviewed in Rutshuru, April 22, 2014.

²⁰³ See, e.g., Ali et al. 2015; D’Errico et al. 2013, 62.

*As far as IGA (economic power) is concerned, we have a lot of goods stuck in Bunyakiri but because there is no road. You may have harvested maize, peanuts, and they get rotten while still in Bunyakiri because the road is poor.*²⁰⁴

D'Errico et al. (2013), in a study which interviewed 121 people from four provinces in eastern DRC, found that

[s]ome respondents went as far as to suggest that the 'rape problem' exists because of the absence of adequate services to provide health care, employment and transportation. However, without economic resources, the informal networks of Congolese people who are working to mitigate these circumstances are limited in their ability to produce large-scale changes. Roads need to be paved, hospitals need to be built, and health-care professionals need to be better trained to staff them adequately. (62)

Peace and stability, for many women in this research, signalled a positive inflection point in resolving hardships and difficulties, *"because it is war which is at the origin of rape and of many other different types of problems."*²⁰⁵

*First, what makes us suffer is war. This is the source of our sufferings ... Because when there is no more war or rebels, everyone will feel free to do any job that can be done. But because of the absence of peace, there is no job, no one can give you a job, people study a lot and no one can give you a job if he does not know you.*²⁰⁶

*Rather than leaving us in these hard conditions where people are dying, children are dying, re-establish peace so that we can go back where we came from and once there we will restart our farming activities and overcome this situation; because when I am exploiting my fields, my children will eat as I want them to. That is the first thing. We need peace, to go back to our home villages where we came from. That is all I can say.*²⁰⁷

*My suggestion is to pray for a speedy end to this war for ever and everything can be as before, we can be safe as it was before we can go and dig without any problem. We want our children can study.*²⁰⁸

It is clear that women in DRC are calling for peace and security as a priority. Peace and security are core to justice; indeed, without peace and security, justice may well be illusory for women. The barriers to access to justice may be too great to overcome, both for those seeking justice, and those responsible for its administration:²⁰⁹

[T]oday the security of those who are working in the justice sector is not ensured yet. Imagine that we often go there for monitoring, but most of the time when we take the case to the court there; sometimes we are victims of various problems on the road. So,

²⁰⁴ Interviewed during Validation Workshop, June 15, 2015.

²⁰⁵ Interviewed during Validation Workshop, June 15, 2015.

²⁰⁶ Interviewed in Bunyakiri, September 26, 2014.

²⁰⁷ Interviewed in Bweremana, April 23, 2014.

²⁰⁸ Interviewed in Rutshuru, April 22, 2014.

²⁰⁹ See, e.g., Aho et al. (2013, 25), Amnesty International (2011, 25–29), Agency for Cooperation and Research in Development (2010, 13–16).

*it needs to be more secured because in order to be more operational this does not mean going there and come back.*²¹⁰

*We are requesting women's security for them to be able to advocate about problems affecting our mates at the grass root level.*²¹¹

3.3 Truth-telling and reconciliation

*She hides herself because she doesn't want other people to know about what had happened to her; because in the world, telling the truth turns out to be a problem for you.*²¹²

Truth-telling is well recognised as a key component in transitional justice, and as important for reconciliation and rebuilding communities (Hayner 2011; Amnesty International 2010, 16). The “right to the truth about gross human rights violations and serious violations of human rights law is an inalienable and autonomous right, linked to the duty and obligation of the State to protect and guarantee human rights, to conduct effective investigations and to guarantee effective remedy and reparations” (OHCHR 2006, 2). Survivors of violence and mass atrocities, as well as their families, have a right to know the “truth” (Naqvi 2006, 249); this is an individual and collective right (ECOSOC 2005, Principle 2). Truth telling “is critical to analysing and understanding the reasons and underlying causes of the cycle of violence” (Amnesty International 2011, 16; OHCHR 2010, 476).

3.3.1 A muted truth of violence

Many of the women with whom we spoke in DRC felt that their stories of violence and victimisation had not yet been heard. The truth about the conflict in DRC; the brutal treatment and mass atrocities committed against women during the conflict and post-conflict periods; and divisions forged in society, were described as still untold, or muted:

*You only need to shut up as you come back. You just don't say anything.*²¹³

*So before the war we are all the same people. We know that this one is my brother, this tribe is my brother, my sister. So after the war they showed us that this one is this tribe, this one is this tribe, so when you try and talk you just limit your language, in fact, you don't talk everything to that person so that person doesn't report everything to their tribe. You know this person has said this and this ... so it's, you're careful of what you are saying to people.*²¹⁴

*Your heart is tired... you feel disappointed. In one day you can run even three times, then you feel like your heart is not OK... Even, when you see maybe another tribe, Hutu or Tutsi or something like that, you don't feel OK, you don't share anything with that person – it has changed people's hearts.*²¹⁵

²¹⁰ Eugene Buzake, interviewed in Goma, September 24, 2014.

²¹¹ Interviewed during Validation Workshop, June 15, 2015.

²¹² Interviewed during Validation Workshop, June 15, 2015.

²¹³ KI FGD, interviewed in Rutshuru, April 22, 2014.

²¹⁴ Interviewed in Sake, September 20, 2014.

²¹⁵ Interviewed in Sake, September 20, 2014.

*Sometimes you are even ashamed of telling people that they have been raping you or you go to your gardens, you know? You go to take your food, even there they start raping you, you are ashamed you just keep quiet.*²¹⁶

Women described both a lack of processes in DRC which acknowledged the harms and injustices they have suffered, and little by way of effective mechanisms to hold perpetrators accountable (see also below, under Chapter 4):

*You see, she has to have a certain guarantee that is why most of the victims do not want to go to justice, prefer even not talking about it.*²¹⁷

*The police men turned then to the other guy and said "you guy, we are tired to see you here every day, you are arrested every day, the last time you were arrested for having raped another girl, it was the similar case and today you are arrested again for the same case."*²¹⁸

*Because when someone has been raped, they arrest the author but release him some days after. Once released, he has so many ways to come back to you. We have been victims and have discovered that we are nothing. I wish they took rape issues so seriously.*²¹⁹

3.3.2 *The need for truth and to be heard*

A Truth and Reconciliation Commission (TRC) (2003–2007) was established in DRC to, in the words of the DRC Transitional Constitution (2003–2006) (the *Constitution de la transition de la République démocratique du Congo 2003*), “promote consolidation of the national unity” (Article 155); to examine the political, economic, and societal conflicts from 1960–2003; and to contribute to compensating victims (Comprehensive Peace Agreement 2002) (see also below, under Chapter 4.3). In contradistinction to other truth seeking commissions in the region, the TRC was also charged with negotiating reparations between different factions, under Article 41 of the Transitional Constitution; however, the TRC actually failed to investigate atrocities, hold any public hearings, or take witness statements to establish the truth about the conflict and violence (OHCHR 2010, 478). Only recently have reparations been paid to any victims, and these are grossly inadequate (UN Secretary-General 2015, 8–9). The TRC undoubtedly failed to fulfil its mandate, largely because of a lack of consultation, the closeness of its members to people suspected of war crimes and crimes against humanity, and a lack of human and material resources (Amnesty International 2011, 16; OHCHR 2010, 480).

Despite a failed TRC, the people of DRC believe truth-seeking is critical to the nation moving forward post-conflict (OHCHR 2010, 475; Vinck et al. 2008, 48). In a 2008 study conducted by the International Center for Transitional Justice (ICTJ), 88% of respondents in eastern DRC considered it important to know about what happened (Vinck et al. 2008, 48). This desire for renewed effort at truth and reconciliation was echoed by the participants in

²¹⁶ Interviewed in Sake, September 20, 2014.

²¹⁷ KI FGD, interviewed in Goma, April 18, 2014.

²¹⁸ KI, interviewed in Goma, September 26, 2013.

²¹⁹ Interviewed in Minova, September 21, 2014.

our research: “[T]hey tried to put in place truth and reconciliation, yes that failed for political reasons ... but if we work on that again, it may be able to work.”²²⁰

Women in DRC are clearly calling for better truth and reconciliation processes as a key element of obtaining justice: “For me, the justice is the truth.”²²¹

For many women, this is considered an important part of women’s healing:

The Truth and Reconciliation process can help women speak openly ... “truth and reconciliation” have to take place. In other words, people should not hide the truth. They have to be open.

*And those moral wounds which affected women including the problems they experienced need to be known. And people have to be really informed about them.*²²²

Some women participants also suggested that a greater openness about women’s victimisation and suffering will help facilitate women’s access to justice, and to other forms of essential support and care:

*As I arrived here, I heard women discussing similar stories. So I told him, “I will not hide that I got raped.” I will go ask to the other women so that I can also access to medical care. And that is how we got medicines. When we arrived, I got the medicines and right after that, I returned and we have started telling the same thing to other women: “If such problems happens to you, please do not hide it because it is freely that you will get medical care if you go to the women who advocate for us.”*²²³

Many women felt that a strong factor stifling truth and reconciliation in DRC was the lack of security and the social stigma attached to being a victim of rape and sexual violence:

Let me take the example of Nyamilima. Back home, there is place called Nyamilima. There, it is “machetes everywhere.” If you are a “KASEREKA”²²⁴ they cut you; If you are a “BAHATI”²²⁵ or an “ITIMANA”²²⁶ they cut you. If the “Hutu” is found on the “Nande” side, he is dead; there, they do not give time to explain, that is the way things are! If the “Munande” is found on the “Hutu” side, they kill him. No need explaining whether you are a “Hutu” or a “Nande”...

*Tell me if we women can take the risk of walking there? We went; when we arrived there, we were told truths around our problems; The truths, we do have, but you’ve got to see what we ended up to ... That is to say that I am living in a hidden and isolated place; I can well relate all but to whom, and by whom and why. Because I know the truths but security wise, I cannot tell it.*²²⁷

²²⁰ KI FGD, Advocats Sans Frontieres, interviewed in Bukavu, September 26, 2014.

²²¹ Interviewed in Goma, September 26, 2013.

²²² Interviewed during Validation Workshop, June 2, 2015.

²²³ Interviewed in Bweremana, April 23, 2014.

²²⁴ KASEREKA is a name of people from the Nande Tribe.

²²⁵ BAHATI is a Swahili name which you find in almost all the tribes, which may then be confusing when it comes to targeting people based on their tribal origin.

²²⁶ ITIMANA is a proper name for Kinyarwanda Speaking people, generally men from Rutshuru, Masisi, and in different other places in the region sometimes.

²²⁷ Interviewed during Validation Workshop, June 15, 2015.

Sometimes you can be like er ... digging, and then you heard them behind, you find someone, you know that person comes from where, and then you start running, you are in the bushes, and then ... You be afraid. You are so afraid that you can't walk alone, there needs to be some people with you to make yourself at least safe ... What about when you have trouble in your heart – bad memories or bad feelings – is there anyone you can go and talk with? A good friend or someone you trust? ... No. You just keep it to yourself.²²⁸

If I let them know, they will inform my husband and he will abandon me ... There is no way I can take care of them as IDPs myself as I have no money. I'd better not say anything.²²⁹

Before my arrival here in Bweremana, I was decided not to inform my husband, but when I arrived here and I met him. He said that he couldn't continue with me for I was raped by three men. Other women told him not to leave me for they were leading me to hospital to recover, but he did not understand.²³⁰

There are numerous examples of other African nations that have implemented truth-telling mechanisms following damaging civil conflicts, during which sexual and gender based violence occurred on a mass scale; these may offer lessons for DRC in its reformulation of truth and reconciliation mechanisms. For example, in Kenya following the 2007–2008 post-election violence, the Truth, Justice and Reconciliation Commission (TJRC) was established to investigate serious violations of, inter alia, human rights, and to put into place processes to address the needs of particular groups of vulnerable people, such as women and children.²³¹ Although the Kenyan TJRC is not without criticisms, it offers valuable insights and lessons in thinking about truth-telling and reconciliation through a more gendered lens.²³² In Kenya, women participants could request a female statement-taker in TJRC hearings, and women-only sessions were held in order to provide a safe and private environment, free from re-stigmatisation (ICTJ 2014, 7). Participants were also counselled before and after testifying, and participated in follow-up group therapy sessions in order to minimise the possibility of re-traumatisation (ICTJ 2014, 7). In a study conducted by the International Centre for Transitional Justice (ICTJ) on reforms and initiatives in Kenya following the post-election crisis, all 48 women interviewed as part of this study highlighted that receiving financial support from the government was a way in which the government could show its commitment to aiding to alleviate victim's suffering (ICTJ 2014, 3). In Northern Uganda, it has been reported that victims highly prioritise truth-seeking processes (Pham et al. 2007, 33). Survey results have found that a vast majority of respondents want a written historical record of the events during the war, and for memorials to be erected (Pham et al. 2007, 34); others proposed a day of remembrance for the war and its victims (Pham et al. 2007, 37).

However, despite the overwhelming literature that supports the establishment of post-conflict truth-telling and reconciliation mechanisms for their healing effects, concerns have been raised, and should be considered, regarding the lack of empirical evidence on this causal link

²²⁸ Interviewed in Sake, September 20, 2014.

²²⁹ Interviewed in Bweremana, April 23, 2014.

²³⁰ Interviewed in Bweremana, April 23, 2014.

²³¹ Rita Shackel and Lucy Fiske, "Making Justice Work for Women: Kenya Country Report" (unpublished report, 2016).

²³² Ibid.

(Brouneus 2008, 58). A survey of women who testified in the gacaca courts – established to promote truth, reconciliation, and unity following the 1994 Rwandan genocide – found that women survivors faced security issues in the form of harassment and threats, which only began after they testified (Brouneus 2008, 66). Others reported facing intimidation in the courtroom, where families of the perpetrators were often present (Brouneus 2008, 68). Beyond these security concerns, the women also suffered psychological ill-health. For example, they would be ill in the days leading up to, and after, giving testimony; they found it traumatic to relive the experiences again, and felt ashamed when they reacted emotionally in front of the public (Brouneus 2008, 68–9). Some women also stated that it was difficult to see the perpetrators surrounded by family, as this served as a reminder of the ones they had lost, and the isolation that they lived in post-conflict (Brouneus 2008, 17). Brouneus (2008, 60) is critical of the design often adopted in truth-telling processes, which require victims to recount their experiences within one session; this results in short but intense trauma exposure, and thus heightens the subsequent risk of re-traumatisation. However, perhaps if a more comprehensive mechanism is adopted (where victims are provided with counselling before and after testifying, and with other support and gender sensitive processes integrated into the design of such mechanisms), the healing effects of truth-telling and reconciliation processes would be more substantive.

Although it is clear that “[h]aving a mechanism that can establish a record of the truth and building reconciliation between communities is essential to building a solid foundation for the future in the DRC” (HRW 2004, 5), such processes need to recognise the extensiveness and depth of Congolese women’s (continuing) trauma, and their vulnerability to ongoing victimisation. Any truth and reconciliation mechanisms re-envisioned in DRC must be sensitive and responsive to women’s needs, offer women adequate support, protection and security, and must take serious account of social attitudes to rape which blame the victim.

3.4 Compensation and economic empowerment

*She has to become independent because being dependent makes you lose power; you are just a shadow of yourself!*²³³

Given that so many women and whole communities in DRC live in extreme poverty (UNDP 2014; Putman et al. 2014), it is not surprising that women participants in this project viewed economic empowerment as a core need in rebuilding their lives. Their aspirations for economic empowerment were varied, and included: wanting greater support in developing business opportunities; training and skills acquisition; access to financial services; livelihood security; and strengthening access to land and property rights:

*What can make us forget about all these conflict is when we get help, help for example, money that can help us to start the business and when you start working because we didn’t go to school and didn’t get educated but when we have that money and start our business, we will be working and we will forget about all those things.*²³⁴

²³³ Interviewed during Validation Workshop, June 15, 2014.

²³⁴ Interviewed in Minova, September 21, 2014.

*If they would provide us with materials to make baskets and support our farming group, learn more about vocational skills. This would help me more in life.*²³⁵

*As for me, I think that if you help me set up a business, I can provide for the needs of my children, they dress well, find school materials ... As I am here, I am powerless. I told you that the only help I get is from that goat I once received. It is that goat which is helping me buy the necessary materials for school, their food ... With these means I can afford to send two to school but I cannot afford to send three. But if I can set up a business, I can be able to raise the children to make them progress in life and even have the one who went to Goma come back and return to school; he went when he was in the fifth year of primary school for lack of school fees... He went to Goma, to live with my sister there.*²³⁶

*I would like ... just small things that I can start going around getting something that I can do to help my kids ... Just small money, that I can start business with, go to the market, selling even beans, to get just little things so we can make it.*²³⁷

*In addition, we need money to help children study or sell some thing; create schools for the children of all the victims for they have no means for their studies. But the most important need is to take care of victims both after rape and in case the author is captured.*²³⁸

*Let's say small trade. If I can resume my small trade I was doing before, then ... I will be happy because this will allow improving my children's well-being. Because today, I have a little child who is giving me a hard time, because of hunger. He has even started developing kwashiorkor (malnutrition). I have to go for biscuits distribution every day. I do not know what to do without means ... Well, with regard to living with dignity, I may like ... us [to go] back to our home villages, and from there we could think over how to develop our livelihoods mechanisms.*²³⁹

*[I hope that I] go to school so that [I] can have a real house. That [we] can be clean and [we] can have a real home.*²⁴⁰

For those many women displaced by the conflict and violence, assistance with setting up a business was a particularly acute need identified for successfully starting a new life, in a new community:

*We are newcomers here in Minova and we are not known by people, we need loans to start a small business so that we can afford to meet the basic needs of the household.*²⁴¹

Many women stated that the violence they had experienced had harmed them mentally, emotionally, socially, and physically, and had impacted on their capacity to gain a livelihood

²³⁵ Interviewed in Minova, September 21, 2014.

²³⁶ Interviewed in Rutshuru, September 23, 2014.

²³⁷ Interviewed in Bweremana, September 20, 2014.

²³⁸ Interviewed in Minova, March 19, 2014.

²³⁹ Interviewed in Bweremana, April 23, 2014.

²⁴⁰ Interviewed in Bunyakiri, September 25, 2014.

²⁴¹ Interviewed in Minova, April 19, 2014.

and be productive (see above, under Chapter 3.1). Many women in particular said that, following rape, they could no longer undertake the physical work to which they were accustomed, such as working their land due to injury and illness. This fact is further exacerbated by fear of being raped when working in the fields, which has led to “spiralling malnutrition and economic loss” for many women (Pratt and Werchick 2004, 6):

*Since I got raped, I have no longer felt strong to work. I am sick every now and then ... Before I would go to the field with other women, but today, when it gets 12:00, I feel very exhausted. I am sick every day; I am under medication every day.*²⁴²

*[S]ince I don't have enough forces to go to the fields, when I was assaulted they even amputated my leg and my private parts were harmed and started bleeding; I suffered a lot and I'm still suffering, other women took me to counseling, I was treated at Rutshuru, at Faulu, they helped me to go to Heal Africa–Goma, at Goma I was also treated, the bleeding stopped but the pains are still present, they broke my back; there is no work I can do, I remain seated all the time ... and I'm a widow, unable to perform any work, the children have all died, except one, with whom I'm not living.*²⁴³

*I started again bleeding though I hadn't had periods for a long time. The pains are really unbearable. I keep feeling them. The work I used to do, I can no longer do. I live by the grace of God, finding from time to time a good soul to give me some money. I used to go to the fields, but ... The worries have already brought about high blood pressure; I'm no longer using salt, I live in permanent anxiety.*²⁴⁴

The data from Ohambe et al. indicated that the women who were the main victims of violence and sexual atrocities in eastern DRC were those who were the most disadvantaged and vulnerable (2005, 29). Women farmers were among the worst affected, a finding reflected in the fact that 76% of the interviewed women for this research project were farmers (Ohambe et al. 2005, 33). The subsistence economy of the region is driven by women farmers (70% of the farmers in the Kivus are women); attacks on them, therefore, contribute to reductions in their incomes, and greater poverty in the community (Ohambe et al. 2005, 44). This is exacerbated by the fact that rape generally takes place alongside pillage, and that women farmers, even when they do remain in the community, are deprived of both the means and the fruits of their production, and often have their ability to work compromised by rape-related illnesses (Ohambe et al. 2005, 44). Most of the women interviewed in this study were poorly educated: 66.9% had never been to school, and 15.2% had been to primary school, meaning that 81% of women interviewed had (at most) a primary school level education; 17.7% had reached secondary education, and only 0.2% had received a tertiary education (Ohambe et al. 2005, 31). This highlights the link between gender, disadvantage, and violence (Fiske and Shackel 2014). Once women are deprived of opportunity to work their land and undertake physical work due to rape-related injuries and illness, their already-disadvantaged position in society – marked by lack of education and poverty – limits further opportunities for employment and gaining a livelihood (Feda et al. 2015, xiv). Moreover, with women constituting 50% of the labour force in DRC, the implications of women's diminished productivity bear on whole communities, and the whole DRC economy.²⁴⁵

²⁴² Interviewed in Rutshuru, April 21, 2014.

²⁴³ Interviewed in Rutshuru, September 23, 2014.

²⁴⁴ Interviewed in Rutshuru, September 23, 2014.

²⁴⁵ The World Bank Data Standard of “labour force” is comprised of people, aged 15 and over, who meet the International Labour Organisation's definition of the economically active population.

3.4.1 Redress for harms done to women

Women in DRC have been widely subjected to brutal rapes and acts of sexual violence. Rape is “particularly aimed at humiliating and degrading victims” (Sow et al. 2011), and often involves cruel and inhumane acts (Ohambe et al. 2005, 33) (see above, under Chapter 3.1). The accounts of rape and sexual violence described by women participants in this project attest to this. Other research has documented similar accounts of rape and sexual violence perpetrated against women in eastern DRC. Ohambe et al.’s study found that 38.2% of the women they interviewed in eastern DRC had been raped in public places, and/or in front of witnesses (2005, 36). A number of women in our study described similar accounts, including being raped in front of their children:

*It was one day during the war of M23. That time three soldiers came and started raping me in front of my daughter. After, they also raped my daughter in front of me.*²⁴⁶

*The war, in the time of war I got so many problems ... when they came to my house and raped me in front of my kids. Left me naked in front of my kids.*²⁴⁷

*I personally have two grown up daughters. I was on the farm and they met me there after school. After the work, we got back home. Once in the house during the night, as we are so poor that our houses are so poorly built and have poor door, it was not so night that they come and forced the door. There was no way to cry and they found themselves in the house. Once in the house, they raped my second daughter in our presence we parents and their young brothers and sisters. I personally felt confused due to the act that they did for my daughter.*²⁴⁸

The RFDP and RFDA research also found that, while 23% of women had experienced one-on-one rape only, a staggering 79% of women interviewed had experienced gang rape. “Many rapes were accompanied by torture, especially if the victims resisted. Some victims were beaten, wounded with machetes or had their genitals mutilated or burnt. All the informants said that the way in which they had been raped was the most degrading experience of their lives” (Ohambe et al. 2005, 34–5). The shame and stigmatisation of rape, and the lack of security women face, commonly force women to flee their communities (Ohambe et al. 2005, 44). The RFDP and RFDA research reported that nearly all the women interviewed from Bushwira/Kabare had fled to Bukavu or Goma after being raped (Ohambe et al. 2011, 43). In a 2007 survey undertaken by the Harvard Humanitarian Initiative (HHI), 29% of the 55 sexual violence survivors surveyed in Bukavu, Chambucha, and Bunyakiri reported being forced to leave their families as a result of having been raped, and 6.2% being forced to leave their communities (HHI 2009, 16).

The impacts of rape and sexual violence on women are multiple and devastating (see above, under Chapter 3.1). Pratt and Werchick provide an eloquent and extensive summary of documented impacts for Congolese women and their communities:

Rape and mutilation have severe short–and long–term effects on the survivors, perpetrators, families, communities, ethnic groups, region, and the ability of the nation to become whole

²⁴⁶ Interviewed in Minova, April 19, 2014.

²⁴⁷ Interviewed in Bunyakiri, September 26, 2014.

²⁴⁸ Interviewed in Rutshuru, September 22, 2014.

once again. The violence tears flesh as well as souls, and the effective healing of both is not guaranteed. Gang rape and mutilations often result in massive internal tearing and accompanying fistulas ... Serious complications with childbirth, menstruation, urination, and fecal elimination are common. Many victims are rendered sterile as a result of the trauma, operations, or scar tissue. Because Congolese women's value is still so closely associated with virginity, wifehood, and bearing children, rape can and often does result in "social murder" ... Unmarried girls who are raped have little prospect for getting married, their whole family is deeply shamed by association, and parents will not receive a dowry for their daughters.

Even after many years following rape ... victims have a two times greater risk of qualifying for ten different psychiatric diagnoses, including major depression, alcohol abuse, drug abuse, obsessive-compulsive disorder, generalized anxiety disorder, eating disorders, multiple personality disorder, borderline personality syndrome, and post-traumatic stress disorder. Other, related effects in less clinical terms, include ... shock, a fear of injury or death that can be paralyzing, a sense of profound loss of control over one's life, persistent fears, avoidance of situations that trigger memories of the violation, profound feelings of shame, difficulty remembering events, intrusive thoughts of the abuse, decreased ability to respond to life generally, and difficulty re-establishing intimate relationships Fear of sexual violence has also at least partially responsible for malnutrition in some areas (because women are afraid to work in their fields) and the associated negative impacts on local economies, as well as for the interruption of children's educations when they are kept home to keep them safe from attacks. In a society that relies heavily on its women to produce food, raise children, and try to maintain peace and order in a community, these effects represent an alarming burden on a nation trying desperately to unite, ethnic groups struggling to cohabit peacefully, communities attempting to regain social mores and order, families seeking to regain their livelihoods and escape lives of fear and desperation, and survivors hoping to heal. (2004, 12-3)

Many of the women participants interviewed in our research were nursing multiple and severe injuries, as well as unresolved illnesses:

*And since I got raped, I have never had peace. I have started feeling pains here and scratching a lot. Such that I where I am sitting, would start asking myself, "Isn't it because I got raped that I am now developing such a disease?"*²⁴⁹

*Even if you bring me to the hospital, up to now, I have a disease. I am affected with the disease, it has never stopped. Up to now, I have some, some yellow things coming out of my vagina, up to now. And I don't know where I might need to go because of the money, I don't have enough money to go to the hospital, to the hospital.*²⁵⁰

The only help I've got is those tablets I've received from the Health Centre. When, despite those tablets I continue feeling pains, I go and see a doctor, who prescribes other medicines. After you take them, if you are still suffering, you go to hospital, they give you other medicines and you take them. But all in all, those medicines you have to buy are most effective against the pains. Especially when you are pregnant, you are in a difficult situation; you cannot carry anything, not even water, because if you do so, you have the impression that it disturbs the fetus inside. If you carry a jerry can, it brings pains, you are obliged to have serums administered to you. So if you become pregnant, you have to remain seated and the husband will start complaining. "All this

²⁴⁹ Interviewed in Bweremana, April 23, 2014.

²⁵⁰ Interviewed in Minova, September 21, 2014.

*comes from the people who raped you!” He may say nothing, but inside, he is very unhappy.*²⁵¹

*When all this happened to me, I was in big sorrow. I was beaten, raped over there in the park, I started feeling pains. I started bleeding and feeling pains. Can you just imagine, me an old woman, being raped by boys who could be my children! I started living with diseases, I even felt too ashamed to tell this story, but one day, other women told me, no, go to a treatment at Rutshuru. That is when I was counseled and went. Now the pains have never stopped following the beating I was subjected to, I was beaten even with the handle of the guns and my hand was broken. I was trampled by feet ... I’m no longer bleeding but the pains are still present in my belly.*²⁵²

The Ohambe et al. (2005) research for Réseau des Femmes found that 91.5% of the women they interviewed suffered from one or several rape-related illnesses:

The list of these illnesses is long and some of them are particularly serious like vesico–vaginal and rectovaginal fistulas or uterine prolapse (in which the uterus prolapses into the vagina), which require surgical intervention. ... Another outcome is the transmission of sexually transmitted diseases, which can lead to sterility ... HIV/AIDS infection is also a grim reality, given that many armed forces in South Kivu are HIV positive ... 91% of the women interviewed also ha[d] behavioural problems (including permanent anxiety, shame and self-loathing, excessive sweating, insomnia, nightmares, memory loss and aggression). (Sow et al. 2011).

Given the extent of harm suffered by women in DRC, and the profound impact this is having on their quality of life and capacity to survive – let alone to thrive – it is not surprising that women survivors want to be compensated for their injuries and pain. They resoundingly want compensation and reparations for these injustices:

*Well, if they can help someone with money to do some business! That could help the children eat, it can help children study, and myself to cloth. See how I am looking: I borrowed a good fabric [dress] so that I can appear clean before people. I do not have any clothes.*²⁵³

*If I can benefit from a little money, I can manage with that little money to improve my children’s well-being. Otherwise, we are just as you see us.*²⁵⁴

*You know I am taking care of my children myself, my wound could be healed the day I will be able to meet the need of my children. If I could get a little money to start a small business, this will help me so much. And sometimes when I sit and look at my children, I am obliged to go and carry burdens for people to earn my living by lack of resources to start a small business that is the only wound that I have because before the rape I had a normal life, my children were very well.*²⁵⁵

²⁵¹ Interviewed in Bunyakiri, September 26, 2014.

²⁵² Interviewed in Rutshuru, September 24, 2014.

²⁵³ Interviewed in Bweremana, April 23, 2014.

²⁵⁴ Interviewed in Bweremana, April 23, 2014.

²⁵⁵ Interviewed in Minova, April 19, 2014.

*If there was justice, for example ... my girl who was raped. They could have paid for her treatment and school fees because up to now after this war ... she went to the hospital she was seriously sick.*²⁵⁶

*Yes, he [the rapist] should pay her because he has destroyed her life.*²⁵⁷

Many women participants stated that being productive and engaging in economic activity was as an important step towards healing, and restoring dignity and respect:

*If you have money, you will never miss work. You might fail from time to time, but, at least, you will keep trying. And, in the end, you will start feeling well in your heart. And tomorrow, when you meet her, you will be proud to ask her: "Mom, how are you feeling now?" And she will tell you: "Better the way I look/am now. I am not suffering in my heart any more." And as regards my head, I do have headaches sometimes but, at least, it is not very often any more. And where you are, you will tell to yourself: "[T]he work I am doing is good!" Then you can say: "[W]e are developing."*²⁵⁸

*In Congo, when you don't have something to provide your family, and your kids just going to your neighbour for something to eat. They don't take you seriously, and that is something not good in our society.*²⁵⁹

Accordingly, for many women participants, development of sustainable strategies for women's economic empowerment is a leading priority. Many women said that they want to be independent and autonomous:

*We could ask that the woman be self-she should not be dependent on the man. The woman should not be a beggar. She should be self-sufficient. She should not wait to get everything from the man. She has to work ... because in some other areas, people know that a woman should not go to work. A woman should work...she must be able to defend herself before men ... Facilitate her schooling in order for her to acquire the required intelligence for her to be able to work for herself (fly with her own wings).*²⁶⁰

Furthermore, for many women in this project economic well-being was an important part of regaining power and obtaining justice:

*If you can give me capital for business, I'll feel free because I can provide for my own needs, pay for my own treatment ... I'll say I've had justice.*²⁶¹

*Justice ... the one who has money is the one who gets the justice.*²⁶²

²⁵⁶ Interviewed in Bunyakiri, September 26, 2014.

²⁵⁷ Interviewed in Minova, September 21, 2014.

²⁵⁸ Interviewed during Validation Workshop, June 15, 2015.

²⁵⁹ Interviewed in Minova, September 21, 2014.

²⁶⁰ Interviewed during Validation Workshop, June 15, 2015.

²⁶¹ Interviewed in Rutshuru, September 23, 2014.

²⁶² Interviewed in Goma, September 26, 2014.

Economic empowerment of women is strongly linked to women having the capacity to adequately care for children (see below, under Chapter 3.6). This is a key priority noted by nearly every woman in this research project.

3.4.2 Initiatives towards economic empowerment and reparations for women

A great deal is being tried by way of economic empowerment programs for women in eastern DRC. These are mostly run by NGOs and other community-based agencies, as well as international bodies and organisations. For example, since 2004–2005, USAID has been actively funding a range of initiatives in North Kivu, South Kivu, and Maniema Province through the Office of Foreign Disaster Assistance (OFDA), aimed at rebuilding economic, social, and political structures for women (Pratt and Werchick 2004). Victims of Torture Funds (VOTF) activities, and Office of Transition Initiatives (OTI) programs, have been running similar programs (Pratt and Werchick 2004). Pact DRC, in conjunction with USAID, have been running economic empowerment programs for women, in partnership with mining companies. These programs, under the banner of “Global Development Alliance (GDA),” have reached 2000 Congolese women in 114 villages in DRC, and delivered literacy, savings, and small business development. The overall aim of this initiative is to assist women to move out of mining labour, and into permanent work in small-scale economic activities (Hayes and Perks 2012, 536). The program has improved socio-economic conditions (livelihoods, health, and education) for women participants. Furthermore,

the women who participated in the program noted other benefits: social empowerment (because they are running their own small businesses); an increase in economic standing, both within their families and within the community; and the ability to participate more fully in community governance and decision making (because of increased literacy). (Hayes and Perks 2012, 537)

Women for Women International (Democratic Republic of Congo) has served over 84,000 women in eastern Congo’s North and South Kivu provinces since 2004, through job skills and rights education programs (Women for Women International 2015). After graduating from the program, women’s average personal daily earnings increased from \$US0.76 at enrolment to \$US2.14 at graduation. More than 77% of participants reported practising family planning at graduation, compared to 1% at enrolment. More than 94% of participants reported their perspectives are being taken into account in making family decisions at graduation, compared to 41% at enrolment (Women for Women International 2015). This program also has a partner program, which raises awareness for men about the rights and economic circumstances of women, and so seeks to influence changes at the community as well as individual levels (Women for Women International 2015).

The International Rescue Committee (IRC), which has been working in DRC since 1996, has operations in 7 of DRC’s 11 provinces, focusing on health, education, and economic empowerment for women (IRC 2015). One program that is of particular interest is the Village Savings and Loan Associations (VSLA), which “helps communities help themselves.” The program is structured so that

[a] group of 15–30 neighbours, friends, or business associates decides to save money together, and all members agree to make a contribution to a shared fund once a week. Individual members borrow from this common fund (provided the group deems the planned use of the funds a wise investment) and pay the loan back with interest, helping the fund grow over time. The group agrees on a pay-out date (generally eight months to a year after saving begins) when each member will receive a share of the common fund, plus accumulated interest. (IRC 2015)

The VSLA program in South Kivu province serves almost 900 women across three territories (IRC 2015).

A number of other NGOs and international donors are also actively engaged in micro-financing programs to assist women in eastern DRC; for example, the US Department of State provides micro-finance loans in the form of pigs, to improve rural women's economic stability in the region (US Department of State 2015).

Economic empowerment programs of this type are certainly delivering women some assistance and benefits. However, some women participants indicated that these programs are sometimes only of limited and short-term benefit:

*If you get such a small amount, it can help you forget about your problems, although it will finish some day, you will have temporarily managed to feed and clothe your children and forget about the problems you went through. But when you have such a problem: the husband abandons because you have been raped, you remained with children whom you are unable to feed; and, at times, you get to a time when your landlord starts chasing you from his house (unable to pay the rent), you see that your problem will increase and the absence of an income generating activity will bring you more worries.*²⁶³

It is clear that women in DRC need more by way of systemic large-scale compensation, to redress the injustices they have suffered. As mentioned previously, little has been provided to the women of DRC by way of monetary compensation and reparations – in other words, little by way of repair. As one key informant explained:

*You have been chased from the village; may be your husband does not want you anymore; you have nothing at all to restart life. That is a problem. And that is why we can say today: "Let us establish courts everywhere in the villages but as long as there is no repair, I don't know if ... this is sufficient. But I see that there is something very important missing there: "the repair."*²⁶⁴

As is discussed further below, there have been some initiatives to bring women in DRC financial compensation and reparations, but their efficacy remains tenuous. For example, Congolese courts have ordered the government to pay compensation to victims of sexual violence in some cases in which those convicted were members of the Congolese military; however, as of 2012, no payments have been made in any of these cases (Parmar and Mushiata 2012; Moffett 2014, 247). There have also been some efforts at a national reparations scheme for victims of rape, but again, progress has largely halted (CEDAW 2013). Arguably, one of the main advances made in reparations for women survivors in DRC follows the ICC's instruction to the Trust Fund for Victims (TFV) in 2015, to present a draft implementation plan for collective reparations in the ICC case *Prosecutor v. Lubanga*. The TFV submitted its first draft implementation plan on 3 November 2015 at the 14th session of Assembly of States Parties (TFV 2016). This plan "provides a detailed programmatic response, in the form of an integrated collective reparations award to be implemented over a three year period. The plan proposes to holistically address and rehabilitate the harm suffered by former child soldiers, as well as indirect victims of the crimes for which Mr Lubanga was

²⁶³ Interviewed during Validation workshop June 15, 2015.

²⁶⁴ Uboyo Anne Marie, MONUSCO, interviewed in Goma, April 24, 2014.

convicted.” (TFV 2016) The ICC is yet to determine the amount of reparations Mr Lubanga is liable for. We await further outcomes, and hope they will actually deliver women some recompense for the injustices suffered.

Though all these initiatives are welcomed, it is clear that the time is overdue for transitional justice to respond more substantively and effectively to women’s dire economic situation and needs. Women in DRC have suffered tremendously in the face of continuing and pervasive sexual violence; the harms suffered must be acknowledged if justice is to be done for women, and robust long-term strategies for women’s economic empowerment must be enlivened.

3.5 Equality and protection of women’s rights

Many of the women participants in DRC said it is critical for women to be better informed about their rights. This is seen as an important element in obtaining justice, fighting against oppression, and achieving greater gender equality:

*The woman must know and have her rights ... Because once she knows her rights, she will be aware that she should not be oppressed in the family. You see that traditional customs have kept us under oppression.*²⁶⁵

*But we women know the rights included in those books are not respected because we women do not know them. It is the man who knows them and when we have problems, we have to resort to the same man. Yet, he is the person oppressing us given that we do not know them. And it is clear that we women have never even seen that book of rights.*²⁶⁶

*Since the woman has the same rights as those the man has, there is no difference, and there is no discrimination. Our request is therefore that we get trained together with the women in the village about women’s rights.*²⁶⁷

Considerable efforts have been made in DRC to promote women’s rights and gender equality (OHCHR 2014, 26; Mbambi and Faray-Kele 2010, 1–2), including: steady increases in prosecutions of sexual violence; reform of laws that criminalise rape; the passing of a gender policy, and action plan approved by parliament; and capacity building activities started for the FARDC (UN Women 2012, 17).

However, despite these actions, many of the accounts provided by women participants in this research of how they are treated within their families and communities confirm that traditional social and cultural norms, and discriminatory practices, continue to oppress women in DRC today (Mbambi and Faray-Kele 2010, 10; Fanning and Hastie 2012, 2; Sadie 2015, 1):

And like the man has his rights, the woman also has hers. Everything the man does, a woman can also do. The woman has rights; she can take part in everything taking place ...

²⁶⁵ Interviewed in Rutshuru, April 21, 2014.

²⁶⁶ Interviewed during Validation Workshop, June 15, 2015.

²⁶⁷ Interviewed during Validation Workshop, June 15, 2015.

*So let us also speak what we do not experience: The right to work...the woman has no right to work; the woman has no right to education; She has no right to work; she has no right to study; And to stand as a community chief; There is nothing of that sort at all which we have the right to.*²⁶⁸

Accordingly, many women participants called for more sensitisation, rights training programs, and discussion of women's rights and gender equality:

*[N]ow that those Nyantura Forces are now gone and others have gone to the bush, we would like that justice makes sensitization so that they can keep us safe, so that rape ends in the community ... we want that authorities plead for us, that we locals love one another, we should avoid hatred between us.*²⁶⁹

*That is why I would like to ask you to keep on teaching us, may be this rape issue will end. Keep on teaching us because if a neighbour was attempting to rape, a man or other people in the bush, when they hear the teachings or we, after being taught by you, may be this will be reduced in the area.*²⁷⁰

There is widespread agreement in gender development and justice circles that more needs to be done to educate women about their rights – in particular, about sexual violence laws and issues of gender equality (Mansfield 2009, 407); “one of the most vital solutions for having women avail themselves of their rights is educating women” (Fielder 2013, 154). The women in this project view education of women, children, and entire communities as being pivotal to the protection of women's rights:

*In short, we would like our children to go to school ... Because there is no other thing which can help anybody ... if the government says so, we have to ask for assistance ... look for persons of good will who can help in the education of children ... We can be grateful if we can get help for our children to go to school. A child becomes like a pig, knowing nothing; without anything which can help him. We too don't appreciate that.*²⁷¹

*Those who are educated are busy with their jobs and take care of their families and don't have time for wrong doing. But others who did not go to school will do all sorts of bad actions.*²⁷²

There is a growing consensus within program development that men and boys need to be specifically targeted and involved in sensitisation programs on women's rights, to maximise their potential positive effects (Fanning and Hastie 2012, 9). This broader approach also helps with “strengthening women's feelings of security and empowerment that can contribute to achieving broader transformational change” (9). However, the reach of these programs needs to go further:

²⁶⁸ Interviewed during Validation Workshop, June 15, 2015.

²⁶⁹ Interviewed in Bweremana September 20, 2014.

²⁷⁰ Interviewed in Bweremana September 20, 2014.

²⁷¹ Interviewed in Rutshuru, September 23, 2014.

²⁷² Interviewed in Rutshuru, September 23, 2014.

Governments have to make gender-sensitivity training an ongoing aspect of professional development for all public servants. This is necessary because the social norms that promote violence against women have emerged over centuries and cannot be removed with brief training sessions...

Related to this is the need for a transformation in societal norms and attitudes toward women. Although this is a monumental task, it can be accomplished to a degree if prioritised by policymakers. ... For their part, the governments have to make women's rights a constant and integral part of their message to the public and to emphasise their nontolerance of violence through rhetoric and action.

... Governments also need to educate and, where possible, work with religious and traditional leaders to prevent and respond to violence against women. (Medie 2012, 99–100)

3.5.1 Women's participation in public life

Recent data reveals that women in DRC are not well represented in many spheres of public and national life, with limited participation at decision-making tables (GNWP 2014; Sadie 2015, 5).

In 2013, only 8.3% of seats in the DRC Parliament were held by women (UNDP 2014), and there has never been a female head of state (Mbambi and Faray-Kele 2010). Only 5% of the Senate (2011–2014) are women, compared to 10.8% of the National Assembly (2014); this is in spite of the fact that women actually make up just over half of the population – 50.3%, according to the World Bank. The highest rate of women's participation in local governance is amongst provincial ministers, and even here, they only make up 20.7% of the total (GNWP 2014, 6).

A review of data using the Member Directory of the High Council on the Judiciary found that 19.5% of those in the justice sector²⁷³ in DRC were women. The District Courts and High Courts had the highest proportion of women, making up 20.4% of the total. Women made up 12% of the Appeal Courts and Department of the Prosecutor General; the Supreme Courts of Justice and Department of the General Prosecutor of the Republic only had four women involved, as opposed to 60 men, rendering women a little over 6% of the total. As such, not only are women underrepresented in the judiciary writ large, but this underrepresentation gets more severe the higher the level (GNWP 2014, 10). No members of the DRC Constitutional Court are women (GNWP 2014, 11).

Although women have a labour force participation rate of 70.7% – only slightly lower than the men's rate of 73.2% (UNDP 2014, 4) – it is important to query the areas of employment. For example, women constitute less than 3% of state-waged employment/activities, compared to 12% of men (Mbambi and Faray-Kele 2010, 2); instead, women are primarily employed in agriculture and the informal sector (ECOSOC 2009, 15). On this point, the Committee on the Elimination of Discrimination against Women (CEDAW) has highlighted that the large number of women in the informal sector without “legal protection, social security or other benefits” is a concern (OHCHR 2013, 10). Moreover, Mbambi and Faray-Kele (2010, 2) found that women were underrepresented at higher levels, and generally earned less than men (although no figures were provided); this gender wage gap was also highlighted by the CEDAW. The exploitation of women and girls in the mining sector has also been raised as an issue (CEDAW 2013); for example, a 2015 study conducted by the World Bank looking at artisanal mining found that women in mining towns were often

²⁷³ The DRC justice sector includes the Supreme Court of Justice and General Prosecutory of the Republic, Appeal Courts and Prosecutory General, District Courts, and the High Court.

restricted to marginal roles, with safer and more profitable jobs going to men (World Bank 2015c, 18–19). Additionally, 1 in 4 women in mining towns identify as sex workers.

The adult literacy rate for women is 56%, compared to an adult literacy rate of 78% for men (Fanning and Hastie 2012, 2). Among youths (15–24 years old), 78.9% of male youths were literate, as compared to 53.3% of female youths, between 2008 and 2012 (UNICEF 2013a). A 2010 Multiple Indicator Cluster Survey found a similar result – namely, that only 51% of women aged 15–24 were literate. Although the richest quintile of women aged 15–24 had a literacy rate of 89%, this was significantly higher than the next highest wealth quintile, which had a literacy rate of 56%. For the poorest quintile of women aged 15–24, this figure dropped significantly, to 28% (UNICEF 2010, 8). The mean number of years of schooling for women is only 2.1, and only 10.7% of adult Congolese women have at least secondary school education (compared to 36.2% of men) (UNDP 2014). This figure of 10.7% is less than half of the overall percentage of women in sub-Saharan Africa who have reached secondary school (22.9%).

The status of women in DRC as reflected in the data presented above, is inconsistent with national and international obligations to promote gender equality and women and girl's advancement (Mbambi and Faray-Kele 2010, 2). Relevant obligations include the Convention on the Eradication of Discrimination Against Women, a treaty that focuses on the rights of women, and to which the DRC is a party. Additionally, the DRC has ratified the African Women's Protocol, a specific protocol to the African Charter that covers several important aspects of women's rights; these include a right to political participation (Article 8), and equal protection before the law (Article 9). Article 2(2) requires that social and cultural practices which are harmful to women are eliminated. The DRC has also committed to UN Security Council Resolution 1325, a resolution on women, peace, and security (UN Women 2012).

The Constitution of the DRC mandates states to ensure equality of gender representation at national, provincial, and local levels (Article 14). Article 13.3 of the Electoral Law 06/006 requires that candidate lists “take into account” gender equity; however, they are not rendered invalid if they fail to do so. As such, there is no legal force behind the measure; even if candidate lists flout the requirement and do not have a sufficient number of women, they are not faced with any repercussions. On December 15, 2013, Parliament adopted a law stating that at least 30% of posts in public institutions should be filled by women (GNWP 2014, 7); as of 2014, this law was in the process of being enacted (Sadie 2015, 6).

Women's poor participation in public life, including in political spaces, education, and employment, was a strong concern raised by many women and key informants in this research. Numerous women participants recognised the need for more women in DRC to be involved in political and decision-making spaces, and to fill higher-level and more powerful positions generally:

Traditional practices! ... [O]ur traditions which make that a woman is not given her rights even when she was the one who deserved to be given those rights. So what do we have to do?

We want to make it possible for women to work in offices as heads ... This is to say that women have to be part of decision-making institutions ... A woman may be an IT (Infirmier Titulaire, or “Senior Nurse”) because in Bunyakiri there are no women nurses. I have never seen any! I want to see woman working as

senior staff in offices. A woman can also work as a nurse and be an IT. That would be a good thing because in Bunyakiri, the number of educated people is increasing but women are still at the lowest education level. They should also be given the chance to manage office work.

We will not be displeased to see a woman standing as the PRESIDENT (of the Country).

Women should also be involved in meetings where people are planning to be able to advocate other women's situations in there.²⁷⁴

And to ... to ... having more women involved in justice ... Participating ... Women to become magistrates, barristers, judges, legal advisors ...

You must have heard men referring to us as: "That small girl! That small mother/woman! Do you understand?" That is not the way to refer to us. We should rather hear people referring to us in terms like "That mother/woman."²⁷⁵

[W]ith regard to our declaration that our rights are still being violated, men not accepting that we, women sit with them where they are making so and so plans ... We will request, and this is important, that we are involved where so and so plans, final decisions are being made ... Do put up as a candidate!

With regard to this, we are requesting that other women support us/join hands with us so that too ... We can access to higher positions ... As ministers, provincial deputies as well as national deputies and that they continue to advocate for us at higher levels.²⁷⁶

Women participants in this research clearly voiced concerns about more needing to be done in DRC to protect and advance women's rights, and ensure women's equal participation in all aspects of community, social, and political life. Women in DRC want to be treated as equal citizens to men – sharing equal rights and contribution to society.

3.6 Justice for children

A child has a right to feel free among other children.²⁷⁷

Every woman participant in DRC – indeed, in all three of the research countries – saw justice for women as being closely connected to justice for children. The women in this research identified as paramount the need for financial assistance and support in caring for children. Research shows that children's wellbeing is closely linked to the economic resources available in the family (Ntoimo and Odimegwu 2014). Women-headed households are now common in DRC, with women and girls bearing the primary burden for household activities necessary for the survival and wellbeing of families (UNICEF 2011, 2). However, single-mother headed families are among the most disadvantaged. The nexus between women's wellbeing and economic empowerment, and children's potential to thrive, is clear, and must be addressed in transitional justice responses (UNFPA and UNICEF 2011).

²⁷⁴ Interviewed during Validation Workshop, June 15, 2015.

²⁷⁵ Interviewed during Validation Workshop, June 16, 2015

²⁷⁶ Interviewed during Validation Workshop, June 15, 2015.

²⁷⁷ Interviewed in Rutshuru. September 23, 2014.

3.6.1 Poverty, abandonment and the costs of children's education

Crippling school fees were widely mentioned by women participants as a site of injustice for women and children. Families in DRC face “substantial challenge to educate their children ... especially at the post-primary level” (Feda et al. 2015, 63). According to research conducted by the World Bank Group, based on a Household Budget Survey (HBS) and at the primary level of education, families in the poorest quintile pay 42% of their per capita consumption per child educated, compared to only 6% for the richest quintile. The cost of higher education is even more prohibitive for the poorest families, who have to spend 390% of their per capita consumption to educate one child, compared to 55% for wealthier families (Feda et al. 2015, 63). Furthermore, on average, school fees for all levels of education (i.e. preschool through to tertiary) make up 65% of total household spending in DRC; however, this varies slightly by level of education and household wealth (Feda et al. 2015, 64). The average cost of sending a child to school in DRC is estimated at US\$44 per year, per student (Brown 2014), with school fees ranging from \$US25 to US\$35 for primary school students, and \$US30 to US\$50 for secondary school students (Seay 2010). To put these costs into perspective: in 2006, the poverty headcount ratio in DRC at US\$1.25 per day was 88%, and at US\$2 per day was 95% (UNESCO 2015). Recent data reveals that the DRC government spends less on education than other Sub-Saharan African countries. International comparison shows that the DRC's spending on education as a share of GDP (1.8%) is inadequate and lagging, especially compared to the sub-Saharan African average of 4.6% (Feda et al. 2015, 40). Investment in education for children is critical in a transitioning DRC, both in empowering women and for rebuilding healthy communities:

Among the many benefits of education, the two main channels through which education leads to better opportunities and livelihoods are: (i) it increases earnings – an additional year of education is associated with an average increase of 9.1 percent in monthly earnings and each level of education is associated with higher levels of earning (ii), it increases the chances of employment in sectors with high returns, and of gaining contract employment, which offers greater stability. For example, an additional year of education increases the probability of working in wage employment and in household enterprise by 38 percent and 12 percent, respectively, compared to farming activities. Similarly, with agriculture as the base category, an additional year of education increases the likelihood of working in the services and industrial sectors by 20 percent and 16 percent respectively, compared to the agricultural sector. (World Group Bank Education 2015, xiv)

For every year that a girl spends in school, she increases her family income by 20% (CARE 2015).

As mentioned earlier, for many women in DRC who are already living in extreme poverty, the impact of rape and sexual violence is utterly devastating. Almost every woman we spoke with in this research had been abandoned by her husband following rape:

*My husband hated me because I was raped from that day. He lost all the value he was giving me and started considering me as a worthless thing.*²⁷⁸

*My husband asked me to disappear and did not stand by me at all because I was raped ... he considered me as a prostitute because I agreed to have sex with them, I could have refused and accepted to be killed on behalf of the love.*²⁷⁹

²⁷⁸ Interviewed in Bweremana, September 20, 2014.

The abandonment of women by husbands and partners typically extended also to being ostracised and shunned by the broader community:

*In the community, our reputation has been lost. Everyone is referring to us as "those who were raped". We no longer have value in the eyes of the community.*²⁸⁰

*I am thought of being HIV positive by people. And, I can now see that some of them no longer care for me although they were friends of mine, they now tell that maybe I have AIDS.*²⁸¹

Consequently, most women raped during the conflict in DRC have been left with sole responsibility for the care of their children and sometimes the children of other deceased family – they have been left to feed, clothe, and educate these children with no support (FIDH 2013, 67). The rate of divorce and separation in DRC increased by “more than 50% in all age groups of women aged 15–49 years, between 1984 and 2007” (Ntoimo and Odimegwu 2014, 1146). Many women in DRC are today the head of their households – many children are born and reared in single mother families (CDF 2005, cited in Immigration and Refugee Board of Canada 2005). In many instances, women are caring alone for several school-aged children, including children born of rape:

*One of my brothers in law promised to bring me at his place but the day he heard that I was raped, he never come to my place up to now, he did not come to my place two years ago, he does not know in which conditions my children are living because I have 6 children, all of them are girls, so he does not know the way I am living.*²⁸²

The average household size in DRC is estimated to be 5.5 individuals (ICMC Europe 2014, 50); “[t]he average woman in the DRC will give birth to six children in her lifetime” (World Bank 2014).

It is clear in speaking with women participants in this project that women are strongly committed to caring for their children, but most women described resultant extreme hardship. Women were very distressed by not being able to adequately provide for their children: “*And going mad for this woman is due to the fact that she has become poor. If she had some income, she would not be so traumatized because she would then be able to meet her children’s needs and make them grow well without difficulties.*”²⁸³

Women are not offered much assistance by family members or the community, because of the hardships that generally prevail in communities; as mentioned previously, there is also the issue of the strong stigma attached to rape and fear of HIV/AIDS:

*According to them, I am no longer a woman since I have been raped. They think I wanted it by myself. Poverty as well.*²⁸⁴

²⁷⁹ Interviewed in Minova, April 19, 2014.

²⁸⁰ Interviewed in Bweremana, September 20, 2014.

²⁸¹ Interviewed in Bweremana, September 20, 2014.

²⁸² Interviewed in Minova, April 19, 2014.

²⁸³ Interviewed during Validation Workshop, June 15, 2015.

²⁸⁴ Interviewed in Bweremana, September 20, 2014.

*There is rejection from the neighbours: “This one will infect us with Aids” they will tell one another.*²⁸⁵

*This conflict changed my life because before I used to do my business and get my money and I was happy. But now life has changed, I’m not happy since they raped me. And when I’m passing on the road everyone is looking at me, pointing fingers on me, you are neglected so you feel like you are not in this world.*²⁸⁶

*That is to say that throughout her life, she has no value and this woman undergoes the situation such that if she passes where 5 people are sitting; a group of people, when she sees them, she thinks that she is the matter of the day; they are there talking about her; she has lost her human temper.*²⁸⁷

It is clear that, given the high costs of education and the poverty and social isolation faced by women in DRC, women are inevitably struggling to educate their children. It is not surprising that financial constraints are amongst the key reasons for children being out of school at all levels of education, and particularly in rural and remote areas (Feda et al. 2015). As discussed further below, this is a matter of concern, as deprivation in education of children is linked to lifelong adverse impacts (OHCHR 2010, 326).

3.6.2 Detraumatization of children

Women also identified an urgent need for children, like women, to be detraumatized as a priority in DRC. For most children, the only life they have known is one lived in conflict, surrounded by violence. Many children in DRC are deeply traumatized by having experienced and witnessed many forms of violence, for protracted periods of time (OHCHR 2010, 326–32). Thousands of children in DRC have experienced the trauma of directly fighting in the war, many as child soldiers and combatants (OHCHR 2010, 336–47). In 2000, the UN Secretary-General on children and armed conflict estimated that between 10,000–20,000 children, aged under 15 years old, were in various fighting forces (UNSC 2000, 12):

[Despite] the Government and its partners signed a joint Action Plan in 2012 to end the recruitment and abuse of children by armed forces and police, according to the 2013 report of the UN Secretary-General, in 2012, 272 children were recruited as soldiers, 158 suffered sexual abuse by parties to the conflict and 154 were killed or maimed. (UNICEF 2013c)

The impact of this trauma may be far-reaching; it may

hinder the children's ability to deal with and overcome emotions of hate and revenge. Likewise, the children with PTSD symptoms might regard acts of retaliation as an appropriate way to recover personal integrity and to overcome their traumatic experiences. Therefore, post traumatic stress might be an important factor influencing post conflict situations and may contribute to ... cycles of violence ...

... PTSD symptoms are [also] associated with less openness to reconciliation and more feelings of revenge. (Pierre Bayer et al. 2007, 558)

²⁸⁵ Interviewed in Bweremana, September 20, 2014.

²⁸⁶ Interviewed in Minova, September 21, 2014.

²⁸⁷ Interviewed during Validation Workshop, June 15, 2015.

Congolese children have experienced trauma not only borne of conflict-related violence, but also trauma which continues today because of ongoing violence in communities and families, discrimination, widespread poverty, and general poor living conditions. In DRC, 54% of children live under the poverty line (US\$2 per day), compared with 47% of adults (UNICEF 2008).

As one woman explained, *“They do not go to school because of poverty. We are getting nothing since the time we became internal displaced people.”*²⁸⁸ This does not only create immediate barriers to the development and wellbeing of children, but also affects the child’s capacity to realise their potential, and contribute to society in the future. This is particularly the case for displaced children. Many women participants spoke of how local children and families often discriminate against these children:

*They are differently treated at school in comparison to those who are not refugees. They call them street children. This is not good for children.*²⁸⁹

*They always tell they feel so sad when they see other children coming from school while they cannot do the same.*²⁹⁰

This engrains a vicious cycle of producing a *“hidden bombshell,”* as some women described it:

*We do not have financial resources to have income-generating activities to take care of the children, most of them are not going to school, they are a hidden bombshell, we have school-aged children including those who are born out of rape, they are not going to school and tomorrow they could be dangerous for the society, they will grow up and sometimes they can organize a malicious group, so we need to take care of those children ... If they are not supported, they could be a hidden bombshell in the future.*²⁹¹

*I really feel bad, no joy, because when they grow up, they will have nothing to help them; because only school can help somebody. When a child goes to school, he is able to find a job and to fend for himself and his old parents.*²⁹²

*People prefer children who go to school and view with suspicion those who don’t. They know that such children become easily bandits. These are the ones who rape around here, not children from far away. And those children who don’t go to school bring about a lot of trouble in their neighbourhoods. On the other hand, those who are educated are busy with their jobs and take care of their families and don’t have time for wrong doing. But others who did not go to school will do all sorts of bad actions.*²⁹³

Many women also spoke of harsh mistreatment of children who are unable to attend school:

²⁸⁸ Interviewed in Rutshuru, September 22, 2014.

²⁸⁹ Interviewed in Bweremana, April 23, 2014.

²⁹⁰ Interviewed in Rutshuru, September 22, 2014.

²⁹¹ Interviewed in Rutshuru, September 22, 2014.

²⁹² Interviewed in Rutshuru, September 23, 2014.

²⁹³ Interviewed in Rutshuru, September 23, 2014.

*When a kid is not at school they do not consider him, the society, there is a way they treat him – because he is not at school. It is different from others that are at school.*²⁹⁴

*When the kid finished in 6th Secondary he can go, maybe he, if he had some option he could go and teach primary school and get some money and go and live. But the other one who didn't go to school he maybe just on the road like that or he'll be digging ... you know? Not considered in the situation, in the society.*²⁹⁵

*OK, so kids that are in school are playing some game together, the one who is not in school tries to join the game. Are they rejected? Yeah they just insult him, discriminate him and there's a way that they talk to him – "that you are just nothing, you just there a fool – you end up in the road."*²⁹⁶

Even at school, children are faced with poor conditions which are not conducive to learning and well-being. Schooling in DRC is a hybrid system comprised of schools managed by both government and religious organisations. Religious schools comprise more than three quarters of Congolese schools, with 72% of primary school students attending a public school run by a religious organisation (Global Partnership for Education 2015, under "Education in the Democratic Republic of Congo"). Student-teacher ratios, by Western standards, are high; in 2013, the student-teacher ratio for primary schools was placed at 37.1:1 (UNESCO 2015, under "Education"). With fewer children able to access higher education, the student-teacher ratio in secondary school is markedly lower post-primary school, at 14.2:1 (UNESCO 2015, under "Education"). The average size of classes in 2013 in DRC primary schools was 73.8 pupils (UNESCO 2015, under "Education"). Furthermore, classes are poorly resourced; students often are required to share textbooks and materials with a number of other students. Only 8.4% of public schools in 2013 had access to electricity; 40.8% to potable water; and almost 30% of schools lacked access to toilets (UNESCO 2015). Teachers are also poorly paid and often work in difficult circumstances, which further adds to the troubled learning environment (Global Partnership for Education 2015).

3.6.3 Perpetuating cycles of disadvantage

Many women in this project said that seeing their children educated is one of the most important things they would like to achieve:

*I wish that my children have a good life. I would like to die seeing that they are already established so that they could say: "Even though our mother has died, she gave us the best."*²⁹⁷

Women in DRC are often forced to make choices about which child(ren) will be schooled; often there is only sufficient money to send one child at a time to school, and the mother suffers the pain and guilt of having to choose which of her children will learn to read and write:

Each child should have shoes, uniform, school bag while yourself have nothing to do. This makes it harder to the time that you decide that some of them give up while

²⁹⁴ Interviewed in Sake, September 20, 2014.

²⁹⁵ Interviewed in Sake, September 20, 2014

²⁹⁶ Interviewed in Sake, September 20, 2014

²⁹⁷ Interviewed in Rutshuru, September 23, 2014.

*others keep on. The one you ask to give up, feels bad and thinks you hate him/her while you are yourself feeling bad when seeing him/her not going to school.*²⁹⁸

Women participants commonly described “proportioning” school within household expenses, to ensure that each child has at least the opportunity to learn the basics of reading and writing; they then must finish school, in order to allow the next child to also, at least, reach this basic level of literacy:

*So for them it's the first born that goes to school. He has to learn how to write, at least they have to read. If he's going to stop going to study you bring the young one to school also at least to study and to know how to write and to read.*²⁹⁹

*They, the eldest one he went to school. He stopped at five primary. The other one at fourth primary. Then I worried that both of them, they know how to write and how to read so I had to stop them so that others also could go to school to know at least how to write and to read and the others they also help her in the house work.*³⁰⁰

Girls are disproportionately disadvantaged in such decisions. Boys are more often given opportunities to access education compared to girls (IMF 2008, 31), particularly girls who have been raped:

*They [girls] are very neglected in any level. It is not easy for parents to send her at school whereas they know that she will not help in future life.*³⁰¹

*Me as a parent with my disappointment, I will be wondering: “this daughter of mine who was taken to the forest, if I send her back to school, I will be wasting money. I would better leave her rather than losing money. She will stay at home.” ... On seeing that the child has already been taken to the forest (raped), she will not be motivated to spend money on the child any more. There is discouragement on the part of the family and as for the child; she will be rejected by the community. The family will reject her while her neighbouring community will not accept her as it did before. Even the parent will not accept her as she used to but just because the child is hers/his, she will have no choice and say: “she has been raped but after all, she is my child.”*³⁰²

The disadvantage and inequality faced by girls in education is exemplified in a swathe of statistics. Literacy at age 15 is documented as 78.1% for boys, compared to 50% for girls (CIA 2015). The school life expectancy for males is 11 years, compared to 8 years for females (CIA 2015). At primary school level, school life expectancy is 6.44 years for girls, compared to 7.16 years for boys; at secondary level, it is 1.99 years for girls, compared to 3.21 years for boys; and at tertiary level, the school life expectancy drops significantly to a meagre 0.22 years for females, and 0.47 for males (CIA 2015). In 2013, 73.5% of boys were enrolled into school, compared to 68.3% of girls (UNICEF 2013b, 32). The drop out rate for boys is 5.6%, compared to 8.2% for females. The gender gap is most prevalent in the drop-out rate of 14–17 year old students; the number of females who drop out in this age bracket (20.3%) is almost double the number of males who drop out (11.3%) (UNICEF 2013b, 32).

²⁹⁸ Interviewed in Bunyakiri, September 26, 2014.

²⁹⁹ Interviewed in Sake, September 20, 2014.

³⁰⁰ Interviewed in Rutshuru, September 23, 2014.

³⁰¹ KI FGD, interviewed in Rutshuru, April 22, 2014.

³⁰² KI FGD, interviewed in Rutshuru, April 21, 2014.

There are, however, regional differences in the school drop-out rates and gender gap; for example, the highest school drop out rate by far is documented in North Kivu (East), where 43.9% of all 5–17 year olds drop out of school (UNICEF 2013b, 34). The gender gap is most prominent in Kasai–Oriental (South West), with the rate of school drop out for males at 21%, compared to 38% for females 38% (UNICEF 2013b, 36).

Dropping out of school for girls increases the risk of lifelong poverty, and is associated with early age marriage and pregnancy (UNICEF 2013b, 10). Ntoimo and Odinegwu (2014, 1154) reported that less than 1% of single mothers in Sub-Saharan Africa had a tertiary education. Low-level education is associated with low wage and income capacity. Consistent with the findings of Ntoimo and Odinegwu, the majority of women in the present study were either not employed, worked in the agriculture sector, or as petty traders. This “stresses the precarious economic situation of women ... and highlights the need to empower women” (2014, 1154) and young girls.

The inextricable link that is revealed between the well-being of women and children points to the need for holistic well-integrated multi-system transitional justice policy that is responsive to the individual needs of women but which also recognises the broader context of women’s lived experiences and the separate yet at times overlapping needs of women and children and the intergenerational impacts of conflict, violence and disadvantage.

CHAPTER 4: JUSTICE RESPONSES

*What you do for me, but without me, is against me.
(Ce que vous faites pour moi mais sans moi, vous le faites contre moi).*³⁰³

Many of the women's justice needs and identified priorities for justice (discussed in Chapter 3 of this report) remain largely undelivered to women impacted by violence because of failed, depleted, gender-insensitive, and corrupt justice processes in DRC (Lincoln 2013, 167; ITUC 2013, 27–30; Tekilazaya et al. 2013).

Some attempts to rebuild and reform justice processes in DRC are visible; however, as this chapter reveals, few have actually been able to deliver women the justice for which they are calling, and to which they have a right.

This chapter provides an overview of the law and justice framework in DRC, and examines the barriers to accessing justice for women considering both formal and informal justice channels. More specifically, the chapter examines the efficacy of transitional justice strategies and mechanisms, implemented in DRC since 2006, in meeting women's justice needs.

4.1 Overview of law and justice framework in DRC

DRC's functioning as a civil law country draws many of its characteristics from the Belgian legal system, having received its law from Belgian colonialists. At the apex of DRC's sources of law is its Constitution (*Constitution de la République du Congo 2006*), which primarily draws upon French and Belgian laws. The current constitution was brought into force on February 18, 2006, with amendments to eight articles made in 2011 which expanded the State and the President's powers, and thus making it easier for President Joseph Kabila to stay in the presidential seat; arguably, however, it did so by compromising democracy in the process (Roberts 2011). Kabila remains DRC's president in 2016, with elections due in late 2016. Under Article 220 of the Constitution, a number of legal structures have been entrenched, including: the republican form of the state and the representative form of the government; the principle of universal suffrage; the number and duration of presidential terms; the independence of the judiciary; political pluralism; and freedom of association. Other sources of law in DRC include international treaties and agreements; legislation; case law; custom; doctrinal writings; legislation; and administrative regulations (Zongwe et al. 2015).

Legislation in DRC is divided into ordinary laws and organic laws (Zongwe et al. 2015). Organic laws are special, in that they concern key areas of national life, and require absolute majorities in their passage and amendment; examples of these *lois organiques* include Law No. 07/008 of 04 December 2007 Portant Statut de Opposition Politique (on the status of the political opposition), and Loi Organique Portant Organisation et Fonctionnement de la Commission Electorale Nationale Independante (which set up the Independent Electoral Commission [CENI]). DRC's legal system is divided into three branches: public law (regulating relationships between the state), private law (regulating relationships between

³⁰³ KI, interviewed in Rutshuru, April 21, 2014.

private persons), and economic law (regulating labour, trade, finance, mining, and investment). Specifically, the public law branch encompasses constitutional law, administrative law, tax law, criminal law, and the organisation of the judiciary; the private law branch encompasses the law of obligations, the law of persons, family law, property law, and succession law, as well as some areas of commercial law.

4.1.1 International obligations

DRC is a monist state, meaning that international law automatically applies domestically. Article 207 of the Constitution states that duly ratified international treaties and agreements prevail over Congolese legislation: “DRC is party to numerous international treaties that impose obligations under international human rights law and international humanitarian law, including, inter alia: the International Covenant on Civil and Political Rights (ICCPR), the Genocide Convention, the Geneva Conventions, and the Rome Statute” (Trapani 2011, 21). DRC is also party and member to a number of regional human rights instruments and other efforts, including several which specifically recognise and seek to protect the rights of women and survivors of sexual violence; these include the Pact on Security, Stability and Development in the Great Lakes Region, including a Protocol on the Prevention and Suppression of Sexual Violence Against Women and Children; Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa (Maputo Protocol); and the International Conference on the Great Lakes Region (ICGLR) (see Appendix D for a summary of key regional instruments and efforts relevant to women’s rights).

In 2004, the Congolese government referred the ICC to investigate and prosecute international crimes that had occurred in DRC since 2002 (ICC 2015a). To date, six individuals from the DRC have been prosecuted in the ICC; two accused have been convicted and sentenced.

4.1.2 Customary law

Customary law operates alongside the civil law system in DRC; however, the Constitution has ascribed it a subordinate role relative to statute (Article 207). These customary laws only apply to the traditional or local communities from which they originate, and do not encompass criminal offences (IBAHRI and ILAC 2009, 25).

In trying to access formal justice, victims face multiple barriers, including complex impenetrable processes; procedural barriers, such as payment of transport, processing fees and legal services; the likelihood of perpetrators not being able to afford to pay damages even on court order; and the risk of shame and re-victimisation (Aho et al. 2013, 7–8; Immigration and Refugee Board of Canada 2012). Women participants and key informants described a plethora of barriers to access to justice:

*Justice, people must have their justice but here the one who has money is the one who gets the justice. Things should not be done in that way.*³⁰⁴

*The justice system is really corrupted even if someone is arrested, he just says: “I will give my money and be released and once released I will kill you.”*³⁰⁵

³⁰⁴ Interviewed in Goma, September 26, 2013.

³⁰⁵ Interviewed in Goma, September 26, 2013.

So you have to pay money for transport and even the money for... lawyer. Money for lawyer and even we didn't have money for the lawyer... It was like we just got to Goma and they ask us for money, we didn't have. So we have to go to Goma with the taxi and coming back was footing."³⁰⁶

*The other issue is when the women come from remote areas and come to justice, for those who have no relatives in Goma, it is not easy for them to spend some days in Goma during the time of the investigation of the case is undertaken at the justice. On the justice site, there is also a problem when the bandit is provisionally released and run away. As a result, the investigations are not completed their run. ... And also the most difficult issue is that we have here is the reparation aspect, we can do our job and the bandit is taken to jail and the bandit does not manage to pay the damages to the girl so this one does not benefit from damages. When analysing this issue, we understood that the justice is for poor people because you will notice that apparently the majority of people who are jailed are poor, they just give what they have, he is not able to pay damages for being released. That is a big problem we have, the majority of the people is poor and they cannot pay damages. We have also cases in which the government was prosecuted but the government does not also pay damages. The reparation is really a challenge.*³⁰⁷

With so many barriers to formal justice, victims of sexual violence often elect (or are forced to use) customary law mechanisms rather than pursue formal legal actions (Aho et al. 2013, 20). For example, arbitration or mediation involving community leaders and/or family members may be used to settle a grievance or dispute between a victim and perpetrator. Following such processes, remedies may be offered, such as the giving of money, or other in-kind reparations to the victim or the victim's family; this can include forcing the victim to marry the perpetrator, in order to repair the family's honour (Aho et al. 2013, 20–21):

*Unnhuu! It all ends in disaster for her, she is taken for nothing. She is no longer a person to live in/with the society. She is rejected and when she has delivered, she will either be obliged to marry the perpetrator – her rapist – no matter whether she loves him or not, or she is asked to remain in her home but do farming work. Frankly, the young girl's development in our area is hindered. "Getting pregnant is for her the end of the world," one would say. She is rejected by the society.*³⁰⁸

Admittedly, there is a functioning problem at the justice level that I think we need to consider ... and that's probably what's discouraging some women because it may happen that the victim gets a judgment, the perpetrator is sentenced but the perpetrator is not able to repair the harm done to the victim, the victim does not obtain damages. With regard to this aspect (the non-reparation of victims), this still undermines mechanisms so that victims recover their rights, but the current trend has moved back to out-of-court settlements system but there, we are not going to the traditional chiefs but it is limited between the two families, some wise people may be invited to contribute with ideas on the issue, sometimes a lawyer may be invited to accompany that settlement, in this context the victims are encouraging themselves to be satisfied with the little damages she will obtain from the perpetrator than to

³⁰⁶ Interviewed in Sake, September 20, 2014.

³⁰⁷ KI, interviewed in Goma, April 18, 2014.

³⁰⁸ KI, interviewed in Rutshuru, April 21, 2014.

*imprison the perpetrator. There are now many cases of out-court settlements; it really is a functioning problem at the justice level.*³⁰⁹

Arguably, these types of solutions are problematic for the rule of law, as they ignore the fact that there has been a criminal offence. In addition, it is detrimental to the victim in that, while the family receives the reparation, the forced marriage operates as further punishment to the victim (and subjection to possible future abuse) (Aho et al. 2013, 21). This is exacerbated by the fact that police often encourage female victims to engage in such processes, and then receive payment for their role in such mediations (Aho et al. 2013, 21). What results for women is the perpetuation of a cycle of violence, poverty, and inequality:

*There are forced marriages which are made based on the traditional practices, in some areas when the man has not the dowry, he arranges to rape a girl knowing that the raped girl will be given to him and then dowry will come maybe later and what is amazing is that parents agree with that. First there was rape and then forced marriage.*³¹⁰

*The victim gets a judgment, the perpetrator is sentenced but the perpetrator is not able to repair the harm done to the victim, the victim does not obtain damages. With regard to this aspect (the non-reparation of victims), this still undermines mechanisms so that victims recover their rights, but the current trend has moved back to out-of-court settlements system but there, we are not going to the traditional chiefs but it is limited between the two families, some wise people may be invited to contribute with ideas on the issue, sometimes a lawyer may be invited to accompany that settlement, in this context the victims are encouraging themselves to be satisfied with the little damages she will obtain from the perpetrator than to imprison the perpetrator.*³¹¹

4.1.3 Penal law

Under Congolese criminal law, crimes are referred to as ‘infractions,’ and, unlike in a common law system, a victim is able to pursue both a criminal claim and a civil suit (Aho et al. 2013, 12). The Penal Codes consists of two books – one for general infractions, and the other for specific infractions; these two books can be further subdivided into two sections – the ordinary penal code covering civilians, and the military penal code. The first book of the Penal Codes contains a list of sentences that a judge may hand down (of which the death penalty is one). Some examples of infractions punishable by death include offences resulting in death; treason; espionage; armed robbery not resulting in death; war crimes; crimes against humanity; and genocide (Cornell Law School 2010). However, the death penalty is not mandatory; Article 18 allows a court to impose a term of imprisonment instead, where there are mitigating circumstances. Certain categories of people are also exempt from the death penalty, including children under the age of 18, and pregnant women (the latter exempted by the Decree of the Governor General Regarding Capital Executions, April 9, 1898). Women with young children are also possibly exempt, given the international obligations to which DRC is a party – namely, the African Union’s Protocol on Women. Despite the continued existence of the death penalty, the last known execution in DRC occurred in 2003 (Cornell

³⁰⁹ KI, interviewed in Goma, April 18, 2014.

³¹⁰ KI FGD, interviewed in Goma, April 18 2014.

³¹¹ KI, interviewed in Goma, April 18, 2014.

Law School 2010). The number of executions that have occurred in the past is unclear, as accurate records on sentences are not kept, and there are no national statistics on the number of people who have been sentenced to death. It is estimated that there have been approximately 330–500 executions (Cornell Law School 2010, under “Number of Individuals Currently under Sentence of Death”); however, how many of these relate to war crimes is unknown.

Criminal procedure rules are contained in the Penal Procedure Code. In 2006, amendments (Law No. 06/018 of 20 January 2006) to the Penal Code and the Code of Civil Procedure introduced more progressive definitions of sexual offences, in response to the sexual violence epidemic in the country (Zongwe et al. 2015, under “5.1 Overview”). The amendments were intended to “prevent and severely reprimand infractions relating to sexual violence and to ensure systematic support for the victims of these crimes” (IRIN 2011). Law No. 06/018 raised the age of minority in rape from 14 to 18 years of age, thereby providing a more comprehensive definition of rape. However, the amendments have not been effective, as they are at odds with other laws and cultural norms; most notably, the minimum age of marriage for girls under the Family Code is 15 years of age (Article 352). Moreover,

there is no mention of domestic violence in the DRC's Penal Code, amended in 2006, or its Family Code, amended in 2003. In its combined sixth and seventh periodic report to the UN Committee on the Elimination of Discrimination against Women in 2011, the DRC recognizes the existence of physical and emotional domestic abuse, but does not mention any legislation against such violence ... The representative of the RFDA explained that the law covers sexual violence that may occur in the domestic sphere, but because Congolese culture does not recognize spousal rape, women do not report it. (Immigration and Refugee Board of Canada 2012).

Furthermore, the Article 467 in Book III of the Family Code also applies the infraction of adultery unevenly to spouses; while a woman is punishable in all circumstances, a man is only punishable if he induced the adultery (UNECA 2012).

Several key informants we interviewed in this project highlighted multiple areas where the penal law is deficient, and fails in its application to deliver women the justice to which they are entitled:

Most of the time, when the woman is abandoned, the husband leave her children because he is going to get married to another woman and it is the woman that has to look after those children [but] the penal code speaks of family abandonment; that is an existing infraction in DR Congo.

The family is all about the woman and that husband. So, I do not understand that they said there is no fault when such a case I brought to justice ... There are so many justice cases that pass by me where the husbands have abandoned their wives without valuable reasons. And I make procedures, either I send the case to the Judiciary Police Officers who in their turn send them to prosecutors.

Logically, this would be civil law or justice where everything should go through a judge. The problem is that in our culture the mission of justice is not mastered. People can make friendly arrangements, they can make family arrangements where they pay a cow or a goat than following what is foreseen by the law. This is informal, but this is the problem.

The key issues affecting women, it is first the rape, there are a lot sexual violence but the rape is the most renowned at the eastern part. The phenomenon of rape is not the matter of only armed persons and even civilian people and the proportion of civilians start taking another dimensions and another issue is early or forced marriage because many girls under the age of eighteen in particular in territories.³¹²

There has been the adoption of a new law, of a new legislation, that should complete not only the penal procedures but also the penal law ... There are besides so many dispositions that favour much the victim than the defendant. It has been observed that there were false victims. That is why I am saying that they should give justice to true victims because there are so many victims who are not going to the court because they think he will say that it is not true ... That is, these people go there while all the community looks at them as false authors. First, there is that fact. The second fact, always regarding to massive violence, in the community, it is not easy to identify oneself as a victim of sexual violence for there are so many consequences. As far as social life is concerned, marriage will automatically be complicated; no one will marry you in case you were still single. This means that, if you are a married woman, you will run the risk of getting repudiated because you have been violated. Thus, people prefer to solve this case among them clandestinely rather to bring it to the courts and tribunals. This was the second fact pushing people not to go there. There is a third one referring to reparation, reparation is almost null if not null when you have a look on all the condemnations that have been made by both the civil and military courts. The rate is almost null, if not null. Thus, it has been observed that this justice, as it has been tackled in this law, favours penal sanction than making reference to the recovery of damage and advantage mechanisms that should be given to the victim. Then, people quickly were finding solutions in families rather than going to the court. So, there are a series of reasons for which people are not going to the court after being victimized.³¹³

4.1.4 Private law

Private law is primarily covered by the Congolese Civil Code, which consists of three parts: the law of the persons, property law, and the law of obligations. The law of persons is covered by the *Family Code*, which consists of five books covering nationality, persons, family, succession, and ancillary matters. The object of the *Family Code* is to bring the rules around families and persons in line with Congolese culture which conceptualises the individual through his or her social group; this is in contrast to the Western conception, which prioritises individual autonomy (Zongwe et al. 2015, under “6.1 Persons and families”). As such, family law and the law of persons are contained in the same code. The Code prohibits child marriages, but sets the minimum marriage age at 18 for boys and 15 for girls; this explicitly sits contrary to Article 11 of the Constitution, which provides for equal rights for all human beings.

³¹² Chantal Apendeki, National Police, Deputy High Commissioner and Gender Focal Point, interviewed in Kinshasa, October 2, 2014.

³¹³ Mushekuru Mugeni Joyeaux, interviewed in Bukavu, September 26, 2014.

4.1.5 Judicial system

DRC's judicial system is one "which is struggling to meet the needs of the population" (IBAHRI and ILAC 2009, 7). It is underfunded, corrupt, and severely lacks resources (IBAHRI and ILAC 2009, 7; Amnesty 2011, 8). Corruption is endemic; it "takes place at every level of the judicial system. While linked to the lack of adequate resources within the system, it is also the result of an embedded culture of corruption in society as a whole" (Amnesty 2011, 41, 44). Clearly, endemic corruption "undermines the Judiciary's independence, most particularly in the civilian judiciary" (Amnesty 2011, 36). Notably, there is no dedicated judicial training institution; in the DRC, "civilian and military magistrates generally just have a degree in law ... Judicial institutions are not equipped with basic legal texts and codes" (Amnesty 2011, 23). As one key informant we interviewed stated, "*There are mechanisms in place that women can use, the problem is they often don't have confidence in them, the justice system isn't strong enough to bring fair justice to the perpetrator and there is corruption.*"³¹⁴

Article 149 of the Constitution states that the judiciary is independent of the Executive and Legislative Powers; however, reports suggest that this is not the case in reality. Reports have revealed that the executive continues to instruct judges, and sometimes refuses to enforce court decisions; findings show that only about 30% of judgments are enforced (IBAHRI and ILAC 2009, 23). Additionally, there have also been reports that police and military personnel have not been permitted to be questioned or detained, even where serious offences have been alleged (UNHRC 2008a, [39]); Amnesty International 2011, 39–41). Article 151 reinforces the division of powers by preventing the executive from issuing injunctions, such as orders to limit or halt an investigation; "[i]n practice, however, these procedural guarantees are infringed, notably by the executive" (Amnesty International 2011, 36). In 2007, the Special Rapporteur on the Independence of Judges and Lawyers noted, following his visit to the DRC, that "[i]n several trials involving serious crimes ... judges who had taken actions or decisions unfavourable to a member of the military command had been transferred, following which their successors had taken decisions resulting in acquittal of the accused" (Amnesty International 2011, 37). Another widely respected civil society figure explained that "justice is controlled by the executive: the government makes appointments and transfers magistrates as they see fit" (Amnesty International 2011, 37).

The judiciary is also severely stifled by lack of adequate resourcing. The UN Special Rapporteur, reporting on the independence of the judiciary, identified both a lack of resources to cover logistical costs, as well as corruption, to be the two key factors in judicial failure to follow up on judgments (UNHRC 2008a, 11–14). These factors were repeatedly highlighted by key informants interviewed in this research project. As two female magistrates from Goma explained:

On our side, we would like doing that but we are facing one problem, the Congolese government does not have enough financial resources, we are much supported by international organizations that are working in the same sector to achieve targets.

I do not know if you understand the way we are working, we have a case, we receive a case, I do not know, it is maybe the OPJ who has started investigating the case and transfers the case to the court without the accused person, there has been a

³¹⁴ KI, interviewed in Goma, April 23, 2014.

semblance of a judicial-settlement, the bandit has been released, the case is sent to us to apprehend the bandit because the accused is not happy with the OPS judge's decision, that is a very big challenge. I will be obliged to give \$20 or \$50 from my pocket to issue an arrest warrant

There is nothing allocated for the petty cash, nothing even a dime, if you come to justice to report a case for swindle or breach of trust. You have to pay the transportation fees to apprehend the accused, then I give this money to the court bailiff, I therefore feel bound to ask to a raped woman money "oh just give money to apprehend the bandit." We cannot do so. It is a little inhumane.

How are we going to find solutions, there are no operating costs, no operating costs. ... I just take an example ... the little money of operating costs, the disbursement fees, it is with that money that we do everything, we purchase the pens, reams of papers ... everything (stationeries), we work with many difficulties.³¹⁵

The new Constitution in 2006, however, re-devised the judicial system. There are now three jurisdictions: Judicial (civil and criminal); Administrative; and the Military . At first instance, the civilian courts are divided according to the maximum sentence – the Courts for Peace for matters with a maximum sentence of five years, and the District Courts for those that exceed this limit (such as sexual assault) (Aho et al. 2013, 5). Appeals from these first instance courts go to their respective Courts of Appeals, before passing to the separate high courts. The previous Supreme High Court has now been reformed into three separate high courts: the Constitutional Court, the Supreme Court, and the Supreme Court for administrative matters (IBAHRI and ILAC 2009, 17). In 2009, new provisions required that juvenile tribunals be established in each town and territory.³¹⁶ However, although the reformed version of the judicial system looks promising on paper, DRC has struggled to implement the changes due to severe underfunding, and the structure largely remains unchanged; the Supreme Court remains as the final court of appeal (IBAHRI and ILAC 2009, 18). Despite the lag in instituting reforms, the mobile court program (further discussed below) has been of some success, providing remote communities, and particularly women, with improved access to justice:

Then there are also the mobile courts which are now organized in the villages; because where there were flagrant and massive violence, there are people who raised their voices to say: "No! Such cases have happened"; like what is currently happening with the proceedings of 42 militaries who raped women in Minova; I think that that is a good opportunity because those women all alone could not have referred that matter to justice, but because it was these are things which happened to everybody's knowledge, there were organizations in place which knew it and which denounced the cases. Today, these are proceedings going on in regular legal formalities. It is a real opportunity for women.³¹⁷

Mobile courts have aided in the public image of the justice system; they are less likely to be susceptible to bribery and corruption, given that they are organised and monitored by international organisations (IBAHRI and ILAC 2009, 26–27). Mobile courts are also quicker and more efficient (IBAHRI and ILAC 2009, 27).

³¹⁵ KI FGD, interviewed in Goma, April 18, 2014.

³¹⁶ Law No. 09/001 of January 10, 2009 on the protection of the child, Article 84.

³¹⁷ KI, interviewed in Goma, April 24, 2014.

The military justice system is a broad jurisdiction; rather than being ad hoc, it is expressly established by Article 149 of the Constitution. Although Article 156 limits the jurisdiction to determining infractions of Armed Force and Police Nationale Congolaise members, the jurisdiction also captures civilians who have committed international crimes (crimes against humanity, war crimes, and genocide), as defined under the Rome Statute of the International Criminal Court; this is due to the ill-alignment of the Military Judicial and Penal Codes with the Constitution (IBAHRI and ILAC 2009, 29; Aho et al. 2013, 13). The system, which follows its own military judicial code and military penal code, is comprised of three levels: Tribunal Militaire de Garnison; Cour Militaire; and Haute Cour Militaire (IBAHRI and ILAC 2009, 28). Under the judicial system reforms in the Constitution, the military jurisdiction remained unchanged, but was subsumed under the Supreme Court branch (IBAHRI and ILAC 2009, 28). The military justice system also suffers from similar problems to the civilian jurisdiction – it lacks funding, infrastructure, support from central government, and training (IBAHRI and ILAC 2009, 30; Amnesty 2011, 39). This is despite a high proportion of human rights infractions being committed by the national police and the armed forces (UNHRC 2008b, [13]):

In eastern DRC, one of the most pervasive forms of interference within the military justice system is from the military command and hierarchy... The current legal framework undermines the ability of military magistrates to act independently. Military magistrates are both army officers, who are subject to military command, and members of the Congolese judiciary. This dual loyalty is reflected in payment arrangements. Magistrates draw two pay cheques – one as a military officer and one a magistrate. Another issue is that the Military Justice Code explicitly requires that the highest ranking judge on a bench must be of equal or greater rank than the accused. Since the highest ranking judge in the country is a Brigadier General, officers with higher rank in the army are in practice immune from prosecution. (Amnesty 2011, 38–39)

It should also be noted that the military penal code stipulates that sexual violence is a crime against humanity, punishable by death; however, it is only applied where it has been committed on a systemic basis, or in a generalised attack. This means that instances of isolated attacks perpetrated by individuals are not covered (UNECA 2012).

The Police Nationale Congolaise have jurisdiction over the entire nation, and are responsible for public safety, property security, law and order, and the security of senior government officials (Constitution, Article 182). Reports suggest that in conducting criminal investigations, the national police lack the knowledge of how to handle an investigation, and there is a lack of cooperation between the police, prosecutors and trial judges (IBAHRI and ILAC 2009, 22; Amnesty International 2011, 29):

The lack of cooperation by commanders clearly hampers what efforts are underway in the military justice system to hold soldiers to account. The lack of funding in the system and the lack of logistical resources also heighten the military justice system's dependence on the army – notably when it comes to carrying out arrests. Amnesty International was informed that even when critical logistical constraints are overcome, the lack of cooperation by commanders undermines further investigations: *“we got transport from UNDP to arrest him on rape charges, but his commander refused to cooperate.”* (Amnesty 2011, 39)

Where a sexual violence case has occurred, problems often arise at the outset, in the investigative stage. Victims are often unable to recognise their attackers due to it being a

gang rape, or they are unable to identify whether the attackers were from DRC armed forces, rebel groups, or international personnel (Aho et al. 2013, 23):

*I couldn't [report] because this happened at night. I did not know who to accuse because I did not know – I had not identified them. It was a night looting. I could not accuse people I did not know.*³¹⁸

*As far as I can remember, the next day morning, people came to do investigations in our area but they could not find any proofs. Someone coming at night and leaving the same night; will you just target someone's face when you did not see him at all? You know that the first thing they do before bursting in the house, is hiding their faces. They flash you in the face with their torch so that you cannot identify them ... And they enter masked. Whose face will you identify in such conditions?*³¹⁹

*Uuh, will you go at the justice for someone that you do not know? Do I initiate a complaint proceedings against who? Let us suppose that they ask me the question to know who am accusing, what I will say because I do not those peoples. How could I identify people in that night?*³²⁰

Investigations are also often set back from the delay between the occurrence of the attack and the time when investigators are able to enter the site safely (Aho et al. 2013, 23); this delay can mean that vital evidence is lost or destroyed (Aho et al. 2013, 23). A further problem is presented where a case reaches trial, but the victim or accused is absent. It has been reported that victims are often unaware that their case has been tried and damages awarded; conversely, perpetrators may not know that they have been tried and convicted until sometime afterwards (Aho et al. 2013, 27).

The DRC prison system suffers from overcrowding, starvation, and lack of security. With the exception of one prison, the government does not provide funding for food for the prisoners; prisoners are expected to rely on relatives or family. The UN Special Rapporteur on the Independence of Judges and Lawyers found that it was not uncommon for prisoners to die whilst in custody, due to a lack of food and care (UNHRC 2008a, [56]).

The formal justice system in DRC has undergone a series of important reforms since 2006, with promise for greater access to justice for women impacted by violence; however, in practice, little has changed in the outcomes of justice for women, because implementation of the law continues to be ad hoc, capricious, and challenged by a myriad of deeply entrenched systemic barriers and failing processes.

4.2 Access to justice

Women participants in DRC identified numerous barriers to women's access to justice, particularly access to formal and legal justice. Justice generally was described by the women with whom we spoke with in this research as “very far”³²¹ and remote, both geographically and in design.

³¹⁸ Interviewed in Rutshuru, April 22, 2014.

³¹⁹ Interviewed in Rutshuru, April 22, 2014.

³²⁰ Interviewed in Rutshuru, April 22, 2014.

³²¹ Interviewed during Validation Workshop, June 15, 2015.

Women repeatedly described being shut out of justice processes due to financial barriers; corruption; a lack of accountability; lack of expertise and appropriate resources; and complex, intimidating, and gender insensitive processes that are impenetrable by women:

*But, apart from that, it is really difficult, or it is simply just isolated cases where women stand to say, I will go to justice until I am given my due. And this said, you should not forget the woman's position in our society. The woman is really put at the lowest level and this is what does not allow her, at all, claiming what... she suffered as offence because from her position she is already weakened.*³²²

4.2.1 Formal and legal justice

*Be it on the government level or on the level of NGOs, access to justice is limited.*³²³

Women participants who had accessed or tried to access formal legal justice in DRC repeatedly described a system unresponsive to women's needs that failed to engage with women:

*I do constantly ask myself: "I am fatherless; they have taken/received letters and letters (written complaints), but I have never seen any reaction."*³²⁴

*For me the government doesn't do anything for us. They are not helping us.*³²⁵

As mentioned previously, the weaknesses and deficiencies of the legal system, and of formal justice in DRC as a whole, are well documented (Aho et al. 2013; Amnesty International 2011; OHCHR 2010). A 2004 audit commissioned by the European Union³²⁶ found that only 20% of the population had access to the formal justice system in DRC (cited in Savage and Kambala 2008, 337).

It is well recognised that only a small proportion of perpetrators of rape and sexual violence in DRC are ever held to account for their wrongdoing. The Joint Initiative of Prevention of Sexual Violence and Response of Rights and Needs of Victims / Survivors (Joint Initiative) found that, of 2288 reported cases, only 152 cases (7%) were referred to a tribunal (cited in Mansfield 2009, 378). Similarly data from Heal Africa showed that of the 2672 victims identified, only 165 prosecutions (6 per cent) were initiated (cited in Mansfield 2009, 378). Although difficult to estimate, it is clear that the proportion of prosecuted cases of sexual violence that end in a conviction represent an even smaller number of cases. According to Aho et al. (2013),

[of] 6,554 cases filed involving charges of sexual violence between 2010-11 in North Kivu, South Kivu, and Ituri, 652 resulted in a decision; of which 392 (60%) received a conviction, and 206 (32%) led to an acquittal. An ASF study, which analyzes 209 decisions across the entire country, found that 73% of cases resulted in a conviction, 20% in an acquittal, and 7% in a dismissal. (18)

³²² Interviewed in Rutshuru, April 24, 2014.

³²³ KI FGD, interviewed in Rutshuru, April 22, 2014.

³²⁴ Interviewed during Validation Workshop, June 15, 2015.

³²⁵ Interviewed in Minova, September 21, 2014.

³²⁶ Altit, Emmanuel et al. 2004. *Audit organisationnel du secteur de la justice en République démocratique du Congo. Rapport d'État des lieux: synthèse*. Mission conjointe multibailleurs.

The number of cases prosecuted is only a small number of the actual cases of rape and sexual violence, as “many instances of sexual violence are not reported” (Mansfield 2009, 378). Moreover, data suggests that the vast majority of cases before the courts relate to consensual statutory rape cases, usually involving civilian perpetrators (Mansfield 2009, 379; Aho et al. 2013, 18).

This section of the report examines the barriers in accessing formal and legal justice for women in DRC. Women participants in this research identified a myriad of barriers and problems in accessing and attaining justice. Key informants interviewed also strongly affirmed that a multitude of challenges face the justice system in DRC, and which impede women’s access to justice.

4.2.2 Lack of knowledge and understanding of justice processes

As discussed in Chapter 3, many women participants said that they lacked knowledge and understanding of their rights, and of the processes of justice more broadly.

I am saying this: “Justice to be equal, be it for men or for women. They should not favour men only but they should also give it to the woman. Showing her, her rights because the fact that we do not know our rights makes that we do not know what we have to do. We should be taught our rights and obligations; what we have to do and what we are obliged to do.”³²⁷

Women participants often described formal justice and legal processes as complex and incomprehensible:

It is just a matter of ignorance, people are not aware of the justice and the influence of the other part at the court, people are discouraged to go to the justice and know in advance that the balance of justice should be struck in the favor of the other part, the non-self-confidence, sometimes women are complexed to go to the justice and also lack of money, people are discouraged to go to the justice because they know in advance that they cannot afford the justice fees and prefer to stay home and forget the case.³²⁸

The government cannot help. The person who can help is you ... The government can help me IF someone like YOU give me advice, and tell me how to go there and what to say there ... go with me. At that time, the government can help me.³²⁹

Consistent with what women participants in this research project stated, Mansfield (2009), conducting interviews with 27 people from communities in South and North Kivu, found that only seven people knew anything about the relevant laws. Moreover, “from further discussion it was apparent that even these seven, in reality, knew very little” (384). Many of the interviewees in Mansfield’s study did not know where their cases would be heard, and did not understand fundamental legal requirements such as the need for proof to succeed in a case (384–85). This ignorance of the law, if characteristic of communities more generally in

³²⁷ Interviewed during Validation Workshop, June 15, 2015.

³²⁸ Interviewed in Goma, September 26, 2013.

³²⁹ Interviewed in Bweremana, September 20, 2014.

eastern DRC, is a problem, as it suggests that many women might not know their legal rights, what the law regards as wrong, or how legal processes operate (Mansfield 2009, 385). Mansfield suggests that knowledge of the law in DRC is so low because people are blocked by both poor documentation and an absence of ready access (2009, 384). This may explain why some women fear the judicial process as intimidating – a fact aggravated by inherent power disparities which disadvantage women, and which are perpetuated from both within and without the legal system (Mansfield 2009, 396).

Some women in this research described feeling alienated by a justice system and justice officials that lacked sensitivity to women's needs (Swedish Foundation for Human Rights 2008, 5):

*How can she just access the nearest police station maybe you have to walk long distances to get a police station which maybe is not equipped or trained on how to deal with women's rights legally because the women's rights matters need to be handled very seriously. They are not much trained how to handle women's matters and imagine if a woman has to leave Walikale and go up to Goma in order to find courts and tribunals, I think that this is asking too much of women who are living so far away from Goma.*³³⁰

*Here the distance between where the woman lives and where she can go for justice ... let's take the case of a woman who was raped! Who has a problem! She is from Bunagana. For her to get to the OPJ Office ... Well ... the Rutshuru Office is 80 km far away.*³³¹

*Most of those women are vulnerable women, the poor of poorest so her organization is actually working with the women who are very very very poor and they really feel discouraged about the ICC process because they are raped, they know that FDLR soldiers raped them but the ICC is saying that they don't have evidence.*³³²

Women's alienation from the justice system in DRC is arguably exacerbated by weak participation by women as actors within justice processes. As previously mentioned, women only constitute 19.5% of employees in the justice sector (GNWP 2014, 10). The Supreme Courts of Justice and Department of the General Prosecutor of the Republic only had four women involved (as opposed to 60 men) in 2014, meaning women constitute just 6% of total staff (GNWP 2014, 10). Consequently, women survivors of sexual violence who do interact with the justice system will infrequently interact with female justice professionals. Furthermore, some judicial authorities simply do not have the requisite training for prosecuting SGBV crimes, although UNJHRO has been providing training to this effect (UNJHRO 2014, 19):

*Women need support with regard to legal assistance and to ... justice, accessing legal institutions and to ... having more women involved in justice. Participating. Women to become magistrates, barristers, judges, legal advisors ... Those solutions that we identified must help us with regard to our complaints as women.*³³³

³³⁰ KI, interviewed in Goma, April 18, 2014

³³¹ Interviewed during Validation Workshop, June 15, 2015.

³³² KI, interviewed in Goma, September 26, 2013.

³³³ Interviewed during Validation Workshop, June 15, 2015.

With regard to this, we are requesting that other women support us and join hands with us so that too ... We can access to higher positions. As ministers, provincial deputies as well as national deputies and that they continue to advocate for us at higher levels and help us increase our economic power (IGA).³³⁴

Many of the women we interviewed said that they felt unsupported in their attempts to access justice. This lack of support was identified as absent at multiple levels and sites:

It is not about being supported in one way only. It is rather through all ways meaning health support, mental support, and financial support. Through all of those ways, the woman must be supported. You know that in order for me to know how to read and write I have to pay! All that must be included in the pack required to support the woman in DRC.³³⁵

We are so much neglected and if we could have someone to help us in this situation, we would not so much be neglected.

I saw that no one could assist me and I just leave it like that.³³⁶

Many participants said that “[w]omen need support with regard to legal assistance.”³³⁷ This would help women meet the costs of justice, which would in turn help women better understand justice processes, and specifically how to navigate through them to obtain justice. Most victims cannot afford lawyers, and are dependent upon NGOs and legal clinics for help; however, these organisations cannot help all those in need of legal assistance (UNJHRO 2014, 21). The overwhelming view expressed by women is that more needs to be done to: “help victims reach justice, that is to say, have access to justice.”³³⁸

4.2.3 Stigmatisation and fear of reprisals

As previously mentioned, survivors of sexual violence often decide not to seek justice because of a fear of being stigmatised, as well as feelings of shame and humiliation (Babalola et al. 2015, 173):

They did not respect you in the community, and when you see the police, the rumours are starting and then your reputation fails.³³⁹

It is shameful if she denounces that she had been raped for the fear that all the people in the quarter or in the community where she is living can be aware of the issue and say “look she has been raped, this and that happened to her “she is afraid, shameful to go to justice.”³⁴⁰

In our village, a woman who was raped is a stigmatized woman ... really! Every one mocks her; every one! And sometimes, the perpetrator may be given more justice than

³³⁴ Interviewed during Validation Workshop, June 15, 2015.

³³⁵ Interviewed during Validation Workshop, June 16, 2015.

³³⁶ Interviewed in Minova, April 19, 2014.

³³⁷ Interviewed during Validation Workshop, June 16, 2015.

³³⁸ Interviewed during Validation Workshop, June 15, 2015.

³³⁹ Interviewed in Minova, September 21, 2014.

³⁴⁰ KI FGD, interviewed in Goma, April 18 2014.

her. Because everyone will be point his finger at her saying: “Do you know that one, she was raped!”³⁴¹

In Mansfield’s study (2009), shame was commonly identified by interviewees as an obstacle to prosecution (387); “negative community attitudes and practises further compound the problems faced by the survivors and make it difficult for them to openly speak about their ordeal, seek appropriate medical care, take perpetrators to court, and, ultimately, promote a culture of silence” (Babalola et al. 2015, 173). Shame is common amongst survivors, with 91.5% reporting fear and shame in a study by Ohambe et al. (2004, 39). Victims are commonly ostracised by their spouses, families, and the community at large (Kelly et al. 2012, 296–97). A failure to report is therefore often due to a fear of potential consequences (Amnesty International 2011, 29); victims often choose to stay silent to avoid further stigmatisation and marginalisation by those around them (UNJHRO 2014, 22). The lack of protection mechanisms in place for victims, such as judges’ failure to redact victim names from depositions, can only be detrimental to remedying this lack of reporting (UNJHRO 2014, 22). This feeds into a cycle in which a lack of outcomes are visible, and no reparations are being made; this leads victims to often feel that the public exposure and shame risked by going to trial is essentially “for naught” (Aho et al. 2013, 29).

Additionally, many women also do not report or pursue justice due to a fear of reprisals from either the alleged perpetrator(s), and/or from police and corrupt justice officials (UNHCR 2010, [922]; HHI 2009, 48; FIDH 2013, 54):

We didn’t go to the senior commander of the soldiers, because sometimes they called us, to ask us what happened. We are even afraid to tell them what happened, so that maybe they know you, they know where you stay, and they can do something bad to you, at night they come, you know. So just stay quiet and say nothing.³⁴²

If I go to the justice and the perpetrator in question hears that I went to justice, can’t he come back to the village and kill me? There are some of the victims who are afraid of reprisals because there are no women’s protection mechanisms at the territories level. There were even the assassinations of some victims. There are some of the victims that we are dealing with and the perpetrators are still in prisons and the other challenge is the provisional liberty, once released, the perpetrator is back to the village and the first thing he will do is to fetch the victim and I know one case in which the victim succumbed to battle injuries.³⁴³

Once the perpetrator is liberated, maybe because there were no evidence, or he gave something (bribed), he will always threaten when he has come back. I have seen women fleeing their home villages because the perpetrators who raped them and got the information that they attempted to denounce them have come back to the village. They have to leave their villages.³⁴⁴

The justice system is really corrupted even if someone is arrested, he just says “I will give my money and be released and once released I will kill you.”³⁴⁵

³⁴¹ KI, interviewed in Goma, April 24, 2014.

³⁴² Interviewed in Minova, September 21, 2014.

³⁴³ KI, interviewed in Goma, April 18, 2014.

³⁴⁴ KI, interviewed in Goma, April 24, 2014.

³⁴⁵ Interviewed in Goma, September 26, 2013.

*You bring him to justice and they arrest him. Remember that he has found you in the bush while you were farming. Make sure that when he gets released, you will never go to that farm. He will meet you there and cut you, because so many people have been cut in their farm. I think the bright idea, after one has been raped, is going to hospital and keep quiet.*³⁴⁶

Almost half of the victims interviewed by Mansfield identified fear of reprisals as an obstacle to prosecution (2009, 395). Clearly, women need to be protected when they attempt to access justice; if such protection is not assured for women, they will continue to choose not to disclose, or to pursue justice. The reality, however, is that there are limited protections in place for witnesses and victims in DRC (Amnesty International 2011, 3, 27; Kahombo 2015, 253).

4.2.4 Cost of justice and corruption

Women participants repeatedly identified financial disadvantage as a key barrier in access to justice.

Many women participants described the high monetary cost of justice (e.g. of initiating legal processes, of obtaining legal representation, of running a case, and its associated travel costs) as a barrier:

*I actually went, but the police told me that in order to take my case I had to pay.*³⁴⁷

*You can go to workplace with \$10 and come home empty handed because you have to give 1000 Fr, 2000 Fr, you cannot send the court bailiff to Himbi³⁴⁸ and give him 1000 Fr for transportation costs, you must give him 2000 or 3000 Fr.*³⁴⁹

*They ask you a certain amount for the justice costs and if you say that you cannot ... afford to pay that amount, you withdraw yourself and that is all.*³⁵⁰

*Victims are poor, they don't have money to pay for the lawyers.*³⁵¹

*People are discouraged to go to justice because they know in advance that they cannot afford the justice fees and prefer to stay home and forget the case.*³⁵²

Survivors in Mansfield's study identified high costs as the most prevalent barrier to prosecution, with approximately 70% identifying it as an issue (2009, 392). As documented by women participants in our study, the costs of justice arise from multiple sources. Firstly, there are "legitimate" costs imposed by the DRC justice process; for example, applicants are required to pay court clerks to have judgments enforced (Criminal Code of Procedure, Article 117); costs attached to summonses; and costs attached to securing evidence, such as medical

³⁴⁶ Interviewed in Rutshuru, September 22, 2014.

³⁴⁷ Interviewed in Bunyakiri, September 25, 2014.

³⁴⁸ Himbi: the name of a remote quarter in Goma city.

³⁴⁹ KI FGD, interviewed in Goma, April 18 2014.

³⁵⁰ KI, interviewed in Rutshuru, April 22, 2014.

³⁵¹ KI FGD, *Advocats Sans Frontières*, interviewed in Bukavu, September 26, 2014.

³⁵² Interviewed in Goma, September 26, 2013.

reports and certificates (Mansfield 2009, 393). Post-trial processes are also complex and expensive; victims are required to first pay US\$15 for a copy of the judgment, and, if it is a military case in Ituri or South Kivu, for a potentially expensive trip to Bukavu or Uvira. The judgment then needs to be signed by the provincial governor and taken to the Ministry of Justice in Kinshasa, and verified by the Minister of the Budget (Aho et al. 2013, 28). Furthermore, the victim needs to pay 6% of the reparation in order to enforce the judgment (FIDH 2013, 60). Often, victims cannot afford the travel costs associated with attending various offices and courts (Mansfield 2009, 394); these ancillary costs are often beyond the means of victims, particularly given they are often faced with other, more urgent expenses, such as health care (Mansfield 2009, 393). Women often are not aware that some of these costs can be waived, and judicial staff may not encourage such practices because they themselves are operating on shoe-string budgets (Amnesty International 2011, 31). A certificate of indigence can be issued to waive some expenses (such as the US\$15 fee or the 6% “proportional fee” for reparations), but the \$USD25–50 necessary can be unaffordable to many women (FIDH 2013, 52).

Additionally, women trying to access justice may be faced with substantial additional costs borne of corrupt processes. Many women participants identified the resultant disadvantage, fuelled by corrupt systems, which favoured financially better off perpetrators. Accounts of accused persons buying their freedom were told over and over again by women participants:

*It is because justice belongs to those having money. If you do not have money, there is no justice for you. If I come with a problem without money, they will not listen to me.*³⁵³

Your voice will never be heard ... they will not do anything to him because he has his money. He will give part of it and go back his way ...

You, the victim of that act, you suffer shame in the community/quarter ... And you will start wondering what to do ... nothing!

*You have no capacity to follow up the case and hope you can take it at some higher level ... The day after you started the proceedings, they will come and inform you they have put him in the “Central Prison” but a few days later, you will find him at his home ... Then you who had attempted to have him arrested ... you hear that he has started looking for you ... Yet, you are the one who had to be given your right. You had witnessed how they destroyed your child but simply because you are poor, you cannot follow up the case; you lose justice where you had to win the cause.*³⁵⁴

If you happen to know the person who raped you, then you can initiate proceedings against him but even there, things do not work as you may wish. The longer it takes, the more complicated it becomes. By reporting to the justice institution every day, you will end up saying “I am wasting my time; I have already been raped and damaged; what then am I killing myself for?” At once, you feel discouraged and you keep quiet and drop everything. And the story ends there and no one will ever pay, there is nothing at all. And after a few days, you will see the same bandit back in the village.

³⁵³ Interviewed in Minova, September 21, 2013.

³⁵⁴ Interviewed during Validation Workshop, June 15, 2015.

His family managed to get him out of prison. The complainant got tired to go to appear to the court in vain.³⁵⁵

A number of women participants explained that, within a corrupt system of justice, the highest bidder was able to buy justice (Lake 2014, 21):

The perpetrator is known but at the higher level, you are asked to corrupt. Where will a person who is already a victim get the money from? And also she is not paid back anything when proceedings at the court are over. Why should I be going to the court and losing money for nothing in return? Fines are rather paid to the government.³⁵⁶

Even if you are a victim, if you have no money to corrupt with so that they can open a file for the case, you because you are a victim, they will not open it.³⁵⁷

Thirty-five per cent of survivors in the Mansfield study (2009, 399) identified corruption as an obstacle to prosecution, taking usually either the form of requests for payment for a case to be heard (400), or for influencing the court's decision (401). Deep-rooted corruption in the judicial process in DRC is well documented, ranging from judicial staff taking bribes for the implementation of warrants, overruling sentences, changing decisions, and allowing escape from prison (Amnesty International 2011, 39–41; US Department of State 2009; Harvard Humanitarian Initiative 2009, 19). A key contributor to corruption in judicial processes in DRC is the poor working conditions of justice officials. Salaries for judges and magistrates are often low, considered by many magistrates to be insufficient for a decent standard of living (UNHCR 2010, [940]) and often paid late. By way of a benchmark, government members of parliament are paid five to six times the amount received by a new judge (UNHCR 2010, [939]). Public perception is that judges therefore supplement their income with “costs” (Mansfield 2009, 400; Lake 2014, 21).

4.2.5 Distance of justice

For many of the women participants in this research, formal justice was not accessible due to the physical distance between her and legal actors and organs, such as prosecutors and courts:

Here the distance between where the woman lives and where she can go for justice, the distance ... it is far away!³⁵⁸

The journey; let's take the case of a woman who was raped who has a problem. She is from Bunagana. For her to get to the OPJ Office well ... the Rutshuru Office is 80 km far away. Away from where the justice office is ... in this case her problems ... lie in transport and communication.

The motorcycle transport ticket/rate is now \$30 if you are travelling from Nyakakoma until...

Locally here, I mean local organizations do not have lawyers to care about victims. The victim in question lives at 60 km away from here.³⁵⁹

³⁵⁵ KI FGD, interviewed in Rutshuru, April 22, 2014.

³⁵⁶ KI FGD, interviewed in Rutshuru, April 22, 2014.

³⁵⁷ KI FGD, interviewed in Rutshuru, April 22, 2014.

³⁵⁸ Interviewed during Validation Workshop, June 15, 2015.

*There are other obstacles – the distance between where the crime or the abuse happens and the courts or the parquet, or the tribunal, or the state justice mechanism it is often very far. So just money to have a motorcycle to go to the justice system is a problem. They don't have the means to get there. It is often times so far away but it's just not this, you can't leave your family and go all the way to Goma and try to pursue a case because if you get here, where will you stay, who is gonna feed you where will you sleep?*³⁶⁰

Many women in DRC live in remote and isolated areas; thus, distance can hamper the initiation of proceedings, given the insufficient number of tribunals and the distance between these tribunals and women (Mansfield 2009, 394). The distance that must be travelled by women to access justice is not only expensive because of the cost of a vehicle, petrol, and other travel-related costs, but because being away from home for proceedings also poses challenges for women in terms of caring for children; leaving children uncared for, for any period of time whilst travelling, is simply not an option for many women (Amnesty International 2011, 30).

This issue of distance is exacerbated by the fact that judicial proceedings are often fraught with delays. The UNDP found that, over 2010–2011 in South Kivu, North Kivu and Ituri District, the average pre-trial phase lasted 41.3 days, even though, legally, the pre-trial phase should only last 30 days (UNDP 2011, 41); the judicial phase lasted, on average, 82.1 days (UNDP 2011, 48). The entire duration of legal proceedings, from entry of the case into court until the delivery of the final judgment, lasted on average 142.9 days, despite it legally stipulating that trials should only last three months (UNDP 2011, 50). The duration of these processes compounds the issue of distance for women who are already facing prohibitive travel costs, particularly if they have children (Amnesty International 2011, 30).

Travel for women may be rendered more challenging by ongoing security issues (Mansfield 2009, 394; Oxfam 2015, 1). The distance to obtaining justice may also give rise to other challenges that may diminish the quality of justice processes, and ultimately impact on the outcome of justice for some. Consistency in the participation of lawyers and other justice actors may be hampered because of distance (US Department of State 2011); judicial actors may also be limited in their capacity to travel around the country to perform their duties, due to a lack of adequate resources (UNHCR 2010, [912]). Moreover, legal clinics and NGOs that provide legal assistance are generally located in towns, and may be inaccessible to those from remote areas (UNJHRO 2014, 21). For example, Walikale, which is approximately a 6-hour drive from Goma town, does not have a well-established legal clinic (UNDP 2010, 6). Finally, distance may pose challenges for investigation, gathering, and preserving evidence (Redress International 2012, 9); despite the existence of awareness campaigns around the fact that presenting for treatment within 72 hours of rape will give the “best chance of preserving medical evidence” (along with substantial health and prognostic benefits), distance is one of the factors that can prevent victims from obtaining treatment within that time frame (Redress International 2012, 9). The majority of women in eastern DRC do not live within four hours walking distance of a hospital, or other medical facility (Johnson et al. 2010, 559). Travelling long distances by foot is also made further difficult when you are nursing serious debilitating injuries and suffering trauma.

³⁵⁹ KI FGD, interviewed in Rutshuru, April 22, 2014.

³⁶⁰ KI, interviewed in Goma, April 23, 2014.

4.2.6 No outcomes from justice

As discussed in detail elsewhere in this report, many of the women participants stated that, ultimately, justice failed them because it did not deliver anything to them. Even if a woman is able to access justice and have her case heard, what does justice deliver to her at the end of the process?

People are discouraged and sometimes one can say, “We went to the court but what benefit do we derive from it?”³⁶¹

Now when it comes to reparation at that level, the judgment, the verdict is given—everything stops and then you have the poor victim who would just travel back to Nyturu, Nigiri I don’t know where. She said that “finally I went there for nothing.”³⁶²

Most of the victims are women and when we take care of victims, we have difficulty getting victims to participate in the case, in the process because they know that if they participate in the case and the process, they will not receive anything.³⁶³

What is the point of spending a whole day waiting, we were out of energy; starving and finally you benefit nothing from the trial.³⁶⁴

There is a poor record in DRC of issuing and enforcing judgments when they are made (OHCHR 2014, [33]; UNHRC 2008a [52]). MONUSCO reported that in 2010–2011, there were 3000 prosecutions of sexual violence, but only 270 judgments – in other words, fewer than one in ten prosecutions resulted in a judgment (UN Women 2012, 20). Moreover, the reasons for a judgment are frequently not provided by judges, and therefore decisions may appear arbitrary (FIDH, 57–58). Poor outcomes in a case pose difficulties for individual complainants in terms of disappointment, upset, and lost time and costs: “[I]n the end, after victims have undergone a complex process and risked shame, humiliation and fear of reprisals, they ultimately receive nothing. This causes re-victimization and discourages other victims from filing similar cases” (Aho et al. 2013, 17).

4.2.7 Towards better access to justice for women – mobile courts

A number of initiatives have been implemented in DRC that have sought to close the distance between women and justice, and facilitate women’s access to justice (OHCHR 2013; Harris 2013). We now turn to what is arguably one of the more productive developments for gender justice in DRC – specialised mobile gender courts. These court initiatives offer particular hope for improving access to justice for women survivors of sexual violence.

A number of women participants in this research spoke about how mobile courts might assist women to access justice; while few of the women with whom we spoke had direct experience of the mobile court system, several key informants identified mobile courts as an opportunity for greater justice for women:

³⁶¹ KI FGD, interviewed in Goma, April 18 2014.

³⁶² KI, interviewed in Goma, April 23, 2014.

³⁶³ KI FGD, *Advocats Sans Frontières*, interviewed in Bukavu, September 26, 2014.

³⁶⁴ Interviewed in Minova, April 19, 2014

*Then there are also the mobile courts which are now organized in the villages; because where there were flagrant and massive violence, there are people who raised their voices to say: “No! Such cases have happened”; like what is currently happening with the proceedings of 42 militaries who raped women in Minova; I think that that is a good opportunity because those women all alone could not have referred that matter to justice, but because it was these are things which happened to everybody’s knowledge, there were organizations in place which knew it and which denounced the cases. Today, these are proceedings going on in regular legal formalities. It is a real opportunity for women.*³⁶⁵

As previously noted, DRC is a vast country with rugged terrain, and many isolated areas unconnected by roads and infrastructure (OSISA 2012, 12; Khan and Wormington 2011, 17–18). A mobile court scheme which would enable formal judicial institutions to come to those most isolated from their workings, was identified as a priority for justice in the Congolese Ministry for Justice’s 2008–09 *Feuille de route du Ministère de la justice pour l’exercice*, or “Roadmap” (IBAHRI and ILAC 2009, 26), and is expressly authorised under the Congolese Constitution (Rispo 2014, 18; Khan and Wormington 2011, 19). In particular, the Roadmap identifies two key objectives: (i) to fight against impunity; and (ii) to improve the credibility of the justice system by implementing the 2006 Constitution, and improving the working conditions of the judiciary.

The specific goal of mobile courts is to improve access to justice for women and communities in remote and regional areas. While mobile courts are wholly Congolese innovations, introduced into the legal system as early as 1979 (Rispo 2014, 9), international donor funding has been necessary to expand the scope of these courts to prosecute international war crimes, and crimes against humanity. One of the first such major donors, *Avocats Sans Frontières* (ASF), has helped set up mobile courts in DRC since 2004 (Deramaix 2014). Subsequently, the first mobile courts specifically implemented to prosecute sexual violence and rape in war began being developed in 2008 by the American Bar Association Rule of Law Initiative (ABA ROLI), in collaboration with MONUSCO, HEAL Africa and Panzi hospitals, Congolese NGOs, and international NGOs. These courts were set up in South Kivu, North Kivu, and Maniema provinces (Maya 2012, 34), with the Maniema court commencing operation in November 2008 (Khan and Wormington 2011, 18), and the South Kivu court in October 2009 (OSISA 2012). The UNDP has since followed suit, commencing support for mobile gender courts in North Kivu, South Kivu, and Ituri District in 2010 (Rispo 2014, 9).

Mobile courts may be variously constituted. They may be held in various locations, such as a tent, a community centre, or a town hall, and may hear civil or military cases (Mubalama and Jennings 2013). While trial procedures are the same between mobile and fixed courts (OSISA 2012, 19; Aho et al. 2013, 14), mobile courts are formed on an ad hoc basis; unlike the set schedule of circuit courts in Sierra Leone, courts in the DRC are implemented when a need arises, such as to clear backlogs or hear serious criminal cases (e.g. mass rapes) in remote areas (Rispo 2014, 10). The trial proceedings themselves are conducted and presided over by a full team of justice sector professions, including judges, prosecutors, defence lawyers, bailiffs and other security officials. Most notably, such as in the case of the ABA ROLI courts, a foreign organisation might provide training on relevant local and international laws

³⁶⁵ Interviewed in Goma, April 24, 2014.

(Maya 2012, 34), but these courts, along with associated institutions such as prisons and police, are staffed entirely by Congolese professionals; this is to ensure local ownership of the whole justice process (OSISA 2012, 28; Mubalama and Jennings 2013).

The procedures in mobile courts are the same as mixed courts (OSISA 2012, 19). In terms of their composition,

[m]ilitary courts include one judge, four assessors (members of the military who are selected for their probity and good character but who do not have any legal training), one military prosecutor and a bailiff; civil courts have a bench of three members (one judge and two assessors), as well as a prosecutor and a bailiff. All victims and accused are represented by members of the South Kivu Bar Association or by lawyers from other organisations that partner with the ABA. (OSISA 2012, 19)

The primary difference, however, is that mobile courts often only have 1–2 days to hear evidence, and deliver a judgment on a particular matter.

In its first 36 months of operation, from October 2009 to October 2012, a mobile gender court funded by the Open Society Initiative for Southern Africa (OSISA) and operating in South Kivu held 20 court sessions in remote areas of the province, and hearing 382 cases. It rendered 204 convictions for rape, 82 convictions for other offences, and 67 acquittals; 29 cases were also pending at the end of those 36 months. Sentences handed down for rape ranged from one to twenty years, “with significant financial penalties added in some cases” (Open Society Justice Initiative 2013, 7).

Another major international donor, ABA ROLI, conducted more than 80 mobile courts in rural areas of North Kivu, South Kivu, and Maniema provinces, between 2009 and 2014; this allowed more than 1100 cases to be heard (ABA 2015, 26). In 2008–2012, it facilitated nearly 900 rape trials in both mobile and “brick and mortar” courts. Between sixty and seventy-five per cent of the cases heard by these mobile courts are rape cases; other crimes include instances of robbery and pillaging (Rispo 2014, 10; Maya 2012, 34). The conviction rate has remained steady at roughly 60% in both military and civilian courts (Maya 2012, 34).

From 2011–2012, UNDP mobile courts in the DRC held 16 mobile court sessions (12 by military courts and 4 by civilian courts, with a collective 198 days on the circuit). They adjudicated over 10 international criminal cases, and disposed of 206 cases with a 78% conviction rate. Of these, 60% were related to SGBV (Rispo 2014, 10).

Perhaps the landmark mobile court case, organised by the Tribunal Militaire de Garnison de Bukavu in Walungu, South Kivu, remains the 2012 trial for the Fizi rapes, conducted by Lieutenant Colonel Kibibi Mutuara and his subordinates on New Year’s Day 2011. Following the trial, Kibibi and three of his officers were sentenced to 20 years imprisonment; five other enlisted men were sentenced to 10–15 years; one was found to be a minor and transferred to a local court; and one was acquitted (Maya 2012; Open Society Foundations 2013, 5). Kibibi remains arguably the only defendant prosecuted by a mobile court who might otherwise have attracted the attention of the ICC (Maya 2012, 35).

However, the tale was not so optimistic in another major case, the Minova rape trial. In 2013, 14 lower-ranking officers and 25 rank-and-file soldiers of the FARDC were put on trial in Goma, on charges including war crimes, rape, and various other military offences. This court attracted the opposite sort of attention that the Fizi trial had gained for the initiative; it was

plagued by procedural, evidentiary, and prosecutorial deficiencies. Despite over 50 days of hearings in Goma and Minova, only two of the rank-and-file soldiers were charged with a single rape each; the high-level commanders with overall responsibility were never charged, and the lower-ranking officers were all acquitted (HRW 2015c, 1–2). This case is discussed further below.

For the purposes of considering gender-sensitive transitional justice initiatives, it is important to note mobile courts' active integration with other services. In addition to funding mobile courts, ABA ROLI operates a network of clinics that provide legal advice and representation to victims. Prior to the mobile courts being deployed, these clinics ensure each case file is ready for trial, usually through evidence collection and gathering witness statements (Maya 2012, 34; ABA 2015, 26; Aho et al. 2013, 22); as of 2015, ABA ROLI supports 15 legal aid clinics in eastern and central DRC, which provide services primarily to survivors of SGBV. Between 2008 and September 2014, these clinics provided legal counselling to 18,081 survivors, and helped file 10,110 cases with local civilian and military authorities; this has resulted in 1748 trials and 1225 convictions (ABA 2015, 23–24). The UNDP also provides support in the pre-trial phase through such activities as “investigation missions, the transfer of detainees and the notification of parties as well as additional activities such as the transfer of witnesses and radio announcements” (Rispo 2014, 10). Mobile courts may also be linked with non-legal organisations, to provide medical, social, and economic assistance to victims and conduct community education activities. Public advocacy campaigns to increase public awareness of persistent SGBV, and the need to report instances of such violence, have seen 3583 public and media outreach activities conducted by ABA ROLI legal aid clinic personnel (ABA 2015, 24). Medical assistance is also usually provided to survivors through a series of partnerships with non-legal organisations, including HEAL Africa and Panzi Hospital (Khan and Wormington 2011, 19).

However, the coordination and operation of mobile courts is only possible in DRC because of international donor support. It costs between US\$45,000–US\$60,000 for a standard two-week mobile court. In this time, the court can hear around 15 cases, translating into approximately US\$3,000–US\$4,000 per case. The costs of these trials, by Congolese standards, is prohibitively expensive (Maya 2012, 34–35). In the case of mobile courts supported by the UNDP, a budget of \$25,000 was estimated for a 15-day session to hear eight criminal cases involving 16 accused persons, as well as 60 victims constituted as “civil parties”; 70% of the budget was for the per diems of mobile court staff (Rispo 2014, 9).

Nonetheless, mobile courts have been broadly praised as a whole for being professional and efficient (OSISA 2012), and “unquestionably deliver[ing] on their undertaking to bring justice to the remote reaches of eastern Congo” (Klosterboer and Hartmann-Mahmud 2013, 69). They have increased the capacity of the justice system to deliver women more efficient and timely justice, as well as building judicial capacity in DRC more broadly. Importantly, it has also helped to sensitise communities to the issues and life challenges surrounding sexual and gender based violence, thereby helping to reduce stigma for women survivors of such violence (OSISA 2012, 28–30).

4.3 Informal and traditional justice

As mentioned previously, the women with whom we spoke in the DRC primarily talked about the barriers they faced to accessing formal and legal justice. However, many women

advocated that effective justice for women necessitated a more holistic and integrated approach which includes both formal and informal justice measures and responses, appropriate to women's needs. Indeed, many of the women participants frequently spoke about their interaction with informal sites of justice, including through health care and community-based systems such as the church.

4.3.1 The role of the church in delivering justice to women in DRC

Christianity is the predominant religion in DRC, with the CIA World Factbook estimating that 50% of the population identify as Roman Catholic, 20% as Protestant, and 10% as Kimbanguist (a branch of Christianity that was founded in what was then Belgian Congo) (CIA 2015). The Pew Research Centre, in a 2010 poll, found that 80% of the country identified as Christian, with 12% identifying as Muslim, 3% with traditional African religions, and 4% as “unaffiliated” (Pew Forum on Religion and Public Life, 2010); however, unlike the CIA World Factbook, the findings of the Pew polls suggested that the denominational split amongst Christians was much more even, with 40% of all Christians identifying as Protestant, versus 46% as Catholic (Pew Forum on Religion and Public Life 2010, 22). A quarter of the population retained beliefs or rituals that were characteristic of traditional African religions (Pew Forum on Religion and Public Life 2010, 34). Amongst Christians, 72% attended religious services weekly, or more frequently; amongst Muslims, 85% attended at least once weekly. Sixty-five per cent of the general population prayed at least once a day (Pew Forum on Religion and Public Life 2010, 28–29).

Many women participants viewed the church as an agent of justice:

[A]s we Catholic have got sub-churches in villages, when there is a problem in the community, we sit there and talk. If there is there the parent of the child who is committing harsh acts, they tell her and ask her to kindly talk to her son. Then, after she has talked to him and convince him, then he will render the gun.³⁶⁶

The church was also frequently depicted by women participants as a core pillar of community and a source of social support within the community for women.

I'm in a church, it's a group in the church. In that group we just pray, we pray for each other ... and as I have that problem with my kids – they came to my house and they pray for my son and we pray for other people every Saturday.³⁶⁷

You normally feel like as if God has left you, even the world, the whole world has left you. And when you go to the Church, you feel like you have some comfort coming from God. It gives you some hope of tomorrow.³⁶⁸

Informal mechanisms established within churches have been seen to play a role in delivering justice within communities in DRC. For example, the *Comités des Sages* (Committees of Wise People) and *Communautes Ecclesiales Vivantes* in the Roman Catholic Church support communities towards reconciliation (Kamwimbi 2008, 371). Structures such as these “have the power to collect complaints from the victims and to help promote reconciliation,”

³⁶⁶ Interviewed in Rutshuru, September 22, 2014.

³⁶⁷ Interviewed in Rutshuru, September 23, 2014.

³⁶⁸ Interviewed in Minova, September 21, 2014.

borrowing from traditional mechanisms of mediations, negotiations, conciliation, arbitration, reparation, and reconciliation (Kamwimbi 2008, 371).

Kelly et al. (2012, 294) conducted a series of focus group discussions with 86 women and men in South Kivu, and found that assistance from the church (in such forms as micro-credit and counselling) was seen as helping couples stay together after sexual violence. That said, churches were also at times a site of ostracism for survivors, and both men and women highlighted the need for broader education, pointing to religion's "potential to change the culture of repudiation" (Kelly et al. 2012, 294).

4.3.2 Customary and traditional justice in DRC

Compared to women participants in Uganda and Kenya in this project, relatively fewer women in DRC talked about their interactions with customary and traditional forms of justice.

As mentioned previously, the Congolese justice system is a dualist model of colonial law and African customary law, and other local practices (Kamwimbi 2008, 361). The customary courts created under colonial rule were replaced with Tribunaux de Paix (Peace Courts) and magistrates replaced local people of import as judicial decision-makers (Kamwimbi 2008, 362). However, many areas in DRC – particularly rural areas – still use chiefs as judges. These tribunals have been criticised as using "retrograde" customs, discriminating against women, and lacking accountability in terms of compliance with international principles of law and justice (Kamwimbi 2008, 362–63). Other traditional systems of justice that operate in villages in DRC typically involve elders mediating and resolving disputes. These mechanisms focus on "reparative justice, forgiveness and reconciliation" (Kamwimbi 2008, 363). In some regions, traditional systems have been established to resolve conflicts between communities and/or ethnic groups. In North Kivu, for example, the Barza Intercommunautaire was established in 1998 by community leaders, to reduce and prevent ethnic tensions and foster reconciliation (Kamwimbi 2008, 365–66). The Barza involves eight ethnic communities, with equal representation, in decision-making through customary chiefs and opinion-leaders. The Barza, however, has been accused of becoming politicised, which undermined its effectiveness; attempts to replicate the Barza (e.g. in South Kivu) have failed (Kamwimbi 2008, 366).

Women participants in this research often described traditional justice as being antecedent to formal justice. One woman explained:

*Goma is the town, we do not have that traditional justice system but in case of any issue, first, she will report to the chief of avenue in case that the reconciliation failed, the case will be transferred to another instance which is le chef de quartier (local authorities considered as the neighbourhood chief) secondly and lastly to courts and tribunals.*³⁶⁹

Another woman stated:

³⁶⁹ Interviewed in Goma, September 26, 2013.

*For instance, when you have conflict you can go to local leaders, such as those leading a group of ten families, Chiefs of quarters, chiefs of localities that hear you. If he cannot find a solution, you bring the case to the police.*³⁷⁰

Women most often used traditional and community based justice processes in relation to family and land disputes:

At my place, home when parents were struggling, sometimes my mother was going to hers and my father was looking local wise men to find solution to the issue so that my mother come back home.

*During the war people had serious land issues, in the case that someone else occupies your land illegally, and they often invited the chief of avenue and sometimes wise people and find a solution.*³⁷¹

However, as revealed in these women's reflections, informal and community justice may be seen by younger Congolese women as a feature of the past, connected more to their parent's generation than their own. Many women with whom we spoke expressed disappointment with the lack of support and assistance they received from within their communities in resolving disputes and injustices: "No [the community] don't help us. If my community would help me, I wouldn't come here and tell you again that I have this need."³⁷² Perhaps traditional, communal, and customary practices in DRC have themselves fallen prey to the effects of protracted violence, community disintegration, and corruption (Kamwimbi 2008, 363–64). Some women participants certainly described traditional justice processes as faltering:

We don't have someone to talk for us. We have no one to talk for us.

It is [the] Deputy – he is the one who is supposed to talk on their behalf but he is not doing that.

*Sometimes the deputy wants to talk for us but our King here ... he refuses that help could come here, I don't know why. Sometimes he has a good heart to talk on our behalf, the deputy, but our king here – he doesn't want.*³⁷³

Among themselves [traditional chiefs], they do not understand one another, how will they deal with us, don't you hear that the last time they wanted to kill one another, didn't you hear that, even the Registry Office has been closed.

*Even the traditional chief is no longer living here; I think that he is living in Kinshasa or abroad. The last time, he came but we did not see the place where he sorted out a community problem.*³⁷⁴

³⁷⁰ Interviewed in Bweremana, September 20, 2014.

³⁷¹ Interviewed in Goma, September 26, 2013.

³⁷² Interviewed in Minova, September 21, 2014.

³⁷³ Interviewed in Sake, September 20, 2014.

³⁷⁴ Interviewed in Minova, April 19, 2014.

A number of women expressed little faith in traditional systems of justice, which many of them perceived shared the same shortcomings as formal justice processes. They, too, were not working for women, and presented barriers to women's access to justice:

There are Heads of Neighbourhoods, there are Headmen, before you go to the Town Hall, you have first to address yourself to these people. They are the ones who take the cases to the Town Hall. The case was taken to all these, the problem was not solved. So the child said: "Let's leave things as they are, Mum, someone might die because of such a case." That is why things have not changed to this day.

*I'm afraid to be hunted down and I don't have any family around here.*³⁷⁵

*The traditional system is there but it is not a clear system, it is the different processes within it, you can come and report your case then the traditional court is going to decide if they can judge it or not and if it is beyond them then they take it for an another stage, or refer you to the tribunal and the thing which make women difficult to access to the traditional system is money. I think you have to pay some of these people.*³⁷⁶

Traditional justice processes may also perpetuate social and cultural norms and practices that posit women as chattels, and serve to oppress women and entrench gender inequalities. Female genital mutilation, discriminatory inheritance laws, and using cultural practice as a defence to crime (Kamwimbi 2008, 363; Fielder 2013), are just some of these norms and practices. As one key informant explained:

*On the informal level ... there is also in some families, there are things which are settled that way. As far as sexual violence is concerned, things are not that easy. Why? Because, the Congolese families, mostly those in the Eastern part of the Democratic Republic of Congo are weakened by poverty. What happens then? A girl got raped, whether she is a teenager or an adult. What do they do? They do gentlemen arrangement. And there, they will often start asking as many as this number of goats because you raped my daughter. Give me this much money because you raped my daughter. And when you ask to those people the reason why they did things that way, they would say: 'it is much better that I profit from that goat or that money rather than letting the magistrate or the judge profit from it. That is how things are done. But! Well, there is also...for other infringements, especially the common law, there are traditional tribunals on the village level where some problems are solved, for e.g. between a husband and his wife, issues relating to heritage, except that it is always to the detriment of the women, because the culture provides that the woman cannot inherit; the woman cannot benefit from anything. That is how things are done.'*³⁷⁷

Further traditional justice practices in DRC may have been weakened by the displacement of people away from their homes and communities. As one woman put so clearly when asked if she had ever sought justice from her community: "*report to whom, we were displaced from the village and all the houses (huts) of the village were burnt.*"³⁷⁸

³⁷⁵ Interviewed in Rutshuru, September 23, 2014.

³⁷⁶ KI, interviewed in Goma, September 26, 2013.

³⁷⁷ KI, interviewed in Goma, April 24, 2014.

³⁷⁸ Interviewed in Minova, April 19, 2014.

As with formal justice, women also provided examples of their exclusion from informal and traditional justice processes:

*The king called the priests, pastors, and directors of schools, they went all there for the meeting but for us we can't know what they talked about because we don't have our husbands ... maybe if our husbands could have been then they could have told us what they said ... there was no women.*³⁷⁹

Weakened traditional justice processes which are no longer serving women and communities might well be propagating new informal community-based systems of justice, rendered necessary to fill the gap created by eroding traditional justice mechanisms and failing formal justice processes (Kamwinbi 2008, 375–76). For example, some women are themselves now banding together to address justice issues within their community, including in camps:

In the village, we meet with all the women and talk over that and conclude while being together in the village.

I will give an example. When we have discovered that there is a woman that wants to jeopardize our group, we call a meeting, we talk. There, we provide her with pieces of advice and if she finds that she was about to destroy the group, then she apologizes and conforms herself to the group's norms.

*When it is about our husbands, we sit together with children in the family and talk. If he feels guilty, he will acknowledge and apologize for that in front of his wife and children.*³⁸⁰

These women's groups are useful and may help you when you share experiences together and you will feel encouraged and comforted. When you discuss one another, it helps you. Sufferings are sometimes reduced. It is better to be part of the women's group.

*We are gathering together and try to solve problems of households that are in trouble and see how we can assist them with a little money because we often have a contribution system.*³⁸¹

However, even these processes – driven by women, for women – may sometimes still exclude certain women:

*I had a bad experience with women's associations, I was in one of the women's association and we were requested to cultivate onions and all of us cultivated the onions and during the harvest time, I was ill and they sold all the harvested onions, they did not give me anything, I was so disappointed and this is the reason that I decided not to take part in any women's organization.*³⁸²

³⁷⁹ Interviewed in Bunyakiri, September 26, 2014.

³⁸⁰ Interviewed in Rutshuru, September 22, 2014.

³⁸¹ Interviewed in Minova, April 19, 2014.

³⁸² Interviewed in Rutshuru, April 22, 2014.

NGOs are also visibly filling gaps in creating pathways for justice, and driving informal processes to deliver justice to women (Mansfield 2009, 9):

There is an organization called APC,³⁸³ that is helping us too much to find solutions between community members, especially in the context of land issues and APC try also to assist people to conciliate for example the husbands who rejected their wives and even for land issues, APC try to explain to them that they must be united, they are one community, they have to avoid land issues and to be conciliated. We noticed that this helped too much; the community is not accusing one another as before.³⁸⁴

Women participants' reluctance to use informal and community justice mechanisms accords with the findings of Scott et al. (2013), who found in their survey of 998 adults in four eastern DRC provinces, that the majority of respondents favoured the legal system over community mediation to obtain justice for SGBV. However, 61.1% of SGBV survivors nevertheless reported being forced to accept community mediation; a woman interviewed in Mansfield's research, which involved 200 people in 17 communities in DRC, explained that "[o]n the one hand, I'd have a right to prosecute. But on the other hand, there are people from my own community who have a different perspective – because someone from our community is being prosecuted – they'll say 'you could have made an arrangement.' Prosecution raises conflicts that last forever, people would keep pointing fingers at me, it would create insecurity" (2009, 391).

However, an earlier study conducted by Oxfam (2012) found that almost all the interviewees had more confidence in resolving their problems through local or traditional mediation mechanisms (including traditional authorities and civil society-supported structures, such as local peace committees and the Church) than through police and other justice institutions (22).

4.4 Transitional justice

Broadly speaking, transitional justice strives for accountability, reconciliation, and redress for victims in the aftermath of massive human rights violations, following periods of political turmoil, state repression, or armed conflict (Domingo 2012, 3; Olsen et al. 2010a, 11; OHCHR 2010, 447). Often, transitional justice operates within a context "marked by devastated institutions, exhausted resources, diminished security and a traumatised and divided population" (OHCHR 2010, 447). A key concern of transitional justice is "to restore dignity to the victims of human rights violations through the establishment of provisions for justice, truth and reparation for the wrongs they have suffered" (OHCHR 2010, 447).

The DRC has had limited success in its efforts at transitional justice (Candeias et al. 2015, 1–3; Klosterboer and Hartmann-Mahmud 2013, 68). This is particularly the case when evaluating its efforts from the perspective and experiences of women impacted by violence (CEDAW 2013); indeed, women participants in this research commonly did not know what transitional justice was, or found it difficult to provide examples of successful transitional justice initiatives in DRC:

³⁸³ Advancing Partners and Communities.

³⁸⁴ Interviewed in Minova, April 19, 2014.

*I mentioned even with a sense of regret that there are not transitional mechanisms to handle this issue because when there is conflict, the formal justice is really kneeling before and hardly works ... so there are no formal mechanisms organized to manage the transition until the restoration of the justice system which is why at the community level, there is still a malfunctioning justice system, this is the reason at the community level, there are still wounds which are not yet healed because through the transitional justice, we can heal some wounds in the community but the transition failed ... In a general way, the justice issue continues to be a problem even if over time there were some improvements.*³⁸⁵

Even amongst those in our research who did have some knowledge or experience of transitional justice in DRC, the predominant view was that “[t]hose institutions are there but they have not performed well.”³⁸⁶ This may be attributable to DRC’s status as a fragile state (Davis 2013, 292):

*In the DRC, I listen to people saying that there is no justice, but it is not true. The only thing we agree with is that it is so weak because there are so many crimes which have not been judged.*³⁸⁷

*So it is important to have this legal component there because this is a message, a clear message that we are living in the rule of law, even if the system is still weak but we are living in the rule of law. There are laws that must be respected. It is important. The other component should not just be law, and links should be created between the legal and non-legal component of transitional justice.*³⁸⁸

Factors that have rendered transitional justice efforts impotent at a national level in DRC include: non-recognition of the Government in some areas of the country; widespread corruption and a lack of judicial independence; a culture of impunity; inadequate resourcing of transitional justice processes and mechanisms; poor infrastructure, such as insufficient prisons, crumbling courthouses and impassable roads; diminished human resources resulting from low and lacking educational standards and provision; regular involvement of foreign armed groups in armed conflict; power-sharing agreements in post-conflict security arrangements; and a lack of political will (Hall and LaRocco 2012, 5; OHCHR 2010, 450; Davis 2013, 289–90).

Transitional justice efforts in the main in DRC have, to date, been dominated by juridical processes. Comparatively little attention has been directed to non-legal aspects of transitional justice policy:

Like in Congo currently, if you just bring the judicial part of transitional justice, you will create more problems like what we have now. It is important to conduct all the other aspects of transitional justice to support the legal component, meaning that you create harmony in community ... We should also work for peace in the community. It means that for transitional justice according to me, we need to have these two parts together, they should go together. If you take one it won’t work because I understand

³⁸⁵ KI interviewed in Goma, April 18, 2014.

³⁸⁶ Interviewed in Rutshuru, April 21, 2014.

³⁸⁷ KI, interviewed in Goma, April 24, 2014.

³⁸⁸ KI, interviewed in Goma, April 23, 2014.

*that if you just take the other component which is not judicial, then the message is very bad. The message sent to the community is bad.*³⁸⁹

4.4.1 Judicial responses

As attested to by many women participants in this research, judicial responses have been inadequate. Given the protracted period of conflict and well-documented levels of mass atrocities in the DRC, the number of prosecutions initiated by the national jurisdiction for serious crimes is extremely low. As mentioned previously, only 39 prosecutions “connected with an armed conflict or committed as part of a widespread or systematic attack against civilian populations” have been identified over the period 2009-2014 (Candeias et al. 2015, 3). The majority of these cases (27 of them) involved SGBV, charged as crimes against humanity and/or war crimes, and including rape, mass rape, and sexual slavery; however, only 11 of these cases saw a conviction and sentence follow (Candeias et al. 2015, 41–67). In many of these cases, investigations have faltered or are suspended, and no trial has resulted. This is symptomatic of a judicial process that lacks commitment, expertise, and resources. A more coordinated and strategic plan for successful prosecutions is needed in the DRC, to help build public confidence in the formal justice system (Candeias et al. 2015, 34–35). This is made more imperative because of the limited resources available in the DRC to pursue prosecutorial actions.

Even in those cases tried, the inadequacies of the judicial system in DRC are evident (Candeias et al. 2015, 30–33). The Minova case (RP 003/2013 and RMP 0372/BBM/013), referred to above, is a key example of the multiple deficiencies of Congolese judicial processes. This case related to an attack by the 391st Unit of the FARDC against the population of Bweremana-Minova (Candeias et al. 2015, 32). A number of women participants in this research described the attack to us:

*It was around 6 p.m. when we saw a military convoy coming; we did not know that they were coming to the village for looting. That day, we had received some aid including rice and maize flour from an NGO. After a while, these soldiers dispatched to every house. They were so many. After, they were getting in to every house, taking the food we received from the NGO and raped women.*³⁹⁰

*It was one day during the war of M23. That time three soldiers came and started raping me in front of my daughter. After, they also raped my daughter in front of me...Unknown people led me here in Minova. Once here, they led us to Madame ANNIE. When my husband saw how life was so difficult in Minova, he left me and my daughter arguing that I am useless to satisfy him and has another wife here in Minova, they have four children. I bless God to have given me that daughter to help me.*³⁹¹

Reports suggest that over 100 women were raped during this attack (Candeias et al. 2015, 32), and yet “[o]f the 39 accused, only two of the low-ranking soldiers were convicted of one individual rape each. The high-level commanders with overall responsibility for the troops in Minova were never charged; those lower-ranking officers who were charged were all

³⁸⁹ KI, interviewed in Goma, April 23, 2014.

³⁹⁰ Interviewed in Minova, September 21, 2014.

³⁹¹ Interviewed in Minova, April 19, 2014.

acquitted” (HRW 2015c, 2). Although over 300 victims were interviewed during investigations, the investigation process was of low quality, resulting in poor evidence upon which to build the prosecution. Communication with victims was poor and their participation in the process unsatisfactory (Candeias et al. 2015, 31). A recent Human Rights Watch (2015c) report on the case concluded that

[s]everal prosecution offices were involved in the investigation and prosecution of the case, creating confusion. There was no investigation plan or strategy to tackle such a mass crime scene. Lack of expertise and diligence contributed to the poor quality of the investigation and a weak prosecution file. (3)

The report further concludes:

The selection of accused by military prosecutors raised concerns about the political will of the armed forces to allow all those responsible for the numerous crimes in Minova to be prosecuted. Some of the officers indicted appeared to be uninvolved scapegoats for other officers with genuine command roles. There did not seem to be any willingness to seriously investigate the responsibility of certain suspects beyond field commanders, notably high-level officers who were present in Minova and may have had command responsibility. (4)

However, it should be said that the trial did exhibit various commendable aspects, including the fact that the military judges conducted proceedings effectively, and, together with prosecutors, applied relevant international laws and principles (HRW 2015c, 3). This is encouraging, given the concerns that have previously been raised about Congolese judges lacking knowledge on international law and human rights (UNHCR 2010, [915]).

It is clear that if victims in the DRC are to obtain the justice they deserve, the prosecution of serious crimes (in particular, rape and sexual violence) needs to form part of a clear strategy directed towards ending impunity.

4.4.2 Proposal for mixed chambers

Some of the challenges faced by the Congolese courts in prosecuting serious crimes may be addressed through the use of mixed chambers (HRW 2011, 3). A proposal for use of mixed chambers in the DRC was first made in 2004, at a justice workshop held at the initiative of the European Commission, together with other donors and the Congolese Minister of Justice, Congolese NGOs, and legal experts (HRW 2009a, 2). Human Rights Watch released a discussion paper on the use of mixed chambers in the DRC in September 2009 (HRW 2009a). In 2010, a report on human rights violations in the DRC by the United Nations High Commissioner for Human Rights (known commonly as the UN Mapping Report) also recommended the use of mixed chambers (OHCHR 2010, 472). In April 2011, the representatives of 34 Congolese civil society organisations released a joint communiqué calling for the establishment of a mixed court; discussions continued and, in April 2014, 146 Congolese civil society and international human rights organisations released a statement again calling for the establishment of mixed chambers (Enough Project 2014a). In April 2015, to coincide with a conference held by the Congolese Ministry of Justice and Human Rights to evaluate justice sector reform in the DRC, Human Rights Watch yet again called for the adoption of mixed chambers, a proposal that was supported by the conference (HRW 2015b; AFP 2015a).

According to both Human Rights Watch (2009a, 2) and Pascal Kambale (quoted in Lee 2012) – the latter the DRC Country Manager for the Open Society Initiative for Southern Africa – the main rationale for using mixed chambers to try war crimes, crimes against humanity, and genocide is two-fold. First, both the nature and prosecution of these crimes is complex. Consequently, “including international experts with knowledge about how to handle complex criminal investigations, prosecutions and trials” can help overcome the difficulties faced by national judiciaries that lack experience with these types of cases (HRW 2009a, 3). Secondly, existing attempts to prosecute these crimes have been plagued by political interference and institutional weakness. The integration of international expertise and resources is therefore seen as a means of promoting impartiality and fairness in the judicial process, and a way of supporting judicial reform within the Congo.

The proposed structure and operation of mixed chambers in DRC

In support of a speech by President Joseph Kabila to both chambers of the DRC Parliament in October 2013, the cabinet of the Minister of Justice and Human Rights prepared a draft law on the use of mixed chambers (also referred to as “specialised courts”) (HRW 2014a). According to Human Rights Watch (2014a), the proposed chambers:

- would not be an international tribunal, but would be “embedded in the appeals courts of the Congolese national justice system”;
- would have “jurisdiction only over war crimes, crimes against humanity, and genocide,” and would direct its resources predominantly towards investigating and prosecuting these crimes. There is some debate as to whether the jurisdiction would extend to all crimes – past and present – or to a more limited period, such as 1990–2003 (HRW 2011, 1); and
- international staff with extensive experience in prosecuting international crimes would be present in the initial years of the mixed chambers. The 2011 meeting of Congolese civil society organisations called for mandatory international representation in all organs of a specialised court (specifically, chambers, registry, Office of the Prosecutor, and investigative units), a potential national-international “co-presidency” of these organs, and involvement of staff from the International Criminal Tribunal for Rwanda and the Special Court for Sierra Leone (HRW 2011, 2).

According to a U.S. Department of State (2014) briefing on mixed courts, there would be a majority of Congolese representatives on the court at both trial and appellate levels. International staff would provide on-the-job training to national staff, and reinforce the independence of the chambers from potential political and/or military influence.

Arguments for and against mixed chambers in DRC

Support for mixed chambers in DRC has been varied. As noted above, Human Rights Watch has released multiple submissions in support of the use of mixed chambers in the DRC, and regularly does so in conjunction with various Congolese civil society and other international human rights organisations.

However, support has not been unanimous. A report compiled by Rightslink (2011) for the Club des Amis du Droit du Congo (CAD) examined the experiences of mixed courts in

Bosnia, East Timor, Cambodia, and Kosovo, and noted that the proposal for a mixed chamber in the DRC raises some concerns (74).

First, there is the question of whether the court will possess jurisdiction over the armed forces; there exists a concern that Article 91 of the proposed legislation might be used to exclude jurisdiction over military personnel (HRW 2014a). Secondly, there is an issue of a lack of consistency between the text on the specialised court, and the draft legislation for the implementation of the Rome Statute; the latter includes a number of provisions that are not present in the former (Rightslink 2011, 68). Moreover, although the current draft legislation is purely organisational and makes no mention of penalties, the fact remains that under the Congolese draft legislation implementing the Rome Statute, the death penalty is available for war crimes, crimes against humanity, and genocide; this is at odds with international principles and the actual Rome Statute, which lists life imprisonment as the most severe penalty (HRW 2014a; Rightslink 2011, 69). There is also a question regarding whether or not to include international judges, or if the chambers should be limited to Congolese nationals (Rightslink 2011, 71; HRW 2009a, 9).

In addition to these concerns, several issues endemic to the DRC justice system (as discussed in Chapter 3) may pose problems for the implementation of a specialised court. For example, Article 58 of the draft legislation indicates that the court shall adopt necessary protection measures (Rightslink 2011, 71), but this raises difficulties in the context of the DRC, where there are grossly inadequate protection mechanisms for witnesses and victims (Amnesty International 2011, 27). Moreover, given that the rights of the defence are routinely breached in the DRC, and that there is no legislative right to a fair trial (Amnesty International 2011, 43), any specialised court should also recognise the implications for the accused in its procedures and decision-making (Rightslink 2011, 70).

The UN Mapping Report 2010 also highlighted that any such court should establish that amnesties granted for crimes under international law do not apply before it (OHCHR 2010, 473). To date, there have been three amnesty laws in DRC, and a presidential decree. Amnesty in the 2003 Presidential Decree covered acts of war, political breaches of the law, and crimes of opinion; it excluded genocide, war crimes, and crimes against humanity.³⁹² Further amnesty proposals have been brought by the DRC government to peace talks with rebel militia, and the laws (in 2005, 2009, and 2014) have all generally followed the initial format established by the 2003 Presidential Decree. The 2005 amnesty law³⁹³ codified amnesty over the crimes enumerated in the Presidential Decree, but with an altered timeframe. It allowed for the retroactive pardon and commutation of convictions for the acts falling under the amnesty law. The 2009 law³⁹⁴ followed the existing structure of the amnesty law, but with a more limited geographical application, applying specifically to acts of war and insurrection committed in the provinces of North and South Kivu. The most recent 2014 amnesty law³⁹⁵ resulted from the Nairobi peace negotiations between the DRC Government and M23 rebels, following the conclusion of the M23 rebellion. The Kampala Dialogue set the terms of the amnesty, which pardoned acts of insurrection (confined to acts of collective violence, to rebel against authority and express a claim or discontent), war, and political offences (restricted to acts against public authorities, illegal management acts or territory

³⁹² Presidential Decree No 03-001 of April 15, 2003.

³⁹³ Amnesty Law 2005 (Law No. 05/023 of December 19, 2005).

³⁹⁴ Amnesty Law 2009 (Law No. 09/003 of May 7, 2009)

³⁹⁵ Amnesty Law 2014 (Law No. 14/006 of February 11, 2014).

administration with a political aim, as well as writings, images, and statements inciting rebellion against public authority); this pardon was available on the condition that eligible individuals submit a written commitment to refrain from committing these acts. It is unclear how many people in total have been granted amnesty in DRC, but at least a thousand have been granted amnesty under the 2014 laws (US Department of State 2014; AFP 2015a).

The lack of funding and chronic lack of capacity of the judicial system in the DRC is another hurdle to establishing mixed chambers; it is well-established that the Congolese judicial sector is underfunded and under-resourced (OHCHR 2010, 420). This lack of capacity in itself is a major issue, in that it could endanger any such new mechanism (OHCHR 2010, 470); this is compounded by the possibility that a new hybrid court could potentially “further drain” the existing domestic system by diverting investment and professionals (Amnesty International 2011, 56).

Furthermore, de Bertodano (2006), by drawing on the experiences of the mixed composition and structure of the Cambodian Extraordinary Chambers (CEC), points to an additional issue with mixed chambers – namely, that any compromise between the DRC Government and civil society organisations as to the structure, jurisdiction, and makeup of a mixed chamber could lead to unexpected problems down the line. The super-majority voting arrangements for national and international judges in the CEC allowed “not only determinations of guilt, but also key evidentiary decisions, to go unresolved,” and had the potential to “make the effective operation of the CEC impossible” (de Bertodano 2006, 285).

Whether mixed chambers will be implemented in DRC is yet to be seen. If the establishment of mixed chambers does eventuate, it is imperative that the court ensures it is gender-sensitive, and deliberately shaped to meet the needs of women.

4.4.3 International Criminal Court

Arguably some successes in prosecution of serious crimes in DRC have been seen at the international level. As mentioned in Chapter 1, the Congolese government in 2004 referred to the ICC the investigation and prosecution of international crimes that have occurred on DRC soil since 2002. The ICC has to date prosecuted six individuals from the DRC. Two individuals from DRC have been convicted in the ICC, but none have been convicted on the grounds of rape-related crimes, despite five of the six cases prosecuted including charges of rape.

Thomas Germain Katanga was found guilty, as an accessory, to one count of crimes against humanity (murder), and four counts of war crimes (murder, attacking a civilian population, destruction of property, and pillaging). He was acquitted of being an accessory to rape and sexual slavery (charged as war crimes and crimes against humanity), as well as of the war crime of using child soldiers. The acts for which he was convicted occurred on February 24, 2003, during an attack on Bogoro, Ituri District. Katanga’s original judgment of March 7, 2014 was appealed, but discontinued on June 25, 2014. He was sentenced to 12 years’ imprisonment.

Callixte Mbarushimana was charged with five counts of crimes against humanity (murder, torture, rape, inhumane acts, and persecution), and eight counts of war crimes (attacks against a civilian population, murder, mutilation, torture, rape, inhuman treatment, destruction of

property, and pillaging). The Court declined to confirm the charges against Mbarushimana on December 16, 2011.

Sylvestre Mudacumura is currently at large. He has been charged with nine counts of war crimes (attacking civilians, murder, mutilation, cruel treatment, rape, torture, destruction of property, pillaging, and outrages against personal dignity) for acts committed in the Kivus conflict over the period of January 20, 2009 to September 2010.

Mathieu Ngudjolo Chui was acquitted of three counts of crimes against humanity (murder, sexual slavery, rape), and seven counts of war crimes (using children under 15 to take active part in hostilities, deliberately directing an attack on a civilian population as such or against individual civilians or against individual civilians not taking direct part in hostilities, wilful killing, destruction of property, pillaging, sexual slavery, and rape). The original judgment of December 18, 2012 was confirmed on appeal on February 27, 2015.

Bosco Ntaganda has been charged with 13 counts of war crimes (murder and attempted murder, attacking civilians, rape, sexual slavery of civilians, pillaging, displacement of civilians, attacking protected objects, destroying the enemy's property, rape, sexual slavery, and enlistment and conscription of child soldiers under the age of fifteen years and using them to participate actively in hostilities), in addition to five counts of crimes against humanity (murder and attempted murder, rape, sexual slavery, persecution, and forcible transfer of a population). His crimes are alleged to have been perpetrated in the Ituro Province in 2002–2003. The case is currently before the ICC.

Lubanga Dyilo was found guilty of the war crimes of enlisting and conscripting children under 15 years of age, and using them to participate actively in hostilities. The original judgment of the court, dated March 14, 2012, was confirmed on appeal on December 1, 2014. Lubanga was sentenced to 14 years' imprisonment for acts engaged in armed conflict, but not of an international character, from September 1, 2002 to August 13, 2003.

As previously mentioned, some commentators have questioned the effectiveness and appropriateness of the ICC in delivering justice to the people of DRC, particularly to women survivors of sexual violence (Lake 2014, 25–27; Lee 2012). The ICC had up until earlier this year not convicted any individual of rape or crimes related to sexual violence.

As indicated above, although Katanga was ultimately convicted, he was acquitted of the charges pertaining to rape and sexual slavery. This was seen as a “devastating result for the victims/survivors of the Bogoro attack as well as other victims” (Women’s Initiatives for Gender Justice 2014, 1). One of the main criticisms of the Katanga decision is the ostensible expectation of a higher standard of evidence in relation to sexual violence, “including requiring a more deliberate intention to commit these crimes ... which they did not require in convicting Mr Katanga for the crimes of directing an attack against a civilian population, pillaging, murder and destruction of property. This judgment on face value appears to be inherently inconsistent” (Women’s Initiatives for Gender Justice 2014, 1) and arguably raised the bar in terms of proof in cases of rape – a dangerous precedent to have set.

The Lubanga trial also attracted staunch criticism for

fail[ing] to adequately recognise the harm suffered by victims of [SGBV]...While the Prosecution did not bring charges for these crimes, during the trial it raised the alleged

commission of these crimes specifically against child soldiers within the UPC and at least 15 prosecution witnesses spoke about sexual violence during the trial. Given the absence of sexual violence in the charges, the majority of the Trial Chamber held that it could not take allegations of sexual violence into account in the judgment; nor could sexual violence be considered as an aggravating factor in [his] sentencing. (Women's Initiatives for Gender Justice 2015)

These cases demonstrate the pragmatic difficulty of bringing prosecution for sexual crimes to the ICC, and arguably have contributed to the invisibility of sexual violence in the DRC; this risks further perpetuating discrimination against women (Breton-Le Goff 2010, 24–25).

In March 2016 however, former Vice-President of the DRC, leader of the *Mouvement de Libération du Congo* (MLC), and Commander-in-Chief of its military branch, the *Armée de Libération du Congo* (ALC) – was found guilty by the ICC of a series of offences perpetrated in the Central African Republic (CAR) between October 26, 2002 and March 15, 2003, including rape, as a crime against humanity (Art. 7(1)(g)) and as a war crime (Art. 8(2)(e)(vi)) ICC-01/05-01/08-3343 [752]).

The judgment in *The Prosecutor v. Jeane-Pierre Bemba Gombo* (ICC-01/05-01/08) has been hailed as an international landmark in numerous respects. Bemba is the highest-ranked individual to have been convicted so far by the ICC (Matta and Iordache 2016), and the proceeding itself allowed the right of participation to 5229 victims – “the highest number of victim participants to date allowed in any trial conducted by the court” (OSF 2016, 3). It is also the first case for, and conviction through, “command responsibility” (Art. 28(a)), which allows for effective military commanders to be charged over the actions of their subordinates if, inter alia: they had “effective command and control” over the offending forces; they knew (or should have known) that their forces were committing such crimes; and they failed to take necessary and reasonable measures to prevent, repress or punish the commission of those crimes (ICC-01/05-01/08-3343 [170]).

However, perhaps the judgment's greatest promise is in establishing a precedent for the ICC to prosecute sexual crimes in conflict settings. In a trial presided over by an all-female bench (Askin 2010), this case was the ICC's first to focus on sex crimes (Askin 2010; OSF 2016, 2); “[n]o such crimes were sought for Thomas Lubanga Dyilo [and] Germain Katanga was acquitted for all sexual violence charges” (Matta and Iordache 2016). Additionally, it marked “the first time that the ICC has convicted someone for rape as a war crime” (Amnesty International 2016; Women's Initiatives for Gender Justice 2016), and the Chamber during sentencing was quick to point out that the highest sentences it imposed were the 18 year sentences for rape crimes (ICC-01/05-01/08-3399 [95]). The judgment has been praised for sending out a clear message,

that impunity for sexual violence as a tool of war will not be tolerated ... that military commanders and political superiors must take all necessary steps to prevent their subordinates from committing such heinous acts and will be held accountable if they fail to do so. (Amnesty International 2016)

Brigid Inder, Executive Director of the Women's Initiatives for Gender Justice, also emphasised the ICC's clear statements on the utmost gravity of rape crimes; this was particularly so because the crimes in this case were perpetrated in aggravating circumstances, against defenceless victims (e.g. the young, unarmed and/or displaced) and in particularly

cruel ways (e.g. gang rapes perpetrated in the presence of family) (Women's Initiatives for Gender Justice 2016).

Most importantly for the future prosecution of such charges, however, is the recognition by the ICC of the use of sexual violence as part of a *modus operandi* designed to terrorise civilian populations and to deter resistance; indeed, "some MLC soldiers considered victims to be "war booty" and/or sought to destabilise, humiliate, and punish suspected rebels and rebel sympathisers" (ICC-01/05-01/08-3343 [567]). Recognition of this systemic use of sexual violence has also been complemented by the bench's "sensitivity to the impact of the rapes on victims, and the need to consider this during testimony and in evaluating the evidence", particularly in understanding potential reasons for late disclosure of rapes, and possible causes of inconsistencies in certain reporting of rapes (de Vos 2016). Such procedural sensitivity also included hearing evidence in private/closed sessions, and ordering redactions to certain documents to protect sensitive information (ICC-01/05-01/08-3343 [247]–[249]) – important moves which may help encourage witnesses to come forward in future prosecutions.

Many of the women participants in this research were either unfamiliar with the ICC, or doubted its value: "[s]o, what will I go to the International Criminal Court if already at the local level; I did not get any solution?"³⁹⁶ This was a view also echoed by some key informants interviewed in this project: "[women] really feel discouraged about the ICC process because they are raped, they know that FDLR soldiers raped them but the ICC is saying that they don't have evidence."³⁹⁷

Generally, however, key informants recognised that whilst "not important for local areas ... it is a good thing to have arrested rebellion heads such as Bemba, Ntaganda, and we wish others had been captured and judged,"³⁹⁸ because "there is a culture of impunity here, so that is why the ICC could be useful."³⁹⁹ Furthermore, as Brigid Inder, Gender Adviser to the ICC, stated during her interview in this project: "You need the international, we need the ICC because of the benchmarks, because of those who are unreachable. You know, heads of state are not going to prosecute themselves. Senior commanders, heads of the military. I mean they're on, they're beyond the domestic."⁴⁰⁰

Whilst the ICC can be seen as making some progress in the prosecution of serious crimes, including sexual violence, in reality, such progress has been slow and has delivered women survivors in DRC little by way of substantive justice and tangible outcomes (Smith 2011; SáCouto and Cleary 2009, 4).

4.4.4 National reparations

Reparations are an important element of transitional justice; they "provide justice to victims and contribute to the construction of justice and peace ... In their implementation they can serve as an apology to victims, as a public acknowledgement of crimes, as an acknowledgement of state responsibility for such violations, as a way to subvert the structures of subordination that might have led to the violations of rights in the first place, or

³⁹⁶ KI FGD, interviewed in Rutshuru, April 22, 2014.

³⁹⁷ KI, interviewed in Goma, September 26, 2013.

³⁹⁸ KI FGD, interviewed in Rutshuru, April 22, 2014.

³⁹⁹ KI, interviewed in Goma, September 26, 2013.

⁴⁰⁰ Brigid Inder, International Criminal Court, interviewed in Sydney, February 12, 2015.

as services to victims to mitigate impacts of abuse” (Aho et al. 2013, 20). Reparations can take various forms; “they can be financial or pecuniary, in kind, equivalent, symbolic or ritual, and finally, transformative ... Ideally, the amount and type of reparation is determined by the needs of the victim” (Aho et al. 2013, 20).

In the context of the DRC, the notion of reparations is a narrow one, primarily because reparations are ordered only through the court system and formal legal proceedings, and are thus limited by the types of orders judges can make. Accordingly, “the types of reparations awarded are always monetary or punitive. Victims in the DRC usually are not aware that apologies and non-monetary compensation are available to them as reparation, nor is it common for actors in the field to institute such options” (Aho et al. 2013, 21–22).

The DRC government has discussed a draft law for the establishment of a fund to allow the State to pay reparations to victims of rape and sexual violence (CEDAW 2013, 3); however, progress on this seems to have stalled indefinitely.

As discussed in Chapter 2, women participants in this project repeatedly identified the need for reparations as a primary outcome in justice for women:

*You know, sometimes we get sick and miss financial means for medication. We would like to get some money in order to be able to start some small business to help us survive as well.*⁴⁰¹

*I would like to ask for a help. Some money to make small commerce. Because when I am passing my day on the road selling, I will not miss the evening food for my children. Because when I solve this problem of children’s food, I will be thanking and blessing you. I will be saying, if they would not give these means to make small business, my children would be spending the night without food. It is like that.*⁴⁰²

*If you can give me capital for business, I’ll feel free because I can provide for my own needs, pay for my own treatment ... I’ll say I’ve had justice.*⁴⁰³

However, little has been achieved by way of women receiving any reparations in DRC:

[U]p to now we have never seen a victim obtaining reparation (obtaining damages) or criminals to be sentenced for such years of imprisonment, we have not seen such a thing...

*We have never seen, among all the victims that I have particularly accompanied to the justice; none of them obtains reparation.*⁴⁰⁴

*After the trial decision, they never think of reparation, women are therefore back empty handed and that is all.*⁴⁰⁵

⁴⁰¹ Interviewed in Rutshuru, September 22, 2014.

⁴⁰² Interviewed in Bweremana, September 20, 2014.

⁴⁰³ Interviewed in Rutshuru, September 23, 2014.

⁴⁰⁴ Interviewed in Minova, April 14, 2014.

⁴⁰⁵ Interviewed in Minova, April 14, 2014.

Congolese courts have ordered the government to pay victims compensation in at least eight cases (Mbandaka, Bongi, Mulesa, Songo Mboyo, Kahwa Panga Mandro, Mitwaba, Kilwa, and Katesimi), in which those convicted were members of the Congolese military (Parmar and Mushiata 2012, 2). The only known payment of compensation for rape by the DRC government occurred in 2014, when 30 victims of the 2003 mass rape in Songo Mboyo, Equateur province, received financial compensation from the Government; 29 victims received the equivalent of US\$5000 as compensation for rape, and US\$200 for looted property. The mother of one of the victims who died from complications of rape received the equivalent of US\$10,000. These compensation payments, albeit isolated and limited, arguably represent a breakthrough in the administration of justice (UN Secretary-General 2015, 8–9).

However, regardless of this breakthrough, various problems exist around the way that compensation functions in the DRC. For example, applicants who wish to have their judgments enforced must pay 6% of the total reparations granted – in the *Songo Mboyo* case, the fees calculated in 2006 were US\$28,000 (FIDH 2013, 60). Until these fees have been paid, a copy of the decision cannot be provided. Although it is possible to waive these fees if victims are declared indigent, lawyers and victims are often unaware of this procedure, and the procedure itself costs between US\$25-50 – a figure unaffordable to many (FIDH 2013, 52). Amnesty International was also informed by a judge that this fee is rarely waived (Amnesty International 2011, 48). Furthermore, in 2013, the Minister of Justice told FIDH that she did not have the budgetary resources to pay orders for reparations; in 2010, she had requested 44,633 million Congolese Francs to discharge 150 cases; of this, only 612 million Congolese Francs (or 0.7% of the amount requested) was made available (FIDH 2013, 61).

However, the Trust Fund for Victims (TFV), created under Article 70 of the Rome Statute and funded by various states, offers some hope for future court-ordered reparations to victims in DRC cases before the ICC. A mandate for paying reparations is activated once there is a conviction, with a subsequent order for reparations. As mentioned previously, in March 2015, the ICC Appeals Chamber amended the Trial Chamber’s order for reparations in the Lubanga case, and instructed the TFV to present a draft implementation plan for collective reparations (ICC 2015b). Whilst the implementation plan as already discussed earlier has been submitted the ICC is yet to determine the amount of reparations Mr Lubanga is liable for.. The Lubanga appeal also decided, for the first time in ICC proceedings, the principles that are to be applied to reparations for victims, including the minimum elements required of a reparations order (Murekatee et al. 2015). These are (Trust Fund for Victims 2015, 13–17):

1. for reparations to be made against the convicted person;
2. that the order establishes and informs the convicted person of their liability;
3. that the order specifies the type of reparation (i.e. individual, collective, or both);
4. that the order defines the harm caused to victims, and identifies the appropriate modes of reparation; and
5. that the order identifies the victims eligible or set out criteria for eligibility.

In May 2015, Trial Chamber II also heard submissions from parties and participants in the Katanga case, including the TFV, on suggestions to tailor a reparations procedure for victims in that case (Trust Fund for Victims 2015). The Trust Fund for Victims made several suggestions, including that the decision on the modalities of reparations be based upon consultation with victims. It suggested that the reparations order be issued in two parts; the first could define the types of harm caused, and set out the criteria for establishing extent of

harm and eligibility for victims (22–23). The second part would then be issued after the Trust Fund had finished identifying and screening eligible victims, assessing the extent of their injuries, and determining what modalities of reparation are to be used; subsequently, costs would be calculated. The order would only be appealable after both parts were issued.

4.4.5 Institutional reform and governance

Institutional reform (of police, armed forces, courts, and monitoring bodies), widely recognised as a key element of effective transitional justice policy because it dismantles the “machinery of abuses and prevent[s] recurrence of serious human rights abuses and impunity” (Domingo 2012, 4; ICTJ 2015a), has not been adequate in DRC. In 2013, 11 countries in the Great Lakes Regions⁴⁰⁶ signed the Framework Agreement for Peace, Security and Cooperation in the Democratic Republic of Congo and the Region (Addis Ababa, February 25, 2013). This agreement committed signatories to taking concrete steps to put an end to recurring cycles of violence, and facilitate the administration of justice through regional judicial cooperation (Candeias et al. 2015, 1–2). It named five institutions to be established in DRC in its transition to democracy: a truth and reconciliation commission; a national human rights observatory; a high authority for media; a national electoral commission; and a commission for ethics and the fight against corruption. DRC’s attempts to establish these core institutional pillars towards democratisation have largely failed.

Truth and Reconciliation Commission

As previously discussed, a Truth and Reconciliation Commission (TRC) was established in DRC (July 2003 – February 2007), with a mandate to “promote consolidation of the national unity” per Article 155 of the Transitional Constitution. Articles 154–160 tasked the Commission with deciding the truth among conflicting versions of history, and promoting peace, reparation, and reconciliation.

The TRC was presided over by Bishop Jean-Luc Kuye Ndongwa Mulemera and comprised 21 members, including eight “Members of the Bureau” (six men and two women), selected to represent each of the parties of the Inter-Congolese Dialogue, and approved by the National Assembly. Additionally, it had 13 religious leaders, representatives from scientific associations, women’s organisations, and other civil society groups. However, membership of the TRC was strongly criticised because many members had informal ties with those implicated in the crimes examined (US Institute of Peace 2003), thus undermining its impartiality.

The TRC was “underfunded and largely ignored,” and failed to hold any public hearings or take any witness statements (OHCHR 2010, 478). It was inhibited by members’ vested interests in ensuring that the crimes and atrocities committed by their respective groups were overlooked, and thus did not conduct any investigations (Klosterboer and Hartmann-Mahmud 2013, 68). It failed to even publish a final report (Jones et al. 2014, 4).

If a future TRC is to be established in DRC, its independence must be guaranteed and it must be resourced properly so as to be able to carry out its mandate. The UN Mapping Report

⁴⁰⁶ The Democratic Republic of the Congo, Angola, Republic of Congo, South Africa, Tanzania, Uganda, Central African Republic (CAR), Burundi, Rwanda, South Sudan, and Zambia.

(OHCHR 2010) suggested some basic principles for establishing a future TRC. Firstly, there must be broad consultation, including with victims and civil society. Secondly, the TRC should have a precise and realistic mandate, limited to periods of history where the most serious violations occurred; moreover, this mandate should not extend to providing mediation or reparations. The Commission's powers should include the power to cross-examine witnesses, compel appearances, protect witnesses, and guarantee that testimony will not be used in judicial proceedings; if amnesties are granted, they should comply with international legal principles. The process of selecting members is also paramount, as this will determine the body's legitimacy. The UN Mapping report raised the possibility of a future TRC having international membership (OHCHR 2010, [68]). A TRC must command the trust of the people, if it is to achieve its objectives towards rebuilding communities and national unity. Importantly, as has been previously noted, its composition, structure, and processes must be sensitive to the needs of women, and promote women's participation, agency, and voice.

The National Human Rights Observatory

The National Human Rights Observatory (NHRO) was established under Law 04/20 of July 2004, as an independent and autonomous body with a judicial personality. However, “[p]olitical interference could be seen in almost all of its work and it was accused of being biased towards the government. The agency was only located in Kinshasa due to resource constraints and had few full-time staff. Staff appointments were based on political considerations. Periodic reports of the agency mainly documented human rights abuses rather than actions taken against such abuses by the agency” (African Democracy Encyclopaedia Project 2009). The NHRO did little by way of transitioning DRC to democracy, or recognising the rights of women survivors of sexual violence.

The NHRO has been defunct since July 2006, after its premises in Kinshasa were looted and its records destroyed by a mob of participants in a campaign rally for presidential candidate Jean Pierre Bemba (African Democracy Encyclopaedia Project 2009).

The Ethics and Corruption Commission

The Ethics and Corruption Commission (ECC) (Commission de l’Ethique et de la Lutte contre la corruption) was established in 2003. Its objectives were to “raise awareness of ethical issues and fight against corruption, increase the capacity of national institutions to promote integrity; ensure that all national institutions involved in the fight against corruption have adequate operating capacity; investigate violations of ethical values and corrupt activities; and promote transparency in the political parties,” per Articles 154–155 of the Transitional Constitution (Chêne 2014).

Eight members representing the signatories of the Sun City Agreement formed the Executive Board, with an elected President, and a 46-person cabinet to support and implement the decisions of the Executive Board.

The ECC engaged in a series of activities, including conducting a survey of legal professionals that sought to ascertain their knowledge of current anti-corruption laws. It examined formal complaints or denunciations, and conducted investigations into allegations of corruption. It organised workshops to familiarise the public with its implementation law, the Anti-Corruption Law, and the Code of Ethics of Public officials. It organised the first anti-corruption week in the DRC in December 2006, as well as conferences and seminars for

students and lecturers at the University of Kinshasa, and for managers of state enterprises. The ECC also coordinated with other major state bodies to repress corrupt activities (including breaking up a corruption network, and uncovering tax evasion by state and private enterprises) (Kodi 2008, 57–62).

Like other attempts at institutional reform, the ECC was crippled by major resource and logistical problems, weak leadership, in-fighting between various bodies, nepotism, insufficient technical expertise, and lack of independence, so that it was not carried over into the 2006 constitution (Chêne 2014, 8).

4.4.6 Corruption and security sector reform

These failed attempts at institutional reform are clearly highlighted by the little mention made of any of them by the women participants in this project. However, widespread corruption and lack of accountability and governance at an institutional level were identified by many women in this project as a barrier to women and communities obtaining justice in DRC. Many of the women and key informants with whom we spoke recognised an urgent need for wide-ranging and effective institutional reform.

Both women participants and key informants highlighted that institutional reform requires, in particular, corrupt officials at all levels being purged. Wide sweeping justice and security sector reforms were stated as being much needed in DRC:

I think there needs to be consequences for justice officials that break the law – so unfortunately the justice system has a lot of judges, magistrates, functional officials – they're in there for their own personal [gains] ... they're looking to ask for money from people, they're looking to gain money themselves so who is monitoring the justice system? Who is looking over it to say are you doing your job? Are you working correctly? Are you helping the population? There are no mechanisms in place to follow for justice officials, they can do what they want. I don't know what the solution is, this is a massive problem throughout Congo but especially in eastern Congo. There needs to be justice sector reform – the state needs to take this seriously, the international community needs to put a lot of pressure on the government to reform the system.⁴⁰⁷

There should be concrete positive consequences to prove how far justice is really well going; unfortunately magistrates are asking money to people. Therefore, the following questions should be analyzed and carefully answered: who is monitoring the justice? How are magistrates doing their job? Aren't they corrupted? Do poor people have an easy access to their judgment? So the justice system should be free as actually they are doing whatever they want without any reproach from their chief. They need the judicial system to be reformed, have pressure on the political authorities make it clear enough. And looking at how people come at us to ask for a support once their cases are at the parquet, we need to recommend that there should be international organizations in the offices of the parquet to fight against corruption.⁴⁰⁸

⁴⁰⁷ KI, interviewed in Goma, April 23, 2014

⁴⁰⁸ KI, interviewed in Goma, April 24, 2014

A number of key informants identified poor working conditions for civil servants and justice sector professionals as a major contributor to corruption:

*First of all, the fact that the Government is not paying civil servants' salaries is encouraging corruption. When the perpetrator is stronger (financially) than you the victim, there is no doubt he will be released, because if he asked to give a cow, he will give it ... So the government should restructure. ... It really has to restructure its services ... they are disappointing us. But also, they should collaborate with organizations involved in these areas ... Because those organizations are doing things superficially; they are not doing things well.*⁴⁰⁹

*First, pay workers; second, change judges each trimester to fight against corruption; third, retrain states' workers; fourth, give all the needed means to the judicial agents.*⁴¹⁰

*The OPJ has no State matriculation number... His salary is just "Corruption." He, himself never receive those 60,000 Congolese Francs.*⁴¹¹

*We need peace in our areas by paying soldiers correctly so that we may come back home and continue our former activities to get money to help children to study or sell something.*⁴¹²

One of the key pillars of action for DRC noted in the Sun City Agreement was "to continue, and deepen security sector reform, particularly with respect to the Army and the Police" (2).

Security sector reform (SSR) is not only needed to address harms that the civilian population continue to suffer at the hands of the military (Oxfam 2011, 2; Eastern Congo Initiative 2012, 7), but has been identified as fundamental to the overall picture – namely, to eliminating human rights violations and ending the humanitarian crisis, stimulating growth and development, and keeping regional conflicts in check (Eastern Congo Initiative 2012, 8). The UN has highlighted the need for SSR in post-conflict situations as being two-fold – in restoring confidence between the State and its people, and sustaining peace (United Nations Peacekeeping 2015).

More than half of DRC's annual budget is made up from external donations (Eastern Congo Initiative 2012, 3). In fact, since 2006, DRC has received over US\$14 billion worth of donations (Eastern Congo Initiative 2012, 3), with MONUSCO, the UN's peacekeeping mission, alone costing more than US\$1 billion annually (Eastern Congo Initiative 2012, 3). Even given these sums, in 2011, only 0.1% of government spending was used on the Justice Ministry portfolio (Eastern Congo Initiative 2012, 9); thus, it is unsurprising that attempts at SSR have mostly failed (Eastern Congo Initiative 2012, 9). Two overarching reasons have been identified as causing the ineffectiveness of SSR: firstly, a lack of political commitment from the Congolese government, and secondly, poor coordination of assistance from donors (Eastern Congo Initiative 2012, 8). Some of the main priorities for more effective SSR include streamlined coordination, vision, and oversight within the international community; a whole-government approach (including proper engagement by the Congolese government

⁴⁰⁹ KI FGD, interviewed in Rutshuru, April 22, 2014.

⁴¹⁰ KI FGD, interviewed in Rutshuru, April 22, 2014.

⁴¹¹ Interviewed during Validation Workshop, June 15, 2014.

⁴¹² Interviewed in Minova, April 29, 2014.

with MONUSCO); appropriate disarmament, demobilisation and reintegration (DDR) processes; and devising practical and realistic plans and benchmarks that can be implemented to achieve sustainable peace (including addressing the issue of gender mainstreaming) (Eastern Congo Initiative 2012, 10–21).

It has been suggested that the Congolese government's non-commitment to SSR comes down to the government not wanting a professional and effective military (EIC, 8). Given that, for a long time, military power equated to political power, military reform would pose threats to the entrenched interests of those wielding power, and to the government's sovereignty (Clement 2009, 18; Eastern Congo Initiative 2012, 8; Davis 2009, 18). As a result, military justice has never ranked high on the SSR agenda (Clement 2009, 12). It has both failed to protect the civilian population, and manifested a cycle of corruption owing to insufficient funding of the army, poor prison facilities (Davis 2009, 15, 18), and lack of implementation of any strategic plan (Clement 2009, 13, 18; Eastern Congo Initiative 2012, 9). In fact, to demonstrate simply the lack of priority accorded to military justice, it is unknown how many members the armed forces has, or their identities (Davis 2009, 18).

Inadequate wages for soldiers and police which are frequently unpaid (Eastern Congo Initiative 2012, 9) often has meant that these personnel take matters into their own hands (e.g. by extorting the civilian population, illegal taxation, and forced labour) (Clement 2009, 13). The European SSR mission (EUSEC) conducted an audit of the nation's operations, and estimated that 20,000–30,000 are “ghost,” or non-existent, soldiers (Clement 2009, 14; David 2009, 18). EUSEC also implemented a system separating the payment and command chains, which was of considerable success (Clement 2009, 21). Furthermore, DDR payments to soldiers were often delayed, stalling the DDR and SSR processes (Clement 2009, 16). The funding issue extends to police reform, where there is a lack of equipment, logistics, and training (Clement 2009, 17). Additionally, women and orphans of killed police officers have been known to take up positions left by their husbands and fathers in the police force, because of the lack of social security and welfare payments (Davis 2009, 21).

The dire conditions of prisons have also added to the corruption cycle, with prisoners either “escaping,” or those with money or influence being able to bribe their way out (Davis 2009, 23; Clement 2009, 12). The lack of government funding for food and overcrowded conditions also means that prisoners are not fed, and must rely on relatives (IBAHRI and ILAC 2009, 23), who may only be able to gain access to the prisons through bribery (Davis 2009, 23). Prisons also pose significant dangers to women and children in the form of sexual violence from inmates and guards (Davis 2009, 23).

Prior to 2006, international efforts had been mostly coordinated by the International Committee to Accompany the Transition (CIAT). However, since then, the Congolese government has refused to establish a successor body, rejecting it as unacceptable (Eastern Congo Initiative 2012, 13). Since 2006, the efforts of international donors have been piecemeal, and thus unsustainable (EIC, 3); this failure to coordinate has been due to the culture of secrecy, different approaches to SSR, and refusal by the Congolese government to coordinate with its SSR partners (Clement 2009, 15–16; EIC, 10). Any cooperation that came about was usually ad hoc, bilateral, and related only to specific issues (Clement 2009, 15). Where bilateral coordination arose, it usually served the donor's interests, as opposed to DRC's (Clement 2009, 15). There is not even a comprehensive and consolidated list of SSR-focused interventions and financing (EIC, 10). Organisationally, MONUSCO would be the most appropriate body to coordinate international efforts, but it has not been well-resourced,

and the Congolese government has been reluctant to attribute the organisation such a role (EIC, 11). At a national level, the coordination issue that plagues international efforts is manifested in the lack of oversight mechanisms and a culture of impunity, which are fundamental to eliminating secrecy, abuse, and corruption in the military (Clement 2009, 11); likewise, a centralised information database covering weapons and funding allotments, human resources, and strategic vision, would prevent old habits being reproduced, but has not been established (Clement 2009, 10).

The piecemeal approach of SSR is also mirrored in the DDR process. What has resulted has been described as something of a “republican army,” where incompetent or abusive soldiers have been absorbed rather than dismissed (Clement 2009, 10). Vetting procedures, which are intended to screen and exclude those who have committed human rights abuses (and thereby profited from the culture of impunity), have been mostly non-existent and have resulted in top ranks of the army being filled by perpetrators of human rights (Clement 2009, 13; EIC 25). It has been suggested that the processes that have been employed have encouraged the worst perpetrators to elect to stay with the army, over demobilising (EIC, 17). Despite this, there has been surprisingly little in-fighting, given the different origins of the soldiers (Clement 2009, 20).

Another issue that has been highlighted as lacking in SSR approaches is gender mainstreaming (Clement 2009, 14). Disappointingly, UN personnel have also been accused of allegations of serious misconduct (Clement 2009, 14). Given the high proportion of female victims and underrepresentation of females in the army, it has been suggested that increasing the number of female personnel in the Congolese army and within international actors, and implementing fast-track procedures for females to rise in army ranks, might help combat gender-based violence (Clement 2009, 14–15). Indeed, women participants and key informants in this research both strongly recognised the need for women to be widely recruited as part of broad institutional reform:

*The number of women either in the police, the Army, public services is so low comparatively to that of men ... women need to be favoured as men have been favoured for long ago. As for the police, we have been giving favours to women as far as recruitment is concerned, we made sensitization campaigns asking the women that are already in the police to go to different universities so as to sensitize women so that they can enrol the police. What we are waiting for is that the government avails means to the police so that we can perfectly train people, and after the training we will have so many women that have studied. Not only that they should be women, but sufficiently educated as we have no need for people that are not educated within the police.*⁴¹³

According to a key informant, some reforms are already underway in DRC within the security sector, to focus on ensuring police are well trained and sensitised to anti-corruption values and attitudes:

Our ideal is that we make a public service that will be at the service of the population that is listening to the population in order to serve it in all needs. So, moving from the police that has been there to reprimand the population to this ideal police, there should be a long journey that needs to be taken. And, the answer can be found in the

⁴¹³ KI, interviewed in Kinshasa, October 2–3, 2013.

police reform ... But, we have initiated so much internal reform wishing to change the mentality of the police, reminding them that they are issued from the population, as I have come from the population, and that they will get back to the population at the end of their police career. So, I am not the population antagonist, but a servant of the population. So, we should obtain the police mentality change. Evidently, many of the old police agents that have served during that time are being retired and those who have not reached the age for getting retired; they are being informed about mentality change. We have observed that they understand and that there is already so much change as far as they are concerned and the population more and more trusts us.

The internal partner that is the government together with the external partners should provide us with means so that the police can be put in good working conditions, so that they get back the trust, so that they stop stealing the population, so that they only serve the population. So, it is an education work, it is a kind of work that takes much time for we should train, we should recruit new people and much more recruiting new persons that have got high educational level. In the past, the police and the army were only for the people that have failed their educational process, children that have failed their lives were sent to the police and the army. So, how would you like that they people are tasked with security issues, the work of protecting the population? Today, we would like to change the way of dealing with things. If we want to have a good police, we should recruit nice people who have been correctly trained, who have studied and who have got good morality. If they are women, if they are women that have completed their university, they should come to the police. So, people that have been educated and that have good morality will not come and tarnish the police image ... We may have a small police, but good, educated and that is able to protect all its citizens. So, this is the work that we have been doing and it is not only the job of the police, but also the job of all the population through all its structures, that is the civilian society branch, as the population would like to have a police that likes like it, the police that fits it. So, people should have a police that fits it because the police is the image of its population, it is the mirror of the population. So, these are efforts we are making in order to have our police reformed.⁴¹⁴

4.5 Conclusion

DRC's limited record of success in implementing transitional justice mechanisms, and its rather narrow focus on juridical remedies, is of great concern. Considerable effort is needed in DRC to build the capacity of justice actors; among the various imperatives, ongoing focus on education and the training of police, prosecutors, and judges must be a priority. Such efforts must include a focus on building knowledge of law and practice, international legal and human rights principles and standards, and instilling anti-corruption and gender sensitive attitudes. Several of the key informants interviewed in this project noted the imperative of linking the juridical arm of transitional justice with the non-judicial, and the legal with non-legal (Khan and Wormington 2011, 13). Transitional justice in DRC demands a strongly coordinated and holistic approach, one which has been gender mainstreamed.

In the absence of a comprehensive transitional justice policy, concerns have been raised about whether security and development goals might be hampered and left unachieved; the risk of recurrence of violence is also magnified (Hall and LaRocco 2012; Davis 2013).

⁴¹⁴ KI, interviewed in Kinshasa, October 2–3, 2013.

CHAPTER 5: CONCLUSIONS AND RECOMMENDATIONS

The conflict in eastern DRC has been a protracted one, extending over two decades characterised by mass atrocities and pervasive sexual violence against women on an extraordinary scale. Congolese women have suffered deeply because of the conflict, and an ingrained culture of impunity for sexual violence. Women in DRC today are still experiencing ongoing violence within families and communities, as well as marginalisation and deprivation in a fragile and unstable State.

This research project spoke with 113 women impacted by violence in DRC, ranging from 18 to 90 years old, who have lived through the conflict and ongoing violence. The project has drawn on the voices of women impacted by violence, to better understand women's views of justice, their needs, and their experiences of trying to access justice. Diverse views about justice emerged from the women participants, but common themes and experiences of justice were distilled from their voices. The methodology of this project was deliberate in situating women's feelings, thoughts, and experiences of justice at the centre of the research, and in recognising women's agency.

By listening to women speak about justice, deep insights have been gained and presented in this report regarding the sites where justice is failing to serve Congolese women, and the barriers to their access to justice. Women participants in this project, in a resounding chorus, revealed that the women of DRC have, to a very large extent, not yet received recognition and justice for the mass atrocities and human rights breaches perpetrated against them during the conflict. In their attempts to access and secure justice, women in DRC are frustrated by deeply entrenched gender inequalities, and multiple sites of discrimination. The testimony of women in this project reveals that justice processes are insensitive and ignore women's lived experiences, that they retraumatise women, and that they fail to deliver women tangible justice outputs.

A key message arising from this research is that gender-sensitive justice cannot be approached in an atomistic manner. For justice to be effective for women, it needs to be holistic and take account of the complex social, economic, cultural, and political context in which women are exposed to an intersecting web of harms. Justice accordingly needs to be designed to incorporate legal, psychological, economic, and politico-cultural remedies; together, these will better enable women to live fulfilled, dignified lives, free from violence and with opportunities to nourish and enable more positive prospects for future generations of children and young people. The extent of sexual violence in DRC has been well documented, and is a blight on both DRC and the international community. The harms caused by sexual violence cannot be over-stated; while some considerable progress has been made in delivering emergency medical care to women in the immediate aftermath of assault, much of the subsequent social harm arises from the profound stigmatisation of women after rape. Rape responses need to address social attitudes to women who have been raped, and make a long term commitment to changing attitudes so that women are able to rebuild dignified lives post-rape. Medical attention is imperative but insufficient as a response to rape.

Women participants in this project identified multiple harms and sites of injustice created by the conflict, and a patriarchal culture that discriminates against women in all spheres of their lives. Women in DRC have suffered deep psychosocial trauma, usually coupled with serious physical and debilitating injury. Many women are faced with a life marked by stigmatisation

and ostracism within their families and broader communities. Women have experienced wide-scale abandonment, and have been left to struggle with a very heavy financial and childcare burden.

Overwhelmingly, the women with whom we spoke in DRC identified restoration of their mental and physical health and well-being as a priority for justice. They called for accessible, quality, and ongoing psycho-social and medical care and support. For many women, access to health services and care was rendered difficult, if not impossible, due to economic disadvantage. Often, the health services available were short-term and poorly suited to women's individual health needs. This emerged as a particular problem for women seeking psychosocial support and trauma counselling, with those women often finding that support services were ad hoc and not appropriate to address their complex experiences of trauma.

Women identified ongoing fear of further violence and conflict as a key barrier to healing post-conflict; their fears of reoccurrence inhibited any attempts to resume fully functional and productive lives, and to rebuild social relationships and communities. Women are acutely aware of the lack of security locally, regionally, and within communities; participants consequently identified peace and security as the leading priority for justice for women in eastern DRC. For those women displaced during the conflict, the possibility of returning home and rebuilding their families and communities was a central concern. Women said that they wanted to live a life without fear of violence and recurring conflict. Many women in this project talked about wanting security in their communities so that they could earn a livelihood, work their land again, and educate and nurture their children. The lack of security in DRC was also identified as a barrier to women's access to justice. Security was said to be weakened by infrastructure that was frail, depleted, and often corrupted. Many women described feeling unsafe and vulnerable in accessing both formal and informal justice processes, with few mechanisms to avail them of any protection. Many women gave accounts of perpetrators being released from custody and threatening women's safety. A lack of accountability for perpetrators within justice processes was identified as a serious problem that served to undermine women's trust in the justice system.

Many women identified the need for truth and reconciliation in communities. It was clear from what women participants said in this project that few women in DRC have had an opportunity to be heard, and for the truth about the conflict and the violations perpetrated against them to be told, acknowledged, and shared by communities. Women recognised this as a barrier to their healing, reconciliation, and rebuilding of communities. Women need to be heard, to have themselves and their experiences validated.

Furthermore, many women in this project identified the imperative for justice processes to deliver tangible outcomes to women impacted by violence, including in particular through compensation and reparations. This was seen to be an important element of women rebuilding their lives, repairing their health and well-being, and being restored as a productive member of the community. Very little has been provided to women in DRC by way of compensation and reparations, even in cases where such orders have been made. Impoverished justice processes and a lack of political will to change this situation is at the heart of the problem. It is clear that women in DRC need their pain and suffering recognised and their rights vindicated through systematic large-scale compensation and reparations schemes that are aimed at redressing the injustices women have endured.

Importantly, women also identified a strong need for greater protection of their economic, cultural, social, and political rights. There are many women in DRC that are ready to take an active role in the delivery of justice, and in harnessing political action towards women's greater benefit. Many women in this study talked about wanting to see other women as actors in justice and political spaces throughout society; however, women said they were often ignored or locked out of participation.

5.1 Recommendations

To the Government of DRC:

- The women of DRC need formal State commitment to the development of justice processes that are well resourced and supported in terms of expertise, personnel, and infrastructure. More specifically, barriers that impede women's access to justice – including the cost of justice, distance of justice, gender insensitive, and overly complex and corrupt processes of justice – need to be reformed. Justice should be made affordable, comprehensible, transparent, and in all respects accessible to all women.
- A strong political will to realise compensation and reparations for the women of DRC is required. Provision should be made for the immediate payment of court ordered compensation and reparations to women survivors. A national victims' compensation/trust fund should be established, from which reparations can be paid to women survivors of sexual and other conflict-related violence, in advance of future justice mechanisms.
- Investment in transitional justice processes that are gender sensitive, holistic, coordinated, and integrated towards meeting women's needs are also called for by the women of DRC.
- Peace and security must be prioritised by the Government of DRC, with a strong commitment towards ensuring non-recurrence of conflict and mass violence perpetrated against women, children, and communities. Management of its natural resources should be an important element in DRC's peace and security agenda.
- The culture of impunity for sexual violence must be urgently addressed.
- Ongoing institutional reform of government and the justice and security sectors should be pursued at all levels.
- Transparent, fair, and independent processes towards truth and reconciliation – processes which would enable women's voices and agency to be recognised – should be established. In establishing such a mechanism, the protection of women witnesses must be assured, and truth-telling mechanisms need to be linked to reparations and other transitional justice mechanisms (including prosecution where appropriate), lustration, and institutional reform.

To the international community:

- The ICC should continue its indictment of those responsible for the mass atrocities and breaches of human rights in DRC. The processes of the ICC and its outreach activities should be gender mainstreamed and sensitive to the impacts of violence on women.
- Governments of donor nations and inter-governmental organisations should maintain pressure and lobby the Government of DRC for more national prosecutions of

- recognise the harms suffered by women and their lived experiences.
- International agencies and NGOs should commit to delivering to women services and programs that feed sustainable economic, cultural, social, and political empowerment of women in DRC.
- Pressure should be applied by the international community towards the development of a robust truth and reconciliation process for the people of DRC.

For service delivery and programming:

- Quality psycho-social and trauma counselling services are needed to assist women and communities with healing and recovering from conflict and violence. Such services should be tailored to respond to the needs of women, both in terms of complex trauma intervention and less acute trauma, including depression and anxiety. These services need to connect and integrate with other types of services and programs (e.g. economic empowerment and training programs for women). There also needs to be recognition of the link between women's trauma and wellbeing, and the corresponding wellbeing of children.
- Women and children need to be supported in access to all levels of education.
- Programs that empower women, and which genuinely recognise women's agency and voice, need to be propagated. Women need and deserve sustainable services and programs that are tailored to their needs, not just to political or funding agendas.
- Service delivery and programming for women needs to be holistic – recognising women's multiple needs, and available to women in a coordinated and integrated way.

Transitional justice in DRC needs a strong, multi-levelled scaffolding, innervated by strategies to transform the lives of women towards improved health, well-being, empowerment, and self-fulfilment. Government, civil society, and communities must work together on multiple levels in policy development, law reform, service and program delivery, to ensure that justice is served for the women of DRC.

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APPENDICES

Appendix A: Research Assistants

Name	Role in Project
Christen Athos	Research Assistant
Andréa Brown	Research Assistant
Lucy Cameron	Research Assistant
Emma Campbell	Research Assistant
Natalie Czapski	Research Assistant
Lydia Gitau	Research Assistant
Chrisanthi Giotis	Research Assistant
Justine Gleeson	Research Assistant
Shirley Huang	Research Assistant
Alesia Kurlek	Research Assistant
Georgina Meikle	Research Assistant
Jesica Mwithia	Research Assistant
Danny Noonan	Research Assistant
Fiona Vuong	Research Assistant
Lara Warren	Research Assistant
Ellie Wolfenden	Research Assistant
Remona Zheng	Research Assistant
Judy Zhu	Research Assistant

Appendix B: Demographic information - DRC women participants*

*Locations reflect location of interview. In some instances, incomplete demographic data was collected and is presented as ‘unknown’ in this table.

		TOTAL	Bunyakiri	Bweremana	Goma	Minova	Rutshuru	Sake
Total interviewed		113	12	19	17	27	28	10
Marital status	Married	39	8	9	1	10	11	0
	Widowed	27	1	7	1	6	12	0
	Cohabiting	1	0	0	0	0	1	0
	Separated	2	0	0	0	2	0	0
	Unmarried/single	10	2	0	4	2	2	0
	Divorced	4	1	3	0	0	0	0
	Unknown	30	0	0	11	7	2	10
Age	18-25	29	4	4	4	5	5	7
	26-40	38	4	8	2	11	11	2
	41-55	25	3	6	2	5	8	1
	>56	6	1	1	1	1	2	0
	Unknown	15	0	0	8	5	2	0
Educational level	None	42	4	13	0	13	11	1
	Primary (no year given)	1	0	0	0	0	1	0
	Primary 1-3	17	2	4	3	2	3	3
	Primary 4-6	11	2	1	1	2	2	3
	Secondary 1-3	6	1	1	0	1	2	1
	Secondary 4-6	5	0	0	2	0	1	2
	Secondary (no year given)	1	0	0	0	1	0	0
	Tertiary	2	1	0	0	1	0	0
	Unknown	28	2	0	11	7	8	0

Appendix C: List of DRC related key informants*

*Only informants who consented to having their information revealed are in this Appendix.

Name	Organisation	Role
Chantal Apendenki	National Police	Commissaire Supérieur Adjoint et point focal Genre (Deputy High Commissioner and Gender Focal Point)
Colonel Remy Kilimpimpi	Military High Court	Advisor
Eugene Buzake	-	-
Florient Numbi Kabange		General Prosecutor for the Republic
Innocent Cokola Ntadumba	Advocats Sans Frontières	-
Itumpu Mizebele Gaston	-	-
Jean Luc Ahoka	Cabinet maître Andeka	Advocat
Mupepe Mandela Odon du Christ	Advocats Sans Frontières	-
Mushekuru Mugeni Joyeux	-	-
Mutozo Leocadie	AMAPOVERU	Coordinator
Safari Zozo	Bukavu Bar Association	-
Semerite Kahambu	Heal Africa	Coordinator

Appendix D: Policy Initiatives targeting the Great Lakes Region

	Dates	Details
African Charter on Human and People’s Rights (‘Banjul Charter’)	Adopted 27 June 1981; In force 21 Oct 1986	<ul style="list-style-type: none"> • International human rights instrument providing for the observation and protection of basic human rights • Re: women, Art 18(3) provides for the elimination of every form of discrimination against women, as well as protection of the rights of women and children as stipulated in international declarations and conventions
Great Lakes Initiative on AIDS	1998 – 2010 (closed)	<ul style="list-style-type: none"> • First regional effort in the Great Lakes to coordinate in the fight against HIV • Participants: Burundi, DRC, Kenya, Rwanda, Tanzania, Uganda) • Ministers in charge of coordinating the fight in each nation put in place different GLIA organs, including the “Counsel [sic] of Ministers”, Executive Committee, Executive Secretariat and the Focal Points
Pact on Security, Stability and Development in the Great Lakes Region	Signed 2006; In force 2008	<ul style="list-style-type: none"> • Pact entered into by Angola, Burundi, Republic of Congo, DRC, CAR, Kenya, Rwanda, Sudan, Tanzania, Uganda and Zambia • Includes 10 binding regional protocols, including the SGBV protocol – “Protocol on the Prevention and Suppression of Sexual Violence Against Women and Children” • Focuses on ending impunity, and protection of SGBV survivors
Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa (‘Maputo Protocol’)	Ratified 2008	<ul style="list-style-type: none"> • Adopted by the African Union – signed July 2003, effective November 2005 • Focuses on the elimination of discrimination against women • Guarantees comprehensive rights to women, including the right to take part in the political process, social and political equality with men, control of their reproductive health, and an end to genital mutilation
Goma Declaration on Eradicating Sexual Violence and Ending Impunity in the Great Lakes Region	18 June 2008	<ul style="list-style-type: none"> • Declaration of the ICGLR • Lists recommendations at the national, regional and international (i.e. development partners and the United Nations) levels
Declaration of the Heads of State and Government Member States of	15 th -16 th Dec 2011	<ul style="list-style-type: none"> • Signed at the Fourth Ordinary Summit and Special Session on Sexual and Gender Based Violence in Uganda • Signatories: Angola, Burundi, CAR, Congo,

<p>the ICGLR (‘Kampala Declaration’)</p>		<p>DRC, Kenya, Rwanda, Sudan, Tanzania, Uganda and Zambia</p> <ul style="list-style-type: none"> • Three policy foci: <ul style="list-style-type: none"> ○ Prevention (e.g. an inter-departmental approach in each country’s portfolios, and creating gender desks) ○ Ending impunity (e.g. establishing and strengthening special courts, sessions and procedures to fast-track SGBV cases, and improving access to justice) ○ Providing support (e.g. establishing recovery centres that provide free medical, psychosocial, forensic, judicial services, and governmental support of income-generating programmes)
<p>Joint Communiqué with the Government of the DRC on the Fight against Sexual Violence in Conflict</p>	<p>30 March 2013</p>	<ul style="list-style-type: none"> • Joint Communiqué between the DRC government and the Special Representative of the Secretary-General on Sexual Violence in Conflict • One of a series of similar Joint Communiques with other governments in the region (incl. South Sudan, Somalia, CAR) • Acknowledges attempts by the DRC government to combat sexual violence in the country, urges further action in numerous policy areas, and commits the UN to further support through MONUSCO
<p>African Union Convention for the Protection and Assistance of IDPs in Africa (‘Kampala Convention’)</p>	<p>Ratified 2014</p>	<ul style="list-style-type: none"> • Adopted by the Special Summit of the Union (Kampala, 23 October 2009) • Specific policy issues re: women’s rights: <ul style="list-style-type: none"> ○ Sexual slavery, trafficking, esp. of women and children ○ Taking measures to protect and provide for the reproductive and sexual health of internally displaced women, as well as appropriate psycho-social support for victims of sexual and other related abuses ○ Equal rights of women and men to obtain identity documents (necessary to protect many legal rights)
<p>Peace, Security and Cooperation Framework for the DRC and the Great Lakes Region</p>	<p>Signed 2013</p>	<p>11 signatories: Angola, Burundi, CAR, DRC, Congo, Rwanda, South Africa, South Sudan, Uganda, Tanzania and Zambia</p> <p>Has a Women’s Platform, whose function it is to support key women’s groups through the provision of grants, and advocating for strategy donor contributions to women’s groups in the region (launched 2014)</p> <p>Specific focus on increasing women’s representation in leadership positions – specifically, in the implementation of the whole Peace Framework</p>

Great Lakes Emergency SGBV and Women's Health Project (World Bank)	2013-2014	<ul style="list-style-type: none"> • \$106.9 million approved to Burundi, the DRC (to receive \$74 million), Rwanda and the ICGLR specifically to provide health and counselling services, legal aid, and economic opportunities to SGBV survivors that are integrated • In the DRC, project will focus on assisting survivors, especially by boosting access to antenatal care, skilled midwives, and modern family planning • \$3 mil funding to the ICGLR to provide support in adopting a regional policy response to SGBV
Regional Training Facility on Prevention and Suppression of Sexual Violence in Great Lakes Region	Feb 2014	<ul style="list-style-type: none"> • Initiative of the ICGLR, whose mandate is the train and sensitise judicial officers, police units, social workers, medical officers and other categories of persons who handle cases of sexual violence in the Great Lakes • Inaugurated in Kampala in Feb 2014
Framework of Cooperation between the ICGLR and the UN Office of the Special Representative of the S-G	Signed and in force 23 Sep 2014	<ul style="list-style-type: none"> • Agreement between the two parties to collaborate in a number of overarching priority areas, including: <ul style="list-style-type: none"> ○ combating impunity and promoting accountability, to deter and prevent future crimes; ○ encouraging political leadership; ○ promoting sexual violence information as a basis for policy action; ○ enhancing response via capacity building and training; ○ fostering better coordination; ○ encouraging national ownership, leadership and responsibility; ○ highlighting the importance of multi-sectoral services for survivors; ○ empowering women and girls; ○ reducing the stigma faced by survivors. • This frameworks follows on from the earlier Framework of Cooperation between the Africa Union and the United Nations
United Nations Resolutions on Sexual Violence in Conflict	2000-2013	<ul style="list-style-type: none"> • Just a note – UN-affiliated bodies often make reference to these resolutions when committing to sexual violence initiatives in the Great Lakes Region • List of resolutions: <ul style="list-style-type: none"> ○ Resolution 2106 (2013) ○ Resolution 1960 (2010) ○ Resolution 1888 (2009) ○ Resolution 1820 (2008) ○ Resolution 1325 (2000)